

LOUISIANA

Louisiana Revised Statutes

Selected Titles

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Title 14 — Criminal Law

RS 14:1 — Method of citation

ions of the Revised Statutes. Thus Article 30 of Louisiana Criminal Code may also be referred to or cited as R.S. 14:30. Whenever reference is made herein to an Article of the Criminal Code, the same shall also relate to the corresponding Section of the Revised Statutes.

RS 14:2 — Definitions

ouisiana or any subdivision thereof.

(2) "Anything of value" must be given the broadest possible construction, including any conceivable thing of the slightest value, movable or immovable, corporeal or incorporeal, public or private, and including transportation, telephone and telegraph services, or any other service available for hire. It must be construed in the broad popular sense of the phrase, not necessarily as synonymous with the traditional legal term "property." In all cases involving shoplifting the term "value" is the actual retail price of the property at the time of the offense.

(3) "Dangerous weapon" includes any gas, liquid or other substance or instrumentality, which, in the manner used, is calculated or likely to produce death or great bodily harm.

(4) "Felony" is any crime for which an offender may be sentenced to death or imprisonment at hard labor.

(5) "Foreseeable" refers to that which ordinarily would be anticipated by a human being of average reasonable intelligence and perception.

(6) "Misdemeanor" is any crime other than a felony.

(7) "Person" includes a human being from the moment of fertilization and implantation and also includes a body of persons, whether incorporated or not.

(8) "Property" refers to both public and private property, movable and immovable, and corporeal and incorporeal property.

(9) "Public officer", "public office", "public employee", or "position of public authority" means and applies to any executive, ministerial, administrative, judicial, or legislative officer, office, employee or position of authority respectively, of the state of Louisiana or any parish, municipality, district, or other political subdivision thereof, or of any agency, board, commission, department, or institution of said state, parish, municipality, district, or other political subdivision.

(10) "State" means the state of Louisiana, or any parish, municipality, district, or other political subdivision thereof, or any agency, board, commission, department, or institution of said state, parish, municipality, district, or other political subdivision.

(11) "Unborn child" means any individual of the human species from fertilization and implantation until birth.

(12) "Whoever" in a penalty clause refers only to natural persons insofar as death or imprisonment is provided, but insofar as a fine may be imposed "whoever" in a penalty

clause refers to any person.

B. In this Code, "crime of violence" means an offense that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense or an offense that involves the possession or use of a dangerous weapon. The following enumerated offenses and attempts to commit any of them are included as "crimes of violence":

- (1) Solicitation for murder.
- (2) First degree murder.
- (3) Second degree murder.
- (4) Manslaughter.
- (5) Aggravated battery.
- (6) Second degree battery.
- (7) Aggravated assault.
- (8) Aggravated kidnapping of a child.
- (9) Aggravated or first degree rape.
- (10) Forcible or second degree rape.
- (11) Simple or third degree rape.
- (12) Sexual battery.
- (13) Second degree sexual battery.
- (14) Intentional exposure to AIDS virus.
- (15) Aggravated kidnapping.
- (16) Second degree kidnapping.
- (17) Simple kidnapping.
- (18) Aggravated arson.
- (19) Aggravated criminal damage to property.
- (20) Aggravated burglary.
- (21) Armed robbery.
- (22) First degree robbery.
- (23) Simple robbery.
- (24) Purse snatching.
- (25) False imprisonment; offender armed with dangerous weapon.
- (26) Assault by drive-by shooting.
- (27) Aggravated crime against nature.
- (28) Carjacking.
- (29) Molestation of a juvenile or a person with a physical or mental disability.
- (30) Terrorism.
- (31) Aggravated second degree battery.
- (32) Aggravated assault upon a peace officer.
- (33) Aggravated assault with a firearm.
- (34) Armed robbery; use of firearm; additional penalty.

- (35) Second degree robbery.
- (36) Disarming of a peace officer.
- (37) Stalking.
- (38) Second degree cruelty to juveniles.
- (39) Aggravated flight from an officer.
- (40) Sexual battery of persons with infirmities.
- (41) Battery of a police officer.
- (42) Trafficking of children for sexual purposes.
- (43) Human trafficking.
- (44) Home invasion.
- (45) Domestic abuse aggravated assault.
- (46) Vehicular homicide, when the operator's blood alcohol concentration exceeds 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood.
- (47) Aggravated assault upon a dating partner.
- (48) Domestic abuse battery punishable under R.S. 14:35.3(L), (M)(2), (N), (O), or (P).
- (49) Battery of a dating partner punishable under R.S. 14:34.9(L), (M)(2), (N), (O), or (P).
- (50) Violation of a protective order punishable under R.S. 14:79(C).
- (51) Criminal abortion.
- (52) First degree feticide.
- (53) Second degree feticide.
- (54) Third degree feticide.
- (55) Aggravated abortion by dismemberment.
- (56) Battery of emergency room personnel, emergency services personnel, or a healthcare professional.
- (57) Possession of a firearm or carrying of a concealed weapon by a person convicted of certain felonies in violation of R.S. 14:95.1(D).
- (58) Distribution of fentanyl or carfentanil punishable under R.S. 40:967(B)(4)(f).
- (59) Distribution of heroin punishable under R.S. 40:966(B)(3)(b).
- (60) Simple burglary of an inhabited dwelling when a person is present in the dwelling, house, apartment, or other structure.
- (61) Illegal use of weapons or dangerous instrumentalities.
- (62) First degree vehicular negligent injuring, when the operator's blood alcohol concentration exceeds 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood.

C. For purposes of this Title, "serious bodily injury" means bodily injury which involves unconsciousness; extreme physical pain; protracted and obvious disfigurement; protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or a substantial risk of death. For purposes of R.S. 14:403, "serious bodily injury" shall also include injury resulting from starvation or malnutrition.

RS 14:3 — Interpretation

f the law, all of its provisions shall be given a genuine construction, according to the fair import of their words, taken in their usual sense, in connection with the context, and with reference to the purpose of the provision.

RS 14:4 — Conduct made criminal under several articles; how prosecuted

riminal according to a general article of this Code or Section of this Chapter of the Revised Statutes and also according to a special article of this Code or Section of this Chapter of the Revised Statutes; or

(2) Criminal according to an article of the Code or Section of this Chapter of the Revised Statutes and also according to some other provision of the Revised Statutes, some special statute, or some constitutional provision.

RS 14:5 — Lesser and included offenses

the lesser and included offenses. In such case, where the offender is prosecuted for the greater offense, he may be convicted of any one of the lesser and included offenses.

RS 14:7 — Crime defined

nce any technical difficulties navigating this website,

RS 14:8 — Criminal conduct

o act that produces criminal consequences, where there is no requirement of criminal intent; or

(3) Criminal negligence that produces criminal consequences.

RS 14:9 — Criminal consequences

ute any of the various crimes defined therein.

RS 14:10 — Criminal intent

e prescribed criminal consequences to follow his act or failure to act.

(2) General criminal intent is present whenever there is specific intent, and also when the circumstances indicate that the offender, in the ordinary course of human experience, must have adverted to the prescribed criminal consequences as reasonably certain to result from his act or failure to act.

RS 14:11 — Criminal intent; how expressed

ence that produces criminal consequences. However, in the absence of qualifying provisions, the terms "intent" and "intentional" have reference to "general criminal intent."

RS 14:12 — Criminal negligence

amounts to a gross deviation below the standard of care expected to be maintained by a reasonably careful man under like circumstances.

RS 14:13 — Infancy

the constitution and statutes of this state.

RS 14:14 — Insanity

on, the offender shall be exempt from criminal responsibility.

RS 14:15 — Intoxication

ated or drugged condition has been involuntary, and the circumstances indicate this condition is the direct cause of the commission of the crime, the offender is exempt from criminal responsibility.

(2) Where the circumstances indicate that an intoxicated or drugged condition has precluded the presence of a specific criminal intent or of special knowledge required in a particular crime, this fact constitutes a defense to a prosecution for

that crime.

RS 14:16 — Mistake of fact

in that crime is a defense to any prosecution for that crime.

RS 14:17 — Mistake of law

at consequences which are criminal shall follow, is a defense to a criminal prosecution under the following circumstances:

- (1) Where the offender reasonably relied on the act of the legislature in repealing an existing criminal provision, or in otherwise purporting to make the offender's conduct lawful; or
- (2) Where the offender reasonably relied on a final judgment of a competent court of last resort that a provision making the conduct in question criminal was unconstitutional.

RS 14:18 — Justification; general provisions

is defense of justification can be claimed under the following circumstances:

- (1) When the offender's conduct is an apparently authorized and reasonable fulfillment of any duties of public office; or
- (2) When the offender's conduct is a reasonable accomplishment of an arrest which is lawful under the Code of Criminal Procedure; or
- (3) When for any reason the offender's conduct is authorized by law; or
- (4) When the offender's conduct is reasonable discipline of minors by their parents, tutors or teachers; or
- (5) When the crime consists of a failure to perform an affirmative duty and the failure to perform is caused by physical impossibility; or
- (6) When any crime, except murder, is committed through the compulsion of threats by another of death or great bodily harm, and the offender reasonably believes the person making the threats is present and would immediately carry out the threats if the crime were not committed; or
- (7) When the offender's conduct is in defense of persons or of property under any of the circumstances described in Articles 19 through 22.

RS 14:19 — Use of force or violence in defense

f preventing a forcible offense against the person or a forcible offense or trespass against property in a person's lawful possession, provided that the force or violence used must be reasonable and apparently necessary to prevent such offense.

(b)(i) When committed by a person lawfully inside a dwelling, a place of business, or a motor vehicle as defined in R.S. 32:1(40) when the conflict began, against a person who is attempting to make an unlawful entry into the dwelling, place of business, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, or motor vehicle, and the person using the force or violence reasonably believes that the use of force or violence is necessary to prevent the entry or to compel the intruder to leave the dwelling, place of business, or motor vehicle.

(ii) The provisions of this Paragraph shall not apply when the person using the force or violence is engaged, at the time of the use of force or violence in the acquisition of, the distribution of, or possession of, with intent to distribute a controlled dangerous substance in violation of the provisions of the Uniform Controlled Dangerous Substances Law.

(2) The provisions of Paragraph (1) of this Section shall not apply where the force or violence results in a homicide.

B. For the purposes of this Section, there shall be a presumption that a person lawfully inside a dwelling, place of business, or motor vehicle held a reasonable belief that the use of force or violence was necessary to prevent unlawful entry thereto, or to compel an unlawful intruder to leave the premises or motor vehicle, if both of the following occur:

- (1) The person against whom the force or violence was used was in the process of unlawfully and forcibly entering or had unlawfully and forcibly entered the dwelling, place of business, or motor vehicle.
- (2) The person who used force or violence knew or had reason to believe that an unlawful and forcible entry was occurring or had occurred.

C. A person who is not engaged in unlawful activity and who is in a place where he or she has a right to be shall have no duty to retreat before using force or violence as provided for in this Section and may stand his or her ground and meet

force with force.

D. No finder of fact shall be permitted to consider the possibility of retreat as a factor in determining whether or not the person who used force or violence in defense of his person or property had a reasonable belief that force or violence was reasonable and apparently necessary to prevent a forcible offense or to prevent the unlawful entry.

RS 14:20 — Justifiable homicide

from and that the killing is necessary to save himself from that danger.

(2) When committed for the purpose of preventing a violent or forcible felony involving danger to life or of great bodily harm by one who reasonably believes that such an offense is about to be committed and that such action is necessary for its prevention. The circumstances must be sufficient to excite the fear of a reasonable person that there would be serious danger to his own life or person if he attempted to prevent the felony without the killing.

(3) When committed against a person whom one reasonably believes to be likely to use any unlawful force against a person present in a dwelling or a place of business, or when committed against a person whom one reasonably believes is attempting to use any unlawful force against a person present in a motor vehicle as defined in R.S. 32:1(40), while committing or attempting to commit a burglary or robbery of such dwelling, business, or motor vehicle.

(4)(a) When committed by a person lawfully inside a dwelling, a place of business, or a motor vehicle as defined in R.S. 32:1(40) when the conflict began, against a person who is attempting to make an unlawful entry into the dwelling, place of business, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, or motor vehicle, and the person committing the homicide reasonably believes that the use of deadly force is necessary to prevent the entry or to compel the intruder to leave the dwelling, place of business, or motor vehicle.

(b) The provisions of this Paragraph shall not apply when the person committing the homicide is engaged, at the time of the homicide, in the acquisition of, the distribution of, or possession of, with intent to distribute a controlled dangerous substance in violation of the provisions of the Uniform Controlled Dangerous Substances Law.

B. For the purposes of this Section, there shall be a presumption that a person lawfully inside a dwelling, place of business, or motor vehicle held a reasonable belief that the use of deadly force was necessary to prevent unlawful entry thereto, or to compel an unlawful intruder to leave the dwelling, place of business, or motor vehicle when the conflict began, if both of the following occur:

(1) The person against whom deadly force was used was in the process of unlawfully and forcibly entering or had unlawfully and forcibly entered the dwelling, place of business, or motor vehicle.

(2) The person who used deadly force knew or had reason to believe that an unlawful and forcible entry was occurring or had occurred.

C. A person who is not engaged in unlawful activity and who is in a place where he or she has a right to be shall have no duty to retreat before using deadly force as provided for in this Section, and may stand his or her ground and meet force with force.

D. No finder of fact shall be permitted to consider the possibility of retreat as a factor in determining whether or not the person who used deadly force had a reasonable belief that deadly force was reasonable and apparently necessary to prevent a violent or forcible felony involving life or great bodily harm or to prevent the unlawful entry.

RS 14:20.1 — Investigation of death due to violence or suspicious circumstances when claim of self-defense is raised

If a claim of self-defense is raised, the appropriate law enforcement agency and coroner shall expeditiously conduct a full investigation of the death. All evidence of such investigation shall be preserved.

RS 14:21 — Aggressor cannot claim self defense

in a manner that his adversary knows or should know that he desires to withdraw and discontinue the conflict.

RS 14:22 — Defense of others

himself, and when it is reasonably believed that such intervention is necessary to protect the other person.

RS 14:23 — Parties classified

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RS 14:24 — Principals

tly or indirectly counsel or procure another to commit the crime, are principals.

RS 14:25 — Accessories after the fact

e that he has committed the felony, and with the intent that he may avoid or escape from arrest, trial, conviction, or punishment.

An accessory after the fact may be tried and punished, notwithstanding the fact that the principal felon may not have been arrested, tried, convicted, or amenable to justice.

Whoever becomes an accessory after the fact shall be fined not more than five hundred dollars, or imprisoned, with or without hard labor, for not more than five years, or both; provided that in no case shall his punishment be greater than one-half of the maximum provided by law for a principal offender.

RS 14:26 — Criminal conspiracy

mit a crime shall not amount to a criminal conspiracy unless, in addition to such agreement or combination, one or more of such parties does an act in furtherance of the object of the agreement or combination.

B. If the intended basic crime has been consummated, the conspirators may be tried for either the conspiracy or the completed offense, and a conviction for one shall not bar prosecution for the other.

C. Whoever is a party to a criminal conspiracy to commit any crime shall be fined or imprisoned, or both, in the same manner as for the offense contemplated by the conspirators; provided, however, whoever is a party to a criminal conspiracy to commit a crime punishable by death or life imprisonment shall be imprisoned at hard labor for not more than thirty years.

D. Whoever is a party to a criminal conspiracy to commit any other crime shall be fined or imprisoned, or both, in the same manner as for the offense contemplated by the conspirators; but such fine or imprisonment shall not exceed one-half of the largest fine, or one-half the longest term of imprisonment prescribed for such offense, or both.

RS 14:27 — Attempt; penalties; attempt on peace officer; enhanced penalties

he accomplishing of his object is guilty of an attempt to commit the offense intended; and it shall be immaterial whether, under the circumstances, he would have actually accomplished his purpose.

B.(1) Mere preparation to commit a crime shall not be sufficient to constitute an attempt; but lying in wait with a dangerous weapon with the intent to commit a crime, or searching for the intended victim with a dangerous weapon with the intent to commit a crime, shall be sufficient to constitute an attempt to commit the offense intended.

(2) Further, the placing of any combustible or explosive substance in or near any structure, watercraft, movable, or forestland, with the specific intent eventually to set fire to or to damage by explosive substance such structure, watercraft, movable, or forestland, shall be sufficient to constitute an attempt to commit the crime of arson as defined in R.S. 14:51 through 53.

C. An attempt is a separate but lesser grade of the intended crime; and any person may be convicted of an attempt to commit a crime, although it appears on the trial that the crime intended or attempted was actually perpetrated by such person in pursuance of such attempt.

D. Whoever attempts to commit any crime shall be punished as follows:

(1)(a) If the offense so attempted is punishable by death or life imprisonment, he shall be imprisoned at hard labor for not less than ten nor more than fifty years without benefit of parole, probation, or suspension of sentence.

(b) If the offense so attempted is punishable by death or life imprisonment and is attempted against an individual who is a peace officer engaged in the performance of his lawful duty, he shall be imprisoned at hard labor for not less than twenty nor more than fifty years without benefit of parole, probation, or suspension of sentence.

(2)(a) If the offense so attempted is theft or receiving stolen things, and is not punishable as a felony, he shall be fined not more than two hundred dollars, imprisoned for not more than six months, or both.

(b) If the offense so attempted is receiving stolen things, and is punishable as a felony, he shall be fined not more than two hundred dollars, imprisoned for not more than one year, or both.

(c)(i) If the offense so attempted is theft of an amount not less than seven hundred fifty dollars nor more than twenty-five thousand dollars, he shall be fined not more than five hundred dollars, imprisoned for not more than one year, or both.

(ii) If the offense so attempted is theft of an amount over twenty-five thousand dollars, he shall be fined not more than two thousand dollars, imprisoned, with or without hard labor, for not more than five years, or both.

(3) In all other cases he shall be fined or imprisoned or both, in the same manner as for the offense attempted; such fine or imprisonment shall not exceed one-half of the largest fine, or one-half of the longest term of imprisonment prescribed for the offense so attempted, or both.

E. For the purposes of Subsection D of this Section, the term "peace officer" means any peace officer, as defined in R.S. 40:2402.

RS 14:28 — Inciting a felony

e fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than two years, or both.

C. If an offender over the age of seventeen years commits the crime of inciting a felony by endeavoring to incite or procure a person under the age of seventeen years to commit a felony, the offender shall be fined not more than one thousand dollars and imprisoned at hard labor for not more than five years.

RS 14:28.1 — Solicitation for murder

the crime of solicitation for murder shall be imprisoned at hard labor for not less than five years nor more than twenty years.

RS 14:29 — Homicide

murder.

(3) Manslaughter.

(4) Negligent homicide.

(5) Vehicular homicide.

RS 14:30 — First degree murder

gaged in the perpetration or attempted perpetration of aggravated kidnapping, second degree kidnapping, aggravated escape, aggravated arson, aggravated or first degree rape, forcible or second degree rape, aggravated burglary, armed robbery, assault by drive-by shooting, first degree robbery, second degree robbery, simple robbery, terrorism, cruelty to juveniles, second degree cruelty to juveniles, or cruelty to the elderly and persons with infirmities.

(2) When the offender has a specific intent to kill or to inflict great bodily harm upon a fireman, peace officer, or civilian employee of the Louisiana State Police Crime Laboratory or any other forensic laboratory engaged in the performance of his lawful duties, or when the specific intent to kill or to inflict great bodily harm is directly related to the victim's status as a fireman, peace officer, or civilian employee.

(3) When the offender has a specific intent to kill or to inflict great bodily harm upon more than one person.

(4) When the offender has specific intent to kill or inflict great bodily harm and has offered, has been offered, has given, or has received anything of value for the killing.

(5) When the offender has the specific intent to kill or to inflict great bodily harm upon a victim who is under the age of twelve or sixty-five years of age or older.

(6) When the offender has the specific intent to kill or to inflict great bodily harm while engaged in the distribution, exchange, sale, or purchase, or any attempt thereof, of a

controlled dangerous substance listed in Schedules I, II, III, IV, or V of the Uniform Controlled Dangerous Substances Law.

(7) When the offender has specific intent to kill or to inflict great bodily harm and is engaged in the activities prohibited by R.S. 14:107.1(C)(1).

(8) When the offender has specific intent to kill or to inflict great bodily harm and there has been issued by a judge or magistrate any lawful order prohibiting contact between the offender and the victim in response to threats of physical violence or harm which was served on the offender and is in effect at the time of the homicide.

(9) When the offender has specific intent to kill or to inflict great bodily harm upon a victim who was a witness to a crime or was a member of the immediate family of a witness to a crime committed on a prior occasion and:

(a) The killing was committed for the purpose of preventing or influencing the victim's testimony in any criminal action or proceeding whether or not such action or proceeding had been commenced; or

(b) The killing was committed for the purpose of exacting retribution for the victim's prior testimony.

(10) When the offender has a specific intent to kill or to inflict great bodily harm upon a taxicab driver who is in the course and scope of his employment. For purposes of this Paragraph, "taxicab" means a motor vehicle for hire, carrying six passengers or less, including the driver thereof, that is subject to call from a garage, office, taxi stand, or otherwise.

(11) When the offender has a specific intent to kill or inflict great bodily harm and the offender has previously acted with a specific intent to kill or inflict great bodily harm that resulted in the killing of one or more persons.

(12) When the offender has a specific intent to kill or to inflict great bodily harm upon a correctional facility employee who is in the course and scope of his employment.

B.(1) For the purposes of Paragraph (A)(2) of this Section, the term "peace officer" means any peace officer, as defined in R.S. 40:2402, and includes any constable, marshal, deputy marshal, sheriff, deputy sheriff, local or state policeman, commissioned wildlife enforcement agent, federal law enforcement officer, jail or prison guard, parole officer, probation officer, judge, attorney general, assistant attorney general, attorney general's investigator, district attorney, assistant district attorney, or district attorney's investigator, coroner, deputy coroner, or coroner investigator.

(2) For the purposes of Paragraph (A)(9) of this Section, the term "member of the immediate family" means a husband, wife, father, mother, daughter, son, brother, sister, stepparent, grandparent, stepchild, or grandchild.

(3) For the purposes of Paragraph (A)(9) of this Section, the term "witness" means any person who has testified or is expected to testify for the prosecution, or who, by reason of having relevant information, is subject to call or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet commenced.

(4) For purposes of Paragraph (A)(12) of this Section, the term "correctional facility employee" means any employee of any jail, prison, or correctional facility who is not a peace

officer as defined by the provisions of Paragraph (1) of this Subsection.

C.(1) If the district attorney seeks a capital verdict, the offender shall be punished by death or life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence, in accordance with the determination of the jury. The provisions of Code of Criminal Procedure Article 782 relative to cases in which punishment may be capital shall apply.

(2) If the district attorney does not seek a capital verdict, the offender shall be punished by life imprisonment at hard labor without benefit of parole, probation or suspension of sentence. The provisions of Code of Criminal Procedure Article 782 relative to cases in which punishment is necessarily confinement at hard labor shall apply.

RS 14:30.1 — Second degree murder

(2) When the offender is engaged in the perpetration or attempted perpetration of aggravated or first degree rape, forcible or second degree rape, aggravated arson, aggravated burglary, aggravated kidnapping, second degree kidnapping, aggravated escape, resisting a police officer with force or violence, assault by drive-by shooting, armed robbery, first degree robbery, second degree robbery, simple robbery, cruelty to juveniles, second degree cruelty to juveniles, cruelty to the elderly and persons with infirmities, or terrorism, even though he has no intent to kill or to inflict great bodily harm.

(3) When the offender unlawfully distributes or dispenses a controlled dangerous substance listed in Schedules I through V of the Uniform Controlled Dangerous Substances Law, or any combination thereof, which is the direct cause of the death of the recipient who ingested or consumed the controlled dangerous substance.

(4) When the offender unlawfully distributes or dispenses a controlled dangerous substance listed in Schedules I through V of the Uniform Controlled Dangerous Substances Law, or any combination thereof, to another who subsequently distributes or dispenses such controlled dangerous substance which is the direct cause of the death of the person who ingested or consumed the controlled dangerous substance.

B. Whoever commits the crime of second degree murder shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

RS 14:31 — Manslaughter

ense is committed in sudden passion or heat of blood immediately caused by provocation sufficient to deprive an average person of his self-control and cool reflection. Provocation shall not reduce a homicide to manslaughter if the jury finds that the offender's blood had actually cooled, or that an average person's blood would have cooled, at the time the offense was committed; or

(2) A homicide committed, without any intent to cause death or great bodily harm.

(a) When the offender is engaged in the perpetration or attempted perpetration of any felony not enumerated in Article 30 or 30.1, or of any intentional misdemeanor directly affecting the person; or

(b) When the offender is resisting lawful arrest by means, or in a manner, not inherently dangerous, and the circumstances are such that the killing would not be murder under Article 30 or 30.1.

(3) When the offender commits or attempts to commit any crime of violence as defined by R.S. 14:2(B), which is part of a continuous sequence of events resulting in the death of a human being where it was foreseeable that the offender's conduct during the commission of the crime could result in death or great bodily harm to a human being, even if the offender has no intent to kill or to inflict great bodily harm. For purposes of this Paragraph, it shall be immaterial whether or not the person who performed the direct act resulting in the death was acting in concert with the offender.

(4) When the offender unlawfully distributes or dispenses a controlled dangerous substance listed in Schedules I through V of the Uniform Controlled Dangerous Substances Law, or any combination thereof, which significantly contributes to the death of the recipient who ingested or consumed the controlled dangerous substance.

(5) When the offender unlawfully distributes or dispenses a controlled dangerous substance listed in Schedules I through V of the Uniform Controlled Dangerous Substances Law, or any combination thereof, to another who subsequently distributes or dispenses such controlled dangerous substance which significantly contributes to the death of the person who ingested or consumed the controlled dangerous substance.

B. Whoever commits manslaughter shall be imprisoned at hard labor for not more than forty years. However, if the victim killed was under the age of ten years, the offender shall be imprisoned at hard labor, without benefit of probation or suspension of sentence, for not less than ten years nor more than forty years.

RS 14:32 — Negligent homicide

being by a dog or other animal when the owner is reckless
and criminally negligent in confining or restraining the dog or other animal.

B. The violation of a statute or ordinance shall be considered only as presumptive evidence of such negligence.

C.(1) Except as provided for in Paragraph (2) of this Subsection, whoever commits the crime of negligent homicide shall be imprisoned with or without hard labor for not more than ten years, fined not more than five thousand dollars, or both.

(2)(a) If the victim killed was under the age of ten years, the offender shall be imprisoned at hard labor, without benefit of probation, parole, or suspension of sentence, for not less than two nor more than ten years.

(b) If the court does not order the offender to a term of imprisonment when the following two factors are established, the court shall state, both orally and in writing at the time of sentencing, the reasons for not sentencing the offender to a term of imprisonment:

(i) The fatality was caused by a person engaged in the operation of, or in actual physical control of, any motor vehicle, aircraft, watercraft, or other means of conveyance;
and

(ii) The offender's blood alcohol concentration contributed to the fatality.

(3) If the victim was killed by a dog or other animal and the owner of the dog or other animal was criminally negligent, the owner of the dog or other animal shall be imprisoned with or without hard labor for not more than ten years or fined not more than five thousand dollars, or both.

D. The provisions of this Section shall not apply to:

- (1) Any dog which is owned, or the service of which is employed, by any state or local law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.
- (2) Any dog trained in accordance with the standards of a national or regional search and rescue association to respond to instructions from its handler in the search and rescue of lost or missing individuals and which dog, together with its handler, is prepared to render search and rescue services at the request of law enforcement.
- (3) Any guide or service dog trained at a qualified dog guide or service school who is accompanying any blind person, visually impaired person, person who is deaf or hard of hearing, or person with any other physical disability who is using the dog as a guide or for service.
- (4) Any attack made by a dog lawfully inside a dwelling, a place of business, or a motor vehicle as defined in R.S. 32:1(40), against a person who is attempting to make an unlawful entry into the dwelling, place of business, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, or motor vehicle, and the dog is protecting that property.
- (5) Any attack made by livestock as defined in this Section.

E. For the purposes of this Section:

- (1) "Harboring or keeping" means feeding, sheltering, or having custody over the animal for three or more consecutive days.
- (2) "Livestock" means any animal except dogs and cats, bred, kept, maintained, raised, or used for profit, that is used in agriculture, aquaculture, agritourism, competition, recreation, or silvaculture, or for other related purposes or used in the production of crops, animals, or plant or animal products for market. This definition includes but is not limited to cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; goats; sheep; swine; chickens, turkeys, and other poultry; domestic rabbits; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; fish, pet turtles, and other animals identified with aquaculture which are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; any commercial crawfish from any crawfish pond; and any hybrid, mixture, or mutation of any such animal.
- (3) "Owner" means any person, partnership, corporation, or other legal entity owning, harboring, or keeping any animal.

RS 14:32.1 — Vehicular homicide

If, any

motor vehicle, aircraft, watercraft, or other means of conveyance, whether or not the offender had the intent to cause death or great bodily harm, whenever any of the following conditions exists and such condition was a contributing factor to the killing:

- (1) The operator is impaired by alcoholic beverages as determined by chemical tests administered under the provisions of R.S. 32:662.

(2) The operator's blood alcohol concentration is 0.08 percent or more by weight based upon grams of alcohol per one hundred cubic centimeters of blood.

(3)(a) The operator is impaired by any other drug, combination of drugs, or combination of alcohol and drugs.

(b) As used in this Section, the term "drug" means any substance or combination of substances that, when taken into the human body, can impair the ability of the person to operate a vehicle safely.

(4) The operator is impaired by alcoholic beverages.

(5) The operator's blood has any detectable amount of any controlled dangerous substance listed in Schedule I, II, III, or IV as set forth in R.S. 40:964, or a metabolite of such controlled dangerous substance, that has not been medically ordered or prescribed for the individual.

(6), (7) Repealed by Acts 2024, No. 662, §3.

B. Whoever commits the crime of vehicular homicide shall be fined not less than two thousand dollars nor more than fifteen thousand dollars and shall be imprisoned with or without hard labor for not less than five years nor more than thirty years. At least three years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence. If the operator's blood alcohol concentration is 0.15 percent or more by weight based upon grams of alcohol per one hundred cubic centimeters of blood, then at least five years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence. If the offender was previously convicted of a violation of R.S. 14:98, then at least five years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence. The court shall require the offender to participate in a court-approved substance abuse program and may require the offender to participate in a court-approved driver improvement program. All driver improvement courses required under this Section shall include instruction on railroad grade crossing safety.

C. Whoever commits the crime of vehicular homicide shall be sentenced as an offender convicted of a crime of violence if the offender's blood alcohol concentration, at the time of the offense, exceeds 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood.

D. Notwithstanding the provisions of Code of Criminal Procedure Article 883, if the offense for which the offender was convicted pursuant to the provisions of this Section proximately or directly causes the death of two or more human beings, the offender shall be sentenced separately for each victim, and such sentences shall run consecutively. In calculating the number of deaths for purposes of this Subsection, a human being includes an unborn child.

RS 14:32.5 — Feticide defined; exceptions

ffense of feticide shall not include acts which cause the death of an unborn child if those acts were committed during any abortion to which the pregnant woman or her legal guardian has consented or which was performed in an emergency as defined in R.S. 40:1061.23. Nor shall the offense of feticide

include acts which are committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment.

B. Criminal feticide is of three grades:

- (1) First degree feticide.
- (2) Second degree feticide.
- (3) Third degree feticide.

RS 14:32.6 — First degree feticide

(2) The killing of an unborn child when the offender is engaged in the perpetration or attempted perpetration of aggravated or first degree rape, forcible or second degree rape, aggravated arson, aggravated burglary, aggravated kidnapping, second degree kidnapping, assault by drive-by shooting, aggravated escape, armed robbery, first degree robbery, second degree robbery, cruelty to juveniles, second degree cruelty to juveniles, terrorism, or simple robbery, even though he has no intent to kill or inflict great bodily harm.

B. Whoever commits the crime of first degree feticide shall be imprisoned at hard labor for not more than fifteen years.

RS 14:32.7 — Second degree feticide

mediately caused by provocation of the mother of the unborn child sufficient to deprive an average person of his self control and cool reflection. Provocation shall not reduce a first degree feticide to second degree feticide if the jury finds that the offender's blood had actually cooled, or that an average person's blood would have cooled, at the time the offense was committed.

(2) A feticide committed without any intent to cause death or great bodily harm:

- (a) When the offender is engaged in the perpetration or attempted perpetration of any felony not enumerated in Article 32.6 (first degree feticide), or of any intentional misdemeanor directly affecting the person; or
- (b) When the offender is resisting lawful arrest by means, or in a manner, not inherently dangerous, and the circumstances are such that the killing would not be first degree feticide under Article 32.6.

B. Whoever commits the crime of second degree feticide shall be imprisoned at hard labor for not more than ten years.

RS 14:32.8 — Third degree feticide

red only as presumptive evidence of such negligence.

(2) The killing of an unborn child caused proximately or caused directly by an offender engaged in the operation of, or in actual physical control of, any motor vehicle, aircraft, vessel, or other means of conveyance whether or not the offender had the intent to cause death or great bodily harm whenever any of the following conditions exist and such condition was a contributing factor to the killing:

- (a) The offender is impaired by alcoholic beverages as determined by chemical tests administered under the provisions of R.S. 32:662.
- (b) The offender's blood alcohol concentration is 0.08 percent or more by weight based upon grams of alcohol per one hundred cubic centimeters of blood.
- (c)(i) The offender is impaired by any other drug, combination of drugs, or combination of alcohol and drugs.
- (ii) As used in this Section, the term "drug" means any substance or combination of substances that, when taken into the human body, can impair the ability of the person to operate a vehicle safely.

(d) The offender is impaired by alcoholic beverages.

(e) The operator's blood has any detectable amount of any controlled dangerous substance listed in Schedule I, II, III, or IV as set forth in R.S. 40:964, or a metabolite of such controlled dangerous substance, that has not been medically ordered or prescribed for the individual.

(f), (g) Repealed by Acts 2024, No. 662, §3.

B. Whoever commits the crime of third degree feticide shall be fined not less than two thousand dollars and shall be imprisoned with or without hard labor for not more than five years.

RS 14:32.10 — Repealed by Acts 2022, No. 545, §4.

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RS 14:32.12 — Criminal assistance to suicide

the physical means or the knowledge of

such means to another person for the purpose of enabling the other person to commit or attempt to commit suicide.

(2) The intentional advising, encouraging, or assisting of another person to commit suicide, or the participation in any physical act which causes, aids, abets, or assists another person in committing or attempting to commit suicide.

B. For the purposes of this Section, "suicide" means the intentional and deliberate act of taking one's own life through the performance of an act intended to result in death.

C. The provisions of this Section shall not apply to any licensed physician or other authorized licensed health care professional who either:

(1) Withholds or withdraws medical treatment in accordance with the provisions of R.S. 40:1151.7.

(2) Prescribes, dispenses, or administers any medication, treatment, or procedure if the intent is to relieve the patient's pain or suffering and not to cause death.

D. Whoever commits the crime of criminal assistance to suicide shall be imprisoned, with or without hard labor, for not more than ten years or fined not more than ten thousand dollars, or both.

RS 14:33 — Battery defined

ts 1978, No. 394, §1.

RS 14:34 — Aggravated battery

usand dollars, imprisoned with or without hard labor for not more than ten years, or both.

At least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence if the offender knew or should have known that the victim is an active member of the United States Armed Forces or is a disabled veteran and the aggravated battery was committed because of that status.

C. For purposes of this Section, the following words shall have the following

meanings:

(1) "Active member of the United States Armed Forces" shall mean an active member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Space Force, the United States Coast Guard, or the National Guard.

(2) "Disabled veteran" shall mean a veteran member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Space Force, the United States Coast Guard, or the National Guard who is disabled as determined by the United States Department of Veteran Affairs.

RS 14:34.1 — Second degree battery

er who has obtained

the consent of a patient.

B. For purposes of this Section, the following words shall have the following meanings:

(1) "Active member of the United States Armed Forces" shall mean an active member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Space Force, the United States Coast Guard, or the National Guard.

(2) "Disabled veteran" shall mean a veteran member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Space Force, the United States Coast Guard, or the National Guard who is disabled as determined by the United States Department of Veteran Affairs.

C. Whoever commits the crime of second degree battery shall be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not more than eight years, or both. At least eighteen months of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence if the offender knew or should have known that the victim is an active member of the United States Armed Forces or is a disabled veteran and the second degree battery was committed because of that status.

RS 14:34.2 — Battery of a police officer

s a police officer

acting in the performance of his duty.

(2) For purposes of this Section, "police officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, juvenile detention facility officers, federal law enforcement officers, constables, wildlife enforcement agents, state park wardens, and probation and parole officers.

(3) For purposes of this Section, "battery of a police officer" includes the use of force or violence upon the person of the police officer by throwing water or any other liquid, feces, urine, blood, saliva, or any form of human waste.

B.(1)(a) Whoever commits the crime of battery of a police officer shall be fined not more than five hundred dollars and imprisoned not less than fifteen days nor more than six months without benefit of suspension of sentence.

(b) Whoever commits a second or subsequent offense of battery of a police officer

shall be fined not more than one thousand dollars and imprisoned with or without hard labor for not less than one year nor more than three years. At least fifteen days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(2) If at the time of the commission of the offense the offender is under the jurisdiction and legal custody of the Department of Public Safety and Corrections, or is being detained in any jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility, the offender shall be fined not more than one thousand dollars and imprisoned with or without hard labor without benefit of parole, probation, or suspension of sentence for not less than one year nor more than five years. Such sentence shall be consecutive to any other sentence imposed for violation of the provisions of any state criminal law.

(3)(a) If the battery produces an injury that requires medical attention, the offender shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both. At least thirty days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(b) If the battery produces an injury that requires medical attention, and the offense is a second or subsequent violation of the provisions of this Section, the offender shall be fined not more than two thousand dollars and shall be imprisoned with or without hard labor for not less than two years nor more than five years. At least sixty days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

C. The definition of a "police officer" as provided in Paragraph (A)(2) of this Section shall be strictly construed solely for the purposes of this Section and shall not be construed as granting the authority to any agency not defined as a "peace officer" pursuant to the provisions of R.S. 40:2402 to make arrests, perform search and seizures, execute criminal warrants, prevent and detect crime, and enforce the laws of this state.

RS 14:34.3 — Battery of a school teacher

r acting in the performance of employment duties.

B. For purposes of this Section:

(1) "School teacher" shall include any teacher or instructor, administrator, staff person, or employee of any public or private elementary, secondary, vocational-technical training, special, or postsecondary school or institution. For purposes of this Section, "school teacher" shall also include any teacher aide and paraprofessional, school bus driver, food service worker, and other clerical, custodial, or maintenance personnel employed by a city, parish, or other local public school board.

(2) "School" means any public or nonpublic elementary, secondary, high school, vocational-technical school, college, special, or postsecondary school or institution, or university in this state.

(3) "Student" means any person registered or enrolled at the school where the school teacher is employed.

C. Whoever commits the crime of battery of a school teacher shall be punished as follows:

(1) If the battery was committed by a student, upon conviction, the offender shall be fined not more than five thousand dollars or imprisoned not less than thirty days nor more than one year. At least seventy-two hours of the sentence imposed shall be imposed without benefit of suspension of sentence.

(2) If the battery was committed by someone who is not a student, the offender shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both.

(3) If the battery produces an injury that requires medical attention, the offender shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both.

RS 14:34.4 — Battery of a school or recreation athletic contest official

when the offender has reasonable grounds to believe the victim is a school athletic or recreation contest official actively engaged in the conducting, supervising, refereeing, or officiating of a school-sanctioned interscholastic athletic contest or a sanctioned recreation athletic contest.

(2) For purposes of this Section, "school athletic contest official" means any referee, umpire, coach, instructor, administrator, staff person, or school or school board employee of any public or private elementary and secondary school.

(3) For purposes of this Section, "recreation athletic contest official" means any referee, umpire, coach, instructor, administrator, staff person, or recreation employee of any public or quasi public recreation program.

B.(1) Whoever commits the crime of battery of a school or recreation athletic contest official shall be fined not less than one thousand dollars and not more than five thousand dollars and imprisoned not less than five days nor more than six months without benefit of suspension of sentence.

(2) Whoever commits the crime of battery of a school or recreation athletic contest official which results in serious bodily injury to the victim shall be fined not less than one thousand dollars and not more than five thousand dollars and imprisoned for not less than ten days nor more than six months.

(3)(a) In addition to any other penalty imposed, the court shall order the offender to perform forty hours of court-approved community service work.

(b) In addition to any other penalty imposed, the court shall order the offender to participate in a court-approved counseling program which may include anger management, abusive behavior intervention groups, or any other type of counseling deemed appropriate by the court. Any costs associated with the counseling program shall be borne by the offender.

(c) Participation in the community service and counseling program required by the provisions of Subparagraphs (a) and (b) of this Paragraph shall not be suspended.

(d) Failure to successfully complete the community service work and counseling program, as determined by the supervisor of the program to which he is assigned, may result in revocation of probation.

RS 14:34.5 — Battery of a correctional facility employee

lieve the victim is a correctional facility employee acting in the performance of his duty.

(2) For purposes of this Section, "correctional facility employee" means any employee of any jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility.

(3) For purposes of this Section, "battery of a correctional facility employee" includes the use of force or violence upon the person of the employee by throwing water or any other liquid, feces, urine, blood, saliva, or any form of human waste by an offender while the offender is incarcerated and is being detained in any jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility.

B.(1) Whoever commits the crime of battery of a correctional facility employee shall be fined not more than five hundred dollars and imprisoned not less than fifteen days nor more than six months without benefit of suspension of sentence.

(2) If at the time of the commission of the offense the offender is under the jurisdiction and legal custody of the Department of Public Safety and Corrections, or is being detained in any jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility, the offender shall be fined not more than one thousand dollars and imprisoned with or without hard labor without benefit of parole, probation, or suspension of sentence for not less than one year nor more than five years. Such sentence shall be consecutive to any other sentence imposed for violation of the provisions of any state criminal law.

RS 14:34.5.1 — Battery of a bus operator

operator.

B. For the purposes of this Section, a "bus operator" means any person employed by a public transit system who operates a bus, as defined in R.S. 32:1, or who operates an electronically operated cable car while that person is on duty in the course and scope of his or her employment, regardless of whether the bus is in motion at the time of the offense.

"Bus operator" shall not include any person who operates a school bus.

C. Whoever commits the crime of battery on a bus operator while the operator is operating a bus shall be fined not more than one thousand dollars and imprisoned for not less than seventy-two hours nor more than one year, with or without hard labor, without benefit of probation, parole, or suspension of sentence.

RS 14:34.6 — Disarming of a peace officer

s possession of any law

enforcement equipment from the person of a peace officer or from an area within the peace officer's immediate control, when the offender has reasonable grounds to believe that the victim is a peace officer acting in the performance of his duty.

B. For purposes of this Section:

(1) "Law enforcement equipment" shall include any firearms, weapons, restraints, ballistics shields, forced entry tools, defense technology equipment, self-defense batons, self-defense sprays, chemical weapons, or electro shock weapons used by the peace officer in the course and scope of his law enforcement duties and approved for such use by the peace officer's law enforcement agency.

(2) "Peace officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, park wardens, livestock brand inspectors, forestry officers, and probation and parole officers.

C. Whoever commits the crime of disarming of a peace officer shall be imprisoned at hard labor for not more than five years.

RS 14:34.7 — Aggravated second degree battery

B. For purposes of this Section, the following words shall have the following meanings:

(1) "Active member of the United States Armed Forces" shall mean an active member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Space Force, the United States Coast Guard, or the National Guard.

(2) "Disabled veteran" shall mean a veteran member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United

States Space Force, the United States Coast Guard, or the National Guard who is disabled as determined by the United States Department of Veteran Affairs.

C. Whoever commits the crime of aggravated second degree battery shall be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not more than fifteen years, or both. At least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence if the offender knew or should have known that the victim is an active member of the United States Armed Forces or is a disabled veteran and the aggravated second degree battery was committed because of that status.

RS 14:34.8 — Battery of emergency room personnel, emergency services personnel, or a healthcare

re professional is battery committed without the consent of the victim when the offender has reasonable grounds to believe that the victim is emergency room personnel, emergency services personnel, or a healthcare professional acting in the performance of his duties.

(2) The use of force of violence upon the person of emergency room personnel, emergency services personnel, or a healthcare professional by throwing feces, urine, blood, saliva, or any form of human waste by an offender while the offender is transported to or from a medical facility or while being evaluated or treated in a medical facility shall also constitute battery of emergency room personnel, emergency services personnel, or a healthcare professional.

B. For purposes of this Section:

(1) "Emergency room personnel" includes a person in a hospital emergency department who, in the course and scope of his employment or as a volunteer, provides services or medical care, or who assists in the providing of services or medical care, for the benefit of the general public during emergency situations. "Emergency room personnel" shall include but not be limited to any healthcare professional, emergency department clerk, emergency department technician, student, and emergency department volunteer working in the hospital emergency department.

(2) "Emergency services personnel" means any "emergency medical services personnel" as defined by R.S. 40:1075.3 or any "EMS practitioners" as defined by R.S. 40:1131.

(3) "Healthcare professional" means a person licensed or certified by this state to provide healthcare or professional services as a physician, physician assistant, dentist, registered or licensed practical nurse or certified nurse assistant, advanced practice registered nurse, certified emergency medical technician, paramedic, certified registered nurse anesthetist, nurse practitioner, respiratory therapist, clinical nurse specialist, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, licensed radiologic technologist, licensed clinical laboratory scientist, licensed professional counselor, certified social worker, psychologist, patient transporter, dietary worker, patient access representative, security personnel, patient relations advocate, veterinarian, veterinary staff, or any other person who otherwise assists in or supports the performance of healthcare services.

C.(1)(a) Whoever commits the crime of battery of emergency room personnel,

emergency services personnel, or a healthcare professional shall be fined not more than one thousand dollars and imprisoned for not less than fifteen days nor more than six months. At least forty-eight hours of the sentence imposed shall be without benefit of suspension of sentence.

(b) Whoever commits a second or subsequent offense of battery of emergency room personnel, emergency services personnel, or a healthcare professional shall be fined not more than one thousand dollars and imprisoned, with or without hard labor, for not less than one year nor more than three years. At least forty-five days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(2)(a) If the battery produces an injury that requires medical attention, the offender shall be fined not more than five thousand dollars and imprisoned with or without hard labor for not less than one year nor more than five years. At least sixty days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(b) If the battery produces an injury that requires medical attention, and the offense is a second or subsequent offense, the offender shall be fined not more than ten thousand dollars and shall be imprisoned with or without hard labor for not less than two nor more than five years. At least ninety days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

RS 14:34.9 — Battery of a dating partner

B. For purposes of this Section:

(1) "Burning" means an injury to flesh or skin caused by heat, electricity, friction, radiation, or any other chemical or thermal reaction.

(2) "Court-monitored domestic abuse intervention program" means a program, comprised of a minimum of twenty-six in-person sessions occurring over a minimum of twenty-six weeks, that follows a model designed specifically for perpetrators of domestic abuse. The offender's progress in the program shall be monitored by the court. The provider of the program shall have all of the following:

(a) Experience in working directly with perpetrators and victims of domestic abuse.

(b) Experience in facilitating batterer intervention groups.

(c) Training in the causes and dynamics of domestic violence, characteristics of batterers, victim safety, and sensitivity to victims.

(3) "Dating partner" means any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. "Dating partner" shall not include a casual relationship or ordinary association between persons in a business or social context.

(4) Repealed by Acts 2019, No. 2, §3.

(5) "Strangulation" means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of the victim.

C. On a first conviction, notwithstanding any other provision of law to the contrary,

the offender shall be fined not less than three hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than thirty days nor more than six months. At least forty-eight hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occurs:

- (1) The offender is placed on probation with a minimum condition that he serve four days in jail and complete a court-monitored domestic abuse intervention program, and the offender shall not possess a firearm throughout the entirety of the sentence.
- (2) The offender is placed on probation with a minimum condition that he perform eight eight-hour days of court-approved community service activities and complete a court-monitored domestic abuse intervention program, and the offender shall not possess a firearm throughout the entirety of the sentence.

D. On a conviction of a second offense, notwithstanding any other provision of law to the contrary and regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars and shall be imprisoned with or without hard labor for not less than sixty days nor more than one year. At least fourteen days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence, and the offender shall be required to complete a court-monitored domestic abuse intervention program. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occurs:

- (1) The offender is placed on probation with a minimum condition that he serve thirty days in jail and complete a court-monitored domestic abuse intervention program, and the offender shall not possess a firearm throughout the entirety of the sentence.
- (2) The offender is placed on probation with a minimum condition that he perform thirty eight-hour days of court-approved community service activities and complete a court-monitored domestic abuse intervention program, and the offender shall not possess a firearm throughout the entirety of the sentence.

E. On a conviction of a third offense, notwithstanding any other provision of law to the contrary and regardless of whether the offense occurred before or after an earlier conviction, the offender shall be imprisoned with or without hard labor for not less than one year nor more than five years and shall be fined two thousand dollars. The first year of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence.

F.(1) Except as otherwise provided in Paragraph (2) of this Subsection, on a conviction of a fourth or subsequent offense, notwithstanding any other provision of law to the contrary and regardless of whether the fourth offense occurred before or after an earlier conviction, the offender shall be imprisoned with hard labor for not less than ten years nor more than thirty years and shall be fined five thousand dollars. The first three years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence.

(2) If the offender has previously received the benefit of suspension of sentence, probation, or parole as a fourth or subsequent offender, no part of the sentence may be

imposed with benefit of suspension of sentence, probation, or parole, and no portion of the sentence shall be imposed concurrently with the remaining balance of any sentence to be served for a prior conviction for any offense.

G.(1) For purposes of determining whether an offender has a prior conviction for violation of this Section, a conviction under this Section, or a conviction under the laws of any state or an ordinance of a municipality, town, or similar political subdivision of another state which prohibits the intentional use of force or violence committed by one household member, family member, or dating partner upon another household member, family member, or dating partner shall constitute a prior conviction.

(2) For purposes of this Section, a prior conviction shall not include a conviction for an offense under this Section if the date of completion of sentence, probation, parole, or suspension of sentence is more than ten years prior to the commission of the crime with which the offender is charged, and such conviction shall not be considered in the assessment of penalties hereunder. However, periods of time during which the offender was incarcerated in a penal institution in this or any other state shall be excluded in computing the ten-year period.

H. An offender ordered to complete a court-monitored domestic abuse intervention program required by the provisions of this Section shall pay the cost incurred by participation in the program. Failure to make such payment shall subject the offender to revocation of probation, unless the court determines that the offender is unable to pay.

I. This Subsection shall be cited as the "Dating Partner Abuse Child Endangerment Law". Notwithstanding any provision of law to the contrary, when the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child thirteen years of age or younger was present at the residence or any other scene at the time of the commission of the offense, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

J. Any felony crime of violence, as defined by R.S. 14:2(B), against a person committed by one dating partner against another dating partner, shall be designated as an act of domestic abuse for consideration in any civil or criminal proceeding.

K. Notwithstanding any provision of law to the contrary, if the victim of the offense is pregnant and the offender knows that the victim is pregnant at the time of the commission of the offense, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

L.(1) Notwithstanding any provision of law to the contrary, if the offense involves strangulation, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

(2) If the strangulation results in serious bodily injury, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not less than five nor more than fifty years without benefit of probation, parole, or suspension of sentence.

M.(1) Notwithstanding any provision of law to the contrary, if the offense is

committed by burning, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

(2) If the burning results in serious bodily injury, the offense shall be classified as a crime of violence, and the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not less than five nor more than fifty years without benefit of probation, parole, or suspension of sentence.

N. Except as provided in Paragraphs (L)(2) and (M)(2) and Subsection P of this Section, if the offender intentionally inflicts serious bodily injury, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than eight years.

O. Except as provided in Subsection P of this Section, if the intentional use of force or violence is committed with a dangerous weapon, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than ten years.

P. Notwithstanding any provision of law to the contrary, if the intentional use of force or violence is committed with a dangerous weapon when the offender intentionally inflicts serious bodily injury, the offender, in addition to other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than fifteen years.

RS 14:34.9.1 — Aggravated assault upon a dating partner

B. For purposes of this Section, "dating partner" means any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. "Dating partner" shall not include a casual relationship or ordinary association between persons in a business or social context.

C. Whoever commits the crime of aggravated assault upon a dating partner shall be imprisoned at hard labor for not less than one year nor more than five years and fined not more than five thousand dollars.

D. This Subsection shall be cited as the "Aggravated Assault Upon a Dating Partner Child Endangerment Law". When the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child thirteen years of age or younger was present at the residence or any other scene at the time of the commission of the offense, the mandatory minimum sentence imposed by the court shall be two years imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

RS 14:35 — Simple battery

not more than six months, or both.

RS 14:35.1 — Battery of a child welfare or adult protective service worker

tim when the offender has reasonable grounds to believe the victim is a child welfare or adult protective service worker working in the performance of employment duties who has presented proper identification.

(2) For purposes of this Section, "child welfare worker" shall include any child

protection investigator, family services worker, foster care worker, adoption worker, any supervisor of the above, or any person authorized to transport clients for the agency, or court appointed special advocate (CASA) program representative.

(3) For purposes of this Section, "adult protective service worker" shall include any adult protection specialist or adult protection specialist supervisor employed by the Louisiana Department of Health or the Governor's Office of Elderly Affairs.

B. Whoever commits the crime of battery of a child welfare or adult protective service worker shall be fined not more than five hundred dollars and shall be imprisoned not less than fifteen days nor more than six months, or both. At least seventy-two hours of the sentence imposed shall be served without benefit of suspension of sentence. If the battery produces an injury which requires medical attention, the offender shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both.

RS 14:35.2 — Simple battery of persons with infirmities

incapable of consenting to the battery

due to either of the following:

(1) Advanced age.

(2) Unsoundness of mind, stupor, abnormal condition of the mind, or other mental or developmental disability, regardless of the age of the victim.

B. For purposes of this Section, "person who is infirm, has a disability, or is aged" shall include but not be limited to any individual who is a resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential facility, or any individual who is sixty years of age or older. Lack of knowledge of the person's age shall not be a defense.

C. Whoever commits the crime of battery of persons with infirmities shall be fined not more than five hundred dollars and imprisoned not less than thirty days nor more than six months, or both.

RS 14:35.3 — Domestic abuse battery

member or

family member.

B. For purposes of this Section:

(1) "Burning" means an injury to flesh or skin caused by heat, electricity, friction, radiation, or any other chemical or thermal reaction.

(2) "Community service activities" as used in this Section may include duty in any morgue, coroner's office, or emergency treatment room of a state-operated hospital or other state-operated emergency treatment facility, with the consent of the administrator of the morgue, coroner's office, hospital, or facility.

(3) "Court-monitored domestic abuse intervention program" means a program, comprised of a minimum of twenty-six in-person sessions occurring over a minimum of twenty-six weeks, that follows a model designed specifically for perpetrators of domestic abuse. The offender's progress in the program shall be monitored by the court. The provider of the program shall have all of the following:

(a) Experience in working directly with perpetrators and victims of domestic abuse.

(b) Experience in facilitating batterer intervention groups.

(c) Training in the causes and dynamics of domestic violence, characteristics of batterers, victim safety, and sensitivity to victims.

(4) "Family member" means spouses, former spouses, parents, children, stepparents, stepchildren, foster parents, foster children, other ascendants, and other descendants.

"Family member" also means the other parent or foster parent of any child or foster child of the offender.

(5) "Household member" means any person presently or formerly living in the same residence with the offender and who is involved or has been involved in a sexual or intimate relationship with the offender, or any child presently or formerly living in the same residence with the offender, or any child of the offender regardless of where the child resides.

(6) Repealed by Acts 2019, No. 2, §3.

(7) "Strangulation" means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of the victim.

C. On a first conviction, notwithstanding any other provision of law to the contrary, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than thirty days nor more than six months. At least forty-eight hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occurs:

(1) The offender is placed on probation with a minimum condition that he serve four days in jail and complete a court-monitored domestic abuse intervention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

(2) The offender is placed on probation with a minimum condition that he perform eight, eight-hour days of court-approved community service activities and complete a court-monitored domestic abuse intervention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

D. On a conviction of a second offense, notwithstanding any other provision of law to the contrary, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars and shall be imprisoned with or without hard labor for not less than sixty days nor more than one year. At least fourteen days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence, and the offender shall be required to complete a court-monitored domestic abuse intervention program. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occurs:

(1) The offender is placed on probation with a minimum condition that he serve thirty days in jail and complete a court-monitored domestic abuse intervention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

(2) The offender is placed on probation with a minimum condition that he perform

thirty eight-hour days of court-approved community service activities and complete a court-monitored domestic abuse intervention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

E. On a conviction of a third offense, notwithstanding any other provision of law to the contrary and regardless of whether the offense occurred before or after an earlier conviction, the offender shall be imprisoned with or without hard labor for not less than one year nor more than five years and shall be fined two thousand dollars. The first year of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence.

F.(1) Except as otherwise provided in Paragraph (2) of this Subsection, on a conviction of a fourth or subsequent offense, notwithstanding any other provision of law to the contrary and regardless of whether the fourth offense occurred before or after an earlier conviction, the offender shall be imprisoned with hard labor for not less than ten years nor more than thirty years and shall be fined five thousand dollars. The first three years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence.

(2) If the offender has previously received the benefit of suspension of sentence, probation, or parole as a fourth or subsequent offender, no part of the sentence may be imposed with benefit of suspension of sentence, probation, or parole, and no portion of the sentence shall be imposed concurrently with the remaining balance of any sentence to be served for a prior conviction for any offense.

G.(1) For purposes of determining whether an offender has a prior conviction for violation of this Section, a conviction under this Section, or a conviction under the laws of any state or an ordinance of a municipality, town, or similar political subdivision of another state which prohibits the intentional use of force or violence committed by one household member, family member, or dating partner upon another household member, family member, or dating partner shall constitute a prior conviction.

(2) For purposes of this Section, a prior conviction shall not include a conviction for an offense under this Section if the date of completion of sentence, probation, parole, or suspension of sentence is more than ten years prior to the commission of the crime with which the offender is charged, and such conviction shall not be considered in the assessment of penalties hereunder. However, periods of time during which the offender was incarcerated in a penal institution in this or any other state shall be excluded in computing the ten-year period.

H. An offender ordered to complete a court-monitored domestic abuse intervention program required by the provisions of this Section shall pay the cost incurred in participation in the program. Failure to make such payment shall subject the offender to revocation of probation, unless the court determines that the offender is unable to pay.

I. This Subsection shall be cited as the "Domestic Abuse Child Endangerment Law". Notwithstanding any provision of law to the contrary, when the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child thirteen years of age or younger was present at the residence or any other scene at the time

of the commission of the offense, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

J. Any crime of violence, as defined in R.S. 14:2(B), against a person committed by one household member against another household member, shall be designated as an act of domestic abuse for consideration in any civil or criminal proceeding.

K. Notwithstanding any provision of law to the contrary, if the victim of domestic abuse battery is pregnant and the offender knows that the victim is pregnant at the time of the commission of the offense, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

L.(1) Notwithstanding any provision of law to the contrary, if the domestic abuse battery involves strangulation, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

(2) If the strangulation results in serious bodily injury, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not less than five nor more than fifty years without benefit of probation, parole, or suspension of sentence.

M.(1) Notwithstanding any provision of law to the contrary, if the domestic abuse battery is committed by burning, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

(2) If the burning results in serious bodily injury, the offense shall be classified as a crime of violence, and the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not less than five nor more than fifty years without benefit of probation, parole, or suspension of sentence.

N. Except as provided in Paragraphs (L)(2) and (M)(2) and Subsection P of this Section, if the offender intentionally inflicts serious bodily injury, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than eight years.

O. Except as provided in Subsection P of this Section, if the intentional use of force or violence is committed with a dangerous weapon, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than ten years.

P. Notwithstanding any provision of law to the contrary, if the intentional use of force or violence is committed with a dangerous weapon when the offender intentionally inflicts serious bodily injury, the offender, in addition to other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than fifteen years.

RS 14:37 — Aggravated assault

ned for not more than six months, or both.

C. If the offense is committed upon a store's or merchant's employee while the offender is engaged in the perpetration or attempted perpetration of theft of goods, the offender shall be imprisoned for not less than one hundred twenty days without benefit of suspension of sentence nor more than six months and may be fined not more than one thousand dollars.

RS 14:37.1 — Assault by drive-by shooting

Whoever commits an assault by drive-by shooting shall be imprisoned for not less than three years nor more than ten years, with or without hard labor, and without benefit of suspension of sentence.

C. As used in this Section and in R.S. 14:30(A)(1) and 30.1(A)(2), the term "drive-by shooting" means the discharge of a firearm from a motor vehicle on a public street, highway, or interstate highway with the intent either to kill, cause harm to, or frighten another person.

RS 14:37.2 — Aggravated assault upon a peace officer

B. Whoever commits an aggravated assault upon a peace officer shall be fined not more than five thousand dollars, or imprisoned for not less than one year nor more than ten years, with or without hard labor, or both.

RS 14:37.3 — Unlawful use of a laser on a police officer

offender has reasonable grounds to believe the officer is a police officer acting in the performance of his duty and that the officer will be injured, intimidated, or placed in fear of bodily harm.

B. For purposes of this Section the following terms have the following meanings:

(1) "Laser" means any device that projects a beam or point of light by means of light amplification by stimulated emission of radiation or any device that emits light which simulates the appearance of a laser.

(2) "Police officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, and probation and parole officers.

C. Whoever commits the crime of unlawful use of a laser on a police officer shall be fined not more than five hundred dollars or imprisoned not more than six months, or both.

RS 14:37.4 — Aggravated assault with a firearm

the propulsion of shot, shell, or bullets by the action of gunpowder exploded within it.

C. Whoever commits an aggravated assault with a firearm shall be fined not more than ten thousand dollars or imprisoned for not more than ten years, with or without hard labor, or both.

RS 14:37.5 — Aggravated assault upon a utility service employee with a firearm

employee who is acting in the course and scope of his duties

when the offender knows the victim is a utility service employee and the assault is committed with the intention of preventing the person from performing his official duties and is committed with a firearm.

B. For purposes of this Section:

(1) "Firearm" is defined as an instrument used in the propulsion of shot, shell, or bullets by the action of gunpowder exploded within it.

(2) "Utility service" means any electricity, gas, water, broadband, cable television, heat, steam, telecommunications service, or sewer services.

(3) "Utility service employee" means any uniformed, readily identified employee, including any person employed under contract, of any utility service that provides electricity, gas, water, broadband, cable television, heat, steam, telecommunications services, or sewer services, whether privately, municipally, cooperatively, or investor-owned.

C. Whoever commits an aggravated assault upon a utility service employee with a firearm shall be fined not more than two thousand dollars or imprisoned for not less than one year nor more than three years, with or without hard labor, or both.

RS 14:37.6 — Aggravated assault with a motor vehicle upon a peace officer

in the course and scope of his duties.

B. For the purposes of this Section:

(1) "Motor vehicle" shall include any motor vehicle, aircraft, watercraft, or other means of conveyance.

(2) "Peace officer" shall have the same meaning as defined in R.S. 40:2402.

C. Whoever commits the crime of aggravated assault with a motor vehicle upon a peace officer shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not less than one year nor more than ten years, or both.

RS 14:37.7 — Domestic abuse aggravated assault

member

or family member.

B. For purposes of this Section:

(1) "Family member" means spouses, former spouses, parents, children, stepparents, stepchildren, foster parents, foster children, other ascendants, and other descendants.

"Family member" also means the other parent or foster parent of any child or foster child of the offender.

(2) "Household member" means any person presently or formerly living in the same residence with the offender and who is involved or has been involved in a sexual or intimate relationship with the offender, or any child presently or formerly living in the same residence with the offender, or any child of the offender regardless of where the child resides.

C. Whoever commits the crime of domestic abuse aggravated assault shall be imprisoned at hard labor for not less than one year nor more than five years and fined not more than five thousand dollars.

D. This Subsection shall be cited as the "Domestic Abuse Aggravated Assault Child Endangerment Law". When the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child thirteen years of age or younger was present at the residence or any other scene at the time of the commission of the offense, the mandatory minimum sentence imposed by the court shall be two years imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

RS 14:38 — Simple assault

more than ninety days, or both.

RS 14:38.1 — Mingling harmful substances

by any human being to his injury.

B. Whoever commits the crime of mingling harmful substances shall be imprisoned, with or without hard labor, for not more than two years or fined not more than one thousand dollars, or both.

RS 14:38.1.1 — Adulterating a food product

blood, saliva, semen,

any form of human or animal waste, or other bodily substance with the intent that the product be provided to or consumed by another person who has no knowledge of nor consents to the contamination.

B. For purposes of this Section:

(1) "Food product" is any food, drink, condiment, or medication, including all substances and preparations used for or entering into the composition of the product.

(2) "Medication" means any prescription or nonprescription drug.

C. Whoever commits the crime of adulterating a food product shall be fined not more than two thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

RS 14:38.2 — Assault on a school teacher

his duties.

(2)(a) For purposes of this Section, "school teacher" means any teacher, instructor, administrator, staff person, or employee of any public or private elementary, secondary, vocational-technical training, special, or postsecondary school or institution. For purposes of this Section, "school teacher" shall also include any teacher aide and paraprofessional, school bus driver, food service worker, and other clerical, custodial, or maintenance personnel employed by a city, parish, or other local public school board.

(b) For the purposes of this Section, "assault" means an attempt to commit on a school teacher a battery or the intentional placing of a school teacher in reasonable apprehension of receiving a battery or making statements threatening physical harm to a school teacher.

(c) For the purposes of this Section, "school" means any public or nonpublic elementary, secondary, high school, vocational-technical school, college, special, or postsecondary school or institution, or university in this state.

(d) For the purposes of this Section, "student" means any person registered or enrolled at the school where the school teacher is employed.

B. Whoever commits the crime of assault on a school teacher shall be punished as follows:

(1) If the assault was committed by a student, upon conviction, the offender shall be fined not more than two thousand dollars or imprisoned not less than thirty days nor more than one hundred eighty days, or both.

(2) If the assault was committed by someone who is not a student, upon conviction, the offender shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not less than one year nor more than three years, or both.

RS 14:38.3 — Assault on a child welfare worker

the performance of his duties.

(2) For purposes of this Section, "child welfare worker" shall include any child protection investigator, family services worker, foster care worker, adoption worker, any supervisor of the above, any person authorized to transport clients for the agency, or court appointed special advocate (CASA) program representative.

B. Whoever commits the crime of assault on a child welfare worker shall be fined not more than five hundred dollars or imprisoned not less than fifteen days nor more than ninety days, or both.

RS 14:38.4 — Harassment of a school or recreation athletic contest official

under either of the following circumstances:

(a) While the school athletic or recreation athletic contest official is actively engaged in the conducting, supervising, refereeing, or officiating of a school-sanctioned interscholastic athletic contest or a sanctioned recreation athletic contest.

(b) In the immediate vicinity of a school-sanctioned interscholastic athletic contest or a sanctioned recreation athletic contest and is based on the official's performance in the conducting, supervising, refereeing, or officiating of a school-sanctioned interscholastic athletic contest or a sanctioned recreation athletic contest.

(2) For purposes of this Subsection, "harassment" shall include verbal or non-verbal behavior by the offender that would cause a reasonable person to be placed in fear of receiving bodily harm.

B. For purposes of this Section:

(1) "Recreation athletic contest official" means any referee, umpire, coach, instructor, administrator, staff person, or recreation employee of any public or quasi public recreation program.

(2) "School athletic contest official" means any referee, umpire, coach, instructor, administrator, staff person, or school or school board employee of any public or private elementary and secondary school.

C.(1) Whoever commits the crime of harassment of a school or recreation athletic contest official shall be fined not more than five hundred dollars, imprisoned without hard labor for not more than ninety days, or both.

(2)(a) In addition to any other penalty imposed, the court shall order the offender to perform forty hours of court-approved community service work.

(b) In addition to any other penalty imposed, the court shall order the offender to participate in a court-approved counseling program which may include anger management, abusive behavior intervention groups, or any other type of counseling deemed appropriate by the court. Any costs associated with the counseling program shall be borne by the offender.

(c) Participation in the community service and counseling program required by the provisions of Subparagraphs (a) and (b) of this Paragraph shall not be suspended.

(d) Failure to successfully complete the community service work and counseling program, as determined by the supervisor of the program to which he is assigned, may result in revocation of probation.

RS 14:38.5 — Assault on emergency room personnel, emergency services personnel, or a healthcare professional is an assault committed when the offender has reasonable grounds to believe the victim is an emergency room personnel, emergency services personnel, or a healthcare professional acting in the performance of his duties.

(2) For purposes of this Section:

(a) "Assault" shall have the same definition as in R.S. 14:36 but shall additionally include making statements threatening physical harm to an emergency room personnel, emergency services personnel, or a healthcare professional.

(b) "Emergency room personnel" shall have the same definitions as in R.S. 14:34.8.

(c) "Emergency services personnel" shall have the same definitions as in R.S. 14:34.8.

(d) "Healthcare professional" shall have the same definitions as in R.S. 14:34.8.

B. Whoever commits the crime of assault on emergency room personnel, emergency services personnel, or a healthcare professional shall be fined not more than one thousand dollars or imprisoned for not less than thirty days nor more than one hundred eighty days, or both.

RS 14:39 — Negligent injuring

(2) The inflicting of any injury upon the person of another by a dog or other animal when the owner of the dog or other animal is reckless and criminally negligent in confining or restraining the dog or other animal.

B. The violation of a statute or ordinance shall be considered only as presumptive

evidence of such negligence.

C. Whoever commits the crime of negligent injuring shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

D. The provisions of this Section shall not apply to:

(1) Any dog which is owned, or the service of which is employed, by any state or

local law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

(2) Any dog trained in accordance with the standards of a national or regional search and rescue association to respond to instructions from its handler in the search and rescue of lost or missing individuals and which dog, together with its handler, is prepared to render search and rescue services at the request of law enforcement.

(3) Any guide or service dog trained at a qualified dog guide or service school who is accompanying any blind person, visually impaired person, person who is deaf or hard of hearing, or person with any other physical disability who is using the dog as a guide or for service.

(4) Any attack made by a dog lawfully inside a dwelling, a place of business, or a motor vehicle as defined in R.S. 32:1(40), against a person who is attempting to make an unlawful entry into the dwelling, place of business, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, or motor vehicle and the dog is protecting that property.

(5) Any attack made by livestock as defined in this Section.

E. For the purposes of this Section:

(1) "Harboring or keeping" means feeding, sheltering, or having custody over the animal for three or more consecutive days.

(2) "Livestock" means any animal except dogs and cats, bred, kept, maintained, raised, or used for profit, that is used in agriculture, aquaculture, agritourism, competition, recreation, or silvaculture, or for other related purposes or used in the production of crops, animals, or plant or animal products for market. This definition includes but is not limited to cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; goats; sheep; swine; chickens, turkeys, and other poultry; domestic rabbits; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; fish, pet turtles, and other animals identified with aquaculture which are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; any commercial crawfish from any crawfish pond; and any hybrid, mixture, or mutation of any such animal.

(3) "Owner" means any person, partnership, corporation, or other legal entity owning, harboring, or keeping any animal.

RS 14:39.1 — Vehicular negligent injuring

engaged in the

operation of, or in actual physical control of, any motor vehicle, aircraft, watercraft, or other means of conveyance whenever any of the following conditions exists:

(1) The offender is impaired by alcoholic beverages.

(2) The offender's blood alcohol concentration is 0.08 percent or more by weight based upon grams of alcohol per one hundred cubic centimeters of blood.

(3)(a) The offender is impaired by any other drug, combination of drugs, or combination of alcohol and drugs.

(b) As used in this Section, the term "drug" means any substance or combination of substances that, when taken into the human body, can impair the ability of the person to operate a vehicle safely.

(4), (5) Repealed by Acts 2024, No. 662, §3.

B. The violation of a statute or ordinance shall be considered only as presumptive evidence of negligence as set forth in Subsection A.

C.(1) Whoever commits the crime of vehicular negligent injuring shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(2) Whoever commits the crime of vehicular negligent injuring and who had a blood alcohol concentration, at the time of the commission of the offense, of at least 0.15 percent but less than 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood shall be fined not more than one thousand dollars and imprisoned for not less than seven days nor more than six months. At least seven days of the sentence imposed by this Paragraph shall be served without the benefit of probation or suspension of sentence.

(3) Whoever commits the crime of vehicular negligent injuring and who had a blood alcohol concentration, at the time of the commission of the offense, of at least 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood shall be fined not more than one thousand dollars and imprisoned for not less than thirty days nor more than six months. At least thirty days of the sentence imposed by this Paragraph shall be served without the benefit of probation or suspension of sentence.

RS 14:39.2 — First degree vehicular negligent injuring

ely or caused directly by an offender

engaged in the operation of, or in actual physical control of, any motor vehicle, aircraft, watercraft, or other means of conveyance whenever any of the following conditions exists:

(1) The offender is impaired by alcoholic beverages.

(2) The offender's blood alcohol concentration is 0.08 percent or more by weight based upon grams of alcohol per one hundred cubic centimeters of blood.

(3)(a) The offender is impaired by any other drug, combination of drugs, or combination of alcohol and drugs.

(b) As used in this Section, the term "drug" means any substance or combination of substances that, when taken into the human body, can impair the ability of the person to operate a vehicle safely.

(4), (5) Repealed by Acts 2024, No. 662, §3.

B. The violation of a statute or ordinance shall be considered only as presumptive evidence of negligence as set forth in Subsection A.

C. Repealed by Acts 2019, No. 2, §3.

D.(1) Whoever commits the crime of first degree vehicular negligent injuring shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than ten years, or both.

(2) Whoever commits the crime of first degree vehicular negligent injuring and who had either a blood alcohol concentration, at the time of the commission of the offense, of at least 0.15 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, or has a prior conviction for operating a vehicle while intoxicated, shall be fined not more than five thousand dollars and imprisoned with or without hard labor for not less than two years nor more than ten years. At least two years of the sentence imposed shall be served without the benefit of probation, parole, or suspension of sentence. During any period of probation, the court shall order the offender to participate in a court-approved substance abuse treatment program and may require successful completion of a court-approved driver improvement program.

RS 14:40 — Intimidation by officers

Intimidation, of threats, violence, or any means of inhuman treatment designed to secure a confession or incriminating statement from the person in custody.

B. Whoever commits the crime of intimidation by officers shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

RS 14:40.1 — Terrorizing; menacing

Any act dangerous to human life exists or is about to exist, with the intent of causing members of the general public to be in sustained fear for their safety; or causing evacuation of a building, a public structure, or a facility of transportation; or causing other serious disruption to the general public.

(2) Whoever commits the offense of terrorizing shall be fined not more than fifteen thousand dollars or imprisoned with or without hard labor for not more than fifteen years, or both.

B.(1) Menacing is the intentional communication of information that the commission of a crime of violence, as defined in R.S. 14:2(B), is imminent or in progress or that a circumstance dangerous to human life exists or is about to exist, when committed under any of the following circumstances:

(a) The actions of the offender cause members of the general public to be in sustained fear for their safety, and a reasonable person would have known that such actions could cause such sustained fear.

(b) The actions of the offender cause the evacuation of a building, a public structure, or a facility of transportation, and a reasonable person would have known that such actions could cause an evacuation.

(c) The actions of the offender cause any other serious disruption to the general public, and a reasonable person would have known that such actions could cause serious disruption to the general public.

(2) Whoever commits the offense of menacing shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

C. It shall be an affirmative defense that the person communicating the information provided for in Subsection A or B of this Section was not involved in the commission of a crime of violence or creation of a circumstance dangerous to human life and reasonably believed his actions were necessary to protect the welfare of the public.

RS 14:40.2 — Stalking

alking

shall include but not be limited to the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal, written, or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping, or any other statutory criminal act to himself or any member of his family or any person with whom he is acquainted.

B.(1)(a) Notwithstanding any law to the contrary, on first conviction, whoever commits the crime of stalking shall be fined not less than five hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than thirty days nor more than one year. Notwithstanding any other sentencing provisions, any person convicted of stalking shall undergo a psychiatric evaluation. Imposition of the sentence shall not be suspended unless the offender is placed on probation and participates in a court-approved counseling which could include but shall not be limited to anger management, abusive behavior intervention groups, or any other type of counseling deemed appropriate by the courts.

(b) Whoever commits the crime of stalking against a victim under the age of eighteen when the provisions of Paragraph (6) of this Subsection are not applicable shall be imprisoned for not more than three years, with or without hard labor, and fined not more than two thousand dollars, or both.

(2)(a) Any person who commits the offense of stalking and who is found by the trier of fact, whether the jury at a jury trial, the judge in a bench trial, or the judge at a sentencing hearing following a jury trial, beyond a reasonable doubt to have placed the victim of the stalking in fear of death or bodily injury by the actual use of or the defendant's having in his possession during the instances which make up the crime of stalking a dangerous weapon or is found beyond a reasonable doubt to have placed the victim in reasonable fear of death or bodily injury, shall be imprisoned for not less than one year nor more than five years, with or without hard labor, without benefit of probation, parole, or suspension of sentence and may be fined one thousand dollars, or both. Whether or not the defendant's use of or his possession of the dangerous weapon is a crime or, if a crime, whether or not he is charged for that offense separately or in addition to the crime of stalking shall have no bearing or relevance as to the enhanced sentence under the provisions of this Paragraph.

(b) If the victim is under the age of eighteen, and when the provisions of Paragraph (6) of this Subsection are not applicable, the offender shall be imprisoned for not less than two years nor more than five years, with or without hard labor, without benefit of probation, parole, or suspension of sentence and may be fined not less than one thousand nor more than two thousand dollars, or both.

(3) Any person who commits the offense of stalking against a person for whose

benefit a protective order, a temporary restraining order, or any lawful order prohibiting contact with the victim issued by a judge or magistrate is in effect in either a civil or criminal proceeding, protecting the victim of the stalking from acts by the offender which otherwise constitute the crime of stalking, shall be punished by imprisonment with or without hard labor for not less than ninety days and not more than two years or fined not more than five thousand dollars, or both.

(4) Upon a second conviction occurring within seven years of a prior conviction for stalking, the offender shall be imprisoned with or without hard labor for not less than five years nor more than twenty years, without benefit of probation, parole, or suspension of sentence, and may be fined not more than five thousand dollars, or both.

(5) Upon a third or subsequent conviction, the offender shall be imprisoned with or without hard labor for not less than ten years and not more than forty years and may be fined not more than five thousand dollars, or both.

(6)(a) Any person thirteen years of age or older who commits the crime of stalking against a child twelve years of age or younger and who is found by the trier of fact, whether the jury at a jury trial, the judge in a bench trial, or the judge at a sentencing hearing following a jury trial, beyond a reasonable doubt to have placed the child in reasonable fear of death or bodily injury, or in reasonable fear of the death or bodily injury of a family member of the child shall be punished by imprisonment with or without hard labor for not less than one year and not more than three years and fined not less than fifteen hundred dollars and not more than five thousand dollars, or both.

(b) Lack of knowledge of the child's age shall not be a defense.

C. For the purposes of this Section, the following words shall have the following meanings:

(1) "Harassing" means the repeated pattern of verbal communications or nonverbal behavior without invitation which includes but is not limited to making telephone calls, transmitting electronic mail, sending messages via a third party, or sending letters or pictures.

(2) "Pattern of conduct" means a series of acts over a period of time, however short, evidencing an intent to inflict a continuity of emotional distress upon the person. Constitutionally protected activity is not included within the meaning of pattern of conduct.

D. As used in this Section, when the victim of the stalking is a child twelve years old or younger:

(1) "Pattern of conduct" includes repeated acts of nonconsensual contact involving the victim or a family member.

(2) "Family member" includes:

(a) A child, parent, grandparent, sibling, uncle, aunt, nephew, or niece of the victim, whether related by blood, marriage, or adoption.

(b) A person who lives in the same household as the victim.

(3)(a) "Nonconsensual contact" means any contact with a child twelve years old or younger that is initiated or continued without that child's consent, that is beyond the scope of the consent provided by that child, or that is in disregard of that child's expressed desire that the contact be avoided or discontinued.

(b) "Nonconsensual contact" includes:

- (i) Following or appearing within the sight of that child.
- (ii) Approaching or confronting that child in a public place or on private property.
- (iii) Appearing at the residence of that child.
- (iv) Entering onto or remaining on property occupied by that child.
- (v) Contacting that child by telephone.
- (vi) Sending mail or electronic communications to that child.
- (vii) Placing an object on, or delivering an object to, property occupied by that child.

(c) "Nonconsensual contact" does not include any otherwise lawful act by a parent, tutor, caretaker, mandatory reporter, or other person having legal custody of the child as those terms are defined in the Louisiana Children's Code.

(4) "Victim" means the child who is the target of the stalking.

E. Whenever it is deemed appropriate for the protection of the victim, the court may send written notice to any employer of a person convicted for a violation of the provisions of this Section describing the conduct on which the conviction was based.

F.(1)(a) Upon motion of the district attorney or on the court's own motion, whenever it is deemed appropriate for the protection of the victim, the court may, in addition to any penalties imposed pursuant to the provisions of this Section, grant a protective order which directs the defendant to refrain from abusing, harassing, interfering with the victim or the employment of the victim, or being physically present within a certain distance of the victim.

(b) For any defendant placed on probation for a violation of the provisions of this Section, the court shall, in addition to any penalties imposed pursuant to the provisions of this Section, grant a protective order which directs the defendant to refrain from abusing, harassing, interfering with the victim or the employment of the victim, or being physically present within a certain distance of the victim.

(2) Any protective order granted pursuant to the provisions of this Subsection shall be served on the defendant at the time of sentencing.

(3)(a) The court shall order that the protective order be effective either for an indefinite period of time or for a fixed term which shall not exceed eighteen months.

(b) If the court grants the protective order for an indefinite period of time pursuant to Subparagraph (a) of this Paragraph, after a hearing, on the motion of any party and for good cause shown, the court may modify the indefinite effective period of the protective order to be effective for a fixed term, not to exceed eighteen months, or to terminate the effectiveness of the protective order. A motion to modify or terminate the effectiveness of the protective order may be granted only after a good faith effort has been made to provide reasonable notice of the hearing to the victim, the victim's designated agent, or the victim's counsel, and either of the following occur:

- (i) The victim, the victim's designated agent, or the victim's counsel is present at the hearing or provides written waiver of such appearance.
- (ii) After a good faith effort has been made to provide reasonable notice of the hearing, the victim could not be located.

(4)(a) Immediately upon granting a protective order, the court shall cause to have

prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2, shall sign such order, and shall forward it to the clerk of court for filing, without delay.

(b) The clerk of the issuing court shall send a copy of the Uniform Abuse Prevention Order or any modification thereof to the chief law enforcement official of the parish where the victim resides. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer as provided in this Subparagraph until otherwise directed by the court.

(c) The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order, or any modification thereof, to the Louisiana Protective Order Registry pursuant to R.S. 46:2136.2, by facsimile transmission, mail, or direct electronic input, where available, as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court.

(5) If a protective order is issued pursuant to the provisions of this Subsection, the court shall also order that the defendant be prohibited from possessing a firearm for the duration of the Uniform Abuse Prevention Order.

G.(1) Except as provided in Paragraph (2) of this Subsection, the provisions of this Section shall not apply to a private investigator licensed pursuant to the provisions of Chapter 56 of Title 37 of the Louisiana Revised Statutes of 1950, acting during the course and scope of his employment and performing his duties relative to the conducting of an investigation.

(2) The exception provided in Paragraph (1) of this Subsection does not apply if both of the following conditions apply:

(a) The private investigator was retained by a person who is charged with an offense involving sexual assault as defined by R.S. 46:2184 or who is subject to a temporary restraining order or protective order obtained by a victim of sexual assault pursuant to R.S. 46:2182 et seq.

(b) The private investigator was retained for the purpose of harassing the victim.

H. The provisions of this Section shall not apply to an investigator employed by an authorized insurer regulated pursuant to the provisions of Title 22 of the Louisiana Revised Statutes of 1950, acting during the course and scope of his employment and performing his duties relative to the conducting of an insurance investigation.

I. The provisions of this Section shall not apply to an investigator employed by an authorized self-insurance group or entity regulated pursuant to the provisions of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950, acting during the course and scope of his employment and performing his duties relative to the conducting of an insurance investigation.

J. A conviction for stalking shall not be subject to expungement as provided for by Title XXXIV of the Code of Criminal Procedure.

RS 14:40.3 — Cyberstalking

signals, writing, images,

sounds, data, or intelligence of any nature, transmitted in whole or in part by wire, radio, computer, electromagnetic, photoelectric, or photo-optical system.

(2) "Electronic mail" means the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

B. Cyberstalking is action of any person to accomplish any of the following:

- (1) Use in electronic mail or electronic communication of any words or language threatening to inflict bodily harm to any person or to such person's child, sibling, spouse, or dependent, or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person.
- (2) Electronically mail or electronically communicate to another repeatedly, whether or not conversation ensues, for the purpose of threatening, terrifying, or harassing any person.
- (3) Electronically mail or electronically communicate to another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct, or criminal conduct of the person electronically mailed or of any member of the person's family or household with the intent to threaten, terrify, or harass.
- (4) Knowingly permit an electronic communication device under the person's control to be used for the taking of an action in Paragraph (1), (2), or (3) of this Subsection.

C.(1) Whoever commits the crime of cyberstalking shall be fined not more than two thousand dollars, or imprisoned for not more than one year, or both.

(2) Upon a second conviction occurring within seven years of the prior conviction for cyberstalking, the offender shall be imprisoned for not less than one hundred and eighty days and not more than three years, and may be fined not more than five thousand dollars, or both.

(3) Upon a third or subsequent conviction occurring within seven years of a prior conviction for stalking, the offender shall be imprisoned for not less than two years and not more than five years and may be fined not more than five thousand dollars, or both.

(4) Repealed by Acts 2020, No. 352, §2.

D. Any offense under this Section committed by the use of electronic mail or electronic communication may be deemed to have been committed where the electronic mail or electronic communication was originally sent, originally received, or originally viewed by any person.

E. This Section does not apply to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others.

RS 14:40.4 — Burning cross on property of another or public place; intent to intimidate

o be burned, a cross on the property of another, a highway, or other public place.

B. Whoever commits the crime of burning a cross with the intent of intimidating shall be fined not more than fifteen thousand dollars or imprisoned with or without hard labor for not more than fifteen years, or both.

RS 14:40.5 — Public display of a noose on property of another or public place; intent to intimidate

paint, draw, or otherwise place or display a hangman's noose on the property of another, a highway, or other public place.

B. As used in this Section, "noose" means a rope tied in a slip knot, which binds closer the more it is drawn, which historically has been used in execution by hanging, and which symbolizes racism and intimidation.

C. Whoever commits the crime of public display of a noose with the intent to intimidate shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than one year, or both.

RS 14:40.6 — Unlawful disruption of the operation of a school; penalties

authorized to be on school premises, which would foreseeably cause any of the following:

- (1) Intimidation or harassment of any student or teacher by threat of force or force.
- (2) Placing teachers or students in sustained fear for their health, safety, or welfare.
- (3) Disrupting, obstructing, or interfering with the operation of the school.

B. For the purposes of this Section:

(1) "Authorized to be present on school premises" means all of the following:

- (a) Any student enrolled at the school.
- (b) Any teacher employed at the school.
- (c) Any person attending a school sponsored function.
- (d) Any other person who has authorization to be present on the school premises from the principal of the school in the case of a public school, or the principal or headmaster in the case of a nonpublic school.

(2) "School" means any public or nonpublic elementary, secondary, high school, vocational-technical school, college, special, or postsecondary school or institution, or university in this state.

(3) "School premises" means any property used for school purposes, including but not limited to school buildings, playgrounds, and parking lots.

(4) "School-sponsored function" means the specific designated area of the function, including but not limited to athletic competitions, dances, parties, or any extracurricular activity.

(5) "Student" means any person registered or enrolled at a school as defined in this Section.

(6) "Teacher" shall include any teacher or instructor, administrator, staff person, teacher aide, paraprofessional, school bus driver, food service worker, and other clerical, custodial, or maintenance personnel employed by any public or nonpublic elementary, secondary, high school, vocational-technical school, college, special, or postsecondary school or institution, or university in this state.

C.(1) Whoever commits the offense of unlawful disruption of the operation of a school shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(2) For a second or subsequent offense, the offender shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both.

(3) In addition to any other penalty provided in this Section, whoever violates the provisions of this Section shall be required to participate in conflict resolution classes as provided in R.S. 17:416.15.

D. Nothing herein shall be construed to prevent lawful assembly and orderly petition for the redress of grievances, including any labor dispute between any school or institution

of higher learning and its employees, or contractor or subcontractor or any employees thereof. Nothing herein shall apply to a bona fide labor organization or its legal activities such as picketing, assembly, or concerted activities in the interest of its members for the purpose of securing better wages, hours, or working conditions.

RS 14:40.7 — Cyberbullying

r intimidate

a person under the age of eighteen.

B. For purposes of this Section:

(1) "Cable operator" means any person or group of persons who provides cable service over a cable system and directly, or through one or more affiliates, owns a significant interest in such cable system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

(2) "Electronic textual, visual, written, or oral communication" means any communication of any kind made through the use of a computer online service, Internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or online messaging service.

(3) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(4) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, regardless of the facilities used.

C. An offense committed pursuant to the provisions of this Section may be deemed to have been committed where the communication was originally sent, originally received, or originally viewed by any person.

D.(1) Except as provided in Paragraph (2) of this Subsection, whoever commits the crime of cyberbullying shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) When the offender is under the age of eighteen, the disposition of the matter shall be governed exclusively by the provisions of Title VII of the Children's Code.

E. The provisions of this Section shall not apply to a provider of an interactive computer service, provider of a telecommunications service, or a cable operator as defined by the provisions of this Section.

F. The provisions of this Section shall not be construed to prohibit or restrict religious free speech pursuant to Article I, Section 8 of the Constitution of Louisiana.

RS 14:40.8 — Criminal hazing

Subparagraph (b) of this Paragraph, any person who commits an act of hazing shall be either fined up to one thousand dollars, imprisoned for up to six months, or both.

(b) If the hazing results in the serious bodily injury or death of the victim, or the hazing involves forced or coerced alcohol consumption that results in the victim having a blood alcohol concentration of at least 0.30 percent by weight based on grams of alcohol per

one hundred cubic centimeters of blood, any person who commits an act of hazing shall be fined up to ten thousand dollars and imprisoned, with or without hard labor, for up to five years.

B.(1)(a) If any person serving as a representative or officer of an organization, including any representative, director, trustee, or officer of any national or parent organization of which any of the underlying entities provided for in Paragraph (C)(3) of this Section is a sanctioned or recognized member at the time of the hazing, knew and failed to report, as soon as practicable under the circumstances, to law enforcement that one or more of the organization's members were hazing another person, the organization may be subject to the following:

(i) Payment of a fine of up to ten thousand dollars.

(ii) Forfeiture of any public funds received by the organization.

(iii) Forfeiture of all rights and privileges of being an organization that is organized and operating at the education institution for a specific period of time as determined by the court. If the hazing results in the serious bodily injury or death of the victim, or results in the victim having a blood alcohol concentration of at least 0.30 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, the period of time shall be for not less than four years.

(b) Information reported to law enforcement as provided in Subparagraph (a) of this Paragraph shall include all details received by the organization relative to the alleged incident, with no information being redacted, including the name of all individuals alleged to have committed the act or acts of hazing.

(2) An education institution that receives a report alleging the commission of an act or acts of hazing by one or more members of an organization that is organized and operating at the education institution shall report, as soon as practicable under the circumstances, the alleged act or acts to the law enforcement agency having jurisdiction in the place where the alleged act or acts of hazing occurred. The information reported to law enforcement as required by this Paragraph shall include all details received by the institution relative to the alleged incident, with no information being redacted, including the name of all individuals alleged to have committed the act or acts of hazing. Any education institution who fails to comply with the provisions of this Paragraph may be subject to a fine of up to ten thousand dollars.

C. For purposes of this Section:

(1) "Education institution" means any elementary or secondary school or any postsecondary education institution in this state.

(2)(a) "Hazing" is any intentional, knowing, or reckless act by a person acting alone or acting with others that is directed against another when both of the following apply:

(i) The person knew or should have known that the act endangers the physical health or safety of the other person or causes severe emotional distress.

(ii) The act was associated with pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization.

(b) "Hazing" includes but is not limited to any of the following acts associated with

pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization:

(i) Physical brutality, such as whipping, beating, paddling, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.

(ii) Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjects the other person to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual or causes severe emotional distress.

(iii) Activity involving consumption of food, liquid, or any other substance, including but not limited to an alcoholic beverage or drug, that subjects the individual to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual or causes severe emotional distress.

(iv) Activity that induces, causes, or requires an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

(c) A physical activity that is normal, customary, and necessary for a person's training and participation in an athletic, physical education, military training, or similar program sanctioned by the education institution is not considered "hazing" for purposes of this Section.

(3) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, band, spirit group, athletic team, or similar group whose members are primarily students at, or former students of, an education institution. "Organization" includes the national or parent organization of which any of the underlying entities provided for in this Paragraph is a sanctioned or recognized member at the time of the hazing.

(4) "Pledging", also known as "recruitment" or "rushing", means any action or activity related to becoming a member of an organization.

D.(1) This Section does not apply to an individual who is the subject of the hazing, regardless of whether the individual voluntarily allowed himself to be hazed.

(2) It is not a defense to prosecution for a violation of this Section that the individual against whom the hazing was directed consented to or acquiesced in the hazing.

E.(1) The penalties provided in Subsection B of this Section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same incident or activity, and in addition to any penalty imposed by the organization or education institution pursuant to its by-laws, rules, or policies regarding hazing.

(2) Nothing in this Section precludes any civil remedy provided by law.

RS 14:40.9 — Unlawful disruption of the operation of a healthcare facility

commission of a crime of violence is imminent or in

progress, or that a circumstance dangerous to human life exists or is about to exist, when committed under any one or more of the following circumstances:

(1) When the offender's actions cause emergency room personnel, emergency services personnel, or healthcare professionals at a healthcare facility to be in sustained fear for their safety and a reasonable person would have known that his actions could cause

sustained fear.

(2) When the offender's actions cause the evacuation of a healthcare facility and a reasonable person would have known that his actions could cause an evacuation.

(3) When the offender's actions cause any other serious disruption to the operation of a healthcare facility and a reasonable person would have known that such actions could cause serious disruption to the operation of a healthcare facility.

B. For purposes of this Section:

(1) "Emergency room personnel" shall have the same definitions as in R.S. 14:34.8.

(2) "Emergency services personnel" shall have the same definitions as in R.S. 14:34.8.

(3) "Healthcare facility" means any hospital, outpatient clinic, ambulatory surgical center, veterinary clinic, or other setting where healthcare services are provided.

(4) "Healthcare professional" shall have the same definitions as in R.S. 14:34.8.

C. Whoever commits the offense of unlawful disruption of the operation of a healthcare facility shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both.

RS 14:41 — Rape; defined

s not necessary, and any sexual penetration, when the rape involves vaginal or anal intercourse, whether the penetration is accomplished using the genitals of the offender or victim or using any instrumentality and however slight, is sufficient to complete the crime.

C. For purposes of this Subpart, "oral sexual intercourse" means the intentional engaging in any of the following acts with another person:

(1) The touching of the anus or genitals of the victim by the offender using the mouth or tongue of the offender.

(2) The touching of the anus or genitals of the offender by the victim using the mouth or tongue of the victim.

D. For purposes of this Subpart, "anal sexual intercourse" and "vaginal sexual intercourse" mean the intentional engaging in any of the following acts with another person:

(1) The penetration of the victim's anus or vagina by the offender using the genitals of the offender.

(2) The penetration of the offender's anus or vagina by the victim using the genitals of the victim.

(3) The penetration of the victim's anus or vagina by the offender using any instrumentality, except that normal medical treatment or normal sanitary care shall not be construed as sexual intercourse under the provisions of this Section.

(4) The penetration of the offender's anus or vagina by the victim using any instrumentality except that normal medical treatment or normal sanitary care shall not be construed as sexual intercourse under the provisions of this Section.

RS 14:41.1 — Consent; victim in police custody

fficer or other law

enforcement official and the offender is a police officer or other law enforcement official

who either:

- (1) Arrested the person or was responsible for maintaining the person in actual custody.
- (2) Knows or reasonably should know that the person is under arrest or otherwise in actual custody.

RS 14:42 — First degree rape

t lawful

consent of the victim because it is committed under any one or more of the following circumstances:

- (1) When the victim resists the act to the utmost, but whose resistance is overcome by force.
- (2) When the victim is prevented from resisting the act by threats of great and immediate bodily harm, accompanied by apparent power of execution.
- (3) When the victim is prevented from resisting the act because the offender is armed with a dangerous weapon.
- (4) When the victim is under the age of thirteen years. Lack of knowledge of the victim's age shall not be a defense.
- (5) When two or more offenders participated in the act.
- (6) When the victim is prevented from resisting the act because the victim is a person with a disability.
- (7) When the offender commits the act when engaged in the perpetration or attempted perpetration of any violation of Subsubpart 3 of Subpart A of Part III of this Chapter, relative to burglary offenses.

B. For purposes of Paragraph (A)(5) of this Section, "participate" shall mean:

- (1) Commit the act of rape.
- (2) Physically assist in the commission of such act.

C. For purposes of this Section, "person with a disability" means a person with a mental, physical, or developmental disability that substantially impairs the person's ability to provide adequately for his or her own care or protection.

D.(1) Whoever commits the crime of first degree rape shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

(2) However, if the victim was under the age of thirteen years, as provided by Paragraph (A)(4) of this Section:

(a) And if the district attorney seeks a capital verdict, the offender shall be punished by death or life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence, in accordance with the determination of the jury. The provisions of Code of Criminal Procedure Article 782 relative to cases in which punishment may be capital shall apply.

(b) And if the district attorney does not seek a capital verdict, the offender shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence. The provisions of Code of Criminal Procedure Article 782 relative to cases in which punishment is necessarily confinement at hard labor shall apply.

E. For all purposes, "aggravated rape" and "first degree rape" mean the offense defined by the provisions of this Section and any reference to the crime of aggravated rape is the same as a reference to the crime of first degree rape. Any act in violation of the provisions of this Section committed on or after August 1, 2015, shall be referred to as "first degree rape".

RS 14:42.1 — Second degree rape

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under any one or more of the following circumstances:

- (1) When the victim is prevented from resisting the act by force or threats of physical violence under circumstances where the victim reasonably believes that such resistance would not prevent the rape.
- (2) When the victim is incapable of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind produced by a narcotic or anesthetic agent or other controlled dangerous substance administered by the offender and without the knowledge of the victim.
- (3) When the offender acts without the consent of the victim, the victim is thirteen years of age or older but less than seventeen years of age, and the difference between the age of the victim and the age of the offender is three years or greater. Lack of knowledge of the victim's age shall not be a defense.

B. Whoever commits the crime of second degree rape shall be imprisoned at hard labor, without benefit of probation, parole, or suspension of sentence, for not less than five nor more than forty years.

C. For all purposes, "forcible rape" and "second degree rape" mean the offense defined by the provisions of this Section and any reference to the crime of forcible rape is the same as a reference to the crime of second degree rape. Any act in violation of the provisions of this Section committed on or after August 1, 2015, shall be referred to as "second degree rape".

RS 14:43 — Third degree rape

itted

under any one or more of the following circumstances:

- (1) When the victim is incapable of resisting or of understanding the nature of the act by reason of a stupor or abnormal condition of mind produced by an intoxicating agent or any cause and the offender knew or should have known of the victim's incapacity.
- (2) When the victim, through unsoundness of mind, is temporarily or permanently incapable of understanding the nature of the act and the offender knew or should have known of the victim's incapacity.
- (3) When the victim submits under the belief that the person committing the act is someone known to the victim, other than the offender, and such belief is intentionally induced by any artifice, pretense, or concealment practiced by the offender.
- (4) When the offender acts without the consent of the victim.

B. Whoever commits the crime of third degree rape shall be imprisoned at hard labor, without benefit of parole, probation, or suspension of sentence, for not more than

twenty-five years.

C. For all purposes, "simple rape" and "third degree rape" mean the offense defined by the provisions of this Section and any reference to the crime of simple rape is the same as a reference to the crime of third degree rape. Any act in violation of the provisions of this Section committed on or after August 1, 2015, shall be referred to as "third degree rape".

RS 14:43.1 — Sexual battery

irectly or

through clothing, or the touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim, directly or through clothing, when any of the following occur:

- (1) The offender acts without the consent of the victim.
- (2) The victim has not yet attained fifteen years of age and is at least three years younger than the offender.
- (3) The offender is seventeen years of age or older and any of the following exist:
 - (a) The act is without consent of the victim, and the victim is prevented from resisting the act because either of the following conditions exist:
 - (i) The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability.
 - (ii) The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.
 - (b) The act is without consent of the victim, and the victim is sixty-five years of age or older.

B. Lack of knowledge of the victim's age shall not be a defense. However, normal medical treatment or normal sanitary care shall not be construed as an offense under the provisions of this Section.

C.(1) Whoever commits the crime of sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than ten years.

(2) Whoever commits the crime of sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Whoever commits the crime of sexual battery by violating the provisions of Paragraph (A)(3) of this Section shall be imprisoned at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(4) Upon completion of the term of imprisonment imposed in accordance with Paragraphs (2) and (3) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(5) Unless it is determined by the Department of Public Safety and Corrections,

pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(6) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that, sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(7) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

RS 14:43.1.1 — Misdemeanor sexual battery

the body of the

offender, directly or through clothing, or the intentional touching of the breasts or buttocks of the offender by the victim using any instrumentality or any part of the body of the victim, directly or through clothing, when the offender acts without the consent of the victim.

B. Whoever commits the crime of misdemeanor sexual battery shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

C. The offender shall not be eligible to have his conviction set aside and his prosecution dismissed in accordance with Code of Criminal Procedure Article 894.

D. The offender shall not be subject to any provisions of law that are applicable to sex offenders, including but not limited to any provision that requires the registration of the offender and notice to the public.

RS 14:43.2 — Second degree sexual battery

ous bodily injury on the

victim:

(1) The touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender, directly or through clothing.

(2) The touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim, directly or through clothing.

B. Repealed by Acts 2019, No. 2, §3.

C.(1) Whoever commits the crime of second degree sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than fifteen years.

(2) Whoever commits the crime of second degree sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Any person who is seventeen years of age or older who commits the crime of second degree sexual battery shall be punished by imprisonment at hard labor for not less than twenty-five nor more than ninety-nine years, at least twenty-five years of the sentence imposed being served without benefit of parole, probation, or suspension of sentence, when any of the following conditions exist:

(a) The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability.

(b) The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.

(c) The victim is sixty-five years of age or older.

D.(1) Upon completion of the term of imprisonment imposed in accordance with Paragraphs (C)(2) and (3) of this Section, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(2) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(3) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that, sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(4) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

RS 14:43.3 — Oral sexual battery

of the anus or

genitals of the offender by the victim using the mouth or tongue of the victim, when any of the following occur:

(1) The victim is under the age of fifteen years and is at least three years younger than the offender.

(2) The offender is seventeen years of age or older and any of the following exist:

(a) The act is without the consent of the victim, and the victim is prevented from resisting the act because either of the following conditions exist:

(i) The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability.

(ii) The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.

(b) The act is without the consent of the victim, and the victim is sixty-five years of age or older.

B. Lack of knowledge of the victim's age shall not be a defense.

C.(1) Whoever commits the crime of oral sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than ten years.

(2) Whoever commits the crime of oral sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Whoever commits the crime of oral sexual battery by violating the provisions of Paragraph (A)(2) of this Section shall be imprisoned at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without parole, probation, or suspension of sentence.

(4) - (6) Repealed by Acts 2011, No. 67, §2.

D.(1) Upon completion of the term of imprisonment imposed in accordance with Paragraphs (C)(2) and (3) of this Section, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(2) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(3) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that, sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(4) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act, that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

RS 14:43.4 — Female genital mutilation

of the labia majora, labia minora, or clitoris of a female minor.

(2) The parent, guardian, or other person legally responsible or charged with the care or custody of a female minor allows the circumcision, excision, or infibulation, in whole or in part, of such minor's labia majora, labia minora, or clitoris.

(3) The person knowingly removes or causes or permits the removal of a female minor from this state for the purpose of circumcising, excising, or infibulating, in whole or in part, the labia majora, labia minora, or clitoris of such female.

B. It shall not be a defense to prosecution for a violation of this Section that the conduct described in Subsection A of this Section is required as a matter of custom, ritual, or religious practice, or that the minor on whom it is performed, or the

minor's parent or legal guardian, consented to the procedure.

C. If the action described in Subsection A of this Section is performed by a licensed physician during a surgical procedure, it shall not be a violation of this Section if either of the following is true:

- (1) The procedure is necessary to the physical health of the minor on whom it is performed.
- (2) The procedure is performed on a minor who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth.

D. Whoever commits the crime of female genital mutilation shall be punished by imprisonment, with or without hard labor, for not more than fifteen years.

RS 14:43.5 — Intentional exposure to HIV

the victim,

if at the time of the exposure the infected person knew he was HIV positive.

B. No person shall intentionally expose another to HIV through any means or contact without the knowing and lawful consent of the victim, if at the time of the exposure the infected person knew he was HIV positive.

C. No person shall intentionally expose a first responder to HIV through any means or contact without the knowing and lawful consent of the first responder when the offender knows at the time of the offense that he is HIV positive, and has reasonable grounds to believe the victim is a first responder acting in the performance of his duty.

D. For purposes of this Section, "first responder" includes a commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife enforcement agent, and probation and parole officer, any licensed emergency medical services practitioner as defined by R.S. 40:1131, and any firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state or any volunteer firefighter of the state.

E.(1) Whoever commits the crime of intentional exposure to HIV shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than ten years, or both.

(2) Whoever commits the crime of intentional exposure to HIV against a first responder shall be fined not more than six thousand dollars, imprisoned with or without hard labor for not more than eleven years, or both.

F.(1) It is an affirmative defense, if proven by a preponderance of the evidence, that the person exposed to HIV knew the infected person was infected with HIV, knew the action could result in infection with HIV, and gave consent to the action with that knowledge.

(2) It is also an affirmative defense that the transfer of bodily fluid, tissue, or organs occurred after advice from a licensed physician that the accused was noninfectious, and the accused disclosed his HIV-positive status to the victim.

(3) It is also an affirmative defense that the HIV-positive person disclosed his HIV-positive status to the victim, and took practical means to prevent transmission as advised by a physician or other healthcare provider or is a healthcare provider who was following professionally accepted infection control procedures.

RS 14:43.6 — Administration of medroxyprogesterone acetate (MPA) to certain sex offenders

avated or first degree rape), R.S. 14:42.1 (forcible or second

degree rape), R.S. 14:43.1(C)(2) (sexual battery when the victim is under the age of thirteen), R.S. 14:43.2 (second degree sexual battery), R.S. 14:81.2(D)(1) (molestation of a juvenile when the victim is under the age of thirteen), and R.S. 14:89.1 (aggravated crime against nature), the court may sentence the offender to be treated with medroxyprogesterone acetate (MPA), according to a schedule of administration monitored by the Department of Public Safety and Corrections.

B.(1) Notwithstanding any other provision of law to the contrary, upon a second or subsequent conviction of R.S. 14:42 (aggravated or first degree rape) , R.S. 14:42.1 (forcible or second degree rape), R.S. 14:43.1(C)(2) (sexual battery when the victim is under the age of thirteen), R.S. 14:43.2 (second degree sexual battery), R.S. 14:81.2(D)(1) (molestation of a juvenile when the victim is under the age of thirteen), and R.S. 14:89.1 (aggravated crime against nature), the court shall sentence the offender to be treated with medroxyprogesterone acetate (MPA) according to a schedule of administration monitored by the Department of Public Safety and Corrections.

(2) If the court sentences a defendant to be treated with medroxyprogesterone acetate (MPA), this treatment may not be imposed in lieu of, or reduce, any other penalty prescribed by law. However, in lieu of treatment with medroxyprogesterone acetate (MPA), the court may order the defendant to undergo physical castration provided the defendant file a written motion with the court stating that he intelligently and knowingly, gives his voluntary consent to physical castration as an alternative to the treatment.

C.(1) An order of the court sentencing a defendant to medroxyprogesterone acetate (MPA) treatment under this Section shall be contingent upon a determination by a court appointed medical expert that the defendant is an appropriate candidate for treatment. Except as provided in Subparagraph (2)(b) of this Subsection, this determination shall be made not later than sixty days from the imposition of sentence. An order of the court sentencing a defendant to medroxyprogesterone acetate (MPA) treatment shall specify the duration of treatment for a specific term of years, or in the discretion of the court, up to the life of the defendant.

(2)(a) In all cases involving defendants sentenced to a period of incarceration or confinement in an institution, the administration of treatment with medroxyprogesterone acetate (MPA) shall commence not later than one week prior to the defendant's release from prison or such institution.

(b) When the provisions of this Paragraph apply, if the defendant is sentenced to incarceration or confinement for a period of time that is ten years or more, the commencement of the administration of treatment with medroxyprogesterone acetate (MPA) shall be contingent upon a medical evaluation to determine whether the defendant is an appropriate candidate for treatment. This evaluation shall be conducted not sooner than thirty days prior to the commencement of the administration of the treatment.

(3) The Department of Public Safety and Corrections shall provide the services necessary to administer medroxyprogesterone acetate (MPA) treatment. Nothing in this Section shall be construed to require the continued administration of medroxyprogesterone acetate (MPA) treatment when it is not medically appropriate.

(4) If a defendant whom the court has sentenced to be treated with medroxyprogesterone acetate (MPA) fails to appear as required by the Department of Public Safety and Corrections for purposes of administering the medroxyprogesterone acetate (MPA) or who refuses to allow the administration of medroxyprogesterone acetate (MPA), then the defendant shall be charged with a violation of the provisions of this Section. Upon conviction, the offender shall be imprisoned, with or without hard labor, for not less than three years nor more than five years without benefit of probation, parole, or suspension of sentence.

(5) If a defendant whom the court has sentenced to be treated with medroxyprogesterone acetate (MPA) or ordered to undergo physical castration takes any drug or other substance to reverse the effects of the treatment, he shall be held in contempt of court.

RS 14:43.7 — Administration of surgical castration for certain sex offenders; failure to comply with

any sex offense as defined in R.S. 15:541 that is also an aggravated offense as defined in R.S. 15:541, except sexual battery prosecuted under R.S. 14:43.1(C)(2) and second degree sexual battery, occurring on or after August 1, 2024, when the victim is under the age of thirteen at the time of the offense, in addition to any other sentence imposed for the offense, the court may sentence the offender to be surgically castrated, to be administered by the Department of Public Safety and Corrections by a licensed physician. The department shall provide the services necessary to perform the castration.

B.(1) An order of the court sentencing an offender to surgical castration under this Section shall be contingent upon a determination by a court-appointed medical expert that the offender is an appropriate candidate for surgery. Notwithstanding Paragraph (2) of this Subsection, this determination shall be made not later than sixty days from the imposition of sentence.

(2) In all cases involving an offender sentenced to a period of incarceration or confinement in an institution, the procedure shall be performed not later than one week prior to the offender's release from the institution.

(3) If an offender fails to appear as required by court order for purposes of the procedure or refuses to allow the procedure, then the offender shall be charged with a violation of the provisions of this Section. Upon conviction, the offender shall be imprisoned, with or without hard labor, for not less than three years nor more than five years without benefit of probation, parole, or suspension of sentence.

C. Nothing in this Section shall be construed to require the surgical castration when it is not medically appropriate.

D. The provisions of this Section shall not apply to an offender who is under the age of seventeen years.

RS 14:44 — Aggravated kidnapping

t present or prospective value, or to grant any advantage or immunity, in order to secure a release of the person under the offender's actual or apparent control:

(1) The forcible seizing and carrying of any person from one place to

another; or

(2) The enticing or persuading of any person to go from one place to another; or

(3) The imprisoning or forcible secreting of any person.

Whoever commits the crime of aggravated kidnapping shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

RS 14:44.1 — Second degree kidnapping

(1) Used as a shield or hostage.

(2) Used to facilitate the commission of a felony or the flight after an attempt to commit or the commission of a felony.

(3) Physically injured or sexually abused. For the purposes of this Paragraph, "sexually abused" means that the victim was subjected to any sex offense as defined in R.S. 15:541.

(4) Imprisoned or kidnapped for seventy-two or more hours, except as provided in R.S. 14:45(A)(4) or (5).

(5) Imprisoned or kidnapped when the offender is armed with a dangerous weapon or leads the victim to reasonably believe he is armed with a dangerous weapon.

(6) Used to facilitate the commission of a simple escape or an aggravated escape, including a simple escape or aggravated escape from either an adult or juvenile correctional or detention facility, in violation of R.S. 14:110.

B. For purposes of this Section, kidnapping is any of the following:

(1) The forcible seizing and carrying of any person from one place to another.

(2) The enticing or persuading of any person to go from one place to another.

(3) The imprisoning or forcible secreting of any person.

(4) The forcible seizing of any corrections officer or any other official or employee of an adult or juvenile correctional or detention facility for any period of time whatsoever.

C. Whoever commits the crime of second degree kidnapping shall be imprisoned at hard labor for not less than five nor more than forty years. At least two years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence.

RS 14:44.2 — Aggravated kidnapping of a child

person other than a

parent, grandparent, or legal guardian of a child under the age of thirteen years with the intent to secret the child from his parent or legal guardian.

B.(1) Whoever commits the crime of aggravated kidnapping of a child shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, if the child is returned not physically injured or sexually abused, then the offender shall be punished in accordance with the provisions of R.S. 14:44.1. For the purposes of this Paragraph, "sexually abused" means that the child was subjected to any sex offense as defined in R.S. 15:541.

RS 14:45 — Simple kidnapping

ing or decoying away, for an unlawful purpose, of any child not his own and under the age of fourteen years, without the consent of its parent or the person charged with its custody.

(3) The intentional taking, enticing or decoying away, without the consent of the proper authority, of any person who has been lawfully committed to any institution for orphans, persons with mental illness, persons with intellectual disabilities, or other similar institution.

(4) The intentional taking, enticing or decoying away and removing from the state, by any parent of his or her child, from the custody of any person to whom custody has been awarded by any court of competent jurisdiction of any state, without the consent of the legal custodian, with intent to defeat the jurisdiction of the said court over the custody of the child.

(5) The taking, enticing or decoying away and removing from the state, by any person, other than the parent, of a child temporarily placed in his custody by any court of competent jurisdiction in the state, with intent to defeat the jurisdiction of said court over the custody of the child.

B. Whoever commits the crime of simple kidnapping shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

RS 14:45.1 — Interference with the custody of a child

y, with intent to detain or conceal such child from a parent having a right of custody pursuant to a court order or from a person entrusted with the care of the child by a parent having custody pursuant to a court order.

It shall be an affirmative defense that the offender reasonably believed his actions were necessary to protect the welfare of the child.

B. Whoever commits the crime of interference with the custody of a child shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both. Costs of returning a child to the jurisdiction of the court shall be assessed against any defendant convicted of a violation of this Section, as court costs as provided by the Louisiana Code of Criminal Procedure.

RS 14:46 — False imprisonment

prisonment shall be fined not more than two hundred dollars, or imprisoned for not more than six months, or both.

RS 14:46.1 — False imprisonment; offender armed with dangerous weapon

r is armed with a dangerous weapon.

B. Whoever commits the crime of false imprisonment while armed with a dangerous weapon shall be imprisoned, with or without hard labor, for not more than ten years.

RS 14:46.2 — Human trafficking

ronize, procure, purchase, hold, restrain, induce, threaten,
subject, or maintain the use of another person through fraud, force, or coercion to provide
services or labor.

(b) For any person to knowingly recruit, harbor, transport, provide, solicit, sell,
purchase, patronize, procure, hold, restrain, induce, threaten, subject, receive, isolate, entice,
obtain, or maintain the use of a person under the age of twenty-one years for the purpose of
engaging in commercial sexual activity regardless of whether the person was recruited,
harbored, transported, provided, solicited, sold, purchased, received, isolated, enticed,
obtained, or maintained through fraud, force, or coercion. It shall not be a defense to
prosecution for a violation of the provisions of this Subparagraph that the person did not
know the age of the victim or that the victim consented to the prohibited activity.

(2) For any person to knowingly benefit from activity prohibited by the provisions
of this Section.

(3) For any person to knowingly facilitate any of the activities prohibited by the

provisions of this Section by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the person.

B.(1) Except as provided in Paragraphs (2) and (3) of this Subsection, whoever commits the crime of human trafficking shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not more than ten years.

(2)(a) Whoever commits the crime of human trafficking when the services include commercial sexual activity or a sex offense as defined in R.S. 15:541 shall be fined not more than fifteen thousand dollars and shall be imprisoned at hard labor for not more than twenty years.

(b) Whoever commits the crime of human trafficking in violation of the provisions of Subparagraph (A)(1)(b) of this Section involving a person under the age of twenty-one years but eighteen years or older shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(c) Whoever commits the crime of human trafficking in violation of the provisions of Subparagraph (A)(1)(b) of this Section when the trafficking involves a person under the age of eighteen years shall be punished by life imprisonment at hard labor without benefit of probation, parole, or suspension of sentence and fined not more than seventy-five thousand dollars.

(3) Whoever commits the crime of human trafficking when the trafficking involves a person under the age of eighteen shall be fined not more than twenty-five thousand dollars and shall be imprisoned at hard labor for not less than five nor more than twenty-five years, five years of which shall be without the benefit of parole, probation, or suspension of sentence.

(4) Repealed by Acts 2020, No. 352, §2.

C. For purposes of this Section:

(1) "Commercial sexual activity" means any sexual act performed or conducted when anything of value has been given, promised, or received by any person, directly or indirectly, including the production of pornography.

(2) "Debt bondage" means inducing an individual to provide any of the following:

(a) Commercial sexual activity in payment toward or satisfaction of a real or purported debt.

(b) Labor or services in payment toward or satisfaction of a real or purported debt if either of the following occur:

(i) The reasonable value of the labor or services provided is not applied toward the liquidation of the debt.

(ii) The length of the labor or services is not limited and the nature of the labor or services is not defined.

(3) "Fraud, force, or coercion" shall include but not be limited to any of the following:

(a) Causing or threatening to cause serious bodily injury.

(b) Physically restraining, isolating, confining, or threatening to physically restrain,

isolate, or confine another person.

(c) Abduction or threatened abduction of an individual.

(d) The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of an individual.

(e) The abuse or threatened abuse of law or legal process.

(f) The actual or threatened destruction, concealment, removal, withholding, confiscation, or possession of any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.

(g) Controlling or threatening to control an individual's access to a controlled dangerous substance as set forth in R.S. 40:961 et seq.

(h) The use of an individual's physical or mental impairment, where such impairment has substantial adverse effects on the individual's cognitive or volitional functions.

(i) The use of debt bondage or civil or criminal fraud.

(j) Extortion as defined in R.S. 14:66.

(k) Exposing or threatening to expose any fact or information that would subject an individual to criminal or immigration proceedings.

(l) Causing or threatening to cause financial harm to an individual or using financial control over an individual.

(4) "Labor or services" means activity having an economic value.

D. It shall not be a defense to prosecution for a violation of this Section that the person being recruited, harbored, transported, provided, solicited, received, isolated, patronized, procured, purchased, enticed, obtained, or maintained is actually a law enforcement officer or peace officer acting within the official scope of his duties.

E. If any Subsection, Paragraph, Subparagraph, Item, sentence, clause, phrase, or word of this Section is for any reason held to be invalid, unlawful, or unconstitutional, such decision shall not affect the validity of the remaining portions of this Section.

F.(1) A victim of trafficking involving services that include commercial sexual activity or a sex offense as defined in R.S. 15:541 shall have an affirmative defense to prosecution for any of the following offenses which were committed as a direct result of being trafficked:

(a) R.S. 14:82 (Prostitution).

(b) R.S. 14:83.3 (Prostitution by massage).

(c) R.S. 14:83.4 (Massage; sexual conduct prohibited).

(d) R.S. 14:89 (Crime against nature).

(e) R.S. 14:89.2 (Crime against nature by solicitation).

(2) Any person seeking to raise this affirmative defense shall provide written notice to the state at least forty-five days prior to trial or at an earlier time as otherwise required by the court.

(3) Any person determined to be a victim pursuant to the provisions of this Subsection shall be notified of any treatment or specialized services for sexually exploited

persons to the extent that such services are available.

RS 14:46.3 — Trafficking of children for sexual purposes

e, obtain, or maintain the use of a person under the age of eighteen years for the purpose of engaging in commercial sexual activity.

(2) For any person to knowingly benefit from activity prohibited by the provisions of this Section.

(3) For any parent, legal guardian, or person having custody of a person under the age of eighteen years to knowingly permit or consent to such minor entering into any activity prohibited by the provisions of this Section.

(4) For any person to knowingly facilitate any of the activities prohibited by the provisions of this Section by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the person.

(5) For any person to knowingly advertise any of the activities prohibited by this Section.

(6) For any person to knowingly sell or offer to sell travel services that include or facilitate any of the activities prohibited by this Section.

(7) For any person to knowingly solicit or purchase a person under the age of eighteen years for the purpose of engaging in commercial sexual activity.

B. For purposes of this Section, "commercial sexual activity" means any lewd or lascivious act upon the person or in the presence of any child when any thing of value has been given, promised, or received by any person.

C.(1) Consent of the minor shall not be a defense to a prosecution pursuant to the provisions of this Section.

(2) Lack of knowledge of the victim's age shall not be a defense to a prosecution pursuant to the provisions of this Section.

(3) It shall not be a defense to prosecution for a violation of this Section that the person being recruited, harbored, transported, provided, sold, purchased, received, isolated, enticed, obtained, or maintained is actually a law enforcement officer or peace officer acting within the official scope of his duties.

D.(1) Whoever violates the provisions of Paragraph (A)(1), (2), (4), (5), or (6) of this Section shall be punished by life imprisonment at hard labor without benefit of probation, parole, or suspension of sentence and fined not more than seventy-five thousand dollars.

(2) Whoever violates the provisions of Paragraph (A)(3) or (7) of this Section shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen nor more than fifty years, or both, with at least five years being served without benefit of probation, parole, or suspension of sentence. Whoever violates the provisions of Paragraph (A)(3) of this Section when the victim is under the age of fourteen years shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than twenty-five nor more than fifty years, with at least ten years being served without benefit of probation, parole, or suspension of sentence.

E. No victim of trafficking as provided by the provisions of this Section shall be

prosecuted for unlawful acts committed as a direct result of being trafficked. Any child determined to be a victim pursuant to the provisions of this Subsection shall be eligible for specialized services for sexually exploited children.

F. The provisions of Chapter 1 of Title V of the Children's Code regarding the multidisciplinary team approach applicable to children who have been abused or neglected, to the extent practical, shall apply to the children who are victims of the provisions of this Section.

G. If any Subsection, Paragraph, Subparagraph, Item, sentence, clause, phrase, or word of this Section is for any reason held to be invalid, unlawful, or unconstitutional, such decision shall not affect the validity of the remaining portions of this Section.

RS 14:46.4 — Re-homing of a child

ns or otherwise by a parent or any individual or entity with custody of a child who intends to avoid or divest himself of permanent parental responsibility by placing the child in the physical custody of a nonrelative, without court approval, unless Subsection B of this Section applies. Actions include but are not limited to transferring, recruiting, harboring, transporting, providing, soliciting, or obtaining a child for such transaction.

(2) The selling, transferring, or arranging for the sale or transfer of a minor child to another person or entity for money or any thing of value or to receive such minor child for such payments or thing of value.

(3) Assisting, aiding, abetting, or conspiring in the commission of any act described in Paragraphs (1) and (2) of this Subsection by any person or entity, regardless of whether money or any thing of value has been promised to or received by the person.

B. Re-homing does not include:

(1) Placement of a child with a relative, stepparent, licensed adoption agency, licensed attorney, or the Department of Children and Family Services.

(2) Placement of a child by a licensed attorney, licensed adoption agency, or the Department of Children and Family Services.

(3) Temporary placement of a child by parents or custodians for designated short-term periods with a specified intent and time period for return of the child, due to a vacation

or a school-sponsored function or activity, or the incarceration, military service, medical treatment, or incapacity of a parent.

(4) Placement of a child in another state in accordance with the requirements of the Interstate Compact on the Placement of Children.

(5) Relinquishment of a child pursuant to the provisions of the Safe Haven Law, Children's Code Article 1149 et seq.

C. Whoever commits the crime of re-homing of a child shall be fined not more than five thousand dollars and shall be imprisoned at hard labor for not more than five years.

D. It shall not be a defense to prosecution for a violation of this Section that the person being re-homed is actually a law enforcement officer or peace officer acting within the official scope of his duties.

E. The provisions of Chapter 1 of Title V of the Louisiana Children's Code regarding the multidisciplinary team approach applicable to children who have been abused or

neglected, to the extent practical, shall apply to the children who are victims of the provisions of this Section.

RS 14:47 — Repealed by Acts 2021, No. 60, §1.

n Rouge, Louisiana 70804-9062

RS 14:48 — Repealed by Acts 2021, No. 60, §1.

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RS 14:49 — Repealed by Acts 2021, No. 60, §1.

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RS 14:50 — Repealed by Acts 2021, No. 60, §1.

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RS 14:50.2 — Perpetration or attempted perpetration of certain crimes of violence against a victim

r penalty provided by

law, any person who is convicted of a crime of violence or of an attempt to commit any of the crimes as defined in R.S. 14:2(B) with the exception of first degree murder (R.S. 14:30), second degree murder (R.S. 14:30.1), aggravated assault (R.S. 14:37), aggravated or first degree rape (R.S. 14:42), and aggravated kidnapping (R.S. 14:44) to an additional three years' imprisonment when the victim of such crime is sixty-five years of age or older at the time the crime is committed.

RS 14:51 — Aggravated arson

ght be endangered.

B. Whoever commits the crime of aggravated arson shall be imprisoned at hard labor for not less than six nor more than twenty years, and shall be fined not more than twenty-five thousand dollars. Two years of such imprisonment at hard labor shall be without benefit of parole, probation, or suspension of sentence.

RS 14:51.1 — Injury by arson

llowing occurs:

- (1) Any person suffers great bodily harm, permanent disability, or disfigurement as a result of the fire or explosion.
- (2) A firefighter, law enforcement officer or first responder who is present at the scene and acting in the line of duty is injured as a result of the fire or explosion.

B. Whoever commits the crime of injury by arson shall be imprisoned at hard labor for not less than six nor more than twenty years, and shall be fined not more than twenty-five thousand dollars. Two years of such imprisonment at hard labor shall be without benefit of parole, probation, or suspension of sentence.

RS 14:52 — Simple arson

t the consent of the owner and except as provided in R.S. 14:51.

- (2) The starting of a fire or causing an explosion while the offender is engaged in the perpetration or attempted perpetration of another felony offense even though the offender does not have the intent to start a fire or cause an explosion.

B. Whoever commits the crime of simple arson, where the damage done amounts to five hundred dollars or more, shall be fined not more than fifteen thousand dollars and imprisoned at hard labor for not more than fifteen years.

C. Where the damage is less than five hundred dollars, the offender shall be fined not more than twenty-five hundred dollars or imprisoned with or without hard labor for not

more than five years, or both.

RS 14:52.1 — Simple arson of a religious building

uilding, structure, or place primarily used for religious worship or other religious purpose.

B. Whoever commits the crime of simple arson of a religious building shall be fined not more than fifteen thousand dollars and imprisoned at hard labor for not less than two nor more than fifteen years. At least two years of the sentence of imprisonment shall be imposed without benefit of parole, probation, or suspension of sentence.

RS 14:52.2 — Negligent arson

or

custodian of the building, when the offender's criminal negligence causes the fire or the explosion.

B. If the offender knows or should have known that he has no possessory right to the building or other interest therein, or has not previously established a right of entry into or onto the building, it may be inferred that the setting of the fire or the causing of the explosion was without consent of the owner or custodian of the building.

C. Whoever commits the crime of negligent arson where it is not foreseeable that human life might be endangered shall be subject to the following:

(1) On a first conviction, the offender shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both. In addition, the offender shall be ordered to pay restitution for damages sustained.

(2) On a second and subsequent conviction, the offender shall be fined not more than two thousand dollars and imprisoned, with or without hard labor, for not more than two years. In addition, the offender shall be ordered to pay restitution for damages sustained.

D. Whoever commits the crime of negligent arson where it is foreseeable that human life might be endangered shall be fined not more than three thousand dollars and imprisoned, with or without hard labor, for not more than three years. In addition, the offender shall be ordered to pay restitution for damages sustained.

E. Whoever commits the crime of negligent arson resulting in death or serious bodily injury to a human being shall be fined not more than five thousand dollars and imprisoned, with or without hard labor, for not more than five years. In addition, the offender shall be ordered to pay restitution for damages sustained.

F. Any person convicted of a violation of this Section shall register with the state fire marshal in accordance with R.S. 15:562.3.

G. The provisions of this Section shall not apply to commonly accepted practices of prescribed burning of agricultural and forestry land including prescribed burning done in accordance with R.S. 3:17.

RS 14:53 — Arson with intent to defraud

f arson with intent to defraud shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

RS 14:54.1 — Communicating of false information of planned arson

artation or conveyance by the use of the mail,

telephone, telegraph, word of mouth, or other means of communication, of any threat or false information knowing the same to be false, including bomb threats or threats involving fake

explosive devices, concerning an attempt or alleged attempt being made, or to be made, to commit either aggravated or simple arson.

B. Whoever commits the crime of communicating of false information of arson or attempted arson shall be imprisoned at hard labor for not more than fifteen years.

RS 14:54.2 — Manufacture and possession of delayed action incendiary devices; penalty

ionally possess or have under his control any instrument, device, chemical, or explosive substance which is arranged, manufactured, mixed, or so made up as to be a device or substance which, when exposed to heat, humidity, air, or foreign elements, will after prolongation of time burst into flame, ignite, cause to be ignited, or explode.

B. This Section shall not apply to fireworks possessed within the meaning and contemplation of R.S. 51:650 et seq.

C. Whoever violates this Section shall be fined not more than ten thousand dollars or be imprisoned at hard labor for not more than twenty years, or both.

RS 14:54.3 — Manufacture and possession of a bomb

ossess, or have under his control any bomb.

B. For purposes of this Section, the following terms shall have the following meanings:

(1) "Bomb" means an explosive compound or mixture with a detonator or initiator, or both, but does not include small arms ammunition. The term "bomb" shall also include any of the materials listed in Paragraph (3) of this Subsection that are present in an unassembled state but which could, when assembled, be ignited in the same manner as described in Paragraph (3) of this Subsection, when possessed with intent to manufacture or assemble a bomb.

(2) "Enhanced security zone" means the public spaces within an area that traditionally hosts more than fifteen million people annually, contains a venue for sports and entertainment with a capacity for more than seventy-five thousand people, a convention center with more than one million square feet of exhibition space, and has one land-based casino. This shall include the area of the city of New Orleans containing the boundaries of the French Quarter Management District as provided in R.S. 25:799(B), the Downtown Development District as provided in R.S. 33:2740.3(A), and the New Orleans Exhibition Hall Authority Economic Growth and Development District as provided in R.S. 33:130.862(A).

(3) "Explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, and any chemical compounds, mechanical mixture, or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion.

C. This Section shall not apply to fireworks possessed within the meaning and contemplation of R.S. 51:650 et seq.

D.(1) Except as provided in Paragraph (2) of this Subsection, whoever violates the provisions of this Section shall be fined not more than ten thousand dollars, imprisoned at

hard labor for not more than twenty years, or both.

(2) Any person who violates the provisions of this Section within an enhanced security zone within one hundred feet of any parade, demonstration, or gathering for which a permit is issued by a governmental entity shall be fined not more than twenty thousand dollars, imprisoned at hard labor for not more than twenty years, or both.

RS 14:54.4 — Forfeitures

is arranged, manufactured, mixed or so made up as to be a device or substance which, when exposed to heat, humidity, air or foreign elements will after prolongation of time burst into flame, ignite, cause to be ignited or explode, or raw materials used or intended to be used in the manufacture of such instrument, device, chemical or explosive substance;

(2) Any bomb as proscribed and defined in R.S. 14:54.3;

(3) All property which is used, or intended for use as a container for property described in Paragraphs (1) and (2) of this Subsection;

(4) All conveyances including aircraft, vehicles, or vessels, which are used or intended for use, to transport, or in any manner to facilitate the transportation, possession, production, manufacture, dispensation or concealment of property described in Paragraphs (1) and (2) of this Subsection, except that:

(a) No conveyance used by any person as a common carrier in transaction of business as a common carrier shall be seized or forfeited under the provisions of this Section unless it shall appear that the owner or other person in charge of such conveyance was knowingly and intentionally a consenting party or privy to a violation of R.S. 14:54.2 and 54.3; and

(b) No vessel, vehicle or aircraft shall be seized or forfeited under the provisions of this Section by reason of any act or omission established by the owner thereof to have been committed or omitted, without the owner's knowledge, consent, or permission by any person other than such owner while such vessel, vehicle or aircraft was in the possession of such person.

B. Any property subject to forfeiture under this Section may be seized under process issued by any court of record having jurisdiction over the property except that seizure without such process may be made when:

(1) The seizure is incident to an arrest with probable cause or a search under a valid search warrant or with probable cause or an inspection under valid administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this Section.

C. After seizure, all conveyances taken or detained under this Section shall be immediately returned to the owner when the charges of violating R.S. 14:54.2 and 54.3 in which the conveyance was involved are dismissed by the district attorney or dismissed by the district court, on the basis of a preliminary hearing or other preliminary proceedings, or when the accused is acquitted following a trial in the district court of the parish in which the violation is alleged to have occurred. Vehicles seized under this Section shall be forfeited upon:

(1) A showing by the district attorney of a conviction for a violation under which seizure is authorized by this Section; and

(2) A showing by the district attorney that the seizure was made incident to an arrest with probable cause or a search under a valid search warrant or with probable cause or an inspection under a valid administrative inspection warrant; and

(3) A showing by the district attorney that the owner of the conveyance was knowingly and intentionally a consent party or privy to a violation of R.S. 14:54.2 or R.S. 14:54.3.

D. Property taken or detained under this Section shall not be replevable, but shall be deemed to be in the custody of the law enforcement agency making the seizure subject only to the orders and decrees of the court of record having jurisdiction thereof. Whenever property is seized under the provisions of this Section, the law enforcement officer or employee making the seizure shall:

(1) Place the property under seal;

(2) Remove the property to a place designated by the valid warrant under which such property was seized; or

(3) Request that the Department of Public Safety take custody of the property and remove it to an appropriate location for disposition in accordance with law.

E. Whenever property is forfeited under this Section, the law enforcement agency making the seizure may:

- (1) Retain the property for official use except the conveyances described in R.S. 14:54.4(A)(4); or
- (2) Sell any forfeited property, which is not required to be destroyed by law and which is not harmful to the public, provided that the proceeds be used for payment of all costs of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs; or
- (3) Request that the Department of Public Safety take custody of the property and remove it for disposition in accordance with law.

F. Any law enforcement agency is empowered to authorize, or designate officers, agents, or other persons to carry out the seizure provisions of this Section.

G. The district attorney within whose jurisdiction the vessel, vehicle, or aircraft or other property has been seized because of its use, attempted use in violation of R.S. 14:54.2 or R.S. 14:54.3, shall proceed against the vessel, vehicle, or aircraft or other property as provided in Subsection C in the district court having jurisdiction over the offense and have it forfeited to the use of or the sale by the law enforcement agency making the seizure.

H. Where it appears by affidavit that the residence of the owner of the vessel, vehicle, aircraft or other property is out of state or is unknown to the district attorney, the court shall appoint an attorney at law to represent the absent owner, against whom the rule shall be tried contradictorily within ten days after its filing. This affidavit may be made by the district attorney or one of his assistants. The attorney so appointed may waive service and citation of the petition or rule but shall not waive time nor any legal defenses.

I. Whenever the head of the law enforcement agency effecting the forfeiture deems it necessary or expedient to sell the property forfeited, rather than retain it for the use of the law enforcement agency, he shall cause an advertisement to be inserted in the official journal of the parish where the seizure was made, and after ten days, shall dispose of said property at public auction to the highest bidder, for cash and without appraisal.

J. The proceeds of all funds collected from any such sale, except as provided in R.S. 14:54.4(E)(2), shall be paid into the state treasury.

K. The rights of any mortgage or lien holder or holder of a vendor's privilege on the property seized shall not be affected by the seizure.

RS 14:54.5 — Fake explosive device

offender knowingly and intentionally:

- (1) Influences the official conduct or action of an official or any personnel of a public safety agency; or
- (2) Threatens to use the fake explosive device while committing or attempting to commit any felony.

B. For purposes of this Section the following words shall have the following meanings:

(1) A "fake explosive device" means any device or object that by its design, construction, content, or characteristics appears to be or to contain an explosive, an explosive compound or mixture with a detonator or initiator, or both, but is, in fact, an inoperative facsimile or imitation of such a destructive device, bomb, or explosive as defined in R.S. 14:54.3.

(2) A "public safety agency" means the Department of Public Safety and Corrections, a fire department, an emergency medical or rescue service, a law enforcement agency, or a volunteer agency organized to deal with emergencies.

C. Whoever violates the provisions of this Section shall be imprisoned at hard labor for not more than five years and shall be fined an amount equal to the costs of any law enforcement investigation or emergency response which results from the commission of the offense.

D. Provisions of this Section shall not apply to authorized military, police, and fire operations and training exercises.

RS 14:54.6 — Communicating of false information of planned bombing on school

ng threat on

school property, at a school-sponsored function, or in a firearm-free zone

whether or not such threat involves fake explosive devices is the intentional

impartation or conveyance, or causing the impartation or conveyance by the

use of the mail, telephone, telegraph, word of mouth, or other means of

communication, of any such threat or false information knowing the same to be false.

B. Whoever commits the crime of communicating of false information of a planned bombing on school property, at a school-sponsored function, or in a firearm-free zone as defined in R. S. 14:95.6(A) shall be imprisoned with or without hard labor for not more than twenty years. Upon commitment to the Department of Public Safety and Corrections after conviction for a crime committed on school property, at a school sponsored function or in a firearm-free zone, the department shall have the offender evaluated through appropriate examinations or tests conducted under the supervision of the department. Such evaluation shall be made within thirty days of the order of commitment.

C. For purposes of this Section, "at a school-sponsored function" means the specific designated area of the function, including but not limited to athletic competitions, dances, parties, or any extracurricular activity.

RS 14:55 — Aggravated criminal damage to property

ht be endangered, by any means other than fire or explosion.

B. Whoever commits the crime of aggravated criminal damage to property shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not less than one nor more than fifteen years, or both.

RS 14:56 — Simple criminal damage to property

vided in R.S. 14:55,

by any means other than fire or explosion.

(2) The provisions of this Section shall include the intentional damaging of a dwelling, house, apartment, or other structure used in whole or in part as a home, residence, or place of abode by a person who leased or rented the property.

B.(1) Whoever commits the crime of simple criminal damage to property where the damage is less than one thousand dollars shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(2) Where the damage amounts to one thousand dollars but less than fifty thousand dollars, the offender shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

(3) Where the damage amounts to fifty thousand dollars or more, the offender shall be fined not more than ten thousand dollars or imprisoned with or without hard labor for not less than one nor more than ten years, or both.

(4) In addition to the foregoing penalties, a person convicted under the provisions of this Section may be ordered to make full restitution to the owner of the property. If a person ordered to make restitution is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's ability to pay.

C. When there has been damage to multiple properties by a number of distinct acts of the offender which are part of a continuous sequence of events, the aggregate of the amount of the damages shall determine the grade of the offense.

RS 14:56.1 — Repealed by Acts 2017, No. 281, §3.

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RS 14:56.2 — Repealed by Acts 2017, No. 281, §3.

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RS 14:56.3 — Repealed by Acts 2017, No. 281, §3.

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RS 14:56.4 — Criminal damage to property by defacing with graffiti

, without the consent of the owner.

B. As used in this Section, the following terms mean:

(1) "Deface" or "defacing" is the damaging of immovable or movable property by means of painting, marking, scratching, drawing, or etching with graffiti.

(2) "Graffiti" includes but is not limited to any sign, inscription, design, drawing, diagram, etching, sketch, symbol, lettering, name, or marking placed upon immovable or movable property in such a manner and in such a location as to deface the property and be visible to the general public.

C. Whoever commits the crime of criminal damage to property by defacing with graffiti, where the damage is less than five hundred dollars, shall be fined not more than five hundred dollars or imprisoned for not more than six months in the parish jail, or both.

D. Where the damage is more than five hundred dollars but less than fifty thousand dollars, the offender shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

E. Where the damage amounts to fifty thousand dollars or more, the offender shall be fined not more than ten thousand dollars or imprisoned with or without hard labor for not less than one nor more than ten years, or both.

F.(1) The court, in addition to any punishment imposed under the provisions of this Section, may order the offender to clean up, repair, or replace any property damaged by the act or to pay restitution to the owner of the damaged property.

(2) The court may also order the offender to perform the following hours of community service:

(a) For a first conviction, not to exceed thirty-two hours over a period not to exceed one hundred eighty days.

(b) For a second or subsequent conviction, sixty-four hours over a period not to exceed one hundred eighty days.

G. If a minor is personally unable to pay a fine levied for acts prohibited by this Section or make restitution as may be ordered by the court, the parent or guardian of the minor shall be liable for payment of the fine or restitution. A court may waive payment of the fine or restitution, or any part thereof, by the parent or guardian of the minor upon a finding of good cause.

RS 14:56.5 — Criminal damage to historic buildings or landmarks by defacing with graffiti

publicly or privately owned, without the consent of the owner.

B. As used in this Section, the following terms shall have the following meanings:

(1) "Deface" or "defacing" is the damaging of any historic building or landmark by means of painting, marking, scratching, drawing, or etching with graffiti.

(2) "Graffiti" includes but is not limited to any sign, inscription, design, drawing, diagram, etching, sketch, symbol, lettering, name, or marking placed upon any historic building or landmark in such a manner and in such a location as to deface the property and be visible to the general public.

(3) "Historic building or landmark" means any of the following:

(a) Any building or landmark specifically designated as historically significant by the state historic preservation office, historic preservation district commission, landmarks commission, the planning or zoning commission of a governing authority, or by official action of a local political subdivision.

(b) Any structure located within a National Register Historic District, a local historic district, a Main Street District, a cultural products district, or a downtown development district.

C.(1) Whoever commits the crime of criminal damage to historic buildings or landmarks by defacing with graffiti shall be fined up to one thousand dollars and may be imprisoned, with or without hard labor, for not more than two years.

(2) The court shall also order the offender to perform the following hours of community service as follows:

- (a) For a first conviction, not to exceed thirty-two hours over a period not to exceed one hundred eighty days.
- (b) For a second or subsequent conviction, sixty-four hours over a period not to exceed one hundred eighty days.
- (3) The fine and community service imposed by the provisions of this Section shall not be suspended.

RS 14:57 — Damage to property with intent to defraud

commits the crime of damage to property with intent to defraud shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not more than four years, or both.

RS 14:57.1 — Vandalizing, tampering with, or destroying a crime camera system

y of the following:

- (1) Causing functional or cosmetic damage to the system.
- (2) Adjusting or modifying the location, position, aim, focus, or functionality of the system.
- (3) Tampering with the performance, functions, or features of the system.
- (4) Rendering the system temporarily or permanently inoperable.

B. For the purposes of this Section, a "crime camera system" includes any camera or license plate reader erected or installed for the purpose of observing or deterring illegal activity as well as any lights, mounting poles or brackets, actuator motors, computer control boards, connection interfaces, signage, software, protective housing, lenses, power supply systems, recording or battery backups, microphones, data connectivity hardware, or other component parts or ancillary equipment necessary for proper functionality and operation.

C. Whoever violates the provisions of Subsection A of this Section shall be imprisoned, with or without hard labor, for not more than two years or may be fined not more than two thousand dollars, or both.

RS 14:58 — Contaminating water supplies

f contaminating water supplies, when the act foreseeably endangers the life or health of human beings, shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than twenty years, or both.

(2) Whoever commits the crime of contaminating water supplies, when the act does not foreseeably endanger the life or health of human beings, shall be fined not more than five hundred dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

RS 14:59 — Criminal mischief

to interfere with the free enjoyment of any rights of anyone thereto, or with the intent to deprive anyone entitled thereto of the full use of the property.

- (2) Giving of any false alarm of fire or notice which would reasonably result in emergency response.
- (3) Driving of any tack, nail, spike or metal over one and one-half inch in length into any tree located on lands belonging to another, without the consent of the owner, or without the later removal of the object from the tree.
- (4) The felling, topping, or pruning of trees or shrubs within the right-of-way of a state highway, without prior written approval of the chief engineer of the Department of Transportation and Development or his designated representative, provided prior written approval is not required for agents or employees of public utility companies in situations of emergency where the person or property of others is endangered.
- (5) Giving of any false report or complaint to a sheriff, or his deputies, or to any officer of the law relative to the commission of, or an attempt to commit, a crime.

(6) Throwing any stone or any other missile in any street, avenue, alley, road, highway, open space, public square, or enclosure, or throwing any stone, missile, or other object from any place into any street, avenue, road, highway, alley, open space, public square, enclosure, or at any train, railway car, or locomotive.

(7) Taking temporary possession of any part or parts of a place of business, or remaining in a place of business after the person in charge of such business or portion of such business has directed such person to leave the premises and to desist from the temporary possession of any part or parts of such business.

(8) The communication to any person for the purpose of disrupting any public utility water service, when the communication causes any officer, employee, or agent of the service reasonably to be placed in sustained fear for his or another person's safety, or causes the evacuation of a water service building, or causes any discontinuance of any water services.

(9) The discharging of any firearm at a train, locomotive, or railway car.

(10) Repealed by Acts 2008, No. 8, §2.

B. Whoever commits the crime of criminal mischief shall be fined not more than five hundred dollars, or be imprisoned for not more than six months in the parish jail, or both.

RS 14:60 — Aggravated burglary

a felony or any theft therein, under any of the following circumstances:

(1) If the offender is armed with a dangerous weapon.

(2) If, after entering, the offender arms himself with a dangerous weapon.

(3) If the offender commits a battery upon any person while in such place, or in entering or leaving such place.

B. Whoever commits the crime of aggravated burglary shall be imprisoned at hard labor for not less than one nor more than thirty years.

RS 14:61 — Unauthorized entry of a critical infrastructure

t authority into any structure or onto any

premises, belonging to another, that constitutes in whole or in part a critical infrastructure that is completely enclosed by any type of physical barrier.

(2) The use or attempted use of fraudulent documents for identification purposes to enter a critical infrastructure.

(3) Remaining upon or in the premises of a critical infrastructure after having been forbidden to do so, either orally or in writing, by any owner, lessee, or custodian of the property or by any other authorized person.

(4) The intentional entry into a restricted area of a critical infrastructure which is marked as a restricted or limited access area that is completely enclosed by any type of physical barrier when the person is not authorized to enter that restricted or limited access area.

B. For the purposes of this Section, the following words shall have the following meanings:

(1)(a) "Critical infrastructure" means any and all structures, sites, equipment, or other immovable or movable property located within or upon any of the following:

(i) Chemical plants or facilities, manufacturing facilities, or refineries.

(ii) Electrical power generating facilities, electrical transmission substations and distribution substations.

(iii) Water intake structures and water treatment facilities.

(iv) Natural gas transmission compressor stations, liquefied natural gas (LNG)

terminals and storage facilities, natural gas and hydrocarbon storage facilities.

(v) Transportation facilities, such as ports, railroad switching yards, pipelines, and trucking terminals.

(vi) Water control structures including floodgates or pump stations.

(vii) Wireline and wireless communications and data network internet facilities and any equipment or communication wires that are connected or appurtenant to the facilities, including but not limited to broadcast television equipment, video equipment, fiber optics, and any lines or wires that are used for transmission from the facilities.

(b) "Critical infrastructure" shall include any site where the construction or improvement of any facility or structure referenced in this Section is occurring.

(2) "Fraudulent documents for identification purposes" means documents which are presented as being bona fide documents which provide personal identification information but which are, in fact, false, forged, altered, or counterfeit.

(3) "Pipeline" means flow, transmission, distribution, or gathering lines, regardless of size or length, which transmit or transport oil, gas, petrochemicals, minerals, or water in a solid, liquid, or gaseous state.

C.(1) Except as provided in Paragraph (2) of this Subsection, whoever commits the crime of unauthorized entry of a critical infrastructure shall be imprisoned with or without hard labor for not more than five years, fined not more than one thousand dollars, or both.

(2) On a conviction for a second or subsequent violation of Subsection A of this Section, the offender shall be imprisoned with or without hard labor for not less than six months nor more than ten years, fined not less than five hundred dollars nor more than four thousand dollars, or both.

D. Whoever commits the crime of unauthorized entry of a critical infrastructure during the existence of a state of emergency, which has been declared by the governor or the chief executive officer of any parish, shall be fined not more than five thousand dollars and shall be imprisoned at hard labor for not less than three years nor more than fifteen years.

E. Nothing in this Section shall be construed to apply to or prevent the following:

(1) Lawful assembly and peaceful and orderly petition, picketing, or demonstration for the redress of grievances or to express ideas or views regarding legitimate matters of public interest, including but not limited to any labor dispute between any employer and its employee or position protected by the United States Constitution or the Constitution of Louisiana.

(2) Lawful commercial or recreational activities conducted in the open or unconfined areas around a pipeline, including but not limited to fishing, hunting, boating, and birdwatching.

(3) Nothing in this Section shall be construed to prevent the owner of an immovable from exercising right of ownership, including use, enjoyment, and disposition within the limits and under the conditions established by law.

RS 14:61.1 — Criminal damage to a critical infrastructure

B. Any person who commits the crime of criminal damage to a critical infrastructure shall be imprisoned with or without hard labor for not more than fifteen years, fined not more

than ten thousand dollars, or both.

C. Any person who commits the crime of criminal damage to a critical infrastructure wherein it is foreseeable that human life will be threatened or operations of a critical infrastructure will be disrupted as a result of such conduct shall be imprisoned at hard labor for not more than twenty years, fined not more than twenty-five thousand dollars, or both.

D. A person convicted under the provisions of this Section may be ordered to make restitution to the owner of the property pursuant to Code of Criminal Procedure Article 883.2.

E. A person convicted under R.S. 14:26 of a violation of this Section shall not be limited by R.S. 14:26(D) where it is foreseeable that more than one human life will be threatened as a result of such conduct, and each conspirator shall be imprisoned at hard labor for no more than twelve years, fined not more than two hundred fifty thousand dollars, or both.

RS 14:62 — Simple burglary

able, or any cemetery, with the intent to commit a felony or any theft therein, other than as set forth in R.S. 14:60.

(2) The unauthorized entering of any dwelling or other structure with the intent to temporarily or permanently deprive the owner, lessee, or tenant of full use of the dwelling or structure or to temporarily or permanently assert any right of ownership or use of such property.

B.(1) Except as provided in Paragraphs (2) and (3) of this Subsection, whoever commits the crime of simple burglary shall be fined not more than two thousand dollars, imprisoned with or without hard labor for not more than twelve years, or both.

(2) If the offender, while committing the crime of simple burglary, is armed with a firearm or, after entering, arms himself with or possesses a firearm, the offender shall be imprisoned with or without hard labor for not less than three nor more than twelve years.

(3) If the offender commits multiple simple burglaries as a part of a continuous sequence of events, the offender shall be imprisoned with or without hard labor for not less than one nor more than twelve years. At least one year of the sentence of imprisonment shall be imposed without benefit of probation or suspension of sentence.

C. In addition to the penalties provided in Subsection B of this Section, an offender shall be liable for any damage that has resulted from a violation of Paragraph (A)(2) of this Section.

RS 14:62.1 — Repealed by Acts 2017, No. 281, §3.

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RS 14:62.2 — Simple burglary of an inhabited dwelling

e or in part as a home or place of

abode by a person or persons with the intent to commit a felony or any theft therein, other than as set forth in R.S. 14:60.

B. Whoever commits the crime of simple burglary of an inhabited dwelling shall be imprisoned at hard labor for not less than one year nor more than twelve years.

RS 14:62.3 — Unauthorized entry of an inhabited dwelling

belonging to another and used in whole or in part as a home or place of abode by a person.

B. Whoever commits the crime of unauthorized entry of an inhabited dwelling shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than six years, or both.

RS 14:62.4 — Unauthorized entry of a place of business

nother, that is completely enclosed by any type of physical barrier that is at least six feet in height, or by a combination of any type of physical barrier that is at least six feet in height and a lake, river, bayou, or other body of water, and that is used in whole or in part as a place of business. Nothing in this Section shall prohibit the ability of a person to dock a boat, vessel, or other watercraft on the bank of a navigable waterway for a reasonable period of time under any of the following circumstances:

- (1) The watercraft is experiencing a mechanical or operating problem.
- (2) Any person aboard the watercraft is experiencing a medical emergency.
- (3) Any other condition exists that prevents the watercraft from proceeding on the waterway.

B. Whoever commits the crime of unauthorized entry of a place of business shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than six years, or both.

RS 14:62.5 — Looting

fire,

act of God, or force majeure of any kind, or by virtue of a riot, mob, or other human agency, and the person obtains, exerts control over, damages, or removes the property of another without authorization:

- (1) Any dwelling or other structure belonging to another and used in whole or in part as a home or place of abode by a person.
- (2) Any structure belonging to another and used in whole or in part as a place of business.
- (3) Any vehicle, watercraft, building, plant, establishment, or other structure, movable or immovable.

B. Whoever commits the crime of looting shall be fined not more than ten thousand dollars or imprisoned at hard labor for not more than fifteen years, or both.

C. Whoever commits the crime of looting during the existence of a state of emergency, which has been declared pursuant to law by the governor or the chief executive officer of any parish, may be fined not less than five thousand dollars nor more than ten thousand dollars and shall be imprisoned at hard labor for not less than three years nor more than fifteen years without benefit of probation, parole, or suspension of sentence.

RS 14:62.6 — Repealed by Acts 2017, No. 281, §3.

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RS 14:62.7 — Unauthorized entry of a dwelling during an emergency or disaster

to any dwelling or other structure belonging to another and used in whole or in part as a home or place of abode by a person when the dwelling or other structure is located in a parish where the governor has declared a disaster or emergency pursuant to the provisions of the Louisiana Homeland Security and Emergency Assistance and Disaster Act (R.S. 29:721 et seq.).

- (2) The provisions of this Section shall not apply to the following:
 - (a) Any law enforcement or rescue personnel providing rescue or emergency disaster services.

(b) Any person entering a dwelling for the purposes of survival or awaiting evacuation or rescue within seventy-two hours of the occurrence of the disaster or emergency which resulted in the declaration of disaster or emergency.

B. Whoever commits the crime of unauthorized entry of a dwelling during an emergency or disaster shall be fined not more than one thousand five hundred dollars or imprisoned with or without hard labor for not more than one year, or both.

RS 14:62.8 — Home invasion

by

a person, where a person is present, with the intent to use force or violence upon the person of another or to vandalize, deface, or damage the property of another.

B. Whoever commits the crime of home invasion shall be fined not more than five thousand dollars and shall be imprisoned at hard labor for not less than one year nor more than thirty years.

RS 14:62.9 — Repealed by Acts 2017, No. 281, §3.

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RS 14:63 — Criminal trespass; squatters

person shall enter upon immovable property owned by another without express, legal, or implied authorization.

(2) For purposes of this Subsection, the phrase "enter upon immovable property" as used in this Subsection, in addition to its common meaning, signification, and connotation, shall include the operation of an unmanned aircraft system as defined by R.S. 14:337 in the air space over immovable property owned by another with the intent to conduct surveillance of the property or of any individual lawfully on the property.

(3) The provisions of Paragraph (1) of this Subsection shall not apply to any person operating an unmanned aircraft system in compliance with federal law or Federal Aviation Administration regulations or authorization.

C.(1) No person shall remain in or upon property, movable or immovable, owned by another without express, legal, or implied authorization.

(2) For purposes of this Subsection:

(a) "Remain in or upon property", in addition to its common meaning, signification, and connotation, includes:

(i) The continued presence of an occupant, as defined by Code of Civil Procedure Article 4704, for longer than five days after being served with written notice to vacate in accordance with Code of Civil Procedure Article 4702 or 4703.

(ii) The continued presence of a squatter who has been directed to vacate by a lawful possessor either verbally, by written notice, or by posting of conspicuous signage advising that the property is privately owned and unlawful trespass is prohibited.

(iii) The continued presence of a person in violation of a temporary restraining order, preliminary injunction, or permanent injunction.

(iv) The operation of an unmanned aircraft system as defined by R.S. 14:337 in the air space over immovable property owned by another with the intent to conduct surveillance of the property or of any individual lawfully on the property. This Item shall not apply to any person operating an unmanned aircraft system in compliance with federal law or Federal Aviation Administration regulations or authorization.

(b) "Squatter" means any person who remains in or upon property to which the person lacks a right of possession, ownership, occupancy, or a lease interest.

D. It shall be an affirmative defense to a prosecution for a violation of Subsection A, B, or C of this Section, that the accused had express, legal, or implied authority to be in the movable or on the immovable property.

E. The following persons may enter or remain upon the structure, watercraft, movable or immovable property, of another:

- (1) A duly commissioned law enforcement officer in the performance of his duties.
- (2) Any firefighter, whether or not a member of a volunteer or other fire department, and any employee or agent of the Louisiana Department of Agriculture and Forestry engaged in locating and suppressing a fire.
- (3) Emergency medical personnel engaged in the rendering of medical assistance to an individual.
- (4) Any federal, state or local government employee, public utility employee or agent engaged in suppressing or dealing with an emergency that presents an imminent danger to human safety or health or to the environment.
- (5) Any federal, state or local government employee, public utility employee or agent in the performance of his duties when otherwise authorized by law to enter or remain on immovable or movable property.
- (6) Any person authorized by a court of law to enter or remain on immovable property.
- (7) Any person exercising the mere right of passage to an enclosed estate, as otherwise provided by law.

F. The following persons may enter or remain upon immovable property of another, unless specifically forbidden to do so by the owner or other person with authority, either orally or in writing:

- (1) A professional land surveyor or his authorized personnel, engaged in the "practice of land surveying", as defined in R.S. 37:682.
- (2) A person, affiliate, employee, agent or contractor of any business which is regulated by the Louisiana Public Service Commission or by a local franchising authority or the Federal Communication Commission under the Cable Reregulation Act of 1992 or of a municipal or public utility, while acting in the course and scope of his employment or agency relating to the operation, repair, or maintenance of a facility, servitude or any property located on the immovable property which belongs to such a business.
- (3) Any person making a delivery, soliciting, selling any product or service, conducting a survey or poll, a real estate licensee or other person who has a legitimate reason for making a delivery, conducting business or communicating with the owner, lessee, custodian or a resident of the immovable property, and who, immediately upon entry, seeks to make the delivery, to conduct business or to conduct the communication.
- (4) An employee of the owner, lessee or custodian of the immovable property while performing his duties, functions and responsibilities in the course and scope of his employment.

(5) The owner of domestic livestock or his employees or agents while in the process of retrieving his domestic livestock that have escaped from an area fenced to retain such domestic livestock.

(6) The owner of a domestic animal while in the sole process of merely retrieving his domestic animal from immovable property and not having a firearm or other weapon on his person.

(7) Any candidate for political office or any person working on behalf of a candidate for a political office.

(8) The owner or occupant of a watercraft or vessel traveling in salt water engaged in any lawful purpose for the purpose of retrieval of his property or for obtaining assistance in an emergency situation.

G. The following penalties shall be imposed for a violation of this Section:

(1) For the first offense, the fine shall be not less than one hundred dollars and not more than five hundred dollars, or imprisonment for not more than thirty days, or both.

(2) For the second offense, the fine shall be not less than three hundred dollars and not more than seven hundred fifty dollars, or imprisonment for not more than ninety days, or both.

(3) For the third offense and all subsequent offenses, the fine shall be not less than five hundred dollars and not more than one thousand dollars, or imprisonment for not less than sixty days and not more than six months, or both, and forfeiture to the law enforcement authority of any property seized in connection with the violation.

(4) A person may be convicted of a second offense and any subsequent offenses regardless of whether any prior conviction involved the same structure, watercraft, movable or immovable property and regardless of the time sequence of the occurrence of the offenses.

(5) In addition to the foregoing penalties, and notwithstanding any other law to the contrary, a person convicted under this Section who has killed or otherwise misappropriated any wildlife, as defined by R.S. 56:8, in the course of commission of the offense shall forfeit the misappropriated wildlife to the law enforcement authority, and shall be ordered to pay the value of the misappropriated wildlife into the Conservation Fund of the Department of Wildlife and Fisheries in accordance with R.S. 56:40.1 et seq. The value of the wildlife that was misappropriated shall be determined by the guidelines adopted by the Wildlife and Fisheries Commission pursuant to R.S. 56:40.2.

H. The provisions of any other law notwithstanding, owners, lessees, and custodians of structures, watercraft, movable or immovable property shall not be answerable for damages sustained by any person who enters upon the structure, watercraft, movable or immovable property without express, legal or implied authorization, or who without legal authorization, remains upon the structure, watercraft, movable or immovable property after being forbidden by the owner, or other person with authority to do so; however, the owner, lessee or custodian of the property may be answerable for damages only upon a showing that the damages sustained were the result of the intentional acts or gross negligence of the owner, lessee or custodian.

I. A minor ten years old or younger shall not be arrested, detained or apprehended

for the crime of trespass.

J. Although not required by this Section, notice that entrance upon any structure, watercraft, movable, or immovable property owned by another is prohibited may be indicated by either of the following:

(1) A sign or signs posted on or in the property at a place or places where such sign or signs may be reasonably expected to be seen.

(2) The placement of identifying purple paint marks on the trees or posts on the property, provided that such marks are:

(a) Vertical lines of not less than eight inches in length and not less than one inch in width.

(b) Placed so that the bottom of the mark is not less than three feet from the ground nor more than five feet from the ground.

(c) Placed at locations that are readily visible to any person approaching the property and no more than one hundred feet apart on forest land, as defined in R.S. 3:3622, or one thousand feet apart on land other than forest land.

RS 14:63.1 — Repealed by Acts 2003, No. 802, §2.

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RS 14:63.2 — Repealed by Acts 2003, No. 802, §2.

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RS 14:63.3 — Entry on or remaining in places or on land after being forbidden

in or upon any structure, watercraft, or any other

movable, or immovable property, which belongs to another, including public buildings and structures, ferries, and bridges, or any part, portion, or area thereof, after having been forbidden to do so, either orally or in writing, including by means of any sign hereinafter described, by any owner, lessee, or custodian of the property or by any other authorized person.

(2) For the purposes of Paragraph (1) of this Subsection, "sign" means either:

(a) A sign or signs posted on or in the structure, watercraft, or any other movable, or immovable property, including public buildings and structures, ferries and bridges, or part, portion or area thereof, at a place or places where such sign or signs may be reasonably expected to be seen.

(b) The placement of identifying purple paint marks on the trees or posts on the property, provided that such marks are:

(i) Vertical lines of not less than eight inches in length and not less than one inch in width.

(ii) Placed so that the bottom of the mark is not less than three feet from the ground nor more than five feet from the ground.

(iii) Placed at locations that are readily visible to any person approaching the property and no more than one hundred feet apart on forest land, as defined in R.S. 3:3622, or one thousand feet apart on land other than forest land.

B. Whoever violates the provisions of this Section shall be guilty of a misdemeanor

and upon conviction thereof shall be fined not more than five hundred dollars or imprisoned in the parish jail for not more than six months, or both.

RS 14:63.4 — Aiding and abetting others to enter or remain on premises where forbidden

into or upon or to remain in or upon any structure, watercraft, or any other movable, which belongs to another, including public buildings and structures, ferries, and bridges, or any part, portion, or area thereof, knowing that such other person has been forbidden to go or remain there, either orally or in writing, including by means of any sign hereinafter described, by the owner, lessee, or custodian of the property or by any other authorized person.

(2) For the purposes of Paragraph (1) of this Subsection, "sign" means either:

(a) A sign or signs posted on or in the structure, watercraft or any other movable, including public buildings and structures, ferries and bridges, or part, portion or area thereof, at a place or places where such sign or signs may be reasonably expected to be seen.

(b) The placement of identifying purple paint marks on the trees or posts on the property, provided that such marks are:

(i) Vertical lines of not less than eight inches in length and not less than one inch in width.

(ii) Placed so that the bottom of the mark is not less than three feet from the ground nor more than five feet from the ground.

(iii) Placed at locations that are readily visible to any person approaching the property and no more than one hundred feet apart on forest land, as defined in R.S. 3:3622, or one thousand feet apart on land other than forest land.

B. Any law enforcement officer investigating a complaint that the provisions of this Section are being or have been violated or any such officer making any arrest for violation of the provisions of this Section, is hereby vested with authority to require any person involved in such investigation or arrest to identify himself to such officer. Upon demand of such officer, the person involved shall inform the officer of his true name and address.

C. Whoever violates the provisions of Subsection A or B of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars or be imprisoned in the parish jail for not more than six months, or both.

RS 14:63.5 — Entry or remaining on site of a school or recreation athletic contest after being

o into or upon or remain in or upon, any immovable property or other site or location that belongs to another and that is used for any school athletic contest or recreation athletic contest, including any area in the immediate vicinity of the site or location of the athletic contest, after having been forbidden to do so, either orally or in writing, by any owner, lessee, or custodian of the property or by any other authorized person.

B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, imprisoned without hard labor for not more than six months, or both.

RS 14:63.6 — Repealed by Acts 2003, No. 802, §2.

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RS 14:63.7 — Repealed by Acts 2003, No. 802, §2.

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RS 14:63.8 — Repealed by Acts 2003, No. 802, §2.

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RS 14:63.9 — Repealed by Acts 2003, No. 802, §2.

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RS 14:63.10 — Repealed by Acts 2003, No. 802, §2.

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RS 14:63.12 — Repealed by Acts 2003, No. 802, §2.

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RS 14:64 — Armed robbery

ile armed with a dangerous weapon.

B. Whoever commits the crime of armed robbery shall be imprisoned at hard labor for not less than ten years and for not more than ninety-nine years, without benefit of parole, probation, or suspension of sentence.

RS 14:64.1 — First degree robbery

intimidation, when the offender leads the victim to reasonably believe he is armed with a dangerous weapon.

B. Whoever commits the crime of first degree robbery shall be imprisoned at hard labor for not less than three years and for not more than forty years, without benefit of parole, probation or suspension of imposition or execution of sentence.

RS 14:64.2 — Carjacking

a passenger, or any other person in lawful possession of the motor vehicle, by the use of force or intimidation.

B.(1) Except as provided in Paragraph (2) of this Subsection, whoever commits the crime of carjacking shall be imprisoned at hard labor for not less than five years nor more than twenty years, without benefit of parole, probation, or suspension of sentence.

(2) Whoever commits the crime of carjacking when serious bodily injury results shall be imprisoned at hard labor for not less than twenty years nor more than thirty years, without benefit of parole, probation, or suspension of sentence.

RS 14:64.2.1 — Carjacking; recruitment of juveniles

age of eighteen to commit the

offense of carjacking as defined in R.S. 14:64.2.

B. Whoever violates the provisions of this Section shall be imprisoned at hard labor for not less than five years and for not more than twenty years, without benefit of parole, probation, or suspension of sentence.

RS 14:64.3 — Armed robbery; attempted armed robbery; use of firearm; additional penalty

isoned at hard labor for an additional period of five years without benefit of parole, probation, or suspension of sentence.

The additional penalty imposed pursuant to this Subsection shall be served consecutively to the sentence imposed under the provisions of R.S. 14:64.

B. When the dangerous weapon used in the commission of the crime of attempted armed robbery is a firearm, the offender shall be imprisoned at hard labor for an additional period of five years without benefit of parole, probation, or suspension of sentence. The additional penalty imposed pursuant to this Subsection shall be served consecutively to the sentence imposed under the provisions of R.S. 14:27 and 64.

RS 14:64.4 — Second degree robbery

is in the immediate control of another when the offender intentionally inflicts serious bodily injury.

(2) The taking of, or the recruiting of another person who takes, anything of value from a retail establishment that is in the immediate control of a retail employee or employer when a person acts in concert with three or more individuals for the purpose of either overwhelming the response of an employer, an employee, or law enforcement to carry out the offense, avoid detection or apprehension, or create a reasonable belief that a reasonable person would not intercede because of fear.

B.(1) Whoever commits the crime of second degree robbery shall be imprisoned at hard labor for not less than three years and for not more than forty years.

(2) Upon a second or subsequent conviction within ten years of a previous conviction, the offender shall be imprisoned at hard labor for not less than five years and not more than forty years.

(3) Any person who commits second degree robbery with a firearm shall be imprisoned at hard labor for an additional period of five years without benefit of parole, probation, or suspension of sentence. The additional penalty imposed pursuant to this Paragraph shall be served consecutively to the sentence imposed under this Subsection.

RS 14:65 — Simple robbery

intimidation but not armed with a dangerous weapon.

B. Whoever commits the crime of simple robbery shall be fined not more than three thousand dollars, imprisoned with or without hard labor for not more than seven years, or both.

RS 14:65.1 — Purse snatching

another, by use of force, intimidation, or by snatching, but not armed with a dangerous weapon.

B. Whoever commits the crime of purse snatching shall be imprisoned, with or without hard labor, for not less than two years and for not more than twenty years.

RS 14:66 — Extortion

Any of the following threats shall be sufficient to constitute extortion:

(1) A threat to do any unlawful injury to the person or property of the individual threatened or of any member of his family or of any other person held dear to him.

(2) A threat to accuse the individual threatened or any member of his family or any other person held dear to him of any crime. An offer to participate in a theft prevention program pursuant to Code of Criminal Procedure Article 215 shall not constitute a violation of the provisions of this Paragraph.

(3) A threat to expose or impute any deformity or disgrace to the individual threatened or to any member of his family or to any other person held dear to him.

(4) A threat to expose any secret affecting the individual threatened or any member of his family or any other person held dear to him.

(5) A threat to cause harm as retribution for participation in any legislative hearing or proceeding, administrative proceeding, or in any other legal action.

(6) A threat intended to compel a pregnant woman to have an abortion as defined in R.S. 14:87.1.

(7) A threat to do any other harm.

B. Whoever commits the crime of extortion shall be imprisoned at hard labor for not less than one nor more than fifteen years.

RS 14:67 — Theft

of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of whatever may be the subject of the misappropriation or taking is essential.

B.(1) Whoever commits the crime of theft when the misappropriation or taking amounts to a value of twenty-five thousand dollars or more shall be imprisoned at hard labor for not more than twenty years, or may be fined not more than fifty thousand dollars, or both.

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

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

(4)(a) When the misappropriation or taking amounts to less than a value of one thousand dollars, the offender shall be imprisoned for not more than six months or may be fined not more than one thousand dollars, or both.

(b)(i) If the offender in such cases has been convicted of theft two or more times previously, upon any subsequent conviction, the offender shall be imprisoned, with or without hard labor, for not more than two years or may be fined not more than two thousand dollars, or both.

(ii) If the offender in such cases commits the crime of theft of a package that has been delivered to an inhabited dwelling owned by another, the offender shall be imprisoned, with or without hard labor, for not more than two years or may be fined not more than two thousand dollars, or both.

C. If the offender commits an assault upon a store or merchant's employee who is acting in the course and scope of his employment duties during the commission or attempted commission of theft, at least fifteen days of the sentence imposed under this Section shall be served without benefit of probation or suspension of sentence.

D. When there has been a misappropriation or taking by a number of distinct acts of the offender, the aggregate of the amount of the misappropriations or taking shall determine the grade of the offense.

E. In a prosecution under this Section where the property allegedly misappropriated or taken was held for sale by a merchant, an intent to permanently deprive the merchant of the property held for sale may be inferred when the defendant:

(1) Intentionally conceals, on his person or otherwise, goods held for sale.

(2) Alters or transfers any price marking reflecting the actual retail price of the goods.

(3) Transfers goods from one container or package to another or places goods in any

container, package, or wrapping in a manner to avoid detection.

(4) Willfully causes the cash register or other sales recording device to reflect less than the actual retail price of the goods.

(5) Removes any price marking with the intent to deceive the merchant as to the actual retail price of the goods.

RS 14:67.1 — Theft of livestock

derived from the sale of such livestock or its meat, whether done without the consent of the owner to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations, with the intent to deprive the owner permanently of the livestock or proceeds derived from the sale of the livestock or its meat.

(2) Transporting or causing the transportation of livestock to a slaughterhouse or a livestock market as defined in R.S. 3:663, for purposes of selling or keeping the livestock or meat with the intent to deprive the owner permanently of the livestock or meat or proceeds derived from the sale of the livestock or meat.

(3) Failing or refusing to pay for livestock purchased from an agent, dealer, livestock market as defined in R.S. 3:663, or owner, or acquired with the consent of the agent, dealer, livestock market, or owner, within thirty days of the date the livestock was purchased or acquired or the date payment was due, whichever is longer, with the intent to permanently deprive the owner of the livestock or the value of the livestock.

B. Either of the following acts shall constitute presumptive evidence of the intent to permanently deprive the owner of the livestock or meat, or proceeds derived from sale of the livestock or meat:

(1) Assignment of the livestock in a record book maintained by a slaughterhouse or livestock market as defined in R.S. 3:663, in a name other than that of the owner.

(2) Failing to pay for the livestock within ten days after notice of a request for payment or return of the livestock or meat has been sent by the agent, dealer, livestock market as defined in R.S. 3:663, or owner, to the offender's last known address by either registered or certified mail, return receipt requested, or by actual delivery by a commercial courier.

C. Affirmative defenses shall include but not be limited to a contract establishing longer terms for payment and fraud with regard to the quality of the livestock.

D. "Livestock" means any animal except dogs and cats, bred, kept, maintained, raised, or used for profit, that is used in agriculture, aquaculture, agritourism, competition, recreation, or silvaculture, or for other related purposes or used in the production of crops, animals, or plant or animal products for market. This definition includes but is not limited to cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; goats; sheep; swine; chickens, turkeys, and other poultry; domestic rabbits; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; fish, pet turtles, and other animals identified with aquaculture which are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; any commercial crawfish from any crawfish pond; and any hybrid, mixture,

or mutation of any such animal.

E. The Livestock Brand Commission shall have primary responsibility for the enforcement and collection of information in such cases, and livestock brand inspectors shall aid all law enforcement agencies in such investigations.

F. Whoever commits the crime of theft of livestock shall be fined not more than five thousand dollars, imprisoned, with or without hard labor, for not more than ten years, or both.

RS 14:67.2 — Theft of timber

of the

owner, or by means of fraudulent conduct, practices, or representations, with the intent to deprive the owner permanently of the timber or proceeds derived therefrom.

B.(1) Whoever commits the crime of theft of timber when the misappropriation or taking amounts to a value of twenty-five thousand dollars or more shall be fined not more than ten thousand dollars and imprisoned at hard labor for not more than ten years.

(2) When the misappropriation or taking amounts to a value of less than twenty-five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not more than five years, fined not more than five thousand dollars, or both.

C. The enforcement division of the office of forestry within the Department of Agriculture and Forestry shall have primary responsibility for collection, preparation, and central registry of information relating to theft of timber and shall assist all law enforcement agencies in investigations of violations of the provisions of this Section.

RS 14:67.3 — False statements and false or altered documents; unclaimed property claim

both in any claim submitted pursuant to the Uniform Unclaimed

Property Act of 1997 commits a violation of the provisions of this Section.

B. Whoever violates Subsection A of this Section shall be imprisoned with or without hard labor for not more than five years, or fined not more than ten thousand dollars, or both.

C. Restitution shall be ordered pursuant to Code of Criminal Procedure Article 883.2 and shall be made payable to the Louisiana Unclaimed Property Permanent Trust Fund.

RS 14:67.4 — Anti-Skimming Act

s:

(1) "Authorized card user" means any person with permission to use any payment card to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.

(2) "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator who receives from an authorized user of a payment card, or someone the merchant believes to be an authorized user, a payment card or information from a payment card, or what the merchant believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing or receiving goods, services, money, or anything else of value from the merchant.

(3) "Payment card" means a credit card, charge card, debit card, hotel key card, stored value card, or any other card that is issued to an authorized card user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.

(4) "Re-encoder" means an electronic device that places encoded information from the microchip or magnetic strip or stripe of a payment card onto the microchip or magnetic strip or stripe of a different payment card.

(5) "Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the microchip or magnetic strip or stripe of a payment card.

C. It shall be unlawful for any person to do any of the following:

(1) Use a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the microchip or magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card and with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.

(2) Use a re-encoder to place information encoded on the microchip or magnetic strip or stripe of a payment card onto the microchip or magnetic strip or stripe of a different card without the permission of the authorized user of the card from which the information is being re-encoded and with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.

(3) Possess a re-encoder or scanning device with the intent to defraud.

D.(1) Whoever violates the provisions of Subsection C of this Section shall be imprisoned, with or without hard labor, for not more than five years, or fined not more than five thousand dollars, or both.

(2) Whoever, directly or indirectly, by agent or otherwise, uses a scanning device and a re-encoder in violation of Subsection C of this Section and with the intent to defraud shall be imprisoned, with or without hard labor, for not more than ten years, or fined not more than ten thousand dollars, or both.

(3) Upon a second or subsequent conviction of a violation of the provisions of this Section, the offender shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years and may be fined not more than twenty thousand dollars.

E. In addition to the penalties provided in Subsection D of this Section, a person convicted under this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offence in accordance with Code of Criminal Procedure Article 883.2.

RS 14:67.5 — Adoption deception benefits

from payment of adoption-related expenses in connection with that adoption plan commits adoption deception if any of the following occur:

(1) The person knows or should have known that she is not pregnant at the time the payments were requested or received.

(2) The person accepts living expenses assistance from a prospective adoptive parent or adoption entity without disclosing that she is receiving living expenses assistance from another prospective adoptive parent or adoption entity at the same time in an effort to adopt the same child.

(3) The person has the specific intent to make false representations to induce the payment of living expenses or other benefits in connection with a purported adoption placement.

B. Any person who commits the crime of adoption deception shall be punished as follows:

(1) If the amount received by the person is one thousand dollars or less, the person shall either be fined up to five hundred dollars, imprisoned for not more than sixty days, or both.

(2) If the amount received by the person exceeds one thousand dollars, the person shall either be fined up to five thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

C. The provisions of this Section shall not apply to a person who agrees to an adoption plan agreement and subsequently, in good faith, declines to proceed with the prospective adoption in favor of parenting the child.

RS 14:67.6 — Mail theft

or any other

sealed article addressed to another, along with its contents.

(2) "Mail depository" means a mail box, letter box, or mail receptacle of a postal service, an office of a postal service, or a vehicle of a postal service.

(3) "Postal service" means the United States Postal Service or its contractors, or any commercial courier that delivers mail.

B. Any of the following acts shall constitute mail theft:

(1) Removing mail from a mail depository or taking mail from a mail carrier with a postal service with an intent to steal.

(2) Obtaining custody of mail by fraud or deception with an intent to steal.

(3) Selling, receiving, possessing, transferring, buying, or concealing mail obtained by acts described in Paragraph (1) or (2) of this Subsection while knowing or having reason to know that the mail was obtained illegally.

C.(1) Whoever violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years or fined not more than five thousand dollars, or both.

(2) Upon a second or subsequent conviction or violation of the provisions of this Section, the offender shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years and may, in addition, be fined not more than twenty thousand dollars.

D. In addition to the penalties provided in Subsection C of this Section, a person convicted under this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense in accordance with

Code of Criminal Procedure Article 883.2.

E. An offense committed under this Section may be prosecuted in any of the following parishes:

- (1) The parish where the offense occurred.
- (2) The parish of residence or place of business of the direct or indirect victim.

RS 14:67.7 — Theft or unauthorized reproduction of a mail receptacle key or lock

any letter, postal card, parcel, envelope, package, bag, or any other sealed article addressed to another, along with its contents.

(2) "Postal service" means the United States Postal Service or its contractors, or any commercial courier that delivers mail.

B. Any of the following acts shall constitute theft or unauthorized reproduction of a mail receptacle key or lock:

(1) Stealing or obtaining by false pretense any key or lock adopted by a postal service for any box or other authorized receptacle for the deposit or delivery of mail.

(2) Knowingly and unlawfully making, forging, or counterfeiting any such key, or possessing any such key or lock adopted by a postal service that delivers mail with the intent to unlawfully or improperly use, sell, or otherwise dispose of the key or lock, or to cause the key or lock to be unlawfully or improperly used, sold, or otherwise disposed.

C.(1) Whoever violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years or fined not more than five thousand dollars, or both.

(2) Upon a second or subsequent conviction or violation of the provisions of this Section, the offender shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years and may, in addition, be fined not more than twenty thousand dollars.

D. In addition to the penalties provided in Subsection C of this Section, a person convicted under this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense in accordance with Code of Criminal Procedure Article 883.2.

RS 14:67.8 — Repealed by Acts 2017, No. 281, §3.

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RS 14:67.9 — Repealed by Acts 2017, No. 281, §3.

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RS 14:67.10 — Repealed by Acts 2017, No. 281, §3.

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RS 14:67.11 — Credit card fraud by persons authorized to provide goods and services

ncluding without limitation a merchant, financial institution, or an agent of a business organization or financial institution that authorizes a merchant to accept payment by credit card for money, goods, services, or anything else of value.

(2) "Cardholder" means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

(3) "Credit card" means any instrument or device whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, debit card, or by any other name, including an account number, issued with or without fee by an issuer for the use of a cardholder in obtaining money, goods, services, or anything of value on credit or for use in an automated banking device to obtain any of the services offered through the device.

(4) "Issuer" means the business organization or financial institution, or its duly authorized agent, which issues a credit card.

(5) "Provider" means a person who is authorized by an issuer or an acquirer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person.

(6) "Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

B. No provider shall, with intent to defraud an issuer, an acquirer, or a cardholder, furnish money, goods, services, or anything else of value upon presentation of a credit card obtained or retained in violation of this Section, or a credit card which the provider knows is forged or revoked.

C. No provider shall, with intent to defraud an issuer, an acquirer, or a cardholder, fail to furnish money, goods, services, or anything else of value which the provider represents in writing, electronically or otherwise, to an issuer or an acquirer that such provider has furnished.

D. No provider shall, with intent to defraud an issuer, an acquirer, or a cardholder, present to an issuer or acquirer for payment a credit card transaction record which is not the result of an act between the cardholder and the provider.

E. No person shall employ, solicit, or otherwise cause a provider's employee or authorized agent or representative to remit to an acquirer a credit card transaction record of a sale that was not originated as a result of an act between the cardholder and such provider.

F. Any person who violates the provisions of this Section may be imprisoned, with or without hard labor, for not more than fifteen years, or fined not more than fifty thousand dollars, or both.

RS 14:67.12 — Theft of a catalytic converter or engine control module

control module which belongs to another, either

without the consent of the owner to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the owner permanently of the catalytic converter or engine control module is essential.

B.(1) Whoever commits the crime of theft of a catalytic converter or engine control module when the misappropriation or taking and any related damage amounts to a value of twenty-five thousand dollars or more shall be imprisoned at hard labor for not less than ten years nor more than twenty years, or may be fined not more than fifty thousand dollars, or both.

(2) When the misappropriation or taking and any related damage amounts to a value of five thousand dollars or more, but less than a value of twenty-five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not less than five years nor more than ten years, or may be fined not more than ten thousand dollars, or both.

(3) When the misappropriation or taking and any related damage amounts to a value of one thousand dollars or more, but less than a value of five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not less than two years nor more than five years, or may be fined not more than three thousand dollars, or both.

(4) When the misappropriation or taking and any related damage amounts to a value of less than one thousand dollars, the offender shall be imprisoned for not less than ninety days nor more than six months, or may be fined not more than one thousand dollars, or both.

C. If the offender has been convicted under this Section two or more times

previously, upon any subsequent conviction he shall be imprisoned, with or without hard labor, for an additional year to be served consecutively to the sentence imposed under Subsection B of this Section, or may be fined an additional one thousand dollars, or both.

D. When there has been a misappropriation or taking by a number of distinct acts of the offender, the aggregate of the amount of the misappropriations or taking and any related damage shall determine the grade of the offense.

E. For the purposes of this Section, "engine control module" means the electronic control unit of the vehicle that controls a series of actuators which ensures that the vehicle operates at optimal performance by monitoring all sensors in the engine bay.

RS 14:67.13 — Theft or criminal access of an automated teller machine

other without the consent of the other to the misappropriation or taking with the intent to deprive the owner permanently of the automated teller machine or its contents.

(2) Criminal access of an automated teller machine is the intentional destroying, damaging, impairing, tampering with, or otherwise rendering inoperable of an automated teller machine belonging to another with the intent to steal currency or personal financial information of another, regardless of the pecuniary loss.

B. For purposes of this Section, "automated teller machine" means an electronic information processing device located in this state which accepts or dispenses cash in connection with an account or credit card.

C. Whoever violates the provisions of this Section shall be imprisoned with or without hard labor for not less than five years nor more than ten years, and may, in addition, be required to pay a fine of not more than ten thousand dollars. Restitution shall be ordered pursuant to Code of Criminal Procedure Article 883.2.

RS 14:67.14 — Repealed by Acts 2014, No. 255, §3.

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RS 14:67.15 — Theft of a firearm

ns of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of the firearm is essential.

B. For purposes of this Section, "firearm" means a shotgun or rifle, or a pistol, revolver, or other handgun.

C.(1) For a first offense, the penalty for theft of a firearm shall be imprisonment with or without hard labor for not less than two years nor more than ten years, without the benefit of probation, parole, or suspension of sentence and a fine of one thousand dollars.

(2) For a second offense, the penalty for theft of a firearm shall be imprisonment with or without hard labor for not less than five years nor more than fifteen years, without the benefit of probation, parole, or suspension of sentence and a fine of two thousand dollars.

(3) For a third and subsequent offense, the penalty for theft of a firearm shall be imprisonment at hard labor for not less than fifteen years nor more than thirty years, without the benefit of probation, parole, or suspension of sentence and a fine of five thousand dollars.

RS 14:67.16 — Identity theft

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indicates to the person who is the recipient of a telephone call another person's name,

telephone number, the name of a legitimate or fictitious business, or any other name or telephone number from which the telephone call purportedly originated.

(2) "Insert" means to enter by voice communication, by written communication, or by any other means.

(3) "Person" means any individual, partnership, association, joint stock association, trust, corporation, or other business entity whether incorporated or not.

(4) "Personal identifying information" shall include but not be limited to a person's:

(a) Social security number.

(b) Driver's license number.

(c) Checking account number.

(d) Savings account number.

(e) Credit card number.

(f) Debit card number.

(g) Electronic identification number.

(h) Digital signatures.

(i) Birth certificate.

(j) Date of birth.

(k) Mother's maiden name.

(l) Armed forces identification number.

(m) Government issued identification number.

(n) Financial institution account number.

(o) Telephone number, when inserted into any caller identification system.

(5) "Person with a disability" means any person regardless of age who has a mental, physical, or developmental disability that substantially impairs the person's ability to provide adequately for his own care or protection.

B. Identity theft is the intentional use, possession, transfer, or attempted use, with fraudulent intent, by any person of any personal identifying information of another person to obtain, possess, or transfer, whether contemporaneously or not, credit, money, goods, services, or any thing else of value without the authorization or consent of the other person.

C.(1)(a) Whoever commits the crime of identity theft when credit, money, goods, services, or any thing else of value is obtained, possessed, or transferred, which amounts to a value of one thousand dollars or more, shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than ten thousand dollars, or both.

(b) Whoever commits the crime of identity theft when the victim is sixty years of age or older or a person with a disability when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value of one thousand dollars or more, shall be imprisoned, with or without hard labor, for not less than three years and for not more than ten years, or may be fined not more than ten thousand dollars, or both.

(c) Whoever commits the crime of identity theft when the victim is under the age of seventeen when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value of one thousand dollars or more, shall be imprisoned, with or without hard labor, for not less than three years and for not more than ten years, or may be

fined not more than ten thousand dollars, or both.

(2)(a) Whoever commits the crime of identity theft when credit, money, goods, services, or any thing else of value is obtained, possessed, or transferred, which amounts to a value of five hundred dollars or more, but less than one thousand dollars, shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than five thousand dollars, or both.

(b) Whoever commits the crime of identity theft when the victim is sixty years of age or older or a person with a disability when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value of five hundred dollars or more, but less than one thousand dollars, shall be imprisoned, with or without hard labor, for not less than two years and not more than five years, or may be fined not more than five thousand dollars, or both.

(c) Whoever commits the crime of identity theft when the victim is under the age of seventeen when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value of five hundred dollars or more, but less than one thousand dollars, shall be imprisoned, with or without hard labor, for not less than two years and not more than five years, or may be fined not more than five thousand dollars, or both.

(3)(a) Whoever commits the crime of identity theft when credit, money, goods, services, or any thing else of value is obtained, possessed, or transferred, which amounts to a value of three hundred dollars or more, but less than five hundred dollars, shall be imprisoned, with or without hard labor, for not more than three years, or may be fined not more than three thousand dollars, or both.

(b) Whoever commits the crime of identity theft when the victim is sixty years of age or older or a person with a disability when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value of three hundred dollars or more, but less than five hundred dollars, shall be imprisoned, with or without hard labor, for not less than one year and not more than three years, or may be fined not more than three thousand dollars, or both.

(c) Whoever commits the crime of identity theft when the victim is under the age of seventeen when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value of three hundred dollars or more, but less than five hundred dollars, shall be imprisoned, with or without hard labor, for not less than one year and not more than three years, or may be fined not more than three thousand dollars, or both.

(4)(a) Whoever commits the crime of identity theft when credit, money, goods, services, or any thing else of value is obtained, possessed, or transferred, which amounts to a value less than three hundred dollars, shall be imprisoned for not more than six months, or may be fined not more than five hundred dollars, or both.

(b) Whoever commits the crime of identity theft when the victim is sixty years of age or older or a person with a disability when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value less than three hundred dollars, shall be imprisoned with or without hard labor, for not less than six months and not more than one year, or may be fined not more than five hundred dollars, or both.

(c) Whoever commits the crime of identity theft when the victim is under the age of seventeen when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value less than three hundred dollars, shall be imprisoned with or without hard labor, for not less than six months and not more than one year, or may be fined not more than five hundred dollars, or both.

D. Upon a third or subsequent conviction of a violation of the provisions of this Section, the offender shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than twenty thousand dollars, or both.

E. When there has been a theft by a number of distinct acts of the offender, the aggregate of the amount of the theft shall determine the grade of the offense.

F. In addition to the foregoing penalties, a person convicted under this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

G. The provisions of this Section shall not apply to any person who obtains another's driver's license or other form of identification for the sole purpose of misrepresenting his age.

H.(1) Any person who has learned or reasonably suspects that his personal identifying information has been unlawfully used by another in violation of any provision of this Section may initiate a law enforcement investigation by contacting the local law enforcement agency that has jurisdiction over the area of his residence. Any law enforcement agency which is requested to conduct an investigation under the provisions of this Subsection shall take a police report of the matter from the victim, provide the complainant with a copy of such report, and begin an investigation of the facts. If the crime was committed in a different jurisdiction, the agency preparing the report shall refer the matter, with a copy of the report, to the local law enforcement agency having jurisdiction over the area in which the alleged crime was committed for an investigation of the facts.

(2) Any officer of any law enforcement agency who investigates an alleged violation in compliance with the provisions of this Subsection shall make a written report of the investigation that includes the name of the victim; the name of the suspect, if known; the type of personal identifying information obtained, possessed, transferred, or used in violation of this Section; and the results of the investigation. At the request of the victim who has requested the investigation, the law enforcement agency shall provide to such victim the report created under the provisions of this Paragraph. In providing the report, the agency shall eliminate any information that is included in the report other than the information required by this Paragraph.

I. Nothing in this Section shall preclude or abrogate any remedy otherwise provided by law, including but not limited to remedies available pursuant to R.S. 51:1741.1 et seq.

RS 14:67.17 — Repealed by Acts 2014, No. 255, §3.
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RS 14:67.18 — Repealed by Acts 2017, No. 281, §3.

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RS 14:67.19 — Theft of anhydrous ammonia

tion or taking or by means of fraudulent conduct, practices, or representations, with the intent to permanently deprive.

B. For purposes of this Section, "anhydrous ammonia" is the compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the proportion of one part of nitrogen to three parts of hydrogen by volume and in the ratio of eighty-two percent nitrogen to eighteen percent hydrogen by weight.

C. Whoever commits the crime of theft of anhydrous ammonia shall be imprisoned with or without hard labor for not more than two years, or may be fined not more than two thousand dollars, or both.

RS 14:67.19.1 — Unauthorized possession of anhydrous ammonia

dangerous substance.

(2) Possess any substance containing any detectable amount of anhydrous ammonia with the intent to use that substance to manufacture a controlled dangerous substance.

B. The unauthorized possession of anhydrous ammonia is defined as the possession of any amount of anhydrous ammonia in a container not authorized by and which does not have an inspection sticker from the Liquefied Petroleum Gas Commission as is required pursuant to R.S. 3:1355(B).

C. The possession of any amount of anhydrous ammonia in a container not authorized by the Liquefied Petroleum Gas Commission shall be prima facie evidence of intent to use anhydrous ammonia to manufacture a controlled dangerous substance.

D. Whoever commits the crime of unauthorized possession of anhydrous ammonia shall be imprisoned with or without hard labor for not more than two years, or may be fined not more than two thousand dollars, or both.

RS 14:67.20 — Repealed by Acts 2017, No. 281, §3.

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RS 14:67.21 — Repealed by Acts 2017, No. 281, §3.

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RS 14:67.22 — Fraudulent acquisition of a credit card

check guarantee card, debit card, or by any other name, including an account number, issued with or without a fee by an issuer for the use of a cardholder in obtaining money, goods, services, or anything of value on credit or for use in an automated banking device to obtain any of the services offered through the device.

B. No person shall make or cause to be made, either directly or indirectly, any false statement as to his identity or that of any other person, firm, or corporation, knowing it to be false and with the intent that it be relied on, for the purpose of procuring the issuance of a credit card.

C.(1) Whoever violates the provisions of this Section shall be guilty of fraudulent acquisition of a credit card and shall be punished by a fine of not more than three thousand dollars, or imprisoned, with or without hard labor for not more than ten years, or both.

(2) Upon a third or subsequent conviction of a violation of the provisions of this Section, the offender shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than twenty thousand dollars, or both.

D. In addition to the penalties provided in Subsection C of this Section, a person convicted of a violation of this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

RS 14:67.23 — Repealed by Acts 2014, No. 255, §3.

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RS 14:67.24 — Theft of critical infrastructure

he intent to deprive the

owner permanently of the critical infrastructure is essential.

B. As used in this Section, "critical infrastructure" shall have the same meaning as provided in R.S. 14:61.

C.(1) Whoever commits the crime of theft of critical infrastructure when the misappropriation, taking, or illegal possession amounts to a value of less than twenty-five thousand dollars shall be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not more than fifteen years, or both.

(2) Whoever commits the crime of theft of critical infrastructure when the misappropriation, taking, or illegal possession amounts to a value of twenty-five thousand dollars or more shall be fined not more than fifty thousand dollars, or imprisoned at hard labor for not more than twenty years, or both.

(3) Whoever commits the crime of theft of critical infrastructure wherein it is foreseeable that human life will be threatened as a result of the theft shall be fined not more than fifty thousand dollars, or imprisoned at hard labor for not more than twenty years, or both.

D. In addition to the penalties provided in Subsection C of this Section, the offender shall be ordered to make full restitution to the victim. If the offender is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the offender's financial ability.

RS 14:67.25 — Organized retail theft

torship,
corporation, partnership, or otherwise, that holds or stores articles, products, commodities, items, or components for sale to the public or to other retail establishments.

(2) "Retail property" means any article, product, commodity, item, or component intended to be sold to the public or to other retail establishments.

(3) "Retail property fence" means any person who knowingly and intentionally procures, receives, or conceals stolen retail property.

(4) "Stolen retail property" means either:

(a) Retail property or merchandise credit, including but not limited to a gift card, that has been the subject of a theft or the product of a theft from a retail establishment.

(b) Retail property or merchandise credit, including but not limited to a gift card, that the offender procuring, receiving, or concealing that property knows or reasonably believes to be the subject of a theft or the product of a theft.

(5) "Value" means the price of the retail property as stated, posted, or advertised by the affected retail establishment, including applicable sales taxes.

B. Organized retail theft is the intentional procuring, receiving, or concealing of stolen retail property with the intent to sell, deliver, or distribute that property.

C. It shall be presumptive evidence that the owner or operator of any retail establishment has violated Subsection B of this Section when:

(1) On more than one occasion within any one-hundred-eighty-day period the offender has intentionally possessed, procured, received, or concealed stolen retail property;

and

(2) The stolen retail property was possessed, procured, received, or concealed from or on behalf of any person who:

(a) Did not have a proper business license; or

(b) Did not pay sales or use taxes to the state or the appropriate local government subdivision in the jurisdiction where the possessing, procuring, receiving, or concealing took place for the transfer of the items to the owner or operator of the retail establishment; or

(c) Accepted a cash payment for the stolen retail property and did not provide the owner or operator of the possessing, procuring, receiving, or concealing retail establishment an invoice for the sale.

D.(1) Whoever commits the crime of organized retail theft when the aggregate amount of the misappropriation, taking, purchasing, possessing, procuring, receiving, or concealing in any one-hundred-eighty-day period amounts to a value of twenty-five thousand dollars or more shall be imprisoned at hard labor for not more than twenty years, or may be fined not more than fifty thousand dollars, or both.

(2) Whoever commits the crime of organized retail theft when the aggregate amount of the misappropriation, taking, purchasing, possessing, procuring, receiving, or concealing in any one-hundred-eighty-day period amounts to a value of five thousand dollars or more, but less than a value of twenty-five thousand dollars shall be imprisoned with or without hard labor for not more than ten years, or may be fined not more than ten thousand dollars, or both.

(3) Whoever commits the crime of organized retail theft when the aggregate amount of the misappropriation, taking, purchasing, possessing, procuring, receiving, or concealing in any one-hundred-eighty-day period amounts to a value of one thousand dollars or more but less than a value of five thousand dollars shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than three thousand dollars, or both.

(4) When the misappropriation or taking amounts to less than a value of one thousand dollars, the offender shall be imprisoned for not more than six months, or may be fined not more than one thousand dollars, or both. If the offender in such cases has been convicted of theft two or more times previously, upon any subsequent conviction the offender shall be imprisoned, with or without hard labor, for not more than two years, or fined not more than two thousand dollars, or both.

E. Repealed by Acts 2017, No. 281, §3.

RS 14:67.26 — Theft of a motor vehicle

no other, either without the

owner's consent or by means of fraudulent conduct, practices, or representations, with the intention to permanently deprive the owner of the motor vehicle; or

(2) The taking control of a motor vehicle that is lost or mis-delivered under circumstances which provide a means of inquiry as to the true owner, and the person in control of the motor vehicle does not make reasonable efforts to notify or locate the true owner; or

(3) The taking control of a motor vehicle when the person knows or should have

known that the motor vehicle has been stolen.

B.(1) A person who alleges that there has been a theft of a motor vehicle shall attest to that fact by signing an affidavit provided by the law enforcement officer or agency which shall indicate that a person who falsely reports a theft of a motor vehicle may be subject to criminal penalties under Subsection E of this Section.

(2) If the affidavit is not taken in person by a law enforcement officer or agency, the person who alleges that the theft of a motor vehicle has occurred shall mail or deliver a signed and notarized affidavit to the appropriate law enforcement agency within seven days.

(3) The failure to provide an affidavit as required by this Subsection shall not, of itself, create any presumption for civil purposes of participation by the insured in the theft of the motor vehicle.

C.(1) Whoever commits the crime of theft of a motor vehicle when the misappropriation or taking amounts to a value of twenty-five thousand dollars or more shall be imprisoned at hard labor for not more than twenty years, or may be fined not more than fifty thousand dollars, or both.

(2) Whoever commits the crime of theft of a motor vehicle when the misappropriation or taking amounts to a value of five thousand dollars or more, but less than a value of twenty-five thousand dollars, shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than ten thousand dollars, or both.

(3) Whoever commits the crime of theft of a motor vehicle when the misappropriation or taking amounts to a value of one thousand dollars or more but less than a value of five thousand dollars shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than three thousand dollars, or both.

(4) When the misappropriation or taking amounts to less than a value of one thousand dollars, the offender shall be imprisoned for not more than six months, or fined not more than one thousand dollars, or both. If the offender in such cases has been convicted of theft two or more times previously, then upon any subsequent conviction the offender shall be imprisoned for not more than two years, or fined not more than two thousand dollars, or both.

D. When there has been a misappropriation or taking by a number of distinct acts of the offender, the aggregate of the amount of the misappropriations or takings shall determine the grade of the offense.

E. Whoever commits the crime of filing a false affidavit to support an alleged theft of a motor vehicle shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars, or both.

RS 14:67.27 — Repealed by Acts 2014, No. 255, §3.

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RS 14:67.28 — Repealed by Acts 2017, No. 281, §3.

aton Rouge, Louisiana 70804-9062

RS 14:67.29 — False personation of a veteran or fraudulent representation of a veteran-owned business

to injure, defraud, obtain economic gain, or obtain or secure any special privilege or advantage.

B. Fraudulent representation of a veteran-owned business is the false representation by an owner, operator, principal, or employee of a business that the business is owned by a veteran or is a service-connected disabled veteran-owned business, with the intent to injure, defraud, obtain economic gain, or obtain or secure any special privilege or advantage.

C. For the purposes of this Section, "veteran" means a person who has served in the armed services or reserve forces of the United States or Louisiana National Guard.

D. Whoever commits the crime of false personation of a veteran or fraudulent representation of a veteran-owned business shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

RS 14:67.30 — Repealed by Acts 2017, No. 281, §3.

aton Rouge, Louisiana 70804-9062

RS 14:68 — Unauthorized use of a movable

of fraudulent

conduct, practices, or representations, but without any intention to deprive the other of the movable permanently. The fact that the movable so taken or used may be classified as an immovable, according to the law pertaining to civil matters, is immaterial.

B. Whoever commits the crime of unauthorized use of a movable having a value of one thousand dollars or less shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both. Whoever commits the crime of unauthorized use of a movable having a value in excess of one thousand dollars shall be fined not more than five thousand dollars, imprisoned, with or without hard labor, for not more than two years, or both.

RS 14:68.1 — Unauthorized removal of shopping cart, basket, or dairy case

or grounds of any store without authorization therefor.

B. Whoever commits the crime of unauthorized removal of a shopping cart, basket, or dairy case from the parking area or grounds of a store shall be fined not more than one hundred dollars, or imprisoned for not more than six months, or both.

RS 14:68.2 — Unauthorized use of supplemental nutrition assistance program benefits or supplemental nutrition assistance program benefit access devices

owing terms have the following meanings:

(1) "SNAP benefits" means any supplemental nutrition assistance program benefits issued pursuant to the provisions of the Federal Food Stamp Act, 7 USC §2011 et seq.

(2) "SNAP benefit access device" means any card, plate, code account access number, or other means of access that can be used, alone or in conjunction with another access device, to obtain payment, allotments, benefits, money, goods, or other things of value or that can be used to initiate a transfer of funds pursuant to the provisions of the Federal Food Stamp Act.

B. The unauthorized use of SNAP benefits or a SNAP benefit access device is:

(1) To knowingly use, transfer, acquire, alter, or possess SNAP benefits or a SNAP benefit access device contrary to the provisions of the Federal Food Stamp Act or the federal or state regulations issued pursuant thereto.

(2) To knowingly counterfeit, alter, transfer, acquire, or possess a counterfeited or altered SNAP benefit access device.

(3) To present or cause to be presented a SNAP benefit access device for payment or redemption, knowing it to have been counterfeited, altered, received, transferred, or used in any manner contrary to the provisions of the Federal Food Stamp Act or the federal or state regulations issued pursuant thereto.

(4) To knowingly appropriate SNAP benefits or a SNAP benefit access device with which a person has been entrusted or of which a person has gained possession by virtue of his position as a public employee.

C. Whoever commits the crime of unauthorized use of SNAP benefits or a SNAP benefit access device shall be fined not less than five thousand dollars nor more than one million dollars or imprisoned, with or without hard labor, for not less

than six months nor more than ten years, or both.

D. In addition to the foregoing penalties, a person convicted under this Section shall be ordered to make restitution in the total amount found to be the value of the SNAP benefits that form the basis for the conviction. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

RS 14:68.2.1 — Failure to report unauthorized use of supplemental nutrition assistance program

s of retailers that accept SNAP benefit access device transactions, and adult household members of SNAP recipients shall report each instance of known fraud or abuse of SNAP benefits, or any known unauthorized use of SNAP benefits or a SNAP benefit access device as defined in R.S. 14:68.2, to the Louisiana Department of Health via the Public Assistance Fraud Hot-Line as provided for by R.S. 46:114.1.

B. Whoever violates the provisions of Subsection A of this Section shall be fined not less than two hundred fifty dollars nor more than five thousand dollars.

RS 14:68.3 — Unauthorized removal of a motor vehicle; penalties

due such garage, repair shop, or vehicle storage facility for repair work, mechanical service, or storage rendered to such vehicle without paying the charge or making arrangements acceptable to the management of the garage, repair shop, or vehicle storage facility to pay the charge.

B. Whoever violates this Section shall be imprisoned for not more than six months or fined not more than five hundred dollars, or both.

RS 14:68.4 — Unauthorized use of a motor vehicle

sent, or by means of fraudulent conduct, practices, or representations, but without any intention to deprive the other of the motor vehicle permanently.

B. Whoever commits the crime of unauthorized use of a motor vehicle shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than two years or both.

C. When the misappropriation or taking amounts to less than a value of one thousand dollars, the offender shall be imprisoned for not more than six months, or fined not more than one thousand dollars, or both.

RS 14:68.4.1 — Staging of a motor vehicle collision

or the purpose of obtaining anything of value.

(2) Providing information in connection with a motor vehicle collision, knowing that the collision was intentionally caused, for the purpose of obtaining anything of value.

(3) Providing false information in connection with a motor vehicle collision that did not occur for the purpose of obtaining anything of value.

B. Whoever commits the crime of staging of a motor vehicle collision shall be imprisoned, with or without hard labor, for not more than five years, fined not more than five thousand dollars, or both.

RS 14:68.4.2 — Aggravated staging of a motor vehicle collision

ses death or serious bodily injury to another person.

B. Whoever commits the crime of aggravated staging of a motor vehicle collision

shall be imprisoned, with or without hard labor, for not less than five years nor more than thirty years, fined not more than fifteen thousand dollars, or both.

RS 14:68.5 — Repealed by Acts 2017, No. 281, §3.

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RS 14:68.6 — Unauthorized ordering of goods or services

ollowing circumstances apply:

- (1) The person receiving the goods or services has not previously authorized such an order, does not reside with the person who placed the order, and the goods or services are not being given as a gift to that person.
- (2) The person receiving the goods or services is required to pay for such goods or services, either in advance or upon delivery and has not previously agreed to do so, or is required to return the items to the sender at his expense.
- (3) The person placing the order for goods or services intends to harass or annoy the person receiving such goods or services.

B. Receipt and use of an item described in this Section by the receiver shall constitute an affirmative defense to prosecution under this Section.

C. If the person who places the order for the goods or services is told by the customer who receives the goods or services that the customer did not desire the goods or services, the customer is released from any obligation to pay for such goods or services and the providing person shall not be liable under this Section.

D. Whoever violates Subsection A shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

E. In addition to any other sentence imposed under this Section, the sentencing court, in its discretion, may require the offender to make restitution to the victim for any loss to the victim caused by the offense.

RS 14:68.7 — Receipts and universal product code labels; unlawful acts

versal product code label, or possesses any such

sales receipt or label, or possesses a device which has as its specific purpose the manufacture of fraudulent retail sales receipts or universal product code labels commits a violation of the provisions of this Section.

B.(1) Except as provided in Paragraph (3) of this Subsection, whoever violates the provisions of this Section shall be subject to the following:

(a) When the fair market value of the goods which are the subject of the falsified retail sales receipts or universal product code labels, as described in Subsection A of this Section, amounts to a value of twenty-five thousand dollars or more, the offender shall be imprisoned at hard labor for not more than twenty years, or fined not more than fifty thousand dollars, or both.

(b) When the fair market value of the goods which are the subject of the falsified retail sales receipts or universal product code labels, as described in Subsection A of this Section, amounts to a value of five thousand dollars or more, but less than a value of twenty-five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not more than ten years, or fined not more than ten thousand dollars, or both.

(c) When the fair market value of the goods which are the subject of the falsified retail sales receipts or universal product code labels, as described in Subsection A of this Section, amounts to a value of one thousand dollars or more but less than five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not more than five years, or fined not more than three thousand dollars, or both.

(d) When the fair market value of the goods which are the subject of the falsified retail sales receipts or universal product code labels, as described in Subsection A of this Section, amounts to a value of less than one thousand dollars, the offender shall be imprisoned for not more than six months, or fined not more than five hundred dollars, or both. If a person is convicted of theft two or more times previously, upon any subsequent conviction, he shall be imprisoned, with or without hard labor, for not more than two years, or fined not more than two thousand dollars, or both.

(2) When there has been a violation of this Section by a number of distinct acts of the offender, the aggregate amount of the goods taken shall determine the grade of the offense.

(3) Possessing more than one fraudulent retail sales receipt or universal product code label in violation of the provisions of this Section shall be punishable by imprisonment, with or without hard labor, for a period not to exceed ten years, or a fine not to exceed three thousand dollars, or both.

(4) Possessing a device which has as its specific purpose the manufacture of fraudulent retail sales receipts or universal product code labels in violation of the provisions of this Section shall be punishable by imprisonment, with or without hard labor, for a period not to exceed five years, or a fine not to exceed three thousand dollars, or both.

RS 14:69 — Illegal possession of stolen things

subject of any robbery or

theft, under circumstances which indicate that the offender knew or had good reason to believe that the thing was the subject of one of these offenses.

B.(1) Whoever commits the crime of illegal possession of stolen things, when the value of the things is twenty-five thousand dollars or more, shall be imprisoned at hard labor for not more than twenty years, or may be fined not more than fifty thousand dollars, or both.

(2) When the value of the stolen things is five thousand dollars or more, but less than a value of twenty-five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than ten thousand dollars, or both.

(3) When the value of the stolen things is one thousand dollars or more, but less than a value of five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than three thousand dollars, or both.

(4) When the value of the stolen things is less than one thousand dollars, the offender shall be imprisoned for not more than six months or may be fined not more than one thousand dollars, or both. If the offender in such cases has been convicted of theft two or more times previously, upon any subsequent conviction, he shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than two thousand dollars, or both.

C. When the offender has committed the crime of illegal possession of stolen things by a number of distinct acts, the aggregate of the amount of the things so received shall determine the grade of the offense.

D. It shall be an affirmative defense to a violation of this Section committed by

means of possessing, that the accused, within seventy-two hours of his acquiring knowledge or good reason to believe that a thing was the subject of robbery or theft, reports that fact or belief in writing to the district attorney in the parish of his domicile.

E. No person shall be exempt from prosecution under this Section for any act committed with fraudulent, willful, or criminal knowledge regardless of any other presumption or exemption provided by statute, including but not limited to any signed statement of ownership executed by a purported owner of property conveyed.

RS 14:69.1 — Illegal possession of stolen firearms

orm of misappropriation.

(2) It shall be an affirmative defense to a prosecution for a violation of this Section that the offender had no knowledge that the firearm was the subject of any form of misappropriation.

(3) It shall be an affirmative defense to a prosecution for a violation of this Section that the alleged offender has or had possession of the firearm pursuant to his regular course of business, is in possession of a valid federal firearms license, is routinely in the possession of firearms for sale, pawn, lease, rent, repair, modification, or other legitimate acts as part of his normal scope of business operations, and is enforcing a privilege pursuant to R.S. 9:4502.

B. Whoever commits the crime of illegal possession of firearms shall be punished as follows:

(1) For a first offense, the penalty shall be imprisonment, with or without hard labor, for not less than one year nor more than five years.

(2) For second and subsequent offenses, the penalty shall be imprisonment, with or without hard labor, for not less than two years nor more than ten years.

RS 14:70 — False accounting

the law pertaining to civil matters.

B. Whoever commits the crime of false accounting shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:70.1 — Medicaid fraud

er the

federal Social Security Act and administered by the Louisiana Department of Health or any other state agency, does any of the following:

(1) Presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise.

(2) Knowingly submits false information for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise.

(3) Knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise.

B. Whoever commits the crime of Medicaid fraud shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than twenty thousand dollars, or both.

C. In addition to the venue established by Code of Criminal Procedure Articles 611 and 614, venue shall also be appropriate in the Nineteenth Judicial District Court, parish of East Baton Rouge.

RS 14:70.2 — Refund or access device application fraud

or any other identifying information

of any other person without that person's knowledge and consent for the purpose of:

- (1) Obtaining or attempting to obtain a refund for merchandise returned to a business establishment or a refund on a ticket or other document that is evidence of services purchased from a business establishment; or
- (2) Obtaining or attempting to obtain an access device.

B. For the purposes of this Section, "any other identifying information" shall include, but not be limited to, an address, telephone number, social security number, account number, or any other information through which the identity of a person may be ascertained. "Access device" means any card, plate, code, account number, or other means of account access that can be used to obtain anything of value, whether contemporaneously or not.

C.(1) Whoever commits the crime of refund fraud shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) Whoever commits the crime of access device application fraud when the misappropriation or taking amounts to a value of twenty-five thousand dollars or more shall be imprisoned at hard labor for not more than twenty years, or may be fined not more than fifty thousand dollars, or both.

(3) Whoever commits the crime of access device application fraud when the misappropriation or taking amounts to a value of five thousand dollars or more, but less than a value of twenty-five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than ten thousand dollars, or both.

(4) Whoever commits the crime of access device application fraud when the misappropriation or taking amounts to a value of one thousand dollars or more but less than a value of five thousand dollars shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than three thousand dollars, or both.

(5) When the misappropriation or taking amounts to less than a value of one thousand dollars, the offender shall be imprisoned for not more than six months, or may be fined not more than five hundred dollars, or both. If the offender in such cases has been convicted of theft two or more times previously, upon any subsequent conviction he shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than two thousand dollars, or both.

D. When there has been a misappropriation or taking by a number of distinct acts of the offender, the aggregate amount of the misappropriation or taking shall determine the grade of the offense.

RS 14:70.3 — Fraud in selling agricultural equipment

includes liens, pawns, privileges, mortgages, and chattel mortgages.

B. The crime of fraud in selling agricultural equipment is the sale of any piece of agricultural equipment which is subject to a security device without informing the purchaser of the existence of the security device that is known to the vendor at the time of the sale.

C. Each person who sells farm equipment which is subject to a security device and who does not inform the purchaser of the existence of the security device shall have an affirmative defense to any prosecution under this Section if he satisfies the obligation secured by the security device within ten days of demand for payment by the purchaser.

D. Whoever commits the crime of fraud in selling agricultural equipment shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:70.4 — Access device fraud

horization and with the intent to defraud possess an access device issued to another person.

C. No person shall with the intent to defraud use, possess, or transfer device-making equipment or a counterfeit access device.

D. No person shall knowingly and with the intent to defraud possess fifteen or more counterfeit or misappropriated access devices.

E. As used in this Section:

(1) "Access device" means a person's social security number, driver's license number, birth date, mother's maiden name, checking account numbers, savings account numbers, personal identification numbers, electronic identification numbers, digital signatures, gift card, account information related to a gift card, or other means of account access that can be used to obtain anything of value, whether contemporaneously or not.

(2) "Counterfeit access device" means an access device that is fictitious, altered, or forged.

(3) "Device-making equipment" means any instrumentality, mechanism, or impression designed or primarily used for making an access device or counterfeit access device.

(4) "Gift card" means a card, code, or device that is issued to a consumer on a prepaid basis in a specified amount and is redeemable in exchange for goods or services. The value of the gift is either the maximum face value of the card when it is held for sale by the merchant or the actual value of the funds deposited with the merchant at the time of the activation and purchase.

(5) "Transfer" means sell, give, provide, or transmit.

F.(1) A person who commits the crime of access device fraud when the misappropriation or taking amounts to a value of twenty-five thousand dollars or more shall be imprisoned at hard labor for not more than twenty years, fined not more than fifty thousand dollars, or both.

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

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

(4) When the misappropriation or taking amounts to a value of less than one thousand dollars, the offender shall be imprisoned for not more than six months, fined not more than five hundred dollars, or both.

(5) Upon a third or subsequent conviction of theft, the offender shall be imprisoned

with or without hard labor for not more than two years, fined not more than two thousand dollars, or both.

G. In addition to any other penalty imposed under this Section, the court shall order restitution as a part of the sentence in accordance with Code of Criminal Procedure Article 883.2.

H. When there has been a misappropriation or taking by a number of distinct acts of the offender, the aggregate amount of the misappropriation or taking shall determine the grade of the offense. For purposes of this Subsection, distinctive acts of the offender do not have to involve the same victim.

RS 14:70.5 — Fraudulent remuneration

s, directly or indirectly, overtly or covertly, in cash or in kind, to or from a third party for the following:

(1) In return for the referral of an individual to a health care provider for the purpose of providing any good, service, or supply, billed to the Louisiana medical assistance program.

(2) In return for purchasing, leasing, or ordering, or for arranging or recommending for the purchasing, leasing, or ordering, of any good, supply, service, or facility billed to the Louisiana medical assistance program.

(3) For the recruitment of new patients for the purpose of providing any good, supply, service, or facility billed to the Louisiana medical assistance program.

(4) To any recipient or his representative, for goods, services, supplies, or facilities furnished to the recipient and billed to the Louisiana medical assistance program.

B. Normal business practices which fall within the "safe harbor" exemptions of R.S. 46:438.2 shall not be construed as an offense under the provisions of this Section.

C. Whoever commits the crime of fraudulent remuneration shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than twenty thousand dollars, or both.

RS 14:70.6 — Unlawful distribution, possession, or use of theft alarm deactivation devices

o remove or deactivate any electronic or magnetic device which is placed on or attached to merchandise and which is intended to cause an alarm to be activated if the merchandise is moved from an authorized to an unauthorized area without either payment for the merchandise having been made or permission having been obtained from the owner of the merchandise for the movement.

(2) As used in this Section, the meaning of "owner" shall include an agent or employee of the owner authorized by the owner.

B. Unlawful distribution of theft alarm deactivation devices is the sale, offer for sale, exchange, offer for exchange, donation, or offer for donation of any theft alarm deactivation device with the knowledge or intention that the device will be used to remove or deactivate any theft alarm device for the purpose of moving merchandise from an authorized area to an unauthorized area without either paying for the merchandise or obtaining the permission of the owner of the merchandise.

C. Unlawful possession of theft alarm deactivation devices is the possession of any theft alarm deactivation device with the knowledge or intention that the device will be used to remove or deactivate any theft alarm device for the purpose of moving merchandise from an authorized area to an unauthorized area without either paying for the merchandise or obtaining the permission of the owner of the merchandise.

D. Unlawful use of theft alarm deactivation devices is the use of any theft alarm deactivation device to remove or deactivate any theft alarm device for the purpose of moving merchandise from an authorized area to an unauthorized area without either paying for the merchandise or obtaining the permission of the owner of the merchandise.

E. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:70.7 — Unlawful production, manufacturing, distribution, or possession of fraudulent

y produce,

manufacture, distribute, or possess fraudulent documents for identification purposes.

B. For purposes of this Section:

(1) "Distribute fraudulent documents for identification purposes" means to sell, give, transport, issue, provide, lend, deliver, transfer, transmit, distribute, or disseminate fraudulent documents for identification purposes.

(2) "Fraudulent documents for identification purposes" means documents which are presented as being bona fide documents which provide personal identification information but which are, in fact, false, forged, altered, or counterfeit.

(3) "Personal identification information" shall include but not be limited to a person's:

(a) Social security card.

(b) Driver's license.

(c) Credit card.

(d) Debit card.

(e) Electronic identification number.

(f) Birth certificate.

(g) Voter registration card.

(h) Any proof of residency, including utility bills, bank statements, or other government document showing the name and address of a person.

(i) State-issued identification card.

(j) Armed forces identification card.

(k) Government-issued identification card.

(l) Financial institution account card.

(m) Visa or passport.

(n) Student identification card.

(4) "Possess fraudulent documents for identification purposes" means to possess fraudulent documents for identification purposes.

(5) "Produce or manufacture fraudulent documents for identification purposes" means to develop, prepare, design, create, or process fraudulent documents for identification purposes.

C.(1) Whoever violates the provisions of this Section by possessing a fraudulent document for identification purposes shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) Whoever violates the provisions of this Section by distributing, manufacturing, or producing a fraudulent document for identification purposes shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than three years, or both.

D. It shall not be a defense to prosecution for a violation of this Section that a fraudulent document for identification purposes contains words indicating that it is a novelty item or an indication that it is not a document for identification purposes.

RS 14:70.8 — Illegal transmission of monetary funds

mission, by wire or radio signal, any

stolen or fraudulently obtained monetary funds shall be imprisoned, with or without hard labor, for not more than ten years, or fined not more than one hundred thousand dollars, or both.

B. Upon a second or subsequent conviction of a violation of the provisions of this Section, the offender shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years and may, in addition, be required to pay a fine of not more than one hundred thousand dollars.

C. In addition to the penalties provided for in Subsections A and B of this Section, a person convicted under the provisions of this Section shall be ordered to make full restitution to the victim and to any other person who has suffered a financial loss as a result of the offense in accordance with Code of Criminal Procedure Article 883.2.

D. For purposes of this Section:

(1) "Radio signal" means any text, email, or any other wireless transmission from cellular phones, portable wireless electronic tablets or computers, or any other wireless device used to transmit or receive monetary transactions.

(2) "Wire" means any wired electronic device that provides access to the internet or to any other access point and allows monetary transactions to be transmitted or received by email, financial institution-to-financial institution transfer, or money transfer facility.

RS 14:70.9 — Government benefits fraud

its administered by

any state department, agency, or political subdivision, does any of the following:

(1) Presents for allowance or payment any false or fraudulent claim for furnishing services, merchandise, or payments.

(2) Knowingly submits false information for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services, merchandise, or payments.

(3) Knowingly submits false information for the purpose of obtaining authorization for furnishing services, merchandise, or payments.

(4) Knowingly makes or causes to be made a false statement or representation of material fact on an application or form for assistance, goods, services, or payments when the false statement or representation is made for the purpose of determining the person's eligibility to receive benefits or payments.

(5) Knowingly conceals or fails to disclose any material fact affecting the applicant's or recipient's initial or continued eligibility to receive benefits or payments.

B. Whoever commits the crime of government benefits fraud shall be imprisoned, with or without hard labor, for not more than five years, may be fined not more than ten thousand dollars, or both imprisoned and fined.

C. For the purpose of this Section, government benefits include any record, voucher, payment, money or thing of value, good, service, right, or privilege provided or administered by a state government entity.

RS 14:71 — Issuing worthless checks

f any check, draft,

or order for the payment of money upon any bank or other depository, knowing at the time of the issuing that the offender has not sufficient credit with the bank, or other depository for the payment of such check, draft, or order in full upon its presentation.

(b) This Section shall apply to a check, draft, or order tendered for satisfaction, in whole or in part, of payments due on installment contracts, open accounts, or any other obligation for which the creditor has authorized periodic payments or the extension of time in which to pay.

(c) This provision shall apply to a check, draft, or order for the payment of money given for a motor vehicle when such payment is conditioned upon delivery of documents necessary for transfer of a valid title to the purchaser.

(d) For purposes of this Section, an open account shall include accounts where checks are tendered as payment:

(i) In advance of receipt, in whole or in part, for telecommunication facilities or services.

(ii) For deposits, prepayments, or payments for the lease or rent of a rental motor vehicle, pursuant to a lease or rental agreement.

(e) This Section shall apply to a check, draft, or order tendered for satisfaction, in whole or in part, of a state tax obligation. For purposes of this Section, "state tax obligation" means a state tax, interest, penalty, or fee, or any contract, installment agreement, or other obligation arising out of such obligation.

(f) For purposes of this Section, any check, draft, or order tendered for payment of any tax, fee, fine, penalty, or other obligation to the state or any of its political subdivisions shall be considered issuing a check, draft, or order in exchange for anything of value.

(2) The offender's failure to pay a check, draft, or order, issued for value, within ten days after notice of its nonpayment upon presentation has been deposited by certified mail in the United States mail system addressed to the issuer thereof either at the address shown on the instrument or the last known address for such person shown on the records of the bank upon which such instrument is drawn or within ten days after delivery or personal tender of the written notice to said issuer by the payee or his agent, shall be presumptive evidence of his intent to defraud.

B. Issuing worthless checks is also the issuing, in exchange for anything of value, whether the exchange is contemporaneous or not, with intent to defraud, of any check, draft, or order for the payment of money or the issuing of such an instrument for the payment of a state tax obligation, when the offender knows at the time of the issuing that the account designated on the check, draft, or order has been closed, or is nonexistent or fictitious, or is one in which the offender has no interest or on which he has no authority to issue such check, draft, or order.

C.(1) Whoever commits the crime of issuing worthless checks, when the amount of the check or checks is twenty-five thousand dollars or more, shall be imprisoned at hard labor for not more than twenty years, or may be fined not more than fifty thousand dollars, or both.

(2) When the amount of the check or checks is five thousand dollars or more, but less

than twenty-five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than ten thousand dollars, or both.

(3) When the amount of the check or checks is more than one thousand dollars, but less than five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than three thousand dollars, or both.

(4) When the amount of the check or checks is less than one thousand dollars, the offender shall be imprisoned for not more than six months, or may be fined not more than five hundred dollars, or both. If the offender in such cases has been convicted of theft two or more times previously, upon any subsequent conviction he shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than two thousand dollars, or both.

D. When the offender has issued more than one worthless check within a one hundred eighty-day period, the amount of several or all worthless checks issued during that one hundred eighty-day period may be aggregated to determine the grade of the offense.

E. In addition to any other fine or penalty imposed under this Section, the court shall order as part of the sentence restitution in the amount of the check or checks, plus a fifteen dollar per check service charge payable to the person or entity that initially honored the worthless check or checks, an authorized collection agency, or justice of the peace. In the event the fifteen dollar per check service charge is paid to a person or entity other than one who initially honored the worthless check or checks, the court shall also order as part of the sentence restitution equal to the amount that the bank or other depository charged the person or entity who initially honored the worthless check, plus the actual cost of notifying the offender of nonpayment as required in Paragraph (A)(2) of this Section.

F. In any prosecution for a violation of this Section, the prosecution may enter as evidence of a violation of this Section any check, draft, or order for the payment of money upon any bank or other depository which the bank or other depository has refused to honor because the person who issued the check, draft, or order did not have sufficient credit with the bank or other depository for the payment of that check, draft, or order in full upon its presentation.

G. In addition to the provisions of Subsection F of this Section, in any prosecution for a violation of this Section, the prosecution may enter as evidence of a violation of this Section any tangible copy, facsimile, or other reproduction of the check, draft, or order, or any electronic reproduction of the check, draft, or order, or any other form of the record of the check, draft, or order, provided that the tangible copy, facsimile, or other reproduction, or the electronic reproduction, or the other form of the record of the check, draft, or order has been made, recorded, stored, and reproduced in accordance with the requirements of the Louisiana Office of Financial Institutions, or in accordance with the requirements of the federal agency which regulates the bank or other depository, and provided that the appropriate officer of the bank or other depository has certified that the tangible copy, facsimile, or other reproduction, or the electronic copy, or the other form of the record of the check, draft, or order for the payment of money has been made, stored, and reproduced in

accordance with the requirements of the Louisiana Office of Financial Institutions, or in accordance with the requirements of the federal agency which regulates the bank or other depository, and is a true and correct record of the transaction involving the check, draft, or order upon which the prosecution is based.

H. Repealed by Acts 2017, No. 281, §3.

I. Repealed by Acts 2017, No. 281, §3.

RS 14:71.1 — Bank fraud

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years, or may be fined not more than one hundred thousand dollars, or both:

(1) To defraud a financial institution.

(2) To obtain any of the monies, funds, credits, assets, securities, or other property owned by or under the custody or control of a financial institution by means of false or fraudulent pretenses, practices, transactions, representations, or promises.

B. Upon a second or subsequent conviction of a violation of the provisions of this Section, the offender shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years and may, in addition, be required to pay a fine of not more than one hundred thousand dollars.

C. In addition to the penalties provided in Subsection A of this Section, a person convicted under the provisions of this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense in accordance with Code of Criminal Procedure Article 883.2.

D. As used in this Section, the term "financial institution" means any federally insured depository institution chartered under the laws of the United States, this state, or any other state.

RS 14:71.2 — Failure to pay bridge or bridge-causeway toll

ment of a required toll, where appropriate signs have been erected to notify that it is subject to payment of the tolls beyond such sign.

B. Failure by the registered owner of any vehicle to contest a notice of liability or pay the toll and administrative fees provided by R.S. 47:820.5.1, upon notice from the public entity which owns and administers the bridge-causeway, and to pay the demand for payment served by the public entity which owns and administers the bridge-causeway within thirty days after the demand for payment has been deposited, by certified mail, in the United States mail system addressed to the registered owner of the vehicle as shown by the records of the Louisiana Department of Public Safety and Corrections, office of motor vehicles, shall be presumptive evidence of the vehicle owner's intent to defraud.

C. Failure by the registered owner of any vehicle to appeal a violation notice or pay the tolls and administrative fees provided by R.S. 47:820.5.2 upon notice from the public entity which owns and administers the bridge and to pay the tolls, administrative fees, and late charges after the notice given under R.S. 47:820.5.2(G)(1)(c) shall be presumptive evidence of the vehicle owner's intent to defraud.

D. Whoever commits the crime of failing to pay bridge or bridge-causeway tolls shall be imprisoned for not more than six months or may be fined not more than one hundred dollars for each violation, or both.

E. In addition to any fine or penalty imposed under this Section, the court shall order payment of the toll and administrative cost provided by R.S. 47:820.5.1 et seq.

RS 14:71.3 — Mortgage fraud

t to defraud.

(2) Make an untrue statement of material fact with intent to defraud.

(3) Receive any portion of the purchase, sale, or loan proceeds, or any other consideration paid or generated in connection with the closing of a residential mortgage loan when the recipient knows that the proceeds or other funds were paid as a result of a violation of this Section.

B.(1) A person who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than one hundred thousand dollars, or both.

(2) In addition to the penalties provided in Paragraph (1) of this Subsection, a person convicted under the provisions of this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

C. For purposes of this Section:

(1) "Residential mortgage lending activity" means an activity, including electronic activity, engaged in for compensation or with the expectation of compensation in connection with a residential mortgage loan, including but not limited to the solicitation, application, origination, or funding of a residential mortgage loan; the negotiation and placement, or offering to negotiate, place or find a residential mortgage loan for another person; third-party provider services, including but not limited to appraisals, abstracts, escrow services, or title insurance; underwriting, signing, closing and funding the loan.

(2) "Residential mortgage loan" means a loan for personal, family or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in Section 103(v) of the federal Truth in Lending Act) or residential immovable property upon which is constructed or intended to be constructed a dwelling.

(3) "Person" means a natural or juridical person, including but not limited to a sole proprietorship, corporation, company, limited liability company, partnership, limited liability partnership, trust, incorporated or unincorporated association, or any other individual or entity.

RS 14:71.3.2 — Tax lien property fraud

o R.S. 47:2132, 2155,

or 2161, or in violation of R.S. 47:2158.1 or 2231.1, to knowingly do any of the following:

(1) Employ a device, scheme, or artifice with intent to defraud the tax debtor.

(2) Make an untrue statement of material fact with intent to defraud the tax debtor.

(3) Receive any portion of the monies, funds, credits, assets, securities, or other property of the tax debtor in connection with the purchase of either tax sale property or a delinquent obligation evidenced by a tax lien certificate.

B.(1) A person who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than two years or may be fined not more than five thousand dollars, or both.

(2) In addition to the penalties provided in Paragraph (1) of this Subsection, a person convicted under the provisions of this Section shall forfeit all rights and claims to possession of the delinquent obligation, tax lien certificate, or tax sale title to the property and shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

C. For the purposes of this Section:

(1) "Delinquent obligation" means statutory impositions included in the tax bill that are not paid by the due date, plus interest and costs that may accrue in accordance with law.

(2) "Person" means a natural or juridical person, including but not limited to a sole

proprietorship, corporation, company, limited liability company, partnership, limited liability partnership, trust, incorporated or unincorporated association, or any other individual or entity.

(3) "Tax debtor", "tax sale certificate", "tax sale property", and "tax sale title" shall have the same meanings as in R.S. 47:2122.

D. It is the intent of the legislature to encourage tax debtors to seek legal counsel in order to protect any ownership rights adversely affected by a violation of this Section.

RS 14:71.4 — Homestead exemption fraud

ution.

B. Any person who intentionally claims more than one homestead exemption shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

C. In addition to the penalties provided in Subsection B of this Section, a person convicted of a violation of this Section shall be ordered to make full restitution to the state or local governmental subdivision which has suffered a financial loss as a result of the offense. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

D. For the purposes of this Section, "person" means a natural or juridical person, including but not limited to a sole proprietorship, corporation, company, limited liability company, partnership, limited liability partnership, trust, incorporated or unincorporated association, or any other individual or entity.

RS 14:71.5 — Misappropriation of funds; utility services

gly:

(1) Fail to apply the money or payment as necessary to satisfy the amount owed for the utility services within sixty days of the person's receipt of the bill for utility services.

(2) Use or cause an agent or employee to use any deception, false pretense, or false promise in the failure to apply the money or payment as necessary to satisfy the amount owed for the utility services.

B.(1) Whoever violates the provisions of this Section when the misappropriation or taking amounts to a value of twenty-five thousand dollars or more shall be imprisoned at hard labor for not more than twenty years, fined not more than fifty thousand dollars, or both.

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

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

(4)(a) When the misappropriation or taking amounts to less than a value of one thousand dollars, the offender shall be imprisoned for not more than six months, fined not

more than one thousand dollars, or both.

(b) If the offender in such cases has been convicted two or more times previously, upon any subsequent conviction, the offender shall be imprisoned with or without hard labor for not more than two years, fined not more than two thousand dollars, or both.

(5) In addition to the penalties provided in Paragraphs (1) through (4) of this Subsection, a person convicted under the provisions of this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense in accordance with Code of Criminal Procedure Article 883.2.

C. The provisions of this Section shall not apply if the person who has received money or payment for utility services is unable to pay the bill for utility services because either:

(1) The tenant or lessee has failed to timely pay sufficient funds to satisfy the specific amount owed in the bill for utility services.

(2) The reason for the delay in receipt of either the bill or payment for utility services is due to an administrative, clerical, or technical error or omission on behalf of the company providing utility services.

D. For purposes of this Section:

(1) "Person" means a natural or juridical person, including but not limited to a sole proprietorship, corporation, company, limited liability company, partnership, limited liability partnership, trust, incorporated or unincorporated association, or any other individual or entity. "Person" shall also include any representative, director, trustee, agent, or officer of a juridical person who is authorized and responsible for making payments for utility services.

(2) "Utility services" means any water, electricity, gas, heat, or sewer services, whether privately, municipally, cooperatively, or investor-owned.

RS 14:72 — Forgery

tent to defraud, a forged writing, known by the offender to be a forged writing, shall also constitute a violation of the provisions of this Section.

C. For purposes of this Section:

(1) "Forge" means the following:

(a) To alter, make, complete, execute, or authenticate any writing so that it purports:

(i) To be the act of another who did not authorize that act;

(ii) To have been executed at a time or place or in a numbered sequence other than was in fact the case; or

(iii) To be a copy of an original when no such original existed.

(b) To issue, transfer, register the transfer of, pass, publish, or otherwise utter a writing that is forged in accordance with the meaning of Subparagraph (1)(a).

(c) To possess a writing that is forged within the meaning of Subparagraph (1)(a).

(2) "Writing" means the following:

(a) Printing or any other method of recording information;

(b) Money, coins, tokens, stamps, seals, credit cards, badges, and trademarks; and

(c) Symbols of value, right, privilege, or identification.

D. Whoever commits the crime of forgery shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not more than ten years, or both.

RS 14:72.1 — Use of forged academic records

secondary or higher education, but which is, in fact, false, forged, altered, or counterfeit.

B. "Use of a forged academic record" shall mean the knowing and intentional offering, presentation, or other use of a forged academic record to a public or private institution of higher education in the state for the purpose of seeking admission to that institution, or one of its colleges or other academic branches, or for the purposes of securing a scholarship or other form of financial assistance from the institution itself or from other public or private sources of financial assistance for educational purposes including, without limitation, loans, grants, fellowships, assistantships, or other forms of financial aid.

C. Whoever commits the crime of the use of forged academic records may be fined not in excess of five thousand dollars or imprisoned for not in excess of six months, or both.

RS 14:72.1.1 — Forgery of a certificate of insurance or insurance identification card; penalties

owing or intentional production, manufacture, or distribution of any fraudulent document intended as a certificate of insurance or as proof of insurance.

(2) The knowing or intentional possession of any fraudulent document intended as a certificate of insurance or as proof of insurance.

B.(1) Whoever commits the crime of forgery of a certificate of insurance or insurance card by violating the provisions of Paragraph (A)(1) of this Section shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than five years, or both.

(2) Whoever commits the crime of forgery of a certificate of insurance or insurance card by violating the provisions of Paragraph (A)(2) of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:72.2 — Monetary instrument abuse

subdivision thereof,

an organization, or a person with intent to deceive or defraud another person shall be fined not more than one million dollars but not less than five thousand dollars or imprisoned, with or without hard labor, for not more than ten years but not less than six months, or both.

B. Whoever makes, issues, possesses, sells, or otherwise transfers an implement designed for or particularly suited for making a counterfeit or forged monetary instrument with the intent to deceive or defraud a person shall be fined not more than one million dollars but not less than five thousand dollars or imprisoned, with or without hard labor, for not more than ten years but not less than six months, or both.

C. Upon a second or subsequent conviction of a violation of the provisions of this Section, the offender shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years and may, in addition, be required to pay a fine of not more than one million dollars.

D. For purposes of this Section:

(1) "Counterfeit" means a document or writing that purports to be genuine but is not because it has been falsely made, manufactured, or composed.

(2) "Forged" means the false making or altering, with intent to defraud, of any signature to, or any part of, any writing purporting to have legal efficacy. Forged also means the washing through the use of chemical solvents or physical removal of ink writing on a monetary instrument with the intent to defraud, including but not limited to the washing or physical removal of a name of a payee or dollar amount on a monetary instrument.

(3) "Monetary instrument" means:

(a) A note, stock certificate, treasury stock certificate, bond, treasury bond, debenture, certificate of deposit, interest coupon, warrant, debit or credit instrument, access device or means of electronic fund transfer, United States currency, check or draft, money order, bank check, teller's check, cashier's check, traveler's check, letter of credit, warehouse receipt, negotiable bill of lading, certificate of interest in or participation in any profit-sharing agreement, collateral-trust certificate, pre-organization certificate of subscription, transferable share, investment contract, voting trust certificate, or certificate of interest in tangible or intangible property.

(b) An instrument evidencing ownership of goods, wares, or merchandise.

(c) Any other written instrument commonly known as a security.

(d) A certificate of interest in, certificate of participation in, certificate for, receipt for, or warrant or option or other right to subscribe to or purchase, any of the foregoing.

(e) A blank form of any of the foregoing.

(4) "Organization" means a legal entity, other than a government, established or organized for any purpose and includes a corporation, limited liability company, company, federally insured financial institution, association, firm, partnership, joint stock company, foundation, institution, society, union, or any other association of persons which operates in or the activities of which affect intrastate, interstate, or foreign commerce.

(5) "State" includes any state of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory or possession of the United States.

E. In addition to the penalties provided in Subsections A, B, and C of this Section, a person convicted under the provisions of this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense in accordance with Code of Criminal Procedure Article 883.2.

RS 14:72.3 — Identification of alleged offender

d which involves the use of the identity or personal information of another person, the person whose identity or personal information was used in the commission of the offense may request in writing that the arresting law enforcement agency release the identity of the alleged offender to that person. The request shall be signed by the person on a form provided by the arresting law enforcement agency. Upon receipt of the completed request form, the arresting law enforcement agency shall release the identity of the alleged offender to the person whose identity or personal information was used in the commission of the offense.

B. The provisions of this Section shall apply to alleged offenders who have been arrested and charged by a law enforcement agency with a violation of R.S. 14:67.3 (unauthorized use of "access card"), or a violation of R.S. 14:67.16 (identity theft), or a violation of R.S. 14:70.4 (access device fraud), or a violation of any other crime which involves the unlawful use of the identity or personal information of another person.

RS 14:72.4 — Disposal of property with fraudulent or malicious intent

h 101 et seq.) on movable property, to sell, assign, exchange, injure, destroy, conceal, or otherwise dispose of all or any part of the encumbered property with fraudulent or malicious intent to defeat the mortgage or security interest, or remove the encumbered property from the location designated in the security agreement, if any, or from the parish where it was located at the time of the granting of the security interest without written consent of the secured party, with fraudulent or malicious intent to defeat the security interest.

B.(1) When the value of the encumbered property is one thousand dollars or less, the offender shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) When the value of the encumbered property exceeds one thousand dollars, the offender shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

RS 14:72.5 — Unlawful production, manufacture, distribution or possession of fraudulent postsecondary education degree

e for any purpose a fraudulent postsecondary education degree or other document purporting to confer any degree or certify the completion in whole or in part of any course of study.

B. For purposes of this Section:

(1) "Distribute a fraudulent postsecondary education degree" means to sell, give, transport, issue, provide, lend, deliver, transfer, transmit, distribute, or disseminate a fraudulent postsecondary education degree for any purpose.

(2) "Fraudulent postsecondary education degree" means a credential presented as a degree which provides information that is false, forged, altered, or counterfeit and signifies the satisfactory completion of the requirements of a postsecondary education program.

(3) "Produce or manufacture fraudulent postsecondary education degree" means to develop, prepare, design, create, or process a fraudulent postsecondary education degree for any purpose.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:72.6 — Forgery of a motor vehicle inspection certificate; penalties

any fraudulent document or portion thereof intended to serve as a certificate of motor vehicle inspection as defined by the provisions of Chapter 7 of Title 32 of the Louisiana Revised Statutes of 1950.

B. Whoever commits the crime of forgery of a motor vehicle inspection certificate shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

RS 14:73 — Commercial bribery

ithout the knowledge and consent of the principal or employer, with the intent to influence such agent's, employee's, or fiduciary's action in relation to the principal's or employer's affairs.

B. The agent's, employee's, or fiduciary's acceptance of or offer to accept, directly or indirectly, anything of apparent present or prospective value under such circumstances shall also constitute commercial bribery.

C. An offender under this Section who states the facts, under oath, to the district attorney charged with prosecution of the offense, and who gives evidence tending to convict any other offender under this article, may, in the discretion of the district attorney, be granted full immunity from prosecution for commercial bribery, in respect to the particular offense reported.

D. Whoever commits the crime of commercial bribery shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

RS 14:73.1 — Definitions

ta in, retrieve data from, or otherwise make use of any resources, including data or programs, of a computer, computer system, or computer network.

(2) "Computer" includes an electronic, magnetic, optical, or other high-speed data processing device or system performing logical, arithmetic, and storage functions, and includes any property, data storage facility, or communications facility directly related to or operating in conjunction with such device or system. "Computer" shall not include an automated typewriter or typesetter, a machine designed solely for word processing, or a portable hand-held calculator, nor shall "computer" include any other device which might contain components similar to those in computers but in which the components have the sole function of controlling the device for the single purpose for which the device is intended.

(3) "Computer network" means a set of related, remotely connected devices and

communication facilities including at least one computer system with capability to transmit data through communication facilities.

(4) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.

(5) "Computer services" means providing access to or service or data from a computer, a computer system, or a computer network, and also includes but is not limited to data processing services, Internet services, electronic mail services, electronic message services, or information or data stored in connection therewith.

(6) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with operation of a computer system.

(7) "Computer system" means a set of functionally related, connected or unconnected, computer equipment, devices, or computer software.

(8) "Electronic mail service provider" means any person who both:

- (a) Is an intermediary in sending or receiving electronic mail.
- (b) Provides to end-users of electronic mail services the ability to send or receive electronic mail.

(9) "Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, access card as defined in R.S. 14:67.3, or marketable security.

(10) "Intellectual property" includes data, computer programs, computer software, trade secrets as defined in R.S. 51:1431, copyrighted materials, and confidential or proprietary information, in any form or medium, when such is stored in, produced by, or intended for use or storage with or in a computer, a computer system, or a computer network.

(11) "Internet, virtual, street-level map" means any map or image that contains the picture or pictures of homes, buildings, or people that are taken and dispensed, electronically, over the internet or by a computer network, where the picture can be accessed by entering the address of the home, building, or person.

(12) "Internet-connected device" means a physical object to which both of the following apply:

- (a) Is capable of connecting to, and is in regular connection with, the internet.
- (b) Has computer processing capabilities that can collect, send, or receive data.

(13) "Proper means" includes:

- (a) Discovery by independent invention.
- (b) Discovery by "reverse engineering", that is by starting with the known product and working backward to find the method by which it was developed. The acquisition of the known product must be by lawful means.
- (c) Discovery under license or authority of the owner.
- (d) Observation of the property in public use or on public display.
- (e) Discovery in published literature.

(14) "Property" means property as defined in R.S. 14:2(A) and shall specifically include but not be limited to financial instruments, electronically stored or produced data,

and computer programs, whether in machine readable or human readable form.

(15) "Unsolicited bulk electronic mail" means any electronic message which is developed and distributed in an effort to sell or lease consumer goods or services and is sent in the same or substantially similar form to more than one thousand recipients.

RS 14:73.2 — Offenses against intellectual property

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(2) Disclosure, use, copying, taking, or accessing, without consent, of intellectual property.

B. (1) Whoever commits an offense against intellectual property shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both, for commission of the offense.

(2) However, when the damage or loss amounts to a value of five hundred dollars or more, the offender may be fined not more than ten thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

C. The provisions of this Section shall not apply to disclosure, use, copying, taking, or accessing by proper means as defined in this Subpart.

RS 14:73.3 — Offenses against computer equipment or supplies

ies used or intended to be used in a computer, computer system, or computer network.

B. (1) Whoever commits an offense against computer equipment or supplies shall be fined not more than five hundred dollars, or be imprisoned for not more than six months, or both.

(2) However, when the damage or loss amounts to a value of five hundred dollars or more, the offender may be fined not more than ten thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

RS 14:73.4 — Offenses against computer users

omputer system, a computer network, or computer services.

B. (1) Whoever commits an offense against computer users shall be fined not more than five hundred dollars, or be imprisoned for not more than six months, or both, for commission of the offense.

(2) However, when the damage or loss amounts to a value of five hundred dollars or more, the offender may be fined not more than ten thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

RS 14:73.5 — Computer fraud

Obtain money, property, or services by means of false or fraudulent conduct, practices, or representations, or through the fraudulent alteration, deletion, or insertion of programs or data.

B. Whoever commits computer fraud shall be fined not more than ten thousand dollars, or imprisoned with or without hard labor for not more than five years, or both.

RS 14:73.6 — Offenses against electronic mail service provider

ansmit unsolicited bulk electronic mail in contravention of the authority granted by or in violation of the policies set by the electronic mail service provider. Transmission of electronic mail from an organization to its members or noncommercial electronic mail transmissions shall not be deemed to be unsolicited bulk electronic mail.

B. It is unlawful for any person to use a computer or computer network without authority with the intent to falsify or forge electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers. It is also unlawful for any person knowingly to sell, give, or otherwise distribute or possess with the intent to sell, give, or distribute software which is any of the following:

(1) Primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail transmission information or other routing information.

(2) Has only limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information.

(3) Marketed by that person or another acting in concert with that person with that person's knowledge for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.

C. Whoever violates the provisions of this Section shall be fined not more than five thousand dollars.

D. Nothing in this Section shall be construed to interfere with or prohibit terms or conditions in a contract or license related to computers, computer data, computer networks, computer operations, computer programs, computer services, or computer software, or to create any liability by reason of terms or conditions adopted by, or technical measures implemented by, an electronic mail service provider to prevent the transmission of unsolicited electronic mail in violation of this Section.

RS 14:73.7 — Computer tampering

ation of the owner of a computer:

(1) Accessing or causing to be accessed a computer or any part of a computer or any program or data contained within a computer.

(2) Copying or otherwise obtaining any program or data contained within a computer.

(3) Damaging or destroying a computer, or altering, deleting, or removing any program or data contained within a computer, or eliminating or reducing the ability of the owner of the computer to access or utilize the computer or any program or data contained within the computer.

(4) Introducing or attempting to introduce any electronic information of any kind and in any form into one or more computers, either directly or indirectly, and either simultaneously or sequentially, with the intention of damaging or destroying a computer, or altering, deleting, or removing any program or data contained within a computer, or eliminating or reducing the ability of the owner of the computer to access or utilize the computer or any program or data contained within the computer.

B. For purposes of this Section:

(1) Actions which are taken without authorization include actions which intentionally exceed the limits of authorization.

(2) If an owner of a computer has established a confidential or proprietary code which is required in order to access a computer, and that code has not been issued to a person, and that person uses that code to access that computer or to cause that computer to be accessed, that action creates a rebuttable presumption that the action was taken without authorization or intentionally exceeded the limits of authorization.

(3) The vital services or operations of the state, or of any parish, municipality, or other local governing authority, or of any utility company are the services or operations which are necessary to protect the public health, safety, and welfare, and include but are not limited to: law enforcement; fire protection; emergency services; health care; transportation; communications; drainage; sewerage; and utilities, including water, electricity, and natural gas and other forms of energy.

C. Whoever commits the crime of computer tampering as defined in Paragraphs (A)(1) and (2) of this Section shall be fined not more than five

hundred dollars or imprisoned for not more than six months, or both.

D. Whoever commits the crime of computer tampering as defined in Paragraphs (A)(3) and (4) of this Section shall be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not more than five years, or both.

E. Whoever violates the crime of computer tampering as defined in Paragraphs (A)(3) and (4) of this Section with the intention of disrupting the vital services or operations of the state, or of any parish, municipality, or other local governing authority, or of any utility company, or with the intention of causing death or great bodily harm to one or more persons, shall be fined not more than ten thousand dollars or imprisoned at hard labor for not more than fifteen years, or both.

RS 14:73.8 — Unauthorized use of a wireless router system; child sexual abuse materials; penalty

computer, computer system, computer network, or any part thereof via any wireless router system for the purposes of uploading, downloading, or selling of child sexual abuse materials as defined in R.S. 14:81.1.

B. For purposes of this Section, "wireless router system" means a device in a wireless local area network that determines the next network point to which a unit of data is routed between an origin and a destination on the Internet.

C. Whoever commits the crime of unauthorized use of a wireless router system for the purpose of accessing child sexual abuse materials shall be imprisoned at hard labor for not less than two years or more than ten years, and fined not more than ten thousand dollars. Imprisonment shall be without benefit of parole, probation, or suspension of sentence.

D. Whoever commits the crime of unauthorized use of a wireless routing system for the purpose of accessing child sexual abuse materials when the victim is under the age of thirteen years and the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

RS 14:73.9 — Criminal use of Internet, virtual, street-map; enhanced penalties

, an additional sentence for a period of not less than one year shall be imposed. The additional penalty imposed pursuant to this Subsection shall be served consecutively with the sentence imposed for the underlying offense.

B. When an Internet, virtual, street-level map is used in the commission or attempted commission of an act of terrorism, as is defined in R.S. 14:100.12(1), an additional sentence for a period of not less than ten years shall be imposed without the benefit of parole, probation, or suspension of the sentence. The additional penalty imposed pursuant to this Subsection shall be served consecutively with the sentence imposed for the underlying offense.

RS 14:73.10 — Online impersonation

the consent

of that person, in order to engage in any of the following:

(a) Open an electronic mail account, any other type of account, or a profile on a social networking website or other Internet website.

(b) Post or send one or more messages on or through a social networking website or

other Internet website.

(2) It shall be unlawful for any person, with the intent to harm, intimidate, threaten, or defraud, to send an electronic mail, instant message, text message, or other form of electronic communication that references a name, domain address, phone number, or other item of identifying information belonging to another actual person without the consent of that person and with the intent to cause the recipient of the communication to believe that the other person authorized or transmitted the communication.

B. For purposes of this Section, the following words shall have the following meanings:

(1) "Access software provider" means a provider of software, including client or server software, or enabling tools that do one or more of the following:

(a) Filter, screen, allow, or disallow content.

(b) Select, choose, analyze, or digest content.

(c) Transmit, receive, display, forward, cache, search, organize, reorganize, or translate content.

(2) "Cable operator" means any person or group of persons who provides cable service over a cable system and directly, or through one or more affiliates, owns a significant interest in such cable system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such cable system.

(3) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(4) "Social networking website" means an Internet website that has any of the following capabilities:

(a) Allows users to register and create web pages or profiles about themselves that are available to the general public or to any other users.

(b) Offers a mechanism for direct or real-time communication among users, such as a forum, chat room, electronic mail, or instant messaging.

(5) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, regardless of the facilities used.

C.(1) Except as provided in Paragraph (2) of this Subsection, whoever violates any provision of this Section shall be fined not less than two hundred fifty dollars nor more than one thousand dollars, imprisoned for not less than ten days nor more than six months, or both.

(2) When the offender is under the age of eighteen years, the disposition of the matter shall be governed exclusively by the provisions of Title VII of the Children's Code.

D. The provisions of this Section shall not apply to any of the following or to any person who is employed by any of the following when the actions of the employee are within the course and scope of his employment:

(1) A social networking website.

(2) An interactive computer service provider.

- (3) A telecommunications service provider.
- (4) A cable operator.
- (5) An Internet service provider.
- (6) Any law enforcement officer or agency.

RS 14:73.11 — Communication interference

e following

communications:

- (1) A communication that is operated or controlled by the state, its contractors, or its political subdivisions.
- (2) A communication that is used or intended to be used for military or civil defense functions of the state.
- (3) A communication that is controlled by any domestic or foreign corporation, limited liability company, or other legal entity created for the purpose of or engaged in generating, transmitting, providing, and distributing utilities or utility services to the public.

B. For purposes of this Section:

- (1) "Communication" includes any radio, telegraph, telephone, electronic, satellite, or cable communication.
- (2) "Utilities" or "utility services" includes services such as electricity, water, natural gas, steam, cable, or electronic communication systems.

C. The provisions of this Section shall not apply to any of the following:

- (1) Any lawful strike activity, or other lawful concerted activities for the purposes of collective bargaining or other mutual aid and protection which do not injure or destroy any line or system used or intended to be used for and by the state, for military or civil defense functions of the state, or for any private entity as described in Subsection A of this Section.
- (2) An entity the security issues of which are subject to approval, control, regulation, or supervision by the federal government or any agency thereof under any other federal statute; an entity whose business is subject to regulation by the Federal Communications Commission; or any entity conducting or carrying on its business or operations in two or more states when engaged in the course and scope of their business activities.
- (3) Member-owned electric cooperatives, municipally owned electric service providers, privately owned utilities, or investor-owned utilities regulated by the Louisiana Public Service Commission or the city council of New Orleans when engaged in the course and scope of their business activities.

D.(1) Any person convicted of a first offense of Subsection A of this Section shall be subject to a fine of not more than ten thousand dollars, imprisonment with or without hard labor for not more than ten years, or both.

(2) Any person convicted of a second or subsequent offense of Subsection A of this Section shall be subject to a fine of not more than ten thousand dollars, imprisonment with or without hard labor for not more than fifteen years, or both.

RS 14:73.12 — Trespass against state computers

m, computer service,

computer software, internet-connected device, or computer system or program that is owned,

operated, or utilized by the state of Louisiana, its contractors, or its political subdivisions, without authorization when it is done for any of the following purposes:

(1) Obtaining, seeking, utilizing, destroying, viewing, or affecting information that has been determined by the state of Louisiana to require protection against unauthorized disclosure for reasons of protecting public health, safety, welfare, or an ongoing law enforcement investigation.

(2) Willfully communicating, delivering, transmitting, or causing or threatening to communicate, deliver, or transmit information to any person not entitled to receive such information when the information has been determined by the state of Louisiana to require protection against unauthorized disclosure for reasons of protecting public health, safety, welfare, or an ongoing law enforcement investigation.

(3) Initiating a denial of service attack or introducing malicious or any type of destructive or harmful software or program that negatively affects or impacts such computers, computer servers, computer programs, computer services, computer software, internet-connected devices or computer systems or programs.

B. Information, documents, or records deemed confidential or not subject to disclosure or inspection under R.S. 44:1 et seq., shall be considered information that has been determined by the state of Louisiana to require protection against unauthorized disclosure for reasons of protecting the public health, safety, welfare, or an ongoing law enforcement investigation under Paragraphs (A)(1) and (2) of this Section.

C.(1) Any person convicted of a first offense of Paragraph (A)(1) of this Section shall be subject to a fine of not more than three thousand dollars, imprisonment, with or without hard labor, for not more than three years, or both.

(2) Any person convicted of a first offense of Paragraph (A)(2) or (3) of this Section shall be subject to a fine of not more than five thousand dollars, imprisonment, with or without hard labor, for not more than three years, or both.

(3) Any person convicted of a second or subsequent offense of Subsection A of this Section shall be subject to a fine of not more than ten thousand dollars, imprisonment, with or without hard labor, for not more than five years, or both.

(4) Except as provided in Subsection D of this Section, in addition to the penalties provided in Paragraphs (1) and (2) of this Subsection, the following property of any individual who is convicted of trespass against state computers shall be subject to forfeiture to the state of Louisiana and no property rights shall exist therein:

(a) Any movable property used or intended to be used to commit or to facilitate the commission of any violation of this Section, or conspiracy to commit a violation of this Section.

(b) Any property, movable or immovable, which constitutes or is derived from proceeds traceable to any violation of this Section, or a conspiracy to commit a violation of this Section.

(c) When property is forfeited under the provisions of this Paragraph, the district attorney shall authorize a public sale or a public auction conducted by a licensed auctioneer, without appraisal, of that which is not required by law to be destroyed and which is not

harmful to the public.

(d) The proceeds of the public sale or public auction shall pay the costs of the public sale or public auction, court costs, and fees related to the seizure and storage of the property.

Any proceeds remaining shall be distributed by the district attorney in the following manner:

(i) Thirty percent to the seizing agency or agencies in an equitable manner.

(ii) Twenty percent to the prosecuting agency.

(iii) Twenty percent to the criminal court fund of the parish in which the offender was prosecuted.

(iv) Thirty percent to the public defender in the jurisdiction in which the offender was prosecuted.

D.(1) Any property seized pursuant to the provisions of Paragraph (C)(4) of this Section shall be exempt from forfeiture and sale if it was stolen or if the possessor of the property was not the owner and the owner did not know that the personal property was being used in the violation of the provisions of this Section. If the exemption provided by this Subsection is applicable, the property shall not be released until such time as all applicable fees related to its seizure and storage are paid. However, an internet service provider shall not be required to pay seizure or storage fees to secure the release of equipment leased to an offender.

(2)(a) Property subject to forfeiture pursuant to the provisions of Paragraph (C)(4) of this Section shall be exempt from forfeiture and sale when a spouse, co-owner, or interest holder in the property establishes by sworn affidavit executed before a notary public the following:

(i) That he had no knowledge of the commission of the criminal conduct and could not have reasonably known of the conduct.

(ii) That he did not consent to the use of property in the commission of the criminal conduct.

(iii) That he owns an interest in the property otherwise subject to forfeiture.

(b) Intentionally falsifying the affidavit information required by the provisions of this Paragraph shall subject the affiant to prosecution under the provisions of R.S. 14:125.

(3) The property of an internet service provider shall be exempt from forfeiture.

(4) Any property seized pursuant to the provisions of Paragraph (C)(4) of this Section shall be exempt from sale if it is subject to a lien, security interest, or mortgage recorded prior to the date of the offense and if the applicable fees related to the property's seizure and storage are paid by a holder of a valid lien, security interest, or mortgage.

RS 14:73.13 — Unlawful deepfakes

conduct shall be punished by imprisonment at hard labor for not less than five nor more than twenty years, or a fine of not more than ten thousand dollars, or both. At least five years of the sentence of imprisonment imposed shall be served without benefit of parole, probation, or suspension of sentence.

B.(1) Except as provided in Paragraph (2) of this Subsection, any person who, with knowledge that the material is a deepfake that depicts another person, without consent of the person depicted, engaging in sexual conduct, knowingly advertises, distributes, exhibits,

exchanges with, promotes, or sells any sexual material shall be punished by imprisonment at hard labor for not less than ten nor more than thirty years, a fine of not more than fifty thousand dollars, or both.

(2) Any person who, with knowledge that the material is a deepfake depicting a minor, knowingly advertises, distributes, exhibits, exchanges with, promotes, or sells any sexual material that depicts a minor engaging in sexual conduct shall be punished by imprisonment at hard labor for not less than ten nor more than thirty years, a fine of not more than fifty thousand dollars, or both. At least ten years of the sentence of imprisonment imposed shall be served without benefit of probation, parole, or suspension of sentence.

C. For the purposes of this Section:

(1) "Deepfake" means any audio or visual media in an electronic format, including any motion picture film or video recording, that is created, altered, or digitally manipulated in a manner that would falsely appear to a reasonable observer to be an authentic record of the actual speech or conduct of the individual or replace an individual's likeness with another individual and depicted in the recording. "Deepfake" does not include any material that constitutes a work of political, public interest, or newsworthy value, including commentary, criticism, satire, or parody, or that includes content, context, or a clear disclosure visible throughout the duration of the recording that would cause a reasonable person to understand that the audio or visual media is not a record of a real event.

(2) "Distribute" means to publish or make available to another person but does not include any alteration of a recording, including altering the length of the recording, so long as such alteration does not knowingly remove any content, context, or clear disclosure visible throughout the duration of the recording that would cause a reasonable person to believe that the audio or visual media is not a record of a real event.

(3) "Minor" means a person under the age of eighteen years.

(4) "Sexual conduct" means any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, penetration of the vagina or rectum by any object in a lewd or lascivious manner, exhibition of the genitals or pubic or rectal area for the purpose of sexual stimulation of the viewer, or excretory functions performed in a lewd or lascivious manner, whether or not any of the conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being actual sexual conduct.

RS 14:73.14 — Unlawful dissemination or sale of images of another created by artificial

iously disseminate or sell any video or still image created by artificial intelligence that depicts another person who is totally nude or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast, when the person disseminating the video or still image knows or has reason to know that the person is not licensed or authorized to disseminate or sell such video or still image.

B. The provisions of this Section shall not apply to an interactive computer service, electronic mail service provider, or a provider of a telecommunications service or any information service as defined in 47 U.S.C. 153, system, or access software provider that

provides or enables computer access by multiple users to a computer server that was used by a person to commit any act prohibited by Subsection A of this Section.

C. For purposes of this Section:

(1) "Another person" includes a person whose image was used in creating, adapting, or modifying a video or still image with the intent to depict an actual person and who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic.

(2) "Artificial intelligence" means an artificial system developed in computer software, physical hardware, or other context that solves tasks requiring human-like perception, cognition, planning, learning, communication, or physical action.

(3) "Electronic mail service provider" means any person or entity, including an internet service provider, that is an intermediary in sending or receiving electronic mail or that provides to end users of the electronic mail service the ability to send or receive electronic mail.

(4) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet and such systems operated or services offered by libraries or educational institutions.

D. Whoever violates the provisions of this Section shall be imprisoned for not more than six months, fined not more than seven hundred fifty dollars, or both.

E. In addition to any venue provided by the Code of Criminal Procedure, a violation of this Section may be prosecuted in the parish where the unlawful act occurred or where any video or still image was created, produced, reproduced, found, stored, received, or possessed in violation of this Section.

F. The provisions of this Section shall not preclude a civil action or criminal prosecution under any other applicable provision of law.

RS 14:74 — Criminal neglect of family

necessitous circumstances;

or

(b) By either parent of his minor child who is in necessitous circumstances, there being a duty established by this Section for either parent to support his child.

(2) Each parent shall have this duty without regard to the reasons and irrespective of the causes of his living separate from the other parent. The duty established by this Section shall apply retrospectively to all children born prior to the effective date of this Section.

(3) For purposes of this Subsection, the factors considered in determining whether "necessitous circumstances" exist are food, shelter, clothing, health, and with regard to minor children only, adequate education, including but not limited to public, private, or home schooling, and comfort.

B.(1) Whenever a husband has left his wife or a wife has left her husband in destitute or necessitous circumstances and has not provided means of support within thirty days thereafter, his or her failure to so provide shall be only presumptive evidence for the purpose

of determining the substantive elements of this offense that at the time of leaving he or she intended desertion and nonsupport. The receipt of assistance from the Family Independence Temporary Assistance Program (FITAP) shall constitute only presumptive evidence of necessitous circumstances for purposes of proving the substantive elements of this offense. Physical incapacity which prevents a person from seeking any type of employment constitutes a defense to the charge of criminal neglect of family.

(2) Whenever a parent has left his minor child in necessitous circumstances and has not provided means of support within thirty days thereafter, his failure to so provide shall be only presumptive evidence for the purpose of determining the substantive elements of this offense that at the time of leaving the parent intended desertion and nonsupport. The receipt of assistance from the Family Independence Temporary Assistance Program (FITAP) shall constitute only presumptive evidence of necessitous circumstances for the purpose of proving the substantive elements of this offense. Physical incapacity which prevents a person from seeking any type of employment constitutes a defense to the charge of criminal neglect of family.

C. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this Section. Husband and wife are competent witnesses to testify to any relevant matter.

D.(1) Whoever commits the offense of criminal neglect of family shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both, and may be placed on probation pursuant to R.S. 15:305.

NOTE: Paragraph (D)(2) eff. until Oct. 1, 2027. See Acts 2025, No. 478.

(2) If a fine is imposed, the court shall direct it to be paid in whole or in part to the spouse or to the tutor or custodian of the child, to the court approved fiduciary of the spouse or child, or to the Louisiana Department of Children and Family Services in a FITAP or Family Independence Temporary Assistance Program case or in a non-FITAP or Family Independence Temporary Assistance Program case in which the said department is rendering services, whichever is applicable; hereinafter, said payee shall be referred to as the "applicable payee." In addition, the court may issue a support order, after considering the circumstances and financial ability of the defendant, directing the defendant to pay a certain sum at such periods as the court may direct. This support shall be ordered payable to the applicable payee. The amount of support as set by the court may be increased or decreased by the court as the circumstances may require.

NOTE: Paragraph (D)(2) as enacted by Acts 2025, No. 478, eff. Oct. 1, 2027.

(2) If a fine is imposed, the court shall direct it to be paid in whole or in part to the spouse or to the tutor or custodian of the child, to the court approved fiduciary of the spouse or child, or to Louisiana Works in a FITAP or Family Independence Temporary Assistance Program case or in a non-FITAP or Family Independence Temporary Assistance Program case in which the department is rendering services, whichever is applicable; hereinafter, the payee shall be referred to as the "applicable payee." In addition, the court may issue a support order, after considering the circumstances and financial ability of the defendant, directing the defendant to pay a certain sum at such periods as the court may direct. This

support shall be ordered payable to the applicable payee. The amount of support as set by the court may be increased or decreased by the court as the circumstances may require.

(3) The court may also require the defendant to enter into a recognizance, with or without surety, in order that the defendant shall make his or her personal appearance in court whenever required to do so and shall further comply with the terms of the order or of any subsequent modification thereof.

E. For the purposes of this Section, "spouse" shall mean a husband or wife.

RS 14:74.1 — Right of action

§1.

RS 14:75 — Failure to pay child support obligation

port obligation for any child who resides in the state of Louisiana, if such obligation has remained unpaid for a period longer than six months or is greater than two thousand five hundred dollars.

C.(1) For a first offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than five hundred dollars or imprisonment for not more than six months, or both.

(2) For a second or subsequent offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than twenty-five hundred dollars or imprisonment with or without hard labor for not more than two years, or both.

(3) Upon a conviction under this statute, the court shall order restitution in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

(4) In any case in which restitution is made prior to the time of sentencing, except for a second or subsequent offense, the court may suspend all or any portion of the imposition or execution of the sentence otherwise required in this Subsection.

(5) The penalty for failure to pay a legal child support obligation when the amount of the arrearage is more than fifteen thousand dollars and the obligation has been outstanding for at least one year shall be a fine of not more than twenty-five hundred dollars, or imprisonment with or without hard labor for not more than two years, or both.

D. With respect to an offense under this Section, an action may be prosecuted in a judicial district court in this state in which any child who is the subject of the support obligation involved resided during a period during which an obligor failed to meet that support obligation; or the judicial district in which the obligor resided during a period described in Subsection B of this Section; or any other judicial district with jurisdiction otherwise provided for by law.

E. As used in this Section, the following terms mean:

(1) "Obligor" means any person who has been ordered to pay a support obligation in accordance with law.

(2) "Support obligation" means any amount determined by a court order or an order of an administrative process pursuant to the law of the state of Louisiana to be due from a person for the support and maintenance of a child or children.

F. It shall be an affirmative defense to any charge under this Section that the obligor was financially unable to pay the support obligation during and after the period that he failed to pay as ordered by the court.

RS 14:76 — Bigamy

ardless of the place where the marriage was celebrated.

B. The provisions of this Section shall not extend to any of the following:

(1) Any person whose former husband or wife has been absent, at the time of the second marriage, for five successive years without being known to such person, within that time, to be living.

(2) Any person whose former marriage has been annulled or dissolved at the time of the second marriage, by the judgment of a competent court.

(3) Any person who has, at the time of the second marriage, a reasonable and honest belief that his or her former husband or wife is dead, or that a valid divorce or annulment has been secured, or that his or her former marriage was invalid.

C. Whoever commits the crime of bigamy shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

RS 14:77 — Abetting in bigamy

honest belief that such party is divorced or his marriage annulled, or that the party's husband or wife is dead.

B. Whoever commits the crime of abetting in bigamy shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

RS 14:78 — Repealed by Acts 2014, No. 177, §2 and Acts 2014, No. 602, §7, eff. June 12, 2014.

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RS 14:78.1 — Repealed by Acts 2014, No. 177, §2 and Acts 2014, No. 602, §7, eff. June 12, 2014.

er.

RS 14:79 — Violation of protective orders

9:361 et seq., R.S. 9:372,

R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 320 and 871.1 after a contradictory court hearing, or the willful disobedience of a temporary restraining order or any ex parte protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., criminal stay-away orders as provided for in Code of Criminal Procedure Article 320, Children's Code Article 1564 et seq., or Code of Civil Procedure Articles 3604 and 3607.1, if the defendant has been given notice of the temporary restraining order or ex parte protective order by service of process as required by law.

(b) A defendant may also be deemed to have been properly served if tendered a certified copy of a temporary restraining order or ex parte protective order, or if tendered a faxed or electronic copy of a temporary restraining order or ex parte protective order received directly from the issuing magistrate, commissioner, hearing officer, judge or court, by any law enforcement officer who has been called to any scene where the named defendant is present. Such service of a previously issued temporary restraining order or ex parte protective order if noted in the police report shall be deemed sufficient evidence of service of process and admissible in any civil or criminal proceedings. A law enforcement officer making service under this Subsection shall transmit proof of service to the judicial administrator's office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after making service, exclusive of weekends and holidays. This proof shall include, at a minimum, the case caption, docket number, type of order, serving agency and officer, and the date and time service was made.

(2) Violation of protective orders shall also include the willful disobedience of an order of protection issued by a foreign state.

(3) Violation of protective orders shall also include the willful disobedience of the following:

(a) An order issued by any state, federal, parish, city, or municipal court judge,

magistrate judge, commissioner or justice of the peace that a criminal defendant stay away from a specific person or persons as a condition of that defendant's release on bond.

(b) An order issued by any state, federal, parish, city, or municipal court judge, magistrate judge, commissioner or justice of the peace that a defendant convicted of a violation of any state, federal, parish, municipal, or city criminal offense stay away from any specific person as a condition of that defendant's release on probation.

(c) A condition of a parole release pursuant to R.S. 15:574.4.2(A)(5) or any other condition of parole which requires that the parolee stay away from any specific person.

(d) An order issued pursuant to R.S. 46:1846.

(4) Violation of protective orders shall also include the possession of a firearm or carrying a concealed weapon in violation of R.S. 46:2136.3, the purchase or attempted purchase of a firearm, and the carrying of a concealed weapon in violation of R.S. 14:95.1, 95.1.3, or 95.10.

B.(1) On a first conviction for violation of protective orders, except as provided in Subsection C of this Section, the offender shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) On a second or subsequent conviction for violation of protective orders, except as provided in Subsection C of this Section, regardless of whether the current offense occurred before or after the earlier convictions, the offender shall be fined not more than one thousand dollars and imprisoned with or without hard labor for not less than fourteen days nor more than two years. At least fourteen days of the sentence of imprisonment imposed under this Paragraph shall be without benefit of probation, parole, or suspension of sentence. If a portion of the sentence is imposed with benefit of probation, parole, or suspension of sentence, the court shall require the offender to participate in a court-monitored domestic abuse intervention program as defined by R.S. 14:35.3.

C.(1) Except as provided in Paragraph (2) of this Subsection, whoever is convicted of the offense of violation of protective orders where the violation involves a battery or any crime of violence as defined by R.S. 14:2(B) against the person for whose benefit the protective order is in effect, or where the violation involves the offender going to the residence or household, school, or place of employment of the person for whose benefit the protective order is in effect while in possession of a firearm, shall be fined not more than one thousand dollars and imprisoned with or without hard labor for not less than three months nor more than two years. At least thirty days of the sentence of imprisonment imposed under this Paragraph shall be without benefit of probation, parole, or suspension of sentence. If a portion of the sentence is imposed with benefit of probation, parole, or suspension of sentence, the court shall require the offender to participate in a court-monitored domestic abuse intervention program as defined by R.S. 14:35.3.

(2) Whoever is convicted of the offense of violation of protective orders where the violation involves a battery or any crime of violence as defined by R.S. 14:2(B) against the person for whose benefit the protective order is in effect, or where the violation involves the offender going to the residence or household, school, or place of employment of the person for whose benefit the protective order is in effect while in possession of a firearm, and who

has a conviction of violating a protective order or of an assault or battery upon the person for whose benefit the protective order is in effect during the five-year period prior to commission of the instant offense, regardless of whether the instant offense occurred before or after the earlier convictions, the offender shall be fined not more than two thousand dollars and imprisoned with or without hard labor for not less than one year nor more than five years. At least one year of the sentence of imprisonment imposed under this Paragraph shall be without benefit of probation, parole, or suspension of sentence.

D. If, as part of any sentence imposed under this Section, a fine is imposed, the court may direct that the fine be paid for the support of the spouse or children of the offender.

E. (1) Law enforcement officers shall use every reasonable means, including but not limited to immediate arrest of the violator, to enforce a preliminary or permanent injunction or protective order obtained pursuant to R.S. 9:361, R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 320 and 871.1 after a contradictory court hearing, or to enforce a temporary restraining order or ex parte protective order issued pursuant to R.S. 9:361, R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Article 320 if the defendant has been given notice of the temporary restraining order or ex parte protective order by service of process as required by law.

(2) Law enforcement officers shall at a minimum issue a summons to the person in violation of a temporary restraining order, a preliminary or permanent injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 30, 320, and 871.1.

F. This Section shall not be construed to bar or limit the effect of any other criminal statute or civil remedy.

G. "Instant offense" as used in this Section means the offense which is before the court.

H. An offender ordered to participate in a court-monitored domestic abuse intervention program under the provision of this Section shall pay the cost incurred in participating in the program, unless the court determines that the offender is unable to pay. Failure to make payment under this Subsection shall subject the offender to revocation of probation.

RS 14:79.1 — Criminal abandonment

by leaving the minor child unattended and to his own care when the evidence demonstrates that the child's parent or legal guardian did not intend to return to the minor child or provide for adult supervision of the minor child.

(2) The intentional physical abandonment of a person who is aged or person with a disability by a caregiver as defined in R.S. 14:93.3 who is compensated for providing care to such person. For the purpose of this Paragraph a person who is aged shall mean any individual who is sixty years of age or older.

B. Whoever commits the crime of criminal abandonment shall be fined not more than one thousand dollars, or be imprisoned for not more than one year, or both.

RS 14:79.2 — Repealed by Acts 1975, No. 638, §3

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RS 14:80 — Felony carnal knowledge of a juvenile

urser, with

consent, with a person who is thirteen years of age or older but less than seventeen years of age, when the victim is not the spouse of the offender and when the difference between the age of the victim and the age of the offender is four years or greater; or

(2) A person commits a second or subsequent offense of misdemeanor carnal knowledge of a juvenile, or a person who has been convicted one or more times of violating one or more crimes for which the offender is required to register as a sex offender under R.S. 15:542 commits a first offense of misdemeanor carnal knowledge of a juvenile.

B. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

C. Lack of knowledge of the juvenile's age shall not be a defense. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

D.(1) Whoever commits the crime of felony carnal knowledge of a juvenile shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not more than ten years, or both, provided that the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

(2) Repealed by Acts 2020, No. 352, §2.

RS 14:80.1 — Misdemeanor carnal knowledge of a juvenile

a person who is thirteen years of age or older but less than seventeen years of age, when the victim is not the spouse of the offender, and when the difference between the age of the victim and age of the offender is greater than two years, but less than four years.

B. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

C. Lack of knowledge of the juvenile's age shall not be a defense. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

D. Whoever commits the crime of misdemeanor carnal knowledge of a juvenile shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

E. The offender shall be eligible to have his conviction set aside and his prosecution dismissed in accordance with the appropriate provisions of the Code of Criminal Procedure.

F. The offender shall not be subject to any of the provisions of law which are applicable to sex offenders, including but not limited to the provisions which require registration of the offender and notice to the neighbors of the offender.

RS 14:81 — Indecent behavior with juveniles

ither person:

(1) Any lewd or lascivious act upon the person or in the presence of any child under the age of seventeen, where there is an age difference of greater than two years between the two persons. Lack of knowledge of the child's age shall not be a defense.

(2) The transmission, delivery or utterance of any textual, visual, written, or oral communication depicting lewd or lascivious conduct, text, words, or images to any person reasonably believed to be under the age of seventeen and reasonably believed to be at least two years younger than the offender. It shall not be a defense that the person who actually

receives the transmission is not under the age of seventeen.

(3) The grooming of a child under the age of seventeen, where the offender is at least four years older than the child. Completion or attempt to complete such act is not necessary to constitute grooming. Lack of knowledge of the child's age shall not be a defense.

B. The trial judge shall have the authority to issue any necessary orders to protect the safety of the child during the pendency of the criminal action and beyond its conclusion.

C. For the purposes of this Section, the following terms shall have the following meanings:

(1) "Grooming" shall mean the pursuit of an intimate relationship with a child under the age of seventeen by means of seduction, emotional manipulation, threats, promises, coercion, enticement, isolation, or extortion with the specific intent to commit a sex offense as defined in R.S. 15:541 against the minor, whether aggravated or not.

(2) "Textual, visual, written, or oral communication" means any communication of any kind, whether electronic or otherwise, made through the use of the United States mail, any private carrier, personal courier, computer online service, internet service, local bulletin board service, internet chat room, electronic mail, online messaging service, or personal delivery or contact.

D. The provisions of this Section shall not apply to the transference of such images by a telephone company, cable television company, or any of its affiliates, free over-the-air television broadcast station, an Internet provider, or commercial on-line service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial on-line services.

E. An offense committed under this Section and based upon the transmission and receipt of textual, visual, written, or oral communication may be deemed to have been committed where the communication was originally sent, originally received, or originally viewed by any person.

F, G. Repealed by Acts 2020, No. 352, §2.

H.(1) Whoever commits the crime of indecent behavior with juveniles shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than seven years, or both, provided that the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

(2) Whoever commits the crime of indecent behavior with juveniles on a victim under the age of thirteen when the offender is seventeen years of age or older, shall be punished by imprisonment at hard labor for not less than two nor more than twenty-five years. At least two years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Repealed by Acts 2020, No. 352, §2.

RS 14:81.1 — Child sexual abuse materials

(2) It shall also be a violation of the provision of this Section for a parent, legal guardian, or custodian of a child to consent to the participation of the child in child sexual

abuse materials.

B. For purposes of this Section, the following definitions shall apply:

(1) "Access software provider" means a provider of software, including client or server software, or enabling tools that do any one or more of the following:

- (a) Filter, screen, allow, or disallow content.
- (b) Select, choose, analyze, or digest content.
- (c) Transmit, receive, display, forward, cache, search, organize, reorganize, or translate content.

(2) "Cable operator" means any person or group of persons who provides cable service over a cable system and directly, or through one or more affiliates, owns a significant interest in such cable system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

(3) "Child sexual abuse materials" is any photograph, videotape, film, or other reproduction, whether electronic or otherwise, of any sexual performance involving a child under the age of seventeen.

(4) "Coerce" shall include but not be limited to any of the following:

- (a) Causing or threatening to cause serious bodily injury.
- (b) Physically restraining or threatening to physically restrain another person.
- (c) Abduction or threatened abduction of an individual.
- (d) The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of an individual.
- (e) The abuse or threatened abuse of law or legal process.
- (f) The actual or threatened destruction, concealment, removal, confiscation, or possession of any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.
- (g) Controlling or threatening to control an individual's access to a controlled dangerous substance as set forth in R.S. 40:961 et seq.
- (h) The use of an individual's physical or mental impairment, where such impairment has substantial adverse effects on the individual's cognitive or volitional functions.
- (i) The use of debt bondage or civil or criminal fraud.
- (j) Extortion as defined in R.S. 14:66.

(5) "Debt bondage" means inducing an individual to provide any of the following:

- (a) Commercial sexual activity in payment toward or satisfaction of a real or purported debt.
- (b) Labor or services in payment toward or satisfaction of a real or purported debt if either of the following occur:
 - (i) The reasonable value of the labor or services provided is not applied toward the liquidation of the debt.
 - (ii) The length of the labor or services is not limited and the nature of the labor or services is not defined.

(6) "Distribute" means to issue, sell, give, provide, lend, mail, deliver, transfer,

transmute, distribute, circulate, or disseminate by any means.

(7) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(8) "Labor or services" mean activity having economic value.

(9) "Produce" means to photograph, videotape, film, or otherwise reproduce child sexual abuse materials, or to solicit, promote, or coerce any child for the purpose of child sexual abuse materials.

(10) "Sexual performance" means any performance or part thereof that includes actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals or anus.

(11) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, regardless of the facilities used.

C.(1) Possession of three or more of the same photographs, images, films, videotapes, or other visual reproductions shall be prima facie evidence of intent to sell or distribute.

(2) Possession of three or more photographs, images, films, videotapes, or other visual reproductions and possession of any type of file sharing technology or software shall be prima facie evidence of intent to sell or distribute.

D.(1) Lack of knowledge of the juvenile's age shall not be a defense.

(2) It shall not be a defense to prosecution for a violation of this Section that the juvenile consented to participation in the activity prohibited by this Section.

E.(1)(a) Whoever intentionally possesses child sexual abuse materials shall be fined not more than fifty thousand dollars and shall be imprisoned at hard labor for not less than five years or more than twenty years, without benefit of parole, probation, or suspension of sentence.

(b) On a second or subsequent conviction for the intentional possession of child sexual abuse materials, the offender shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than ten years nor more than forty years, without benefit of parole, probation, or suspension of sentence.

(2)(a) Whoever distributes or possesses with the intent to distribute child sexual abuse materials shall be fined not more than fifty thousand dollars and shall be imprisoned at hard labor for not less than five years or more than twenty years, without benefit of parole, probation, or suspension of sentence.

(b) On a second or subsequent conviction for distributing or possessing with the intent to distribute child sexual abuse materials, the offender shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than ten years nor more than forty years, without benefit of parole, probation, or suspension of sentence.

(3) Any parent, legal guardian, or custodian of a child who consents to the participation of the child in child sexual abuse materials shall be fined not more than fifty thousand dollars and imprisoned at hard labor for not less than five years nor more than

twenty years, without benefit of probation, parole, or suspension of sentence.

(4)(a) Whoever engages in the promotion, advertisement, or production of child sexual abuse materials shall be fined not more than fifty thousand dollars and imprisoned at hard labor for not less than ten years nor more than twenty years, without benefit of probation, parole, or suspension of sentence.

(b) On a second or subsequent conviction for promotion, advertisement, or production of child sexual abuse materials, the offender shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than twenty years nor more than forty years, without benefit of parole, probation, or suspension of sentence.

(5)(a) Whoever commits the crime of child sexual abuse materials punishable by the provisions of Paragraph (1), (2), or (3) of this Subsection when the victim is under the age of thirteen years and the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than one-half the longest term nor more than twice the longest term of imprisonment provided in Paragraphs (1), (2), and (3) of this Subsection. The sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(b) Whoever commits the crime of child sexual abuse materials punishable by the provisions of Paragraph (4) of this Subsection when the victim is under the age of thirteen years, and the offender is seventeen years of age or older, shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(c), (d) Repealed by Acts 2020, No. 352, §2.

(e) Upon completion of the term of imprisonment imposed in accordance with Subparagraphs (5)(a) and (b) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(f) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(g) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(h) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act, that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

F.(1) Repealed by Acts 2020, No. 352, §2.

(2) Upon the filing of any information or indictment by the prosecuting authority for a violation of this Section, the investigating law enforcement agency which seized the photographs, films, videotapes, or other visual reproductions of child sexual abuse materials shall provide copies of those reproductions to the Internet crimes against children division within the attorney general's office.

(3) Upon receipt of the reproductions as provided in Paragraph (2) of this Subsection, the Internet crimes against children division shall:

(a) Provide those visual reproductions to the law enforcement agency representative assigned to the Child Victim Identification Program at the National Center for Missing and Exploited Children.

(b) Request the Child Victim Identification Program provide the law enforcement agency contact information for any visual reproductions recovered which contain an identified victim of child sexual abuse materials as defined in this Section.

(c) Provide case information to the Child Victim Identification Program, as requested by the National Center for Missing and Exploited Children guidelines, in any case where the Internet crimes against children division within the attorney general's office identifies a previously unidentified victim of child sexual abuse materials.

(4) The Internet crimes against children division shall submit to the designated prosecutor the law enforcement agency contact information provided by the Child Victim Identification Program at the National Center for Missing and Exploited Children, for any visual reproductions involved in the case which contain the depiction of an identified victim of child sexual abuse materials as defined in this Section.

(5) In all cases in which the prosecuting authority has filed an indictment or information for a violation of this Section and the victim of child sexual abuse materials has been identified and is a resident of this state, the prosecuting agency shall submit all of the following information to the attorney general for entry into the Louisiana Attorney General's Exploited Children's Identification database maintained by that office:

(a) The parish, district, and docket number of the case.

(b) The name, race, sex, and date of birth of the defendant.

(c) The identity of the victim.

(d) The contact information for the law enforcement agency which identified a victim of child sexual abuse materials, including contact information maintained by the Child Victim Identification Program and provided to the Internet crimes against children division in accordance with this Section.

(6) No sentence, plea, conviction, or other final disposition shall be invalidated due to failure to comply with the provisions of this Subsection, and no person shall have a cause of action against the investigating law enforcement agency or any prosecuting authority, or officer or agent thereof for failure to comply with the provisions of this Subsection.

G. In prosecutions for violations of this Section, the trier of fact may determine, utilizing the following factors, whether or not the person displayed or depicted in any photograph, videotape, film, or other video reproduction introduced in evidence was under

the age of seventeen years at the time of filming or recording:

- (1) The general body growth, bone structure, and bone development of the person.
- (2) The development of pubic or body hair on the person.
- (3) The development of the person's sexual organs.
- (4) The context in which the person is placed or the age attributed to the person in any accompanying video, printed, or text material.
- (5) Available expert testimony and opinion as to the chronological age or degree of physical or mental maturity or development of the person.
- (6) Such other information, factors, and evidence available to the trier of fact which the court determines is probative and reasonably reliable.

H. The provisions of this Section shall not apply to a provider of an interactive computer service, provider of a telecommunications service, or a cable operator as defined by the provisions of this Section.

I. For all purposes, "pornography involving juveniles" and "child sexual abuse materials" mean the offense defined by the provisions of this Section and any reference to the crime of pornography involving juveniles is the same as a reference to the crime of child sexual abuse materials. Any act in violation of the provisions of this Section that is committed on or after August 1, 2025, shall be referred to as "child sexual abuse materials".

RS 14:81.1.1 — "Sexting"; prohibited acts; penalties

ction of himself to another person.

(2) No person under the age of seventeen years shall knowingly possess or transmit an indecent visual depiction that was transmitted by another under the age of seventeen years in violation of the provisions of Paragraph (1) of this Subsection.

B. For purposes of this Section:

- (1) "Indecent visual depiction" means any photograph, videotape, film, or other reproduction of a person under the age of seventeen years engaging in sexually explicit conduct, and includes data stored on any computer, telecommunication device, or other electronic storage media which is capable of conversion into a visual image.
- (2) "Sexually explicit conduct" means masturbation or lewd exhibition of the genitals, pubic hair, anus, vulva, or female breast nipples of a person under the age of seventeen years.
- (3) "Telecommunication device" means an analog or digital electronic device which processes data, telephonic, video, or sound transmission as part of any system involved in the sending or receiving of voice, sound, data, or video transmissions.
- (4) "Transmit" means to give, distribute, transfer, transmute, circulate, or disseminate by use of a computer or telecommunication device.

C. Any offense committed by use of a computer or telecommunication device as set forth in this Section shall be deemed to have been committed at either the place from which the indecent visual depiction was transmitted or at the place where the indecent visual depiction was received.

D.(1) For a violation of the provisions of Paragraph (A)(1) of this Section, the offender's disposition shall be governed exclusively by the provisions of Title VII of the Louisiana Children's Code.

(2)(a) For a first offense in violation of Paragraph (A)(2) of this Section, the offender shall be fined not less than one hundred dollars nor more than two hundred fifty dollars, imprisoned for not more than ten days, or both. Imposition or execution of the sentence shall not be suspended unless the offender is placed on probation with a minimum condition that he perform two eight-hour days of court-approved community service.

(b) For a second offense in violation of Paragraph (A)(2) of this Section, the offender shall be fined not less than two hundred fifty dollars nor more than five hundred dollars, imprisoned for not less than ten days nor more than thirty days, or

both. Imposition or execution of the sentence shall not be suspended unless the offender is placed on probation with a minimum condition that he perform five eight-hour days of court-approved community service.

(c) For a third or any subsequent offense in violation of Paragraph (A)(2) of this Section, the offender shall be fined not less than five hundred dollars nor more than seven hundred fifty dollars, imprisoned for not less than thirty days nor more than six months, or both. Imposition or execution of the sentence shall not be suspended unless the offender is placed on probation with a minimum condition that he perform ten eight-hour days of court-approved community service.

RS 14:81.2 — Molestation of a juvenile or a person with a physical or mental disability

ous act upon the person or in the presence of any child under

the age of seventeen, where there is an age difference of greater than two years between the two persons, with the intention of arousing or gratifying the sexual desires of either person, by the use of force, violence, duress, menace, psychological intimidation, threat of great bodily harm, or by the use of influence by virtue of a position of control or supervision over the juvenile. Lack of knowledge of the juvenile's age shall not be a defense.

(2) Molestation of a person with a physical or mental disability is the commission by anyone over the age of seventeen of any lewd or lascivious act upon the victim or in the presence of any victim with the intention of arousing or gratifying the sexual desires of either person, by the use of force, violence, duress, menace, psychological intimidation, threat of great bodily harm, or by the use of influence by virtue of a position of control or supervision over the victim, when any of the following conditions exist:

(a) The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability.

(b) The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.

(c) The victim is sixty-five years of age or older.

B.(1) Whoever commits the crime of molestation of a juvenile, when the victim is thirteen years of age or older but has not yet attained the age of seventeen, shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not less than five nor more than ten years, or both. The defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

(2) Whoever commits the crime of molestation of a juvenile, when the victim is thirteen years of age or older but has not yet attained the age of seventeen, and when the offender has control or supervision over the juvenile, shall be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not less than ten years nor more than twenty years, or both. The defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with Code of Criminal Procedure Article 893.

(3)(a) Whoever commits the crime of molestation of a juvenile, when the victim is thirteen years of age or older but has not yet attained the age of seventeen, and when the offender is in a position of supervision or entrusted with a supervisory role of the juvenile that includes but is not limited to a religious, charitable, scientific, educational, athletic, or youth-serving purpose or is an educator of the juvenile, shall be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not less than ten years nor

more than forty years, or both. At least ten years of the sentence imposed shall be without the benefit of parole, probation, or suspension of sentence, and the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with Code of Criminal Procedure Article 893.

(b) For purposes of this Subsection, "educator" means any teacher or instructor, administrator, staff person, or employee of any public or private elementary, secondary, vocational-technical training, special, or postsecondary school or institution, including any teacher aide, paraprofessional, school bus driver, food service worker, and other clerical, custodial, or maintenance personnel employed by a private, city, parish, or other local public school board.

C.(1) Whoever commits the crime of molestation of a juvenile by violating the provisions of Paragraph (A)(1) of this Section, when the incidents of molestation recur during a period of more than one year, shall, on first conviction, be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not less than five nor more than forty years, or both. At least five years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence. After five years of the sentence have been served, the offender, who is otherwise eligible, may be eligible for parole if a licensed psychologist, medical psychologist, or a licensed clinical social worker or a board-certified psychiatrist, after psychological examination, including testing, approves.

(2) Conditions of parole shall include treatment in a qualified sex offender program for a minimum of five years, or until expiration of sentence, whichever comes first. The state shall be responsible for the cost of testing, but the offender shall be responsible for the cost of the treatment program. It shall also be a condition of parole that the offender be prohibited from being alone with a child without the supervision of another adult.

(3) For purposes of this Subsection, a "qualified sex offender program" means one which includes both group and individual therapy and arousal reconditioning. Group therapy shall be conducted by two therapists, one male and one female, at least one of whom is licensed as a psychologist or medical psychologist or is board certified as a psychiatrist or clinical social worker.

D.(1) Whoever commits the crime of molestation of a juvenile when the victim is under the age of thirteen years shall be imprisoned at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

(2) Whoever commits the crime of molestation of a person with a physical or mental disability shall be imprisoned at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

(3) Upon completion of the term of imprisonment imposed in accordance with Paragraphs (1) and (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(4) Unless it is determined by the Department of Public Safety and Corrections,

pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(5) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that, sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

E. Repealed by Acts 2020, No. 352, §2.

RS 14:81.3 — Computer-aided solicitation of a minor

ugh the use of electronic

textual communication, with a person who has not yet attained the age of seventeen where there is an age difference of greater than two years, or a person reasonably believed to have not yet attained the age of seventeen and reasonably believed to be at least two years younger, for the purpose of or with the intent to persuade, induce, entice, or coerce the person to engage or participate in sexual conduct or a crime of violence as defined in R.S. 14:2(B), or with the intent to engage or participate in sexual conduct in the presence of the person who has not yet attained the age of seventeen, or person reasonably believed to have not yet attained the age of seventeen.

(2) It shall also be a violation of the provisions of this Section when a person seventeen years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen where there is an age difference of greater than two years, or a person reasonably believed to have not yet attained the age of seventeen and reasonably believed to be at least two years younger, for the purpose of or with the intent to arrange for any third party to engage in any of the conduct proscribed by the provisions of Paragraph (1) of this Subsection.

(3) It shall also be a violation of the provisions of this Section when a person seventeen years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen, or a person reasonably believed to have not yet attained the age of seventeen, for the purpose of recruiting, enticing, or coercing the person to engage in commercial sexual activity.

(4) It shall also be a violation of the provisions of this Section when the contact or communication is initially made through the use of electronic textual communication and subsequent communication is made through the use of any other form of communication.

(5) It shall also be a violation of the provisions of this Section when a person seventeen years of age or older knowingly uses another individual who is seventeen years of age or older to contact or communicate with a person who has not yet attained the age of seventeen and there is an age difference of greater than two years between the person contacted and the offender or a person reasonably believed to have not yet attained the age of seventeen and reasonably believed to be at least two years younger than the offender, for the purpose of or with the intent to engage in any of the conduct proscribed by Paragraph (1) of this Subsection.

B.(1)(a) Whoever violates the provisions of this Section when the victim is thirteen years of age or more but has not attained the age of seventeen shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than five years nor more than ten years, without benefit of parole, probation, or suspension of sentence.

(b) Whoever violates the provisions of this Section when the victim is under thirteen years of age shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than ten years nor more than twenty years, without benefit of parole, probation, or suspension of sentence.

(c) Whoever violates the provisions of this Section, when the victim is a person reasonably believed to have not yet attained the age of seventeen, shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than two years nor more than ten years, without benefit of parole, probation, or suspension of sentence.

(d) If the computer-aided solicitation results in actual sexual conduct between the offender and victim and the difference between the age of the victim and the age of the offender is five years or greater, the offender shall be fined not more than ten thousand dollars and shall be imprisoned, with or without hard labor, for not less than seven years nor more than ten years.

(2) On a subsequent conviction, the offender shall be imprisoned for not less than ten years nor more than twenty years at hard labor without benefit of parole, probation, or suspension of sentence.

(3) In addition to the penalties imposed in either Paragraph (1) or (2) of this Subsection, the court may impose, as an additional penalty on the violator, the limitation or restriction of access to the Internet when the Internet was used in the commission of the crime.

(4) Repealed by Acts 2020, No. 352, §2.

C.(1) It shall not constitute a defense to a prosecution brought pursuant to this Section that the person reasonably believed to be under the age of seventeen is actually a law enforcement officer or peace officer acting in his official capacity.

(2) It shall not be a defense to prosecution for a violation of this Section that the juvenile consented to participation in the activity prohibited by this Section.

D. For purposes of this Section, the following words have the following meanings:

(1) "Coerce" shall include but not be limited to any of the following:

(a) Causing or threatening to cause serious bodily injury.

(b) Physically restraining or threatening to physically restrain another person.

- (c) Abduction or threatened abduction of an individual.
- (d) The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of an individual.
- (e) The abuse or threatened abuse of law or legal process.
- (f) The actual or threatened destruction, concealment, removal, confiscation, or possession of any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.
- (g) Controlling or threatening to control an individual's access to a controlled dangerous substance as set forth in R.S. 40:961 et seq.
- (h) The use of an individual's physical or mental impairment, where such impairment has substantial adverse effects on the individual's cognitive or volitional functions.
- (i) The use of debt bondage or civil or criminal fraud.
- (j) Extortion as defined in R.S. 14:66.
- (2) "Debt bondage" means inducing an individual to provide any of the following:
 - (a) Commercial sexual activity in payment toward or satisfaction of a real or purported debt.
 - (b) Labor or services in payment toward or satisfaction of a real or purported debt if either of the following occur:
 - (i) The reasonable value of the labor or services provided is not applied toward the liquidation of the debt.
 - (ii) The length of the labor or services is not limited and the nature of the labor or services is not defined.
- (3) "Electronic textual communication" means a textual communication made through the use of a computer on-line service, Internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or on-line messaging service.
- (4) "Labor or services" means activity having economic value.
- (5) "Sexual conduct" means actual or simulated sexual intercourse, deviant sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, lewd exhibition of the genitals, or any lewd or lascivious act.

E. The provisions of this Section shall not apply to the transference of such images by a telephone company, cable television company, or any of its affiliates, an Internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial online services.

F. An offense committed under this Section may be deemed to have been committed where the electronic textual communication was originally sent, originally received, or originally viewed by any person, or where any other element of the offense was committed.

G, H. Repealed by Acts 2020, No. 352, §2.

I. A violation of the provisions of this Section shall be considered a sex offense as defined in R.S. 15:541. Whoever commits the crime of computer-aided solicitation of a

minor shall be required to register as a sex offender as provided for in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

RS 14:81.4 — Prohibited sexual conduct between educator and student

An educator has sexual intercourse with a person who is seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, when the victim is not the spouse of the offender and is a student at the school where the educator is assigned, employed, or working at the time of the offense.

(2) An educator commits any lewd or lascivious act upon a student or in the virtual or physical presence of a student who is seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, with the intention of gratifying the sexual desires of either person, when the victim is a student at the school in which the educator is assigned, employed, or working at the time of the offense.

(3) An educator intentionally engages in the touching of the anus or genitals of a student seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, using any instrumentality or any part of the body of the educator, or the touching of the anus or genitals of the educator by a person seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, when the victim is a student at the school in which the educator is assigned, employed, or working at the time of the offense using any instrumentality or any part of the body of the student.

B. As used in this Section:

(1) "Educator" means any administrator, coach, instructor, paraprofessional, student aide, teacher, or teacher aide at any public or private school, assigned, employed, or working at the school or school system where the victim is enrolled as a student on a full-time, part-time, or temporary basis.

(2) "School" means a public or nonpublic elementary or secondary school or learning institution which shall not include universities and colleges.

(3) "Sexual intercourse" means anal, oral, or vaginal sexual intercourse. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

(4) "Student" includes students enrolled in a school who are seventeen years of age or older, but less than twenty-one years of age.

(5) "Virtual" means carried out, accessed, or stored by means of a computer or the exchange of digital media over any network.

C. The consent of a student, whether or not that student is seventeen years of age or older, shall not be a defense to any violation of this Section.

D. Lack of knowledge of the student's age shall not be a defense.

E.(1) Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(2) For a second or subsequent offense, an offender may be fined not more than five thousand dollars and shall be imprisoned, with or without hard labor, for not less than one

year nor more than five years.

F. Notwithstanding any claim of privileged communication, any educator having cause to believe that prohibited sexual conduct between an educator and student shall immediately report such conduct to a local or state law enforcement agency.

G. No cause of action shall exist against any person who in good faith makes a report, cooperates in any investigation arising as a result of such report, or participates in judicial proceedings arising out of such report, and such persons shall have immunity from civil or criminal liability that otherwise might be incurred or imposed. This immunity shall not be extended to any person who makes a report known to be false or with reckless disregard for the truth of the report.

H. In any action to establish damages against a defendant who has made a false report of prohibited sexual conduct between an educator and student, the plaintiff shall bear the burden of proving that the defendant who filed the false report knew the report was false or that the report was filed with reckless disregard for the truth of the report. A plaintiff who fails to meet the burden of proof set forth in this Subsection shall pay all court costs and attorney fees of the defendant.

RS 14:81.5 — Unlawful possession of videotape of protected persons under R.S. 15:440.1 et seq.

copy any films, recordings, videotapes, audio tapes, or other visual, audio, or written reproductions, of any recording of videotapes of protected persons provided in R.S. 15:440.1 through 440.6.

B. For purposes of this Section, "videotape" means the visual recording on a magnetic tape, film, videotape, compact disc, digital versatile disc, digital video disc, audio tape, written visual or audio reproduction or by other electronic means together with the associated oral record.

C. The provisions of this statute shall not apply to persons acting pursuant to a court order or exempted by R.S. 15:440.5 or by persons who in the course and scope of their employment are in possession of the videotape, including the office of community services, any law enforcement agency or its authorized agents and personnel, the office of the district attorney and its assistant district attorneys and authorized personnel, and the agency or organization producing the videotape, including Children Advocacy Centers.

D. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:81.5.1 — Unlawful posting; records of certain hearings of the Board of Pardons and

written, or visual recording of any testimony presented by a victim, or the spouse or next of kin of a deceased victim, during an executive session of the Board of Pardons and committee on parole and to transfer such recording by the use of a computer online service, internet service, or any other means of electronic communication. Such service or communication shall include but not be limited to a local bulletin board service, internet chat room, electronic mail, or online messaging service.

B. The provisions of this Section shall not prohibit any of the following from requesting and obtaining a copy of the recording:

- (1) The defendant.
- (2) The lawyer or legal representative of the defendant.
- (3) The victim, or spouse or next of kin of a deceased victim.
- (4) The legal guardian of the victim.
- (5) Any person who has been granted authorization pursuant to R.S. 15:574.12.1.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:81.6 — Possessing, trafficking, or importing a child sex doll; reporting doll.

(2) A person commits the crime of trafficking a child sex doll by knowingly manufacturing, distributing, selling, transferring, offering to sell, advertising, providing, shipping, delivering for shipment, offering to deliver for shipment, or possessing with the intent to manufacture, distribute, sell, ship, or transfer a child sex doll.

(3) A person commits the crime of importing a child sex doll by knowingly transporting or causing to be transported a child sex doll into this state by any means with the intent to distribute, sell, or transfer the child sex doll to another, whether or not the person has taken actual possession of the child sex doll.

B. For purposes of this Section, "child sex doll" means an anatomically correct doll, mannequin, or robot that both:

(1) Has the features of or features that resemble those of an infant or a child under eighteen years of age.

(2) Is intended to be used for sexual stimulation or gratification.

C. In a prosecution for a violation of Paragraph (A)(2) of this Section, the possession of two or more child sex dolls creates a rebuttable presumption that a person intends to commit trafficking of a child sex doll.

D. This Section shall not apply to a common carrier transporting a container with a child sex doll if the common carrier does not have actual knowledge of the container's contents.

E.(1) Whoever violates the provisions of Paragraph (A)(1) of this Section upon conviction shall be imprisoned at hard labor for not more than one year, fined not more than five thousand dollars, or both.

(2) Whoever violates the provisions of Paragraph (A)(2) of this Section upon conviction shall be imprisoned at hard labor for not less than six months nor more than one year, fined not more than ten thousand dollars, or both.

(3) Whoever violates the provisions of Paragraph (A)(3) of this Section upon conviction shall be imprisoned at hard labor for not less than one year nor more than two years, fined not more than twenty thousand dollars, or both.

F. No later than December 31, 2024, and no later than the thirty-first of December of each year thereafter, the court of conviction shall report each conviction pursuant to this Section to the judicial administrator's office of the Louisiana Supreme Court, which shall no later than January 31, 2025, and no later than the thirty-first of January of each year thereafter, submit a report to the governor, the president of the Senate, and the speaker of the House of Representatives that lists, by parish, the total number of persons who have been convicted of a violation of this Section in the preceding year.

RS 14:82 — Prostitution; definition; penalties; enhancement

(2) The solicitation by one person of another with the intent to engage in indiscriminate sexual intercourse with the latter for compensation.

B. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

C.(1) Whoever commits the crime of prostitution shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

(2) On a second conviction, the offender shall be fined not less than two hundred fifty dollars nor more than two thousand dollars or be imprisoned, with or without hard labor, for not more than two years, or both.

(3) On a third and subsequent conviction, the offender shall be imprisoned, with or without hard labor, for not more than four years and shall be fined not less than five hundred dollars nor more than four thousand dollars.

(4) Whoever commits the crime of prostitution with a person under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(5) Whoever commits the crime of prostitution with a person under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

D. Any offense under this Section committed more than five years prior to the commission of the offense with which the defendant is charged shall not be considered in the assessment of penalties under this Section.

E. If the offense occurred as a result of a solicitation by the offender while the offender was located on a public road or highway, or the sidewalk, walkway, or public servitude thereof, the court shall sentence the offender to imprisonment for a minimum of ninety days. If a portion of the sentence is suspended, the court may place the offender upon supervised probation if the offender agrees, as a condition of probation, to perform two hundred forty hours of community service work collecting or picking up litter and trash on the public roads, streets, and highways, under conditions specified by the court.

F. All persons who are convicted of the offense of prostitution shall be referred to the parish health unit for counseling concerning Acquired Immune Deficiency Syndrome. The counseling shall be provided by existing staff of the parish health unit whose duties include such counseling.

G.(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

RS 14:82.1 — Prostitution; persons under eighteen; additional offenses

person under the age of eighteen who is practicing prostitution, and there is an age difference of greater than two years between the two persons.

(2) For any parent or tutor of any person under the age of eighteen knowingly to consent to the person's entrance or detention in the practice of prostitution.

B.(1) Lack of knowledge of the age of the person practicing prostitution shall not be a defense.

(2) It shall not be a defense to prosecution for a violation of this Section that the person practicing prostitution consented to the activity prohibited by this Section.

C. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

D.(1) Whoever violates the provisions of Paragraph (A)(1) of this Section shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(2) Whoever violates the provisions of Paragraph (A)(1) of this Section when the person practicing prostitution is under the age of fourteen shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both. Twenty-five years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence.

(3)(a) Whoever violates the provisions of Paragraph (A)(2) of this Section shall be required to serve at least five years of the sentence imposed in Paragraph (1) of this Subsection without benefit of parole, probation, or suspension of sentence.

(b) Whoever violates the provisions of Paragraph (A)(2) of this Section when the person practicing prostitution is under the age of fourteen shall be required to serve at least ten years of the sentence imposed in Paragraph (2) of this Subsection without benefit of parole, probation, or suspension of sentence.

(4) Repealed by Acts 2020, No. 352, §2.

E. It shall not be a defense to prosecution for a violation of this Section that the person practicing prostitution who is believed to be under the age of eighteen is actually a law enforcement officer or peace officer acting within the official scope of his duties.

F. Any person determined to be a victim of this offense shall be eligible for specialized services for sexually exploited children.

RS 14:82.2 — Purchase of commercial sexual activity; penalties

gage in sexual intercourse with a person who receives or agrees to receive anything of value as compensation for such activity.

B. For purposes of this Section, "sexual intercourse" means anal, oral, or vaginal intercourse or any other sexual activity constituting a crime pursuant to the laws of this state.

C.(1) Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both. One-half of the fines collected pursuant to this Paragraph shall be distributed in accordance with R.S. 15:539.4.

(2) On a second conviction, the offender shall be fined not less than one thousand five hundred dollars nor more than two thousand dollars or be imprisoned, with or without

hard labor, for not more than two years, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(3) On a third and subsequent conviction, the offender shall be imprisoned, with or without hard labor, for not less than two nor more than four years and shall be fined not less than two thousand five hundred dollars nor more than four thousand dollars and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(4) Whoever violates the provisions of this Section with a person the offender knows to be under the age of eighteen years, or with a person the offender knows to be a victim of human trafficking as defined by R.S. 14:46.2 or trafficking of children for sexual purposes as defined by R.S. 14:46.3, shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, with at least five years being served without benefit of probation, parole, or suspension of sentence. One-half of the fines collected pursuant to this Paragraph shall be distributed in accordance with R.S. 15:539.4.

(5) Whoever violates the provisions of this Section with a person the offender knows to be under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both, with at least ten years being served without benefit of probation, parole, or suspension of sentence. One-half of the fines collected pursuant to this Paragraph shall be distributed in accordance with R.S. 15:539.4.

D. In addition to the penalties provided for in Subsection C of this Section, the court shall order the offender to complete the Buyer Beware Program, as provided for in R.S. 15:243, to educate the offender about the harms, exploitation, and negative effects of prostitution. The court shall impose additional court costs in the amount of two hundred dollars to defer the costs of the program.

E.(1) Any child under the age of eighteen determined to be a victim of this offense shall be eligible for specialized services for sexually exploited children.

(2) Any person, eighteen years of age or older, determined to be a victim of this offense shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

F. It shall not be a defense to prosecution for a violation of this Section that the person who receives or agrees to receive anything of value is actually a law enforcement officer or peace officer acting within the official scope of his duties.

RS 14:83 — Soliciting for prostitutes

tution.

B.(1)(a) Whoever commits the crime of soliciting for prostitutes shall be fined not more than seven hundred fifty dollars, imprisoned for not more than six months, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(b) Whoever commits a second or subsequent offense for the crime of soliciting for prostitutes shall be fined not less than one thousand five hundred dollars nor more than two thousand dollars, imprisoned, with or without hard labor, for not more than one year, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(2) Whoever commits the crime of soliciting for prostitutes when the person being solicited is under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, with at least five years being served without benefit of probation, parole, or suspension of sentence. One-half of the fines collected pursuant to this Paragraph shall be distributed in accordance with R.S. 15:539.4.

(3) Whoever commits the crime of soliciting for prostitutes when the person being solicited is under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both, with at least ten years being served without benefit of probation, parole, or suspension of sentence. One-half of the fines collected pursuant to this Paragraph shall be distributed in accordance with R.S. 15:539.4.

(4) In addition to the penalties provided for in this Subsection, the court shall order the offender to complete the Buyer Beware Program, as provided for in R.S. 15:243, to educate the offender about the harms, exploitation, and negative effects of prostitution. In furtherance of the administration of justice in the judicial district and to prevent future recidivism, the court shall impose additional court costs in the amount of two hundred dollars to defer the costs of the program, with the proceeds of the fine being paid to the operator of the Buyer Beware Program as provided for in R.S. 15:243.

(5) Repealed by Acts 2020, No. 352, §2.

C.(1) Any child who is identified to be a victim of the crime of soliciting for prostitutes shall be referred and be eligible for specialized services for victims of human trafficking pursuant to R.S. 14:46.2 or trafficking of children for sexual purposes pursuant to R.S. 14:46.3. In accordance with R.S. 14:46.3(E), no victim of trafficking of children for sexual purposes shall be prosecuted for a violation of this Section if such violation is committed as a direct result of being trafficked.

(2) Any other person who is eighteen years of age or older who is identified as a victim of the crime of soliciting for prostitutes shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

RS 14:83.1 — Inciting prostitution

which include prostitution, regardless

of what portion of the fee is actually for the prostitution services,

(2) When the person knows or when a reasonable person in such a position should know that such aiding, abetting, or assisting is for prostitution, and

(3) When the proceeds or profits are to be in any way divided by the prostitute and the person aiding, abetting, or assisting the prostitute.

B.(1) Whoever commits the crime of inciting prostitution shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

(2) Whoever commits the crime of inciting prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, with at least five years being

served without benefit of probation, parole, or suspension of sentence.

(3) Whoever commits the crime of inciting prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both, with at least ten years being served without benefit of probation, parole, or suspension of sentence.

(4) Repealed by Acts 2020, No. 352, §2.

RS 14:83.2 — Promoting prostitution

for services

which include prostitution, regardless of what portion of the fee is actually for the prostitution services.

B.(1) Whoever commits the crime of promoting prostitution shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

(2) Whoever commits the crime of promoting prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, with at least five years being served without benefit of probation, parole, or suspension of sentence.

(3) Whoever commits the crime of promoting prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both, with at least ten years being served without benefit of probation, parole, or suspension of sentence.

(4) Repealed by Acts 2020, No. 352, §2.

RS 14:83.3 — Prostitution by massage

instrumental manipulation, touching with the hands, or other bodily contact exclusive of sexual intercourse or unnatural carnal copulation, when done for money.

B. As used in this Section, the terms:

(1) "Masseur" means a male who practices massage or physiotherapy, or both.

(2) "Masseuse" means a female who practices massage or physiotherapy, or both.

C. Whoever commits the crime of prostitution by massage shall be fined not more than five hundred dollars or imprisoned not more than six months, or both.

D.(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

RS 14:83.4 — Massage; sexual conduct prohibited

in an erotic manner, to:

(1) Expose, touch, caress, or fondle the genitals, anus, or pubic hairs of any person or the nipples of the female breast; or

(2) To perform any acts of sadomasochistic abuse, flagellation, or torture in the context of sexual conduct.

B. Whoever violates this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

C.(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

RS 14:84 — Pandering

e of prostitution, either by force, threats, promises, or by any other device or scheme.

(2) Maintaining a place where prostitution is habitually practiced.

(3) Detaining any person in any place of prostitution by force, threats, promises, or by any other device or scheme.

(4) Receiving or accepting by a person as a substantial part of support or maintenance anything of value which is known to be from the earnings of any person engaged in prostitution.

(5) Consenting, on the part of any parent or tutor of any person, to the person's entrance or detention in the practice of prostitution.

(6) Transporting any person from one place to another for the purpose of promoting the practice of prostitution.

B.(1) Whoever commits the crime of pandering shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

(2) Whoever commits the crime of pandering involving the prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, with at least five years being served without benefit of probation, parole, or suspension of sentence.

(3) Whoever commits the crime of pandering involving the prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both, with at least ten years being served without benefit of probation, parole, or suspension of sentence.

(4) Repealed by Acts 2020, No. 352, §2.

RS 14:85 — Letting premises for prostitution

ctice of prostitution, or allowing

the continued use of the premises with such knowledge.

B.(1) Whoever commits the crime of letting premises for prostitution shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Whoever commits the crime of letting premises for prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at

hard labor for not less than fifteen years nor more than fifty years, or both, with at least five years being served without benefit of probation, parole, or suspension of sentence.

(3) Whoever commits the crime of letting premises for prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both, with at least ten years being served without benefit of probation, parole, or suspension of sentence.

(4) Repealed by Acts 2020, No. 352, §2.

RS 14:86 — Enticing persons into prostitution

Entrance of any other person

under the age of twenty-one into the practice of prostitution, either by force, threats, promises, or by any other device or scheme. Lack of knowledge of the other person's age shall not be a defense.

B.(1) Whoever commits the crime of enticing persons into prostitution shall be imprisoned, with or without hard labor, for not less than two years nor more than ten years.

(2) Whoever commits the crime of enticing persons into prostitution when the person being enticed into prostitution is under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, with at least five years being served without benefit of probation, parole, or suspension of sentence.

(3) Whoever commits the crime of enticing persons into prostitution when the person being enticed into prostitution is under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both, with at least ten years being served without benefit of probation, parole, or suspension of sentence.

C.(1) It shall not be a defense to prosecution for a violation of this Section that the person being enticed is actually a law enforcement officer or peace officer acting in his official capacity.

(2) It shall not be a defense to prosecution for a violation of this Section that the person being enticed consented to the activity.

RS 14:87 — Repealed by Acts 2022, No. 545, §4.

aton Rouge, Louisiana 70804-9062

RS 14:87.1 — Definitions

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meanings:

(1)(a) "Abortion" or "induced abortion" means the performance of any act with the intent to terminate a clinically diagnosable pregnancy with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child, whether or not the child survives, by one or more of the following means:

(i) Administering, prescribing, or providing any abortion-inducing drug, potion, medicine, or any other substance, device, or means to a pregnant female.

- (ii) Using an instrument or external force on a pregnant female.
- (b) Abortion shall not mean any one or more of the following acts, if performed by a physician:
 - (i) A medical procedure performed with the intention to save the life or preserve the health of an unborn child.
 - (ii) The removal of a dead unborn child or the inducement or delivery of the uterine contents in case of a positive diagnosis, certified in writing in the woman's medical record along with the results of an obstetric ultrasound test, that the pregnancy has ended or is in the unavoidable and untreatable process of ending due to spontaneous miscarriage, also known in medical terminology as spontaneous abortion, missed abortion, inevitable abortion, incomplete abortion, or septic abortion.
 - (iii) The removal of an ectopic pregnancy.
 - (iv) The use of methotrexate to treat an ectopic pregnancy.
 - (v) The performance of a medical procedure necessary in good faith medical judgment or reasonable medical judgment to prevent the death or substantial risk of death to the pregnant woman due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of her unborn child in a manner consistent with reasonable medical practice.
 - (vi) The removal of an unborn child who is deemed to be medically futile. The diagnosis shall be a medical judgment certified by two qualified physicians and recorded in the woman's medical record. The medical procedure shall be performed in a licensed ambulatory surgical center or hospital. Upon the completion of the procedure, the physician shall submit an individual abortion report consistent with R.S. 40:1061.21 that includes appropriate evidence of the certified diagnosis.
- (2)(a) "Abortion-inducing drug" means any drug or chemical, or any combination of drugs or chemicals, or any other substance when used with the intent to cause an abortion, including but not limited to RU-486, the Mifeprex regimen, misoprostol (Cytotec), or methotrexate.
- (b) Abortion-inducing drug shall not mean a contraceptive, an emergency contraceptive, or the use of methotrexate to treat an ectopic pregnancy.
- (3) "Bona fide medical reason" means a medical condition which is recognized by any medical licensing board as a standard of care, except that "bona fide medical reason" shall not include abortion, as defined in this Section.
- (4) "Clinically diagnosable pregnancy" means a pregnancy that is capable of being verified by one of the following conventional medical testing methods, whether or not any testing was in fact performed by any person:
 - (a) A blood or urine test, whether used at home or in a medical setting, that tests for the human pregnancy hormone known as human chorionic gonadotropin (hCG) that medically indicates that implantation has occurred.
 - (b) An ultrasound examination.

- (5) "Conception" or "fertilization" means the fusion of a human spermatozoon with a human ovum.
- (6) "Contraceptive" means any device, measure, drug, chemical, or product, including single-ingredient levonorgestrel, that has been approved by the United States Food and Drug Administration for the purpose of preventing pregnancy and is intended to be administered prior to the time when a clinically diagnosable pregnancy can be determined, provided that the contraceptive is sold, prescribed, or administered in accordance with manufacturer's instructions.
- (7) "Dismembered" or "dismemberment" means the use of a clamp, forceps, curette, suction cannula, or any other surgical tool or instrument with the intent to disarticulate the head or limbs from the body of the unborn child during an abortion, including but not limited to the common abortion methods known as suction curettage and dilation and evacuation.
- (8) "Emergency contraceptive" means a drug, chemical, or product, including but not limited to single-ingredient levonorgestrel or ulipristal, that has been approved by the United States Food and Drug Administration designed or intended to be taken after sexual intercourse but prior to the time when a clinically diagnosable pregnancy can be determined, provided that the emergency contraceptive is sold, prescribed, or administered in accordance with manufacturer's instructions or is prescribed in accordance with the standard of care that is generally accepted by the American College of Obstetricians and Gynecologists.
- (9) "Fertilization" means the fusion of a human spermatozoon with a human ovum.
- (10) "Fetal body part" means a cell, tissue, organ, or other part of an unborn child who is aborted by an induced abortion.
- (11) "Fetal heartbeat" means cardiac activity or the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac.
- (12) "Genetic abnormality" means any defect, disease, or disorder that is inherited genetically. The term includes, without limitation, any physical disfigurement, scoliosis, dwarfism, Down syndrome, albinism, amelia, and any other type of physical, mental, or intellectual disability, abnormality, or disease.
- (13) "Gestational age" means the age of the unborn child as measured by the time elapsed since the first day of the last menstrual period as determined by a physician and confirmed through the use of an ultrasound test of a quality generally used in existing medical practice.
- (14) "Good faith medical judgment" or "reasonable medical judgment" means a physician's use of reasonable care and diligence, along with his best judgment, in the application of his skill. The standard of care required of every healthcare provider, in rendering professional services or health care to a patient, shall be to exercise that degree of skill ordinarily employed, under similar circumstances, by the members of his profession in good standing in the same community or locality.
- (15) "Infant" means the offspring of human parents from the moment of live birth, regardless of the duration of gestation in the womb prior to live birth.
- (16) "Late term abortion" means the performance of an abortion when the gestational age of the unborn child is fifteen weeks or more.

(17) "Live birth", "born alive", or "live born human being" means a member of the species homo sapiens that is expelled or extracted from its mother, at any stage of development, who after that expulsion or extraction breathes or shows signs of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.

(18) "Medical emergency" means the existence of any physical condition, not including any emotional, psychological, or mental condition, within the reasonable medical judgment of a reasonably prudent physician, with knowledge of the case and treatment possibilities with respect to the medical conditions involved, would determine necessitates the immediate abortion of the pregnancy to avert the pregnant woman's death or to avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy.

(19)(a) "Medically futile" means that, in reasonable medical judgment as certified by two physicians, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth.

(b) The Louisiana Department of Health shall promulgate, in accordance with the Administrative Procedure Act, administrative rules establishing an exclusive list of anomalies, diseases, disorders, and other conditions which shall be deemed "medically futile" for purposes of this Subpart. The rules may also encompass diagnostic methods and standards by which a medically futile condition may be diagnosed, including but not limited to tests that are appropriate to the developmental stage and the condition of the unborn child.

(20) "Miscarriage" or "stillbirth" means the spontaneous or accidental death of an unborn child, whether the death occurred in the womb or in the process of birth. Death of the unborn child is indicated by the lack of signs of breathing or any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(21) "Partial birth abortion" means an abortion in which:

(a) The person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus.

(b) The person performing the abortion performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

(22) "Physician" means a person licensed to practice medicine in the state of Louisiana.

(23) "Pregnant" means that female reproductive condition of having a developing embryo or fetus in the uterus which commences at fertilization and implantation.

(24) "Receive a fetal organ" means acquiring any fetal organ or fetal body part, or the rights to any fetal organ or fetal body part, through an act of donation or sale via any

transaction prohibited by this Subpart.

(25) "Serious bodily injury" shall have the same meaning as defined in R.S. 14:2. For the purposes of this Section, "serious bodily injury" that includes the loss of an organ shall include a hysterectomy.

(26) "Serious health risk to the unborn child's mother" means that in reasonable medical judgment the mother has a condition that so complicates her medical condition that it necessitates the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions.

(27) "Unborn child", "unborn human being", or "fetus" shall have the same meaning as "unborn child" as defined in R.S. 14:2.

(28) "Viable" or "viability" means that stage of fetal development when, in the judgment of the physician based upon the particular facts of the case before the physician, and in light of the most advanced medical technology and information available to the physician, there is a reasonable likelihood of sustained survival of the unborn child outside the body of his mother, with or without artificial support.

(29) "Woman" or "mother" means a female human being, whether or not she has reached the age of majority.

RS 14:87.1.1 — Killing a child during delivery; penalties

state of being born and before actual birth,

which child would otherwise have been born alive; provided, however, that the crime of killing a child during delivery shall not be construed to include any case in which the death of a child results from the use by a physician of a procedure during delivery which is necessary to save the life of the child or of the mother and is used for the express purpose of and with the specific intent of saving the life of the child or of the mother.

B. Whoever commits the crime of killing a child during delivery shall be imprisoned at hard labor in the penitentiary for life.

RS 14:87.2 — Human experimentation on an infant born alive

laboratory research or any other

kind of experimentation or study except to protect or preserve the life and health of the live born human being, or the conduct, on a human embryo or fetus in utero, of any experimentation or study except to preserve the life or to improve the health of the human embryo or fetus.

B. Whoever commits the crime of human experimentation on an infant born alive shall be imprisoned at hard labor for not less than five nor more than twenty years, or fined not more than ten thousand dollars, or both.

RS 14:87.3 — Prohibited cutting, resection, excision, harvesting, removal, sale, receipt, research,

erson may knowingly and for money, including but not limited to fees for storage or handling, any payments for reimbursement, repayments, or compensation, or any other consideration:

(1) Buy, sell, receive, or otherwise transfer or acquire a fetal organ or body part

resulting from an induced abortion.

(2) Transport with the intent to sell or otherwise transfer a fetal organ or body part resulting from an induced abortion.

(3) Transport a fetal organ or body part resulting from an induced abortion that has been acquired by any person via any transaction prohibited by this Section.

B. Repealed by Acts 2022, No. 545, §4.

C. After an induced abortion has been completed, no person shall intentionally cut, resection, excise, harvest, or remove any body part, organ, or tissue of the aborted unborn child for any purpose prohibited by this Section, or for sale, commerce, transport, research, or profit.

D.(1) Nothing in this Section shall be construed to prohibit any transaction related to the final disposition of the bodily remains of the aborted human being in accordance with state law, or to prohibit any conduct permitted under state law that is undertaken with any of the following purposes:

(a) The purpose of providing knowledge solely to the mother, such as for pathological or diagnostic purposes.

(b) The purpose of providing knowledge solely to law enforcement officers, such as the case of an autopsy following a feticide.

(2) Nothing in this Section shall be construed to prohibit the donation of bodily remains from a human embryo or fetus whose death was caused by a natural miscarriage or stillbirth, in accordance with the guidelines and prohibitions provided in applicable state and federal law.

(3) Nothing in this Section shall be construed to affect existing federal or state law regarding the practice of abortion, or to create or recognize a right to abortion.

E. Any person who violates this Section shall be sentenced to a term of imprisonment at hard labor for not less than ten nor more than fifty years, at least ten years of which shall be served without benefit of probation or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand dollars.

F.(1) The Fetal Organ Whistleblower Account, hereinafter referred to as "the account", is hereby created in the state treasury.

(2) The account shall be composed of any monies derived from appropriations by the legislature and any gift, grant, devise, donation, or bequest of monies or properties of any nature or description.

(3) An award of one thousand dollars shall be paid out of the account to any person who provides evidence that results in the arrest and indictment of any other person for a violation of this Section. Eligibility for an award pursuant to this Subsection shall be determined by the district attorney or the attorney general, as appropriate.

(4) All monies deposited in the account shall be used solely to pay awards to persons as provided by Paragraph (3) of this Subsection and shall be paid by the state treasurer upon written order signed by the district attorney or the attorney general, as appropriate, except that monies deposited in the account may be used to pay reasonable costs of administering the account.

(5) The name and other identifying information of any person who is paid an award pursuant to this Subsection shall remain confidential.

RS 14:87.4 — Abortion advertising

the crime of abortion advertising shall be imprisoned, with or without hard labor, for not more than one year or fined not more than five thousand dollars, or both.

RS 14:87.5 — Intentional failure to sustain life and health of aborted viable infant

tentional failure to sustain the life and health of an aborted viable

infant is the intentional failure, by any physician or person performing or inducing an abortion, to exercise that degree of professional care and diligence, and to perform such measures as constitute good medical practice, necessary to sustain the life and health of an aborted viable infant, when the death of the infant results.

B. Any person who commits the crime of intentional failure to sustain the life and health of an aborted viable infant shall be imprisoned at hard labor for not more than twenty-one years.

RS 14:87.6 — Coerced abortion

a

pregnant woman to undergo an abortion against her will, whether or not the abortion procedure has been attempted or completed. For purposes of this Section, physical force, control, or intimidation shall mean any of the following:

- (1) Battery as defined in R.S. 14:33.
- (2) Assault as defined in R.S. 14:36.
- (3) Simple kidnapping as defined in R.S. 14:45.
- (4) False imprisonment as defined in R.S. 14:46.
- (5) Extortion as defined in R.S. 14:66.

B. Whoever commits the crime of coerced abortion shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

RS 14:87.6.1 — Coerced criminal abortion by means of fraud

ucing drug on a pregnant

woman, without her knowledge or consent, with the intent to cause an abortion.

B.(1) Except as provided in Paragraph (2) of this Subsection, whoever commits the crime of coerced criminal abortion by means of fraud shall be imprisoned at hard labor for not less than five nor more than ten years, fined not less than ten thousand nor more than seventy-five thousand dollars, or both.

(2) Whoever commits the crime of coerced criminal abortion by means of fraud when the unborn child is more than three months of gestational age shall be imprisoned at hard labor for not less than ten nor more than twenty years, fined not less than fifty thousand nor more than one hundred thousand dollars, or both.

C. The prosecution of a person pursuant to this Section shall not be a defense against the prosecution under any other provision of law, including murder or attempted murder, should the person commit the crime of coerced criminal abortion by means of fraud and the use of an abortion-inducing drug results in the death or serious bodily injury of the pregnant

woman.

RS 14:87.7 — Abortion

Section have the same meaning as the definitions provided in R.S. 14:87.1.

C. Whoever commits the crime of abortion shall be imprisoned at hard labor for not less than one year nor more than ten years and shall be fined not less than ten thousand dollars nor more than one hundred thousand dollars.

D. This Section does not apply to a pregnant female upon whom an abortion is committed or performed in violation of this Section, and the pregnant female shall not be held responsible for the criminal consequences of any violation of this Section.

E. This Section shall not apply to the sale, use, prescription, or administration of a contraceptive or an emergency contraceptive.

F. The provisions of this Section shall become effective immediately upon, and to the extent permitted by, the occurrence of any of the following circumstances:

- (1) Any decision of the Supreme Court of the United States which overrules, in whole or in part, *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby restoring to the state of Louisiana the authority to prohibit or limit abortion.
- (2) Adoption of an amendment to the United States Constitution which, in whole or in part, restores to the state of Louisiana the authority to prohibit or limit abortion.
- (3) A decision of the Supreme Court of the United States in the case of *Dobbs v. Jackson Women's Health Organization*, Docket No. 19-1392, which overrules, in whole or in part, *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby restoring to the state of Louisiana the authority to prohibit or limit abortion.

RS 14:87.8 — Late term abortion

ver commits the crime of late term abortion shall be imprisoned at hard labor for not less than one year nor more than fifteen years and shall be fined not less than twenty thousand dollars nor more than two hundred thousand dollars.

C. This Section does not apply to a pregnant female upon whom an abortion is committed or performed in violation of this Section, and the pregnant female shall not be held responsible for the criminal consequences of any violation of this Section.

D. This Section shall not apply to the sale, use, prescription, or administration of a contraceptive or an emergency contraceptive.

E. The provisions of this Section shall become effective immediately upon, and to the extent permitted by, the occurrence of any of the following circumstances:

- (1) Any decision of the Supreme Court of the United States which overrules, in whole or in part, *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby restoring to the state of Louisiana the authority to prohibit, limit, or regulate abortion.
- (2) Adoption of an amendment to the United States Constitution which, in whole or in part, restores to the state of Louisiana the authority to prohibit or limit abortion.
- (3) A decision of the Supreme Court of the United States in the case of *Dobbs v. Jackson Women's Health Organization*, Docket No. 19-1392, which overrules, in whole or in part, *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby restoring

to the state of Louisiana the authority to prohibit or limit abortion.

RS 14:87.9 — Criminal abortion by means of abortion-inducing drugs

ans of delivering, dispensing,

distributing, or providing a pregnant woman with an abortion-inducing drug.

B.(1) Any person who knowingly performs an abortion by means of an abortion-inducing drug in violation of this Section shall be imprisoned at hard labor for not less than one nor more than five years, fined not less than five thousand nor more than fifty thousand dollars, or both.

(2) Any person who knowingly performs an abortion by means of an abortion-inducing drug in violation of this Section that results in the death or serious bodily injury of the pregnant woman shall be imprisoned at hard labor for not less than five nor more than ten years, fined not less than ten thousand nor more than seventy-five thousand dollars, or both.

(3) Any person who knowingly performs or induces an abortion that results in the death or serious bodily injury of a pregnant woman under the age of eighteen in violation of this Section shall be imprisoned at hard labor for not less than fifteen nor more than fifty years, fined not less than fifteen thousand nor more than one hundred thousand dollars, or both.

C. None of the following shall be construed to create the crime of criminal abortion by means of an abortion-inducing drug:

(1) Any action taken when a physician or other licensed medical professional is acting in the course of administering lawful medical care.

(2) Any act taken or omission by a pregnant woman with regard to her own unborn child.

(3) Possessing for her own consumption or consuming an abortion-inducing drug by a pregnant woman in violation of this Section.

(4) Lawfully prescribing, dispensing, or distributing a drug, medicine, or other substance for a bona fide medical reason that is not intended to cause an abortion in violation of this Section.

(5)(a) The act of administering an abortion-inducing drug when the drug is administered by a physician licensed by the state of Louisiana who administers the abortion-inducing drug in person to the pregnant woman.

(b) The provisions of Subparagraph (a) of this Paragraph shall not be a defense against prosecution under any other provision of law that makes the abortion unlawful, whether the other provision of law is in effect on August 1, 2022, or becomes unlawful at a later date.

(6) Any act by a licensed pharmacist or pharmacy related to filling a prescription for a drug, medicine, or other substance prescribed for a bona fide medical reason shall not subject the pharmacist or the pharmacy to the criminal consequences of this Section. A diagnosis or a diagnosis code shall be written on the prescription by the prescriber indicating that the drug, medicine, or other substance is intended for a purpose other than to cause an abortion in violation of this Section.

RS 14:87.10 — Abortion by an unlicensed physician

an, that results in the death

of an unborn child when the abortion is performed by any individual who is not a physician licensed by the state of Louisiana.

B. Repealed by Acts 2022, No. 545, §4.

C. Any person who knowingly performs an abortion in violation of this Section shall be imprisoned at hard labor for not less than one nor more than five years, fined not less than five thousand nor more than fifty thousand dollars, or both.

D. None of the following shall be construed to create the crime of abortion by an unlicensed physician:

(1) Any action taken when a physician or other licensed medical professional is acting in the course of administering lawful medical care and an unborn child dies.

(2) Any act taken or omission by a pregnant woman with regard to her own unborn child.

E. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 14:87.11 — Aggravated abortion by dismemberment

smemberment was in the

course of or following the death of the unborn child.

B. Repealed by Acts 2022, No. 545, §4.

C. Any person who knowingly performs an abortion in violation of this Section shall be imprisoned at hard labor for not less than one nor more than ten years, fined not less than ten thousand nor more than one hundred thousand dollars, or both.

D. None of the following shall be construed to create the crime of aggravated abortion by dismemberment:

(1) Any action taken when a physician or other licensed medical professional is acting in the course of administering lawful medical care and an unborn child dies.

(2) Any act taken or omission by a pregnant woman with regard to her own unborn child.

RS 14:87.12 — Partial birth abortion

e than ten years,

fined not less than ten thousand nor more than one hundred thousand dollars, or both. This Section shall not apply to a partial birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

B. Repealed by Acts 2022, No. 545, §4.

C.(1) A defendant charged with an offense under this Section may seek a hearing before the Louisiana State Board of Medical Examiners on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. The report of the board shall be discoverable.

(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial

for not more than thirty days to permit such a hearing to take place.

D. A woman upon whom a partial birth abortion is performed shall not be subject to prosecution for a violation of this Section as a principal, accessory, or coconspirator thereto.

RS 14:89 — Crime against nature

sex, except that anal sexual intercourse between two human beings shall not be deemed as a crime against nature when done under any of the circumstances described in R.S. 14:41, 42, 42.1, or 43. Emission is not necessary; and, when committed by a human being with another, the use of the genital organ of one of the offenders of whatever sex is sufficient to constitute the crime.

(2) The marriage to, or sexual intercourse with, any ascendant or descendant, brother or sister, uncle or niece, aunt or nephew, with knowledge of their relationship. The relationship must be by consanguinity, but it is immaterial whether the parties to the act are related to one another by the whole or half blood. The provisions of this Paragraph shall not apply where one person, not a resident of this state at the time of the celebration of his marriage, contracted a marriage lawful at the place of celebration and thereafter removed to this state.

B.(1) Whoever commits the offense of crime against nature as defined by Paragraph

(A)(1) of this Section shall be fined not more than two thousand dollars, imprisoned, with or without hard labor, for not more than five years, or both.

(2) Whoever commits the offense of crime against nature as defined by Paragraph

(A)(1) of this Section with a person under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the offense of crime against nature as defined by Paragraph

(A)(1) of this Section with a person under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4) Whoever commits the offense of crime against nature as defined by Paragraph

(A)(2) of this Section, where the crime is between an ascendant and descendant, or between brother and sister, shall be imprisoned at hard labor for not more than fifteen years.

(5) Whoever commits the offense of crime against nature as defined by Paragraph

(A)(2) of this Section, where the crime is between uncle and niece, or aunt and nephew, shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

C.(1) It shall be an affirmative defense to prosecution for a violation of Paragraph

(A)(1) of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S.

14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of Paragraph

(A)(1) of this Section that, during the time of the alleged commission of the offense, the

defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

D. The provisions of Act No. 177 of the 2014 Regular Session and the provisions of Act No. 602 of the 2014 Regular Session incorporate the elements of the crimes of incest (R.S. 14:78) and aggravated incest (R.S. 14:78.1), as they existed prior to their repeal by these Acts, into the provisions of the crimes of crime against nature (R.S. 14:89) and aggravated crime against nature (R.S. 14:89.1), respectively. For purposes of the provisions amended by Act No. 177 of the 2014 Regular Session and Act No. 602 of the 2014 Regular Session, a conviction for a violation of R.S. 14:89(A)(2) shall be the same as a conviction for the crime of incest (R.S. 14:78) and a conviction for a violation of R.S. 14:89.1(A)(2) shall be the same as a conviction for the crime of aggravated incest (R.S. 14:78.1). Neither Act shall be construed to alleviate any person convicted or adjudicated delinquent of incest (R.S. 14:78) or aggravated incest (R.S. 14:78.1) from any requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication including but not limited to any requirements regarding sex offender registration and notification, parental rights, probation, parole, sentencing, or any other requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication.

E. Nothing in Act No. 485 of the 2018 Regular Session of the Legislature shall be construed to alleviate any person convicted or adjudicated delinquent of crime against nature (R.S. 14:89) from any requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication including but not limited to any requirements regarding sex offender registration and notification, parental rights, probation, parole, sentencing, or any other requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication.

RS 14:89.1 — Aggravated crime against nature

of the

following circumstances:

- (a) When the victim resists the act to the utmost, but such resistance is overcome by force.
- (b) When the victim is prevented from resisting the act by threats of great and immediate bodily harm accompanied by apparent power of execution.
- (c) When the victim is prevented from resisting the act because the offender is armed with a dangerous weapon.
- (d) When as a result of an intellectual or mental disability, or any unsoundness of mind, either temporary or permanent, the victim is incapable of giving consent and the offender knew or should have known of such incapacity.
- (e) When the victim is incapable of resisting or of understanding the nature of the act, by reason of stupor or abnormal condition of mind produced by a narcotic or anesthetic agent, administered by or with the privity of the offender; or when he has such incapacity, by reason of a stupor or abnormal condition of mind from any cause, and the offender knew

or should have known of such incapacity.

(f) When the victim is under the age of seventeen years and the offender is at least three years older than the victim.

(2)(a) The engaging in any prohibited act enumerated in Subparagraph (b) of this Paragraph with a person who is under eighteen years of age and who is known to the offender to be related to the offender as any of the following biological, step, or adoptive relatives: child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew, or niece.

(b) The following are prohibited acts under this Paragraph:

(i) Sexual intercourse, sexual battery, second degree sexual battery, carnal knowledge of a juvenile, indecent behavior with juveniles, child sexual abuse materials, molestation of a juvenile or a person with a physical or mental disability, crime against nature, cruelty to juveniles, parent enticing a child into prostitution, or any other involvement of a child in sexual activity constituting a crime under the laws of this state.

(ii) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child, the offender, or both.

(c) Consent shall not be a defense to prosecution for a violation of the provisions of this Paragraph.

B. Whoever commits the crime of aggravated crime against nature as defined by Paragraph (A)(1) of this Section shall be imprisoned at hard labor for not less than three nor more than fifteen years, such prison sentence to be without benefit of suspension of sentence, probation or parole.

C.(1) Whoever commits the crime of aggravated crime against nature as defined by Paragraph (A)(2) of this Section shall be fined an amount not to exceed fifty thousand dollars, or imprisoned, with or without hard labor, for a term not less than five years nor more than twenty years, or both.

(2) Whoever commits the crime of aggravated crime against nature as defined by Paragraph (A)(2) of this Section with a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Upon completion of the term of imprisonment imposed in accordance with Paragraph (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(4) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(5) The costs attributable to the electronic monitoring of an offender who has been

determined unable to pay shall be borne by the department if, and only to, the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

D.(1) In addition to any sentence imposed under Subsection C of this Section, the court shall, after determining the financial resources and future ability of the offender to pay, require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense.

(2) The amount, method, and time of payment shall be determined by the court either by ordering that documentation of the offender's financial resources and future ability to pay restitution and of the victim's pecuniary loss submitted by the victim be included in the presentence investigation and report, or the court may receive evidence of the offender's ability to pay and the victim's loss at the time of sentencing.

(3) The court may provide for payment to a victim up to but not in excess of the pecuniary loss caused by the offense. The offender may assert any defense that he could raise in a civil action for the loss sought to be compensated by the restitution order.

E. The provisions of Act No. 177 of the 2014 Regular Session and the provisions of the Act that originated as Senate Bill No. 333 of the 2014 Regular Session incorporate the elements of the crimes of incest (R.S. 14:78) and aggravated incest (R.S. 14:78.1), as they existed prior to their repeal by these Acts, into the provisions of the crimes of crime against nature (R.S. 14:89) and aggravated crime against nature (R.S. 14:89.1), respectively. For purposes of the provisions amended by Act No. 177 of the 2014 Regular Session and the Act that originated as Senate Bill No. 333 of the 2014 Regular Session, a conviction for a violation of R.S. 14:89(A)(2) shall be the same as a conviction for the crime of incest (R.S. 14:78) and a conviction for a violation of R.S. 14:89.1(A)(2) shall be the same as a conviction for the crime of aggravated incest (R.S. 14:78.1). Neither Act shall be construed to alleviate any person convicted or adjudicated delinquent of incest (R.S. 14:78) or aggravated incest (R.S. 14:78.1) from any requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication including but not limited to any requirements regarding sex offender registration and notification, parental rights, probation, parole, sentencing, or any other requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication.

RS 14:89.2 — Crime against nature by solicitation on for compensation.

B.(1) Whoever violates the provisions of this Section, on a first conviction thereof, shall be fined not more than five hundred dollars, imprisoned for not more than six months,

or both.

(2) Whoever violates the provisions of this Section, on a second or subsequent conviction thereof, shall be fined not less than two hundred fifty dollars and not more than two thousand dollars, imprisoned, with or without hard labor, for not more than two years, or both.

(3)(a) Whoever violates the provisions of this Section, when the person being solicited is under the age of eighteen years, shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, with at least five years being served without benefit of probation, parole, or suspension of sentence.

(b) Whoever violates the provisions of this Section, when the person being solicited is under the age of fourteen years, shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both. Twenty-five years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence.

C. A violation of the provisions of Paragraph (B)(3) of this Section shall be considered a sex offense as defined in R.S. 15:541 and the offender shall be required to register as a sex offender as provided for in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

D.(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) Lack of knowledge of the age of the person being solicited shall not be a defense.

(3) It shall not be a defense to prosecution for a violation of Paragraph (B)(3) of this Section that the person being solicited consented to the activity prohibited by this Section.

(4) It shall not be a defense to prosecution for a violation of Paragraph (B)(3) of this Section that the person being solicited is actually a law enforcement officer or peace officer acting within the official scope of his duties.

(5) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

RS 14:89.3 — Sexual abuse of an animal

I.

(2) Possessing, selling, transferring, purchasing, or otherwise obtaining an animal with the intent that it be subject to sexual contact.

(3) Organizing, promoting, conducting, aiding or abetting, or participating in as an observer, any act involving sexual contact with an animal.

(4) Causing, coercing, aiding, or abetting another person to engage in sexual contact with an animal.

(5) Permitting sexual contact with an animal to be conducted on any premises under his charge or control.

(6) Advertising, soliciting, offering, or accepting the offer of an animal with the intent that it be used for sexual contact.

(7) Filming, distributing, or possessing pornographic images of a person and an animal engaged in any of the activities described in Paragraphs (1) through (6) of this Subsection.

B. For purposes of this Section:

(1) "Animal" means any nonhuman creature, whether alive or dead.

(2) "Sexual contact" means:

(a) Any act committed for the purpose of sexual arousal or sexual gratification, abuse, or financial gain, between a person and an animal involving contact between the sex organs or anus of one and the mouth, sex organs, or anus of the other.

(b) The insertion, however slight, of any part of the body of a person or any object into the vaginal or anal opening of an animal, touching by a person of the sex organs or anus of an animal, or the insertion of any part of the animal's body into the vaginal or anal opening of the person.

C. This Section shall not apply to any of the following:

(1) Accepted veterinary practices.

(2) Artificial insemination of an animal for reproductive purposes.

(3) Accepted animal husbandry practices, including grooming, raising, breeding, or assisting with the birthing process of animals or any other procedure that provides care for an animal.

(4) Generally accepted practices related to the judging of breed conformation.

D.(1)(a) Except as provided in Subparagraph (b) of this Paragraph, whoever commits the offense of sexual abuse of an animal shall be fined not more than two thousand dollars, imprisoned, with or without hard labor, for not more than five years, or both.

(b) Whoever commits a second or subsequent offense of sexual abuse of an animal, shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars, or imprisoned, with or without hard labor, for not more than ten years, or both.

(2) In addition to any other penalty imposed, a person convicted of violating this Section shall be ordered to:

(a) Relinquish custody of all animals.

(b) Not harbor, own, possess, or exercise control over any animal for any length of time deemed appropriate by the court, but not less than five years.

(c) Not reside in any household where an animal is present; engage in an occupation, whether paid or unpaid, involving animals; or participate in a volunteer position at any establishment where animals are present, for any length of time deemed appropriate by the court, but not less than five years.

(d) Undergo a psychological evaluation for sex offenders and participate in any

recommended psychological treatment. Any costs associated with any evaluation or treatment ordered by the court shall be paid by the defendant.

(e) If the convicted person is not the owner, reimburse the owner for any expenses incurred for medical treatment or rehabilitation of the victimized animal.

(3) If a person convicted of the offense of sexual abuse of an animal is released on parole, the committee on parole shall require the person, as a condition of parole, to participate in a sex offender program as defined by R.S. 15:828(A)(2)(b).

E.(1) Any law enforcement officer investigating a violation of this Section may lawfully take possession of an animal that he has reason to believe has been victimized under this Section in order to protect the health or safety of the animal or the health or safety of others, and to obtain evidence of the offense.

(2) Any animal seized pursuant to this Section shall be promptly taken to a shelter facility or veterinary clinic to be examined by a veterinarian for evidence of sexual contact.

(3) With respect to an animal so seized and impounded, all provisions of R.S. 14:102.2 and 102.3 shall apply to the seizure, impoundment, and disposition of the animal.

F. Prosecution under this Section shall not preclude prosecution under any other applicable provision of law.

RS 14:89.6 — Human-animal hybrids

uman womb.

(3) Transfer or attempt to transfer a nonhuman embryo into a human womb.

B. Whoever violates this Section shall be imprisoned at hard labor for not more than ten years, or fined not more than ten thousand dollars, or both.

C. Whoever violates this Section and derives pecuniary gain from the violation shall be subject to a civil fine of one million dollars or an amount equal to the amount of the gross gain multiplied by two.

D. As used in this Section, the following words and phrases shall have the following meaning:

(1) Human-animal hybrid means:

(a) A human embryo into which a nonhuman cell or cells or the component parts thereof have been introduced or a nonhuman embryo into which a human cell or cells or the component parts thereof have been introduced.

(b) A hybrid human-animal embryo produced by fertilizing a human egg with a nonhuman sperm.

(c) A hybrid human-animal embryo produced by fertilizing a nonhuman egg with human sperm.

(d) An embryo produced by introducing a nonhuman nucleus into a human egg.

(e) An embryo produced by introducing a human nucleus into a nonhuman egg.

(f) An embryo containing at least haploid sets of chromosomes from both a human and a nonhuman life form.

(g) A nonhuman life form engineered such that human gametes develop within the body of a nonhuman life form.

(h) A nonhuman life form engineered such that it contains a human brain or a brain derived wholly or predominately from human neural tissues.

(2) Human embryo means an organism of the species *Homo sapiens* during the earliest stages of development, from one cell up to eight weeks.

E. Nothing in this Subpart shall be interpreted as prohibiting either of the following if these do not violate the prohibitions of Subsection A or meet the definitions of Subsection D of this Section:

(1) Research involving the use of transgenic animal models containing human genes.

(2) Xenotransplantation of human organs, tissues or cells into recipient animals other than animal embryos.

RS 14:90 — Gambling

the loss of anything of value in order to realize a profit.

(b) Whoever commits the crime of gambling shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

(2) Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be fined not more than twenty thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both when:

(a) R.S. 14:90 is violated.

(b) Five or more persons are involved who conduct, finance, manage, supervise, direct, or own all or part of an illegal gambling business.

(c) Such business has been in or remains in substantially continuous operation for a period of thirty days or more or, if the continuous operation is for less than thirty days, has a gross revenue of two thousand dollars in any single day.

B. The conducting, or directly assisting in the conducting, as a business, of any game, contest, lottery, or contrivance on board a commercial cruiseship used for the international carriage of passengers whereby a person risks the loss of anything of value in order to realize a profit is not gambling and shall not be suppressed by any law enforcement officer of the state of Louisiana or any of its political subdivisions. This Subsection shall apply only to commercial cruiseships for the carriage of passengers which are sailing from a port outside the continental limits of the United States to a port in any municipality of this state having a population of more than three hundred thousand or any such ship which is sailing from a port in such a municipality to a port outside the continental limits of the United States, provided that the ship is not docked or anchored but is navigating en route between such ports.

C. The conducting or assisting in the conducting of gaming activities or operations upon a riverboat at the official gaming establishment, by operating an electronic video draw poker device, by a charitable gaming licensee, or at a pari-mutuel wagering facility, conducting slot machine gaming at an eligible horse racing facility, or the operation of a state lottery which is licensed for operation and regulated under the provisions of Chapters 4 and 11 of Title 4, Chapters 4, 5, 7, and 8 of Title 27, or Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950, is not gambling for the purposes of this Section, so long as the wagering is conducted on the premises of the licensed establishment.

D. Except as provided in R.S. 27:305, participation in any fantasy sports contest as defined by R.S. 27:302 shall not be considered gambling for the purposes of this Section.

E. Sports wagering shall not be considered gambling for purposes of this Section so long as the wagering is conducted in compliance with Chapter 10 of Title 27 of the Louisiana Revised Statutes of 1950 or Chapter 10 of Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950.

RS 14:90.1 — Seizure and disposition of evidence, property and proceeds; gambling

and paraphernalia seized as instruments of such crime shall, upon order of the court, be destroyed when it is no longer needed as evidence and all such evidence, property, and paraphernalia found to be in use in the conduct of such unlawful activity and having a value for lawful purposes, shall be sold under the orders of the court at public auction and the proceeds handled in accordance with Subsection B of this Section.

(2) Nothing shall prohibit the seizing or prosecutorial agency from petitioning the court to keep and maintain articles of evidence, property and paraphernalia for the purposes of training of investigators, historical display, or both.

B.(1) All property, immovable or movable, including money, used in the course of, intended for use in the course of, derived from, or realized through, conduct in violation of a provision of R.S. 14:90, 90.2, 90.3, or 90.6, notwithstanding whether a conviction has been procured, is subject to civil forfeiture to the state. The state shall dispose of all forfeited property as soon as commercially feasible.

(2)(a) All forfeitures or dispositions under this Subsection shall be made with due regard for the rights of factually innocent persons. No mortgage, lien, privilege, or other security interest recognized under the laws of Louisiana shall be affected by a forfeiture hereunder if the holder of such mortgage, lien, privilege, or other security interest establishes that he is a factually innocent person. No forfeiture or disposition under this Section shall affect the rights of factually innocent persons provided that following notice of pending forfeiture a written claim is filed with the seizing agency and the district attorney within thirty days of seizure.

(b) Notwithstanding the provisions of this Section, a mortgage, lien, or security interest held by a federally-insured financial institution shall not be affected by the seizure and forfeiture provisions of this Section.

(3) Notice of pending forfeiture or service shall be given in accordance with one of the following:

(a) If the owner's or interest holder's name and current address are known, either by personal service or by mailing a copy of the notice by certified mail to that address.

(b) If the owner's or interest holder's name and address are required by law to be recorded with the parish clerk of court, the office of motor vehicles of the Department of Public Safety and Corrections, or another state or federal agency to perfect an interest in the property, and the owner's or interest holder's current address is not known, by mailing a copy of the notice by certified mail, return receipt requested, to any address of record with any of such agencies.

(c) If the owner's or interest holder's address is not known and is not on record as provided in Subparagraph (b) of this Paragraph, or the owner's or interest holder's interest is not known, by publication in one issue of the official journal in the parish in which the seizure occurs.

(d) Notice is effective upon personal service, publication, or the mailing of a written notice, whichever is earlier, and shall include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture or the violation of law alleged, and a summary of procedures and procedural rights applicable to the forfeiture action.

(e) The district attorney may file, without a filing fee, a lien for the forfeiture of property upon the initiation of any civil or criminal proceeding under this Chapter or upon seizure for forfeiture. The filing constitutes notice to any person claiming an interest in the seized property or in property owned by the named person.

(4)(a) Only an owner of or interest holder in property seized for forfeiture may file a claim, and shall do so in the manner provided in this Section. The claim shall be mailed to the seizing agency and to the district attorney by certified mail, return receipt requested, within thirty days after notice of pending forfeiture. No extension of time for the filing of a claim shall be granted.

(b) The claim shall be in affidavit form, signed by the claimant under oath, and sworn to by the affiant before one who has authority to administer the oath, under penalty of perjury or false swearing and shall set forth all of the following:

(i) The caption of the proceedings as set forth on the notice of pending forfeiture or petition and the name of the claimant.

(ii) The address where the claimant will accept mail.

(iii) The nature and extent of the claimant's interest in the property.

(iv) The date, identity of the transferor, and the circumstances of the claimant's acquisition of the interest in the property.

(v) The specific provision of this Chapter relied on in asserting that the property is not subject to forfeiture.

(vi) All essential facts supporting each assertion.

(vii) The specific relief sought.

(5) The allocation of proceeds from such forfeiture and disposition shall be determined by the court in accordance with each law enforcement entity's participation in the investigation, seizure, and forfeiture process.

(a) Proceeds are to be placed into a gambling forfeiture trust fund maintained by the appropriate local, state, or federal agency. Such proceeds are to be used exclusively in law enforcement. Permissible uses include, but are not limited to, reward programs established by such agencies, prosecution, continuing legal education, law enforcement training and

equipment.

(b) Prior to such allocation, the costs of investigation shall be paid to the law enforcement agency conducting the investigation and twenty-five percent of the proceeds, including the costs of prosecution, shall be paid to the district attorney's gambling forfeiture trust fund, or in parishes where no such fund exists, to the district attorney's office.

(c) The court shall make an allocation of twenty-five percent of the proceeds based on participation of law enforcement agencies involved.

(d) The remainder of the proceeds shall be deposited into the State General Fund.

C.(1) In the event of a seizure under this Section, a forfeiture proceeding shall be instituted within a reasonable period of time. Property taken or detained under this Section shall not be subject to sequestration or attachment but is deemed to be in the custody of the law enforcement officer making the seizure, subject only to the order of the court. When property is seized under this Section, pending forfeiture and final disposition, the law enforcement officer making the seizure may either:

(a) Place the property under seal.

(b) Remove the property to a place designated by the court.

(c) Request another agency authorized by law to take custody of the property and remove it to an appropriate location.

(2) In the case of currency, the currency shall be photographed and transferred in the form of a cashier's check to the district attorney for deposit into the gambling forfeiture trust fund pending adjudication.

D. The district attorney may institute civil proceedings under this Section. In any action brought under this Section, the district court shall proceed as soon as practicable to the hearing and determination. Pending final determination, the court may at any time enter such injunctions or restraining orders or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper.

E. A final judgment or decree rendered in favor of the state in any criminal proceeding shall preclude the defendant from denying the essential facts established in that proceeding in any subsequent civil action.

F. Notwithstanding any other provision of law, a criminal or civil action or proceeding under this Chapter may be commenced at any time within five years after the conduct in violation of a provision of this Chapter terminates or the cause of action accrues. If a criminal prosecution or civil action is brought under the provisions of this Chapter, the running of the period prescribed by this Section with respect to any cause of action arising under Subsection D of this Section which is based in whole or in part upon any matter complained of in any such prosecution or action shall be suspended during the pendency of such prosecution or action and for two years following its termination.

G. A defendant who violates any provision of R.S. 14:90 or 90.3 shall be liable individually, and when two or more defendants have violated any provision of R.S. 14:90 or 90.3 they be liable in solido for all damages, costs of court, and other costs associated with the investigation and prosecution of such violations.

RS 14:90.2 — Gambling in public

blic or the people at large, such as streets, highways, vacant lots, neutral grounds, alleyway, sidewalk, park, beach, parking lot, or condemned structures whereby a person risks the loss of anything of value in order to realize a profit.

B. This Section shall not prohibit activities authorized under the Charitable Raffles, Bingo and Keno Licensing Law, nor shall it apply to bona fide fairs and festivals conducted for charitable purposes.

C. Whoever commits the crime of gambling in public shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

RS 14:90.3 — Gambling by computer

and promoting

the health, safety, education, and welfare of the people, including the children of this state who are our most precious and valuable resource, finds that the state has a compelling interest in protecting its citizens and children from certain activities and influences which can result in irreparable harm. The legislature has expressed its intent to develop a controlled well-regulated gaming industry. The legislature is also charged with the responsibility of protecting and assisting its citizens who suffer from compulsive or problem gaming behavior which can result from the increased availability of legalized gaming activities. The legislature recognizes the development of the Internet and the information super highway allowing communication and exchange of information from all parts of the world and freely encourages this exchange of information and ideas. The legislature recognizes and encourages the beneficial effects computers, computer programming, and use of the Internet resources have had on the children of the state of Louisiana by expanding their educational horizons. The legislature further recognizes that it has an obligation and responsibility to protect its citizens, and in particular its youngest citizens, from the pervasive nature of gambling which can occur via the Internet and the use of computers connected to the Internet. Gambling has long been recognized as a crime in the state of Louisiana and despite the enactment of many legalized gaming activities remains a crime. Gambling which occurs via the Internet embodies the very activity that the legislature seeks to prevent. The legislature further recognizes that the state's constitution and that of the United States are declarations of rights which the drafters intended to withstand time and address the wrongs and injustices which arise in future years. The legislature hereby finds and declares that it has balanced its interest in protecting the citizens of this state with the protection afforded by the First Amendment, and the mandates of Article XII, Section 6 of the Constitution of Louisiana and that this Section is a product thereof.

B. Gambling by computer is the intentional conducting, or directly assisting in the conducting as a business of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit when accessing the Internet, World Wide Web, or any part thereof by way of any computer, computer system, computer network, computer software, or any server.

C. For purposes of this Section the following definitions apply:

- (1) "Client" means anyone using a computer to access a computer server.
- (2) "Computer" includes an electronic, magnetic, optical, or other high-speed data processing device or system performing logical, arithmetic, and storage functions, and includes any property, data storage facility, or communications facility directly related to or operating in conjunction with such device or system. "Computer" shall not include an automated typewriter or typesetter, a machine designed solely for word processing, or a portable hand-held calculator, nor shall "computer" include any other device which might contain components similar to those in computers but in which the components have the sole function of controlling the device for the single purpose for which the device is intended.
- (3) "Computer network" means a set of related, remotely connected devices and communication facilities including at least one computer system with capability to transmit data through communication facilities.

(4) "Computer services" means providing access to or service or data from a computer, a computer system, or a computer network.

(5) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with operation of a computer system.

(6) "Computer system" means a set of functionally related, connected or unconnected, computer equipment, devices, or computer software.

(7) "Home Page" means the index or location for each computer site on the World Wide Web.

(8) "Internet" means the global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions, is able to support communications using the Transmission Control Protocol/Internet Protocol suite or its subsequent extensions, and other Internet Protocol compatible protocols, and provides, uses or makes accessible, either publicly or privately, high level services layered on the communications and related infrastructure described herein.

(9) "Server" means a computer that listens for and services a client.

(10) "World Wide Web" means a server providing connections to mega lists of information on the Internet; it is made up of millions of individual web sites linked together.

D. Whoever commits the crime of gambling by computer shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

E. Whoever designs, develops, manages, supervises, maintains, provides, or produces any computer services, computer system, computer network, computer software, or any server providing a Home Page, Web Site, or any other product accessing the Internet, World Wide Web, or any part thereof offering to any client for the primary purpose of the conducting as a business of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit shall be fined not more than twenty thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

F. The conducting or assisting in the conducting of gaming activities or operations upon a riverboat, at the official gaming establishment, by operating an electronic video draw poker device, by a charitable gaming licensee, or at a pari-mutuel wagering facility, conducting slot machine gaming at an eligible horse racing facility, or the operation of a state lottery which is licensed for operation and regulated under the provisions of Chapters 4 and 11 of Title 4, Chapters 4, 5, 6, and 7 of Title 27, or Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by computer for the purposes of this Section, so long as the wagering is done on the premises of the licensed establishment.

G. The conducting or assisting in the conducting of pari-mutuel wagering at licensed racing facilities under the provisions of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by computer for the purposes of this Section so long as the wagering is done on the premises of the licensed establishment.

H. Nothing in this Section shall prohibit, limit, or otherwise restrict the purchase, sale, exchange, or other transaction related to stocks, bonds, futures, options, commodities,

or other similar instruments or transactions occurring on a stock or commodities exchange, brokerage house, or similar entity.

I. The providing of Internet or other on-line access, transmission, routing, storage, or other communication related services, or Web Site design, development, storage, maintenance, billing, advertising, hypertext linking, transaction processing, or other site related services, by telephone companies, Internet Service Providers, software developers, licensors, or other such parties providing such services to customers in the normal course of their business, shall not be considered gambling by computer even though the activities of such customers using such services to conduct a prohibited game, contest, lottery, or contrivance may constitute gambling by computer for the purposes of this Section. The provisions of this Subsection shall not exempt from criminal prosecution any telephone company, Internet Service Provider, software developer, licensor, or other such party if its primary purpose in providing such service is to conduct gambling as a business.

J. Except as provided in R.S. 27:305, participation in any fantasy sports contest as defined by R.S. 27:302 shall not be considered gambling by computer for the purposes of this Section.

K. Sports wagering shall not be considered gambling by computer for purposes of this Section so long as the wagering is conducted in compliance with Chapter 10 of Title 27 of the Louisiana Revised Statutes of 1950 or Chapter 10 of Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950.

RS 14:90.4 — Unlawful playing of video draw poker devices by persons under the age of twenty-one; penalty
vices.

B. For purposes of this Section, "video draw poker device" means a device, as defined in R.S. 27:402, placed in an establishment licensed for operation and regulated under the applicable provisions of Chapter 8 of Title 27 of the Louisiana Revised Statutes of 1950.

C. Whoever violates the provisions of this Section shall be fined not more than one hundred dollars for the first offense, two hundred fifty dollars for the second offense, and five hundred dollars for the third offense.

D. A gaming licensee, or a specifically authorized employee or agent of a gaming licensee, may use reasonable force to detain a person for questioning on the premises of the gaming establishment, for a length of time, not to exceed sixty minutes, unless it is reasonable under the circumstances that the person be detained longer, when he has reasonable cause to believe that the person has violated the provisions of this Section. The licensee or his employee or agent may also detain such a person for arrest by a peace officer. The detention shall not constitute an arrest.

RS 14:90.5 — Unlawful playing of gaming devices by persons under the age of twenty-one; es,

gaming devices, or slot machines or to place a wager on a sports event.

B. No person under the age of twenty-one, except an emergency responder acting in his official capacity, shall enter, or be permitted to enter, the designated gaming area of a riverboat, the designated gaming area of the official gaming establishment, or the designated

gaming area of a pari-mutuel wagering facility which offers live horse racing licensed for operation and regulated under the applicable provisions of Chapters 4, 5, and 7 of Title 27 of the Louisiana Revised Statutes of 1950.

C.(1) For purposes of this Section, "casino games, gaming devices, or slot machines" means a game or device, as defined in R.S. 27:44, 205, or 353 operated on a riverboat, at the official gaming establishment, or at a pari-mutuel wagering facility which offers live horse racing which is licensed for operation and regulated under the provisions of Chapters 4, 5, and 7 of Title 27 of the Louisiana Revised Statutes of 1950.

(2) For purposes of this Section, "place a wager on a sports event" shall apply to the following:

(a) Wagers attempted to be or actually placed in person, via a self-service sports wagering mechanism, or through a website or mobile application as those terms are defined in R.S. 27:602 and the operation of which is regulated under the provisions of Chapter 10 of Title 27 of the Louisiana Revised Statutes of 1950.

(b) Wagers attempted to be or actually placed via a self-service sports wagering mechanism, or via a mobile application as defined in R.S. 47:9002 and operations are regulated under the provisions of Chapter 10 of Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950.

D. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars and may be imprisoned for not more than six months, or both.

RS 14:90.6 — Gambling or wagering at cockfights

cockfight is being conducted and whereby a person risks the loss of anything of value in order to realize a profit.

B. Whoever commits the crime of gambling or wagering at a cockfight shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. Upon a second and subsequent violation of this Section, the penalty shall be a fine of one thousand dollars, or imprisonment for not more than one year, or both.

C. Whoever conducts, finances, manages, supervises, directs, leases, or owns all or part of a business or the premises when such person has knowledge that gambling or wagering at a cockfight occurs shall be fined not more than twenty thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

RS 14:90.7 — Gambling by electronic sweepstakes device

ual sweepstakes relationships with Internet services, telephone cards, and other products, and that such electronic sweepstakes systems using electronic gambling machines, computer terminals, and other means of presented simulated gambling, are contrary to the public policy of this state.

B. Gambling by electronic sweepstakes device is the intentional conducting of, or directly assisting in the conducting of, as a business any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit, through the operation of an electronic gaming machine or device that does or purports to do either of the following:

(1) Conduct a sweepstakes through the use of a simulated gambling device, including the entry process or the revealing of a prize.

(2) Promote a sweepstakes that is conducted through the use of a simulated gambling device, including the entry process or the revealing of a prize.

C. For the purposes of this Section, the following definitions shall apply:

(1) "Electronic gaming machine or device" means a mechanically, electrically, or electronically-operated machine or device that is intended to be used by a sweepstakes entrant and that displays the results of a game entry or game outcome to a participant on a screen or other mechanism at a business location, including a private club, that is owned,

leased, or otherwise possessed, in whole or in part, by any person conducting the sweepstakes or by that person's partners, affiliates, subsidiaries, agents, or contractors. The term includes an electronic gaming machine or device which includes any of the following characteristics:

- (a) Uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
 - (b) Uses software that simulates a game that influences or determines the winning or value of the prize.
 - (c) Selects prizes from a predetermined finite pool of entries.
 - (d) Uses a mechanism that reveals the content of a predetermined sweepstakes entry.
 - (e) Predetermines the prize results and restores those results for delivery at the time the sweepstakes entry is revealed.
 - (f) Uses software to create a game result.
 - (g) Requires a deposit of any money, coin or token, or the use of any credit card, debit card, prepaid card, or other method of payment to activate the electronic gaming machine or device.
 - (h) Requires direct payment into the electronic gaming machine or device or remote activation of the electronic gaming machine or device.
 - (i) Requires purchase of a related product and the related product has legitimate value.
 - (j) Reveals the prize incrementally even though it may not influence whether a prize is awarded or the value of any prize awarded.
 - (k) Determines and associates the prize with an entry or entries at the time the sweepstakes is entered.
- (2) "Enter" or "entry" means the act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.
- (3) "Prize" means any gift, award, gratuity, good, service, credit, or anything else of value which may be transferred to a person whether or not possession of the prize is actually transferred or placed on an account or other record as evidence of the intent to transfer the prize. "Prize" shall not include free or additional play or intangible or virtual prizes that cannot be converted into money or merchandise.
- (4) "Simulated gambling device" means a mechanically or electronically operated machine, network, system, or device that is intended to be used by an entrant to a game promotion or sweepstakes and that displays a simulated gambling display on a screen or other mechanism at a business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by any person conducting the game or by that person's partners, affiliates, subsidiaries, agents, or contractors. The term shall include, but is not limited to:
- (a) A video poker game or any other kind of video card game.
 - (b) A video bingo game.
 - (c) A video craps game.
 - (d) A video keno game.
 - (e) A video lotto game.
 - (f) Eight liner.
 - (g) Pot-of-gold.
 - (h) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols.
 - (i) A personal computer of any size or configuration that performs any of the functions of an electronic gaming machine or device as defined in this Section.
 - (j) A slot machine.
- (5) "Sweepstakes" means any game, advertising scheme, plan, or other promotion that, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize.
- D. Whoever commits the crime of gambling by electronic sweepstakes device shall be fined not more than twenty thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

E. The conducting or assisting in the conducting of gaming activities or operations upon a riverboat, at the official gaming establishment, by operating an electronic video draw poker device, by a charitable gaming licensee, or at a pari-mutuel wagering facility, conducting slot machine gaming at an eligible horse racing facility, or the operation of a state lottery which is licensed for operation and regulated under the provisions of Chapters 4 and 11 of Title 4, Chapters 4, 5, 7, and 8 of Title 27, or Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by electronic sweepstakes device for the purposes of this Section, provided that the wagering is done on the premises of the licensed establishment.

F. The conducting or assisting in the conducting of pari-mutuel wagering at licensed racing facilities under the provisions of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950 shall not be considered gambling by electronic sweepstakes device for the purposes of this Section provided that the wagering is done on the premises of the licensed establishment.

G. Nothing in this Section shall prohibit, limit, or otherwise restrict the purchase, sale, exchange, or other transaction related to stocks, bonds, futures, options, commodities, or other similar instruments or transactions occurring on a stock or commodities exchange, brokerage house, or similar entity.

H. Nothing in this Section shall limit or alter in any way the application of the requirements for sweepstakes, contests, prizes, and similar activities under the provisions of Chapter 19-A of Title 51 of the Louisiana Revised Statutes of 1950.

I. The providing of Internet or other online access, transmission, routing, storage, or other communication-related services, or website design, development, storage, maintenance, billing, advertising, hypertext linking, transaction processing, or other site-related services, by telephone companies, Internet service providers, software developers, licensors, or other such parties providing such services to customers in the normal course of business, shall not be considered gambling by electronic sweepstakes device even though the activities of such customers using such services to conduct a prohibited game, contest, lottery, or contrivance may constitute gambling by computer for the purposes of this Section. The provisions of this Subsection shall not exempt from criminal prosecution any software developer, licensor, or other such party if its primary purpose in providing such service is to support the conduct of gambling as a business.

RS 14:90.8 — Unlawful wagering; prohibited player

is unlawful for a person or entity to facilitate or place a sports wager on behalf of a prohibited player.

B. For purposes of this Section, "prohibited player" means a person who is prohibited from placing a wager on a sports event by any of the following:

- (1) Chapter 10 of Title 27 of the Louisiana Revised Statutes of 1950, particularly R.S. 27:608, or Part VI of Title 42 of the Louisiana Administrative Code.
- (2) Participation in a self-restriction or self-exclusion program in accordance with R.S. 27:27.1 or Chapter 3 of Part III of Title 42 of the Louisiana Administrative Code.
- (3) Any other law, administrative rule, or policy of any jurisdiction, the sports wagering operator, the sports book, or a sports governing body.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both. Upon a second or subsequent conviction for a violation of this Section, the penalty shall be a fine of one thousand dollars or imprisonment with or without hard labor for not more than one year, or both.

D. Whoever conducts, finances, manages, supervises, directs, leases, or owns all or part of a business when the person knowingly allows a prohibited player to wager on a sports event shall be fined not more than twenty thousand dollars or imprisoned, with or without hard labor, for not more than five years, or both.

E.(1) A person, business, or entity licensed or sports wagering operator permitted

pursuant to the provisions of Chapter 10 of Title 27 of the Louisiana Revised Statutes of 1950 shall not be subject to the penalty contained in Subsection D of this Section if the licensee or permittee has taken commercially reasonable methods to prevent a prohibited player from placing a wager on a sports event in person, on a sports wagering mechanism, or through a mobile application.

(2) A sports wagering platform provider permitted pursuant to the provisions of Chapter 10 of Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950 shall not be subject to the penalty contained in Subsection D of this Section if the permittee has taken commercially reasonable methods to prevent a prohibited player from placing a wager on a sports event on a sports wagering mechanism or through a mobile application.

RS 14:91 — Unlawful sales of weapons to minors

It is unlawful for any person to sell a firearm or other dangerous weapon to any person under the age of eighteen. Lack of knowledge of the minor's age shall not be a defense.

B. Whoever commits the crime of unlawful sales of weapons to minors shall be fined not more than three hundred dollars or imprisoned for not more than six months, or both.

RS 14:91.1 — Unlawful presence of a sexually violent predator

It is unlawful for a sexually violent predator to be on the school property of any public or private, elementary or secondary school, or in any motor vehicle or other means of conveyance owned, leased, or contracted by such school to transport students to or from school or a school-related activity when persons under the age of eighteen years are present on the school property or in a school vehicle.

(2) The physical residing of a sexually violent predator within one thousand feet of any of the following:

- (a) Public or private elementary or secondary school.
- (b) Early learning center as defined by R.S. 17:407.33.
- (c) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.
- (d) Residential home as defined by R.S. 46:1403.
- (e) Playground.
- (f) Public or private youth center.
- (g) Public swimming pool.
- (h) Free standing video arcade facility.

(3)(a) Loitering between the hours of 6:00 a.m. and 9:00 a.m. or 2:00 p.m. and 5:00 p.m. within five hundred feet of a location that is commonly used for the pickup or drop-off of children for school or a school-related activity when a child is present and the offender has reasonable grounds to believe that a child or children are awaiting pickup or drop off from school or a school-related activity.

(b) For the purposes of this Paragraph, "reasonable grounds" includes but is not limited to attire of the child or children, personal items or effects, school supplies, athletic equipment, or the time of day.

B. It shall not be a violation of Paragraph (A)(1) of this Section if the offender has permission to be present from the superintendent of the school board in the case of a public school or the principal or headmaster in the case of a private school.

C. If permission is granted to an offender to be present on public school property by the superintendent for that public school pursuant to Subsection B of this Section, then the superintendent shall notify the principal at least twenty-four hours in advance of the visit by the offender. This notification shall include the nature of the visit and the date and time in which the sex offender will be present in the school. The offender shall notify the office of the principal upon arrival on the school property and upon departing from the school. If the offender is to be present in the vicinity of children, the offender shall remain under the direct supervision of a school official.

D. For the purposes of this Section:

(1) "Loitering" means lingering, remaining, or prowling in a public place or on the premises of another for a protracted period of time without lawful business or reason to be present.

(2) "School property" means any property used for school purposes, including but not limited to school buildings, playgrounds, and parking lots.

(3) "Sexually violent predator" means a person defined as such in accordance with the provisions of Chapter 3-D of Title 15 of the Louisiana Revised Statutes of 1950.

E. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned for not more than six months, or both.

RS 14:91.2 — Unlawful presence of a sex offender

years shall constitute the

crime of unlawful residence or presence of a sex offender:

(1) The physical presence of the offender in, on, or within one thousand feet of the school property of any public or private elementary or secondary school or the physical presence in any motor vehicle or other means of conveyance owned, leased, or contracted by such school to transport students to or from school or a school-related activity when persons under the age of eighteen years are present on the school property or in a school vehicle.

(2) The offender establishing a residence within one thousand feet of any of the following:

(a) Public or private elementary or secondary school.

(b) Early learning center as defined by R.S. 17:407.33.

(c) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

(d) Residential home as defined by R.S. 46:1403.

(3) The physical presence of the offender in, on, or within one thousand feet of any of the following:

(a) Public park or recreational facility.

(b) Early learning center as defined by R.S. 17:407.33.

(c) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

(d) Residential home as defined by R.S. 46:1403.

(4) The offender establishing a residence within one thousand feet of any public park or recreational facility.

(5) The physical presence of the offender in or on public library property.

(6) Loitering within one thousand feet of public library property.

(7)(a) Loitering between the hours of 6:00 a.m. and 9:00 a.m. or 2:00 p.m. and 5:00 p.m. within five hundred feet of a location that is commonly used for the pickup or drop off of children for school or a school-related activity when a child is present and the offender has reasonable grounds to believe that a child or children are awaiting pickup or drop off from school or a school-related activity.

(b) For the purposes of this Paragraph, "reasonable grounds" includes but is not limited to attire of the child or children, personal items or effects, school supplies, athletic equipment, or the time of day.

B. The following acts, when committed by a person convicted of either an aggravated offense as defined in R.S. 15:541 when the victim is under the age of fifteen years or child sexual abuse materials as defined in R.S. 14:81.1 when the victim is under the age of fifteen years, shall constitute the crime of unlawful residence or presence of a sex offender:

(1) The physical presence of the offender in, on, or within one thousand feet of any of the following:

(a) Early learning center as defined by R.S. 17:407.33.

(b) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

(c) Residential home as defined by R.S. 46:1403.

(2) The establishment of a residence within one thousand feet of any of the following:

(a) Early learning center as defined by R.S. 17:407.33.

(b) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

(c) Residential home as defined by R.S. 46:1403.

(d) Playground.

(e) Public or private youth center.

(f) Public swimming pool.

(g) Free standing video arcade facility.

C.(1) It shall not be a violation of the provisions of this Section if the offender has permission to be present on school premises from the superintendent of the school board in the case of a public school or the principal or headmaster in the case of a private school.

(2) If permission is granted to an offender to be present on public school property by the superintendent for that public school pursuant to this Subsection, then the superintendent shall notify the principal at least twenty-four hours in advance of the visit by the offender.

This notification shall include the nature of the visit and the date and time in which the sex offender will be present in the school. The offender shall notify the office of the principal upon arrival on the school property and upon departing from the school. If the offender is to be present in the vicinity of children, the offender shall remain under the direct supervision of a school official.

(3) Any superintendent, principal, or school master who acts in good faith in compliance with this Subsection shall be immune from civil or criminal liability for his actions in connection with any injury or claim arising from an offender being present on school property pursuant to permission granted by that superintendent, principal, or school master.

D.(1) It shall not be a violation of this Section if the offender has complied with all regulations of the governing board of the public library that restrict access of sex offenders to public library property.

(2) By January 1, 2013, each governing board of a public library shall develop and implement a plan to regulate access of sex offenders to the public library property under its jurisdiction.

(3) Each governing board of a public library shall tailor its regulations to reasonably restrict the time, place, and manner of access to public library property and shall narrowly tailor the regulations to serve the significant governmental interest of protecting children from contact with sex offenders.

(4) The State Library of Louisiana shall provide technical assistance in the development of the regulations by the governing boards. Such assistance shall guide the governing boards to develop, to the extent practicable, regulations that are uniform and ensure fair and consistent application across jurisdictions.

(5) Any public servant, including any head librarian, member of a governing board of a public library, staff and volunteers of a public library, and the state of Louisiana, who

RS 14:91.3 — Unlawful participation in a child-related business

name is recorded on the Department of

Children and Family Services' state central registry on or after August 1, 2018, shall own, operate, or in any way participate in the governance of any early learning center as defined by R.S. 17:407.33, residential home as defined by R.S. 46:1403, or residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

B. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

RS 14:91.4 — Contributing to the endangerment of a minor

work in any early learning center

as defined by R.S. 17:407.33, residential home as defined by R.S. 46:1403, or residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

B. No person shall knowingly permit a person convicted of a sex offense as defined in R.S. 15:541 physical access to any early learning center as defined by R.S. 17:407.33, residential home as defined by R.S. 46:1403, or residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

C. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned for not more than six months, or both.

RS 14:91.5 — Unlawful use of a social networking website

g website by a person who is required

to register as a sex offender and who was convicted of R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1 (child sexual abuse materials), R.S. 14:81.3 (computer-aided solicitation of a minor), or R.S. 14:283 (video voyeurism) or was convicted of a sex offense as defined in R.S. 15:541 in which the victim of the sex offense was a minor.

(2) The provisions of this Section shall also apply to any person convicted for an offense under the laws of another state, or military, territorial, foreign, tribal, or federal law which is equivalent to the offenses provided for in Paragraph (1) of this Subsection, unless the tribal court or foreign conviction was not obtained with sufficient safeguards for fundamental fairness and due process for the accused as provided by the federal guidelines adopted pursuant to the Adam Walsh Child Protection and Safety Act of 2006.

B. For purposes of this Section:

(1) "Minor" means a person under the age of eighteen years.

(2)(a) "Social networking website" means an Internet website, the primary purpose of which is facilitating social interaction with other users of the website and has all of the following capabilities:

(i) Allows users to create web pages or profiles about themselves that are available to the general public or to any other users.

(ii) Offers a mechanism for communication among users.

(b) "Social networking website" shall not include any of the following:

(i) An Internet website that provides only one of the following services: photo-sharing, electronic mail, or instant messaging.

(ii) An Internet website the primary purpose of which is the facilitation of commercial transactions involving goods or services between its members or visitors.

(iii) An Internet website the primary purpose of which is the dissemination of news.

(iv) An Internet website of a governmental entity.

(3) "Use" shall mean to create a profile on a social networking website or to contact or attempt to contact other users of the social networking website.

C.(1) Whoever commits the crime of unlawful use of a social networking website shall, upon a first conviction, be fined not more than ten thousand dollars and shall be imprisoned with hard labor for not more than ten years without benefit of parole, probation, or suspension of sentence.

(2) Whoever commits the crime of unlawful use of a social networking website, upon a second or subsequent conviction, shall be fined not more than twenty thousand dollars and shall be imprisoned with hard labor for not less than five years nor more than twenty years without benefit of parole, probation, or suspension of sentence.

RS 14:91.6 — Unlawful distribution of sample tobacco products, alternative nicotine products, or

e distributed to persons under twenty-one

years of age a promotional sample of any tobacco product, alternative nicotine product, or vapor product.

B. For purposes of this Section, the following definitions apply:

(1) "Alternative nicotine product" means any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any of the following:

(a) Tobacco product.

(b) Vapor product.

(c) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).

(d) Device pursuant to 21 U.S.C. 321(h).

(e) Combination product described in 21 U.S.C. 353(g).

(2) "Cigar" means any roll of tobacco for smoking, irrespective of size or shape, and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredients, where such roll has a wrapper made chiefly of tobacco.

(3) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper, or any other material, except where such wrapper is wholly or in greater part made of tobacco.

(4) "Smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity.

(5) "Smoking tobacco" means granulated, plug cut, crimp cut, ready rubbed, and any other kind and form of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette.

(6) "Tobacco product" means any cigar, cigarette, smokeless tobacco, or smoking tobacco.

(7) "Vapor product" means any non-combustible product containing nicotine or other substances that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include any of the following:

(a) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).

(b) Device pursuant to 21 U.S.C. 321(h).

(c) Combination product described in 21 U.S.C. 353(g).

C. Whoever violates a provision of this Section shall be fined not less than one hundred dollars nor more than five hundred dollars upon conviction.

RS 14:91.7 — Unauthorized possession or consumption of alcoholic beverages on public school property

thorized by the principal or person in charge of the public school property at the time.

B. For purposes of this Section:

(1) "School" means any public elementary or secondary school.

(2) "School property" means all property used for school purposes, including but not limited to school playgrounds, buildings, and parking lots.

C. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars and imprisoned not less than fifteen days nor more than six months.

RS 14:91.8 — Unlawful sale, purchase, or possession of tobacco, alternative nicotine products, or Prevention of Youth Access to Tobacco Law".

B. It is the intent of the legislature that enforcement of this Section shall be implemented in an equitable manner throughout the state. For the purpose of equitable and uniform implementation and application of state and local laws and regulations, the provisions of this Section shall supersede existing or subsequently adopted local ordinances or regulations which relate to the sale, promotion, and distribution of tobacco products, alternative nicotine product, or vapor product. It is the intent of the legislature that this Section shall be equitably enforced so as to ensure the eligibility for and receipt of any federal funds or grants the state now receives or may receive relating to the provisions of this Section.

C. It is unlawful for any manufacturer, distributor, retailer, or other person to sell or distribute any tobacco product, alternative nicotine product, or vapor product to a person under the age of twenty-one. However, it shall not be unlawful for a person under the age of twenty-one to accept receipt of a tobacco product, alternative nicotine product, or vapor product from an employer when required in the performance of such person's duties. At the point of sale, a sign, in not less than thirty-point type, shall be displayed in a manner conspicuous to both employees and consumers, within any location where tobacco products, alternative nicotine products, vapor products, or vapor paraphernalia and devices are available for purchase, that reads "LOUISIANA LAW PROHIBITS THE SALE OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS, VAPOR PARAPHERNALIA AND DEVICES TO PERSONS UNDER AGE 21". The sign shall also include a notice that displays the telephone number for the Louisiana Tobacco Quitline (1-800-QUIT-NOW) and the website for the Louisiana Tobacco Quitline (www.quitwithusla.org), as determined by the Louisiana Department of Health.

D. It is unlawful for a vending machine operator to place in use a vending machine to vend any tobacco product, alternative nicotine product, or vapor product automatically, unless the machine displays a sign or sticker in not less than twenty-two-point type on the front of the machine stating, "LOUISIANA LAW PROHIBITS THE SALE OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS TO PERSONS UNDER AGE 21". The sign shall also include a notice that displays the telephone number for the Louisiana Tobacco Quitline (1-800-QUIT-NOW) and the website for the Louisiana Tobacco Quitline (www.quitwithusla.org), as determined by the Louisiana Department of Health.

E. It is unlawful for any person under the age of twenty-one to be sold any tobacco product, alternative nicotine product, or vapor product.

F.(1) It is unlawful for any person under the age of twenty-one to possess any

tobacco product, alternative nicotine product, or vapor product.

(2) However, it shall not be unlawful for a person under the age of twenty-one to possess a tobacco product, alternative nicotine product, or vapor product under any of the following circumstances:

(a) When a person under eighteen years of age is accompanied by a parent, spouse, or legal guardian twenty-one years of age or older.

(b) In private residences.

(c) When the tobacco product, alternative nicotine product, or vapor product is handled during the course and scope of his employment and required in the performance of such person's duties.

G. For purposes of this Section, the following definitions apply:

(1) "Alternative nicotine product" means any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any:

(a) Tobacco product.

(b) Vapor product.

(c) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).

(d) Device pursuant to 21 U.S.C. 321(h).

(e) Combination product described in 21 U.S.C. 353(g).

(2) "Cigar" means any roll of tobacco for smoking, irrespective of size or shape, and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredients, where such roll has a wrapper made chiefly of tobacco.

(3) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper, or any other material, except where such wrapper is wholly or in greater part made of tobacco.

(4) "Smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity.

(5) "Smoking tobacco" means granulated, plug cut, crimp cut, ready rubbed, and any other kind and form of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette.

(6) "Tobacco product" means any cigar, cigarette, smokeless tobacco, or smoking tobacco.

(7) "Vapor product" means any non-combustible product containing nicotine or other substances that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include any of the following:

(a) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).

(b) Device pursuant to 21 U.S.C. 321(h).

(c) Combination product described in 21 U.S.C. 353(g).

H.(1) A person who violates the provisions of this Section by selling or buying tobacco products, alternative nicotine products, or vapor products shall be fined not more than fifty dollars for the first violation. The penalties for subsequent violations shall be a fine of not more than one hundred dollars for the second violation, a fine of not more than two hundred fifty dollars for the third violation, and a fine of not more than four hundred dollars for any violation thereafter.

(2) A person who violates the provisions of this Section by possessing tobacco products, alternative nicotine products, or vapor products shall be fined not more than fifty dollars for each violation.

I. A violation of the signage requirement of Subsection C of this Section shall be deemed to be a violation by the owner of the establishment where the violation occurred. A violation of the signage requirement of Subsection D of this Section shall be deemed to be a violation by the owner of the vending machine. For the first such violation, the owner shall be fined not more than fifty dollars. The penalties for subsequent violations shall be a fine of not more than one hundred dollars for the second violation, a fine of not more than two hundred fifty dollars for the third violation, and a fine of not more than five hundred dollars for any violation thereafter.

J. The law enforcement agency issuing the citation or making the arrest or the clerk of the court in which a prosecution is initiated, as the case may be, shall notify the commissioner of the office of alcohol and tobacco control of the action and the final disposition of the matter.

RS 14:91.9 — Unlawful presence or contact of a sex offender relative to a former victim

(1) Establish a residence or physically reside within three miles of the victim of the offense for which he was convicted.

(2) Knowingly be physically present within three hundred feet of the victim of the offense for which he was convicted.

(3) Communicate, either by electronic communication, in writing, or orally, with the victim of the offense for which he was convicted or an immediate family member of the victim, unless the victim consents to such communication in writing and the communication is made pursuant to the provisions of R.S. 46:1846.

B. For purposes of this Section, "immediate family member" means the spouse, mother, father, aunt, uncle, sibling, or child of the victim, whether related by blood, marriage, or adoption.

C.(1) Whoever violates the provisions of Paragraphs (A)(1) or (2) of this Section shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

(2) Whoever violates the provisions of Paragraph (A)(3) of this Section shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

D.(1)(a) It shall be an affirmative defense to prosecution for a violation of Paragraph (A)(1) of this Section if the property where the offender resides was occupied by the offender prior to the date on which the victim began residing within three miles of the residence of the offender.

(b) The affirmative defense provided in Subparagraph (a) of this Paragraph shall not be available to an offender who pleads guilty to or is convicted of a subsequent sex offense as defined in R.S. 15:541 against the same victim after the victim began residing within three miles of the residence of the offender.

(2)(a) It shall be an affirmative defense to prosecution for a violation of Paragraph (A)(1) of this Section if the property where the offender resides was occupied by the offender prior to August 1, 2012.

(b) The affirmative defense provided in Subparagraph (a) of this Paragraph shall not be available to an offender who pleads guilty to or is convicted of a subsequent sex offense as defined in R.S. 15:541 against the same victim after August 1, 2012.

RS 14:91.10 — Unlawful sale or distribution of mitragynine speciosa to persons under age product

containing mitragynine speciosa to any person under the age of twenty-one.

B. For purposes of this Section, "mitragynine speciosa" means a product containing either or both of the following:

- (1) Mitragynine.
- (2) 7-Hydroxy-mitragynine.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

RS 14:91.11 — Sale, exhibition, or distribution of material harmful to minors

on, distribution, advertisement, dissemination, exhibition, or display of material harmful to minors, by a person who is not the spouse, parent, or legal guardian of the minor to any unmarried person under the age of eighteen years, or the possession of material harmful to minors with the intent to sell, allocate, advertise, disseminate, exhibit, or display such material to any unmarried person under the age of eighteen years, by a person who is not the spouse, parent, or legal guardian of the minor at a newsstand or any other commercial establishment which is open to persons under the age of eighteen years.

(2) "Material harmful to minors" is defined as any paper, magazine, book, newspaper, periodical, pamphlet, composition, publication, photograph, drawing, picture, poster, motion picture film, video tape, video game, figure, phonograph record, album, cassette, compact disc, wire or tape recording, or other similar tangible work or thing which exploits, is devoted to or principally consists of, descriptions or depictions of illicit sex or sexual immorality for commercial gain, and when the trier of fact determines that each of the following applies:

(a) The material incites or appeals to or is designed to incite or appeal to the prurient, shameful, or morbid interest of minors.

(b) The material is offensive to the average adult applying contemporary community standards with respect to what is suitable for minors.

(c) The material taken as a whole lacks serious literary, artistic, political, or scientific value for minors.

(3) For the purpose of this Section "descriptions or depictions of illicit sex or sexual immorality" includes the depiction, display, description, exhibition or representation of:

(a) Ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being;

(b) Masturbation, excretory functions, or exhibition, actual, simulated, or animated, of the genitals, pubic hair, anus, vulva, or female breast nipples;

(c) Sadomasochistic abuse, meaning actual, simulated, or animated, flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained, on the part of one so clothed;

(d) Actual, simulated, or animated, touching, caressing, or fondling of, or other similar physical contact with, a pubic area, anus, female breast nipple, covered or exposed, whether alone or between human*, animals or a human and an animal, of the same or opposite sex, in an act of apparent sexual stimulation or gratification; or

(e) Actual, simulated, or animated, stimulation of the human genital organs by any device whether or not the device is designed, manufactured, and marketed for such purpose.

(4) "Minor" means any person under the age of eighteen years.

(5) "Video game" means an object or device that stores recorded data or instructions, receives data or instructions generated by a person who uses it, and, by processing the data or instructions, creates an interactive game capable of

being played or viewed on or through a computer, gaming system, console, or other technology.

B.(1) It shall be unlawful for a person who is not the spouse, parent, or legal guardian of the minor to invite or permit any unmarried person under the age of eighteen years of age to be in any commercial establishment that exhibits or displays any item, material, work or thing of any kind that is described in Subsection A of this Section.

(2) Lack of knowledge of age shall not constitute a defense, unless the defendant shows that he had reasonable cause to believe that the minor involved was eighteen years of age or more and that the minor exhibited to the defendant a selective service card, driver's license, military identification card, birth certificate or other official or apparently official document purporting to establish that such a minor was eighteen years of age or more.

(3) For the purpose of Subsections A and B of this Section, "exhibition or display" means the exhibition or display of material harmful to minors as defined in Subsection A of this Section so that, as displayed, depictions and representations of illicit sex or sexual immorality are visible to minors.

(4) A commercial establishment shall not be in violation of this Section if the commercial establishment provides for a separate area for the exhibition or display of material harmful to minors and designates said area "NOT FOR MINORS" or similar words and the commercial establishment prohibits persons under the age of eighteen years from seeing or examining the contents of material harmful to minors.

C. This section does not preempt, nor shall anything in this section be construed to preempt, the regulation of obscenity by municipalities, parishes and consolidated city-parish governments; however, in order to promote uniform obscenity legislation throughout the state, the regulation of obscenity by municipalities, parishes and consolidated city-parish governments shall not exceed the scope of the regulatory prohibitions contained in the provisions of this section.

D. Prior to selling material harmful to minors as provided for by this Section, a commercial establishment shall require the individual purchasing the material harmful to minors to provide a driver's license, selective service card, military identification card, birth certificate, or other official form of identification which on its face establishes the age of the person as eighteen years or older.

E. Whoever is found guilty of violating the provisions of this Section shall be fined not less than one hundred dollars nor more than two thousand dollars or imprisoned for not more than one year, or both.

RS 14:91.12 — Sale, distribution or making available to minors publications encouraging, advocating, or facilitating the illegal use of controlled dangerous substances

available to a person under eighteen years of age any publication which has as its dominant theme articles or a substantial number of advertisements encouraging, advocating, or facilitating the illegal use of any substance classified as a controlled dangerous substance pursuant to Title 40 of the Louisiana Revised Statutes of 1950.

B. No employee acting within the course and scope of his employment and who has no proprietary interest in the business shall be guilty of a violation of this Section unless he has actual knowledge of the contents of the publication.

C. Whoever violates this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:91.13 — Illegal use of controlled dangerous substances in the presence of persons under seventeen years of age

y person under the age of seventeen and when there is an age difference of greater than two years between the two persons, to use, consume, possess, or distribute any controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act.

B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for more than six months, or both.

RS 14:91.14 — Unlawful distribution of material harmful to minors through the Internet

to permitting access to the material, require any person attempting

to access the material to electronically acknowledge and attest that the person seeking to access the material is eighteen years of age or older.

(2) The failure to comply with the provisions of Paragraph (1) of this Subsection shall constitute the unlawful distribution of material harmful to minors through the Internet.

(3) If a person or entity in Louisiana publishes material harmful to minors on the Internet and complies with the provisions of Paragraph (1) of this Subsection, the person or entity shall not be held liable under the provisions of this Section if the person seeking to access the material is under the age of eighteen and falsely acknowledges and attests that he is eighteen years of age or older.

(4) No Internet service provider, interactive computer service provider as defined by 47 U.S.C. 230(f), or radio or television broadcast licensee of the Federal Communications Commission shall be deemed to be a publisher or distributor of material harmful to minors that is provided by another person.

(5) This Section shall not apply to any bona fide news or public interest broadcast, website, video, report, or event and shall not be construed to affect the rights of any news-gathering organization.

B. For purposes of this Section:

(1) "Descriptions or depictions of illicit sex or sexual immorality" includes the depiction, display, description, exhibition, or representation of any of the following:

(a) Ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being.

(b) Masturbation, excretory functions, or exhibition, actual, simulated, or animated, of the genitals, pubic hair, anus, vulva, or female breast nipples.

(c) Sadoomasochistic abuse, meaning actual, simulated, or animated, flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained, on the part of one so clothed.

(d) Actual, simulated, or animated, touching, caressing, or fondling of, or other similar physical contact with, a pubic area, anus, female breast nipple, covered or exposed, whether alone or between human, animals, or a human and an animal, of the same or opposite sex, in an act of apparent sexual stimulation or gratification.

(e) Actual, simulated, or animated, stimulation of the human genital organs by any device whether or not the device is designed, manufactured, and marketed for that purpose.

(2) "Material harmful to minors" is defined as any digital image, photograph, or video which exploits, is devoted to or principally consists of, descriptions or depictions of illicit sex or sexual immorality for commercial gain, and when the trier of fact determines that each of the following applies:

(a) The material incites or appeals to or is designed to incite or appeal to the prurient, shameful, or morbid interest of minors.

(b) The material is offensive to the average adult applying contemporary community standards with respect to what is suitable for minors.

(c) The material taken as a whole lacks serious literary, artistic, political, or scientific value for minors.

(3) "News-gathering organization" means all of the following:

(a) A newspaper, or news publication, printed or electronic, of current news and intelligence of varied, broad, and general public interest, having been published for a minimum of one year and that can provide documentation of membership in a statewide or

national press association, as represented by an employee thereof who can provide documentation of his employment with the newspaper, wire service, or news publication.

(b) A radio broadcast station, television broadcast station, cable television operator, or wire service as represented by an employee thereof who can provide documentation of his employment.

C. Whoever violates the provisions of this Section shall be fined up to ten thousand dollars.

RS 14:91.15 — Unlawful operation of an unlicensed child day care center

a child day care center after notification by the Department of Education that the person or other entity operating the facility should seek a license as provided for in Part X-B of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:407.31 through 407.53.

(2) Continue to operate a child day care center after the Department of Education has revoked a license to operate a child day care center that was previously issued to the person or other entity as provided for in Part X-B of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:407.31 through 407.53.

B. For the purposes of this Section, "child day care center" means any place or facility operated by any institution, political subdivision, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or legal custodian, on a regular basis for at least twelve and one-half hours in a continuous seven-day week. If a child day care center provides transportation or arranges for transportation to and from the center, either directly or by contract with third parties, all hours during which a child is being transported shall be included in calculating the hours of operation.

C. Whoever commits the crime of unlawful operation of an unlicensed child day care center shall be subject to the following penalties:

(1) For a first offense violation of this Section, the violator shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(2) For a second offense violation of this Section, the violator shall be fined not more than two thousand five hundred dollars or imprisoned for not more than six months, or both. Furthermore, the violator shall be ineligible to apply for a license to operate a child day care facility or operate a child day care facility for up to twenty-four months.

(3) For a third or subsequent offense violation of this Section, the violator shall be fined not more than five thousand dollars or imprisoned for not more than twelve months, or both. Furthermore, the violator shall be ineligible to apply for a license to operate a child day care facility or operate a child day care facility for up to forty-eight months.

D. In accordance with R.S. 17:407.31 et seq., the Department of Education shall be responsible for the investigation of any unlicensed day care center to determine if the center is required by law to have a license issued by the department and to determine if the center is operating without a valid license issued by the department. After conducting any necessary investigation, the department shall make a determination with respect to licensing

status, and collect any evidence necessary with respect to violations of the licensing laws.
All evidence and findings by the department shall be submitted to a law enforcement agency
for any arrest for a violation of the provisions of this Section.

RS 14:91.21 — Sale of poisonous reptiles to minors; penalty

be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars or imprisoned for not more than six months, or both, for each such offense.

RS 14:91.22 — Repealed by Acts 1974, No. 276, §1

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RS 14:92 — Contributing to the delinquency of juveniles

any child under the age of seventeen, and no exception shall be made for a child who may be emancipated by marriage or otherwise, to:

- (1) Beg, sing, sell any article or play any musical instrument in any public place for the purpose of receiving alms.
 - (2) Associate with any vicious or disreputable persons, or frequent places where the same may be found.
 - (3) Visit any place where beverages of either high or low alcoholic content are the principal commodity sold or given away.
 - (4) Visit any place where any gambling device is found, or where gambling habitually occurs.
 - (5) Habitually trespass where it is recognized he has no right to be.
 - (6) Use any vile, obscene or indecent language.
 - (7) Perform any sexually immoral act.
 - (8) Absent himself or remain away, without authority of his parents or tutor, from his home or place of abode.
 - (9) Violate any law of the state or ordinance of any parish or village, or town or city of the state.
 - (10) Visit any place where sexually indecent and obscene material, of any nature, is offered for sale, displayed or exhibited.
 - (11)(a) Become involved in the commission of a crime of violence as defined in R.S. 14:2(B) which is a felony or a violation of the Uniform Controlled Dangerous Substances Law which is a felony.
 - (b) Become involved in the commission of any other felony not enumerated in Subparagraph (a) of this Paragraph.
- B. Lack of knowledge of the juvenile's age shall not be a defense.
- C. Whoever commits the crime of contributing to the delinquency of a juvenile shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.
- D. Whoever is charged and convicted of contributing to the delinquency of a juvenile under Paragraph (7) of Subsection A of this Section shall be fined not more than one thousand dollars, or imprisoned with or without hard labor for not more than two years, or both.
- E.(1) Whoever is charged and convicted of contributing to the delinquency of a juvenile under Subparagraph (a) of Paragraph (11) of Subsection A of this Section shall be imprisoned at hard labor for not less than two years and for not more than ten years or imprisoned according to the sentence of imprisonment for the underlying felony, whichever is less.
- (2) Whoever is charged and convicted of contributing to the delinquency of a juvenile under Subparagraph (b) of Paragraph (11) of Subsection A of this Section shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than two years, or both.
- (3) If a parent or legal guardian of a juvenile is charged and convicted of contributing to the delinquency of the juvenile under Paragraph (11) of Subsection A of this Section and sentenced pursuant to the provisions of Paragraph (1) of this Subsection, at least one year of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.
- (4) If a parent or legal guardian is sentenced to imprisonment pursuant to the provisions of Paragraph (2) of this Subsection, the following shall apply:

(a) If a parent or legal guardian is sentenced to imprisonment for six months or less, the sentence shall be without benefit of probation, parole, or suspension of sentence.

(b) If a parent or legal guardian is sentenced to imprisonment for more than six months, at least six months shall be without probation, parole, or suspension of sentence.

RS 14:92.1 — Encouraging or contributing to child delinquency, dependency, or neglect; penalty; suspension of sentence; definitions

ected child, as defined in the statutes of this state or by this Section, irrespective of whether any former proceedings have been had to determine the status of such child, the parent or parents, legal guardian, or any person having the custody of such child, or any other person or persons who shall by any act encourage, cause, or contribute to the dependency or delinquency of such child, or who acts in conjunction with such child in the acts which cause such child to be dependent or delinquent, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for not more than six months, or by both fine and imprisonment.

(2) The court in which the case is heard may suspend the sentence for violation of the provisions of this Section, and impose conditions upon the defendant as to his future conduct, and may make such suspension dependent upon the fulfillment by the defendant of such conditions. In the case of the breach of such conditions or any part of them, the court may impose sentence as though there had been no such suspension.

(3) The court may also, as a condition of such suspension, require a bond in such sum as the court may designate, to be approved by the judge requiring it, to secure the performance by such person of the conditions placed by the courts on such suspension. The bond by its terms shall be made payable to the district judge of the parish in which the prosecution is pending, and any money received from a breach of any of the provisions of the bond shall be paid into the parish treasury. The provisions of law regulating forfeiture of appearance bonds shall govern so far as they are applicable.

(4) Exclusive jurisdiction of the offense defined in this Section is hereby conferred on juvenile courts, in accordance with the provisions of law establishing such courts.

B. By the term "delinquency", as used in this section, is meant any act which tends to debase or injure the morals, health or welfare of a child; drinking beverages of low alcoholic content or beverages of high alcoholic content; the use of narcotics, going into or remaining in any bawdy house, assignation house, disorderly house or road house, hotel, public dance hall, or other gathering place where prostitutes, gamblers or thieves are permitted to enter and ply their trade; or associating with thieves and immoral persons, or enticing a minor to leave home or to leave the custody of its parents, guardians or persons standing in lieu thereof, without first receiving the consent of the parent, guardian, or other person; or begging, singing, selling any article; or playing any musical instrument in any public place for the purpose of receiving alms; or habitually trespassing where it is recognized he has no right to be; or using any vile, obscene, or indecent language; or performing any sexually immoral act; or violating any law of the state ordinance of any village, town, city, or parish of the state.

The term "juvenile", as used in this section, refers to any child under the age of seventeen. Lack of knowledge of the juvenile's age shall not be a defense.

RS 14:92.2 — Improper supervision of a minor by parent or legal custodian

the following:

(1) Through criminal negligence, or knowingly or willfully, permitting the minor to associate with a person known by the parent or custodian to be any of the following:

(a) A member of a known criminal street gang as defined in R.S. 15:1404(A).

(b) Convicted of a felony offense.

(c) A user or distributor of drugs in violation of the Uniform Controlled Dangerous Substances Law.

(d) A person who possesses or has access to an illegal firearm, weapon, or explosive.

(2) Through criminal negligence, or knowingly or willfully, permitting the minor to do any of the following:

(a) Enter premises known by the parent or custodian to be a place where sexually

indecent activities or prostitution is practiced.

(b) Violate a local or municipal curfew ordinance.

(c) Habitually be absent or tardy from school pursuant to the provisions of R.S. 17:233 without valid excuse.

(d) Enter the premises known by the parent or legal custodian as a place of illegal drug use or distribution activity.

(e) Enter the premises known by the parent or legal custodian as a place of underage drinking or gambling.

(f) Enter the premises known by the parent or legal custodian as a place which stores or has a person present who possesses an illegal firearm, weapon, or explosive.

(3) Any violation by commission or omission of a court-ordered safety plan.

(4) Causing or permitting an unlicensed minor to drive a motor vehicle or power cycle upon any public road or highway in this state, in violation of R.S. 32:416 and 417, when the unlicensed minor is involved in a collision which results in the serious bodily injury or death of another person.

B.(1) Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than ninety days, or both. A minimum condition of probation shall be that the offender participate in forty hours of court-approved community service activities, or a combination of forty hours of court-approved community service and attendance at a court-approved family counseling program by both a parent or legal custodian and the minor.

(2) Whoever violates the provision of Paragraph (A)(3) of this Section shall be sentenced to imprisonment for not more than six months or a fine of five hundred dollars, or both. Whoever violates the provisions of Paragraph (A)(3), which results in injury to the child that requires medical attention or death of the child, shall be punished by imprisonment for two years with or without hard labor.

(3) Whoever violates the provisions of Paragraph (A)(4) of this Section shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or imprisonment for up to six months, or both.

(4) Repealed by Acts 2019, No. 290, §3.

C. The provisions of Subparagraph (A)(1)(b) of this Section shall not apply to an immediate family member who lives in the household with the minor or other relative who is supervised by the parent or legal custodian when visiting with the minor.

D.(1) No parent or legal guardian shall be guilty of a violation of this Section if, upon acquiring knowledge that the minor has undertaken acts as described in Paragraphs (A)(1) and (2) of this Section, the parent or legal guardian seeks the assistance of local, parish, or state law enforcement officials, school officials, social services officials, or other appropriate authorities in either leading the child to modify his or her behavior, or in referring the child to appropriate treatment or corrective facilities.

(2) When imposing the sentence for a person convicted of this offense, the court shall consider the totality of the circumstances including the best interest of the minor.

RS 14:92.3 — Retaliation by a minor against a parent, legal custodian, witness, or complainant

malicious, and repeated threats of force against or harassment of a person or his property by a minor under the age of eighteen accompanied by an overt act on the part of the minor or by the apparent capability of the minor to carry out the threat or harassment, against a parent, legal custodian, person who filed a complaint against the minor, or a witness in a criminal case in which the minor is the defendant or charged with a delinquency and the minor intends to place that person in a reasonable fear of death, serious bodily injury, or damage to property.

B. The provisions of Subsection A do not apply if the conduct of the parent, legal custodian, person who filed a complaint against the minor, or a witness in a criminal case in which the minor is the defendant or charged with a delinquency is acting in violation of any criminal law.

C. A minor who violates the provisions of this Section shall be placed in the custody of the Department of Public Safety and Corrections for a period not to exceed six months.

A minimum condition of probation shall be that the offender participate in forty hours of court-approved community service activities or a combination of forty hours of court-approved community service and attendance at a court-approved family counseling program by both a parent or legal custodian and the minor.

RS 14:93 — Cruelty to juveniles

child under the age of seventeen whereby unjustifiable

pain or suffering is caused to said child. Lack of knowledge of the child's age shall not be a defense; or

(2) The intentional or criminally negligent exposure by anyone seventeen years of age or older of any child under the age of seventeen to a clandestine laboratory operation as defined by R.S. 40:983 in a situation where it is foreseeable that the child may be physically harmed. Lack of knowledge of the child's age shall not be a defense.

(3) The intentional or criminally negligent allowing of any child under the age of seventeen years by any person over the age of seventeen years to be present during the manufacturing, distribution, or purchasing or attempted manufacturing, distribution, or purchasing of a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Law. Lack of knowledge of the child's age shall not be a defense.

B. The providing of treatment by a parent or tutor in accordance with the tenets of a well-recognized religious method of healing, in lieu of medical treatment, shall not for that reason alone be considered to be criminally negligent mistreatment or neglect of a child. The provisions of this Subsection shall be an affirmative defense to a prosecution under this Section. Nothing herein shall be construed to limit the provisions of R.S. 40:1299.36.1.

C. The trial judge shall have the authority to issue any necessary orders to protect the safety of the child during the pendency of the criminal action and beyond its conclusion.

D.(1) Whoever commits the crime of cruelty to juveniles shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than ten years, or both.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, whoever commits the crime of cruelty to juveniles as defined in Paragraph (A)(1) of this Section when

the victim is eight years old or younger shall be imprisoned at hard labor for not more than twenty years.

RS 14:93.1 — Model glue; use of; abuse of toxic vapors; unlawful sales to minors; penalties

f model airplanes, boats and automobiles and which contains one or more of the following volatile solvents: (a) toluol, (b) hexane, (c) trichlorethylene, (d) acetone, (e) toluene, (f) ethyl acetate, (g) methyl ethyl ketone, (h) trichlorochthane, (i) isopropanol, (j) methyl isobutyl ketone, (k) methyl cellosolve acetate, (l) cyclohexanone, or (m) any other solvent, material, substance, chemical or combination thereof having the property of releasing toxic vapors.

(2) "Abuse of toxic vapors" shall mean to smell or inhale the fumes of any solvent, material, substance, chemical or combinations thereof having the property of releasing toxic vapors for the purpose of causing a condition of or inducing a symptom included in Subsection B of this Section.

B. It shall be unlawful for any person to intentionally smell or inhale the fumes of any type of model glue or toxic vapors for the purpose of causing a condition of or inducing symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction or dulling of the senses or nervous system; or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual or mental processes. This Section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

C. It shall be unlawful for any person to sell any type of model glue to a minor for any reason whatsoever.

D. It shall be unlawful for any person to sell or otherwise transfer possession of any type of model glue to any minor for any purpose whatsoever, unless the minor receiving possession of the model glue is the child or ward of and under the lawful custody of the vendor, donor or transferor of the glue.

E. Any person violating any provisions of this Section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned for not more than ninety days for each such offense or both.

RS 14:93.2 — Tattooing and body piercing of minors; prohibition

t or tutor of such person.

B. It is unlawful for any business entity to pierce the body of any person under the age of eighteen without the consent of a parent or legal custodian of such person.

C. Whoever is found guilty of violating the provisions of this Section shall be fined not less than one hundred dollars nor more than five hundred dollars or be imprisoned for not less than thirty days nor more than one year, or both.

RS 14:93.2.1 — Child desertion

zard or danger against which the child cannot reasonably be expected to protect himself, or the desertion or abandonment of such child, knowing or having reason to believe that the child could be exposed to such hazard or danger.

B.(1) Whoever commits the crime of child desertion shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

(2) On a second and subsequent conviction, the offender shall be fined not more than five hundred dollars and imprisoned for not less than thirty days nor more than six months, at least thirty days of which shall be without benefit of probation or suspension of sentence.

RS 14:93.2.2 — Unlawful placement of gold fillings, caps, and crowns; minors

y gold substance on any person under the age of eighteen without the consent of the parents or guardian of such person.

Whoever violates the provisions of this Section shall be fined not less than five hundred dollars nor more than five thousand dollars.

RS 14:93.2.3 — Second degree cruelty to juveniles

ny child under the age of

seventeen which causes serious bodily injury or neurological impairment to that child.

(2) Repealed by Acts 2019, No. 2, §3.

B. The providing of treatment by a parent or tutor in accordance with the tenets of a well-recognized religious method of healing, in lieu of medical treatment, shall not for that reason alone be considered to be intentional or criminally negligent mistreatment or neglect and shall be an affirmative defense to a prosecution under this Section.

C. Whoever commits the crime of second degree cruelty to juveniles shall be imprisoned at hard labor for not more than forty years.

RS 14:93.3 — Cruelty to elderly and persons with infirmities

regiver, whereby unjustifiable pain,

malnourishment, or suffering is caused to a person with an infirmity, an adult with a disability, or a person who is elderly, including but not limited to a person who is a resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential facility.

B. "Caregiver" is defined as any person or persons who temporarily or permanently is responsible for the care of a person with an infirmity; an adult with a physical or mental disability; or a person who is elderly, whether such care is voluntarily assumed or is assigned. "Caregiver" includes but is not limited to adult children, parents, relatives, neighbors, daycare institutions and facilities, adult congregate living facilities, and nursing homes which or who have voluntarily assumed or been assigned the care of a person who is elderly, a person with an infirmity, or an adult with a disability; or have assumed voluntary residence with a person who is elderly, a person with an infirmity, or an adult with a disability.

C. For the purposes of this Section and R.S. 14:93.4, the term "elderly" means any individual sixty years of age or older.

D. The providing of treatment by a caregiver in accordance with a well-recognized spiritual method of healing, in lieu of medical treatment, shall not for that reason alone be considered the intentional or criminally negligent mistreatment or neglect of a person with an infirmity, an adult with a disability, or a person who is elderly. The provisions of this Subsection shall be an affirmative defense to a prosecution under this Section.

E.(1) Whoever commits the crime of cruelty to any person with an infirmity, adult with a disability, or person who is elderly shall be fined not more than ten thousand dollars or imprisoned with or without hard labor for not more than ten years, or both. At least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence when the act of cruelty to persons with infirmities was intentional and malicious.

(2) Upon a second or subsequent conviction, the offender shall be fined not more than ten thousand dollars and imprisoned at hard labor for not less than five years nor more than ten years. Five years of the sentence of imprisonment imposed shall be served without benefit of parole, probation, or suspension of sentence.

RS 14:93.4 — Exploitation of elderly persons or persons with infirmities

on, or use by any person, including a

caregiver, of the property or assets of a person with an infirmity, an adult with a disability, or a person who is elderly, including but not limited to a resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential

facility without the express voluntary consent of the resident or the consent of a legally authorized representative of an incompetent resident, or by means of fraudulent conduct, practices, or representations.

(2) The financial exploitation of elderly persons or persons with an infirmity as defined in R.S. 6:1372.

(3) The use of the power of attorney or guardianship of a person with an infirmity, a person who is elderly, or an adult with a disability for one's own profit or advantage by means of fraudulent conduct, practices, or representations.

B.(1) Whoever commits the crime of exploitation of elderly persons or persons with infirmities shall be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not more than ten years, or both.

(2) Upon a second or subsequent conviction of a violation of the provisions of this Section, the offender shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years and may, in addition, be required to pay a fine of not more than twenty thousand dollars.

C. Whoever is convicted, or who enters a plea agreement for exploitation of an elderly person or persons with infirmities shall be prohibited from having access to the assets or property of the victim or of any other person with a disability or person who is elderly. The offender shall be prohibited from being appointed as a power of attorney or guardian for the victim or any other person with a disability or person who is elderly. The provisions of this Subsection shall not be construed to prohibit the offender from inheriting from the victim with an infirmity or from a victim who is elderly.

D. In addition to the penalties provided in Subsections B and C of this Section, a person convicted under the provisions of this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense in accordance with Code of Criminal Procedure Article 883.2.

RS 14:93.5 — Sexual battery of persons with infirmities

with another person when:

(1) The offender compels the victim, who is physically incapable of preventing the act because of advanced age or physical infirmity, to submit by placing the victim in fear of receiving bodily harm.

(2) The victim is incapable of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind produced by an intoxicating, narcotic, or anesthetic agent administered by or with the privity of the offender.

(3) The victim has such incapacity, by reason of a stupor or abnormal condition of mind from any cause, and the offender knew or should have known of the victim's incapacity.

(4) The victim is incapable, through unsoundness of mind, whether temporary or permanent, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.

B. For purposes of this Section, "sexual acts" mean either of the following:

(1) The touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender, directly or through clothing.

(2) The touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim, directly or through clothing.

C. Normal medical treatment and normal sanitary care shall not be construed as an offense under the provisions of this Section.

D.(1) Except as provided in Paragraph (2) of this Subsection, whoever commits the crime of sexual battery of persons with infirmities shall be punished by imprisonment, with or without hard labor, for not more than twenty years.

(2) If the victim is a resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential facility and the offender is an employee of such home or facility, the offender shall be punished by imprisonment, with or without hard labor, for not more than twenty-five years.

RS 14:93.10 — Definitions

ng one-half

of one percent or more of alcohol by volume. Beer includes but is not limited to ale, lager, porter, stout, sake, and other similar fermented beverages brewed or produced from malt wholly or in part or from any substitute therefor. Distilled spirits include alcohol, ethanol, or spirits or wine in any form, including all dilutions and mixtures thereof from whatever process produced.

(2) "Public possession" means the possession of any alcoholic beverage for any reason, including consumption, on any street, highway, or waterway or in any public place or any place open to the public, including a club which is de facto open to the public. "Public possession" does not include the following:

(a) The possession or consumption of any alcoholic beverage:

(i) For an established religious purpose.

(ii) When a person under twenty-one years of age is accompanied by a parent, spouse, or legal guardian twenty-one years of age or older.

(iii) For medical purposes when purchased as an over the counter medication, or when prescribed or administered by a licensed physician, pharmacist, dentist, nurse, hospital, or medical institution.

(iv) In a private residence, which shall include a residential dwelling and up to twenty contiguous acres, on which the dwelling is located, owned by the same person who owns the dwelling.

(b) The sale, handling, transport, or service in dispensing of any alcoholic beverage pursuant to lawful ownership of an establishment or to lawful employment of a person under twenty-one years of age by a duly licensed manufacturer, wholesaler, or retailer of beverage alcohol.

(3) "Purchase" means acquisition by the payment of money or other consideration.

Purchase does not include such acquisition for medical purposes either when purchased as over the counter medication or when prescribed or administered by a licensed physician, pharmacist, dentist, nurse, hospital, or medical institution.

RS 14:93.11 — Unlawful sales to persons under twenty-one

ars of age unless such person is the lawful owner or lawful employee of an establishment to which the sale is being made and is accepting such delivery pursuant to such ownership or employment. Lack of knowledge of the person's age shall not be a defense.

B. Whoever violates the provisions of this Section shall be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not less than thirty days nor more than six months, or both.

RS 14:93.12 — Purchase and public possession of alcoholic beverages; exceptions; penalties

y alcoholic beverage.

B.(1) Whoever violates the provisions of this Section shall be fined not more than one hundred dollars.

(2) Any person apprehended while violating the provisions of this Section shall be issued a citation by the apprehending law enforcement officer, which shall be paid in the same manner as provided for the offenders of local traffic violations. A citation issued by a law enforcement officer for such violation shall not be included on the person's criminal history record.

(3) In addition to the penalties provided in Paragraph (1) of this Subsection, the driver's license of any person violating the provisions of this Section may be suspended upon conviction, plea of guilty, or nolo contendere for a period of one hundred eighty days. Upon conviction, plea of guilty, or nolo contendere, the court shall surrender the driver's license to the Department of Public Safety and Corrections for suspension in accordance with the provisions of this Section. Upon first conviction, the court may issue an order which authorizes the department to issue a restricted driver's license upon a demonstration to the court that a hardship would result from being unable to drive to school or work. Such restrictions shall be determined by the court.

RS 14:93.13 — Unlawful purchase of alcoholic beverages by persons on behalf of persons under twenty-one

3.10(2)(a)(ii), to purchase on behalf of a person under twenty-one years of age any alcoholic beverage.

B.(1) Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.

(2) In addition to the penalties provided in Paragraph (1) of this Subsection, the driver's license of any person violating the provisions of this Section may be suspended upon conviction, plea of guilty, or nolo contendere for a period of one hundred eighty days. Upon conviction, plea of guilty, or nolo contendere, the court shall surrender the driver's license to the Department of Public Safety and Corrections for suspension in accordance with the provisions of this Section. Upon first conviction, the court may issue an order which authorizes the department to issue a restricted driver's license upon a demonstration to the court that suspension of his driving privileges will deprive him or his family of the necessities of life or prevent him from earning a livelihood. Such restrictions shall be determined by the court.

RS 14:93.14 — Responsibilities of retail dealers not relieved

under the provisions of Title 26 of the Louisiana Revised Statutes of 1950.

RS 14:93.15 — Alcoholic beverage vaporizer; prohibitions

y to any other vaporizer device used for purposes other than vaporizing alcoholic beverages.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:93.16 — Unlawful sales of consumable hemp products to persons under twenty-one

, as defined in R.S. 3:1481, to any person under twenty-one years

of age unless such person is the lawful owner or lawful employee of an establishment to which the sale is being made and is accepting such delivery pursuant to such ownership or employment. Lack of knowledge of the person's age shall not be a defense.

B. Whoever violates the provisions of this Section shall be fined not less than five hundred dollars nor more than one thousand dollars, or imprisoned for not less than thirty days nor more than six months, or both.

RS 14:93.17 — Purchase and possession of consumable hemp products by a minor; penalties
duct as defined in R.S. 3:1481.

B.(1) Whoever violates the provisions of this Section shall be fined not more than one hundred dollars.

(2) Any person apprehended while violating the provisions of this Section shall be issued a citation by the apprehending law enforcement officer, which shall be paid in the same manner as provided for the offenders of local traffic violations. A citation issued by a law enforcement officer for such violation shall not be included on the person's criminal history record.

RS 14:94 — Illegal use of weapons or dangerous instrumentalities

g, placing, or other use of any article, liquid, or substance, where it is foreseeable that it may result in death or great bodily harm to a human being.

B. Except as provided in Subsection E, whoever commits the crime of illegal use of weapons or dangerous instrumentalities shall be fined not more than one thousand dollars, or imprisoned with or without hard labor for not more than two years, or both.

C. Except as provided in Subsection E, on a second or subsequent conviction, the offender shall be imprisoned at hard labor for not less than five years nor more than seven years, without benefit of probation or suspension of sentence.

D. The enhanced penalty upon second and subsequent convictions provided for in Subsection C of this Section shall not be applicable in cases where more than five years have elapsed since the expiration of the maximum sentence, or sentences, of the previous conviction or convictions, and the time of the commission of the last offense for which he has been convicted. The sentence to be imposed in such event shall be the same as may be imposed upon a first conviction.

E. Whoever commits the crime of illegal use of weapons or dangerous instrumentalities by discharging a firearm from a motor vehicle located upon a public street or highway, where the intent is to injure, harm, or frighten another human being, shall be imprisoned at hard labor for not less than five nor more than ten years without benefit of probation or suspension of sentence.

F. Whoever commits the crime of illegal use of weapons or dangerous instrumentalities by discharging a firearm while committing, attempting to commit, conspiring to commit, or soliciting, coercing, or intimidating another person to commit a crime of violence or violation of the Uniform Controlled Dangerous Substances Law, shall be imprisoned at hard labor for not less than ten years nor more than twenty years, without benefit of parole, probation, or suspension of sentence. If the firearm used in violation of this Subsection is a machine gun or is equipped with a firearm silencer or muffler, as defined by R.S. 40:1751 and R.S. 40:1781, respectively, the offender shall be sentenced to imprisonment for not less than twenty years nor more than thirty years, without benefit of parole, probation, or suspension of sentence. Upon a second or subsequent conviction, under this Subsection, such offender shall be sentenced to imprisonment for not less than twenty years. If the violation of this Subsection, upon second or subsequent conviction, involves the use of a machine gun or a firearm equipped with a firearm silencer or muffler, such offender shall be sentenced to imprisonment for life without benefit of parole, probation, or suspension of sentence.

RS 14:95 — Illegal carrying of weapons

rily used or intended for probable use as a dangerous weapon, on one's person.

(b) The provisions of this Paragraph shall not apply to a person with a valid

concealed handgun permit issued pursuant to R.S. 40:1379.1.1, 1379.3, or 1379.3.2 nor shall it prohibit a person with a valid concealed handgun permit issued pursuant to R.S.

40:1379.1.1, 1379.3, or 1379.3.2 from carrying a concealed firearm or other instrumentality customarily used or intended for probable use as a dangerous weapon on his person unless otherwise prohibited by this Section.

(2) The ownership, possession, custody, or use of any firearm, or other instrumentality customarily used as a dangerous weapon, at any time by an enemy alien.

(3) The ownership, possession, custody, or use of any tools, or dynamite, or nitroglycerine, or explosives, or other instrumentality customarily used by thieves or burglars at any time by any person with the intent to commit a crime.

(4)(a) The intentional possession or use by any person of a dangerous weapon on a school campus during regular school hours or on a school bus. "School" means any elementary, secondary, or high school, or vocational-technical school in this state and "campus" means all facilities and property within the boundary of the school property. "School" shall not mean a vocational-technical school that is privately owned. "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

(b) The provisions of this Paragraph shall not apply to:

(i) A peace officer as defined by R.S. 14:30(B) in the performance of his official duties.

(ii) A school official or employee acting during the normal course of his employment or a student acting under the direction of such school official or employee.

(iii) Any person having the written permission of the principal or school board and engaged in competition or in marksmanship or safety instruction.

(5)(a) The intentional possession or use of a dangerous weapon by any person in any of the following locations:

(i) A law enforcement office, station, or building.

(ii) A detention facility, prison, or jail.

(iii) A courthouse or courtroom, provided that a judge may carry such a weapon in his own courtroom.

(iv) The state capitol building.

(b) The provisions of this Paragraph shall not apply to a peace officer as defined by R.S. 40:2402 in the performance of his official duties.

B.(1) Whoever commits the crime of illegal carrying of weapons shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

(2) Whoever commits the crime of illegal carrying of weapons with any firearm used in the commission of a crime of violence as defined in R.S. 14:2(B), shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than two years, or both. Any sentence issued pursuant to the provisions of this Paragraph and any sentence issued pursuant to a violation of a crime of violence as defined in R.S. 14:2(B) shall be served consecutively.

C. On a second conviction, the offender shall be imprisoned with or without hard

labor for not more than five years.

D. On third and subsequent convictions, the offender shall be imprisoned with or without hard labor for not more than ten years without benefit of parole, probation, or suspension of sentence.

E. If the offender uses, possesses, or has under his immediate control any firearm, or other instrumentality customarily used or intended for probable use as a dangerous weapon, while committing or attempting to commit a crime of violence or while unlawfully in the possession of a controlled dangerous substance except the possession of fourteen grams or less of marijuana, or during the unlawful sale or distribution of a controlled dangerous substance, the offender shall be fined not more than ten thousand dollars and imprisoned at hard labor for not less than five nor more than ten years without the benefit of probation, parole, or suspension of sentence. Upon a second or subsequent conviction, the offender shall be imprisoned at hard labor for not less than twenty years nor more than thirty years without the benefit of probation, parole, or suspension of sentence.

F.(1) For purposes of determining whether a defendant has a prior conviction for a violation of this Section, a conviction pursuant to this Section or a conviction pursuant to an ordinance of a local governmental subdivision of this state which contains the elements provided for in Subsection A of this Section shall constitute a prior conviction.

(2) The enhanced penalty upon second, third, and subsequent convictions shall not be applicable in cases where more than five years have elapsed since the expiration of the maximum sentence, or sentences, of the previous conviction or convictions, and the time of the commission of the last offense for which he has been convicted; the sentence to be imposed in such event shall be the same as may be imposed upon a first conviction.

(3) Any ordinance that prohibits the unlawful carrying of firearms enacted by a municipality, town, or similar political subdivision or governing authority of this state shall be subject to the provisions of R.S. 40:1796.

G.(1) The provisions of this Section shall not apply to sheriffs and their deputies, state and city police, constables and town marshals, or persons vested with police power when in the actual discharge of official duties. These provisions shall not apply to sheriffs and their deputies and state and city police who are not actually discharging their official duties, provided that such persons are full time, active, and certified by the Council on Peace Officer Standards and Training and have on their persons valid identification as duly commissioned law enforcement officers.

(2) The provisions of this Section shall not apply to any law enforcement officer who is retired from full-time active law enforcement service with at least twelve years service upon retirement, nor shall it apply to any enforcement officer of the office of state parks in the Department of Culture, Recreation and Tourism who is retired from active duty as an enforcement officer, provided that:

(a) The retired officer has on his person valid identification as a retired law enforcement officer, which identification shall be provided by the entity that employed the officer prior to his public retirement. This exception shall not apply to an officer who is medically retired based upon any mental impairment.

(b) The retired officer was properly certified by the Council on Peace Officer Standards and Training at the time of retirement, in accordance with R.S. 40:1379.3(D)(1)(f).

(3)(a) The provisions of this Section shall not apply to active or retired reserve or auxiliary law enforcement officers qualified annually by the Council on Peace Officer Standards and Training and who have on their person valid identification as active or retired reserve law or auxiliary municipal police officers. The active or retired reserve or auxiliary municipal police officer shall be qualified annually in the use of firearms by the Council on Peace Officer Standards and Training and have proof of such certification.

(b) For the purposes of this Paragraph, a reserve or auxiliary municipal police officer shall be defined as a volunteer, nonregular, sworn member of a law enforcement agency who serves with or without compensation and has regular police powers while functioning as such agency's representative, and who participates on a regular basis in agency activities including but not limited to those pertaining to crime prevention or control, and the preservation of the peace and enforcement of the law.

(4) The provisions of this Section shall not apply to any retired elected head of a law enforcement department, provided that he was qualified in the use of firearms by the Council on Peace Officer Standards and Training at the time of retirement.

H.(1) Except as provided in Paragraph (A)(4) of this Section and in Paragraph (2) of this Subsection, the provisions of this Section shall not prohibit active justices or judges of the supreme court, courts of appeal, district courts, parish courts, juvenile courts, family courts, city courts, federal courts domiciled in the state of Louisiana, and traffic courts; members of either house of the legislature; officers of either house of the legislature; the legislative auditor; designated investigative auditors; constables; coroners; designated coroner investigators; district attorneys and designated assistant district attorneys; United States attorneys and assistant United States attorneys and investigators; the governor; the lieutenant governor; the secretary of state; the treasurer; the commissioner of agriculture; the commissioner of insurance; the attorney general; designated assistant attorneys general; city prosecutors; designated assistant city prosecutors; a United States representative from Louisiana and his designated, employed congressional staffer; a United States senator from Louisiana and his designated, employed congressional staffer; justices of the peace; parish presidents; and mayor-presidents from possessing and concealing a handgun on their person when such persons are qualified annually in the use of firearms by the Council on Peace Officer Standards and Training.

(2) Nothing in this Subsection shall permit the carrying of a weapon in the state capitol building with the exception of the following state officials if they are annually qualified in the use of firearms by the Council on Peace Officer Standards and Training:

(a) The attorney general and members of his Louisiana Bureau of Investigation security detail.

(b) Members of the legislature.

I. The provisions of this Section shall not prohibit the carrying of a concealed handgun by a person who is a college or university police officer under the provisions of R.S. 17:1805 and who is carrying a concealed handgun in accordance with the provisions of that

statute.

J. Repealed by Acts 2018, No. 341, §2.

K.(1) The provisions of this Section shall not prohibit a retired or former justice or judge of the supreme court, courts of appeal, district courts, parish courts, juvenile courts, family courts, city courts, or federal courts; former governor; former lieutenant governor; former secretary of state; former treasurer; former commissioner of agriculture; former commissioner of insurance; retired or former attorney general; retired or former assistant attorneys general; retired or former district attorneys; retired or former assistant district attorneys; retired or former United States attorneys, retired or former assistant United States attorneys, or retired or former federal investigators; retired or former justices of the peace; retired or former members of the United States Congress; and former members of either house of the legislature from possessing and concealing a handgun on their person, provided that such retired person or former member of the legislature is qualified annually, at their expense, in the use of firearms by the Council on Peace Officer Standards and Training and has on their person valid identification showing proof of their status as a former member of the legislature or as a retired or former justice, judge, governor, lieutenant governor, secretary of state, treasurer, commissioner of agriculture, commissioner of insurance, attorney general, assistant attorney general, district attorney, assistant district attorney, United States attorney, or assistant United States attorney or federal investigator, or retired justice of the peace. For a former member of the legislature, the valid identification showing proof of status as a former legislator required by the provisions of this Paragraph shall be a legislative badge issued by the Louisiana Legislature that shall include the former member's name, the number of the district that the former member was elected to represent, the years that the former member served in the legislature, and words that indicate the person's status as a former member of the legislature.

(2) The retired or former justice, judge, governor, lieutenant governor, secretary of state, treasurer, commissioner of agriculture, commissioner of insurance, attorney general, assistant attorney general, district attorney, assistant district attorney, justice of the peace, or former member of the United States Congress or either house of the legislature shall be qualified annually in the use of firearms by the Council on Peace Officer Standards and Training and have proof of qualification.

(3) This Subsection shall not apply to a retired or former justice, judge, governor, lieutenant governor, secretary of state, treasurer, commissioner of agriculture, commissioner of insurance, attorney general, assistant attorney general, district attorney, assistant district attorney, United States attorney, assistant United States attorney or federal investigator, retired justice of the peace, or to a former member of the legislature or the United States Congress who is medically retired based upon any mental impairment, or who has entered a plea of guilty or nolo contendere to or been found guilty of a felony offense.

(4) For the purposes of this Subsection:

(a) "Retired assistant United States attorney" or "retired federal investigator" means an assistant United States attorney or investigator receiving retirement benefits from the Federal Employees Retirement System.

(b) "Retired district attorney" or "retired assistant district attorney" means a district attorney or an assistant district attorney receiving retirement benefits from the District Attorneys' Retirement System.

(c) "Retired United States attorney" means a presidentially appointed United States attorney who separated from service in good standing.

L. The provisions of Paragraph (A)(1) of this Section shall not apply to any person who is not prohibited from possessing a firearm pursuant to R.S. 14:95.1 or any other state or federal law and who is carrying a concealed firearm on or about his person while in the act of evacuating during a mandatory evacuation order issued during a state of emergency or disaster declared pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act. For purposes of this Subsection, "in the act of evacuating" means the immediate and urgent movement of a person away from the evacuation area within forty-eight hours after a mandatory evacuation is ordered. The forty-eight-hour period may be extended by an order issued by the governor.

M. The provisions of Subparagraph (A)(1)(a) of this Section shall not apply to any person who is eighteen years of age or older and is not prohibited from possessing a firearm under R.S. 14:95.1, 18 U.S.C. 922(g), or any other state or federal law.

N. Any person lawfully carrying a handgun pursuant to Subsection M of this Section shall be subject to the restrictions contained in R.S. 40:1379.3(I), (L), (M), (N), and (O).

RS 14:95.1 — Possession of firearm or carrying concealed weapon by a person convicted of certain

ty by reason of insanity for, a crime of violence as defined in R.S. 14:2(B) which is a felony or simple burglary, burglary of an inhabited dwelling, unauthorized entry of an inhabited dwelling, felony illegal use of weapons or dangerous instrumentalities, manufacture or possession of a delayed action incendiary device, manufacture or possession of a bomb, or possession of a firearm while in the possession of or during the sale or distribution of a controlled dangerous substance, or any violation of the Uniform Controlled Dangerous Substances Law which is a felony, or any crime which is defined as a sex offense in R.S. 15:541, or any crime defined as an attempt to commit one of the above-enumerated offenses under the laws of this state, or who has been convicted under the laws of any other state or of the United States or of any foreign government or country of a crime which, if committed in this state, would be one of the above-enumerated crimes, to possess a firearm or carry a concealed weapon.

(2)(a) This Section shall also apply to any person who committed a felony-grade delinquent act described in Paragraph (1) of this Subsection while in possession of a firearm, if adjudicated when that person was fifteen or sixteen years of age, and the person is under the age of twenty-two years at the time of the violation of this Section.

(b) The provisions of this Paragraph shall not apply to any person who has been accepted into military service as a member of any of the branches of the armed forces of the United States as defined by 10 U.S.C. 101(a)(4), the reserve components of the armed forces of the United States as defined by 10 U.S.C. 10101, or the Louisiana National Guard.

B.(1) Whoever is found guilty of violating the provisions of this Section shall be imprisoned at hard labor for not less than five nor more than twenty years without the benefit

of probation, parole, or suspension of sentence and be fined not less than one thousand dollars nor more than five thousand dollars.

(2) Whoever is found guilty of attempting to violate the provisions of this Section shall be imprisoned at hard labor for not less than one year nor more than seven and one-half years and fined not less than one thousand dollars nor more than five thousand dollars.

(3) If the offender is found guilty of violating the provisions of this Section while on probation or parole, the sentence imposed pursuant to this Subsection shall be served consecutively with the remaining balance of any sentence to be served for a prior conviction for any offense in accordance with Code of Criminal Procedure Article 901.

C. The provisions of this Section prohibiting the possession of firearms and carrying concealed weapons by persons who have been convicted of, or who have been found not guilty by reason of insanity for, certain felonies shall not apply to any person who has not been convicted of, or who has not been found not guilty by reason of insanity for, any felony for a period of ten years from the date of completion of sentence, probation, parole, suspension of sentence, or discharge from a mental institution by a court of competent jurisdiction.

D. If a violation of this Section is committed during the commission of a crime of violence as defined in R.S. 14:2(B), or the defendant has a prior conviction of a crime of violence, then the violation of this Section shall be designated as a crime of violence.

E. For the purposes of this Section, "firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

RS 14:95.1.1 — Illegally supplying a felon with a firearm

transferring a firearm to any person

known by the offender to be a person convicted of a felony and prohibited from possessing a firearm as provided for in R.S. 14:95.1.

B. Whoever commits the crime of illegally supplying a felon with a firearm shall be imprisoned with or without hard labor for not more than five years and may be fined not less than one thousand dollars nor more than five thousand dollars. At least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

RS 14:95.1.2 — Illegally supplying a felon with ammunition

ammunition to any person known by the offender to be a person convicted of a felony and prohibited from possessing a firearm as provided for in R.S. 14:95.1.

B. For the purposes of this Section, the following words shall have the following meanings:

(1) "Ammunition" means any projectiles with their fuses, propelling charges, or primers fired from any firearm.

(2) "Firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, or assault rifle, which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

C. Whoever commits the crime of illegally supplying a felon with ammunition shall be imprisoned for not more than five years and may be fined not less than one thousand dollars nor more than five thousand dollars.

RS 14:95.1.3 — Fraudulent firearm and ammunition purchase; mandatory reporting

aler or private

seller of firearms or ammunition to sell a firearm or ammunition under circumstances which the person knows would violate the laws of this state or of the United States.

(2) To provide to a licensed dealer or private seller of firearms or ammunition what the person knows to be materially false information with intent to deceive the dealer or seller about the legality of a sale of a firearm or ammunition.

(3) To willfully procure another person to engage in conduct prohibited by this Section.

B. For purposes of this Section:

(1) "Ammunition" means any cartridge, shell, or projectile designed for use in a firearm.

(2) "Licensed dealer" means a person who is licensed pursuant to 18 U.S.C. 923 to engage in the business of dealing in firearms or ammunition.

(3) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(4) "Private seller" means a person who sells or offers for sale any firearm or ammunition.

C. The provisions of this Section shall not apply to a law enforcement officer acting in his official capacity or to a person acting at the direction of such law enforcement officer.

D. Whoever violates the provisions of Subsection A of this Section shall be fined not less than one thousand dollars or more than five thousand dollars, or imprisoned, with or without hard labor, for not more than twenty years, or both. The sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

E.(1) If a person is reported ineligible to purchase firearms by the National Instant Criminal Background Check System (NICS), the licensed dealer shall report the NICS denial to the sheriff of the parish in which the attempted purchase occurred and to the Louisiana Automated Victim Notification System.

(2) If at any time a law enforcement agency discovers that a licensed dealer knew or should have known that a purchaser or attempted purchaser of a firearm was prohibited from possessing a firearm and the licensed dealer failed to report as required by this Section, the sheriff or law enforcement agency shall notify all state and federal licensing agencies of the licensed dealer's failure to report.

RS 14:95.1.4 — Illegal transfer of a firearm to a prohibited possessor

otherwise transferring a firearm to any person

known to the offender to be a person prohibited from possessing a firearm under state or federal law.

B. Whoever commits the crime of illegal transfer of a firearm to a prohibited possessor shall be fined not more than two thousand five hundred dollars, imprisoned with or without hard labor for not more than one year, or both.

RS 14:95.2 — Carrying a firearm or dangerous weapon by a student or nonstudent on school

on as defined in R.S. 14:2, by a student or

nonstudent on school property, at a school sponsored function, or in a firearm-free zone is

unlawful and shall be defined as possession of any firearm or dangerous weapon, on one's person, at any time while on a school campus, on school transportation, or at any school sponsored function in a specific designated area including but not limited to athletic competitions, dances, parties, or any extracurricular activities, or within one thousand feet of any school campus.

B. For purposes of this Section, the following words have the following meanings:

(1) "Campus" means all facilities and property within the boundary of the school property.

(2) "Nonstudent" means any person not registered and enrolled in that school or a suspended student who does not have permission to be on the school campus.

(3) "School" means any elementary, secondary, high school, vocational-technical school, college, or university in this state. "School" shall not mean a vocational-technical school that is privately owned.

(4) "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

C. The provisions of this Section shall not apply to:

(1) A federal law enforcement officer or a Louisiana-commissioned state or local Post Certified law enforcement officer who is authorized to carry a firearm.

(2) A school official or employee acting during the normal course of his employment or a student acting under the direction of such school official or employee.

(3) Any person having the written permission of the principal or as provided in R.S. 17:3361.1.

(4) The possession of a firearm occurring within one thousand feet of school property and entirely on private property, or entirely within a private residence.

(5) Any constitutionally protected activity which cannot be regulated by the state, such as a firearm contained entirely within a motor vehicle.

(6) Any student carrying a firearm to or from a class, in which he is duly enrolled, that requires the use of the firearm in the class.

(7) A student enrolled or participating in an activity requiring the use of a firearm including but not limited to any ROTC function under the authorization of a university.

(8) A student who possesses a firearm in his dormitory room or while going to or from his vehicle or any other person with permission of the administration.

(9) Any person who has a valid concealed handgun permit issued pursuant to R.S. 40:1379.1, 1379.3, or by a state that has reciprocity with Louisiana, or a person carrying a handgun pursuant to R.S. 14:95(M), and who carries a concealed handgun within one thousand feet of any school campus.

D.(1) Whoever commits the crime of carrying a firearm, or a dangerous weapon as defined in R.S. 14:2, by a student or nonstudent on school property, at a school-sponsored function, or in a firearm-free zone shall be imprisoned at hard labor for not more than five years.

(2) Whoever commits the crime of carrying a firearm, or a dangerous weapon as defined in R.S. 14:2, on school property or in a firearm-free zone with the firearm or

dangerous weapon being used in the commission of a crime of violence as defined in R.S. 14:2(B) on school property or in a firearm-free zone, shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both. Any sentence issued pursuant to the provisions of this Paragraph and any sentence issued pursuant to a violation of a crime of violence as defined in R.S. 14:2(B) shall be served consecutively. Upon commitment to the Department of Public Safety and Corrections after conviction for a crime committed on school property, at a school-sponsored function or in a firearm-free zone, the department shall have the offender evaluated through appropriate examinations or tests conducted under the supervision of the department. Such evaluation shall be made within thirty days of the order of commitment.

E. Lack of knowledge that the prohibited act occurred on or within one thousand feet of school property shall not be a defense.

F.(1) School officials shall notify all students and parents of the impact of this legislation and shall post notices of the impact of this Section at each major point of entry to the school. These notices shall be maintained as permanent notices.

(2)(a) If a student is detained by the principal or other school official for violation of this Section or the school principal or other school official confiscates or seizes a firearm or concealed weapon from a student while upon school property, at a school function, or on a school bus, the principal or other school official in charge at the time of the detention or seizure shall immediately report the detention or seizure to the police department or sheriff's department where the school is located and shall deliver any firearm or weapon seized to that agency.

(b) The confiscated weapon shall be disposed of or destroyed as provided by law.

(3) If a student is detained pursuant to Paragraph (2) of this Subsection for carrying a concealed weapon on campus, the principal shall immediately notify the student's parents.

(4) If a person is arrested for carrying a concealed weapon on campus by a university or college police officer, the weapon shall be given to the sheriff, chief of police, or other officer to whom custody of the arrested person is transferred as provided by R.S. 17:1805(B).

G. Any principal or school official in charge who fails to report the detention of a student or the seizure of a firearm or concealed weapon to a law enforcement agency as required by Paragraph (F)(2) of this Section within seventy-two hours of notice of the detention or seizure may be issued a misdemeanor summons for a violation hereof and may be fined not more than five hundred dollars or sentenced to not more than forty hours of community service, or both. Upon successful completion of the community service or payment of the fine, or both, the arrest and conviction shall be set aside as provided for in Code of Criminal Procedure Article 894(B).

RS 14:95.2.1 — Illegal carrying of a firearm at a parade with any firearm used in the commission

14:95 with any firearm used in the commission of a crime of violence as defined in R.S. 14:2(B), within one thousand feet of any parade or demonstration for which a permit is issued by a governmental entity, shall be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than five years,

or both. The entire sentence of imprisonment, not to exceed the first three years for sentences greater than three years, shall be served without benefit of parole, probation, or suspension of sentence.

(2) Any sentence issued pursuant to the provisions of this Subsection and any sentence issued pursuant to a violation of a crime of violence as defined in R.S. 14:2(B) shall be served consecutively.

B. As used in this Section, the following words mean:

(1) "Firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, or assault rifle, which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

(2) "Parade" for the purposes of this Section shall be defined as any celebration of Mardi Gras or directly related pre-Lenten or carnival related festivities, school parades, parish parades, state parades or municipal parades, or any demonstration for which a permit is issued by a governmental entity.

(3) "Parade route" means any public sidewalk, street, highway, bridge, alley, road, or other public passageway upon which a parade travels.

C. Lack of knowledge that the prohibited act occurred on or within one thousand feet of the parade route shall not be a defense.

RS 14:95.2.2 — Reckless discharge of a firearm at a parade or demonstration

within one thousand feet of any parade, demonstration, or gathering for which a permit is issued by a governmental entity.

B. For the purposes of this Section:

(1) "Firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, excluding black powder weapons, or assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

(2) "Parade" for the purposes of this Section shall be defined as any celebration of Mardi Gras or directly related pre-Lenten or carnival-related festivities, school parades, parish parades, state parades, or municipal parades, or any demonstration or gathering for which a permit is issued by a governmental entity.

(3) "Reckless or criminally negligent" means that although neither specific nor general criminal intent is present, there is such disregard of the interest of others that the offender's conduct amounts to a gross deviation below the standard of care expected to be maintained by a reasonably careful man under like circumstances.

C. The provisions of this Section shall not apply to:

(1) A federal, state, or local law enforcement officer in the performance of his official duties.

(2) The possession of a firearm occurring within one thousand feet of a public gathering entirely within a private residence or in accordance with a concealed handgun permit issued pursuant to R.S. 40:1379.1 and 1379.3.

(3) The possession or discharge of a firearm by a person who holds a valid certificate as a living historian in the use, storage, and handling of black powder issued by the Louisiana

office of state parks for the purpose of historic reenactments if the firearm is a black powder weapon which is an antique firearm as defined in 18 U.S.C. 921(a)(16), or an antique device exempted from the term "destructive device" in 18 U.S.C. 921(a)(4).

(4) The discharge of a firearm by a person engaged in any lawful hunting or sport shooting activity on public or private property.

D. Whoever commits the crime of reckless or negligent discharge of a firearm at a parade or demonstration shall be sentenced to imprisonment at hard labor for not less than five nor more than fifteen years, at least three years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence and shall be fined not more than five thousand dollars.

E. The provisions of this Section shall not apply to the discharge of any firearm which has been authorized as part of the parade itself.

RS 14:95.3 — Unlawful use or possession of body armor

(B) which is a felony.

(b) Simple burglary, burglary of a pharmacy, or burglary of an inhabited dwelling.

(c) Unauthorized entry of an inhabited dwelling.

(d) Felony illegal use of weapons or dangerous instrumentalities.

(e) Manufacture or possession of a delayed action incendiary device.

(f) Manufacture or possession of a bomb.

(g) Any violation of the Uniform Controlled Dangerous Substances Law.

(h) Any crime defined as an attempt to commit one of the offenses enumerated in Subparagraphs (a) through (g) of this Paragraph.

(i) Any law of any other state or of the United States or of any foreign government or country of a crime which, if committed in this state, would be one of the crimes enumerated in Subparagraphs (a) through (h) of this Paragraph.

(2) The prohibition in Paragraph (1) of this Subsection shall not apply to any person who is participating in a witness protection program.

B. No person shall use or wear body armor while committing any of the crimes enumerated in Subparagraphs (A)(1)(a) through (i) of this Section.

C. Whoever violates the provisions of this Section shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

D. For the purposes of this Section, "body armor" shall mean bullet resistant metal or other material intended to provide protection from weapons or bodily injury.

RS 14:95.4 — Repealed by Acts 2016, No. 201, §1.

aton Rouge, Louisiana 70804-9062

RS 14:95.5 — Possession of firearm on premises of alcoholic beverage outlet

B. "Alcoholic beverage outlet" as used herein means any commercial establishment in which alcoholic beverages of either high or low alcoholic content are sold in individual servings for consumption on the premises, whether or not such sales are a primary or incidental purpose of the business of the establishment.

C.(1) The provisions of this Section shall not apply to the owner or lessee of an alcoholic beverage outlet, an employee of such owner or lessee, or to a law enforcement officer or other person vested with law enforcement authority or listed in R.S. 14:95(G) or (H).

(2) The provisions of this Section shall not apply to a person possessing a firearm in accordance with a concealed handgun permit issued pursuant to R.S. 40:1379.1 or 1379.3 or pursuant to R.S. 14:95(M) on the premises of an alcoholic beverage outlet which has been issued a Class A-Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950.

(3) The provisions of this Section shall not be construed to limit the ability of a sheriff or chief law enforcement officer to establish policies within his department or office regarding the carrying of a concealed handgun on the premises of an alcoholic beverage outlet by any law enforcement officer under his authority.

D. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:95.6 — Firearm-free zone; notice; signs; crime; penalties

n a school bus, wherein the possession of firearms is prohibited, except as specifically set forth in Subsection B of this Section and R.S. 14:95.2(C).

B. The provisions of this Section shall not apply to:

- (1) A federal, state, or local law enforcement building.
- (2) A military base.
- (3) A commercial establishment which is permitted by law to have firearms or armed security.
- (4) Private premises where a firearm is kept pursuant to law.
- (5) Any constitutionally protected activity within the firearm-free zone, such as a firearm contained entirely within a motor vehicle.

C. For purposes of this Section:

- (1) "School" means any public or private elementary, secondary, high school, or vocational-technical school, college, or university in this state. "School" shall not mean a vocational-technical school that is privately owned.
- (2) "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.
- (3) "School campus" means all facilities and property within the boundary of the school property.

D. The local governing authority which has jurisdiction over zoning matters in which each firearm-free zone is located shall publish a map clearly indicating the boundaries of each firearm-free zone in accordance with the specifications in Subsection A. The firearm-free zone map shall be made an official public document and placed with the clerk of court for the parish or parishes in which the firearm-free zone is located.

E.(1) The state superintendent of education, with the approval of the State Board of Elementary and Secondary Education, and the commissioner of higher education, with the approval of the Board of Regents, shall develop a method by which to mark firearm-free zones, including the use of signs or other markings suitable to the situation. Signs or other markings shall be located in a visible manner on or near each school and on and in each school bus indicating that such area is a firearm-free zone and that such zone extends to one

thousand feet from the boundary of school property. The state Department of Education shall assist each approved school with the posting of notice as required in this Subsection.

(2) Signs or other markings, in addition to the method developed pursuant to Paragraph (1) of this Subsection, shall provide notice that armed law enforcement officers are permitted within the firearm-free zone by including in the signs or other markings the language "Law Enforcement Weapons Permitted" or language substantially similar thereto.

F.(1) It is unlawful for any person to cover, remove, deface, alter, or destroy any sign or other marking identifying a firearm-free zone as provided in this Section.

(2) Whoever violates the provisions of this Subsection shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

RS 14:95.7 — Possession of or dealing in firearms with obliterated numbers or marks

number or mark of identification has been obliterated.

B. This Section shall not apply to any firearm which is an antique or war relic and is inoperable or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade, or which was originally manufactured without such a number.

C. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars and imprisoned as follows:

(1) For a first offense, the penalty shall be imprisonment, with or without hard labor, for not less than one year nor more than five years.

(2) For a second or subsequent offense, the penalty shall be imprisonment, with or without hard labor, for not less than two years nor more than ten years.

RS 14:95.8 — Illegal possession of a handgun by a juvenile

on possessing any handgun in

violation of this Section commits the offense of illegal possession of a handgun by a juvenile.

B.(1) On a first conviction, the offender shall be fined not more than one hundred dollars and imprisoned for not less than ninety days and not more than six months.

(2) On a second conviction, the offender shall be fined not more than five hundred dollars and imprisoned with or without hard labor for not more than two years.

(3) On a third or subsequent conviction, the offender shall be fined not more than one thousand dollars and imprisoned at hard labor for not more than five years.

(4) A juvenile adjudicated delinquent under this Section, having been previously found guilty or adjudicated delinquent for any crime of violence as defined by R.S. 14:2(B), or attempt or conspiracy to commit any such offense, shall upon a first or subsequent conviction be fined not less than five hundred dollars and not more than one thousand dollars and shall be imprisoned with or without hard labor for not less than six months and not more than five years. At least ninety days shall be served without benefit of probation, parole, or suspension of sentence.

C. The provisions of this Section shall not apply to any person under the age of eighteen years who is:

(1) Attending a hunter's safety course or a firearms safety course.

(2) Engaging in practice in the use of a firearm or target shooting at an established range.

(3) Hunting or trapping pursuant to a valid license issued to him pursuant to the laws

of this state.

(4) Traveling to or from any activity described in Paragraph (1), (2), or (3) of this Subsection while in possession of an unloaded gun.

(5) On real property with the permission of his parent or legal guardian and with the permission of the owner or lessee of the property.

(6) At such person's residence and who, with the permission of such person's parent or legal guardian, possesses a handgun.

(7) Possessing a handgun with the written permission of such person's parent or legal guardian; provided that such person carries on his person a copy of such written permission.

D. For the purposes of this Section "handgun" means a firearm as defined in R.S.

14:37.2, provided however, that the barrel length shall not exceed twelve inches.

RS 14:95.9 — Wearing or possessing body armor, by a student or nonstudent on school property,
r, by a student or nonstudent on school property,

at a school-sponsored function, or in a firearm-free zone is unlawful and shall be defined as wearing or possessing of body armor, on one's person, at any time while on a school campus, on school transportation, or at any school-sponsored function in a specific designated area including but not limited to athletic competitions, dances, parties, or any extracurricular activities, or within one thousand feet of any school campus.

B. For purposes of this Section, the following words have the following meanings:

(1) "Body armor" shall mean bullet-resistant metal or other material intended to provide protection from weapons or bodily injury.

(2) "Campus" means all facilities and property within the boundary of the school property.

(3) "Nonstudent" means any person not registered and enrolled in that school or a suspended student who does not have permission to be on the school campus.

(4) "School" means any elementary, secondary, high school, vocational-technical school, college, or university in this state.

(5) "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

C. The provisions of this Section shall not apply to:

(1) A federal, state, or local law enforcement officer in the performance of his official duties.

(2) A school official or employee acting during the normal course of his employment or a student acting under the direction of such school official or employee.

(3) A person who has notified the school principal or chancellor in writing at least twenty-four hours prior to wearing body armor.

(4) The wearing or possessing of body armor occurring within one thousand feet of school property and entirely on private property, or entirely within a private residence, or in accordance with a concealed handgun permit issued pursuant to R.S. 40:1379.1.

(5) Any constitutionally protected activity which cannot be regulated by the state, such as body armor contained entirely within a motor vehicle.

(6) Any student wearing or possessing body armor to or from a class, in which he is

duly enrolled, that requires the use of the body armor in the class.

(7) A student enrolled or participating in an activity requiring the use of body armor.

(8) A student wearing, carrying, or possessing a backpack on school property or a school bus that has bullet-resistant metal or other material intended to provide protection from weapons or bodily injury.

D. Whoever commits the crime of wearing or possessing body armor by a student or nonstudent on school property, at a school-sponsored function, or in a firearm-free zone shall be fined not more than one thousand dollars, or imprisoned, without hard labor, for not less than six months nor more than one year, or both.

E. Lack of knowledge that the prohibited act occurred on or within one thousand feet of school property shall not be a defense.

F.(1) School officials shall notify all students and parents of the impact of this legislation and shall post notices of the impact of this Section at each major point of entry to the school. These notices shall be maintained as permanent notices.

(2) If a student is detained by the principal or other school official for violation of this Section or the school principal or other school official confiscates or seizes body armor from a student while upon school property, at a school function, or on a school bus, the principal or other school official in charge at the time of the detention or seizure shall immediately report the detention or seizure to the police department or sheriff's department where the school is located and shall deliver any body armor seized to that agency.

(3) If a student is detained pursuant to Paragraph (2) of this Subsection for wearing or possessing body armor on campus, the principal shall immediately notify the student's parents.

G. Any principal or school official in charge who fails to report the detention of a student or the seizure of body armor to a law enforcement agency as required by Paragraph (F)(2) of this Section within seventy-two hours of notice of the detention or seizure may be issued a misdemeanor summons for a violation of this Section and may be fined not more than five hundred dollars or sentenced to not more than forty hours of community service, or both. Upon successful completion of the community service or payment of the fine, or both, the arrest and conviction shall be set aside as provided for in Code of Criminal Procedure Article 894(B).

RS 14:95.10 — Possession of a firearm or carrying of a concealed weapon by a person convicted of person who has been convicted of any of the following

offenses to possess a firearm or carry a concealed weapon:

(1) Domestic abuse battery (R.S. 14:35.3).

(2) A second or subsequent offense of battery of a dating partner (R.S. 14:34.9).

(3) Battery of a dating partner when the offense involves strangulation (R.S. 14:34.9(K)).

(4) Battery of a dating partner when the offense involves burning (R.S. 14:34.9(L)).

B. Whoever is found guilty of violating the provisions of this Section shall be imprisoned with or without hard labor for not less than one year nor more than twenty years without the benefit of probation, parole, or suspension of sentence, and shall be fined not less

than one thousand dollars nor more than five thousand dollars.

C. A person shall not be considered to have been convicted of domestic abuse battery or battery of a dating partner for purposes of this Section unless the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and in the case of a prosecution for an offense described in this Section for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either the case was tried by a jury, or the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise. A person shall not be considered convicted of R.S. 14:34.9 or 35.3 for the purposes of this Section if the conviction has been expunged, set aside, or is an offense for which the person has been pardoned or had civil rights restored unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, possess, or receive firearms.

D. For the provisions of this Section, "firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

E. The provisions of this Section prohibiting the possession of firearms and carrying concealed weapons by persons who have been convicted of the offenses set forth in Subsection A of this Section shall not apply to any person who has not been convicted of any of the offenses set forth in Subsection A of this Section for a period of ten years from the date of completion of sentence, probation, parole, or suspension of sentence.

RS 14:96 — Aggravated obstruction of a highway of commerce

ilway, railroad, navigable waterway, road, highway, thoroughfare, or runway of an airport, wherein it is foreseeable that human life might be endangered.

B. Whoever commits the crime of aggravated obstruction of a highway of commerce shall be imprisoned, with or without hard labor, for not more than fifteen years.

RS 14:97 — Simple obstruction of a highway of commerce

ng of anything or the intentional or

criminally negligent performance of any act on any railway, railroad, navigable waterway, road, highway, thoroughfare, or runway of an airport, which will render movement thereon more difficult.

(2) The conspiracy or aiding and abetting of other individuals to commit either the intentional or criminally negligent placing of anything or the intentional or criminally negligent performance of any act on any railway, railroad, navigable waterway, road, highway, thoroughfare, or runway of an airport, which will render movement thereon more difficult.

B. Whoever commits the crime of simple obstruction of a highway of commerce in a manner that violates the provisions of this Section shall be fined not more than seven hundred fifty dollars or imprisoned for not more than six months, or both.

C. The provisions of this Section shall not apply to an employee or contractor of any public utility or a provider of electric utility services, communications, telecommunications, video, or information services to the extent that the employee or contractor is acting on

behalf of such entity in a road, highway, or thoroughfare.

RS 14:97.1 — Solicitation on an interstate highway or in a public right-of-way

anhandling, or otherwise requesting anything of value on any interstate highway, public right-of-way, or any entrance or exit ramp of an interstate highway.

B. Whoever commits the crime of solicitation on an interstate highway shall be fined not more than two hundred dollars, or imprisoned for not more than six months, or both.

C. For the purposes of this Section, "anything of value" means cash, currency, coin, or any other financial instrument given to a person not exempted by R.S. 32:218.

RS 14:97.2 — Unlawful sale, purchase, possession, or use of traffic signal preemption devices

under the following circumstances:

- (1) The owner or operator of an emergency service vehicle for use in providing emergency services, including but not limited to law enforcement vehicles, fire-fighting vehicles, emergency medical service vehicles, or ambulance vehicles;
- (2) The owner or operator of a department of transportation, city, or parish maintenance vehicle for use in performing traffic control signal tests or maintenance;
- (3) The owner or operator of a public transit vehicle for use in providing transit service; or
- (4) An employee or agent of a traffic control signal preemption device manufacturer or retailer in the course of his employment in providing, selling, manufacturing, or transporting a traffic control signal preemption device to an individual, entity, or agency listed in this Subsection.

B. Whoever violates the provisions of this Section shall be fined not more than five thousand dollars, imprisoned for not more than one year, or both.

C. For purposes of this Section, "traffic control preemption device" means a device that interferes with or alters the operation of a traffic control signal.

RS 14:98 — Operating a vehicle while impaired

nce when any of the following conditions exist:

- (a) The operator is impaired by alcoholic beverages.
 - (b) The operator's blood alcohol concentration is 0.08 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood.
 - (c) The operator is impaired by any other drug, combination of drugs, or combination of alcohol and drugs.
 - (d), (e) Repealed by Acts 2024, No. 662, §3.
- (2) A valid driver's license shall not be an element of the offense, and the lack thereof shall not be a defense to a prosecution for operating a vehicle while impaired.
- (3) As used in this Section, the term "drug" means any substance or combination of substances that, when taken into the human body, can impair the ability of the person to operate a vehicle safely.

B.(1) This Subsection shall be cited as the "Child Endangerment Law".

(2) When the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child twelve years of age or younger was a passenger in the motor vehicle, aircraft, watercraft, vessel, or other means of motorized conveyance at the time of the commission of the offense:

- (a) Except as provided in Subparagraphs (b) and (c) of this Paragraph, the execution of the minimum mandatory sentence provided by R.S. 14:98.1 or 98.2, as appropriate, shall

not be suspended.

(b) Notwithstanding any provision of law to the contrary, if imprisonment is imposed pursuant to the provisions of R.S. 14:98.3, the execution of the minimum mandatory sentence shall not be suspended.

(c) Notwithstanding any provision of law to the contrary, if imprisonment is imposed pursuant to the provisions of R.S. 14:98.4, the execution of the minimum mandatory sentence shall not be suspended.

C.(1) For purposes of determining whether a defendant has a prior conviction for a violation of this Section, a conviction under any of the following shall constitute a prior conviction:

(a) R.S. 14:32.1, vehicular homicide.

(b) R.S. 14:32.8, third degree feticide.

(c) R.S. 14:39.1, vehicular negligent injuring.

(d) R.S. 14:39.2, first degree vehicular negligent injuring.

(e) A law of any state or an ordinance of a municipality, town, or similar political subdivision of another state that prohibits the operation of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance while impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance, or as otherwise provided by R.S. 13:1894.1.

(2) The determination under this Subsection shall be made by the court as a matter of law.

(3) For purposes of this Section, a prior conviction shall not include a conviction for an offense under this Section, a conviction for an offense under R.S. 14:39.1, or a conviction under the laws of any state or an ordinance of a municipality, town, or similar political subdivision of another state which prohibits the operation of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance while impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance, or as otherwise provided by R.S. 13:1894.1, if committed more than ten years prior to the commission of the crime for which the defendant is being tried, and such conviction shall not be considered in the assessment of penalties in this Section. However, periods of time during which the offender was awaiting trial, under an order of attachment for failure to appear, or on probation or parole for an offense described in this Paragraph, or periods of time during which an offender was incarcerated in a penal institution in this or any other state for any offense, including an offense described in Paragraph (1) of this Subsection, shall be excluded in computing the ten-year period.

D.(1) On a conviction of a first offense violation of the provisions of this Section, notwithstanding any other provision of law to the contrary, the offender shall be sentenced under the provisions of R.S. 14:98.1.

(2)(a) Except as provided by Subparagraph (b) of this Paragraph, on a conviction of a second offense violation of the provisions of this Section, notwithstanding any other provision of law to the contrary and regardless of whether the second offense occurred before or after the first conviction, the offender shall be sentenced under the provisions of R.S.

14:98.2.

(b) If the conviction of a second offense violation of the provisions of this Section when the first offense was for the crime of vehicular homicide in violation of R.S. 14:32.1, third degree feticide in violation of R.S. 14:32.8, or first degree vehicular negligent injuring in violation of R.S. 14:39.2, the offender shall be sentenced under the provisions of R.S. 14:98.2(D).

(3) On a conviction of a third offense violation of the provisions of this Section, notwithstanding any other provision of law to the contrary and regardless of whether the offense occurred before or after an earlier conviction, the offender shall be sentenced under the provisions of R.S. 14:98.3.

(4) On a conviction of a fourth or subsequent offense violation of the provisions of this Section, notwithstanding any other provision of law to the contrary and regardless of whether the fourth or subsequent offense occurred before or after an earlier conviction, the offender shall be sentenced under the provisions of R.S. 14:98.4.

E. The legislature hereby finds and declares that conviction of a third or subsequent offense of operating while impaired is presumptive evidence of the existence of a substance abuse disorder that poses a serious threat to the health and safety of the public. Further, the legislature finds that there are successful treatment methods available for treatment of addictive disorders.

F.(1) On a third or subsequent conviction of operating while impaired pursuant to this Section, in addition to any other sentence, the court shall order, upon motion of the prosecuting district attorney, that the vehicle being operated by the offender at the time of the offense be seized and impounded and be sold at auction in the same manner and under the same conditions as executions of writs of seizure and sale as provided in Chapter 4 of Title II of Book V of the Code of Civil Procedure.

(2) The vehicle shall be exempt from sale if it was stolen or if the driver of the vehicle at the time of the violation was not the owner and the owner did not know that the driver was operating the vehicle while impaired. If this exemption is applicable, the vehicle shall not be released from impoundment until such time as towing and storage fees have been paid. In addition, the vehicle shall be exempt from sale if all towing and storage fees are paid by a valid lienholder.

(3) If the district attorney elects to forfeit the vehicle, he shall file a written motion at least five days prior to sentencing, stating his intention to forfeit the vehicle. When the district attorney elects to forfeit the vehicle, the court shall order it forfeited.

(4) The proceeds of the sale shall first be used to pay court costs and towing and storage costs, and the remainder shall be allocated as follows:

(a) Sixty percent of the funds shall go to the arresting agency.

(b) Twenty percent of the funds shall go to the prosecuting district attorney.

(c) Twenty percent of the funds shall go to the department for its use in studying ways to reduce drunk driving and insurance rates.

G.(1) If an offender placed on probation for a conviction of a violation of this Section fails to complete the required substance abuse treatment, or fails to participate in a

driver improvement program, or violates any other condition of probation, including conditions of home incarceration, his probation may be revoked, and he may be ordered to serve the balance of the sentence of imprisonment, without credit for time served under home incarceration.

(2) If the offender is found to be in violation of both the terms of his release for good behavior by the Department of Public Safety and Corrections, committee on parole, and in violation of his probation by the court, then the remaining balance of his diminution of sentence shall be served first, with the previously suspended sentence imposed by the court to run consecutively thereafter.

RS 14:98.1 — Operating while impaired; first offense; penalties

n of R.S. 14:98, the offender shall be

fined not less than three hundred dollars nor more than one thousand dollars, and shall be imprisoned for not less than ten days nor more than six months. Imposition or execution of sentence under this Paragraph shall not be suspended unless the offender is placed on probation with the minimum conditions that he complete all of the following:

(a) Serve forty-eight hours in jail, which shall not be suspended, or in lieu thereof, perform no less than thirty-two hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program.

(b) Participate in a court-approved substance abuse program, which may include an assessment by a licensed clinician to determine if the offender has a diagnosis of substance abuse disorder. Nothing herein shall prohibit the court from modifying the portions of the program as may be applicable and appropriate to an individual offender as shown by the assessment.

(c) Participate in a court-approved driver improvement program.

(d) Except as provided by Subparagraph (3)(c) of this Subsection, the court shall order that the offender not operate a motor vehicle during the period of probation, for no less than six months, unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C) and R.S. 32:378.2.

(2)(a) If the offender had a blood alcohol concentration of 0.15 percent or more but less than 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, at least forty-eight hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence, and is to be served in addition to any sentence of imprisonment imposed pursuant to Subparagraph (1)(a) of this Subsection, provided that the total period of imprisonment upon conviction of the offense, including imprisonment for default in payment of a fine or costs, shall not exceed six months.

(b) In addition to any penalties imposed under this Section and except as provided in R.S. 32:414(A)(1)(d) or 667(H)(1)(b), upon conviction of a first offense, if the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for two years.

(3)(a) If the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars and at least forty-eight hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence, and is to be served in addition to any sentence of imprisonment imposed pursuant to Subparagraph (1)(a) of this Subsection, provided that the total period of imprisonment upon conviction of the offense, including imprisonment for default in payment of a fine or costs, shall not exceed six months.

(b) In addition to any penalties imposed under this Section and except as provided in R.S. 32:414(A)(1)(d) or 667(H)(1)(b), upon conviction of a first offense, if the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for two years.

(c) The court shall require that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C) and R.S. 32:378.2. The ignition interlock device shall remain installed and operative on his vehicle during the period of suspension of his driver's license following the date of conviction.

(4)(a) In addition to the penalties imposed pursuant to this Section, upon conviction of a first offense, the offender shall also be fined an additional twenty-five dollars.

(b) Monies collected pursuant to this Paragraph shall be forwarded by the sheriff to the state treasurer within thirty days of collection.

(c) After allocation to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the state treasurer shall deposit the collections into the Louisiana Emergency Response Network Fund as established in R.S. 40:2845.

B. Nothing in this Section shall prohibit a court from sentencing an offender to serve any portion of the sentence under home incarceration pursuant to R.S. 14:98.5, either in lieu of, or in addition to, a term of imprisonment if otherwise allowed under the provisions of Code of Criminal Procedure Article 894.2 and R.S. 14:98.5(B).

C. An offender may apply for a restricted driver's license to be in effect during the entire period of suspension upon proof to the Department of Public Safety and Corrections that his motor vehicle has been equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 32:378.2.

RS 14:98.2 — Operating while impaired; second offense; penalties

is Section, on a conviction of a second

offense violation of R.S. 14:98, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars, and shall be imprisoned for not less than thirty days nor more than six months. At least forty-eight hours of the sentence imposed shall be served

without benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of sentence shall not be suspended unless the offender is placed on probation with the minimum conditions that he complete all of the following:

(a) Serve at least fifteen days in jail, without benefit of parole, probation, or suspension of sentence, or in lieu thereof, perform two hundred forty hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program. If imprisonment is imposed under this Subparagraph, the sentence is to be served in addition to the sentence of imprisonment imposed pursuant to Paragraph (1) of this Subsection, provided that the total period of imprisonment upon conviction of the offense, including imprisonment for default in payment of a fine or costs, shall not exceed six months.

(b) Participate in a court-approved substance abuse program, which may include an assessment by a licensed clinician to determine if the offender has a diagnosis of substance abuse disorder. Nothing in this Section shall prohibit the court from modifying the portions of the program as may be applicable and appropriate to an individual offender as shown by the assessment.

(c) Participate in a court-approved driver improvement program.

(d) Except as the period of time may be increased in accordance with Subparagraph (3)(c) of this Subsection, the court shall order that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C), R.S. 15:306, and R.S. 32:378.2, which requirement shall remain in effect for a period of not less than six months from the date of conviction. In addition, the device shall remain installed and operative during any period that the offender's driver's license is suspended under law and for any additional period as determined by the court.

(2)(a) If the offender had a blood alcohol concentration of 0.15 percent or more but less than 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, at least ninety-six hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence.

(b) In addition to any penalties imposed under this Section, upon conviction of a second offense violation of R.S. 14:98, if the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for four years.

(3)(a) If the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the offender shall be fined one thousand dollars and at least ninety-six hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence.

(b) In addition to any penalties imposed under this Section, upon conviction of a second offense violation of R.S. 14:98, if the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters

of blood, the driver's license of the offender shall be suspended for four years.

(c) The court shall require that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C), R.S. 15:306, and R.S. 32:378.2. The ignition interlock device shall remain installed and operative on his vehicle during the four-year period of the suspension of his driver's license.

(4) If the arrest for the second offense occurs within one year of the commission of the first offense, at least thirty days of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without benefit of parole, probation, or suspension of sentence. In addition, if the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, he shall be fined one thousand dollars and also be subject to the provisions of Subparagraphs (3)(b) and (c) of this Subsection.

(5)(a) In addition to the penalties imposed pursuant to this Section, upon conviction of a second offense, the offender shall also be fined an additional fifty dollars.

(b) Monies collected pursuant to this Paragraph shall be forwarded by the sheriff to the state treasurer within thirty days of collection.

(c) After allocation to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the state treasurer shall deposit the collections into the Louisiana Emergency Response Network Fund as established in R.S. 40:2845.

B. Nothing in this Section shall prohibit a court from sentencing an offender to serve any portion of the sentence under home incarceration pursuant to R.S. 14:98.5, either in lieu of, or in addition to, a term of imprisonment if otherwise allowed under the provisions of Code of Criminal Procedure Article 894.2 and R.S. 14:98.5(B).

C. An offender may apply for a restricted driver's license to be in effect during the entire period of suspension upon proof to the Department of Public Safety and Corrections that his motor vehicle has been equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 32:378.2.

D. Notwithstanding any other provision of law to the contrary, on a conviction of a second offense violation of R.S. 14:98, and regardless of whether the second offense occurred before or after the first conviction, when the first offense was for the crime of vehicular homicide in violation of R.S. 14:32.1, third degree feticide in violation of R.S. 14:32.8, or first degree vehicular negligent injuring in violation of R.S. 14:39.2, the offender shall be fined two thousand dollars and imprisoned, with or without hard labor, for not less than one year nor more than five years. At least six months of the sentence of imprisonment imposed shall be without benefit of parole, probation, or suspension of sentence except in compliance with R.S. 14:98.5(B)(1), the mandatory minimum sentence cannot be served on home incarceration.

(1) Imposition or execution of the remainder of the sentence shall not be suspended unless the offender is placed on probation with the minimum conditions that he complete all

of the following:

(a) Perform two hundred forty hours of court-approved community service activities, at least one-half of which shall consist of participation in a litter abatement or collection program.

(b) Participate in a court-approved substance abuse program, which may include an assessment by a licensed clinician to determine if the offender has a diagnosis of substance abuse disorder. Nothing in this Section shall prohibit the court from modifying the portions of the program as may be applicable and appropriate to an individual offender as shown by the assessment.

(c) Participate in a court-approved driver improvement program.

(2) In accordance with the provisions of R.S. 14:98.5(B), any offender placed on probation pursuant to the provisions of this Subsection shall be placed in a home incarceration program approved by the division of probation and parole for a period of time not less than six months and not more than the remainder of the sentence of imprisonment.

(3) Except as the period of time may be increased in accordance with Subparagraph (A)(3)(b) and (c) of this Section, in addition to any penalties imposed under this Section, the court shall order that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C), R.S. 15:306, and R.S. 32:378.2, which requirement shall remain in effect for a period of not less than six months from the date of conviction. In addition, the device shall remain installed and operative during any period that the offender's driver's license is suspended under law and for any additional period as determined by the court.

RS 14:98.3 — Operating while impaired; third offense; penalties

whether the third offense occurred before or

after a previous conviction, the offender shall be fined two thousand dollars and shall be imprisoned, with or without hard labor, for not less than one year nor more than five years. Except as provided in Paragraph (2) of this Subsection, at least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Except in compliance with R.S. 14:98.5(B)(1), the mandatory minimum sentence cannot be served on home incarceration.

(2) The one-year period described in Paragraph (1) of this Subsection, which shall otherwise be imposed without the benefit of parole, probation, or suspension of sentence, may be suspended if the offender is accepted into a drug division probation program pursuant to R.S. 13:5301 et seq. The provisions of R.S. 14:98(F) relative to vehicle seizure and sale shall also be applicable to any offender whose sentence is served with the benefit of parole, probation, or suspension of sentence pursuant to the provisions of this Paragraph.

(3)(a) The court, in its discretion, may suspend all or any part of the remainder of the sentence of imprisonment imposed pursuant to Paragraph (1) of this Subsection. If any of the remainder of the sentence is suspended, the offender shall be placed on supervised probation with the Department of Public Safety and Corrections, division of probation and parole, for not more than a period of five years but not less than a period of time equal to the

remainder of the sentence of imprisonment, which probation shall commence on the day after the offender's release from imprisonment after serving the mandatory sentence required by this Section, unless the offender was released by diminution of sentence for good behavior pursuant to R.S. 15:571.3, in which case the probation shall commence simultaneously with the period of supervision provided by R.S. 15:571.5 and shall run concurrently therewith. The offender must comply with both the conditions of his release as set by the committee on parole in accordance with R.S. 15:571.5 and with the conditions of probation set by the sentencing court.

(b) Any offender placed on probation pursuant to this Paragraph shall be required as a condition of probation to participate in two hundred forty hours of court-approved community service activities, obtain employment, participate in a court-approved driver improvement program at his expense, and submit to and complete either of the following requirements:

(i) Immediately undergo an evaluation by the Louisiana Department of Health, office of behavioral health, to determine the nature and extent of the offender's substance abuse disorder and to participate in any treatment plan recommended by the office of behavioral health, including treatment in an inpatient facility approved by the office for a period of not less than four weeks, followed by outpatient treatment services for a period not to exceed twelve months.

(ii) Participate in substance abuse treatment in an alcohol and drug abuse program provided by a drug division subject to the applicable provisions of R.S. 13:5301 et seq. if the offender is otherwise eligible to participate in such program.

(c) In addition to the requirements set forth in Subparagraphs (a) and (b) of this Paragraph, any offender placed on probation pursuant to the provisions of this Subsection shall be placed in a home incarceration program approved by the division of probation and parole for a period of time not less than six months and not more than the remainder of the sentence of imprisonment. The terms of home incarceration shall be in compliance with the provisions of R.S. 14:98.5(B) and Code of Criminal Procedure Article 894.2.

(d)(i) Notwithstanding any law to the contrary and the provisions of R.S.

32:414(D)(1)(b), upon conviction of a third offense violation of R.S. 14:98, any motor vehicle, while being operated by the offender, shall be equipped with a functioning ignition interlock device in accordance with the provisions of R.S. 15:306. The ignition interlock device shall remain installed and operative until the offender has completed the requirements of substance abuse treatment and home incarceration, or, if applicable, the requirements of the drug division probation program provided in R.S. 13:5301 et seq.

(ii) Notwithstanding any provision of law to the contrary, any offender convicted of a third offense violation of R.S. 14:98 shall, after one year of the suspension required by R.S. 32:414(D)(1)(a), upon proof to the Department of Public Safety and Corrections that the motor vehicles being operated by the offender are equipped with functioning ignition interlock devices, be issued a restricted driver's license. The restricted license shall be effective for the period of time that the offender's driver's license is suspended. The restricted license shall entitle the offender to operate the vehicles equipped with a functioning

ignition interlock device in order to earn a livelihood and to travel to and from the places designated in R.S. 14:98.5(B)(3)(e).

(e) If an offender placed on probation pursuant to the provisions of this Paragraph fails to complete the substance abuse treatment required by this Subsection or violates any other condition of probation, including conditions of home incarceration, his probation may be revoked, and he may be ordered to serve the balance of the sentence of imprisonment, without credit for time served under home incarceration.

(4)(a) In addition to the penalties imposed pursuant to this Section, upon conviction of a third offense, the offender shall also be fined an additional one hundred dollars.

(b) Monies collected pursuant to this Paragraph shall be forwarded by the sheriff to the state treasurer within thirty days of collection.

(c) After allocation to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the state treasurer shall deposit the collections into the Louisiana Emergency Response Network Fund as established in R.S. 40:2845.

B.(1) If the offender has previously received the benefit of parole, probation, or suspension of sentence on a conviction of a third or subsequent offense violation of R.S. 14:98, or if the offender has previously participated in a drug division probation program pursuant to R.S. 13:5301 et seq., pursuant to a sentence imposed on a conviction of a third or subsequent offense violation of R.S. 14:98, or if the offender has previously been required to participate in substance abuse treatment or home incarceration pursuant to a sentence imposed on a conviction of a third or subsequent offense violation of R.S. 14:98, then on a conviction of a subsequent third offense violation of R.S. 14:98, notwithstanding any other provision of law to the contrary and regardless of whether the offense occurred before or after an earlier conviction, the offender shall be fined two thousand dollars and imprisoned, with or without hard labor, for not less than two nor more than five years. At least two years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Except in compliance with R.S. 14:98.5(B)(1), the mandatory minimum sentence cannot be served on home incarceration.

(2) Except where inconsistent with the provisions of this Subsection, the conditions of probation shall include but not be limited to the conditions of probation provided by Paragraph (A)(3) of this Section, except that the offender shall not be sentenced to substance abuse treatment provided for by Items (A)(3)(b)(i) and (ii) of this Section. Nothing in this Section shall prohibit the court from ordering substance abuse treatment if it determines that the offender is able to pay for the substance abuse treatment.

C. In addition to any other penalty, the court shall order, upon motion of the prosecuting district attorney, that the vehicle being operated by the offender at the time of the offense be seized and impounded, and sold at auction in accordance with the provisions of R.S. 14:98(F).

RS 14:98.4 — Operating while impaired; fourth offense; penalties

a conviction of a fourth or subsequent

offense violation of R.S. 14:98, regardless of whether the fourth offense occurred before or

after an earlier conviction, the offender shall be fined five thousand dollars and imprisoned, with or without hard labor, for not less than ten years nor more than thirty years. Two years of the sentence of imprisonment shall be imposed without benefit of parole, probation, or suspension of sentence. Except in compliance with R.S. 14:98.5(B)(1), the mandatory minimum sentence cannot be served on home incarceration.

(a) Except as prohibited by Subparagraph (b) of this Paragraph, the two-year period, which shall otherwise be imposed without benefit of parole, probation, or suspension of sentence, may be suspended if the offender is accepted into a drug division probation program pursuant to R.S. 13:5301 et seq. The provisions of R.S. 14:98(F) relative to vehicle seizure and sale shall also be applicable to any offender whose sentence is served with the benefit of parole, probation, or suspension of sentence pursuant to the provisions of this Paragraph.

(b) If the offender has previously participated in a drug division probation program pursuant to R.S. 13:5301 et seq., pursuant to a sentence imposed on a third or subsequent offense conviction under R.S. 14:98, three years of the sentence imposed in this Paragraph shall be imposed without benefit of parole, probation, or suspension of sentence. Notwithstanding any other law to the contrary, the offender shall not be eligible to have the mandatory portion of his sentence suspended because of his participation in a drug division program under Item (2)(b)(ii) of this Subsection.

(2)(a) The court, in its discretion, may suspend all or any part of the remainder of the sentence of imprisonment. If any of the sentence is suspended, the offender shall be placed on supervised probation with the Department of Public Safety and Corrections, division of probation and parole, for a period of five years, which probation shall commence on the day after the offender's release from imprisonment after serving the mandatory sentence required by this Section, unless the offender was released by diminution of sentence for good behavior pursuant to R.S. 15:571.3, in which case the probation shall commence simultaneously with the period of supervision provided by R.S. 15:571.5 and shall run concurrently therewith. The offender must comply with both the conditions of his release as set by the committee on parole in accordance with R.S. 15:571.5 and with the conditions of probation set by the sentencing court.

(b) Any offender placed on probation pursuant to this Paragraph shall be required as a condition of probation to participate in three hundred twenty hours of court-approved community service activities, obtain employment, participate in a court-approved driver improvement program at his expense, and submit to and complete either of the following requirements:

(i) Immediately undergo an evaluation by the Louisiana Department of Health, office of behavioral health, to determine the nature and extent of the offender's substance abuse disorder, and participate in any treatment plan recommended by the office of behavioral health, including treatment in an inpatient facility approved by the office for a period of not less than four weeks followed by outpatient treatment services for a period not to exceed twelve months.

(ii) Except as provided in Subparagraph (1)(b) of this Subsection, participate in

substance abuse treatment in an alcohol and drug abuse program provided by a drug division subject to the applicable provisions of R.S. 13:5301 et seq. if the offender is otherwise eligible to participate in such program.

(c) In addition to the requirements set forth in Subparagraphs (a) and (b) of this Paragraph, any offender placed on probation pursuant to the provisions of this Subsection shall be placed in a home incarceration program approved by the division of probation and parole for the remainder of the term of supervised probation. The terms of home incarceration shall be in compliance with the provisions of R.S. 14:98.5(B) and Code of Criminal Procedure Article 894.2.

(d)(i) Notwithstanding any law to the contrary and the provisions of R.S.

32:414(D)(1)(b), upon conviction of a fourth or subsequent offense, any motor vehicle, while being operated by the offender, shall be equipped with a functioning ignition interlock device in accordance with the provisions of R.S. 15:306. The ignition interlock device shall remain installed and operative until the offender has completed the requirements of substance abuse treatment and home incarceration or, if applicable, the requirements of the drug division probation program provided for in R.S. 13:5301 et seq.

(ii) Any offender convicted of a fourth or subsequent offense shall, after one year of the suspension required by R.S. 32:414(D)(1)(a), upon proof to the Department of Public Safety and Corrections that the motor vehicles being operated by the offender are equipped with functioning ignition interlock devices, be issued a restricted driver's license. The restricted license shall be effective for the period of time that the offender's driver's license is suspended. The restricted license shall entitle the offender to operate the vehicles equipped with a functioning ignition interlock device in order to earn a livelihood and to travel to and from the places designated in R.S. 14:98.5(B)(3)(e).

(e) If an offender placed on probation pursuant to the provisions of this Paragraph fails to complete the substance abuse treatment required by this Subsection or violates any other condition of probation, including conditions of home incarceration, his probation may be revoked, and he may be ordered to serve the balance of the sentence of imprisonment, without credit for time served under home incarceration.

(3)(a) In addition to the penalties imposed pursuant to this Section, upon conviction of a fourth or subsequent offense, the offender shall also be fined an additional two hundred fifty dollars.

(b) Monies collected pursuant to this Paragraph shall be forwarded by the sheriff to the state treasurer within thirty days of collection.

(c) After allocation to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the state treasurer shall deposit the collections into the Louisiana Emergency Response Network Fund as established in R.S. 40:2845.

B.(1) If the offender has previously been required to participate in substance abuse treatment or home incarceration pursuant to a sentence imposed on a conviction of a third offense violation of R.S. 14:98, then on a conviction of a fourth or subsequent offense, notwithstanding any other provision of law to the contrary and regardless of whether the

fourth offense occurred before or after an earlier conviction, the offender shall be fined five thousand dollars and imprisoned at hard labor for not less than ten nor more than thirty years, at least three years of which shall be imposed without benefit of parole, probation, or suspension of sentence. Notwithstanding any provision of law to the contrary, the offender shall not be eligible to have the mandatory portion of his sentence suspended because of his participation in a drug division program under Item (A)(2)(b)(ii) of this Section, and except in compliance with R.S. 14:98.5(B)(1), the mandatory minimum sentence cannot be served on home incarceration.

(2) After serving the mandatory sentence, if any of the remainder of the sentence is suspended, the offender shall be placed on supervised probation with the Department of Public Safety and Corrections, division of probation and parole, for a period of five years, which probation shall commence on the day after the offender's release from imprisonment after serving the mandatory sentence required by this Section, unless the offender was released by diminution of sentence for good behavior pursuant to R.S. 15:571.3, in which case the probation shall commence simultaneously with the period of supervision provided by R.S. 15:571.5 and shall run concurrently therewith. The offender shall comply with both the conditions of his release as set by the parole board in accordance with R.S. 15:571.5 and with the conditions of probation set by the sentencing court.

(3) Except where inconsistent with the provisions of this Subsection, the conditions of probation shall include but not be limited to the conditions of probation provided by Paragraph (A)(2) of this Section, but the offender shall not be sentenced to substance abuse treatment provided for by Items (A)(2)(b)(i) and (ii) of this Section. Nothing in this Section shall prohibit the court from ordering substance abuse treatment if it determines that the offender is able to pay for the substance abuse treatment.

C. If the offender has previously received the benefit of parole, probation, or suspension of sentence on a conviction of a fourth or subsequent offense violation of R.S. 14:98, then on a subsequent conviction of a fourth or subsequent offense, notwithstanding any other provision of law to the contrary and regardless of whether the offense occurred before or after an earlier conviction, the offender shall be fined five thousand dollars and imprisoned at hard labor for not less than ten nor more than thirty years. No part of the sentence shall be imposed with benefit of parole, probation, or suspension of sentence, and no portion of the sentence shall be imposed concurrently with the remaining balance of any sentence to be served for a prior conviction for any offense.

D. In addition to any other penalty, the court shall order, upon motion of the prosecuting district attorney, that the vehicle being operated by the offender at the time of the offense be seized and impounded, and sold at auction in accordance with the provisions of R.S. 14:98(F).

RS 14:98.5 — Special provisions and definitions

nalty provisions

of R.S. 14:98, 98.1, 98.2, 98.3, and 98.4 shall pay the cost incurred in participating in the program. Failure to make such payment shall subject the offender to revocation of probation, unless the court determines that the offender is unable to pay.

(2) On a conviction of a third or subsequent offense violation of R.S. 14:98, if the court determines that the offender is unable to pay, the state shall pay for the cost of the substance abuse treatment. If the court determines that an offender is unable to pay the costs incurred for participating in a substance abuse treatment program, driver improvement program, or home incarceration, the court may, upon completion of such program or home incarceration, require that the offender reimburse the state for all or a portion of such costs pursuant to a payment schedule determined by the court. This Paragraph shall not apply to substance abuse treatment imposed as a condition of probation under R.S. 14:98.3(B)(2) or R.S. 14:98.4(B)(3).

B.(1) For felony violations of R.S. 14:98, the mandatory minimum sentence imposed by the court shall not be served on home incarceration unless either:

(a) The Department of Public Safety and Corrections, through the division of probation and parole, recommends home incarceration of the defendant and specific conditions of that home incarceration.

(b) The district attorney recommends home incarceration.

(2) Except as provided by Paragraph (4) of this Subsection and unless otherwise authorized or prohibited, on a misdemeanor violation of R.S. 14:98 or on a felony violation of R.S. 14:98 after the offender has served the mandatory minimum sentence, the court may sentence the offender to home incarceration.

(3) Except as modified by Paragraph (5) of this Subsection, when the court sentences an offender to home incarceration, the offender shall be subject to special conditions to be determined by the court, which shall include but not be limited to the following:

(a) Electronic monitoring. However, nothing in this Section shall prohibit a court from ordering nonelectronic monitored home incarceration as a condition of probation for a first or second conviction where the period of home incarceration is less than five days.

(b) Curfew restrictions.

(c) The court shall require the offender to obtain employment.

(d) The court shall require the offender to participate in a court-approved driver improvement program, if not already a condition of his probation.

(e) The activities of the offender outside of his home shall be limited to traveling to and from work, church services or other religious services, Alcoholics Anonymous meetings, Narcotics Anonymous meetings, other secular-based addiction recovery group meetings, accredited educational institutions, meetings with his probation or parole officer, court-ordered community service activities, court-ordered substance abuse treatments, and a court-approved driver improvement program.

(f) Except as inconsistent with the provisions of this Subsection, an offender sentenced to home incarceration shall be subject to all other applicable provisions of Code of Criminal Procedure Article 894.2.

(4) An offender who has been convicted of any second violation of any state or local law or ordinance prohibiting operating a vehicle while impaired, committed within five years of the commission of any prior operating while impaired violation, shall not be eligible for home incarceration until the offender has first served a minimum of forty-eight consecutive hours of imprisonment.

(5) When the offender is on probation for a third or subsequent offense, or on a second offense under R.S. 14:98.2(D), a home visitation shall be conducted at least once per month by the Department of Public Safety and Corrections for the first six months. After the first six months, the level of supervision shall be determined by the department based upon a risk assessment instrument.

C.(1) No offender who is ordered to install an ignition interlock device as a condition of probation shall:

(a) Fail to comply with all applicable provisions of R.S. 15:306 and 307 and R.S. 32:378.2 and 414(D)(1)(b).

(b) Violate the conditions of his restricted driver's license as set by the Department of Public Safety and Corrections.

(c) Operate, rent, lease, or borrow a motor vehicle unless that vehicle is equipped with a functioning ignition interlock device.

(d) Request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the offender with an operable motor vehicle.

(2) If the court imposes the use of an ignition interlock device as a condition of probation, the offender shall provide proof of compliance to the court or the probation officer within thirty days. If the offender fails to provide proof of installation within that period, absent a finding by the court of good cause for the failure that is entered into the court record, the court shall revoke the offender's probation.

(3) The provisions of this Subsection shall not require installation of an ignition interlock device in any vehicle described in R.S. 32:378.2(I).

D.(1) "Community service activities" as used in this Section and R.S. 14:98.1, 98.2, 98.3, and 98.4, in addition to participation in a litter abatement or collection program, may include duty in any morgue, coroner's office, or emergency treatment room of a state-operated hospital or other state-operated emergency treatment facility, with the consent of the administrator of the morgue, coroner's office, hospital, or facility.

(2) An offender who participates in a litter abatement or collection program pursuant to this Subsection shall have no cause of action for damages against the entity conducting the program or supervising the offender's participation therein, including a municipality, parish, sheriff, or other entity, nor against any official, employee, or agent of such entity, for any injury or loss suffered by him during or arising out of his participation therein, if such injury or loss is a direct result of the lack of supervision or act or omission of the supervisor, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the entity or its official, employee, or agent.

RS 14:98.5.1 — Assessment for alcohol or drug dependence; rehabilitative programs; second and
4:98, 98.1, 98.2, 98.3, and 98.4, on a second or subsequent conviction for a violation of R.S. 14:98, the court may order the offender, at the sole expense of the offender, to undergo an assessment that uses a standardized evidence-based instrument performed by a physician to determine whether the offender has a diagnosis for alcohol or drug dependence and would likely benefit from a court-approved medication-assisted treatment indicated and approved

for the treatment of alcohol or drug dependence by the United States Food and Drug Administration, as specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

B. Upon considering the results of the assessment, the court may refer the offender to a rehabilitative program that offers one or more forms of court-approved medications that are approved for the treatment of alcohol or drug dependence by the United States Food and Drug Administration.

C. This Section shall not apply when an offender shows that he is unable to pay the costs of the assessment and rehabilitative program, either personally or through a third party insurer.

RS 14:98.6 — Underage operating while impaired

nveyance when the operator's

blood alcohol concentration is 0.02 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, if the operator is under the age of twenty-one.

B. Any underage person whose blood alcohol concentration is found to be in violation of R.S. 14:98(A)(1)(b) shall be charged under the provisions of that Subparagraph rather than under this Section.

C.(1) On a first conviction, the offender shall be fined not less than one hundred dollars nor more than two hundred fifty dollars, and imprisoned for not less than ten days nor more than three months. Imposition or execution of sentence shall not be suspended unless the offender is placed on probation with the minimum conditions that he:

(a) Perform thirty-two hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program.

(b) Participate in a court-approved substance abuse and driver improvement program.

(2) On a second or subsequent conviction, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than two hundred fifty dollars nor more than five hundred dollars, and imprisoned for not less than thirty days nor more than six months. Imposition or execution of sentence under this Paragraph shall not be suspended unless the offender is placed on probation with the minimum conditions that he:

(a) Serve forty-eight hours in jail without benefit of parole, probation, or suspension of sentence, or in lieu thereof, perform no less than eighty hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program.

(b) Participate in a court-approved substance abuse program.

(c) Participate in a court-approved driver improvement program.

(3) Nothing in this Section shall prohibit a court from sentencing an offender to serve any portion of the sentence under home incarceration either in lieu of, or in addition to, a term of imprisonment if otherwise allowed under the provisions of Code of Criminal Procedure Article 894.2 and R.S. 14:98.5(B).

(4) The court may require that the offender not operate a motor vehicle during the

period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in accordance with R.S. 14:98.5(C).

D. Court programs regarding substance abuse as provided for by Subsection C of this Section shall include a screening procedure to determine the portions of the program that may be applicable and appropriate for individual offenders.

RS 14:98.7 — Unlawful refusal to submit to chemical tests; arrests for driving while impaired

Whoever operates a vehicle while impaired may refuse to submit to a chemical test when requested to do so by a law enforcement officer if the person has refused to submit to such test on two previous and separate occasions of any such violation.

B.(1) Whoever violates the provisions of this Section shall be fined not less than three hundred dollars nor more than one thousand dollars, and shall be imprisoned for not less than ten days nor more than six months.

(2) Imposition or execution of sentence shall not be suspended unless one of the following occurs:

(a) The offender is placed on probation with the minimum conditions that he serve two days in jail and participate in a court-approved substance abuse program and participate in a court-approved driver improvement program.

(b) The offender is placed on probation with the minimum conditions that he perform thirty-two hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program, participate in a court-approved substance abuse program, and participate in a court-approved driver improvement program. An offender who participates in a litter abatement or collection program pursuant to this Subparagraph shall have no cause of action for damages against the entity conducting the program or supervising his participation therein, as provided by R.S. 14:98.5(D).

RS 14:98.8 — Operating a vehicle while under suspension for certain prior offenses

Whoever operates a vehicle while suspended under the authority of R.S. 32:414(A)(1), (B)(1) or

(2), (D)(1)(a), or R.S. 32:667. It shall not be a violation of the provisions of this Section when a person operates a motor vehicle to obtain emergency medical care for himself or any other person.

B. Whoever violates the provisions of this Section shall be imprisoned for not less than fifteen days nor more than six months without benefit of suspension of imposition or execution of sentence, except as provided in Subsection C of this Section.

C. In addition to other penalties imposed pursuant to this Title, when the operator's driving privileges were suspended for manslaughter, vehicular homicide, negligent homicide, first degree vehicular negligent injuring, or a third or subsequent violation of operating a vehicle while intoxicated, the offender shall be imprisoned for not less than ninety days nor more than one year without benefit of suspension of imposition or execution of sentence.

RS 14:99 — Reckless operation of a vehicle

Whoever operates a vehicle in a reckless manner.

B.(1) Whoever commits the crime of reckless operation of a vehicle shall be fined not more than two hundred dollars, or imprisoned for not more than ninety days, or both.

(2) On a second or subsequent conviction the offender shall be fined not less than

twenty-five nor more than five hundred dollars, or imprisoned for not less than ten days nor more than six months, or both.

C.(1) In addition to the penalties imposed pursuant to this Section, upon conviction of the first offense, the offender shall also be fined an additional five dollars.

(2) In addition to the penalties imposed under this Section, upon conviction of a second or subsequent offense, the offender shall also be fined an additional ten dollars.

(3) Monies collected pursuant to this Subsection shall be forwarded by the sheriff to the state treasurer within thirty days of collection.

(4) After allocation to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the state treasurer shall deposit the collections into the Louisiana Emergency Response Network Fund as established in R.S. 40:2845.

RS 14:99.1 — Hit and run damaging of a potable waterline by operation of a watercraft or vessel

f the driver of a watercraft or vessel involved in or causing any accident resulting in damage to a potable waterline to stop such vehicle at the scene of the accident to give his identity.

B. For the purpose of this Section:

(1) "Accident resulting in damage to a potable waterline" means an incident or event resulting in damage to a potable waterline or other device used for transporting potable water across marshlands or inland waterways or barrier islands.

(2) "To give his identity" means that the driver of any vehicle involved in any accident shall give his name, address, and the license number of his vessel or watercraft to the enforcement authorities at the scene or shall report the accident to the police if there are no enforcement authorities at the scene.

(3) "Potable waterline" means a potable waterline that is marked as such every two thousand feet with a sign giving notice of the crime created by this Section and the penalties imposed.

(4) "Inland waterway" shall not include the Mississippi River.

C. Whoever commits the crime of hit and run damaging of a potable waterline by operation of a watercraft or vessel shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than five years, or both.

RS 14:99.2 — Reckless operation of an off-road vehicle

ublic roadway or right of way.

B.(1) For purposes of this Section, "off-road vehicle" shall include but not be limited to three-wheelers, four-wheelers, dirt bikes, or other all-terrain vehicles that are not specifically designed for use on public roads and highways.

(2) For the purposes of this Section, acts which may constitute reckless operation of an off-road vehicle shall include but not be limited to operating the vehicle on a public roadway or right of way in a manner that:

(a) Forces another vehicle to leave the roadway.

(b) Collides with another vehicle or person.

(c) Exceeds the posted speed limit.

(d) Travels against the flow of traffic.

(e) Disregards traffic control devices.

(f) Drives around or between standing or moving vehicles without regard to lanes of traffic.

(g) Impedes traffic flow.

(h) Travels off the roadway and back on to the roadway deliberately.

(3) For purposes of this Section, reckless operation of an off-road vehicle shall also include operating the vehicle on a public roadway or right of way:

(a) While performing stunts of showmanship, such as riding wheelies or acrobatic stunts.

(b) While harassing the drivers of other vehicles or pedestrians by verbal taunting or making threatening gestures.

(c) While corraling an occupied vehicle or a pedestrian.

C. It shall be unlawful for a person to solicit or to assist in soliciting participation in any rally, ride, or gathering that encourages the violation of this Section by the use of a computer online service, internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, internet chat room, electronic mail, social media, or online messaging service.

D. Any drivers of motor vehicles participating in or traveling in support of persons in violation of this Section shall be considered in violation of this Section. Persons who are directly participating in this activity by photographing or filming violations of this Section to document the activity for the riders shall also be considered in violation of this Section. This Section shall not apply to individuals who are not participating in the violation of this Section and who are filming or photographing.

E.(1) Whoever commits a violation of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than ninety days, or both.

(2) In addition to any other sentence, the court shall order, upon motion of the prosecuting district attorney, that the off-road vehicle being operated by the offender at the time of the offense be seized and impounded and destroyed when:

(a) The driver was wearing a hood, mask, or disguise of any kind with the intent to hide or conceal his identity during the commission of the crime of reckless operation of an off-road vehicle.

(b) It is a second or subsequent conviction for the offender pursuant to this Section.

(c) The driver has a previous conviction in this state or under a similar law in another state for:

(i) R.S. 14:96, aggravated obstruction of a highway of commerce.

(ii) R.S. 14:97, simple obstruction of a highway of commerce.

(iii) R.S. 14:99, reckless operation.

(iv) R.S. 14:108, resisting an officer.

(3) Notwithstanding the provisions of Paragraph (2) of this Subsection, the off-road vehicle shall not be destroyed if it was stolen, or if the driver of the off-road vehicle at the time of the violation was not the owner and the owner did not know that the driver was operating the off-road vehicle in violation of this Section. However, the off-road vehicle shall not be released from impoundment until such time as towing and storage fees have been paid. In addition, the off-road vehicle shall not be destroyed if the towing and storage fees are paid by a valid lienholder.

(4) If the district attorney elects to seize and impound the off-road vehicle, he shall file a written motion at least five days prior to sentencing, stating his intention to destroy the

off-road vehicle. When the district attorney elects to seize, impound, and destroy the off-road vehicle, the court shall order it seized and impounded. The court shall also order the vehicle destroyed unless the provisions of Paragraph (3) of this Subsection are applicable.

F.(1) In addition to the penalties imposed pursuant to this Section, upon conviction the offender shall also be fined an additional five dollars.

(2) Monies collected pursuant to this Subsection shall be forwarded by the sheriff to the state treasurer within thirty days of collection.

(3) After allocation to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the state treasurer shall deposit the collections into the Louisiana Emergency Response Network Fund as established in R.S. 40:2845.

RS 14:100 — Hit-and-run driving

, to give his identity, and to render reasonable aid.

B. For the purpose of this Section:

(1) "To give his identity", means that the driver of any vehicle involved in any accident shall give his name, address, and the license number of his vehicle, or shall report the accident to the police.

(2) Repealed by Acts 2019, No. 2, §3.

(3) "Vehicle" includes a watercraft.

(4) "Accident" means an incident or event resulting in damage to property or injury to person.

C.(1)(a) Whoever commits the crime of hit-and-run driving where there is no death or serious bodily injury shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(b) Whoever commits the crime of hit-and-run driving where there is no death or serious bodily injury shall be fined not more than five hundred dollars, imprisoned for not less than ten days nor more than six months, or both when: (i) there is evidence that the vehicle operator consumed alcohol or used drugs or a controlled dangerous substance prior to the accident; (ii) the consumption of the alcohol, drugs, or a controlled dangerous substance contributed to the accident; and (iii) the driver failed to stop, give his identity, or render aid with the knowledge that his actions could affect an actual or potential present, past, or future criminal investigation or proceeding.

(2) Whoever commits the crime of hit-and-run driving when death or serious bodily injury is a direct result of the accident, when the driver knew or should have known that death or serious bodily injury has occurred, and the driver's vehicle was directly involved in the accident, shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not less than two years nor more than ten years, two of which shall be served without the benefit of parole, probation, or suspension of sentence, or both.

(3) Whoever commits the crime of hit-and-run driving where all of the following conditions are met shall be imprisoned, with or without hard labor, for not less than five years nor more than twenty years:

- (a) Death or serious bodily injury is a direct result of the accident.
- (b) The driver knew or must have known that the vehicle he was operating was involved in an accident or that his operation of the vehicle was the direct cause of an accident.
- (c) The driver had been previously convicted of any of the following:
 - (i) A violation of R.S. 14:98, or a law or an ordinance of any state or political subdivision prohibiting operation of any vehicle or means of transportation or conveyance while intoxicated, impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance on two or more occasions within ten years of this offense.
 - (ii) A violation of R.S. 14:32.1-vehicular homicide.
 - (iii) A violation of R.S. 14:39.1-vehicular negligent injuring.
 - (iv) A violation of R.S. 14:39.2-first degree vehicular negligent injuring.

RS 14:100.1 — Obstructing public passages

nce, corridor, or passage of any public building, structure, water craft, or ferry, by impeding, hindering, stifling, retarding, or restraining traffic or passage thereon or therein.

B. Whoever violates the provisions of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both fined and imprisoned.

C. This Section shall not be applicable to the erection or construction of any barricades or other forms of obstructions as a safety measure in connection with construction, excavation, maintenance, repair, replacement, or other work in or adjacent to any public sidewalk, street, highway, bridge, alley, road, or other passageway, nor to the placing of barricades or other forms of obstruction by governmental authorities, or any officer or agent thereof, in the proper performance of duties.

RS 14:100.11 — Legislative findings; purpose

asive bomb threats and biological terrorism in various parts of the country were committed for the purposes of demoralizing and destabilizing our society and creating a climate of fear. These heinous deeds designed to kill, maim, and strike terror into the hearts of innocent citizens of this country cannot be tolerated, nor can those less violent acts to the infrastructure of our state which are designed to intimidate, confuse, and disrupt everyday commerce and the delivery of goods and services to the populace be permitted.

B. The legislature further finds that it is imperative that state laws be enacted to complement federal efforts to uncover those who seek to use the highways of this state to commit acts of terror and who seek to gain drivers' licenses or identification cards for the purposes of masking their illegal status in this state. Accordingly, the legislature finds that state law must be strengthened with a comprehensive framework for punishing those who give false information in order to obtain drivers' licenses or identification cards from the office of motor vehicles of the Department of Public Safety and Corrections, to limit the issuance of such documentation to correspond to the time limits placed by the federal Immigration and Naturalization Service on documentation, and to make operating a motor vehicle in this state when not lawfully present in the United States a crime.

RS 14:100.12 — Definitions

intent to intimidate or coerce the civilian population, influence the policy of a unit of government by intimidation or coercion, or affect the conduct of a unit of government by intimidation or coercion:

- (a) Intentional killing of a human being.
- (b) Intentional infliction of serious bodily injury upon a human being.
- (c) Kidnapping of a human being.
- (d) Aggravated arson upon any structure, watercraft, or movable.
- (e) Intentional aggravated criminal damage to property.

(2) "Alien student" means any person who is attending an institution of education in the state who is not a citizen of the United States.

(3) "Documentation demonstrating lawful presence in the United States" is a document demonstrating lawful presence in the United States as determined by the Department of Public Safety and Corrections pursuant to R.S.

32:409.1(A)(2)(d)(vi).

(4) "INS" means the United States Immigration and Naturalization Service.

(5) "Nonresident alien" means any person who is not a United States citizen and who is a citizen of any country other than the United States, who is physically present in the United States and who has not acquired INS permanent resident status.

RS 14:100.13 — Operating a vehicle without lawful presence in the United States

that the person is lawfully

present in the United States.

B. Upon arrest of a person for operating a vehicle without lawful presence in the United States, law enforcement officials shall seize the driver's license and immediately surrender such license to the office of motor vehicles for cancellation and shall immediately notify the INS of the name and location of the person.

C. Whoever commits the crime of driving without lawful presence in the United States shall be fined not more than one thousand dollars, imprisoned for not more than one year, with or without hard labor, or both.

RS 14:100.14 — Giving false information regarding lawful presence in the United States in order to obtain a driver's license

32:409.1 for the purpose of obtaining a driver's license or a special identification card from the office of motor vehicles.

B. Upon arrest for falsifying information pursuant to this Section, the arresting agency shall immediately notify the INS of the name and location of the person.

C. Whoever commits the crime of falsifying information required for the purpose of obtaining a driver's license shall be fined not more than five hundred dollars, imprisoned for not less than six months, or both.

RS 14:101 — Desecration of graves

the intent to remove or to mutilate the body or any part thereof, or any article interred or intended to be interred with the body.

(2) Intentional or criminally negligent damaging in any manner of any grave, tomb, or mausoleum erected for the dead.

B. Whoever commits the crime of desecration of graves shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

RS 14:101.1 — Purchase or sale of human organs

B. For purposes of Subsection A:

(1) The term "human organ" means the human kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, skin, and any other human organ.

(2) The term "anything of value" shall not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ or the expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ.

C. Whoever violates the provisions of this Section shall be fined not more than fifty thousand dollars or imprisoned with or without hard labor not more than five years, or both.

RS 14:101.2 — Unauthorized use of sperm, ovum, or embryo

hat indicated by the sperm,

ovum, or embryo provider's signature on a written consent form.

B. No person shall knowingly implant a sperm, ovum, or embryo, through the use of assisted reproduction technology, into a recipient who is not the sperm, ovum, or embryo provider, without the signed written consent of the sperm, ovum, or embryo provider and recipient.

C. Knowing violation of the provisions of this Section shall be grounds for immediate revocation of the violator's professional license.

D. This Section shall not apply to any of the following:

(1) The use by a surviving spouse of the human ova or sperm of the deceased spouse in order to conceive a child.

(2) The use by a spouse of the human ova or sperm of the other spouse in order to conceive a child.

RS 14:102 — Definitions; cruelty to animals

ilure to act whereby unjustifiable physical pain or suffering is caused or permitted.

(2) "Abandons" means to completely forsake and desert an animal previously under the custody or possession of a person without making reasonable arrangements for its proper care, sustenance, and shelter.

(3) "Proper food" means providing each animal with daily food of sufficient quality and quantity to prevent unnecessary or unjustifiable suffering by the animal.

(4) "Proper water" means providing each animal with daily water of sufficient quality and quantity to prevent unnecessary or unjustifiable suffering by the animal.

(5) "Proper shelter" means providing each animal with adequate shelter from the elements as required to prevent unnecessary or unjustifiable suffering by the animal.

(6) "Proper veterinary care" means providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(7) "Livestock" means cattle, sheep, swine, goats, horses, mules, burros, asses, other livestock of all ages, farm-raised cervidae species, and farm-raised ratite species.

(8) "Public livestock exhibition" means any place, establishment, or facility commonly known as a "livestock market", "livestock auction market", "sales ring", "stockyard", or the like, operated for compensation or profit as a public market for livestock, consisting of pens, or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment. "Public livestock exhibition" also means any public exhibition or sale of livestock or a livestock show.

(9) "Tampers" means any of the following:

(a) The injection, use, or administration of any drug or other internal or external administration of any product or material, whether gas, solid, or liquid, to livestock for the purpose of concealing, enhancing, transforming, or changing the true conformation, configuration, condition, natural color, or age of the livestock or making the livestock appear more sound than they actually are.

(b) The use or administration, for cosmetic purposes, of steroids, growth stimulants, or internal artificial filling, including paraffin, silicone injection, or any other substance.

(c) The use or administration of any drug or feed additive affecting the central nervous system of the livestock, unless administered or prescribed by a licensed veterinarian for the treatment of an illness or an injury.

(d) The use or administration of diuretics for cosmetic purposes.

(e) The surgical manipulation or removal of tissue so as to change, transform, or enhance the true conformation, configuration, or natural color of the livestock unless the procedure is considered an accepted livestock management practice.

RS 14:102.1 — Cruelty to animals; simple and aggravated

drives, overloads, drives when overloaded, or overworks a living animal.

(b) Torments, cruelly beats, or unjustifiably injures any living animal.

(c) Having charge, custody, or possession of any animal, either as owner or otherwise, unjustifiably fails to provide it with proper food, proper drink, proper shelter, or proper veterinary care.

(d) Abandons any animal. A person shall not be considered to have abandoned an animal if he delivers an animal which he found running at large in the care of an animal control center, shelter, or rescue location.

(e) Impounds or confines or causes the impoundment or confinement of a living animal in a pound or other place and fails to supply it with proper food, proper water, or proper shelter during such confinement.

(f) Carries, or causes to be carried, a living animal in or upon a vehicle or otherwise, in a cruel or inhumane manner.

(g) Unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken or swallowed by any domestic animal.

(h) Causes or procures to be done by any person any act enumerated in this Paragraph.

(i), (j) Repealed by Acts 2025, No. 200, §2.

(2)(a) Whoever commits the crime of simple cruelty to animals shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both. The court may also order the offender to pay for any expenses incurred for the housing of the animal and for medical treatment of the animal, pursuant to Code of Criminal Procedure Article 883.2. In addition, the court may issue an order prohibiting the offender from owning or keeping animals for a period of not more than one year.

(b) Whoever commits a second or subsequent offense of simple cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both. In addition, the court may issue an order prohibiting the offender from owning or keeping animals for a period of not more than five years.

(c) In addition to any other penalty imposed, a person who commits the crime of simple cruelty to animals shall be ordered to perform five eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(d) In addition to any other penalty imposed, the court may order a psychological evaluation or anger management treatment for a first conviction of the crime of simple cruelty to animals. For a second or subsequent offense of the crime of simple cruelty to animals, the court shall order a psychological evaluation or anger management treatment. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the offender.

(3) For purposes of this Subsection, if more than one animal is subject to an act of cruel treatment by an offender, each act shall constitute a separate offense.

B.(1) Aggravated cruelty to animals is when a person intentionally or with criminal

negligence does any of the following:

- (a) Tortures, maims, or mutilates any living animal.
 - (b) Tampers with livestock at a public livestock exhibition or at a private sale.
 - (c) Causes or procures to be done by another person any act designated in this Paragraph.
 - (d) Mistreats any living animal by any act or omission which causes or permits unnecessary or unjustifiable physical pain, suffering, or death to the animal.
 - (e) Having charge, custody, or possession of any animal as either an owner or otherwise, unjustifiably fails to provide it with proper food, proper water, proper shelter, or proper veterinary care, which results in the animal's death.
- (2) In addition to any other penalty imposed for a violation of Paragraph (1) of this Subsection, the offender shall be ordered to undergo a psychological evaluation and subsequently recommended psychological treatment and may be banned by court order from owning or keeping animals for a period of not more than ten years. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the offender.
- (3) Whoever commits the crime of aggravated cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both.
- (4) For purposes of this Subsection, where more than one animal is tortured, maimed, mutilated, or maliciously killed or where more than one head of livestock is tampered with, each act comprises a separate offense.

C. This Section shall not apply to any of the following:

- (1) The lawful hunting or trapping of wildlife as provided by law.
- (2) Herding of domestic animals.
- (3) Accepted veterinary practices.
- (4) Activities carried on for scientific or medical research governed by accepted standards.
- (5) Traditional rural Mardi Gras parades, processions, or runs involving chickens.
- (6) Nothing in this Section shall prohibit the standard transportation and agricultural processing of agriculture products as defined in R.S. 3:3602.

D. Repealed by Acts 2007, No. 425, §2, eff. August 15, 2008.

RS 14:102.2 — Seizure and disposition of animals cruelly treated

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- B.(1) The seizing officer shall notify the owner of the seized animal of the provisions of this Section by posting written notice at the location where the animal was seized or by leaving it with a person of suitable age and discretion residing at that location within twenty-four hours of the seizure.
- (2) The seizing officer shall photograph the animal within fifteen days after posting of the notice of seizure and shall cause an affidavit to be prepared in order to document its condition in accordance with R.S. 15:436.2.
- (3) The seizing officer shall appoint a licensed veterinarian or other suitable custodian to care for any such animal. The custodian shall retain custody of the animal in accordance with this Section.
- (4) The seized animal shall be held by the custodian provided for in Paragraph (3) for a period of fifteen consecutive days, including weekends and holidays, after such notice of seizure is given. Thereafter, if a person who claims an interest in such animal has not posted bond in accordance with Subsection C, the animal may be humanely disposed of

by sale, adoption, or euthanasia.

C.(1) A person claiming an interest in any animal seized pursuant to this Section may prevent the disposition of the animal as provided for in Subsection B of this Section by posting a bond with the court within fifteen days after receiving notice of such seizure. Such bond shall prevent the disposition of the animal for a period of thirty days commencing on the date of initial seizure.

(2)(a) The amount of the bond shall be determined by the department, agency, humane society, and the custodian of the animal as authorized by the court and shall be sufficient to secure payment for all reasonable costs incurred during the thirty-day period for the boarding and medical treatment of the animal after examination by a licensed veterinarian.

(b) The court shall order that the bond be given to the custodian of the animal to cover such costs.

(3) Such bond shall not prevent the department, agency, humane society, or other custodian of the animal from disposing of the animal in accordance with Subsection B of this Section at the end of the thirty-day period covered by the bond, unless the person claiming an interest posts an additional bond for such reasonable expenses for an additional thirty-day period. In addition, such bond shall not prevent disposition of the animal for humane purposes at any time, in accordance with Subsection E of this Section.

D. Upon a person's conviction of cruelty to animals, it shall be proper for the court, in its discretion, to order the forfeiture and final determination of the custody of any animal found to be cruelly treated in accordance with this Section and the forfeiture of the bond posted pursuant to Subsection C as part of the sentence. The court may, in its discretion, order the payment of any reasonable or additional costs incurred in the boarding or veterinary treatment of any seized animal prior to its disposition, whether or not a bond was posted by the defendant. In the event of the acquittal or final discharge without conviction of the accused, the court shall, on demand, direct the delivery of any animal held in custody to the owner thereof and order the return of any bond posted pursuant to Subsection C, less reasonable administrative costs.

E. Nothing in this Section shall prevent the euthanasia of any seized animal, at any time, whether or not any bond was posted, if a licensed veterinarian determines that the animal is not likely to survive and is suffering, as a result of any physical condition. In such instances, the court, in its discretion, may order the return of any bond posted, less reasonable costs, at the time of trial.

RS 14:102.3 — Search warrant; animal cruelty offenses

hat an animal has been or is being cruelly treated in violation of R.S. 14:102.1, in any building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant to any law enforcement officer authorized by law to make arrests for such offenses, authorizing any such officer to make a search of said building or place, and to arrest any person found violating R.S. 14:102.1. Said warrant may also authorize said officer to seize any animal believed to be cruelly treated and to take custody thereof. This section shall not be construed as a limitation on the power of law enforcement officers to seize animals as evidence at the time of the arrest.

RS 14:102.4 — Confined animals; necessary food and water

ment officer may, as often as is necessary, enter any place in which the animal is impounded or confined and supply it with necessary food and water so long as it shall remain impounded or confined.

RS 14:102.5 — Dogfighting; training and possession of dogs for fighting

th another dog, or cause any dogs to injure each other.

(2) Permit any act in violation of Paragraph (1) to be done on any premises under his charge or control, or aid or abet any such act.

(3) Promote, stage, advertise, or be employed at a dogfighting exhibition.

(4) Sell a ticket of admission or receive money for the admission of any person to any place used, or about to be used, for any activity described in Paragraph (2).

(5) Own, manage, or operate any facility kept or used for the purpose of dogfighting.

(6) Knowingly attend as a spectator at any organized dogfighting event.

(7)(a) Own, possess, keep, or train a dog for purpose of dogfighting.

(b) The following activities shall be admissible as evidence of a violation of this Paragraph:

(i) Possession of any treadmill wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia, together with evidence that the paraphernalia is being used or intended for use in the unlawful training of a dog to fight with another dog, along with the possession of any such dog.

(ii) Tying, attaching, or fastening any live animal to a machine or power propelled device, for the purpose of causing the animal to be pursued by a dog, together with the possession of a dog.

(iii) Possession or ownership of a dog exhibiting injuries or alterations consistent with dogfighting, including but not limited to torn or missing ears, scars, lacerations, bite wounds, puncture wounds, bruising or other injuries, together with evidence that the dog has been used or is intended for use in dogfighting.

(iv) Possession or use of a bait dog to train another dog for dogfighting.

B.(1) "Bait dog" means a dog that is used as bait to train another dog to be more aggressive and accustomed to attacking other dogs for the purpose of dogfighting.

(2) "Dogfighting" means an organized event wherein there is a display of combat between two or more dogs in which the fighting, killing, maiming, or injuring of a dog is the significant feature, or main purpose, of the event.

C. Whoever violates any provision of Subsection A of this Section shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or be imprisoned with or without hard labor for not less than one year nor more than ten years, or both.

D. Nothing in this Section shall prohibit any of the following activities:

(1) The use of dogs for hunting.

(2) The use of dogs for management of livestock by the owner, his employees or agents, or any other person having lawful custody of livestock.

(3) The training of dogs or the possession or use of equipment in the training of dogs for any purpose not prohibited by law.

(4) The possessing or owning of dogs with ears cropped or otherwise surgically altered for cosmetic purposes.

(5) Owning or possessing a former bait dog for the purpose of providing it with rehabilitative care.

E. Repealed by Acts 2008, No. 14, §2.

RS 14:102.6 — Seizure and destruction or disposition of dogs and equipment used in dogfighting

dogs on the premises where the arrest is made or in the immediate possession or control of the person being arrested, whether or not the dogs are actually engaged in a fight at the time, and all paraphernalia, implements, equipment, or other property or things used or employed in violation of that Section.

(2) The legislature finds and declares that fighting dogs used or employed in violation of R.S. 14:102.5 are dangerous, vicious, and a threat to the health and safety of the public. Therefore, fighting dogs seized in accordance with this Section are declared to be contraband and, notwithstanding R.S. 14:102.1, the officer, an animal control officer, or a licensed veterinarian may cause them to be humanely euthanized as soon as possible by a licensed veterinarian or a qualified technician and shall not be civilly or criminally liable for so doing. Fighting dogs not destroyed immediately shall be disposed of in accordance with R.S. 14:102.2.

B.(1) The officer, after taking possession of any dogs other than those destroyed or disposed of pursuant to Subsection A and of the other paraphernalia, implements, equipment, or other property or things, shall file with the district court of the parish within which the alleged violation occurred an affidavit stating therein the name of the person charged, a description of the property so taken and the time and place of the taking thereof, together with the name of the person who claims to own such property, if known, and that the affiant has reason to believe and does believe, stating the ground of such belief, that the property so taken was used or employed in such violation.

(2) The seizing officer shall dispose of any dogs or other animals seized in the manner provided for in R.S. 14:102.2.

(3) He shall thereupon deliver the other property so taken to such court which shall, by order in writing, place such paraphernalia, implements, equipment, or other property in the custody of a suitable custodian, to be kept by such custodian until the conviction or final discharge of the accused, and shall send a copy of such order without delay to the district attorney of the parish. The custodian so named and designated in such order shall immediately thereupon assume the custody of such property and shall retain the same, subject to the order of the court before which the accused shall be required to appear for trial.

C. Any person claiming an interest in a seized animal may post a bond with the court in accordance with the provisions of R.S. 14:102.2(C) in order to prevent the disposition of such animal.

D. Upon conviction of the person so charged, all dogs so seized shall be adjudged by the court to be forfeited and the court shall order a humane disposition of the same in accordance with R.S. 14:102.2. The court may also in its discretion order the forfeiture of the bond posted, as well as payment of any reasonable or additional costs incurred in the boarding or veterinary treatment of any seized dog, as provided in R.S. 14:102.2. In the event of the acquittal or final discharge, without conviction, of the accused, the court shall, on demand, direct the delivery of the animals and other property so held in custody to the owner thereof and order the return of any bond posted pursuant to R.S. 14:102.2(C), less reasonable administrative costs.

RS 14:102.7 — Search warrant for dogfighting offenses

R.S. 14:102.5 has been violated within the past forty-eight hours, is being, or will be violated in any building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any law enforcement officer competent by law to make arrests for such offenses to make a search of said building or place, and to arrest any person found violating R.S. 14:102.5. This Section shall not be construed as a limitation on the power of law enforcement officers to seize animals or evidence at the time of arrest.

RS 14:102.8 — Injuring or killing of a police animal

ed in this Section:

(1) "Police animal" means:

(a) Any dog which is owned or the service of which is used by any state or local law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

(b) Any dog which is owned or the service of which is used by any public safety agency and which is trained in accordance with the standards of a national or regional search and rescue association to respond to instructions from its handler in the search for possibly deceased individuals and in the search and rescue of lost or missing individuals and which dog, together with its handler, is prepared to render search and rescue services at the request of a public safety agency.

(c) Any horse which is used by a state or local law enforcement officer in the course of his official duty.

(2) "Public safety agency" means any agency of the state or political subdivision of the state which provides or has authority to provide law enforcement, fire protection, emergency medical services, emergency preparedness services, or any other type of emergency services.

C. It shall be an affirmative defense to a prosecution under this Section when the injuring or killing of a police animal is committed with the reasonable belief by one not involved in or being apprehended for the commission of any offense or by one taken into custody that:

(1) He is in imminent danger of losing his life or receiving great bodily harm and that the injuring or killing is necessary to save himself from that danger.

(2) Another person not involved in or being apprehended for the commission of any offense is in imminent danger of losing his life or receiving great bodily harm and that the injury or killing is necessary to save that person from that danger.

(3) His animal or other property not involved in the commission of any offense or in the apprehension of any person for an offense is in imminent danger of being destroyed or receiving grave injury or damage that may result in its destruction.

D.(1) Whoever commits the crime of injuring or killing of a police animal shall be fined not less than five thousand dollars nor more than ten thousand dollars, or imprisoned with or without hard labor for not less than one year nor more than three years, or both.

(2) Upon a second or subsequent conviction, regardless of whether the second or subsequent offense occurred before or after the first conviction, the offender shall be fined not less than five thousand dollars and not more than ten thousand dollars, or imprisoned with or without hard labor for not less than five years nor more than seven years, or both.

E. In addition to the foregoing penalties, a person convicted under this Section shall be ordered to make full restitution to the public safety agency suffering a financial loss from the injury or killing of a police animal. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

RS 14:102.9 — Interference with animal research; research laboratory or farm

arm with the intent of releasing or causing the release of any animal housed or kept within such research facility.

(2) The intentional or criminally negligent damaging of any research laboratory or research farm.

(3) The intentional or criminally negligent unauthorized release of any animal housed or kept within any research laboratory or research farm.

B. Whoever commits the crime of interference with animal research shall, upon conviction, be fined not less than one thousand nor more than five thousand dollars and may be imprisoned, with or without hard labor, for not more than one year.

RS 14:102.10 — Bear wrestling; penalty

restling match.

(2) Receives money for the admission of another person to a place kept for bear wrestling matches.

(3) Sells, purchases, possesses, or trains a bear for a bear wrestling match.

B. For the purposes of this Section, a "bear wrestling match" means a match or contest between one or more persons and a bear for the purpose of fighting or engaging in a physical altercation.

C. Whoever commits the crime of bear wrestling shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:102.11 — Illegal contact sports; penalty

ees a tough-man competition or is employed by anyone who conducts a tough-man competition.

(2) Receives money for the admission of another person to a place which holds or has held tough-man competitions.

B. For the purposes of this Section, a "tough-man contest or competition" means any boxing match, wrestling event, or contest or competition, or combination thereof, between two or more persons, whether professional or amateur, who use their hands, with or without gloves, or their feet, or both, in any manner unauthorized by the State Boxing and Wrestling Commission, and compete for money, financial prize, or any item of pecuniary or nonpecuniary value or compete at an event where a fee is charged whereby either participant may obtain pecuniary gain. "Tough-man contest or competition" shall not include, nor shall the provisions of this Section apply to any contest, competition, or exhibition of any of the recognized martial arts including karate, judo, kung fu, tae kwan do, jujitsu, kickboxing, or any substantially similar tradition.

C. Whoever commits the crime of illegal contact sports shall be fined not more than five hundred dollars or imprisoned, with or without hard labor, for not more than one year, or both.

RS 14:102.12 — Definitions

al control agency. If the

municipality or parish does not have an animal control agency, it means whatever entity performs animal control functions.

(2) "Impounded" means taken into the custody of the animal control agency or provider of animal control services to the municipality or parish where the dangerous or vicious dog is found.

(3) "Secure enclosure" means a fence or structure suitable to prevent the entry of young children, and which is suitable to confine a dangerous dog in conjunction with other measures which may be taken by the owner of the dog. The enclosure shall be designed in order to prevent the animal from escaping.

(4) Repealed by Acts 2019, No. 2, §3.

RS 14:102.13 — Hearing to determine if dog is dangerous or vicious

and without the payment of any costs, shall be authorized to file a petition in the district court having jurisdiction requesting a hearing for the purpose of determining whether or not a dog should be declared dangerous as defined in R.S. 14:102.14(A) or vicious as defined in R.S. 14:102.15(A).

B. Upon the filing of the petition, the district judge shall immediately issue a rule on the owner of the dog to show cause why the dog should not be declared a dangerous or vicious dog. This rule shall, at the time of its issuance, be fixed for hearing not later than five days, including Sundays, half-holidays and holidays, from the date of its issuance, and shall be heard by preference over all other matters and cases fixed for the same day and shall be heard continuously day after day until submitted for adjudication.

C. Upon the showing made by the parties on the trial of the rule to show cause, the court shall determine whether the dog is a dangerous dog or a vicious dog and may make other orders authorized by this Section.

D. In every case where the dog is established to be a dangerous dog, the court shall enter an order declaring the dog to be a dangerous dog and shall direct the owner of the dog to comply with conditions established for the restraint and confinement of the dog as provided by law.

E. In every case where the dog is established to be a vicious dog, the court shall enter an order declaring the dog to be a vicious dog and shall direct that the vicious dog be humanely euthanized.

F. Any person who fails to restrain and confine a dangerous dog as ordered by the court shall be guilty of contempt and shall be fined not less than one hundred dollars nor more than five hundred dollars.

G. The pleading and practice in all cases under this Section shall be in accordance with the Code of Civil Procedure and the laws and rules of court governing practice before the district courts of this state.

H. The owner of the dog may appeal to the court of competent jurisdiction an order of the district court determining the dog to be dangerous or vicious. Such appeal shall be perfected within five calendar days from the rendition of the order and shall be made returnable to the appropriate appellate court in not more than fifteen calendar days from the rendition of the order. The applicant for the determination may appeal to the court of competent jurisdiction for an order reversing the order of the district court.

I. No dog shall be declared dangerous or vicious if at the hearing authorized by this Section evidence presented is sufficient to establish any of the following:

(1) Any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a crime upon the property of the owner of the dog.

(2) Any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was teasing, tormenting, abusing, or assaulting the dog.

(3) Any injury or damage is sustained by a domestic animal which, at the time the injury or damage was sustained, was teasing, tormenting, abusing, or assaulting the dog.

(4) If the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault.

(5) If the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.

J. The owner of a dog determined to be a vicious dog may be prohibited by the court from owning, possessing, controlling, or having custody of any dog for a period of up to three years, when it is found, after proceedings conducted pursuant to this Section, that ownership or possession of a dog by that person would create a significant threat to the health, safety, or welfare of the public.

RS 14:102.14 — Unlawful ownership of dangerous dog

od, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner of the dog; or

(2) Any dog which, when unprovoked, bites a person causing an injury; or

(3) Any dog which, when unprovoked, on two separate occasions within the prior thirty-six-month period, has killed, seriously bitten, inflicted injury, or otherwise caused injury to a domestic animal off the property of the owner of the dog.

B. It is unlawful for any person to own a dangerous dog without properly restraining or confining the dog.

C. A dangerous dog, while on the owner's property, shall, at all times, be kept indoors, or in a secure enclosure. A dangerous dog may be off the owner's property only if it is restrained by a leash which prevents its escape or access to other persons.

D. The owner of a dog determined by the court to be dangerous shall post signs around the secure enclosure no more than thirty feet apart and at each normal point of ingress and egress. The signs shall bear the words "Beware of Dog", or "Dangerous Dog" in letters at least three and one-half inches high and shall be so placed as to be readily visible to any person approaching the secure enclosure.

E. If the dog in question dies, or is sold, transferred, or permanently removed from the municipality or parish where the owner resides, the owner of a dangerous dog shall notify the animal control agency of the changed condition and new location of the dog in writing within two days.

F. Whoever violates the provisions of this Section shall be fined not more than three hundred dollars.

G. The provisions of this Section shall not apply to:

(1) Any dog which is owned, or the service of which is employed, by any state or local law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

(2) Any dog trained in accordance with the standards of a national or regional search and rescue association to respond to instructions from its handler in the search and rescue of lost or missing individuals and which dog, together with its handler, is prepared to render search and rescue services at the request of law enforcement.

RS 14:102.15 — Unlawful ownership of a vicious dog

an being and was previously determined to be a dangerous dog.

B. It is unlawful for any person to own a vicious dog.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

D. The provisions of this Section shall not apply to:

(1) Any dog which is owned, or the service of which is employed, by any state or local law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

(2) Any dog trained in accordance with the standards of a national or regional search and rescue association to respond to instructions from its handler in the search and rescue of lost or missing individuals and which dog, together with its handler, is prepared to render search and rescue services at the request of law enforcement.

RS 14:102.16 — Seizure and destruction or disposition of dangerous or vicious dogs

s on the premises where the arrest is made or in the immediate possession or control of the person being arrested.

(2) The legislature finds and declares that dangerous or vicious dogs are a threat to the health and safety of the public. Dogs seized in accordance with this Section are declared to be contraband, and the officer may cause them to be

impounded pending the hearing held pursuant to R.S. 14:102.13.

B. A dog determined to be a vicious dog by the court shall be humanely euthanized by the animal control agency, a licensed veterinarian, or a qualified technician.

C. A dog determined by the court to be a dangerous dog may be humanely euthanized if it is determined that the dog poses an immediate threat to public health and safety.

D. The owner of the dog shall be liable to the municipality or parish where the dog is impounded for the costs and expenses of keeping the dog if the dog is later adjudicated dangerous or vicious.

RS 14:102.17 — Registration of dangerous dogs; fees

the dog, either after the owner of the dog has agreed to the designation or the court has determined the designation applies to the dog.

B. The municipality or parish may charge a dangerous dog fee in addition to the regular licensing fee to provide for the increased costs of maintaining the records of the dog.

RS 14:102.18 — Seizure and disposition of dogs which cause death or inflict bodily injury

causes the death of or inflicts bodily injury on a human being. Any dog seized pursuant to the provisions of this Section may be impounded pending the outcome of the hearing held in accordance with this Section.

B. The district attorney, the sheriff, an animal control officer, or other designated representative, in the name of and on behalf of the parish, and without the payment of any costs, shall be authorized to file a petition in the district court having jurisdiction requesting a hearing for the purpose of determining whether or not a dog which, when unprovoked, in an aggressive manner, causes the death of or inflicts bodily injury on a human being, shall be euthanized.

C. The hearing shall be conducted in accordance with the procedure provided in R.S. 14:102.13.

D. A dog determined by the court to have, when unprovoked, in an aggressive manner, caused the death of or inflicted bodily injury on a human being may be humanely euthanized by the animal control agency, a licensed veterinarian, or a qualified technician.

E. The owner of the dog shall be liable to the municipality or parish where the dog is impounded for the costs and expenses of keeping the dog if the dog is later adjudicated to have, when unprovoked, in an aggressive manner, caused the death or inflicted bodily injury on a human being.

RS 14:102.19 — Hog and canine fighting prohibited; penalties

ne or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

B. It shall be unlawful for any person to intentionally do any of the following for the purpose of organizing, conducting, or financially or materially supporting any event as provided in Subsection A of this Section:

- (1) Finance, commercially advertise, sell admission tickets, or employ persons.
- (2) Own, manage, or operate any facility or property.
- (3) Supply, breed, train, or keep canines or hogs.
- (4) Knowingly purchase tickets of admission.

C. The provisions of this Section shall not apply to any competitive event in which canines, which are trained for hunting or herding activities, are released in an open area or an enclosed area to locate and corner hogs, and in which competitive points are deducted if a hog is caught and held, unless by such actions it is reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

D. The provisions of this Section shall not apply to the lawful hunting of hogs with canines or the use of canines for the management, farming, or herding of hogs which are livestock or the private training of canines for the purposes enumerated in this Subsection provided that such training is conducted in the field and is not in violation of the provisions of Subsection A of this Section.

E. The provisions of this Section shall not apply to "Uncle Earl's Hog Dog Trials", as defined in R.S. 49:170.10.

F. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

G. For the purposes of this Section:

(1) "Hog" shall include a pig, swine, or boar.

(2) "Person" means an individual, corporation, partnership, trust, firm, association or other legal entity.

RS 14:102.20 — Sport killing of zoo or circus animals prohibited

, or donate any animal for use in any business or activity wherein the animal may be intentionally killed for sport.

C. No person shall knowingly transfer or conspire to transfer any animal from a zoo or circus to any business, person, or activity wherein the animal may be intentionally killed for sport.

D. No business or person wherein an animal may be intentionally killed for sport shall purchase, accept as a donation, or receive any animal that was formerly a part of a zoo or circus.

E. Whoever violates the provisions of this Section or rules and regulations promulgated pursuant thereto shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:102.21 — Unauthorized use of the identity of a deceased soldier

citation of patronage by any business the name, portrait, or picture of any deceased soldier, without having obtained prior consent to such use by the soldier, or by the closest living relative, by blood or marriage, of the deceased.

B. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned for not more than one year, or both.

C. For purposes of this Section, "soldier" means any active duty member or former member of the armed forces of the United States including any member who was killed in the line of duty.

RS 14:102.22 — Harboring or concealing an animal which has bitten or inflicted serious bodily

injury on a human is committed when a person knows or has reason to know that an animal has bitten or inflicted serious bodily injury on a human and the person intentionally harbors or conceals the animal from any law enforcement or animal control agency investigator or agent.

B. For the purposes of this Section:

(1) "Animal control agency" means the parish or local animal control agency. If the municipality or parish does not have an animal control agency, it means the entity designated to perform animal control functions.

(2) Repealed by Acts 2019, No. 2, §3.

C. Whoever commits the crime of harboring or concealing an animal which has bitten or inflicted serious bodily injury on a human shall be fined not more than one thousand dollars or imprisoned with or without hard labor, for not more than two years, or both.

D.(1) Any health care provider, as provided in R.S. 40:1231.1, who examines or treats any person who has been bitten by an animal or upon whom an animal has inflicted serious bodily injury shall report such bite or injury to the law enforcement or animal control agency for the location where the bite or injury occurred. Such report shall be made immediately, if possible, and in any event shall be made within twenty-four hours.

(2) The report shall include as much of the following information as is available:

(a) The patient's name, date of birth, sex, and current home and work addresses.

(b) The nature of the bite or injury that is the subject of the report.

(c) Any information about the location of the biting animal and the name and address of any known owner.

(d) The name and address of the health care provider.

RS 14:102.23 — Cockfighting

feral chickens and in which it is intended or reasonably foreseeable that the chickens would be injured, maimed, mutilated, or killed; or

(2) Possess, train, purchase, or sell any chicken with the intent that the chicken shall be engaged in an unlawful commercial or private cockfight as prohibited in Paragraph (1) of this Subsection.

B. As used in this Section, the following words and phrases have the following meanings ascribed to them:

(1) "Chicken" means any game fowl or rooster whether domestic or feral normally used in a cockfight.

(2) "Cockfight" means a contest wherein chickens are set against one another with the intention that they engage in combat.

C. Possessing, manufacturing, buying, selling, or trading of paraphernalia such as spurs, gaffs, knives, leather training spur covers, and other items or substances normally used in cockfighting with the intent that they shall be used in a cockfight together with evidence that the paraphernalia is being used or intended for use in the unlawful training of a chicken to fight with another chicken, shall be admissible as evidence of a violation of this Section. Whoever violates the provisions of this Subsection, upon conviction shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. However, the provisions of this Section shall not be construed to prohibit the possessing, buying, selling, or trading of any spurs, gaffs, knives, leather training spur covers, or any other items normally used in cockfighting which are at least five years old and have historical value.

D.(1) Whoever violates the provisions of this Section, on conviction of a first offense, shall be fined not less than seven hundred fifty dollars, nor more than two thousand dollars, or imprisoned, with or without hard labor, for not less than six months nor more than one year, or both. In addition to any other penalty imposed, on a conviction of a first offense, the offender shall be ordered to perform fifteen eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(2) On a conviction of a second offense, the offender shall be fined not less than one thousand dollars, nor more than two thousand dollars, and shall be imprisoned, with or without hard labor, for not less than one year nor more than three years. At least six months of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

E. For the purposes of this Section, when more than one chicken is subject to an act that would constitute cockfighting, each chicken involved shall constitute a separate offense.

F. The provisions of this Section shall not be construed to prohibit the raising of any chicken, rooster, or gamefowl for the purposes of personal enjoyment, exhibition, or agricultural pursuits as long as the purpose of such pursuits are legal.

RS 14:102.24 — Participation in cockfighting

d in this Section, the following words and phrases have the following meaning ascribed to them:

(1) "Chicken" means any bird which is of the species

Gallus gallus

, whether domestic or feral.

(2) "Cockfight" means a contest wherein chickens are set against one another with the intention that they engage in combat.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

RS 14:102.25 — Unlawfully supplying any product for the purpose of falsifying a screening test

t is committed when a person intentionally:

(1) Sells, trades, furnishes, supplies, gives, distributes, or markets human or synthetic urine in this state or transports human or synthetic urine into this state with the intent of using the urine to falsify or alter results in a urine, drug, or alcohol screening test.

(2) Advertises for sale any product designed to falsify or alter a urine, drug, or alcohol screening test.

(3) Adulterates a urine or other bodily fluid sample with the intent to falsify or alter results in a urine, drug, or alcohol screening test.

(4) Possesses adulterants which are intended to be used to adulterate a urine or other bodily fluid sample for the purpose of falsifying or altering results in a urine, drug, or alcohol screening test.

(5) Sells, trades, furnishes, supplies, gives, distributes, or markets an adulterant with the intent by the seller or marketer that the product be used to adulterate a urine or other bodily fluid sample for the purpose of falsifying or altering results in a urine, drug, or alcohol screening test.

B. The intent to falsify or alter results in a urine, drug, or alcohol screening test shall be presumed if either of the following occur:

(1) A heating element or any other device used to thwart a drug screening test accompanies the sale, trading, furnishing, supplying, giving, distribution, or marketing of urine or adulterants.

(2) Instructions that provide a method for thwarting a drug screening test accompany the sale, giving, distribution, or marketing of urine or adulterants.

C. As used in this Section, "adulterant" means a substance that is not expected to be in human urine or a substance expected to be present in human urine but that is at a concentration so high that it is not consistent with human urine, including, but not limited to:

(1) Bleach.

(2) Chromium.

(3) Creatinine.

(4) Detergent.

(5) Glutaraldehyde.

(6) Hydrochloric acid.

(7) Hydroiodic acid.

(8) Iodine.

(9) Nitrite.

(10) Peroxidase.

(11) Potassium dichromate.

(12) Potassium nitrite.

(13) Pyridinium chlorochromate.

(14) Sodium nitrite.

D. Whoever commits the crime of unlawfully supplying any product for the purpose of falsifying or altering a drug, urine, or alcohol screening test shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

RS 14:102.26 — Unlawful restraint of a dog; definitions; penalties

for a dog.

(2) "Owner" means a person who owns or has custody or control of a dog.

(3) "Properly fitted" means, with respect to a collar, a collar that measures the circumference of a dog's neck plus at least one inch.

(4) "Restraint" means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

B. It shall be unlawful to tie, tether, or restrain any animal in a manner that is inhumane, cruel, or detrimental to its welfare.

C. The provisions of this Section shall not apply to any of the following:

(1) Accepted veterinary practices.

(2) Activities carried on for scientific or medical research governed by accepted standards.

- (3) A dog restrained to a running line, pulley, or trolley system and is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type, or improperly fitted collar.
 - (4) A dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction.
 - (5) A dog restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog.
 - (6) A dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock.
 - (7) A dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products if the restraint is reasonably necessary for the safety of the dog.
 - (8) A dog being restrained and walked with a hand-held leash regardless of the type of collar being used.
- D. Whoever violates the provisions of this Section shall be fined not more than three hundred dollars.

RS 14:102.27 — Unlawful sale of a live dog or cat at certain locations

c playground, public swimming pool, any other public recreational area, or adjacent property to such locations regardless of whether or not access to those locations is authorized, or on any commercial or retail parking lot unless permission is granted by the owner of the parking lot.

B. The provisions of this Section shall not apply to:

- (1) Bona fide humane societies, animal welfare groups, animal control agencies, or nonprofit organizations sponsoring animal adoption events.
- (2) The offering of dogs or cats for sale at a private residence.
- (3) The offering of dogs or cats for sale by a paid entrant to a competitive cat show or dog show, provided that the sale occurs on the premises and within the confines of the show.
- (4) Any retail pet store or licensed breeder.
- (5) Any raffle or drawing for a dog or cat which is a fundraising event for a waterfowl, wetland, or natural resources conservation organization.

C.(1) Whoever violates the provisions of this Section shall be fined not more than two hundred fifty dollars for a first offense.

(2) Whoever violates the provisions of this Section for a second or subsequent offense shall be fined not more than one thousand dollars per violation.

D. For the purposes of this Section:

- (1) "Highway" means the entire width between the boundary lines of every way or place of whatever nature publicly maintained and open to the use of the public for the purpose of vehicular travel, including bridges, causeways, tunnels, and ferries; synonymous with the word "street".
- (2) "Right-of-way" means the privilege of the immediate use of the highway.

RS 14:102.28 — Transporting live feral swine prohibited; penalties

horized transporter with the Louisiana Board of

Animal Health within the Department of Agriculture and Forestry.

B. For the purposes of this Section, "feral swine" shall mean any hog, pig, or swine species,

Sus scrofa

, including but not limited to Russian and European wild boar and their

hybrids that are running at large, free roaming, or wild upon public or private lands in this

state, and shall also include any hog, pig, or swine species that has lived any part of its life

running at large, free roaming, or wild. The term feral swine shall also include any feral

phenotype swine, whether or not running at large, free roaming, or wild.

C. Whoever violates the provisions of this Section shall be fined not more than nine hundred dollars, or imprisoned for not more than six months, or both.

D. The provisions of this Section shall not apply to "Uncle Earl's Hog Dog Trials" as defined in R.S. 49:170.10.

RS 14:102.29 — Unlawful possession, transfer, or manufacture of animal fighting paraphernalia

ing paraphernalia with the intent to engage in, promote, or facilitate animal fighting in violation of R.S. 14:102.1, 102.5, or 102.23, or any other provision of law.

B. For purposes of this Section, "animal fighting paraphernalia" means equipment, products, implements, or materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of animal fighting, and includes but is not limited to the following:

- (1) Breaking sticks.
- (2) Cat mills.
- (3) Treadmills.
- (4) Fighting pits.
- (5) Spring poles.
- (6) Unprescribed veterinary medicine.
- (7) Veterinary treatment supplies.
- (8)(a) Spurs, gaffs, knives, leather training spur covers, slashers, heels, or any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.
- (b) This Paragraph shall not be construed to prohibit the possessing, buying, selling, or trading of any spurs, gaffs, knives, leather training spur covers, or any other items normally used in cockfighting that are at least five years old and have historical value.

C. Nothing in this Section shall prohibit the training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

D. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

Act 2021, No. 100, §1, eff. June 4, 2021.

RS 14:103 — Disturbing the peace

ddressing any offensive, derisive, or annoying words to any other person who is lawfully in any street, or other public place; or call him by any offensive or derisive name, or make any noise or exclamation in his presence and hearing with the intent to deride, offend, or annoy him, or to prevent him from pursuing his lawful business, occupation, or duty; or

- (3) Appearing in an intoxicated condition; or
- (4) Engaging in any act in a violent and tumultuous manner by any three or more persons; or
- (5) Holding of an unlawful assembly; or
- (6) Interruption of any lawful assembly of people; or
- (7) Intentionally engaging in any act or any utterance, gesture, or display designed to disrupt a funeral, funeral route, or burial of a deceased person during the period beginning one hundred twenty minutes before and ending one hundred twenty minutes after the funeral or burial, within three hundred feet of the funeral or burial.
- (8)(a) Intentionally blocking, impeding, inhibiting, or in any other manner obstructing or interfering with a funeral route.
- (b) Intentionally blocking, impeding, inhibiting, or in any other manner obstructing or interfering, within five hundred feet, with access into or from any building or parking lot of a building in which a funeral or burial is being conducted, or any

burial plot or the parking lot of the cemetery in which a funeral or burial is being conducted, during the period beginning one hundred twenty minutes before and ending one hundred twenty minutes after the funeral or burial.

B.(1) Whoever commits the crime of disturbing the peace shall be fined not more than one hundred dollars or imprisoned for not more than ninety days, or both.

(2) Whoever commits the crime of disturbing the peace as provided for in Paragraphs (A)(7) and (8) of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

C. For purposes of Paragraphs (A)(7) and (8) of this Section:

(1) "Funeral" includes a funeral, funeral home viewing, wake, or memorial service.

(2) "Funeral route" means the route of ingress or egress from the location of a funeral or burial, including thirty feet from the outer edge of the outside lane of the route.

RS 14:103.1 — Emanation of excessive sound or noise; exceptions; penalties

or noise which is likely to cause inconvenience or annoyance to persons of ordinary sensibilities, when both the following exist:

(1) The sound amplification system is located in or on any motor vehicle on a public street, highway, or public park.

(2) The sound or noise emanating from the sound amplification system is audible at a distance of greater than twenty-five feet which exceeds eighty-five decibels.

B. The provisions of this Section do not apply to the use of a horn, alarm, or other warning device which has as its purpose the signaling of unsafe or dangerous situations or to summon the assistance of law enforcement when used for such purpose, or when used in conjunction with a permitted event.

C. Whoever violates a provision of this Section shall be fined two hundred dollars for a first offense, and not less than three hundred dollars nor more than five hundred dollars for second and subsequent offenses.

D.(1) Upon conviction for a first offense, the court may order the violator to surrender to the law enforcement agency that arrested the violator or reported the violation the driver's license of the driver involved in the violation for a period not to exceed thirty days. The violator shall be responsible for the retrieval of his driver's license from the law enforcement agency after the expiration of the period of surrender.

(2) Upon conviction for a second or subsequent offense, the court may order the violator to surrender to the law enforcement agency that arrested the violator or reported the violation the driver's license of the driver involved in the violation for a period not less than thirty days nor more than ninety days. The violator shall be responsible for the retrieval of his driver's license from the law enforcement agency after the expiration of the period of surrender.

E. A governing authority of a parish or municipality may enact an ordinance consistent with the provisions of this Section and shall incorporate the standards and elements of the crime, and the penalty provided in the ordinance shall not exceed the penalty provided in this Section.

RS 14:103.2 — Amplified devices in public places; quiet zones; penalties

ic place in a manner likely to disturb, inconvenience, or annoy a person of ordinary sensibilities, if the sound produced is in excess of fifty-five decibels as measured within ten feet of the entrance to:

(1) Hospitals.

(2) Churches, synagogues, temples, or other houses of religious worship, while the building is occupied and services are being performed, provided that a sign is posted within ten feet of the front door when services are being performed.

B. Whoever violates any of the provisions of this Section shall be imprisoned for not more than thirty days.

RS 14:103.3 — Disturbing the peace; residences

ferences, disrupts, threatens

to disrupt, or harasses the individual's right to control or use his residence.

B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars. Each day on which a violation occurs shall constitute a separate offense.

C. For purpose of this Section, "residence" shall mean the dwelling, house,

apartment, or other structure used in whole or in part as a home or place of abode of any individual.

RS 14:104 — Keeping a disorderly place

the crime of keeping a disorderly place shall be fined not

more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Whoever commits the crime of keeping a disorderly place for the purpose of prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, with at least five years being served without benefit of probation, parole, or suspension of sentence.

(3) Whoever commits the crime of keeping a disorderly place for the purpose of prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both, with at least ten years being served without benefit of probation, parole, or suspension of sentence.

(4) Repealed by Acts 2020, No. 352, §2.

RS 14:105 — Letting a disorderly place

nued use of the premises

with such knowledge.

B.(1) Whoever commits the crime of letting a disorderly place shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Whoever commits the crime of letting a disorderly place for the purpose of prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, with at least five years being served without benefit of probation, parole, or suspension of sentence.

(3) Whoever commits the crime of letting a disorderly place for the purpose of prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both, with at least ten years being served without benefit of probation, parole, or suspension of sentence.

(4) Repealed by Acts 2020, No. 352, §2.

RS 14:106 — Obscenity

n any prison or jail, with the intent of arousing sexual desire or which appeals to prurient interest or is patently offensive.

(2)(a) Participation or engagement in, or management, operation, production, presentation, performance, promotion, exhibition, advertisement, sponsorship, electronic communication, or display of, hard core sexual conduct when the trier of fact determines that the average person applying contemporary community standards would find that the conduct, taken as a whole, appeals to the prurient interest; and the hard core sexual conduct, as specifically defined herein, is presented in a patently offensive way; and the conduct taken as a whole lacks serious literary, artistic, political, or scientific value.

(b) Hard core sexual conduct is the public portrayal, for its own sake, and for ensuing commercial gain of:

(i) Ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being; or

- (ii) Masturbation, excretory functions or lewd exhibition, actual, simulated, or animated, of the genitals, pubic hair, anus, vulva, or female breast nipples; or
 - (iii) Sadoomasochistic abuse, meaning actual, simulated or animated, flagellation, or torture by or upon a person who is nude or clad in undergarments or in a costume that reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or in the condition of being fettered, bound, or otherwise physically restrained, on the part of one so clothed; or
 - (iv) Actual, simulated, or animated touching, caressing, or fondling of, or other similar physical contact with a pubic area, anus, female breast nipple, covered or exposed, whether alone or between humans, animals, or a human and an animal, of the same or opposite sex, in an act of apparent sexual stimulation or gratification; or
 - (v) Actual, simulated, or animated stimulation of a human genital organ by any device whether or not the device is designed, manufactured, or marketed for such purpose.
- (3)(a) Sale, allocation, consignment, distribution, dissemination, advertisement, exhibition, electronic communication, or display of obscene material, or the preparation, manufacture, publication, electronic communication, or printing of obscene material for sale, allocation, consignment, distribution, advertisement, exhibition, electronic communication, or display.
- (b) Obscene material is any tangible work or thing which the trier of fact determines that the average person applying contemporary community standards would find, taken as a whole, appeals to the prurient interest, and which depicts or describes in a patently offensive way, hard core sexual conduct specifically defined in Paragraph (2) of this Subsection, and the work or thing taken as a whole lacks serious literary, artistic, political, or scientific value.
- (4) Requiring as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, or publication to a purchaser or consignee that such purchaser or consignee also receive or accept any obscene material, as defined in Paragraph (3) of this Subsection, for resale, distribution, display, advertisement, electronic communication, or exhibition purposes; or, denying or threatening to deny a franchise to, or imposing a penalty, on or against, a person by reason of his refusal to accept, or his return of, such obscene material.
- (5) Solicitation or enticement of an unmarried person under the age of seventeen years to commit any act prohibited by Paragraphs (1), (2), or (3) of this Subsection.
- (6) Advertisement, exhibition, electronic communication, or display of sexually violent material. "Violent material" is any tangible work or thing which the trier of facts determines depicts actual or simulated patently offensive acts of violence, including but not limited to, acts depicting sadistic conduct, whippings, beatings, torture, and mutilation of the human body, as described in Item (2)(b)(iii) of this Subsection.
- (7)(a) Transmission or causing the transmission by a person, knowing the content of an advertisement to be sexually explicit as defined in this Paragraph, of an unsolicited advertisement containing sexually explicit materials in an electronic communication to one or more persons within this state without including in the advertisement the term "ADV-ADULT" at the beginning of the subject line of the advertisement. A "subject line" is the area of an electronic communication that contains a summary description of the content of the message.
- (b) As used in this Paragraph, "sexually explicit" means the graphic depiction of sex, including but not limited to sexual audio, text, or images; depiction of sexual activity; nudity; or sexually oriented language.
- (8)(a) Transmission or causing the transmission by a person, knowing its content to be sexually explicit as defined in this Paragraph, of an unsolicited text message containing sexually explicit materials to a wireless telecommunications device of one or more persons within this state.
- (b) As used in this Paragraph:
- (i) "Sexually explicit" means the graphic depiction of sex, including but not limited to sexual audio, text, or images, the depiction of sexual activity, nudity, or sexually oriented language and is obscene as defined in Subparagraph (A)(3)(b) of this Section.
 - (ii) "Wireless telecommunications device" means a cellular telephone, a text-messaging device, a personal digital assistant, a tablet computer, or any other substantially similar wireless device.
- B. Lack of knowledge of age or marital status shall not constitute a defense.
- C. If any employee of a theatre or bookstore acting in the course or scope of his employment, is arrested for an offense designated in this Section, the employer shall reimburse the employee for all attorney's fees and other costs of defense of such employee. Such fees and expenses may be fixed by the court exercising criminal jurisdiction after contradictory

hearing or by ordinary civil process.

D.(1) The provisions of this Section do not apply to recognized and established schools, churches, museums, medical clinics, hospitals, physicians, public libraries, governmental agencies, quasi-governmental sponsored organizations and persons acting in their capacity as employees or agents of such organizations, or a person solely employed to operate a movie projector in a duly licensed theatre.

(2) For the purpose of this Subsection, the following words and terms shall have the respective meanings defined as follows:

(a) "Churches" means any church, affiliated with a national or regional denomination.

(b) "Medical clinics and hospitals" means any clinic or hospital of licensed physicians or psychiatrists used for the reception and care of persons who are sick, wounded, or infirm.

(c) "Physicians" means any licensed physician or psychiatrist.

(d) "Recognized and established schools" means schools having a full time faculty and pupils, gathered together for instruction in a diversified curriculum.

E. This Section does not preempt, nor shall anything in this Section be construed to preempt, the regulation of obscenity by municipalities, parishes, and consolidated city-parish governments; however, in order to promote uniform obscenity legislation throughout the state, the regulation of obscenity by municipalities, parishes, and consolidated city-parish governments shall not exceed the scope of the regulatory prohibitions contained in the provisions of this Section.

F.(1) Except for those motion pictures, printed materials, electronic communication and photographic materials showing actual ultimate sexual acts or simulated or animated ultimate sexual acts when there is an explicit, close-up depiction of human genital organs so as to give the appearance of the consummation of ultimate sexual acts, no person, firm, or corporation shall be arrested, charged, or indicted for any violations of a provision of this Section until such time as the material involved has first been the subject of an adversarial hearing under the provisions of this Section, wherein such person, firm, or corporation is made a defendant and, after such material is declared by the court to be obscene, such person, firm, or corporation continues to engage in the conduct prohibited by this Section. The sole issue at the hearing shall be whether the material is obscene.

(2) The hearing shall be held before the district court having jurisdiction over the proceedings within seventy-two hours after receipt of notice by the person, firm, or corporation. The person, firm, or corporation shall be given notice of the hearing by registered mail or by personal service on the owner, manager, or other person having a financial interest in the material; provided, if there is no such person on the premises, then notice may be given by personal service on any employee of the person, firm, or corporation on such premises. The notice shall state the nature of the violation, the date, place, and time of the hearing, and the right to present and cross-examine witnesses.

(3) The state or any defendant may appeal from a judgment. Such appeal shall not stay the judgment. Any defendant engaging in conduct prohibited by this Section subsequent to notice of the judgment, finding the material to be obscene, shall be subject to criminal prosecution notwithstanding the appeal from the judgment.

(4) No determination by the district court pursuant to this Section shall be of any force and effect outside the judicial district in which made and no such determination shall be res judicata in any proceeding in any other judicial district. In addition, evidence of any hearing held pursuant to this Section shall not be competent or admissible in any criminal action for the violation of any other Section of this Title; provided, however, that in any criminal action, charging the violation of any other Section of this Title, against any person, firm, or corporation that was a defendant in such hearing, involving the same material declared to be obscene under the provisions of this Section, then evidence of such hearing shall be competent and admissible as bearing on the issue of scienter only.

G.(1) Except as provided in Paragraph (5) of this Subsection, on a first conviction, whoever commits the crime of obscenity shall be fined not less than one thousand dollars nor more than two thousand five hundred dollars, or imprisoned, with or without hard labor, for not less than six months nor more than three years, or both.

(2)(a) Except as provided in Paragraph (5) of this Subsection, on a second conviction, the offender shall be imprisoned, with or without hard labor for not less than six months nor more than three years, and in addition may be fined not less than two thousand five hundred dollars nor more than five thousand dollars.

(b) The imprisonment provided for in Subparagraph (a) of this Paragraph, may be imposed at court discretion if the court determines that the offender, due to his employment, could not avoid engagement in the offense. This Subparagraph

shall not apply to the manager or other person in charge of an establishment selling or exhibiting obscene material.

(3) Except as provided in Paragraph (5) of this Subsection, on a third or subsequent conviction, the offender shall be imprisoned with or without hard labor for not less than two years nor more than five years, and in addition may be fined not less than five thousand dollars nor more than ten thousand dollars.

(4) When a violation of Paragraph (1), (2), or (3) of Subsection A of this Section is with or in the presence of an unmarried person under the age of seventeen years, the offender shall be fined not more than ten thousand dollars and shall be imprisoned, with or without hard labor, for not less than two years nor more than five years, without benefit of parole, probation, or suspension of sentence.

(5) Whoever violates the provisions of Paragraphs (A)(7) or (A)(8) of this Section may be fined not less than one hundred dollars nor more than five hundred dollars.

H.(1) When a corporation is charged with violating this Section, the corporation, the president, the vice president, the secretary, and the treasurer may all be named as defendants. Upon conviction for a violation of this Section, a corporation shall be sentenced in accordance with Subsection G of this Section. All corporate officers who are named as defendants shall be subject to the penalty provisions of this Section as set forth in Subsection G of this Section.

(2) If the corporation is domiciled in this state, upon indictment or information filed against the corporation, a notice of arraignment shall be served upon the corporation, or its designated agent for service of process, which then must appear before the district court in which the prosecution is pending to plead to the charge within fifteen days of service. If no appearance is made within fifteen days, an attorney shall be appointed by the court to represent the defendant corporation with respect to the charge or to show cause why the corporation should not be enjoined from continuing in business during the pendency of the criminal proceedings. Appearance for arraignment may be made through private counsel.

(3) If the corporation is domiciled out of state and is registered to do business in Louisiana, notice of arraignment shall be served upon the corporate agent for service of process or the secretary of state, who shall then notify the corporation charged by indictment or information to appear before the district court in which the prosecution is pending for arraignment within sixty days after the notice is mailed by the secretary of state. If no appearance is made within sixty days the court shall appoint an attorney to represent the defendant corporation with respect to the charge or to show cause why the corporation should not be enjoined from continuing in business during the pendency of the criminal proceedings. Appearance for arraignment may be made by private counsel.

(4) If the corporation is domiciled out of state and is not registered to do business in Louisiana, notice of arraignment of the corporation shall be served upon the secretary of state and an employee, officer, or agent for service of process of the corporation found within the parish where the violation of this Section has allegedly occurred. Such notice shall act as a bar to that corporation registering to do business in Louisiana until it appears before the district court in which the prosecution is pending to answer the charge.

I.(1)(a) When an act of obscenity as defined in Paragraph (A)(1) of this Section is reported, the law enforcement agency acting in response to the reported incident shall provide notice of the incident to the principal or headmaster of each school located within two thousand feet of where the incident occurred. This notice shall be provided by the law enforcement agency to the principal or headmaster within twenty-four hours of receiving the report of the incident and by any reasonable means, including but not limited to live or recorded telephone message or electronic mail.

(b) The notice required by the provisions of Subparagraph (a) of this Paragraph shall include the date, time, and location of the incident, a brief description of the incident, and a brief description of the physical characteristics of the alleged offender which may include but shall not be limited to the alleged offender's sex, race, hair color, eye color, height, age, and weight.

(2)(a) Within twenty-four hours of receiving notice of the incident from law enforcement pursuant to the provisions of Paragraph (1) of this Subsection, the principal or headmaster shall provide notice of the incident to the parents of all students enrolled at the school by any reasonable means, including but not limited to live or recorded telephone message or electronic mail.

(b) The notice required by the provisions of Subparagraph (a) of this Paragraph shall include the same information required for the notice provided in Paragraph (1) of this Subsection to the extent that the information is provided by law enforcement to the principal or headmaster of the school.

(3) When the expiration of the twenty-four-hour period occurs on a weekend or holiday, notice shall be provided no later than the end of the next regular school day.

(4) For purposes of this Subsection, "school" means any public or private elementary or secondary school in this state, including all facilities of the school located within the geographical boundaries of the school property.

(5) The principal, headmaster, school, owner of the school, operator of the school, and the insurer or self-insurance program for the school shall be immune from any liability that arises as a result of compliance or noncompliance with this Subsection, except for any willful violation of the provisions of this Subsection.

RS 14:106.1 — Promotion or wholesale promotion of obscene devices

means a device, including an artificial penis or artificial vagina, which is designed or marketed as useful primarily for the stimulation of human genital organs.

(2) "Promote" means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, distribute, circulate, disseminate, present, or exhibit, including the offer or agreement to do any of these things, for the purpose of sale or resale.

B. No person shall knowingly and intentionally promote an obscene device.

C.(1) On a first conviction, whoever commits the crime of promoting an obscene device shall be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned with or without hard labor for not less than six months nor more than three years, or both.

(2) On a second conviction, the offender shall be imprisoned with or without hard labor for not less than six months nor more than three years, and in addition may be fined not less than two thousand five hundred dollars nor more than five thousand dollars.

RS 14:106.2 — Sexual acts prohibited in public; penalties

e purpose of gaining the attention of the public.

B. Whoever violates a provision of this Section shall be fined not more than one thousand dollars and imprisoned for not less than ten days nor more than one year. At least ten days of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

RS 14:106.3 — Unlawful exhibition of sexually explicit material in a motor vehicle; penalties

street, highway, public place, or any place open to public view knowing that the material is visible to the public from outside the motor vehicle.

B. For the purposes of this Section the term "exhibit sexually explicit material" means to present, exhibit, project, or display a motion picture, film, videotape, compact disc, digital versatile disc, digital video disc, or any other form of visual technology of any of the following:

(1) Ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being.

(2) The graphic depiction of sex, including but not limited to the visual depiction of sexual activity or nudity.

C.(1) Whoever violates a provision of this Section upon a first conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) Upon a second conviction, the offender shall be fined not more than one thousand dollars and imprisoned for not more than one year, or both.

(3) Upon a third or subsequent conviction, the offender shall be fined not more than one thousand dollars and shall be imprisoned for not more than one year, or both. At least ten days of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

RS 14:107.1 — Ritualistic acts

tate government and its existing public institutions.

(2) The legislature further recognizes that:

(a) The preamble to the Constitution of Louisiana affirmatively states "We, the people of Louisiana, grateful to Almighty God for the civil, political, economic, and religious liberties we enjoy, and desiring to protect individual rights to life, liberty, and property; afford opportunity for the fullest development of the individual; assure equality of rights; promote the health, safety, education, and welfare of the people; maintain a representative and orderly government; ensure domestic tranquility; provide for the common defense; and secure the blessings of freedom and justice to ourselves and our posterity, do ordain and establish this constitution."

(b) The state, under its police power, may enact laws in order to promote public peace, health, morals, and safety.

B.(1) For purposes of this Subsection, "ritualistic acts" means those acts undertaken as part of a ceremony, rite, initiation, observance, performance, or practice that result in or are intended to result in:

(a) The mutilation, dismemberment, torture, abuse, or sacrifice of animals.

(b) The ingestion of human or animal blood or human or animal waste.

(2) The acts defined in this Subsection are hereby determined to be destructive of the peace, health, morals, and safety of the citizens of this state and are hereby prohibited.

(3) Any person committing, attempting to commit, or conspiring with another to commit a ritualistic act may be sentenced to imprisonment for not more than five years or fined not more than five thousand dollars, or both.

C.(1) No person shall commit ritualistic mutilation, dismemberment, or torture of a human as part of a ceremony, rite, initiation, observance, performance, or practice.

(2) No person shall commit ritualistic sexual abuse of children or of adults with physical or mental disabilities as part of a ceremony, rite, initiation, observance, performance, or practice.

(3) No person shall commit ritualistic psychological abuse of children or of adults with physical or mental disabilities as part of a ceremony, rite, initiation, observance, performance, or practice.

(4) Any person who commits, attempts to commit, or conspires with another to commit a violation of this Subsection shall be sentenced to imprisonment for not less than five nor more than twenty-five years and may be fined not more than twenty-five thousand dollars.

D. Each violation that occurs under the provisions of this Section shall be considered a separate violation.

E. The provisions of this Section shall not be construed to apply to generally accepted agricultural or horticultural practices and specifically the branding or identification of livestock.

F. The provisions of this Section shall not be construed to apply to any state or federally approved, licensed, or funded research project.

RS 14:107.2 — Hate crimes

n, color,

creed, disability, sexual orientation, national origin, or ancestry of that person or the owner or occupant of that property or because of actual or perceived membership or service in, or employment with, an organization, or because of actual or perceived employment as a law enforcement officer, firefighter, or emergency medical services personnel: first or second degree murder; manslaughter; battery; aggravated battery; second degree battery; aggravated assault with a firearm; terrorizing; menacing; mingling harmful substances; simple or third degree rape, forcible or second degree rape, or aggravated or first degree rape; sexual battery; second degree sexual battery; oral sexual battery; carnal knowledge of a juvenile; indecent behavior with juveniles; molestation of a juvenile or a person with a physical or mental disability; simple, second degree, or aggravated kidnapping; simple or aggravated arson; communicating of false information of planned arson; simple or aggravated criminal damage to property; contamination of water supplies; simple or aggravated burglary; criminal trespass; simple, first degree, or armed robbery; purse snatching; extortion; theft; desecration of graves; institutional vandalism; or assault by drive-by shooting.

B. If the underlying offense named in Subsection A of this Section is a misdemeanor, and the victim of the offense listed in Subsection A of this Section is selected in the manner proscribed by that Subsection, the offender may be fined not more than five hundred dollars or imprisoned for not more than six months, or both. This sentence shall run consecutively to the sentence for the underlying offense.

C. If the underlying offense named in Subsection A of this Section is a felony, and the victim of the offense listed in Subsection A of this Section is selected in the manner proscribed by that Subsection, the offender may be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than five years, or both. This sentence shall run consecutively to the sentence for the underlying offense.

D. "Organization", as used in this Section, means all of the following:

(1) Any lawful corporation, trust, company, partnership, association, foundation, or fund.

(2) Any lawful group of persons, whether or not incorporated, banded together for joint action on any subject or subjects.

(3) Any entity or unit of federal, state, or local government.

E. As used in this Section:

(1) "Emergency medical services personnel" shall have the same meaning ascribed to it by R.S. 40:1075.3.

(2) "Firefighter" means any firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state of Louisiana.

(3) "Law enforcement officer" means any active or retired city, parish, or state law enforcement officer, peace officer, sheriff, deputy sheriff, probation or parole officer, marshal, deputy, wildlife enforcement agent, state correctional officer, or commissioned agent of the Department of Public Safety and Corrections, as well as any federal law enforcement officer or employee, whose permanent duties include making arrests, performing search and seizures, execution of criminal arrest warrants, execution of civil seizure warrants, any civil functions performed by sheriffs or deputy sheriffs, enforcement of penal or traffic laws, or the care, custody, control, or supervision of inmates.

RS 14:107.3 — Criminal blighting of property

erty that has

been declared or certified as blighted or a public nuisance by a court of competent jurisdiction or by an administrative hearing officer acting pursuant to R.S. 13:2575 or 2576, or any other applicable law.

(2) "Housing violations" means only those conditions in privately owned structures which are determined to constitute a threat or danger to the public health, safety, and welfare or to the environment.

(3) "Public nuisance" means any garage, shed, barn, house, building, apartment, or structure, that by reason of the condition in which it is permitted to remain, may endanger the health, life, limb, or property of any person, or cause any hurt, harm, damages, injury, or loss to any person in any one or more of the following conditions:

(a) The property is dilapidated, decayed, unsafe, or unsanitary, is detrimental to

health, morals, safety, public welfare, and the well-being of the community, endangers life or property, or is conducive to ill health, delinquency, and crime.

(b) The property is a fire hazard.

(c) The conditions present on the property and its surrounding grounds are not reasonably or adequately maintained, thereby causing deterioration and creating a blighting influence or condition on nearby properties and thereby depreciating the value, use, and enjoyment to such an extent that it is harmful to the public health, welfare, morals, safety, and the economic stability of the area, community, or neighborhood in which such public nuisance is located.

B. Criminal blighting of property is the intentional or criminally negligent permitting of the existence of a condition of deterioration of property by the owner, which is deemed to have occurred when the property has been declared or certified as blighted or a public nuisance by an administrative hearing officer acting pursuant to R.S. 13:2575 or 2576, or any other applicable law.

C.(1) On a first conviction, the offender shall be fined not more than five hundred dollars per violation. Imposition of a fine may be suspended and in lieu thereof, the court may require the offender to correct all existing housing violations on the blighted property within a timely manner determined by the court.

(2) On a second conviction, or if the offender fails to correct violations after ordered to do so by the court, the offender shall be fined not more than one thousand dollars per violation and imprisoned for not more than six months. Additionally, the court shall require that the offender correct all existing housing violations on the blighted property.

(3) On any third or subsequent conviction, or if the offender fails to correct all violations after a second conviction, the offender shall be fined not more than two thousand dollars per violation and imprisoned for not more than one year, with or without hard labor.

(4) The penalty of imprisonment provided for in this Subsection shall not be imposed when the property is a single family residence occupied by the defendant at the time of the violation.

D. Repealed by Acts 2023, No. 85, §3.

E. Any offense committed more than five years prior to the commission of the crime for which the defendant is being tried shall not be considered in the assessment of penalties hereunder.

F. The satisfactory performance of correction of housing violations on the blighted property provided for in this Section shall include inspections by a municipal entity responsible for inspecting property and enforcing health, housing, fire, historic district, and environment codes, or any other entity designated by the local governing authority, whose representatives shall report to the court on the successful or otherwise, correction of housing violations on the blighted property.

G. Community service activities as used in this Section may include clearing properties that have been declared or certified as blighted or a public nuisance as set forth herein, of debris, cutting grass, performing repairs, and otherwise correcting any situations giving rise to housing violations. Correction of housing violations on the offender's own

property will not be considered as fulfillment of the offender's community service hours requirement. All community service activities assessed under this Section will be under the direct supervision of a municipal entity responsible for inspecting property and enforcing health, housing, fire, historic district, and environmental codes, or any other entity designated by the local governing authority.

H. Prosecution pursuant to this Section may occur concurrently with review and appeal of declarations and certifications of blight.

RS 14:107.4 — Unlawful posting of criminal activity for notoriety and publicity

m, or video of the commission of the crime using any camera, videotape, photo-optical, photo-electric, or any other image recording device and to transfer that image, live-stream, or video obtained during the commission of the crime by the use of a computer online service, internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, internet chat room, electronic mail, or online messaging service for the purpose of gaining notoriety, publicity, or the attention of the public.

B.(1) Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) Whoever violates the provisions of this Section and the criminal activity results in the serious bodily injury or death of the victim shall be fined not more than two thousand dollars, imprisoned with or without hard labor for not more than eight years, or both.

C. The provisions of this Section shall not apply to any of the following:

(1) The obtaining, use, or transference of such images, live-streams, or videos by a telephone company, cable television company, or any of its affiliates, an internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, internet, or commercial online services or in the production, exhibition, or presentation of an audiovisual work in any medium, including but not limited to a motion picture or television program.

(2) The obtaining, use, or transference of such images, live-streams, or videos by a law enforcement officer pursuant to investigation of criminal activity.

(3) The obtaining, use, or transference of such images, live-streams, or videos by any bona fide member of the news media broadcasting a news report through television, cable television, or other telecommunication.

(4) The obtaining, use, or transference of such images, live-streams, or videos for use in a feature-length film, short subject film, video, television series, television program, public service announcement, or commercial.

D. After the institution of prosecution, access to any material seized as evidence of this offense shall be in accordance with Code of Criminal Procedure Article 718.1.

E. Any evidence resulting from the commission of unlawful filming or recording criminal activity shall be contraband. The court, upon motion of the district attorney and after a contradictory hearing, may order the destruction of the contraband after it is determined that it is no longer needed as evidence. The contraband shall be presumed to be necessary as evidence if an appeal of the conviction is pending, if the convicted person is

pursuing post-conviction remedies, or if the time for pursuing an appeal or post-conviction remedies has not expired.

F. For the purposes of this Section, "live-stream" shall mean a video of an event distributed on the internet while the event is taking place.

RS 14:107.5 — Solicitation of funds or transportation for certain unlawful purposes

indiscriminate sexual intercourse for compensation.

B. For purposes of this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

C. Whoever violates the provisions of this Section shall be fined not more than two hundred dollars, imprisoned for not more than six months, or both.

RS 14:108 — Resisting an officer

authorized by law to

make a lawful arrest, lawful detention, or seizure of property or to serve any lawful process or court order when the offender knows or has reason to know that the person arresting, detaining, seizing property, or serving process is acting in his official capacity.

B.(1) The phrase "obstruction of" as used in this Section shall, in addition to its common meaning, signification, and connotation, mean the following:

(a) Flight by one sought to be arrested before the arresting officer can restrain him and after notice is given that he is under arrest.

(b) Any violence toward or any resistance or opposition to the arresting officer after the arrested party is actually placed under arrest and before he is incarcerated in jail.

(c) Refusal by the arrested or detained party to give his name and make his identity known to the arresting or detaining officer or providing false information regarding the identity of such party to the officer.

(d) Congregation with others on a public street and refusal to move on when ordered by the officer.

(e) Knowing interference with a police cordon resulting from the intentional crossing or traversing of a police cordon by an unauthorized person or an unmanned aircraft system (UAS). The cordoned area includes the airspace above the cordoned area.

(i) For purposes of this Subparagraph, "police cordon" means any impediment or structure erected or established by an officer for crowd or traffic control, or to prevent or obstruct the passage of a person at the scene of a crime or investigation.

(ii) "Impediment or structure" includes but is not limited to crime scene tape, rope, cable, wire or metal barricades, or the posting of uniformed officers or other personnel otherwise identifiable as law enforcement officers.

(iii) "Unmanned aircraft system" shall have the same meaning as provided by R.S. 14:337(B).

(iv) If the flight of a UAS into the cordoned area endangers the public or an officer's safety, law enforcement personnel or fire department personnel are authorized to disable the UAS.

(f) Failure to provide or display the person's state-issued driver's license or identification on the officer's request when the person is an operator of a motor vehicle, the person has been lawfully detained for an alleged violation of a law, and the officer has

exhausted all resources at his disposal to verify the identity of the person.

(2) The word "officer" as used herein means any peace officer, as defined in R.S.

40:2402, and includes deputy sheriffs, municipal police officers, probation and parole officers, city marshals and deputies, and wildlife enforcement agents.

C. Whoever commits the crime of resisting an officer shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

RS 14:108.1 — Flight from an officer; aggravated flight from an officer

stop knowing that he has been given a visual and audible

signal to stop by a police officer when the officer has reasonable grounds to believe that the driver has committed an offense. The signal shall be given by an emergency light and a siren on a vehicle marked as a police vehicle or marked police watercraft.

B. Whoever commits the crime of flight from an officer shall be fined not less than one hundred fifty dollars, nor more than five hundred dollars, or imprisoned for not more than six months, or both.

C. Aggravated flight from an officer is the intentional refusal of a driver to bring a vehicle to a stop or of an operator to bring a watercraft to a stop, under circumstances wherein human life is endangered, knowing that he has been given a visual and audible signal to stop by a police officer when the officer has reasonable grounds to believe that the driver or operator has committed an offense. The signal shall be given by an emergency light and a siren on a vehicle marked as a police vehicle or marked police watercraft.

D. Circumstances wherein human life is endangered shall be any situation where the operator of the fleeing vehicle or watercraft commits at least two of the following acts:

(1) Leaves the roadway or forces another vehicle to leave the roadway.

(2) Collides with another vehicle or watercraft.

(3) Exceeds the posted speed limit by at least twenty-five miles per hour.

(4) Travels against the flow of traffic or in the case of watercraft, operates the watercraft in a careless manner in violation of R.S. 34:851.4 or in a reckless manner in violation of R.S. 14:99.

(5) Fails to obey a stop sign or a yield sign.

(6) Fails to obey a traffic control signal device.

E.(1) Except as provided in Paragraph (2) of this Subsection, whoever commits aggravated flight from an officer shall be imprisoned at hard labor for not more than ten years and may be fined not more than two thousand dollars.

(2) Whoever commits the crime of aggravated flight from an officer that results in serious bodily injury shall be imprisoned at hard labor for not more than fifteen years and may be fined not more than two thousand dollars.

F. In addition to any other fine or penalty imposed pursuant to the provisions of this Section, the court may, in its discretion, order restitution as a part of the sentence. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

RS 14:108.2 — Resisting a police officer with force or violence

victim is a police officer who is arresting, detaining, seizing property, serving process, or is otherwise acting in the performance of his official duty:

- (1) Using threatening force or violence by one sought to be arrested or detained before the arresting officer can restrain him and after notice is given that he is under arrest or detention.
- (2) Using threatening force or violence toward or any resistance or opposition using force or violence to the arresting officer after the arrested party is actually placed under arrest and before he is incarcerated in jail.
- (3) Injuring or attempting to injure a police officer engaged in the performance of his duties as a police officer.
- (4) Using or threatening force or violence toward a police officer performing any official duty.

B. For purposes of this Section, "police officer" shall include any commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, juvenile detention facility officer, constable, wildlife enforcement agent, state park warden, or probation and parole officer.

C. Whoever commits the crime of resisting an officer with force or violence shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not less than one year nor more than three years, or both.

RS 14:109 — Approaching a peace officer lawfully engaged in law enforcement duties

y engaged in the execution of his official duties after the peace

officer has ordered the person to stop approaching or to retreat.

B. For the purposes of this Section, "peace officer" shall include all individuals as defined in R.S. 14:112.4(B) and R.S. 40:2402.

C. It shall be an affirmative defense to this crime if the defendant can establish that the lawful order or command was neither received nor understood by the defendant nor capable of being received or understood under the conditions and circumstances that existed at the time of the issuance of the order.

D. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, imprisoned for not more than sixty days, or both.

RS 14:110 — Simple escape; aggravated escape

red, of a person imprisoned, committed, or detained from a place where such person is legally confined, from a designated area of a place where such person is legally confined, or from the lawful custody of any law enforcement officer or officer of the Department of Public Safety and Corrections.

- (2) The failure of a person serving a sentence and participating in a work release program authorized by law to report or return from his planned employment or other activity under the program at the appointed time.
- (3) The failure of a person who has been granted a furlough under the provisions of R.S. 15:833 or R.S. 15:908 to return to his place of confinement at the appointed time.
- (4) The intentional alteration, destruction, removal, or disabling of electronic

monitoring equipment while participating in a home incarceration program.

B.(1) A person who is participating in a work release program as defined in Paragraph (A)(2) of this Section and who commits the crime of simple escape may be imprisoned with or without hard labor for not less than six months nor more than one year.

(2) A person who fails to return from an authorized furlough as defined in Paragraph (A)(3) of this Section shall be imprisoned with or without hard labor for not less than six months nor more than one year and any such sentence shall not run concurrently with any other sentence.

(3) A person participating in a home incarceration program who violates the provisions of Paragraph (A)(4) of this Section shall be imprisoned with or without hard labor for not less than six months nor more than five years, and such sentence shall not run concurrently with any other sentence.

(4) A person imprisoned, committed, or detained who commits the crime of simple escape as defined in Paragraph (A)(1) of this Section shall be imprisoned with or without hard labor for not less than two years nor more than five years; provided that such sentence shall not run concurrently with any other sentence.

C.(1) Aggravated escape is the intentional departure of a person from the legal custody of any officer of the Department of Public Safety and Corrections or any law enforcement officer or from any place where such person is legally confined when his departure is under circumstances wherein human life is endangered.

(2) Whoever commits an aggravated escape as herein defined shall be imprisoned at hard labor for not less than five years nor more than ten years and any such sentence shall not run concurrently with any other sentence.

D. For purposes of this Section, a person shall be deemed to be in the lawful custody of a law enforcement officer or of the Department of Public Safety and Corrections and legally confined when he is in a rehabilitation unit, a work release program, or any other program under the control of a law enforcement officer or the department.

E. The provisions of this Section shall be applicable to all penal, correctional, rehabilitational, and work release centers and any and all prison facilities under the control of the law enforcement of the respective parishes of the state of Louisiana. The prison facilities shall include but are not limited to parish jails, correctional centers, home incarceration, work release centers, and rehabilitation centers, hospitals, clinics, and any and all facilities where inmates are confined under the jurisdiction and control of the law enforcement of the respective parishes.

RS 14:110.1 — Jumping bail

been given to the defendant as set forth in Code of Criminal Procedure Articles 322 and 344, a rebuttable presumption of notice shall apply, and the burden of proof shifts to the defendant to show that he did not receive notice. The fact that no loss shall result to any surety or bondsman is immaterial.

B. Whoever commits the crime of jumping bail when the bail is to assure the presence of the defendant for those cases defined as misdemeanors in this Title and in the Uniform Controlled Dangerous Substances Law shall be imprisoned for not more than six months, or fined not more than five hundred dollars, or both.

C. Whoever commits the crime of jumping bail when the bail is to assure the presence of the defendant for those cases defined as felonies in this Title and in the Uniform Controlled Dangerous Substances Law shall be imprisoned at hard

labor for not more than two years.

RS 14:110.1.1 — Out-of-state bail jumping

efore which the defendant's case is pending. If the state proves notice has been given to the defendant as set forth in Code of Criminal Procedure Articles 322 and 344, a rebuttable presumption of notice shall apply, and the burden of proof shifts to the defendant to show that he did not receive notice.

B. Whoever commits the crime of out-of-state bail jumping, when the bail is to assure the presence of the defendant for those cases defined as misdemeanors and felonies in this Title and in the Uniform Controlled Dangerous Substances Law shall be fined two thousand dollars and imprisoned at hard labor for not less than one year nor more than three years.

RS 14:110.1.2 — Providing false, nonexistent, or incomplete declaration of residence for bail

rson knowingly gives or places on any bail bond or declaration of

residence false, nonexistent, or incomplete information for purposes of service or notice as required by Code of Criminal Procedure Article 329.

B. Whoever commits the crime of providing false, nonexistent, or incomplete declaration of residence for bail when the bail is to assure the presence of the defendant for those cases defined as misdemeanors in this Title and in the Uniform Controlled Dangerous Substances Law shall be imprisoned for not more than six months, or fined not more than five hundred dollars, or both.

C. Whoever commits the crime of providing false, nonexistent, or incomplete declaration of residence for bail when the bail is to assure the presence of the defendant for those cases defined as felonies in this Title and in the Uniform Controlled Dangerous Substances Law shall be imprisoned at hard labor for not more than two years.

RS 14:110.2 — Tampering with electronic monitoring equipment

ring equipment being utilized in

accordance with the provisions of R.S. 46:2143.

B.(1) Whoever commits the crime of tampering with electronic monitoring equipment shall be fined not more than five hundred dollars and shall be imprisoned for not more than six months.

(2) If the offender violates the provisions of this Section while he is involved in the commission of a felony, he shall be fined not more than one thousand dollars and shall be imprisoned at hard labor for not more than one year.

(3) If the offender violates the provisions of this Section after being released pursuant to a bail undertaking for a felony crime of violence enumerated or defined in R.S. 14:2(B), he shall be fined not more than one thousand dollars and shall be imprisoned at hard labor for not more than a year.

(4) At least seventy-two hours of the sentence shall be served without benefit of probation, parole, or suspension of sentence.

RS 14:110.3 — Tampering with surveillance, accounting, inventory, or monitoring systems; definitions; penalties

obstruct, or impair in any way the operation of any surveillance, accounting, inventory, or monitoring system of any nature or purpose, including but not limited to any of the following:

(1) Removing, damaging, altering, destroying, disabling, impairing, obstructing, obscuring, covering, or infusing with any object, substance, or material any component of any surveillance, accounting, inventory, or monitoring system.

(2) Disconnecting, interfering with, damaging, tampering with, or temporarily or permanently delaying or interrupting the internal or external signal or electronic wire or wireless analog or digital transmissions of any surveillance, accounting, inventory, or monitoring system.

(3) Interrupting any source of power for or degrading the performance in any manner of the whole or any part or component or operating software or hardware of any surveillance, accounting, inventory, or monitoring system.

B. For the purposes of this Section, "surveillance, accounting, inventory, or monitoring system" means any electronic, analog, digital, radio, or other system which generates, detects, senses, or records any or all of the following: video, audio, radio waves of any frequency, light in the visible light spectrum, ultraviolet light, infrared radiation, laser light or impulses, microwaves, magnetism, ionization, heat, smoke, water, motion, or fire.

C.(1) Whoever commits the crime of tampering with surveillance, accounting, inventory, or monitoring systems shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

(2) If the surveillance, accounting, inventory, or monitoring system is located on the premises of any jail, prison, correctional facility, juvenile detention center, the offender shall be fined not more than two thousand dollars, imprisoned with or without hard labor for not more than two years, or both. Such sentence shall be consecutive to any other sentence imposed for violation of the provisions of any state criminal law.

RS 14:111 — Assisting escape

ional failure to act.

(2) The active assistance given by any person to one in legal custody with intent to aid him in escaping therefrom.

B. Whoever commits the crime of assisting escape shall be fined not more than three thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

RS 14:112 — False personation

onating any public officer, or private individual having special authority by law to perform an act affecting the rights or interests of another, or the assuming, without authority, of any uniform or badge by which such officer or person is lawfully distinguished; or

(2) Performing any act purporting to be official in such assumed character.

B. Whoever commits the crime of false personation shall be fined not more than one hundred dollars, or imprisoned for not more than ninety days, or both.

RS 14:112.1 — False personation of a peace officer or firefighter

efraud or to obtain or secure any special privilege or advantage:

(1) Impersonating any peace officer or firefighter or assuming, without authority, any uniform or badge by which a peace officer or firefighter is lawfully distinguished.

(2) Performing any act purporting to be official in such assumed character.

(3) Making, altering, possession, or use of a false document or document containing false statements which purports to be a training program certificate or in-service training certificate or other documentation issued by the Council on Peace Officer Standards and Training, pursuant to R.S. 40:2405, which certifies the peace officer has successfully completed the requirements necessary to exercise his authority as a peace officer.

(4) Equipping any motor vehicle with lights or sirens which simulate a law enforcement vehicle.

B. As used in this Section:

(1) "Badge" shall mean a device or emblem, regardless of the material of which it is made, worn as an insignia of rank, office, or membership in a law enforcement organization, including but not limited to those that bear the seal of the state of Louisiana.

(2) "Firefighter" means any certified first responder as defined in R.S. 40:1231, certified emergency medical technician as defined in R.S. 40:1231, or any firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state of Louisiana, or any volunteer fireman of the state of Louisiana.

(3) "Peace officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, park wardens, livestock brand inspectors, forestry officers,

military police, fire marshal investigators, probation and parole officers, attorney general investigators, and district attorney investigators.

C. Whoever commits the crime of false personation of a peace officer or firefighter shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than two years, or both.

RS 14:112.2 — Fraudulent portrayal of a law enforcement officer or firefighter

er for the purpose of obtaining access to a public building, facility, or service. The fraudulent portrayal includes but is not limited to any of the following:

- (1) Portraying or impersonating a law enforcement officer or firefighter by any means.
- (2) Possessing, without authority, any uniform or badge by which a law enforcement officer or firefighter is identified.
- (3) Performing any act purporting to be official while portraying a law enforcement officer or firefighter.
- (4) Making, altering, possessing, or using a false document or document containing false statements which purports to be a training program certificate or in-service training certificate or other documentation issued by the Council on Peace Officer Standards and Training, pursuant to R.S. 40:2405, which certifies the peace officer has successfully completed the requirements necessary to exercise his authority as a peace officer.
- (5) Making, altering, possessing, or using any false documents or credentials which purport to identify the person as a law enforcement officer or firefighter.

B. For the purposes of this Section, "law enforcement officer or firefighter" shall include police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, state park wardens, firemen, and probation and parole officers.

C. "Access to a public building, facility, or service" includes but is not limited to the following:

- (1) Free and unhampered passage on and over toll bridges and ferries in this state.
- (2) Free passage on and over the Crescent City Connection Bridge at New Orleans.
- (3) Free passage on any tollway as defined in R.S. 48:2021(17).
- (4) Free parking at any parking facility owned by the state or any of its political subdivisions.
- (5) Free admission or reduced price admission to any entertainment, cultural, or sporting event.

D. Nothing herein shall be construed to expand the provisions of law which provide for the free and unhampered passage by law enforcement personnel over toll bridges and ferries.

E. Whoever commits the crime of fraudulent portrayal of a law enforcement officer or firefighter shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

RS 14:112.3 — Aiding and abetting the fraudulent portrayal of a law enforcement officer or firefighter

soliciting, urging, encouraging, exhorting, instigating, or assisting any other person to commit the crime of fraudulent portrayal of a law enforcement officer or firefighter. For purposes of this Section, "law enforcement officer or firefighter" shall have the same meaning as provided in R.S. 14:112.2.

B. Whoever commits the crime of aiding and abetting the fraudulent portrayal of a law enforcement officer or firefighter shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:112.4 — Unlawful production, manufacturing, distribution, or possession of unauthorized peace officer badges

ibute, or possess unauthorized peace officer badges.

B. For purposes of this Section:

- (1) "Distribute" means to sell, give, transport, issue, provide, lend, deliver, transfer, transmit, distribute, or disseminate.
- (2) "Peace officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, park wardens, livestock brand inspectors, forestry officers, attorney general investigators, district attorney investigators, inspector general investigators, and probation and parole officers.
- (3) "Produce or manufacture" means to develop, prepare, design, create, or otherwise process.

(4) "Unauthorized peace officer badge" means any device or emblem, regardless of the material of which it is made, worn as an insignia of rank, office, or membership of a peace officer in a law enforcement agency which has not been expressly authorized by the law enforcement agency.

C.(1) Whoever violates the provisions of this Section by possessing an unauthorized peace officer badge shall be fined not more than fifty dollars, imprisoned for not more than ten days, or both.

(2) Whoever violates the provisions of this Section by distributing, manufacturing, or producing an unauthorized peace officer badge upon a first conviction shall be fined not more than two hundred dollars, imprisoned for not more than ninety days, or both. Upon a second or subsequent conviction, the offender shall be fined not more than one thousand dollars, imprisoned for not more than six months, or both.

D. The provisions of this Section shall not be construed to limit the production, manufacturing, distribution, or possession of a peace officer badge with the designation "police", "marshal", "sheriff", "law enforcement", "warden", or any other designation which does not designate a specific law enforcement agency by name or jurisdiction and which is intended for novelty purposes.

E. The definition of a "peace officer" as provided for in Paragraph (B)(2) of this Section, shall be strictly construed solely for the purposes of this Section and shall not be construed as granting the authority to any agency not defined as a "peace officer" pursuant to the provisions of R.S. 40:2402 to make arrests, perform search and seizures, execute criminal warrants, prevent and detect crime, and enforce the laws of this state.

RS 14:112.11 — Definitions

tate" or "lawful presence in this state" refers to a person within the borders of this state who is:

(a) A natural person who is a United States citizen, regardless of whether the United States citizenship was acquired by birth or granted because the person has met the requirements for asylum established by the United States Congress in the Immigration and Nationality Act, in particular 8 U.S.C. 1158.

(b) Legally present in this state by virtue of authorization by the United States Department of Homeland Security on the basis of any one of the following:

- (i) The person is a permanent legal resident.
- (ii) The person holds an unexpired student visa.
- (iii) The person holds an unexpired work permit.

(c) Legally present or entitled to be present in the United States pursuant to an unexpired visitor or tourist visa, or pursuant to any other provision of federal law.

(3) "Unlawful entry" refers to an alien who is found entering or has entered into this state by automobile, watercraft, airplane, or any other method of entry or means of conveyance, whether or not entry is made directly from a foreign nation or indirectly from another state, without lawful presence in this state.

(4) "Unlawful reentry" refers to an alien who has entered, attempted to enter, or at any time is found in this state after the alien has been found to have been subject to any of the following:

- (a) Denied admission, excluded, deported, or otherwise removed from the United States.
- (b) Departed from the United States while an order of exclusion, deportation, or removal is outstanding.

(5) "Unlawfully present in this state" or "unlawful presence in this state" refers to an alien who is not lawfully present in this state because the alien does not meet the

definition in this Section of "lawfully present in this state" or "lawful presence in this state".

RS 14:112.12 — Unlawful entry or reentry into the state of Louisiana by an alien

is unlawfully present in this state.

B.(1) Whoever commits the crime of unlawful entry or unlawful reentry into this state by an alien upon a first offense shall be imprisoned for not more than six months, fined not more than one thousand dollars, or both.

(2) Whoever commits the crime of unlawful entry or unlawful reentry into this state by an alien upon a second or subsequent offense shall be imprisoned, with or without hard labor, for not less than one year nor more than two years, fined not more than ten thousand dollars, or both.

C. It shall be an affirmative defense to a prosecution to the crime of unlawful entry or unlawful reentry into this state by an alien that either:

(1) The defendant is lawfully present in this state because the federal government has granted the defendant lawful presence in the United States or asylum pursuant to 8 U.S.C. 1158.

(2) The defendant's conduct does not constitute a violation of 8 U.S.C. 1325(a), relative to illegal entry into the United States.

D. This Section shall not apply to an alien unlawfully present in the United States if the alien has been a necessary witness to or victim of a crime of domestic violence, rape, sexual exploitation, sexual assault, murder, manslaughter, assault, battery, human trafficking, kidnapping, false imprisonment, involuntary servitude, fraud in foreign labor contracting, blackmail, extortion, or witness tampering.

RS 14:112.13 — Abatement or termination of prosecution on basis of an immigration status

basis that a federal determination regarding the immigration status of the defendant has not been determined or may possibly be initiated at a future date.

RS 14:113 — Treason

omfort.

B. No person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on his own confession in open court.

C. Whoever commits the crime of treason shall be punished by death.

RS 14:114 — Misprision of treason

commission of the crime of treason.

B. Whoever commits misprision of treason shall be fined not more than one thousand dollars, and imprisoned at hard labor for not more than ten years.

RS 14:115 — Criminal anarchy

ent of the United States or of the state of Louisiana by violence or other unlawful means.

(2) The organizing or becoming a member of any organization or society which is known to the offender to advocate, teach, or practice the subversion, opposition, or destruction of the government of the United States or of the state of Louisiana by violence or other unlawful means.

B. Whoever commits the crime of criminal anarchy shall be imprisoned at hard labor for not more than ten years.

RS 14:116 — Flag desecration

ment of any nature upon any flag; or

(2) Expose to public view any flag, upon which has been printed or otherwise produced, or to which shall have been attached any such word, mark, design, or advertisement; or

(3) Expose to public view, or have in possession for sale or any other purpose, any article of merchandise, or thing for holding or carrying merchandise, upon or to which shall have been produced or attached any flag, in order to advertise, call attention to or decorate such article; or

(4) Publicly mutilate, defile, or by word or act cast contempt upon any flag.

The word "flag" as used herein shall mean any duly authorized flag, shield, standard, color or ensign of the United States, the State of Louisiana, or the Confederate States of America, or any copy thereof.

Whoever commits the crime of flag desecration shall be fined not more than one hundred dollars, or imprisoned for not more than ninety days, or both.

RS 14:116.1 — Flag burning

g of the flag in a respectful retirement ceremony to dispose of a worn or soiled flag.

C. The word "flag" as used in this Section shall mean the flag of the United States.

D. Whoever commits the crime of flag burning shall be fined not more than one thousand dollars, or imprisoned for not more than ninety days, or both.

E. The provisions of this Section shall not take effect unless and until an amendment to the federal constitution regarding flag desecration is proposed by the Congress and approved by the requisite number of states and becomes law.

RS 14:117 — Flag desecration; exceptions

s; nor shall it apply to the depicting of a flag upon any document, stationery, ornament, picture, or jewelry, with no design or words thereon and disconnected with any advertisement.

RS 14:117.1 — Paramilitary organizations; prohibitions

ot more than five hundred dollars, or be imprisoned for not more than six months, or both.

C.(1) For the purposes of this Section, "paramilitary organization" shall mean a group organized in a military or paramilitary structure, consisting of two or more persons who knowingly possess firearms or other weapons and who train in the use of such firearms or weapons, or knowingly teach or offer to teach the use of such firearms or weapons to others, for the purpose of committing an offense under the laws of this state or any political subdivision thereof.

(2) It shall not include a law enforcement agency, the armed services or reserve forces of the United States, the Louisiana National Guard, or any other organization that may possess firearms and train with such firearms, or teach or offer to teach the use of such firearms to others, for a lawful purpose.

RS 14:118 — Public bribery

the intent to

influence his conduct in relation to his position, employment, or duty:

(a) Public officer, public employee, or person in a position of public authority.

(b) Repealed by Acts 2010, No. 797, §2, eff. Jan. 1, 2011.

(c) Grand or petit juror.

(d) Witness, or person about to be called as a witness, upon a trial or other proceeding before any court, board, or officer authorized to hear evidence or to take testimony.

(e) Any person who has been elected or appointed to public office, whether or not said person has assumed the title or duties of such office.

(2) The acceptance of, or the offer to accept, directly or indirectly, anything of apparent present or prospective value, under such circumstances, by any of the above named persons, shall also constitute public bribery.

B. For purposes of this Section, "public officer", "public employee", or "person in a position of public authority", includes those enumerated in R.S. 14:2(9), and also means any public official, public employee, or person in a position of public authority, in other states, the federal government, any foreign sovereign, or any subdivision, entity, or agency thereof.

C.(1) Whoever commits the crime of public bribery shall be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not more than ten years, or both.

(2) In addition to the penalty provided for in Paragraph (1) of this Subsection, a person convicted of the provisions of this Section may be ordered to pay restitution to the state if the state suffered a loss as a result of the offense. Restitution shall include the payment of legal interest at the rate provided in R.S. 13:4202.

D. Property which was given, offered, or accepted during the commission of the crime of public bribery shall be deemed to be contraband and shall be subject to seizure and forfeiture. Upon final disposition of the case, the district attorney may petition the district court to forfeit the property seized in connection with a violation of this Section, and such property seized under this Section shall be forfeited upon:

(1) A showing by the district attorney of a conviction for a violation of the provisions of this Section.

(2) A showing by the district attorney that the seizure was made incident to an arrest with probable cause or a search under a valid search warrant pursuant to other provisions of law.

E. Property forfeited pursuant to the provisions of this Section shall be disposed of as follows:

(1) When the property is not cash or currency, it shall be disposed of pursuant to the provisions of R.S. 15:41.

(2) When the property consists of cash or currency, it shall be forfeited and distributed as follows:

(a) Fifty-five percent to the law enforcement agency or agencies who investigated the crime.

(b) Fifteen percent to the criminal court fund.

(c) Twenty-five percent to the prosecuting authority that prosecuted the crime.

(d) Five percent to the clerk of court.

F. If the charges of public bribery are dismissed by the district attorney, or if the accused is acquitted following a trial in the district court of the parish in which the violation is alleged to have occurred, all property shall be immediately returned to the owner.

RS 14:118.1 — Bribery of sports participants

or amateur baseball, football, hockey, polo, tennis, or basketball player or boxer or any person or player who participates or expects to participate in any professional or amateur game or sport or any contest of skill, speed, strength, or endurance of man or beast or any jockey, driver, groom, or any person participating or expecting to participate in any horse race, including owners of race tracks and their employees, stewards, trainers, judges, starters, or special policemen, or to any owner, manager, coach, or trainer of any team or participant in any such game, contest, or sport, with the intent to influence him to lose or cause to be lost, or corruptly to affect or influence the result thereof, or to limit his

or his team's or his mount or beast's margin of victory in any baseball, football, hockey, or basketball game, boxing, tennis, or polo match or horse race or any professional or amateur sport or game in which such player or participant or jockey or driver is taking part or expects to take part, or has any duty in connection therewith.

(2) The acceptance of or the offer to accept directly or indirectly anything of apparent present or prospective value under such circumstances by any of the above named persons shall also constitute bribery of sports participants.

B. Whoever commits the crime of bribery of sports participants is guilty of a felony and shall be punished by a fine of not more than ten thousand dollars and imprisoned for not less than one year nor more than five years, with or without hard labor, or both.

C. The offender under this Section, who states the facts under oath to the district attorney charged with the prosecution of the offense, and who gives evidence tending to convict any other offender under that Section, may, in the discretion of such district attorney be granted full immunity from prosecution in respect to the offense reported, except for perjury in giving such testimony.

RS 14:118.2 — Falsifying information on racing license applications

g license.

B. Whoever commits the crime of falsifying racing license applications shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

C. For the purpose of this Section, the term "racing license" shall mean any license issued by the Louisiana State Racing Commission including, but not limited to those licenses issued to persons applying for jobs as cooks, nurses, stand girls, and other miscellaneous employees along with persons actually involved in racing.

RS 14:119.1 — Bribery of parents of school children

value to any parent, to any tutor or guardian, to any person having legal or actual custody of, or to any person standing in loco parentis to, any child eligible to attend a public school in this state, as an inducement to encourage, influence, prompt, reward, or compensate any such person to permit, prompt, force, or cause any such child to attend any such school in violation of any law of this state.

(2) The acceptance of, or the offer to accept, directly or indirectly, any money, or anything of apparent present or prospective value, by any such person under any such circumstances, shall also constitute bribery of parents of school children.

B. Whoever commits the crime of bribery of parents of school children shall be fined not less than five hundred dollars, nor more than one thousand dollars, and imprisoned for not more than one year.

C. In the trial of persons charged with bribery of parents of school children, either the bribe-giver or the bribe-taker may give evidence, or make affidavit against the other, with immunity from prosecution in favor of the first informer, except for perjury in giving such testimony.

D. Any fine imposed and collected from the convicted person or persons under the provisions of this Section shall be paid to the informer or informers who shall give information resulting in the conviction of said person or persons.

RS 14:120 — Corrupt influencing

t or prospective value by, any person, with the intention that the recipient shall corruptly influence the conduct of any of the persons named in R.S. 14:118 (public bribery) in relation to such person's position, employment, or duty.

B.(1) Whoever commits the crime of corrupt influencing shall be imprisoned for not more than ten years with or without hard labor or shall be fined not more than ten thousand dollars, or both.

(2) In addition to the penalty provided for in Paragraph (1) of this Subsection, a person convicted of the provisions of this Section may be ordered to pay restitution to the state if the state suffered a loss as a result of the offense. Restitution shall include the payment of legal interest at the rate provided in R.S. 13:4202.

RS 14:121 — Informers granted immunity

cution of the offense, and who gives evidence tending to convict any other offender under those articles, may, in the discretion of such district attorney, be granted full immunity from prosecution in respect to the offense reported, except for perjury in giving such testimony.

RS 14:122 — Public intimidation and retaliation

influence his conduct in relation

to his position, employment, or duty:

- (1) Public officer or public employee.
- (2) Grand or petit juror.
- (3) Witness, or person about to be called as a witness upon a trial or other proceeding before any court, board or officer authorized to hear evidence or to take testimony.
- (4) Voter or election official at any general, primary, or special election.
- (5) School bus operator.

B. Retaliation against an elected official is the use of violence, force, extortionate threats, or true threats upon a person who is elected to public office, where:

- (1) The violence, force, or threat is related to the duties of the elected official.
- (2) Is in retaliation or retribution for actions taken by the elected official as part of his official duties.

C. For purposes of this Section:

- (1) "Extortionate threats" occur when a person communicates an unlawful threat to harm another person with the intention to obtain anything of value or any acquittance, advantage, or immunity of any description and the person would not otherwise be able to lawfully secure such advantage willingly from the victim.
- (2) "True threats" occur when a person communicates a serious expression of an intent to commit an unlawful act of violence upon a person or group of persons with the intent to place such persons in fear of bodily harm or death. The person need not actually intend to carry out the threat.

D. Whoever commits the crime of public intimidation or retaliation against an elected official shall be fined not more than one thousand dollars or imprisoned, with or without hard labor, for not more than five years, or both.

RS 14:122.1 — Intimidation and interference in the operation of schools

, directly or indirectly, to any child enrolled in a public school, to any parent, tutor or guardian, or person having lawful custody of or standing in loco parentis to any such child, the purpose and intent of which is to intimidate, induce, influence, reward, compensate or cause any such person, or any school teacher, school principal, transfer operator, or any other school employee, to do or perform any act in violation of any law of this state.

B. Whoever commits the crime of intimidation and interference in the operation of schools shall be fined not less than five hundred dollars, nor more than one thousand dollars, and imprisoned for not more than one year.

C. In the trial of persons charged with public intimidation and interference in the operation of schools, either the person doing or offering to do or the person or persons sought to be influenced, coerced, intimidated, threatened, or forced, may give evidence, or make affidavit against the other, with immunity from prosecution in favor of the first informer, except for perjury in giving such testimony.

D. Any fine imposed and collected from the convicted person or persons under the provisions of this Section shall be paid to the informer or informers who shall give information resulting in the conviction of said person or persons.

RS 14:122.2 — Threatening a public official or law enforcement officer; penalties; definitions

communication that communicates a true threat to a public official or law enforcement officer.

- (2) Whoever commits the crime of threatening a public official or law enforcement

officer shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

B. For purposes of this Section:

(1) "Law enforcement officer" means any employee of the state, a municipality, a sheriff, or other public agency, whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and who is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, or highway laws of this state.

(2) "Public official" means any executive, ministerial, administrative, judicial, or legislative officer of the state of Louisiana.

(3) "True threats" occur when a person communicates a serious expression of an intent to commit an unlawful act of violence upon a person or group of persons with the intent to place such persons in fear of bodily harm or death. The person need not actually intend to carry out the threat.

(4) "Verbal or written communication" means any textual, visual, written, or oral communication, including communications made through social media.

RS 14:123 — Perjury

s authorized to take testimony, or before any committee or subcommittee of either house or any joint committee or subcommittee of both houses of the legislature. In order to constitute perjury the false statement must be made under sanction of an oath or an equivalent affirmation and must relate to matter material to the issue or question in controversy.

B. It is a necessary element of the offense that the accused knew the statement to be false, but an unqualified statement of that which one does not know or definitely believe to be true is equivalent to a statement of that which he knows to be false.

C. Whoever commits the crime of perjury shall be punished as follows:

(1) When committed on a trial in which a sentence of death or life imprisonment may be imposed, the offender shall be fined not more than one hundred thousand dollars or imprisoned at hard labor for not less than five years, nor more than forty years, or both.

(2) When committed on a trial in which a sentence of imprisonment necessarily at hard labor for any period less than a life sentence may be imposed, the offender shall be fined not more than fifty thousand dollars or imprisoned at hard labor for not less than one year, nor more than twenty years, or both.

(3) When committed in all other cases in which any other sentence may be imposed, the offender shall be fined not more than ten thousand dollars or imprisoned at hard labor for not more than five years, or both.

(4) When committed in any civil action, administrative proceeding, legislative hearing or proceeding, or in any other legal proceeding, by a fine of not more than ten thousand dollars or imprisonment at hard labor for not more than five years, or both.

RS 14:124 — Inconsistent statements; perjury

facts material to the issue or question in controversy; and thereafter in the same or other proceedings, where such matter is material to the issue or question in controversy, swears or affirms in a manner materially contradictory of or inconsistent with his former sworn or affirmed statement. It shall not be necessary for the prosecution, in such case, to show which of the contradictory or inconsistent statements was false; but it shall be an affirmative defense that at the time he made them, the accused honestly believed both statements to be true.

B. This Section shall be applicable only in cases where at least one of the contradictory or inconsistent statements was made in, or for use in, a judicial proceeding or a proceeding before a board or official wherein such board or official is authorized to take testimony.

RS 14:125 — False swearing

is required by law; provided that this article shall not apply where such false statement is made in, or for use in, a judicial proceeding or any proceeding before a board or official, wherein such board or official is authorized to take testimony.

B. Whoever commits the crime of false swearing shall be fined not more than five hundred dollars, or imprisoned for not more than one year, or both.

RS 14:125.1 — False swearing in paternity cases

where such oath or affirmation is given for use in any judicial proceeding filed by or on behalf of the state of Louisiana to establish paternity.

B. Whoever commits the crime of false swearing in paternity cases shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

RS 14:125.2 — False statements concerning paternity

in or in support of a certificate, record, or report required by the provisions of Chapter 2 of Title 40 of the Louisiana Revised Statutes of 1950; or

(2) The surrender of parental rights pursuant to the provisions of Title XI of the Louisiana Children's Code.

B. Whoever violates this Section shall be fined not more than ten thousand dollars, or imprisoned for not more than five years, or both.

RS 14:126 — Inconsistent statements; false swearing

He thereafter swear or affirm in a manner materially contradictory of or inconsistent with his former sworn or affirmed statement. It shall not be necessary for the prosecution, in such case, to show which of the contradictory or inconsistent statements was false; but it shall be an affirmative defense that at the time he made them, the accused honestly believed both statements to be true.

RS 14:126.1 — False swearing for purpose of violating public health or safety

interrupting, interfering with, or endangering the public health or safety, or to deprive any person or persons of any right, privilege, or immunity secured by the United States Constitution and laws or by the Louisiana Constitution and laws, or cause such false statement or report to be made to any official or agency of the state or any parish, city, or political subdivision thereof, or to any judicial, executive, or legislative body or subdivision thereof within this state, knowing or having reason to believe the same or any material part thereof to be false and with the intent to cause an investigation of or any other action to be taken as a result thereof.

B. Any person or persons convicted of violating the provisions of this Section shall be punished by imprisonment for not less than one year nor more than five years, with or without hard labor, or by a fine of not less than one hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment.

RS 14:126.1.1 — False communication with the intent to cause an emergency response

under in the absence of circumstances requiring such

response, knowingly communicate or transmit false or misleading information indicating that conduct has taken place, is taking place, or will take place that may reasonably be believed to constitute a violation of the criminal law of any state or the United States, or that may reasonably be believed to endanger public health or safety.

B. Any person convicted of violating the provisions of this Section:

(1) If no emergency response results, shall be imprisoned for not more than six months, or fined not more than five hundred dollars, or both.

(2) Except as provided in Paragraphs (3) and (4) of this Subsection, if an emergency response results, shall be imprisoned, with or without hard labor, for not more than five years, or fined not less than one hundred dollars nor more than one thousand dollars, or both.

(3) If an emergency response results and serious bodily injury occurs, shall be imprisoned, with or without hard labor, for not less than eight years, or fined not less than

five hundred dollars nor more than two thousand five hundred dollars, or both.

(4) If an emergency response results and the death of a person occurs, shall be imprisoned at hard labor for not less than ten years nor more than forty years.

C.(1) In addition to the penalties provided by Subsection B of this Section, the court shall order the defendant to reimburse the appropriate party or parties for any expenses incurred for an emergency response resulting from the commission of the offense.

(2) A person ordered to make reimbursement under this Subsection shall be jointly and severally liable for such expenses with any other person who is ordered to make reimbursement under this Subsection for the same expenses.

(3) An order of reimbursement under this Subsection shall, for the purposes of enforcement, be treated as a civil judgment.

D. For purposes of this Section:

(1) "Emergency response" means any action taken by a law enforcement agency or other first responder to immediately respond to any conduct or event that is reasonably believed to violate the criminal law of any state or the United States, or that threatens or may reasonably be believed to threaten public health or safety.

(2) "Law enforcement agency" includes any federal, state, or local law enforcement agency.

RS 14:126.2 — False statements concerning denial of constitutional rights

r, officer, official, appointee, employee or representative thereof, of the executive, legislative, or judicial department of the United States or any subdivision thereof, which may be now in existence, or who may be now appointed, or hereafter created or appointed, including but not limited to any commissioner, referee, or voting referee now appointed or who may be hereafter appointed by any court of the United States or any judge thereof, and further including but not limited to any member of the Federal Bureau of Investigation and any agent or representative, investigator, or member of the Commission of Civil Rights of the United States, or the Advisory Committee or Board of the Commission of Civil Rights of the United States appointed in and for the state of Louisiana, any false or fictitious or fraudulent statement or statements, or to use any false writing or document asserting or claiming that such person or persons, or any other person or persons have been or are about to be denied or deprived of any right, privilege, or immunity granted or secured to them, or to any of them, by the United States Constitution and laws, or by the Louisiana Constitution and laws, by any officer, agency, employee, representative, board or commission or any member thereof of the state of Louisiana, or of any parish or municipality of the state of Louisiana, or of any other political subdivision of the state of Louisiana, or by the state of Louisiana.

B. Any person or persons violating the provisions of this Section shall, upon conviction thereof, be punished by imprisonment for not less than one year nor more than five years with or without hard labor, or by a fine of not less than one hundred dollars nor more than one thousand dollars or by both such fine and imprisonment.

RS 14:126.3 — False statements concerning employment in a nursing or health care facility

statement in any employment application or in an effort to obtain employment as a caretaker in any nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, home health agency, hospice, or other residential facility required to be licensed or operated under the laws of this state or established by the laws of this state. Such false statement must be relevant to the caretaking obligation of such employee, but shall specifically apply to but not be limited to educational and professional background and licensing and credential qualifications.

B. Any person who violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:126.4 — False certification of arrest documents

shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:127 — Limitation of defenses

accused was not competent to give the testimony, deposition, affidavit or certificate of which falsehood is alleged; or

(3) That the accused did not know the materiality of the false statement made by him, or that it did not in fact affect the proceeding in or for which it was made.

RS 14:128 — Completion of affidavit

other person, with intent that it be uttered or published as true.

RS 14:128.1 — Terrorism

a unit of government by intimidation or coercion, or affect the conduct of a unit of government by intimidation or coercion:

- (1) Intentional killing of a human being.
- (2) Intentional infliction of serious bodily injury upon a human being.
- (3) Kidnapping of a human being.
- (4) Aggravated arson upon any structure, watercraft, or movable.
- (5) Intentional aggravated criminal damage to property.

B.(1) Whoever commits the crime of terrorism as provided in Paragraph (A)(1) of this Section shall be punished by life imprisonment at hard labor, without benefit of probation, parole, or suspension of sentence.

(2) Whoever commits the crime of terrorism as provided in Paragraph (A)(2) of this Section shall be imprisoned at hard labor for not more than thirty years.

(3) Whoever commits the crime of terrorism as provided in Paragraph (A)(3) of this Section shall be imprisoned at hard labor for not more than ten years.

(4) Whoever commits the crime of terrorism as provided in Paragraph (A)(4) of this Section shall be imprisoned at hard labor for not less than six years nor more than forty years. At least four years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence.

(5) Whoever commits the crime of terrorism as provided in Paragraph (A)(5) of this Section shall be imprisoned at hard labor for not less than one year nor more than thirty years.

C. Nothing in this Section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances, including but not limited to any labor dispute between any employer and its employees.

RS 14:128.2 — Aiding others in terrorism

t, to plan, prepare, carry out, or aid in any act of terrorism or hindering the prosecution of terrorism or the concealment of, or escape from, an act of terrorism.

(2) For the purposes of this Section, "hindering prosecution of terrorism" shall include but not be limited to the following:

- (a) Harboring or concealing a person who is known or believed by the offender to have committed an act of terrorism.
- (b) Warning a person who is known or believed by the offender to have committed an act of terrorism of impending discovery or apprehension.
- (c) Suppressing any physical evidence which might aid in the discovery or apprehension of a person who is known or believed by the offender to have committed an act of terrorism.

B. Whoever commits the crime of aiding others in terrorism shall be punished as follows:

(1) If the offense so aided is punishable by life imprisonment, he shall be imprisoned at hard labor for not less than ten nor more than fifty years without benefit of parole, probation, or suspension of sentence.

(2) In all other cases he shall be fined or imprisoned or both, in the same manner as for the offense aided; such fine or imprisonment shall not be less than one-half of the minimum fine or imprisonment, and shall not exceed one-half of the largest fine, or one-half of the longest term of imprisonment prescribed for the offense so aided, or both.

C. For purposes of this Section, "material support or resources" means currency or other financial securities, financial services, instruments of value, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except the provision of medical attention by a licensed health care provider or religious materials.

RS 14:129 — Jury tampering

and petit jurors, for the purpose of influencing the juror in respect to his verdict or indictment in any cause pending or about to be brought before him, otherwise than in the regular course of proceedings upon the trial or other determination of such cause. To constitute the offense of jury tampering, the influencing or attempt to influence the juror must be either:

- (1) For a corrupt or fraudulent purpose, or
- (2) By violence or force, by threats whether direct or indirect.

B.(1) Whoever commits the crime of jury tampering in a civil case shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

(2) Whoever commits the crime of jury tampering in a criminal case shall be punished as follows:

- (a) If the offense charged in the trial for which the jury has been impaneled is punishable by death or life imprisonment, the offender shall be imprisoned at hard labor for not more than ninety-nine years.
- (b) In all other cases the offender shall be fined or imprisoned, or both, to the same extent and in the same manner as for the offense charged in the trial for which the jury has been impaneled.

RS 14:129.1 — Intimidating, impeding, or injuring witnesses; injuring officers; penalties

impede, by threat of force or force, a witness or a member of his immediate family with intent to influence his testimony, his reporting of criminal conduct, or his appearance at a judicial proceeding;

- (2) Injure or attempt to injure a witness in his person or property, or a member of his immediate family, with intent to influence his testimony, his reporting of criminal conduct, or his appearance at a judicial proceeding; or
- (3) Injure or attempt to injure an officer of a court of this state in his person or property, or a member of his immediate family, because of the performance of his duties as an officer of a court of this state or with intent to influence the performance of his duties as an officer of a court of this state.

B. For purposes of this Section the following words shall have the following meanings:

- (1) "A member of his immediate family" means a spouse, parent, sibling, and child, whether related by blood or adoption.
- (2) "Witness" means any of the following:
 - (a) A person who is a victim of conduct defined as a crime under the laws of this state, another state, or the United States.
 - (b) A person whose declaration under oath has been received in evidence in any court of this state, another state, or the United States.
 - (c) A person who has reported a crime to a peace officer, prosecutor, probation or parole officer, correctional officer, or judicial officer of this state, another state, or the United States.
 - (d) A person who has been served with a subpoena issued under authority of any court of this state, another state, or the United States, or
 - (e) A person who reasonably would be believed by an offender to be a witness as previously defined in this Section.

C.(1) Whoever violates the provisions of this Section in a civil proceeding shall be fined not more than five thousand dollars, imprisoned, with or without hard labor, for not more than five years, or both.

(2) Whoever violates the provisions of this Section in a criminal proceeding in which a sentence of death or life imprisonment may be imposed, the offender shall be fined not more than one hundred thousand dollars, imprisoned for not more than forty years at hard labor, or both.

(3) Whoever violates the provisions of this Section in a criminal proceeding in which a sentence of imprisonment necessarily served at hard labor for any period less than a life sentence may be imposed, the offender shall be fined not more than fifty thousand dollars, or imprisoned for not more than twenty years at hard labor, or both.

(4) Whoever violates the provisions of this Section in a criminal proceeding in which any other sentence may be imposed, the offender shall be fined not more than ten thousand dollars, imprisoned for not more than five years, with or without hard labor, or both.

RS 14:129.2 — Recording, listening to, or observing proceedings of grand or petit juries while deliberating or voting

atsoever, to do either of the following:

- (1) To record or attempt to record the proceedings of any grand or petit jury in any court of the state of Louisiana while such jury is deliberating or voting.
 - (2) To listen to or observe, or attempt to listen to or observe, the proceedings of any grand or petit jury of which he is not a member in any court of the state of Louisiana while such jury is deliberating or voting.
- B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

RS 14:130 — Jury misconduct

juror shall intentionally permit any person to influence him, or attempt to influence him, in respect to his verdict in any cause pending, or about to be brought before him, otherwise than in the regular course of proceedings upon the trial of such cause.

- (3) Any petit juror shall either use or consume any beverage of low or high alcoholic content during the time he is in actual service as juror.
 - (4) Any petit juror accepts or offers to accept anything of apparent present or prospective value, before he is discharged from his services as a juror, even if the thing of value is not to be received, delivered, or come to fruition until after discharge from jury service, for his interpretation, impression, analysis or narrative, verbal or written, regarding any element of the criminal trial or jury deliberations.
- B. Whoever commits the crime of jury misconduct, shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

RS 14:130.1 — Obstruction of justice

or potential

present, past, or future criminal proceeding, civil immigration proceeding, or official act of an agent or employee of a governmental entity:

- (1) Tampering with evidence with the specific intent of distorting the results of any criminal investigation or proceeding which may reasonably prove relevant to a criminal investigation or proceeding. Tampering with evidence shall include the intentional alteration, movement, removal, or addition of any object or substance either:
 - (a) At the location of any incident which the perpetrator knows or has good reason to believe will be the subject of any investigation by state, local, or United States law enforcement officers; or
 - (b) At the location of storage, transfer, or place of review of any such evidence.
- (2) Using or threatening force toward the person or property of another with the specific intent to:
 - (a) Influence the testimony of any person in any criminal proceeding;
 - (b) Cause or induce the withholding of testimony or withholding of records, documents, or other objects from any criminal proceeding;
 - (c) Cause or induce the alteration, destruction, mutilation, or concealment of any object with the specific intent to impair the object's integrity or availability for use in any criminal proceeding;
 - (d) Evade legal process or the summoning of a person to appear as a witness or to produce a record, document, or other object in any criminal proceeding;
 - (e) Cause the hindrance, delay, or prevention of the communication to a peace officer, as defined in R.S. 14:30, of information relating to an arrest or potential arrest or relating to the commission or possible commission of a crime or parole or probation

violation.

(3) Retaliating against any witness, victim, juror, judge, party, attorney, or informant by knowingly engaging in any conduct which results in bodily injury to or damage to the property of any such person or the communication of threats to do so with the specific intent to retaliate against any person for:

(a) The attendance as a witness, juror, judge, attorney, or a party to any criminal proceeding or for producing evidence or testimony for use or potential use in any criminal proceeding, or

(b) The giving of information, evidence, or any aid relating to the commission or possible commission of a parole or probation violation or any crime under the laws of any state or of the United States.

(4) Inducing or persuading or attempting to induce or persuade any person to do any of the following:

(a) Testify falsely or, without right or privilege to do so, to withhold any testimony.

(b) Without the right or privilege to do so, absent himself from such proceedings despite having received service of a subpoena.

(5) Contacting a family member of the victim in a manner that knowingly and intentionally violates the provisions of R.S. 46:1844(Y).

(6) Knowingly committing any act intended to hinder, delay, prevent, or otherwise interfere with or thwart federal immigration enforcement efforts.

B. Whoever commits the crime of obstruction of justice shall be subject to the following penalties:

(1) When the obstruction of justice involves a criminal proceeding in which a sentence of death or life imprisonment may be imposed, except as provided in Paragraph (5) of this Subsection, the offender shall be fined not more than one hundred thousand dollars, imprisoned for not more than forty years at hard labor, or both.

(2) When the obstruction of justice involves a criminal proceeding in which a sentence of imprisonment necessarily at hard labor for any period less than a life sentence may be imposed, the offender may be fined not more than fifty thousand dollars, or imprisoned for not more than twenty years at hard labor, or both.

(3) When the obstruction of justice involves any other criminal proceeding, except as provided in Paragraph (4) or (5) of this Subsection, the offender shall be fined not more than ten thousand dollars, imprisoned for not more than five years, with or without hard labor, or both.

(4) When the obstruction of justice is committed as described in Paragraph (A)(1) of this Section and involves any misdemeanor criminal proceeding that does not involve an intentional misdemeanor directly affecting the person, the offender shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(5) When the obstruction of justice is committed as described in Paragraph (A)(5) of this Section and involves a criminal proceeding in which the sentence imposed is a sentence of death, the offender shall be fined not more than five thousand dollars, imprisoned for not more than three years, with or without hard labor, or both.

(6) When the obstruction of justice involves a civil immigration proceeding, the offender shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

(7) When the obstruction of justice involves an official act of an agent or employee of a governmental entity, the offender shall be fined not more than one thousand dollars, imprisoned for not more than six months, or both.

C. For the purposes of this Section, "family member" shall have the same meaning and definition as in R.S. 46:2132.

RS 14:131 — Compounding a felony

of the commission of a felony, upon an agreement, express or implied, to conceal such offense, or not to prosecute the same, or not to reveal or give evidence thereof.

B. Whoever commits the offense of compounding a felony shall be fined not more than one thousand dollars or imprisoned, with or without hard labor, for not more than two years, or both.

RS 14:131.1 — Failure to report the commission of certain felonies

disclose such information to a law enforcement agency or district attorney, except when the person having such knowledge is bound by any privilege of confidentiality recognized by law.

B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned, with or without hard labor, for not more than one year, or both.

RS 14:132 — Injuring public records

g, filed or deposited, by authority of law, in any public office or with any public officer.

B. Second degree injuring public records is the intentional removal, mutilation, destruction, alteration, falsification, or concealment of any record, document, or other thing, defined as a public record pursuant to R.S. 44:1 et seq. and required to be preserved in any public office or by any person or public officer pursuant to R.S. 44:36.

C.(1) Whoever commits the crime of first degree injuring public records shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars or both.

(2) Whoever commits the crime of second degree injuring public records shall be imprisoned for not more than one year with or without hard labor or shall be fined not more than one thousand dollars or both.

RS 14:133 — Filing or maintaining false public records

law, regulation, or rule, with knowledge of its falsity, of any of the following:

(1) Any forged document.

(2) Any wrongfully altered document.

(3) Any document containing a false statement or false representation of a material fact.

B. The good faith inclusion of any item of cost on a Medical Assistance Program cost report which is later determined by audit to be nonreimbursable under state and federal regulations shall be an affirmative defense to a violation of this Section.

C.(1) Whoever commits the crime of filing false public records shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars, or both.

(2) In addition to the penalty provided for in Paragraph (1) of this Subsection, a person convicted of the provisions of this Section may be ordered to pay restitution to the state if the state suffered a loss as a result of the offense. Restitution shall include the payment of legal interest at the rate provided in R.S. 13:4202.

RS 14:133.1 — Obstruction of court orders

exercise of rights or the performance of duties under any order, judgment, or decree of a court of the state of Louisiana, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

No injunctive or other civil relief against the conduct made criminal by this Section shall be denied on the ground that such conduct is a violation of criminal law, and, when granted, the order, judgment or decree granting such relief as to conduct which does constitute a violation of criminal law shall be construed as a mandate to all law enforcement officers to take such affirmative action as may be necessary to apprehend, arrest and charge any person or persons who engage in such conduct.

RS 14:133.1.1 — Election fraud or forgery

or attempt to vote, knowing that the person is not qualified, or influence or attempt to influence another to vote, knowing that voter to be unqualified or the vote to be fraudulent.

(3) Register, vote, or attempt to register or vote in the name of another or in an assumed or fictitious name, or in any manner other than as provided in the Louisiana Election Code.

(4) Forge the name of another or use a fictitious name on an affidavit or document required by the Louisiana Election Code.

(5) Procure or submit voter registration applications that are known by the person to be materially false, fictitious, or fraudulent.

(6) Forge, alter, add to, deface, take, destroy, or remove from proper custodial care any book, card, record, voter registration application, election return, nomination papers, withdrawals of candidacy, election supplies, election paraphernalia, or any affidavit or other document required or provided for under the provisions of the Louisiana Election Code, unless required to be removed by a court of competent jurisdiction for inspection and photostatic copying for the court record.

(7) Have in his possession an official ballot in violation of any provision of the Louisiana Election Code.

(8) Have in his possession the registration certificate of another with intent to violate any provision of the Louisiana Election Code.

(9) For purposes other than fulfilling the person's duties relative to registration of voters as provided by law, copy or reproduce a voter registration application that has been submitted by an applicant.

B. Whoever violates any provision of this Section shall be fined not more than two thousand dollars or be imprisoned, with or without hard labor, for not more than two years, or both, for the first offense. On a second offense or any subsequent offense, the penalty shall be a fine of not more than five thousand dollars or imprisonment at hard labor for not more than five years, or both.

RS 14:133.2 — Misrepresentation during booking

umber to any law enforcement officer or official who is booking him pursuant to a lawful arrest, or the refusal of such person to submit to fingerprinting or photographing.

B. Whoever commits the crime of misrepresentation during booking shall be imprisoned for not more than six months, provided that any such sentence shall be made to run concurrently with any other sentence.

RS 14:133.3 — Falsification of drug tests

uilty to, an offense and as a condition of probation, shall intentionally falsify or alter or attempt to falsify or alter the results of such a drug test by the substitution of urine or other samples or specimens or the use of any device in order to obscure or conceal the presence of a substance the presence of which the test is administered to detect.

(2) No person shall knowingly and intentionally deliver, possess with intent to deliver, or manufacture with intent to deliver a substance or device designed or intended solely to falsify or alter drug test results.

B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:133.4 — Misrepresentation during issuance of a misdemeanor summons or preparation of a juvenile custodial agreement

e custodial agreement is the giving of false information to any law enforcement officer preparing such document, by a person being issued a misdemeanor summons, or a person giving information or signing such juvenile custodial agreement.

B. Whoever commits the crime of misrepresentation during issuance of a misdemeanor summons, or preparation of a juvenile custodial agreement shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:133.5 — Filing a false complaint against a law enforcement officer

resentation with a law enforcement agency regarding the conduct, job performance, or behavior of a law enforcement officer for the purpose of initiating an administrative action against that law enforcement officer.

B. For the purposes of this Section, "law enforcement officer" shall include commissioned police officers, state troopers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, and probation and parole officers.

C. Whoever commits the crime of filing false statements against law enforcement officers shall be fined not more than five hundred dollars or imprisoned not more than six months, or both.

RS 14:133.6 — Filing a false lien against a law enforcement officer, court officer, state officer, or icer,

court officer, state officer, or state employee is committed when a person knowingly files, attempts to file, or conspires to file, in any public records or in any private record that is generally available to the public, any false lien or encumbrance against the movable or immovable property of a law enforcement officer, court officer, state officer, or state employee, as retaliation against the officer or employee for the performance of his official duties, knowing or having reason to know that the lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation.

B. For purposes of this Section, the following definitions shall apply:

(1) "Court officer" means any active or retired justice of the peace, any active or retired judge of a city, parish, state, or federal court located in this state, any district attorney, assistant district attorney, or investigator within the office of a district attorney, any city prosecutor, assistant city prosecutor, or investigator within the office of a city prosecutor, the attorney general and any assistant attorney general or investigator within the office of the attorney general, and any clerk of court, deputy clerk of court, and recorder of mortgages.

(2) "Law enforcement officer" shall mean any active or retired city, parish, or state law enforcement officer, peace officer, sheriff, deputy sheriff, probation or parole officer, marshal, deputy, wildlife enforcement agent, state correctional officer, a commissioned agent of the Department of Public Safety and Corrections, and any federal law enforcement officer or employee whose permanent duties include making arrests, performing search and seizures, execution of criminal arrest warrants, execution of civil seizure warrants, any civil functions performed by sheriffs or deputy sheriffs, enforcement of penal or traffic laws, or the care, custody, control, or supervision of inmates.

(3) "State employee" shall mean any person in the classified or unclassified service for the state of Louisiana.

(4) "State officer" shall mean any person holding an elective office or appointive office for the state of Louisiana.

C.(1) Whoever commits the crime of filing a false lien against a law enforcement officer, court officer, state officer, or state employee shall be fined not less than five hundred dollars nor more than the amount of the value of the false lien or encumbrance, imprisoned, with or without hard labor, for not more than two years, or both.

(2) The court, in addition to any punishment imposed under the provisions of this Section, may order the offender to pay restitution to the law enforcement officer, court officer, state officer, or state employee for any costs incurred as a result of the false lien or encumbrance.

RS 14:133.7 — Publication of certain criminal record information or juvenile record information

e record information or confidential criminal record information of a child.

(b) Publish any criminal history record or criminal history record information in the person's or business entity's possession with respect to which the person or business entity has received notice that either:

(i) An order of expungement has been entered pursuant to Code of Criminal Procedure Article 971 et seq.

(ii) An order of nondisclosure has been issued by a court of competent jurisdiction.

(c) Charge a fee to remove, correct, or modify any criminal history record or criminal history record information that the person or business entity has published.

(d) Continue to publish an incomplete or inaccurate criminal history record or inaccurate criminal history record information.

(2) A person or business entity does not violate this Section if the person or business entity published confidential juvenile record information or confidential criminal record information of a child and:

(a) The child who is the subject of the records gives written consent to the publication on or after the child reaches the age of eighteen years.

(b) The publication of the information is authorized or required by any other provision of law.

B.(1) A person or business entity shall ensure that a criminal history record or criminal history record information that the person or business entity publishes is complete and accurate.

(2) For purposes of this Section, a criminal history record or criminal history record information published by a person or business entity is considered:

(a) "Complete" if the information reflects the notations of arrest and the filing and disposition of criminal charges, as applicable.

(b) "Accurate" if the information reflects the most recent information received by the entity from a law enforcement agency, criminal justice agency, or any other governmental entity within sixty days preceding the date of publication.

(3) The person or business entity shall clearly and conspicuously publish an email address, facsimile transmission number, or mailing address in order to enable a person who is the subject of a criminal history record or criminal history record information published by the person or business entity to dispute the completeness or accuracy of the published information.

(4) If a person or business entity receives a dispute regarding the completeness or accuracy of a criminal history record or criminal history record information from a person who is the subject of the published information, the person or business entity shall, within thirty business days of receiving the notice of the dispute, verify with the appropriate law enforcement agency, criminal justice agency, or any other governmental entity, without cost to the person, the disputed information.

(5) If the person or business entity finds an incomplete or inaccurate criminal history record or inaccurate criminal history record information after conducting an investigation as prescribed by this Section, the person or business entity shall promptly remove the inaccurate information from the website or other publication or shall promptly correct the information, as applicable.

(6) The person or business entity shall provide written notice to the person who disputed the completeness or accuracy of published information of the results of an investigation conducted under this Section not later than the fifth business day after the date on which the investigation is completed.

C.(1) If a person or business entity receives a written notice from any person that the person or business entity is publishing information in violation of this Section, the person or business entity shall immediately remove the information from the website or publication.

(2) If the person or business entity confirms that the information is not confidential juvenile record information or confidential criminal record information of a child and the publication of the information is not otherwise prohibited, the person or business entity may republish the information.

D.(1) Except as provided in Paragraph (2) of this Subsection, this Section shall apply to:

(a) A person or business entity that publishes a criminal history record or criminal history record information, including information originally obtained pursuant to a public records request or purchased or otherwise obtained from a law enforcement agency, criminal justice agency, or any other governmental entity.

(b) A person or business entity that publishes confidential juvenile record information or confidential criminal record information of a child in any manner not permitted by Children's Code Article 412 or other provision of law, regardless of the source of the information.

(2) This Chapter shall not apply to:

(a) Any statewide juvenile information sharing system authorized by Children's Code Article 541 or other provision of law.

(b) A publication of general circulation or an internet website related to such a publication that contains news or other information, including a magazine, periodical

newsletter, newspaper, pamphlet, or report.

(c) A radio or television station that holds a license issued by the Federal Communications Commission.

(d) A telecommunications provider.

(e) A movie, film, or audiovisual work.

E. For purposes of this Section:

(1) "Confidential criminal record information of a child" means information relative to a person's involvement in the criminal justice system resulting from conduct that occurred or was alleged to occur when the person was younger than eighteen years of age and that is confidential pursuant to Children's Code Article 412 or any other provision of law. This term does not include:

(a) A criminal history record or criminal history record information of a person who is to stand trial as an adult for that conduct, as provided by Children's Code Article 305 or any other provision of law.

(b) Records or information relating to a traffic offense.

(2) "Confidential juvenile record information" means information about a person's involvement in the juvenile justice system that is confidential, sealed, under restricted access, or required to be destroyed under any provision of law, including:

(a) A description or notation of any referral to a juvenile probation department or court with jurisdiction over the juvenile, including any instances of being taken into custody, any informal disposition of a custodial or referral event, or any formal charges and the disposition of those charges.

(b) A photograph or photographs of the person taken pursuant to a custodial event or other involvement in the juvenile justice system.

(c) Personal identifying information of the person contained in any other records of the person's involvement in the juvenile justice system.

(3) "Criminal history record" or "criminal history record information" mean information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition arising therefrom, including sentencing, correctional supervision, and release. These terms do not include intelligence or investigatory purposes, nor does it include any identification information that does not indicate involvement of the individual in the criminal justice system. These terms do not include records of juvenile criminal conduct. These terms include but are not limited to the following:

(a) A description or notation of any arrests, any formal criminal charges, and the dispositions of those criminal charges.

(b) A photograph or photographs of the person taken pursuant to an arrest or other involvement in the criminal justice system.

(c) Personal identifying information of a person displayed in conjunction with any other record of the person's involvement in the criminal justice system.

(4) "Criminal justice agency" means any government agency or subunit thereof, or

private agency that, through statutory authorization or a legal formal agreement with a governmental unit or agency, has the power of investigation, arrest, detention, prosecution, adjudication, treatment, supervision, rehabilitation or release of persons suspected, charged, or convicted of a crime, or that collects, stores, processes, transmits, or disseminates criminal history record or crime information.

(5) "Juvenile justice system" means the system of public and private services in Louisiana that includes prevention, early identification, early intervention, child protection, law enforcement, prosecution, defense, adjudication, diversion and informal processing, probation, corrections, aftercare, transitional living, and other services provided to children and families who either are or are likely to be brought into a court with juvenile jurisdiction because of problems such as abuse, neglect or abandonment, mental illness, substance abuse, aspects of a divorce and breakup of families, predelinquency, social irresponsibility or delinquent behavior, or domestic abuse involving children.

(6) "Personal identifying information" means information that alone or in conjunction with other information identifies a person, including a person's name, address, date of birth, photograph, and social security number or other government-issued identification number.

(7) "Publish" means:

(a) In the case of the records of adults, to communicate or make information available to another person on a publicly available internet website or in any other publication that charges a fee for the removal of the information.

(b) In the case of the records of a juvenile, to communicate or make information available to another person by any means, including but not limited to a publicly available internet website that charges a fee for the removal of the information.

F. Whoever violates any provision of this Section:

(1) On a first conviction shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(2) On a second conviction shall be fined not more than five thousand dollars, or imprisoned for not more than one year, or both.

(3) On a third or subsequent conviction shall be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than six months nor more than one year, or both.

G. In addition to the penalties provided by Subsection F of this Section, a person or business entity that publishes information in violation of any provision of this Section shall be liable to pay restitution to the individual who is the subject of the information in an amount not to exceed five hundred dollars for each separate violation and, in the case of a continuing violation, an amount not to exceed five hundred dollars for each subsequent day on which the violation occurs.

H. Venue shall be appropriate in the jurisdiction where the subject of publication resides and where the offense was committed.

RS 14:134 — Malfeasance in office

perform any duty lawfully required of him, as

such officer or employee.

(2) Intentionally performs any such duty in an unlawful manner, including violating the provisions of R.S. 32:43 et seq.

(3) Knowingly permits any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him, or to perform any such duty in an unlawful manner.

(4) Willfully and knowingly subjects any person to the deprivation of any right, privilege, or immunity secured or protected by the United States Constitution and laws, if serious bodily injury or death results.

(5) Knowingly releases a person, following arrest or booking, from state, parish, or local law enforcement custody without providing advance notice to United States Immigration and Customs Enforcement that the law enforcement agency effecting release is aware that the person either illegally entered or unlawfully remained in the United States.

(6)(a) Takes any official action, fails to perform an official duty, or refuses a lawful request for cooperation submitted by either United States Immigration and Customs Enforcement, United States Customs and Border Protection, or United States Citizenship and Immigration Services with the intent to hinder, delay, prevent, or otherwise interfere, ignore, or thwart federal immigration enforcement efforts.

(b) This Paragraph shall not be construed to limit, impede, or otherwise interfere with the duty of a sheriff, chief of police, or other executive law enforcement official in this state to exercise the powers of his office. However, a lawful written request or detainer submitted by either United States Immigration and Customs Enforcement, United States Customs and Border Protection, or United States Citizenship and Immigration Services to release an individual into federal custody shall be complied with if the request or detainer alleges that the person to be released either illegally entered or unlawfully remained in the United States.

B. Any duty lawfully required of a public officer or public employee when delegated by him to a public officer or public employee shall be deemed to be a lawful duty of such public officer or employee. The delegation of such lawful duty shall not relieve the public officer or employee of his lawful duty.

C.(1) Whoever commits the crime of malfeasance in office shall be imprisoned for not more than ten years, with or without hard labor, or fined not more than five thousand dollars, or both.

(2) In addition to the penalty provided for in Paragraph (1) of this Subsection, a person convicted of the provisions of this Section may be ordered to pay restitution to the state if the state suffered a loss as a result of the offense. Restitution shall include the payment of legal interest at the rate provided in R.S. 13:4202.

(3) If the individual convicted of the crime of malfeasance in office is a P.O.S.T. certified full-time, part-time, or reserve peace officer, the P.O.S.T. certification of that peace officer shall be immediately revoked pursuant to R.S. 40:2405(J).

RS 14:134.1 — Malfeasance in office; sexual conduct prohibited with persons in the custody and malfeasance in office for any of the following
persons to engage in sexual intercourse or any other sexual conduct with a person who is

under their supervision and who is confined in a prison, jail, work release facility, or correctional institution, or who is under the supervision of the division of probation and parole, or who is detained or arrested:

(1) A law enforcement officer.

(2) An officer, employee, contract worker, or volunteer of the Department of Public Safety and Corrections or any prison, jail, work release facility, or correctional institution.

B. Whoever violates a provision of this Section shall be fined not more than ten thousand dollars or imprisoned at hard labor for not more than ten years, or both.

C. For purposes of this Section, "law enforcement officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, state park wardens, and probation and parole officers.

RS 14:134.2 — Malfeasance in office; tampering with evidence

peace officer" shall be defined as a commissioned state, parish, or municipal police officer, a sheriff, or a deputy sheriff.

(2) For purposes of this Section, "tampering with evidence" is the intentional alteration, movement, removal, or addition of any object or substance when the peace officer:

(a) Knows or has good reason to believe that such object or substance will be the subject of any investigation by state, local, or federal law enforcement officers, and

(b) Acts with the intent of distorting the results of such an investigation.

B. Whoever violates this Section shall be fined not more than ten thousand dollars, or be imprisoned, with or without hard labor, for not more than three years, or both.

RS 14:134.3 — Abuse of office

the public officer, public employee or any other person with anything of apparent present or prospective value when the public officer or employee is not entitled by the nature of his office to the services sought or the object of his demand.

B.(1) Whoever violates the provisions of this Section shall be fined up to five thousand dollars, or be imprisoned with or without hard labor for not less than one year nor more than five years.

(2) In addition to the penalty provided for in Paragraph (1) of this Subsection, a person convicted of the provisions of this Section may be ordered to pay restitution to the state if the state suffered a loss as a result of the offense. Restitution shall include the payment of legal interest at the rate provided in R.S. 13:4202.

C. The provisions of this Section shall not apply to benefits or services rendered to a person who is entitled to such benefits or services from the state or any political subdivision of the state or any governmental entity when the public officer or public employee is performing his duties as authorized by law. Nothing in this Section shall prohibit or limit the ability of a public officer or public employee from performing his duties as authorized by law or as a condition of his employment or office.

RS 14:135 — Public salary deduction

n, any part of the salary or fees allowed by law to any other public officer or public employee, unless authorized in writing by the said public officer or public employee.

B. Whoever commits the crime of public salary deduction shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars or both.

RS 14:136 — Public salary extortion

money or other thing of value from any public officer or public employee to himself or any other person or political organization, through any means or form whatsoever and for any purpose whatsoever, when such payment is obtained or solicited upon suggestion or threat that the failure to make such payment shall result in the loss or impairment of value to such officer or employee of his office or employment, or when such payment shall be a reward or remuneration for

securing such office or employment; and proof that such payments were collected from or paid by such officers or employees on a uniform or progressive percentage or amount basis, shall be presumptive evidence that payments were made under duress or upon the considerations set forth hereinbefore; however, a written request made pursuant to R.S. 14:135 shall serve to rebut the presumption that payment was made under duress; or

(2) Solicit or receive or attempt to solicit or receive, either directly or indirectly, the contribution of any money or other thing of value for any general, primary or special election or for any other political purpose, from any person holding any office or employment for remuneration or profit, including those persons who work on a commission basis, with the state, who receive a remuneration of two hundred dollars per month or less from such employment; provided that this Subdivision shall not apply where the person solicited or whose contribution was received was an elective public officer or a candidate for any elective public office.

B. Whoever commits the crime of public salary extortion shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars or both.

RS 14:137 — Repealed by Acts 1979, No. 700, §8

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RS 14:138 — Public payroll fraud

ist or payroll for any payment or compensation from the state, for services not actually rendered by himself, or for services grossly inadequate for the payment or compensation received or to be received according to such employment list or payroll; or

(2) Any public officer or public employee shall carry, cause to be carried, or permit to be carried, directly or indirectly, upon the employment list or payroll of his office, the name of any person as employee, or shall pay any employee, with knowledge that such employee is receiving payment or compensation for services not actually rendered by said employee or for services grossly inadequate for such payment or compensation.

B. This Section shall not apply in the following situations:

(1) When a bona fide public officer or public employee, who is justifiably absent from his job or position for a reasonable time, continues to receive his usual compensation or a part thereof.

(2) When arrangements between firefighters to swap work or perform substitute work with or for each other is done in compliance with the provisions of the federal Fair Labor Standards Act, 29 U.S.C. 207(p)(3) and the associated regulations found in the Code of Federal Regulations and in accordance with rules and regulations adopted by the appointing authority.

C.(1) Whoever commits the crime of public payroll fraud shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than two years, or both.

(2) In addition to the penalty provided for in Paragraph (1) of this Subsection, a person convicted of the provisions of this Section may be ordered to pay restitution to the state if the state suffered a loss as a result of the offense. Restitution shall include the payment of legal interest at the rate provided in R.S. 13:4202.

RS 14:139 — Political payroll padding

ncrease the number of public employees in his office, department, board, agency, or institution more than five percent over the average number of such employees for each of the first six months of the twelve months next preceding the election; or

(2) Increase the payroll or other operating expenses of his office, department, board, agency, or institution more than fifteen percent over its average amount of such expenditures for each of the months of the first six months of the twelve months next preceding the election.

B. The provisions of this Section shall not apply where the increases are necessitated by flood, invasion by a common enemy, or other public emergency.

C. Whoever commits the crime of political payroll padding shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars or both.

RS 14:139.1 — Political payroll padding by sheriff; sale of assets of sheriff's office prohibited

e gubernatorial election and the first day of July following election, it shall be unlawful for any sheriff to do any of the following:

- (1) Increase the number of deputies or employees in his office by more than five percent over the average number of such employees for each of the first six months of the twelve months preceding the election.
- (2) Increase the payroll or other operating expenses of his office more than fifteen percent over its average amount of such expenditures for each of the months of the first six months of the twelve months preceding the election.
- (3) Transfer title and ownership of the capital assets of his office of a value in excess of ten percent of the total value of assets as reflected in the current inventory filed in the office of the sheriff under the provisions of R.S. 24:513, as of the date of the primary election.

B. In determining whether any surplus or deficit exists in the office of any sheriff at the expiration of a term of office, the current market value of the capital assets of the office as set forth in the inventory filed in accordance with R.S. 24:513 shall be included in the total assets of the sheriff's office.

C.(1) The provisions of this Section shall not apply when the increases or decreases are necessitated by flood, invasion by common enemy, or other public emergency. In addition, the provisions of this Section shall not apply to any increase based upon the utilization of additional revenue from a tax district election or to an increase necessitated by the completion of a new or expansion of an existing prison facility or an emergency communications call or dispatch center.

(2)(a) The provisions of this Section shall not apply to an incumbent sheriff, against whom no person has qualified to run, for any transfers or increases that occur after the date the qualifying period closes for the gubernatorial election through the first day of July following the election.

(b) The provisions of this Section shall not apply to an incumbent sheriff, who is reelected to office, for any transfers or increases that occur after the date the official election results are declared by the election official through the first day of July following the election.

D. Whoever violates the provisions of Subsection A of this Section shall be imprisoned, with or without hard labor, for not more than five years or shall be fined not more than five thousand dollars, or both.

RS 14:139.2 — Transfer of capital assets of clerk of court's office prohibited

lar gubernatorial election is scheduled and ending on the first day of July of the following year, to transfer title and ownership of any capital assets of his office which have an aggregate value greater than ten percent of the total value of the capital assets of his office.

B. For purposes of this Section, the capital assets of the office of a clerk of court shall include all general fixed assets over which the clerk has custody and control, regardless of whether such assets are carried as assets by the clerk or by the parish governing authority.

C. The value of the capital assets shall be the value of such assets as reflected in the current inventory filed under the provisions of R.S. 24:513 prior to the beginning day of the period specified in Subsection A or, if no such inventory is filed, the value of the assets as carried on the records of the clerk or the parish governing authority on the day prior to the

beginning day of the period specified in Subsection A.

D. The provisions of this Section shall not apply to a transfer necessitated by flood, invasion by common enemy, or other public emergency.

E. Whoever violates the provisions of Subsection A of this Section shall be imprisoned, with or without hard labor, for not more than five years or shall be fined not more than five thousand dollars, or both.

RS 14:140 — Public contract fraud

of public funds to himself, or to any partnership of which he is a member, or to any corporation of which he is an officer, stockholder, or director.

(2) When any member of any public board, body, or commission charged with the custody, control, or expenditure of any public funds votes for or uses his influence to secure any expenditure of such funds to himself, or to any partnership of which he is a member, or to any corporation of which he is an officer, director, or stockholder.

(3) When any sheriff charged with the duties of enforcing the laws of this state or any political subdivision thereof shall enter into a contract, either written or oral, individually or as a member or stockholder of any partnership, company, or corporation, with any such person whereby such sheriff or partnership, company, or corporation, of which he is a member or stockholder is to perform any services of a law enforcement nature; provided, however, a deputy sheriff may, as an employee only, perform services of a law enforcement nature for any person, partnership, company, or corporation, but only if the deputy sheriff fulfills his employee performance requirements while not on official duty.

B. The fact that an expenditure has been made to any party named in Paragraphs (1) and (2) of Subsection A of this Section, or to any partnership of which he is a member, or to any corporation of which he is an officer, stockholder, or director, shall be presumptive evidence that such person has used his power, position, or influence to secure such expenditure.

C.(1) Whoever commits the crime of public contract fraud shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than two years, or both.

(2) In addition to the penalty provided for in Paragraph (1) of this Subsection, a person convicted of the provisions of this Section may be ordered to pay restitution to the state if the state suffered a loss as a result of the offense. Restitution shall include the payment of legal interest at the rate provided in R.S. 13:4202.

RS 14:141 — Prohibited splitting of profits, fees or commissions; exceptions

ffering to receive, directly or indirectly, anything of apparent present or prospective value by or to a public officer or public employee or to any fund or fiduciary existing for the benefit of or use by such public officer or employee, when such value is derived from any agreement or contract to which the state or any political subdivision thereof is a party.

B. There shall be no splitting of profits, fees or commissions, past or present, derived from the sale of any commodity, goods, services, insurance, or anything of value to the state or any political subdivision thereof from which a public officer or public employee, representing the state or a political subdivision, as the case may be, in his official capacity, receives or offers to receive a portion of the profits, fees and/or commissions. The contract shall be a public record.

C. Whoever commits the crime of receiving or offering to receive a portion of the profits, fees or commissions as provided by this Section shall upon conviction be fined not more than ten thousand dollars or shall be imprisoned, with or without hard labor, for not more than ten years, or both.

RS 14:142 — Offenses committed prior to effective date of Code

t the time the crime was committed.

RS 14:143 — Preemption of state law; exceptions

onduct that is defined and punishable as a felony under state law.

B. A governing authority of a parish or municipality may enact an ordinance defining as an offense conduct that is defined and punishable as a felony under state law if the ordinance is comparable to one of the crimes defined by state law and listed in Subsection C of this Section. No ordinance shall define as an offense conduct that is defined and punishable as a felony under any other state law. The ordinance shall comply with the provisions of Subsection D of this Section. A conviction under an ordinance which complies with the provisions of this Section may be used as a predicate conviction in prosecutions under state law.

C. The offense defined in the ordinance shall be comparable to one of the following state laws:

- (1) R.S. 14:63 (criminal trespass).
- (2) R.S. 14:67(B)(3) (theft when the misappropriation or taking amounts to less than a value of three hundred dollars).
- (3) R.S. 14:67.2(B)(3) (theft of animals when the misappropriation or taking amounts to less than a value of three hundred dollars).
- (4) R.S. 14:67.3 (unauthorized use of "access card" as theft).
- (5) R.S. 14:67.4 (theft of domesticated fish from fish farm).
- (6) R.S. 14:67.5 (theft of crawfish).
- (7) R.S. 14:67.6(C)(1) (first offense of theft of utility service).
- (8) R.S. 14:67.10(B)(3) (theft of goods when the misappropriation or taking amounts to less than a value of three hundred dollars).
- (9) R.S. 14:67.12 (theft of timber).
- (10) R.S. 14:67.13(B)(3) (theft of an alligator when the misappropriation or taking amounts to less than a value of three hundred dollars).
- (11) R.S. 14:69(B)(3) (illegal possession of stolen things when the value of the stolen things is less than three hundred dollars).
- (12) R.S. 14:82(B)(1) (prostitution).
- (13) R.S. 14:93.2.1 (child desertion).
- (14) R.S. 14:222.1 (unauthorized interception of cable television services).
- (15) R.S. 14:285(C) (improper telephone communications).
- (16) R.S. 40:966(E)(1) (possession of marijuana).
- (17) R.S. 40:1021, 1022, 1023, 1023.1, 1024, 1025(A), and 1026 (possession of drug paraphernalia).
- (18) R.S. 14:35.3 (domestic abuse battery).

D. An ordinance adopted under the provisions of this Section shall incorporate the standards and elements of the comparable crime under state law and the penalty provided in the ordinance shall not exceed the penalty provided in the comparable crime under state law.

E. The provisions of this Section shall not repeal, supersede, or limit the provisions of R.S. 13:1894.1 or R.S. 40:966(D)(4).

RS 14:201 — Collateral securities, unauthorized use or withdrawal prohibited; penalty; proof of intent; of personal advantage

r of any bank or banking institution, savings bank, or trust company organized under the laws of this state, of the United States, or of any foreign country, or of a private banker or of a person, or association that loans money on collateral security, doing business in this state, who is allowed to withdraw any collateral pledged by him, either personally or in his representative capacity, on a trust receipt or other form of receipt, shall do any of the following:

- (1) Use, sell, repledge, or otherwise dispose of the collateral so withdrawn, for any other purpose other than that of paying the indebtedness for the security of which the collateral was pledged.
- (2) Fail or refuse to return the collateral on demand.
- (3) Fail or refuse in lieu of the return of the collateral to make the pledgee a cash payment equivalent to the full value of the collateral so withdrawn.
- (4) If the collateral exceeds in value the indebtedness it secures, fail or refuse to make a cash payment to the pledgee equal to the full amount of the indebtedness.
- (5) If the delivery of the collateral was to be made in the future and the customer has taken possession or control of the collateral, fails or refuses to deliver the collateral on demand.

B. Whoever violates this Section shall be imprisoned with or without hard labor, for not more than ten years.

C. Proof of any of the acts set forth in this Section shall be considered prima facie evidence of criminal intent. The state may proceed further and prove criminal intent by any competent evidence in its possession.

D. Where the person doing the acts denounced by this Section was an officer, agent, or employee of any person, who was a customer of any lender as provided in Subsection A of this Section loaning money on collateral security, it shall not be necessary, to complete the proof of the crime charged, for the state to prove that the person derived any personal benefit, advantage, or profit from the transaction. The state may always prove the crime charged by any competent evidence it may have in its possession.

RS 14:202 — Contractors; misapplication of payments prohibited; penalty

the construction, erection, or repair of a building, structure, or other improvement, including contracts and mortgages for interim financing, shall knowingly fail to apply the money received as necessary to settle claims for material and labor due for the construction or under the contract.

B. When the amount misapplied is one thousand dollars or less, whoever violates the provisions of this Section shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned for not less than ninety days nor more than six months, or both.

C. When the amount misapplied is greater than one thousand dollars, whoever violates this Section shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned with or without hard labor for not less than ninety days nor more than six months, or both, for each one thousand dollars in misapplied funds, provided that the aggregate imprisonment shall not exceed five years.

D. Any person, contractor, subcontractor, or agent of a contractor or subcontractor who knowingly fails to apply construction contract payments as required in Subsection A shall pay to the court, and the court shall transfer to the person whose construction contract payments were misapplied, an amount equal to the sum of the payments not properly applied and any additional legal costs resulting from the misapplication of construction fund payments, including a fee charged by the clerk of court for handling such payments.

RS 14:202.1 — Residential contractor fraud; penalties

consent of the other to the

misappropriation or taking, or by means of fraudulent conduct, practices, or representations

by a person who has contracted to perform any home improvement or residential

construction, or who has subcontracted for the performance of any home improvement or

residential construction. A misappropriation or intentional taking may be inferred when a

person does any of the following:

(1) Fails to perform any work during a forty-five-day period of time or longer after receiving payment, unless a longer period is specified in the contract.

(2) Uses, or causes an agent or employee to use, any deception, false pretense, or false promise to cause any person to enter into a contract for home improvements or residential construction.

(3) Damages the property of any person with the intent to induce that person to enter into a contract for home improvements or residential construction.

(4) Knowingly makes a material misrepresentation of fact in any application for a permit required by state, municipal, or parochial law.

(5) Knowingly makes a material misrepresentation of fact in any lien placed upon the property at issue.

(6) Fails to possess the required license for home improvements or residential construction required by applicable state, municipal, or parochial statute.

(7) Knowingly employs a subcontractor who does not possess the required license by applicable state, municipal, or parochial statute.

B. For purposes of this Section, "home improvement or residential construction" means any alteration, repair, modification, construction, or other improvement to any immovable or movable property primarily designed or used as a residence or to any structure within the residence or upon the land adjacent to the residence.

C.(1) When the misappropriation or intentional taking amounts to a value of less than one thousand dollars, the offender shall be imprisoned for not more than six months, fined not more than one thousand dollars, or both. If the offender in such cases has been convicted of theft two or more times previously, then upon conviction the offender shall be imprisoned, with or without hard labor, for not more than two years, or fined not more than two thousand dollars.

(2) When the misappropriation or intentional taking amounts to a value of one thousand dollars or more, but less than five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than three thousand dollars, or both.

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

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

(5) In determining the amount of the misappropriation or intentional taking, the court shall include the cost of repairing work fraudulently performed by the contractor and the cost of completing work for which the contractor was paid but did not complete.

D.(1) In addition to the penalties provided in Subsection C of this Section, a person convicted of residential contractor fraud shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense. For the purposes of this Subsection, restitution to the victim shall include the cost of repairing work fraudulently performed by the contractor and the cost of completing work for which the contractor was paid but did not complete.

(2) A person sentenced under the provisions of Paragraph (C)(2), (3), or (4) of this Section when the victim is sixty-five years of age or older, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned, with or without hard labor, for not more than five years to be served concurrently with the sentence imposed.

E. Nothing in this Section shall preclude a victim from pursuing civil remedies pursuant to R.S. 9:4856 or any other applicable provision of law.

RS 14:202.2 — Solar electric and solar thermal system contractors; solar tax credit fraud

or repair of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C), to claim a tax credit provided by R.S. 47:6030 or other provision of law against taxes owed to the state of Louisiana if the person:

(a) Has failed to perform or complete the installation of the system or failed to maintain or repair the system under the terms of the contract.

(b) Fails to maintain or repair the system under the terms of the contract subsequent to claiming the tax credit.

(2)(a) The knowing material failure by a contractor to perform or complete the installation of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C), or maintain or repair the system under the terms of the contract shall constitute solar installation fraud.

(b) Whoever commits the crime of solar installation fraud shall be subject to the penalty provisions provided for in R.S. 14:202.1.

B.(1) When the aggregate amount of the tax credit claimed is one thousand dollars or less, whoever violates the provisions of this Section upon conviction may be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned for not more than six months.

(2) When the aggregate amount of the tax credit claimed is greater than one thousand dollars, whoever violates the provisions of this Section upon conviction may be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned, with or without hard labor, for not more than six months for each one thousand dollars of the tax credit claimed, provided that the aggregate imprisonment shall not exceed five years.

C. The district attorney shall notify the Department of Revenue in writing of any prosecution under this Section.

D. Nothing contained in this Section shall be construed to prevent the state, through the attorney general, from asserting a cause of action to recover damages or penalties, or assess or collect a penalty, resulting from a violation of this Section.

E. The remedies and rights provided under this Section are in addition to and do not preclude any remedy otherwise available under law, including but not limited to the provisions of R.S. 51:1401 et seq.

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

G.(1) The attorney general may examine, or cause to be examined, by agents thereof, without notice, the conditions and affairs of any person who has received money from a contract for the sale, installation, maintenance, or repair of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C), and who has claimed a tax credit.

(2) In connection with an examination authorized by this Subsection, the attorney general, or his agents, may examine under oath any person concerning the affairs and business of the person who has received money from a contract for the sale, installation, maintenance, or repair of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C), and who has claimed a tax credit.

H. The provisions of this Section shall be applicable to entities engaging in the business of selling, leasing, installing, servicing, or monitoring solar energy equipment. Nothing in this Section shall be construed to impose civil or criminal liability on homeowners or on any third party whose involvement is limited to providing financing to the homeowner or financing for installation. Entities engaged in the business of arranging agreements for the lease or sale of solar energy systems or acquiring customers for financing entities shall not be exempt from the provisions of this Section.

RS 14:203 — Electrical appliances, sale without original factory serial number prohibited; penalty

appliances, such as radios, television sets, refrigerators, washing machines, ironers, dryers, gas or electric ranges, or air conditioners, without the appliance having the original factory serial number indicated thereon provided it is the custom of the manufacturer to place serial numbers on the appliances.

B. Whoever violates this Section shall be fined not more than one hundred dollars or imprisoned for not more than ninety days, or both.

RS 14:204 — Fire-raising on lands of another by criminal negligence; penalty

to any grass, leaves, brush, or debris on lands by the owner, or by the owner's agent or lessee, and allowing the fire to spread or pass to lands of another.

(2) The starting of fire with wood or other fuel on lands of another, without malice, for camping or other purposes, with failure to exercise sufficient precautions so as to prevent the fire from spreading to grass, leaves, brush, or other debris on the lands.

(3) The setting fire to grass, leaves, brush, or other debris on lands of another by means of casting aside a lighted match or lighted cigar or cigarette stub.

(4) The burning over or causing burning over to be done on any land which adjoins woodlands of another within the boundaries of any parish of this state wherein an organized fire protection unit is maintained by the state or federal government, or both, without first giving the protecting agency written notice of intention to burn over the lands, giving a description of the property which will reasonably describe the location where the burning shall begin, and the date on which the lands are to be burned over. For the purpose of this Section, an "organized fire protection unit" is defined to be any area in which an organized system of fire prevention and control is in effect.

B. Whoever commits the crime of fire-raising on lands of another by criminal negligence shall be fined not more than three hundred dollars or imprisoned for not more than thirty days, or both.

RS 14:204.1 — Fire-raising in a correctional facility; penalty

spark of any nature in a correctional facility by any means or method and without authorization of the warden or his designee.

(2) The failure to report to a correctional facility employee, or concealing from a correctional facility employee, the unauthorized starting, causing, or assisting in the creation of any fire, heat, or spark of any nature by another in a correctional facility.

B. For purposes of this Section, the following definitions shall apply:

(1) "Correctional facility" means any jail, prison, penitentiary, juvenile institution, temporary holding center, or detention facility.

(2) "Correctional facility employee" means any employee of any jail, prison, penitentiary, juvenile institution, temporary holding center, or detention facility.

C.(1) Whoever commits the crime of fire-raising in a correctional facility by violating the provisions of Paragraph (A)(1) of this Section shall be imprisoned with or without hard labor for not more than three years.

(2) Whoever commits the crime of fire-raising in a correctional facility by violating the provisions of Paragraph (A)(2) of this Section shall be imprisoned with or without hard labor for not more than one year.

(3) If at the time of the commission of the offense, the offender is under the jurisdiction and legal custody of the Department of Public Safety and Corrections, or is being detained in any correctional facility, the sentence imposed under this Section shall run consecutively to any other sentence being served by the offender at the time of the offense.

RS 14:205 — Fire-raising on lands of another with malice; penalty

e procuring same to be done.

B. Whoever commits the crime of fire-raising on lands of another with malice shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

RS 14:206 — Fire prevention interference; penalty

2) Injuring, destroying, removing or in any manner interfering with the use of any tools, equipment, towers, buildings, telephone lines, or life safety systems and equipment as defined in R.S. 40:1646(C), used in the detection, reporting or suppression of fire.

(3) Obstructing exits, impeding egress, or exceeding the capacity or posted occupant load of a building or structure.

(4) Unauthorized use or proximate display as defined in R.S. 51:650(9), of fireworks in a building or structure.

B. Whoever commits the crime of fire prevention interference shall be fined not more than five hundred dollars or imprisoned for a period of not more than six months, or both.

RS 14:206.1 — Engaging in life safety and property protection contracting without authority

roperty protection contracting, as defined in R.S. 40:1664.3, unless he holds an active license as required by R.S. 40:1664.4.

B. It shall be sufficient for the indictment, affidavit, or complaint to allege that the accused unlawfully engaged in life safety and property protection contracting without authority from the office of state fire marshal.

C.(1) Any person violating this Section shall be guilty of a misdemeanor and, upon

conviction, shall be imprisoned for not more than ninety days, fined not more than five hundred dollars per day of the violation, or both.

(2) Notwithstanding any action taken by the office of state fire marshal, any person who does not possess a license as required by R.S. 40:1664.4, and who violates any provision of this Section and causes harm or damage to another in excess of five hundred dollars, upon conviction, shall be imprisoned for up to six months, fined not less than five hundred dollars nor more than five thousand dollars, or both.

(3) Notwithstanding the provisions of R.S. 15:571.11, any fine assessed and collected pursuant to this Subsection shall be remitted to the Louisiana Life Safety and Property Protection Trust Dedicated Fund Account provided for in R.S. 40:1664.9.

RS 14:207 — Motor vehicles, alteration or removal of identifying numbers prohibited; sale, etc., of motor vehicle with altered identifying numbers prohibited; penalty; application of Section

cover, remove, deface, alter, or destroy the manufacturer's number or any other distinguishing number or identification mark on any motor vehicle, motor vehicle part, semi-trailer, or trailer as defined by R.S. 32:1 for the purpose of concealing or misrepresenting its identity; nor shall any person buy, sell, receive, dispose of, conceal, or knowingly have in his possession any motor vehicle, motor vehicle part, semi-trailer, or trailer as defined by R.S. 32:1 from or on which the manufacturer's number or any other distinguishing number or identification mark has been covered, removed, defaced, altered, or destroyed for the purpose of concealing or misrepresenting its identity.

B.(1) Whoever violates this Section shall be fined not more than two thousand dollars, or imprisoned with or without hard labor for not more than twenty-four months, or both, and, in default of fine, imprisoned with or without hard labor for not more than twelve months additional.

(2) On conviction of a second offense, the offender shall be fined not more than four thousand dollars, or imprisoned with or without hard labor for not more than forty-eight months, or both.

(3) On conviction of a third or subsequent offense, the offender shall be fined five thousand dollars and imprisoned with or without hard labor for not less than thirty-six months nor more than sixty months.

C. This Section shall apply to all vehicles propelled otherwise than by muscular power, except motor vehicles running upon rails or tracks.

RS 14:208 — Operas, performance or representation without consent of owner prohibited; penalty

shed or undedicated dramatic or musical composition known as an opera without the consent of its owner or proprietor, or knowing an opera is unpublished or undedicated, shall permit, aid, or take part in a public performance or representation without the consent of the owner or proprietor.

B. Whoever violates this Section shall, for every performance, be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not less than thirty days.

RS 14:209 — Seals, breaking prohibited; penalty

ty of any deceased person.

B. Whoever violates this Section shall be fined not more than one thousand dollars and imprisoned with or without hard labor for not more than two years.

RS 14:210 — Taxicabs, tampering with meter forbidden; penalty

or automobile for hire.

B. Whoever violates this Section shall be fined not less than fifty dollars nor more than two hundred dollars, or imprisoned for not less than six months nor more than one year, or both.

RS 14:211 — Repealed by Acts 2017, No. 281, §3.

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RS 14:212 — Forest products, false statement prohibited; penalty

shall willfully or knowingly make a false statement or cause a false statement to be made with regard to ownership or ownership interest of the forest products, with regard to ownership or ownership interest or tract name of the land where the forest products were harvested, or with regard to location of the land and property description of the land where the forest products were harvested.

B. Whoever violates this Section shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

RS 14:213 — False packing of cotton bales and other agricultural products; penalty

ultural products in such manner as is calculated to deceive persons with regard to quantity, weight, or quality of the product therein contained, whether the false packing of cotton bales or other agricultural products be accomplished by the wetting of the product packed, or by concealing in the interior of the packed product another substance, or by plating the product by concealing in the interior thereof material inferior in grade or quality to that on the exterior thereof, or by any other means.

B. Whoever commits the crime of false packing of cotton bales or other agricultural products shall be punished, for the first offense, by a fine of five hundred dollars, or imprisoned for not less than sixty days nor more than six months, or both. For any offense beyond the first, the offender shall be punished by a fine of one thousand dollars, or imprisoned for not less than sixty days nor more than six months, or both.

RS 14:214 — Fishing or hunting contest fraud

win any prize awarded in any fishing or hunting contest.

B. When the most valuable prize offered in the contest amounts to a value of less than one hundred dollars, the offender shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

C. When the most valuable prize offered in the contest amounts to a value of one hundred dollars or more, the offender shall be fined not more than three thousand dollars, imprisoned, with or without hard labor, for not more than one year, or both.

RS 14:217 — Purchase or sale of seafoods prohibited under certain conditions; penalties

or other seafood in a joint adventure or other undertaking whereby he receives a percentage of the proceeds of the sale of the catch, or a share of the catch itself, to sell or offer for sale any of such products, obtained in the joint adventure, except as provided for and in accordance with the terms and conditions of such joint adventure, without the express or implied consent of his co-adventurer or co-adventurers, or

(2) Who is employed on a salary or any other basis in the commercial catching or taking of fish, shrimp, oysters, or other seafood, to sell or offer for sale such products without the express or implied consent of his employer, or

(3) To purchase any fish, shrimp, oysters, or other seafood, knowing it is offered for sale in violation of Paragraph (1) or (2) of this Subsection.

B. Any person who violates any provision of this Section shall be, for the first offense, fined not less than one hundred dollars nor more than two hundred dollars and, for the second and subsequent offenses, shall be fined not less than five hundred dollars nor more than two thousand dollars, or be sentenced to serve not less than five days nor more than six months in the parish jail, or shall be punished by both such fine and imprisonment.

RS 14:218 — Seafood sales and purchases; commercial license required of seller; penalties

other seafood without having first obtained a valid commercial fishing, retail, or wholesale license as provided in Subpart A of Part VII of Chapter 1 of Title 56 of the Louisiana Revised Statutes of 1950. It shall be unlawful for any person, firm, or corporation, including any restaurant or retail establishment, to purchase any shrimp, oyster, fish, or other seafood from any person who does not possess a valid commercial fishing, retail, or wholesale license lawfully issued in his name or his employer's name as provided in the above-referenced Subpart A. The commercial fishing license required herein shall be one which authorizes the bearer to sell his catch. Such license or a copy thereof shall be in the possession of the seller and conspicuously displayed at all times when transacting any sale.

B. The provisions of this Section shall be enforceable by all law enforcement agencies throughout the state, in addition to agents of the Department of Wildlife and Fisheries and including but not limited to law enforcement officers of local governmental subdivisions.

C.(1) The following penalties shall be imposed for violation of the provisions of Subsection A of this Section:

(a) For the first offense, the fine shall be not less than five hundred dollars nor more than seven hundred fifty dollars, or imprisonment for not more than one hundred twenty days, or both.

(b) For the second offense, the fine shall be not less than seven hundred fifty dollars nor more than three thousand dollars and imprisonment for not less than ninety days nor more than one hundred eighty days.

(c) For the third offense, the fine shall be not less than one thousand dollars nor more than five thousand dollars and imprisonment for not less than one hundred eighty days nor more than two years.

(2) The above penalties in all cases shall include forfeiture of anything seized in connection with the violation and may include revocation of any applicable fishing, retail, or wholesale license under which the violation occurred for the period for which it is issued.

RS 14:219 — Removal of building or structure from immovable property subject to a conventional mortgage or vendor's privilege

a conventional mortgage or vendor's privilege affecting the immovable property, any building or other structure, or any part of a building or other structure, or any item which was so attached to or connected with any such building or structure as to become subject to a conventional mortgage or vendor's privilege affecting the immovable property at the time of the execution of the mortgage or act creating the vendor's privilege, with intent to defraud and without first obtaining the written consent of all holders of conventional mortgages or vendor's privileges affecting the immovable property shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than two thousand dollars, or imprisoned for not more than one (1) year, or both, at the discretion of the Court.

RS 14:220 — Rented or leased motor vehicles; obtaining by false representation, etc.; failure to return; defenses; penalties

f the motor vehicle by means of any false or fraudulent representation including but not limited to a false representation as to his name, residence, employment, or operator's license, or by means of fraudulent concealment, or false pretense or personation, or trick, artifice, or device; or, if the person with fraudulent intent willfully refuses to return the leased vehicle to the lessor after the expiration of the lease term as stated in the lease contract, the person shall be guilty of a felony and upon conviction thereof shall be subject to the penalty provided for in Subsection B of this Section. Except as provided in Subsection D of this Section, the offender's failure to return or surrender the motor vehicle within seven calendar days after notice to make such return or surrender has been sent by certified mail to the offender's last known address, or has been delivered by commercial courier as defined in R.S. 13:3204(D), shall be presumptive evidence of his intent to defraud, and the lessor may report to any law enforcement agency that the rented or leased motor vehicle has been stolen.

B. Any person found guilty of violating the provisions of this Section shall be fined not more than five hundred dollars or imprisoned not more than five years with or without hard labor, or both.

C. It shall be a complete defense to any civil action arising out of or involving the arrest or detention of any person renting or leasing a motor vehicle that any representation made by him in obtaining or retaining possession of the vehicle is contrary to the fact.

D. It shall be a complete defense to any civil action arising out of or involving the arrest or detention of any person, upon whom such demand was personally made or personally served, that he failed to return the vehicle to the place specified in the rental agreement within such seventy-two hour period.

RS 14:220.1 — Leased movables; obtaining by false representation; failure to return or surrender; penalties; restitution

Making a false statement or false representation of a material fact, where such false statement or false representation is made with the intent to obtain or retain possession of the movable; or

(2) Intentionally failing to return or surrender the movable when obligated under the terms of the lease, or after the expiration or cancellation of the lease. The lessee's failure to return or surrender the movable within fifteen calendar days or the number of days for which the movable was leased, whichever is less, after the date written notice requesting return or surrender of the movable was delivered or tendered to the lessee's last known address shall be presumptive evidence that the failure to return or surrender the movable was intentional. In order for the presumption to arise, the written notice

must be sent by the lessor or the district attorney by means of registered or certified mail.

B.(1) Whoever violates the provisions of this Section when the value of the leased movable is less than one thousand dollars shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) Whoever violates the provisions of this Section when the value of the leased movable is one thousand dollars or more shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

C. When a defendant is convicted of violating Paragraph (A)(2) and the notice requirements of Paragraph (A)(2) are complied with, a court shall order, in addition to or in lieu of the penalty in Subsection B, upon proof established by a preponderance of the evidence, that defendant pay restitution to the victim for all acknowledged appropriate fees assessed for intentional failure to return or surrender the leased movable after the agreed rental period or lease term or in the amount of lost profit resulting from the defendant's failure to return or surrender the movable as stated under the terms of the lease, or after the expiration or cancellation of the lease. The court may permit the prosecuting attorney to present evidence of the amount of the victim's lost profits either at the trial of the matter or at the sentencing of the defendant.

D. The offender's failure to return or surrender a video cassette film or tape that has been rented from a facility which rents video cassette films or tapes within thirty calendar days after notice to make such return or surrender has been sent by certified mail to the offender's last known address shall be presumptive evidence of his intent to defraud and the lessor may report to any law enforcement agency that the rented video cassette film or tape has been stolen.

RS 14:221 — Avoiding payment for telecommunications services, cable television services, or multipoint distribution system service

t distribution system services is the avoidance, attempt to avoid, or the causing of another person to avoid, the lawful charges, in whole or in part, for any telephone, telegraph, cable, or multipoint distribution system service utilized or for the transmission of a message, signal, or other communication over telephone, telegraph, cable facilities, or multipoint distribution system:

(1) By the use of a code, prearranged scheme, or other similar stratagem or device whereby such person, in effect, sends or receives information; or

(2) By rearranging, tampering or interfering with, or making unauthorized connection with any facilities or equipment of a telephone or telegraph company, whether physically, inductively, acoustically, or otherwise; or

(3) By intercepting and decoding a transmission by a multipoint distribution system without the authorization of the provider of the service, the person intentionally or knowingly attaches to, causes to be attached to, or incorporates in a television set, video tape recorder, or other equipment designed to receive a television transmission a device that intercepts and decodes the transmission.

(4) By the use of any other fraudulent means, method, trick, or device.

B.(1) On a first conviction, the offender shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

(2) On a second conviction, the offender shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

C. Nothing herein shall prohibit the use of earth station receivers to receive satellite communications.

RS 14:222 — Possession, manufacture, sale or transfer of devices for avoidance of payment for telecommunications services or related offenses; seizure of devices

ngly do either of the following:

(1) Make or possess any instrument, apparatus, equipment, or device designed, adapted, or which can be used for either of the following purposes:

(a) For commission of a crime in violation of R.S. 14:67.

(b) To conceal, or to assist another to conceal, from any supplier of telecommunications services or from any lawful authority the existence or place of origin or destination of any telecommunications.

(2) Sell, give, transport, or otherwise transfer to another, or offer or advertise to sell, give, or otherwise transfer, any instrument, apparatus, equipment, or device described in Paragraph (1) of this Subsection, or plans or instructions for making or assembling it, under circumstances evincing an intent to use or employ such instrument, apparatus, equipment, or device, or to allow it to be used or employed, for a purpose described in Subparagraph (1)(a) or (1)(b) of this Subsection, or knowing or having reason to believe that it is intended to be so used, or that the aforesaid plans or instructions are intended to be used for making or assembling such instrument, apparatus, equipment, or device.

B.(1) Whoever violates any provision of this Section shall, on first conviction, be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(2) On a second conviction, the offender shall be fined not more than two thousand dollars, or imprisoned for not more than one year, or both.

C. Any such instrument, apparatus, equipment, or device, or plans or instructions therefor, may be seized by court order under a search warrant or incident to a lawful arrest, and upon the conviction of any person for a violation of any provision of this Section, or R.S. 14:67, 67.3, or 221, such instrument, apparatus, equipment, device, plans, or instructions shall either be destroyed as contraband by the sheriff of the parish in which such person was convicted or turned over to the telephone company in whose territory such instrument, apparatus, equipment, device, plans, or instructions were seized.

D. The provisions of this Section shall not apply to privately owned communications equipment which is not connected with, or does not use the equipment or facilities of a telecommunications supplier regulated by a duly constituted governmental authority; nor shall the provisions of this Section apply to privately owned communications equipment which is connected with or does use the equipment or facilities of such telecommunications supplier when such connection or use is lawful and in accord with the tariffs of such supplier or is made with the consent of such supplier.

E. Nothing herein shall apply to public service and emergency communications performed by holders of valid Federal Communications Commission radio amateur licenses without charge on the part of such licensees; provided that nothing herein shall excuse any person from compliance with lawful tariffs or any telecommunications company.

F. Nothing herein shall apply to the sale of premises reception equipment by other than an operating cable company, so long as the equipment sold is not capable of descrambling cable signals.

G. Nothing herein shall be construed to allow, permit, or encourage the unauthorized interception of cable services.

RS 14:222.1 — Unauthorized interception, interference with, or retransmission of services offered over a cable television system

ch, modify, alter, remove, or tamper with any equipment, device, or television or radio component for the purpose of intercepting, receiving, or retransmitting without the authorization of a cable television system any and all services provided by or through the facilities of that system; or

(2) Manufacture, sell, offer for sale, transfer, rent, or distribute any device, equipment, plans, schematics, instructions, kit, technology, software, electronic serial number, address, media access control address, Internet protocol address, account number, telephone number, credit number, code, personal identification number, dynamic host configuration protocol, counterfeit or clone device or component, tumbler microchip, cable television decoding device, or smart card, which is primarily designed, manufactured, sold, possessed, used, or offered for the purpose of violating this Section.

(3) Disrupt or interfere with the provision of services offered over a cable television system.

B. For the purposes of this Section the phrase "all services provided by or through the facilities of a cable television system" means for a charge or compensation to facilitate the programming, origination, transmission, projection, emission, or reception of signs, signals, data, audio, visual, writings, images, sounds, or intelligence of any nature including programming services, Internet access, and bandwidth.

C. For purposes of Subsections D and E of this Section, "second or subsequent offense" shall mean a violation of this Section, R.S. 14:67, 67.3, 222, 222.2, or 223 through 223.8 or any other law of this state prohibiting any of the actions set forth in Subsection A of this Section.

D. Whoever violates the provisions of Paragraph (A)(1) of this Section shall:

(1) On first offense, be fined not more than one thousand dollars; and

(2) On second or subsequent offense, be fined not more than twenty-five thousand dollars or imprisoned for not more than sixty days, or both.

E. Whoever violates the provisions of Paragraph (A)(2) of this Section shall:

(1)(a) On a first offense, when the offender is convicted of manufacturing, selling, transferring, renting, or selling five or less components enumerated in Paragraph (A)(2) of this Subsection, be fined not more than five thousand dollars or be imprisoned for not more than six months.

(b) On a first offense, when the offender is convicted of manufacturing, selling, transferring, renting, or selling six or more components enumerated in Paragraph (A)(2) of this Section, or for any violation of Paragraph (A)(3) of this Section, be fined not more than twenty-five thousand dollars or be imprisoned for not more than two years, or both.

(2) For the second and subsequent violations of Paragraph (A)(2) or Paragraph (A)(3) of this Subsection, the offender shall be punished by a fine not exceeding one hundred thousand dollars or by imprisonment for not more than two years, or both.

F. Any such equipment, or a kit for making such equipment herein, may be seized by court order under a search warrant or incident to lawful arrest; and upon the conviction of any person for a violation of this Section or R.S. 14:67, 67.3, 222, 222.2 or 223 through 223.8 inclusive, such equipment or kit shall either be destroyed as contraband by the parish in which such person was convicted or turned over to the cable television system in whose territory such equipment or kit was seized.

G. It shall not be a violation of this Section to manufacture, distribute, or sell any device used for legal purposes merely because the same device is capable of being used to commit a violation of this Section, if the manufacturer, distributor, or seller does not act with the intent that such device will be used for conduct violating this Section.

H. This Section shall not be construed to impose any criminal liability upon any state or local law enforcement agency, any state or local governmental agency, municipality, or any communications service provider, cable television company or multipoint distribution system, unless such entity knowingly and intentionally violates the provisions of this Section.

RS 14:222.2 — Cellular telephone counterfeiting

computer chip by its manufacturer and the operation of which is dependent on the transmission of that electronic serial number along with a mobile identification number, which is assigned by the cellular telephone carrier, in the form of radio signals through cell sites and mobile switching stations.

(2) "Cloned cellular telephone" or "counterfeit cellular telephone" means a cellular telephone the electronic serial number of which has been altered from the electronic serial number that was programmed in the phone by the manufacturer.

(3) "Cloning paraphernalia" means materials that, when possessed in combination, are necessary for and capable of the creation of a cloned cellular telephone. These materials include scanners to intercept the electronic serial number and mobile identification number, cellular telephones, cables, EPROM chips, EPROM burners, software for programming the microchip of the cloned cellular telephone with a false electronic serial number and mobile identification number combination, a computer containing such software, and lists of electronic serial number and mobile identification number combinations.

(4) "Electronic serial number" means the unique numerical algorithm that is programmed into the microchip of each cellular telephone by the manufacturer and is vital to the successful operation and billing of the telephone.

(5) "Intercept" means to electronically capture, record, reveal, or otherwise access the signals emitted or received during the operation of a cellular telephone without the consent of the sender or receiver thereof, by means of any instrument, device, or equipment.

(6) "Mobile identification number" means the cellular telephone number assigned to the cellular telephone by the cellular telephone carrier.

(7) "Possess" means to have physical possession of or otherwise to exercise dominion or control over tangible property.

B. It is unlawful for any person to knowingly possess a cloned cellular telephone. Any person found guilty of knowingly possessing a cloned cellular telephone shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

C. It is unlawful for any person to knowingly sell a cloned cellular telephone. Any person found guilty of knowingly selling a cloned cellular telephone shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

D. It is unlawful for any person to knowingly possess an instrument capable of intercepting electronic serial number and mobile identification number combinations or other cloning paraphernalia under circumstances evidencing an intent to clone a cellular telephone. Any person violating this provision shall be fined not more than seven thousand five hundred dollars and imprisoned with or without hard labor for not less than five years nor more than seven years.

E. On a second and subsequent conviction of any of the offenses provided for in this Section, the offender shall be fined not less than ten thousand dollars nor more than fifteen thousand dollars and imprisoned with or without hard labor for not more than ten years.

F. Nothing herein shall make unlawful the possession or use of cloning paraphernalia, a cloned cellular telephone, or any intercept by a law enforcement officer or persons acting pursuant to a lawful court order in the course of a criminal investigation.

RS 14:222.3 — Unlawful use of a cellular tracking device; penalty

f collecting, intercepting, accessing, transferring,

or forwarding the data transmitted or received by the communications device, or stored on the communications device of another without the consent of a party to the communication and by intentionally deceptive means.

B. For the purposes of this Section:

(1) "Cellular tracking device" means a device that transmits or receives radio waves to or from a communications device in a manner that interferes with the normal functioning of the communications device or communications network and that can be used to intercept, collect, access, transfer, or forward the data transmitted or received by the communications device, or stored on the communications device; includes an international mobile subscriber identity (IMSI) catcher or other cell phone or telephone surveillance or eavesdropping device that mimics a cellular base station and transmits radio waves that cause cell phones or other communications devices in the area to transmit or receive radio waves, electronic data, location data, information used to calculate location, identifying information, communications content, or metadata, or otherwise obtains this information through passive means, such as through the use of a digital analyzer or other passive interception device; and does not include any device used or installed by an electric utility solely to the extent such device is used by that utility to measure electrical usage, to provide services to customers, or to operate the electric grid.

(2) "Telecommunications device" means any type of instrument, device, or machine that is capable of transmitting or receiving telephonic, electronic, radio, text, or data communications, including but not limited to a cellular telephone, a text-messaging device, a personal digital assistant, a computer, or any other similar wireless device that is designed to engage in a call or communicate text or data. It does not include citizens band radios, citizens band radio hybrids, commercial two-way radio communication devices, or electronic communication devices with a push-to-talk function.

C. The provisions of this Section shall not apply to any of the following:

(1) An investigative or law enforcement officer, judicial officer, probation or parole officer, or employee of the Department of Public Safety and Corrections using a cellular tracking device when that person is engaged in the lawful performance of official duties and in accordance with other state or federal law, including using a cellular tracking device in accordance with the Electronic Surveillance Act and pursuant to a court order as provided

for in R.S. 15:1317 and 1318.

(2) An operator of a switchboard, or any officer, employee, or agent of any electronic communications carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is necessary to his service or to the protection of the rights or property of the carrier of such communication; however, such communications common carriers shall not utilize service observing or random monitoring, except for mechanical or service quality control checks.

(3) An officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of Chapter 5 of Title 47 of the United States Code.

(4) The owner of a motor vehicle, including the owner of a vehicle available for rent, who has consented to the use of the tracking device with respect to that vehicle.

(5) The lessor or lessee of a motor vehicle and the person operating the motor vehicle who have consented to the use of a tracking device with respect to that vehicle.

(6) An automobile manufacturer, its affiliates, subsidiaries, or a related telematics provider installing a feature that could be considered a tracking device with respect to that vehicle.

(7)(a) A parent or legal guardian of a minor child whose location or movements are being tracked by the parent or legal guardian.

(b) When the parents of the minor child are living separate and apart or are divorced from one another, this exception shall apply only if both parents consent to the tracking of the minor child's location and movements, unless one parent has been granted sole custody, in which case consent of the noncustodial parent shall not be required.

(8) The Department of Public Safety and Corrections tracking an offender who is under its custody or supervision.

(9) Any provider of a commercial mobile radio service (CMRS), such as a mobile telephone service or vehicle safety or security service, which allows the provider of CMRS to determine the location or movement of a device provided to a customer of such service.

(10) Any commercial motor carrier operation.

(11) A provider of a mobile application or similar technology that a consumer affirmatively chooses to download onto the consumer's wireless device, or any technology used in conjunction with the mobile application or similar technology.

(12) Any use of technology provided by an entity based upon the prior consent of a consumer for such use.

(13) A person acting in good faith on behalf of a business entity for a legitimate business purpose.

(14) A law enforcement agency conducting training or calibration and maintenance of tracking equipment on the cell phone of another law enforcement officer who has given consent for his phone to be tracked for training or calibration and maintenance purposes.

(15) Any person who has more than one cellular phone or similar wireless

telecommunications device as part of a wireless service plan contract and who is ascertaining or attempting to ascertain the location of any telecommunications device that is part of that plan.

(16) Any person who has a cellular phone or similar wireless telecommunications device and wireless service plan contract, or a wireless service provider at the person's direction, who is ascertaining or attempting to ascertain the location of any telecommunications device that is part of that plan and that has been lost or stolen.

D. Whoever violates the provisions of this Section shall be fined not more than three thousand dollars, imprisoned with or without hard labor for not more than two years, or both.

RS 14:223 — Sound reproductions without consent prohibited

, or circulated, directly or indirectly, or possesses for such purposes, any sounds recorded on any article for a consideration without the consent of the owner within the state of Louisiana shall be guilty of a criminal offense and punished as provided in R.S. 14:223.3. This Section applies only to sound recordings and does not apply to motion pictures or other audiovisual works.

RS 14:223.1 — Terms defined

disc, master tape, master film, master audio or video cassette, or other device now known or later developed, used for reproducing recorded sounds or images on phonograph records, discs, tapes, films, video cassettes, or other articles or media on which sound is or may be recorded and from which the transferred recorded sounds are directly or indirectly derived. As used in R.S. 14:223.5, "owner" means the person who owns the sounds and images or the rights to authorize the recording of the sounds or images of any performance not fixed in a tangible medium of expression.

(2) "Person" means any individual, partnership, corporation, association, or any other legal entity.

(3) "Recording" and "article" mean any original phonograph record, disc, tape, audio or visual cassette, wire, film, or other medium known or later developed on which sounds or images are recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original.

(4) "Audiovisual work" means a series of related images intended to be shown through the use of mechanical or electronic devices, together with accompanying sounds, if any.

(5) "Motion picture" means an audiovisual work consisting of a series of images which, when shown in succession, impart an impression of motion together with accompanying sounds, if any.

(6) "Phonorecord" means a material object in which sounds other than those accompanying a motion picture or other audiovisual work are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated directly or with the aid of a machine or device. Phonorecord includes the material object in which the sound is first fixed.

(7) "Counterfeit label" means an identifying label or container that appears to be genuine but is not.

RS 14:223.2 — Exceptions

n with broadcast transmissions or related uses or for archival purposes.

RS 14:223.3 — Penalties

(1) For the first offense of a violation of R.S. 14:223, 223.5, or 223.6 involving fewer than one hundred phonorecords; a violation of R.S. 14:223.7 involving fewer than one hundred counterfeit labels affixed or designed to be affixed to phonorecords; a violation of R.S. 14:223.6 involving fewer than one hundred articles upon which motion pictures or other audiovisual works are recorded; or a violation of R.S. 14:223.7 involving fewer than one hundred counterfeit labels affixed or designed to be affixed to articles upon which motion pictures or other audiovisual works are or are to be recorded, the offender shall be punished by a fine of not more than five thousand dollars or by imprisonment not exceeding six months, or both.

(2) For the first offense of a violation of R.S. 14:223.8, the offender shall be punished by a fine not exceeding twenty-five thousand dollars, or by imprisonment for not more than two years with or without hard labor, or both.

(3) For any offense of a violation of R.S. 14:223, 223.5, or 223.6 involving one hundred or more phonorecords; a violation of R.S. 14:223.7 involving one hundred or more counterfeit labels affixed or designed to be affixed to phonorecords; a violation of R.S. 14:223.6 involving one hundred or more articles upon which motion pictures or other audiovisual works are recorded; or a violation of R.S. 14:223.7 involving one hundred or more counterfeit labels affixed or designed to be affixed to articles upon which motion pictures or other audiovisual works are or are to be recorded, the offender shall be punished by a fine not exceeding fifty thousand dollars or by imprisonment for not more than five years with or without hard labor, or both.

(4) For the second and subsequent violations of R.S. 14:223 through 223.8, the offender shall be punished by a fine not exceeding one hundred thousand dollars, or by imprisonment for not less than two years nor more than five years with or without hard labor, or both.

(5) Whenever any person is convicted of any violation of R.S. 14:223 through 223.8, the court in its judgment of conviction may, in addition to any other penalty, order the forfeiture and destruction or other disposition of all unlawful recordings, counterfeit labels, and all implements, devices, and equipment used or intended to be used in the manufacture of the unlawful recordings or counterfeit labels. The court may enter an order preserving such recordings, labels, implements, devices, or equipment as evidence for use in other cases or pending the final determination of an appeal.

RS 14:223.4 — Civil remedies preserved

, No. 122, §1.

RS 14:223.5 — Recording of performances without consent prohibited

Is, distributes, circulates, or causes to be sold, distributed, or circulated, directly or indirectly, or possesses for such purposes, a recording of any performance whether live before an audience or transmitted by wire or through the air by radio or television with intent to sell or cause to be sold or used to promote the sale of any article or product within the state of Louisiana shall be guilty of a criminal offense and punished as provided in R.S. 14:223.3.

RS 14:223.6 — Rental or sale of improperly labeled articles prohibited

es, or causes to be sold, resold, distributed, or circulated, or possesses for such purposes, any recording the cover, label, or jacket of which fails to conspicuously display thereon in clearly readable print, the true name and address of the manufacturer and the name of any actual performer or group thereof shall be guilty of a criminal offense and punished as provided in R.S. 14:223.3.

RS 14:223.7 — Counterfeiting or possessing counterfeit labels prohibited

a counterfeit label affixed or designed to be affixed to a recording within the state of Louisiana shall be guilty of a criminal offense and punished as provided in R.S. 14:223.3.

RS 14:223.8 — Possessing of tools and equipment used for manufacturing unauthorized sound recordings prohibited

Is any electronic, mechanical, or other device for manufacturing or reproducing recordings or counterfeit labels, or who possesses or controls any tool, implement, instrument, or thing, used, fitted, or intended to be used for such purposes within the state of Louisiana shall be guilty of a criminal offense and punished as provided in R.S. 14:223.3.

RS 14:223.9 — Unlawful operation of a recording device

part thereof, including the audio portion, by means of any technology now known or later developed.

(2) "Motion picture theater" means a movie theater, screening room, or other venue that is being utilized primarily for the exhibition of a motion picture at the time of the offense.

B. It is unlawful for any person to knowingly operate the audiovisual recording function of any device in a motion picture theater while a motion picture is being exhibited without the written consent of the motion picture theater owner.

C.(1) Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) On a second or subsequent conviction, the offender shall be fined not more than five thousand dollars or imprisoned, with or without hard labor, for not more than five years, or both.

(3) For the purposes of this Section, "conviction" also includes a conviction for a similar offense under the law of another state or the federal government.

D. The owner or lessee of a motion picture theater, or the authorized agent or employee of such owner or lessee, who alerts law enforcement authorities of an alleged violation of this Section shall not be liable in any civil action arising out of actions taken by such owner, lessee, agent, or employee in the course of subsequently detaining a person believed in good faith to have violated the provisions of this Section unless the plaintiff can show by clear and convincing evidence that such measures were manifestly unreasonable or the period of detention was for an unreasonable length of time.

E. This Section shall not prevent any lawfully authorized investigative, law enforcement protective, or intelligence gathering employee or agent of the local, state, or federal government, from operating any audiovisual recording device in a motion picture theater, as part of lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities.

F. Nothing in this Section shall be construed to prevent prosecution under any other provision of law providing for a greater penalty.

RS 14:224 — Transportation of water from St. Tammany Parish prohibited; penalties

surface water from the parish of St. Tammany to any person, firm, corporation, municipality or city located outside of said parish; provided, however, that the provisions of this section shall not be construed to prohibit any person, firm or corporation engaged in the business of selling or furnishing to consumers bottled water from wells which are situated within the said parish.

B. Any violation of this law shall be punishable by a fine of not more than five thousand dollars or by a jail sentence of not more than six months, and each day of continued violation shall constitute a separate offense.

RS 14:225 — Institutional vandalism

ilding, structure, or place used for religious worship or other religious purpose.

(2) Any cemetery, mortuary, or other facility used for the purpose of burial or memorializing the dead.

(3) Any school, educational facility, or community center.

(4) The grounds adjacent to and owned or rented by any institution, facility, building, structure, or place described in Paragraphs (1), (2) or (3) above.

(5) Any personal property contained in any institution, facility, building, structure, or place described in Paragraphs (1), (2), or (3) above.

(6) Any building owned by the United States, state of Louisiana, or a political subdivision of this state.

B. Institutional vandalism is punishable as follows:

(1) When the damage is less than five hundred dollars, the offender shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

(2) When the damage amounts to five hundred dollars but less than fifty thousand dollars, the offender shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than two years or both.

(3) When the damage amounts to fifty thousand dollars or more, the offender shall be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than one nor more than ten years, or both.

C. In determining the amount of damage to or loss of property, damage includes the cost of repair or replacement of the property that was damaged or lost.

RS 14:226 — Protection of owners of crayfish farms; penalties

express consent of the owner is first obtained.

B. A domestic crayfish farm for the purposes of this Section means an earthen reservoir constructed so as to prevent the free ingress and egress of crayfish from public waters and on which the owner of private property cultivates, grows, harvests and markets domesticated crayfish that are spawned, grown, cultivated, managed, harvested and marketed on an annual, biennial or short term basis in privately owned waters which do not form a part of natural streams or lakes.

C. Whoever violates Subsection A of this Section shall, upon conviction thereof, be imprisoned for not more than one year or be subject to a fine of not less than fifty dollars nor more than three hundred dollars, or both.

RS 14:227 — Identification number, personal property, alteration or removal prohibited

or identification mark on any pipeline or oil and gas equipment for the purpose of concealing or misrepresenting its identity; nor shall any person knowingly buy, sell, receive, dispose of, conceal, or knowingly have in his possession any pipeline or oil and gas equipment from or on which the manufacturer's number or any other distinguishing number or identification mark has been covered, removed, defaced, altered, or destroyed, for the purpose of concealing or misrepresenting its identity.

B. The following definitions shall apply for the purpose of this Section, unless the context clearly requires otherwise:

(1) "Pipeline equipment" means all pipe, fittings, pumps, telephone and telegraph lines, and all other material and equipment used or intended to be used as part of or incident to the construction, maintenance, and operation of a pipeline for the transportation of oil, gas, water, or other liquid or gaseous substance.

(2) "Oil and gas equipment" means equipment and materials that are part of or incident to the development, maintenance, and operation of oil and gas properties, and includes equipment and materials that are part of or incident to the construction, maintenance, and operation of oil and gas wells, oil and gas leases, gasoline plants, and refineries.

C. Whoever violates this Section shall be fined not more than one thousand dollars or imprisoned for not more than twelve months, or both; and in default of fine, shall be imprisoned for not more than twelve additional months.

RS 14:228 — Interference with animal research facilities or animal management facilities

mal from an animal research facility or an animal management facility.

(2) To damage, vandalize, or steal any property from or on an animal research facility or an animal management facility.

(3) To obtain access to an animal research facility or an animal management facility by false pretenses for the purpose of performing acts described in Paragraphs (1) and (2) of this Subsection.

(4) To break and enter into any animal research facility or animal management facility with the intent to destroy, alter, duplicate, or obtain unauthorized possession of records, data, materials, equipment, or animals.

(5) To enter or remain on an animal research facility or an animal management facility with the intent to commit an act prohibited in Paragraphs (1) and (2) of this Subsection.

(6) To knowingly obtain or exert unauthorized control, by theft or deception, over records, data, material, equipment, or animals of any animal research facility or animal management facility for the purpose of depriving the legal owner of an animal research facility or animal management facility of records, material, data, equipment, or animals or for the purpose of using, concealing, abandoning, or destroying such records, material, data, equipment, or animals.

(7) To possess or use records, material, data, equipment, or animals or in any way to copy or reproduce records or data of an animal research facility or animal management facility, knowing or reasonably believing such records, material, data, equipment, or animals to have been obtained by theft or deception or without authorization of that facility.

B.(1) "Animal research facility" as used herein means that portion of the premises of an accredited institution of higher learning located within the state that is engaged in legitimate scientific, medical, or veterinary medicine research involving the use of animals.

(2) "Animal management facility" as used herein means that portion of any vehicle, building, structure, or premises, where an animal is kept, handled, housed, exhibited, bred, or offered for sale, and any agricultural trade association properties. Animal management facility also means that portion of any vehicle, building, structure, premises, property, or equipment used in the conduction of authorized wildlife management practices, including but not limited to the control of animals that damage property, natural resources, or human health and safety.

C. Whoever violates any provision of this Section shall be fined not more than five thousand dollars or imprisoned, with or without hard labor, for not more than one year, or both.

RS 14:228.1 — Unauthorized release of certain animals, birds, or aquatic species

h has been lawfully confined for agriculture, science, research, commerce, public propagation, protective custody, or education.

B. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned for not more than one year, or both.

RS 14:229 — Illegal use of counterfeit trademark; penalties

demark.

B. For the purposes of this Section:

(1) "Person" shall include an individual, corporation, partnership, association, or other body of persons, whether incorporated or not.

(2) "Counterfeit trademark" shall mean a false trademark that is identical to or substantially indistinguishable from:

(a) A genuine trademark registered on the principal register in the United States Patent and Trademark Office and used or intended for use on or in connection with goods or services; or

(b) A genuine trademark specifically protected by any state or federal statute.

C. Whoever violates the provisions of this Section shall be fined not more than ten thousand dollars, or be imprisoned with or without hard labor for not more than five years, or both.

D. In lieu of a fine otherwise authorized by law, any person convicted of engaging in conduct in violation of the provisions of this Section through which said person derived pecuniary value, or by which said person caused personal injury or property damage or other loss, may be sentenced to pay a fine that does not exceed three times the gross value gained or three times the gross loss caused, whichever is greater. The court shall hold a hearing to determine the amount of the fine authorized by this Subsection.

RS 14:230 — Money laundering; transactions involving proceeds of criminal activity

attempt to

commit the offense, that is classified as a felony under the laws of this state or the United States or that is punishable by confinement for more than one year under the laws of another state.

(2) "Funds" means any of the following:

(a) Coin or paper money of the United States or any other country that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issue.

(b) United States silver certificates, United States Treasury notes, and Federal Reserve System notes.

(c) Official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country and foreign bank drafts.

(d) Electronic or written checks, drafts, money orders, traveler's checks, or other electronic or written instruments or orders for the transmission or payment of money.

(e) Investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery.

(3) "Peace officer" has the same meaning as in R.S. 40:2402(1)(a).

(4) "Proceeds" means funds acquired or derived directly or indirectly from or produced or realized through an act.

B. It is unlawful for any person knowingly to do any of the following:

(1) Conduct, supervise, or facilitate a financial transaction involving proceeds known to be derived from criminal activity, when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or the control of proceeds known to be derived from such violation or to avoid a transaction reporting requirement under state or federal law.

(2) Give, sell, transfer, trade, invest, conceal, transport, maintain an interest in, or otherwise make available anything of value known to be for the purpose of committing or

furthering the commission of any criminal activity.

(3) Direct, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds known to be derived from any violation of criminal activity.

(4) Receive or acquire proceeds derived from any violation of criminal activity, or knowingly or intentionally engage in any transaction that the person knows involves proceeds from any such violations.

(5) Acquire or maintain an interest in, receive, conceal, possess, transfer, or transport the proceeds of criminal activity.

(6) Invest, expend, or receive, or offer to invest, expend, or receive, the proceeds of criminal activity.

C. It is a defense to prosecution under this Section that the person acted with intent to facilitate the lawful seizure, forfeiture, or disposition of funds or other legitimate law enforcement purpose pursuant to the laws of this state or the United States.

D. It is a defense to prosecution under this Section that the transaction was necessary to preserve a person's right to representation as guaranteed by the Sixth Amendment of the Constitution of the United States and by Article I, Section 13 of the Constitution of Louisiana or that the funds were received as bona fide legal fees by a licensed attorney and, at the time of their receipt, the attorney did not have actual knowledge that the funds were derived from criminal activity.

E.(1) Whoever violates the provisions of this Section, if the value of the funds is less than three thousand dollars, may be imprisoned for not more than six months or fined not more than one thousand dollars, or both.

(2) Whoever violates the provisions of this Section, if the value of the funds is three thousand dollars or more but less than twenty thousand dollars, may be imprisoned with or without hard labor for not less than two years nor more than ten years and may be fined not more than ten thousand dollars.

(3) Whoever violates the provisions of this Section, if the value of the funds is twenty thousand dollars or more but less than one hundred thousand dollars, shall be imprisoned at hard labor for not less than two years nor more than twenty years and may be fined not more than twenty thousand dollars.

(4) Whoever violates the provisions of this Section, if the value of the funds is one hundred thousand dollars or more, shall be imprisoned at hard labor for not less than two years nor more than fifty years and may be fined not more than fifty thousand dollars.

RS 14:230.1 — Civil remedies

(2) "Criminal activity" means any of the offenses listed in Subsection B of this Section, including conspiracy, principals, and attempts to commit any of the listed offenses that are classified as a felony under the laws of this state or of the United States.

(3) "Facilitating property" means any property used to commit the offense.

(4) "Proceeds" means funds acquired or derived directly or indirectly from or produced or realized through an act.

B. All facilitating property, proceeds, and commingled funds, without limitation to

commingled funds of persons who knowingly or should have reasonably known of the foregoing criminal activity, shall be subject to seizure and forfeiture if involved in or derived from any of the following offenses:

- (1) Identity theft (R.S. 14:67.16).
- (2) Access device fraud (R.S. 14:70.4).
- (3) Illegal transmission of monetary funds (R.S. 14:70.8).
- (4) Bank fraud (R.S. 14:71.1).
- (5) Monetary instrument abuse (R.S. 14:72.2).
- (6) Computer fraud (R.S. 14:73.5).
- (7) Money laundering; transactions involving proceeds derived from criminal activity (R.S. 14:230).

C.(1) Any facilitating property, proceeds, and commingled funds subject to forfeiture under this Section may be seized under process issued by any court of record having jurisdiction over the facilitating property, proceeds, and commingled funds except that seizure without such process may be made when either of the following exists:

(a) The seizure is incident to an arrest with probable cause or a search under a valid search warrant or with probable cause or an inspection under valid administrative inspection warrant.

(b) The facilitating property, proceeds, and commingled funds subject to seizure have been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this Section.

(2)(a) All forfeitures or dispositions under this Section shall be made with due provisions for the rights of factually innocent persons. No mortgage, lien, privilege, or other security interest recognized under the laws of Louisiana and no ownership interest in indivision shall be affected by a forfeiture if the owner of such mortgage, lien, privilege, or other security interest, or owner in indivision establishes that he is a factually innocent person. No forfeiture or disposition under this Section shall affect the rights of factually innocent persons.

(b) Notwithstanding any provision of law to the contrary, a mortgage, lien, or security interest held by a federally insured financial institution shall not be affected by the seizure and forfeiture provisions of this Section.

(c) Notice of pending forfeiture or disposition shall be provided by the district attorney in accordance with the requirements of R.S. 40:2608(3) or R.S. 14:90.1(B)(3).

D. In the event of a seizure under Subsection C of this Section, a forfeiture proceeding shall be instituted promptly. Any facilitating property, proceeds, and commingled funds taken or detained under this Section shall not be subject to sequestration or attachment but are deemed to be in the custody of the law enforcement officer making the seizure, subject only to the order of the court. When property is seized under this Section, pending forfeiture and final disposition, the law enforcement officer making the seizure may do any of the following:

- (1) Place the property under seal.
- (2) Remove the property to a place designated by the court.

(3) Request another agency authorized by law to take custody of the property and remove it to an appropriate location.

E. The district attorney may institute civil proceedings under this Section. In any action brought under this Section, the district court shall proceed as soon as practicable to the hearing and determination following conviction or agreement between the parties. Pending final determination, the court may at any time enter such injunctions or restraining orders or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper.

F. A final judgment or decree rendered in favor of the state in any criminal proceeding shall preclude the defendant from denying the essential facts established in that proceeding in any subsequent civil action.

G. Notwithstanding any other provision of law, a criminal or civil action or proceeding under this Chapter may be commenced at any time within five years after the conduct in violation of a provision of this Chapter terminates or the cause of action accrues. If a criminal prosecution or civil action is brought under the provisions of this Chapter, the running of the period prescribed by this Section with respect to any cause of action arising under Subsection E of this Section which is based in whole or in part upon any matter complained of in any such prosecution or action shall be suspended during the pendency of such prosecution or action and for two years following its termination.

H. The application of one civil remedy under any provision of this Section shall not preclude the application of any other remedy, civil or criminal, under any other provision of law. Civil remedies under this Section are supplemental and not mutually exclusive.

I. The allocation of proceeds from forfeitures or dispositions under this Section shall be determined by the court in accordance with each law enforcement entity's participation in the investigation, seizure, and forfeiture process. Proceeds shall be distributed in the following order of priority:

- (1) Satisfaction of any bona fide security interest or lien.
- (2) Payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs.
- (3) The remaining funds shall be allocated as follows:
 - (a) Sixty percent to the law enforcement agency or agencies making the seizure.
 - (b) Twenty percent to the criminal court fund.
 - (c) Twenty percent to the district attorney's office pursuing the forfeiture.

RS 14:231 — Counterfeit and nonfunctional air bags prohibited; air bag fraud

ther object intended to fulfill the function of an air bag that does not meet the definition of "air bag" set forth in Subsection D of this Section.

B. No person shall knowingly manufacture, import, sell, or offer for sale a counterfeit or nonfunctional air bag or any other object intended to fulfill the function of an air bag that does not meet the definition of "air bag" set forth in Subsection D of this Section.

C. No person shall knowingly sell, install, or reinstall a device in a motor vehicle that causes the diagnostic system of the vehicle to indicate inaccurately that the vehicle is equipped with a functional air bag.

D. For purposes of this Section:

(1) "Air bag" means an inflatable occupant restraint system, including all component parts, such as the cover, sensors, controllers, inflators, and wiring, designed to activate in a motor vehicle in the event of a crash to mitigate injury or ejection and that meets the federal motor vehicle safety standards set forth in 49 CFR 571.208 for the make, model, and model year of the motor vehicle.

(2) "Counterfeit air bag" means an air bag displaying a mark identically or substantially similar to the genuine mark of a motor vehicle manufacturer, without the authorization of the motor vehicle manufacturer.

(3) "Nonfunctional air bag" means any of the following:

(a) A replacement air bag that has been previously deployed or damaged.

(b) A replacement air bag that has an electrical fault that is detected by the air bag diagnostic system after the air bag is installed.

(c) A counterfeit air bag, air bag cover, or some other object that is installed in a motor vehicle in order to mislead or deceive an owner or operator of the motor vehicle into believing that a functional air bag has been installed.

(4) Repealed by Acts 2019, No. 2, §3.

E. Whoever violates the provisions of Subsection A or C of this Section shall:

(1) Upon first conviction, be fined not more than one thousand dollars, or imprisoned for not more than six months, or both, except as provided in Paragraph (2) of this Subsection.

(2) Upon a second and subsequent conviction, or if the violation results in the serious bodily injury or death of any person, be fined not more than two thousand five hundred dollars, or imprisoned, with or without hard labor, for not more than one year, or both.

F. Whoever violates the provisions of Subsection B of this Section shall:

(1) Upon conviction, be fined not more than two thousand five hundred dollars, or imprisoned, with or without hard labor, for not more than one year, or both, except as provided in Paragraphs (2) and (3) of this Subsection.

(2) Upon conviction, if the cumulative sales price of the air bags or objects involved in the violation is at least five thousand dollars but less than one hundred thousand dollars, or if the number of air bags or objects involved in the violation is at least one hundred but less than one thousand, be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not less than six months nor more than two years, or both.

(3) Upon conviction, if the cumulative sales price of the air bags or objects involved in the violation is one hundred thousand dollars or more, or if the number of air bags or objects involved in the violation is one thousand or more, be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both.

G. Each manufacture, importation, installation, reinstallation, sale, or offer for sale in violation of this Section shall constitute a separate and distinct violation.

RS 14:281 — Disorderly place, maintaining of prohibited; penalty

a manner as to disturb the public peace and quiet of the neighborhood, or in which lewd dancing is permitted, or in which lewd pictures are accessible to view.

Whoever violates this Section shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned for not less than thirty days nor more than ninety days, or both.

RS 14:282 — Operation of places of prostitution prohibited; penalty

n, or prostitution, or shall rent or let any place

or conveyance to any person with knowledge of or good reason to believe that the lessee intends to use the place or conveyance for the purpose of lewdness, assignation, or prostitution, or reside in, enter, or remain in any place for the purpose of lewdness, assignation, or prostitution.

B.(1) Whoever violates or aids, abets, or participates in the violation of this Section shall be fined not less than twenty-five dollars nor more than five hundred dollars, imprisoned for not less than thirty days nor more than six months, or both.

(2) Whoever violates any provision of this Section for the purpose of lewdness, assignation, or prostitution of persons under the age of eighteen shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, with at least five years being served without benefit of probation, parole, or suspension of sentence.

(3) Whoever violates any provision of this Section for the purpose of lewdness, assignation, or prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both, with at least ten years being served without benefit of probation, parole, or suspension of sentence.

(4) Repealed by Acts 2020, No. 352, §2.

RS 14:283 — Video voyeurism; penalties

g device, or an unmanned aircraft system equipped with any camera, videotape, photo-optical, photo-electric, or any other image recording device, for the purpose of observing, viewing, photographing, filming, or videotaping a person where that person has not consented to the specific instance of observing, viewing, photographing, filming, or videotaping and either:

(a) It is for a lewd or lascivious purpose.

(b) The observing, viewing, photographing, filming, or videotaping is as described in Paragraph (B)(3) of this Section and occurs in a place where an identifiable person has a reasonable expectation of privacy.

(2) The transfer of an image obtained by activity described in Paragraph (1) of this Subsection by live or recorded telephone message, electronic mail, the Internet, or a commercial online service.

(3) The manipulation of a victim who has not yet attained the age of seventeen or who is reasonably believed to have not yet attained the age of seventeen to use any camera, videotape, photo-optical, photo-electric, or any other image recording device or an unmanned aircraft system equipped with any camera, videotape, photo-optical, photo-electric, or any other image recording device to photograph, film, or videotape oneself to send to the person manipulating the victim for a lewd or lascivious purpose.

B.(1) Except as provided in Paragraphs (3) and (4) of this Subsection, whoever

commits the crime of video voyeurism shall, upon a first conviction thereof, be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not more than two years, or both.

(2) On a second or subsequent conviction, the offender shall be fined not more than two thousand dollars and imprisoned at hard labor for not less than six months nor more than three years without benefit of parole, probation, or suspension of sentence.

(3) Whoever commits the crime of video voyeurism when the observing, viewing, photographing, filming, or videotaping is of any vaginal or anal sexual intercourse, actual or simulated sexual intercourse, masturbation, any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals shall be fined not more than ten thousand dollars and be imprisoned at hard labor for not less than one year or more than five years, without benefit of parole, probation, or suspension of sentence.

(4) Whoever commits the crime of video voyeurism when the observing, viewing, photographing, filming, or videotaping is of any child under the age of seventeen with the intention of arousing or gratifying the sexual desires of the offender shall be fined not more than ten thousand dollars and be imprisoned at hard labor for not less than two years or more than ten years without benefit of parole, probation, or suspension of sentence.

C. The provisions of this Section shall not apply to the transference of such images by a telephone company, cable television company, or any of its affiliates, an Internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial online services.

D, E. Repealed by Acts 2020, No. 352, §2.

F. A violation of the provisions of this Section shall be considered a sex offense as defined in R.S. 15:541. Whoever commits the crime of video voyeurism shall be required to register as a sex offender as provided for in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

G. For purposes of this Section, "unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

H. This Section shall not apply to any bona fide news or public interest broadcast, website, video, report, or event and shall not be construed to affect the rights of any news-gathering organization.

RS 14:283.1 — Voyeurism; penalties

, windows,

or other openings of a private residence without the consent of the victim who has a reasonable expectation of privacy for the purpose of arousing or gratifying the sexual desires of the offender.

B.(1) Whoever commits the crime of voyeurism, upon a first conviction, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Upon a second or subsequent conviction, the offender shall be fined not more

than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

C. For purposes of this Section, "unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

RS 14:283.2 — Nonconsensual disclosure of a private image

son intentionally discloses an image of another person who is identifiable from the image or information displayed in connection with the image and either whose intimate parts are exposed in whole or in part or who is engaged in sexual conduct.

(2) The person who discloses the image obtained it through unauthorized access or under circumstances in which a reasonable person would know or understand that the image was to remain private.

(3) The person who discloses the image knew or should have known that the person in the image did not consent to the disclosure of the image.

(4) The person who discloses the image knew or should have known that the disclosure could harass or cause emotional distress to the person in the image.

B. Disclosure of an image under any of the following circumstances does not constitute commission of the offense defined in Subsection A of this Section:

(1) When the disclosure is made by any criminal justice agency for the purpose of a criminal investigation that is otherwise lawful.

(2) When the disclosure is made for the purpose of, or in connection with, the reporting of unlawful conduct to law enforcement or a criminal justice agency.

(3) When the person depicted in the image voluntarily or knowingly exposed his or her intimate parts or engaged in sexual conduct in a public setting.

(4) When the image is related to a matter of public interest, public concern, or related to a public figure who is intimately involved in the resolution of important public questions, or by reason of his fame shapes events in areas of concern to society.

C. For purposes of this Section:

(1) "Criminal justice agency" means any government agency or subunit thereof, or private agency that, through statutory authorization or a legal formal agreement with a governmental unit or agency, has the power of investigation, arrest, detention, prosecution, adjudication, treatment, supervision, rehabilitation, or release of persons suspected, charged, or convicted of a crime; or that collects, stores, processes, transmits, or disseminates criminal history records or crime information.

(2) "Disclosure" means to, electronically or otherwise, transfer, give, provide, distribute, mail, deliver, circulate, publish on the internet, or disseminate by any means.

(3) "Image" means any photograph, film, videotape, digital recording, or other depiction or portrayal of an object, including a human body.

(4) "Intimate parts" means the fully unclothed, partially unclothed, or transparently clothed genitals, pubic area, or anus. If the person depicted in the image is a female, "intimate parts" also means a partially or fully exposed nipple, including exposure through transparent clothing.

(5) "Sexual conduct" means actual or simulated vaginal, anal, or oral sexual intercourse; deviant sexual intercourse; sexual bestiality; masturbation; sadomasochistic abuse; or exhibition of the genitals.

(6) "Unauthorized access" means the retrieval of an image from an individual's telecommunication device as defined in R.S. 14:81.1.1 without that individual's permission.

D. Nothing in this Section shall be construed to impose liability on the provider of an interactive computer service as defined by 47 U.S.C. 230(f)(2), an information service as defined by 47 U.S.C. 153(24), or a telecommunications service as defined by 47 U.S.C. 153(53), for content provided by another person.

E. Whoever commits the offense of nonconsensual disclosure of a private image shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not more than two years, or both.

RS 14:283.3 — Abuse of persons with infirmities through electronic means

(1) The person transfers an image that was obtained by any camera, videotape, photo-optical, photo-electric, unmanned aircraft system, or any other image recording device and that was obtained for the purpose of observing, viewing, photographing, filming, or videotaping any person with an infirmity.

(2) The person transfers the image by live or recorded telephone message, electronic mail, the internet, or a commercial online service.

(3) The person transfers the image with the malicious and willful intent to embarrass, shame, harass, coerce, abuse, torment, or intimidate, regardless of whether the victim has knowledge of the transfer.

B. For purposes of this Section:

(1) "Person with an infirmity" means a person who suffers from a mental or physical disability, including those associated with advanced age, which renders the person incapable of adequately providing for his personal care. A person with an infirmity may include but is not limited to a person who is a resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential facility or recipients of home and community-based care.

(2) "Unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

C.(1) Whoever commits the crime of abuse of persons with infirmities through electronic means shall, upon a first conviction thereof, be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(2) On a second or subsequent conviction, the offender shall be fined not more than two thousand dollars and imprisoned at hard labor for not more than three years without benefit of parole, probation, or suspension of sentence.

D. The provisions of this Section shall not apply to the transference of such images by a telephone company, television broadcast licensee of the Federal Communications Commission, cable television company, or any of its affiliates, an internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related

activities in providing telephone, over-the-air television, cable television, internet, or commercial online services.

E. The provisions of this Section shall not apply to any healthcare provider through its use of any of its cameras, videotape, photo-optical, photo-electric, unmanned aircraft system, or any other image recording device within the facility.

F. Any evidence resulting from the commission of abuse of persons with infirmities through electronic means shall be contraband.

RS 14:284 — Peeping Tom; penalties

becoming a

"Peeping Tom".

B. "Peeping Tom" as used in this Section means one who peeps through windows or doors, or other like places, situated on or about the premises of another or uses an unmanned aircraft system for the purpose of spying upon or invading the privacy of persons spied upon without the consent of the persons spied upon. It is not a necessary element of this offense that the "Peeping Tom" be upon the premises of the person being spied upon.

C.(1) Whoever violates this Section, upon a first conviction, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Upon a second conviction, the offender shall be fined not more than seven hundred fifty dollars, imprisoned for not more than six months, or both.

(3) Upon a third or subsequent conviction, the offender shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

D. For purposes of this Section, "unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

RS 14:285 — Unlawful communications; telephones and telecommunications devices; improper

all, telephone conversation, or telephone

conference, with another person, or use any telecommunications device to send any text message or other message to another person directly, anonymously or otherwise, and therein use obscene, profane, vulgar, lewd, or lascivious language, or make any suggestion or proposal of an obscene nature or threaten any illegal or immoral act with the intent to coerce, intimidate, or harass any person.

(2) Make repeated telephone communications or send repeated text messages or other messages using any telecommunications device directly to a person anonymously or otherwise in a manner reasonably expected to abuse, torment, harass, embarrass, or offend another, whether or not conversation ensues.

(3) Make a telephone call and intentionally fail to hang up or disengage the connection.

(4) Engage in a telephone call, conference, or recorded communication by using obscene language or by making a graphic description of a sexual act, or use any telecommunications device to send any text message or other message containing obscene language or any obscene content, anonymously or otherwise, directly to another person, when

the offender knows or reasonably should know that such obscene or graphic language is directed to, or will be heard by, a minor. Lack of knowledge of age shall not constitute a defense.

(5) Knowingly permit any telephone or any other telecommunications device under his control to be used for any purpose prohibited by this Section.

B. Any offense as set forth in this Section shall be deemed to have been committed at either the place where the communication originated or at the place where the communication was received.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

D. Upon second or subsequent offenses, the offender shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than two years, or both.

E. For the purposes of this Section, "telecommunications device" shall mean any type of instrument, device, or machine that is capable of transmitting or receiving telephonic, electronic, radio, text, or data communications, including but not limited to a cellular telephone, a text-messaging device, a personal digital assistant, a computer, or any other similar wireless device that is designed to engage in a call or communicate text or data.

RS 14:286 — Sale of minor children and other prohibited activities; penalties

of value, or to receive a minor child for such payment of

money or anything of value, except as specifically provided in Children's Code Articles 1200 and 1223.

(2) It shall be unlawful for any person to pay or receive anything of value for the procurement, attempted procurement, or assistance in the procurement of a party to an act of voluntary surrender of a child for adoption except as specifically provided in Children's Code Articles 1200 and 1223.

(3) It shall be unlawful for any petitioner, person acting on a petitioner's behalf, agency or attorney or other intermediary to make or agree to make any disbursements in connection with the adoptive placement, surrender, or adoption of a child except as specifically provided in Children's Code Articles 1200 and 1223.

(4) It shall be unlawful to make a false statement in any adoption disclosure affidavit with the intent to deceive and with knowledge that the statement is false.

B.(1) It shall be unlawful for any person to enter into, induce, arrange, procure, knowingly advertise for, or otherwise assist in a gestational carrier contract, whether written or unwritten, that is not in compliance with the requirements provided for in R.S. 9:2718 et seq.

(2) No person who is a party to, or acting on behalf of the parties to a gestational carrier contract shall make or agree to make any disbursements in connection with the gestational carrier contract other than the following:

(a) Payment of actual medical expenses, including hospital, testing, nursing, midwifery, pharmaceutical, travel, or other similar expenses, incurred by the gestational carrier for prenatal care and those medical and hospital expenses incurred incident to birth.

(b) Payment of actual expenses incurred for mental health counseling services provided to the gestational carrier prior to the birth and up to six months after birth.

(c) Payment of actual lost wages of the gestational carrier, not covered under a disability insurance policy, when bed rest has been prescribed for the gestational carrier for some maternal or fetal complication of pregnancy and the gestational carrier, who is employed, is unable to work during the prescribed period of bed rest.

(d) Payment of actual travel costs related to the pregnancy and delivery, court costs, and attorney fees incurred by the gestational carrier.

(3) It shall be unlawful for any person to enter into, induce, arrange, procure, knowingly advertise for, or otherwise assist in an agreement for genetic gestational carrier, with or without compensation, whether written or unwritten. For purposes of this Section, "genetic gestational carrier" and "compensation" shall have the same meaning as defined in R.S. 9:2718.1.

(4) It shall be unlawful for any person to give or offer payment of money, objects, services, or anything of monetary value to induce any gestational carrier, whether or not she is party to an enforceable or unenforceable agreement for genetic gestational carrier or gestational carrier contract, to consent to an abortion as defined in R.S. 14:87.1.

C. A person convicted of violating any of the provisions of this Section shall be punished by a fine not to exceed fifty thousand dollars or imprisonment with or without hard labor for not more than ten years, or both.

RS 14:311 — Discharging fireworks or explosives within one thousand feet of hospital prohibited; penalty

rs, fireworks, or other explosives within one thousand feet of any hospital in Louisiana.

B. Whoever violates this Section shall be fined not more than one dollar or imprisoned for not more than one day, or both.

RS 14:312 — Jumping from state bridge for publicity prohibited; penalty

he object and purpose of the act is to gain publicity.

B. Whoever violates this Section shall be fined not more than twenty-five dollars, or imprisoned for not more than thirty days, or both.

RS 14:313 — Wearing of masks, hoods, or other facial disguises in public places prohibited;

A. No person shall use or wear in any public place of any character whatsoever, or in any open place in view thereof, a hood or mask, or anything in the nature of either, or any facial disguise of any kind or description, calculated to conceal or hide the identity of the person or to prevent his being readily recognized.

B. Whoever violates this Section shall be imprisoned for not less than six months nor more than three years.

C. Except as provided in Subsection E of this Section, this Section shall not apply:

(1) To activities of children on Halloween, to persons participating in any public parade or exhibition of an educational, religious, or historical character given by any school, church, or public governing authority, or to persons in any private residence, club, or lodge room.

(2) To persons participating in masquerade balls or entertainments, to persons participating in carnival parades or exhibitions during the period of Mardi Gras festivities,

to persons participating in the parades or exhibitions of minstrel troupes, circuses, or other dramatic or amusement shows, or to promiscuous masking on Mardi Gras which are duly authorized by the governing authorities of the municipality in which they are held or by the sheriff of the parish if held outside of an incorporated municipality.

(3) To persons wearing head covering or veils pursuant to religious beliefs or customs.

(4) To persons driving or riding a motorcycle.

(5) To persons wearing a helmet or mask for medical purposes or reasons.

D. All persons having charge or control of any of the festivities set forth in Paragraph (C)(2) of this Section shall, in order to bring the persons participating therein within the exceptions contained in Paragraph (C)(2), make written application for and shall obtain in advance of the festivities from the mayor of the city, town, or village in which the festivities are to be held, or when the festivities are to be held outside of an incorporated city, town, or village, from the sheriff of the parish, a written permit to conduct the festivities. A general public proclamation by the mayor or sheriff authorizing the festivities shall be equivalent to an application and permit.

E. Every person convicted of or who pleads guilty to a sex offense specified in R.S. 24:932, is prohibited from using or wearing a hood, mask or disguise of any kind with the intent to hide, conceal or disguise his identity on or concerning Halloween, Mardi Gras, Easter, Christmas, or any other recognized holiday for which hoods, masks, or disguises are generally used.

RS 14:313.1 — Distributing candy or gifts on Halloween and other public holidays by "sex offenders" prohibited; penalty

pecified in R.S. 24:932 to distribute candy or other gifts to persons under eighteen years of age on or concerning Halloween, Mardi Gras, Easter, Christmas, or any other recognized holiday for which generally candy is distributed or other gifts given to persons under eighteen years of age.

B. Whoever violates the provisions of this Section shall be sentenced to a term of imprisonment of not less than six months nor more than three years.

RS 14:314 — Mississippi River, making unauthorized cut-offs prohibited; penalty

this Section shall be fined not less than one hundred dollars nor more than one thousand dollars and imprisoned for not less than one week nor more than twelve months.

RS 14:315 — Mississippi River, stopping outlets or bayous prohibited; reopening; penalty

the opening of it may be ordered by the state engineer at any time.

B. Whoever violates this Section shall be fined not less than one thousand dollars nor more than ten thousand dollars and shall be liable for all expenses necessary for the reopening of the bayou or outlet.

C. This Section shall not apply to bayous already closed, or that may be hereafter opened by crevasses.

RS 14:316 — Repealed by Acts 2004, No. 577, §2.

on Rouge, Louisiana 70804-9062

RS 14:317 — Repealed by Acts 1972, No. 255, §1

on Rouge, Louisiana 70804-9062

RS 14:318 — Sale of fireworks containing white or yellow phosphorus prohibited; penalty

llow phosphorus and explosives, which makes a noise and resembles a piece of candy in size and general appearance.

B. Whoever violates this Section shall be fined not less than fifty dollars or imprisoned for not more than sixty days, or both.

RS 14:319 — Sale of toy pistols prohibited; penalty; exceptions

d in firing or discharging toy pistols.

B. Whoever violates this Section shall be fined not less than ten dollars nor more than fifty dollars, or imprisoned for not more than ten days, or both.

C. Paper cap pistols and other toy pistols not constructed so as to accommodate blank powder cartridges or shells are not included within the provisions of this Section.

RS 14:320 — Telegrams, divulging or obtaining knowledge of contents prohibited; penalty

with a clerk, operator, messenger, or other employee of a telegraph company. No clerk, operator, messenger, or other employee shall use, or suffer or permit to be used, or wilfully divulge to anyone but the person to whom it was addressed or his agent, or a duly authorized United States government official or under due process of any court of record, the contents of a telegraphic message or dispatch intrusted to him for transmission or delivery, or the nature thereof.

B. Whoever violates this Section shall be fined not more than two hundred fifty dollars or imprisoned for not more than four months, or both.

RS 14:321 — Unauthorized signals to persons in charge of locomotives, railroad trains or railroad cars prohibited; penalty

spirit of mischief, or with any purpose other than to prevent or give information of an accident, make or cause to be made any signal to persons in charge of a locomotive, railroad train, or railroad cars, or to any of these persons or in their sight, with intent to cause the stopping of the locomotive, train, or cars.

B. Whoever violates this Section shall be fined not less than ten dollars nor more than two hundred dollars or imprisoned for not more than three months.

RS 14:322 — Wire-tapping prohibited; penalty

elligence by magnetic telephone or telegraph, without the consent of the owner.

B. Whoever violates this Section shall be fined not less than ten dollars nor more than three hundred dollars, or imprisoned for not more than three months.

C. This Section shall not be construed to prevent officers of the law, while in the actual discharge of their duties, from tapping in on wires or cables for the purpose of obtaining information to detect crime.

RS 14:323 — Tracking devices prohibited; penalty

B. The following penalties shall be imposed for a violation of this Section:

(1) For the first offense, the fine shall be not less than five hundred dollars nor more than one thousand dollars, or imprisonment for not more than six months, or both.

(2) For the second offense, the fine shall be not less than seven hundred fifty dollars nor more than one thousand five hundred dollars, or imprisonment for not less than thirty days nor more than six months, or both.

(3) For the third offense and all subsequent offenses, the fine shall be not less than one thousand dollars nor more than two thousand dollars, or imprisonment for not less than sixty days nor more than one year, or both.

C. The provisions of this Section shall not apply to the following:

(1) The owner of a motor vehicle, including the owner of a vehicle available for rent, who has consented to the use of the tracking device with respect to such vehicle.

(2) The lessor or lessee of a motor vehicle and the person operating the motor vehicle who have consented to the use of a tracking device with respect to such vehicle.

(3) Any law enforcement agency, including state, federal, and military law enforcement agencies, who is acting pursuant to a court order or lawfully using the tracking device in an ongoing criminal investigation, provided that the law enforcement officer employing the tracking device creates a contemporaneous record describing in detail the circumstances under which the tracking device is being used.

(4)(a) A parent or legal guardian of a minor child whose location or movements are being tracked by the parent or legal guardian.

(b) When the parents of the minor child are living separate and apart or are divorced from one another, this exception shall apply only if both parents consent to the tracking of the minor child's location and movements, unless one parent has been granted sole custody, in which case consent of the noncustodial parent shall not be required.

(5) The Department of Public Safety and Corrections tracking an offender who is under its custody or supervision.

(6) Any provider of a commercial mobile radio service (CMRS), such as a mobile telephone service or vehicle safety or security service, which allows the provider of CMRS to determine the location or movement of a device provided to a customer of such service.

(7) Any commercial motor carrier operation.

(8) Any employer that provides a cellular device to employees for use during the course and scope of employment.

D. For the purposes of this Section, a "tracking device" means any device that reveals its location or movement by the transmission of electronic signals.

E. The exception provided in Subsection C of this Section shall not apply under any of the following circumstances:

(1) An individual with ownership interest who has been granted a protective order as provided in R.S. 46:2136 or a temporary restraining order as provided in R.S. 46:2135.

(2) If another individual has been granted exclusive use of the vehicle by a court of competent jurisdiction.

RS 14:324 — Abandoning or discarding ice boxes or other air tight containers; penalty

ible to children, any abandoned, unattended or discarded ice box, refrigerator, or any other container of any kind which has an airtight door or doors, or which may not be released for opening from the inside of said icebox, refrigerator or container. It shall further be unlawful for any person, firm or corporation, to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator, or any other container of any kind which is airtight and has a snap lock or other device thereon without first removing said snap lock or locks, or door or doors, from said icebox, refrigerators or containers.

B. Should any person, firm or corporation violate any of the provisions of this Section they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding \$1,000.00, or imprisoned for not in excess of six months, or both, at the discretion of the court.

RS 14:325 — Annual registration of conductors of public opinion polls; penalty for failure

takers shall register with the secretary of state before commencing such activity and annually thereafter not later than February fifteenth of each year. Only the managing or overseeing party responsible for conducting the poll must register under this Act, and it will not be necessary for individuals hired by the managing or overseeing party to register on an individual basis.

(2) Such registration shall state that the person, association, partnership, or corporation is engaging in the making of public opinion polls or samplings in the state of Louisiana; the name and current mailing address of the person,

association, partnership, or corporation under which the polls are conducted; the name and current mailing address of the principal executive officer thereof; and the year for which the registration is filed. It shall be signed by the principal executive officer thereof. The secretary of state is directed to collect a registration fee as provided in R.S. 49:222 for each such registration.

B. Failure to comply with the provisions of this section shall be punishable, for the first offense, by a fine of one hundred dollars or ten days in jail, or both; for the second offense, by a fine of two hundred dollars or ten days in jail, or both; and for the third offense, by a fine of five hundred dollars or ten days in jail, or both.

C. The secretary of state shall keep the registrations filed with him under this section as a part of the permanent public records of his office and may cause same to be published annually.

RS 14:326 — Processions, marches, parades, or demonstrations; permits; liability; bond;

urpose is prohibited by any group, association or organization on any public sidewalk, street, highway, bridge, alley, road or other public passageway of any municipality or unincorporated town or village unless there first has been obtained a permit therefor, and in all cases the person or persons or the group, association or organization to whom the permit is issued shall be liable for all damage to property or persons which may arise out of or in connection with any such procession, march, parade or public demonstration for which a permit is issued.

B. Application for the permit required herein shall be made to the mayor and governing authority of the municipality or to the governing authority of the parish in which the unincorporated town or village in which the procession, march, parade or public demonstration is located, as the case may be. Permits may be granted by the authority to which application is made, provided, however, that bond in the amount of ten thousand dollars has first been filed with the mayor and municipal governing authority or with parish governing authority, as the case may be, as security for the payment of any damage or injury which may occur as the result of or in connection with such procession, march, parade or public demonstration.

C. The provisions of this Section shall apply to all groups, associations, or organizations regardless of race, creed, disability, as defined in R.S. 51:2232, color, or political beliefs of its members; however, nothing contained herein shall apply to a bona fide legitimate labor organization or professional firefighter or police association or to any lawful activity of a labor union permitted by law, nor shall these provisions apply to any procession or parade directly held or sponsored by the governing authority of any municipality or the governing authority of any parish, nor shall these provisions apply to any procession, march, or parade directly held or sponsored by a bona fide organization specifically for the celebration of Mardi Gras and/or directly related prelude or carnival festivities, school parades or other functions, parish parades or other functions, state, parish, or municipal fairs or other such related activities. However, the provisions of this Section shall apply only to parishes with a population of more than four hundred fifty thousand.

D. Whoever violates any provision of this Section shall be guilty of a misdemeanor and upon conviction shall, for each offense, be fined not more than one thousand dollars or be imprisoned for not more than six months, or both.

RS 14:327 — Obstructing a fireman

y defined as

intentionally hindering, delaying, hampering, interfering with, or impeding the progress of any regularly employed member of a fire department of any municipality, parish, or fire protection district of the state of Louisiana, or any volunteer fireman of the state of Louisiana while in the performance of his official duties; or cursing, reviling, or using any opprobrious language directed at any such fireman while in the performance of his official duties.

(2) For the purposes of this Section, "fireman" shall include all persons defined as "emergency medical services personnel" by R.S. 40:1075.3, all persons defined as "emergency medical services personnel" by R.S. 40:1131, and any firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state of Louisiana, or any volunteer fireman of the state of Louisiana.

B. Whoever commits the crime of obstructing a fireman shall be punished as follows:

(1) If the act constituting the offense is equivalent to manslaughter or attempted murder as those crimes are defined in the Louisiana Criminal Code, he shall be imprisoned at hard labor for not less than ten nor more than thirty-five years.

(2) If the act constituting the offense is equivalent to aggravated battery as that crime is defined in the Louisiana Criminal Code, he shall be imprisoned with or without hard labor for not less than five years nor more than twenty years.

(3) If the act constituting the offense is equivalent to simple battery, aggravated assault, or false imprisonment, as those crimes are defined in the Louisiana Criminal Code, he shall be fined not less than one thousand dollars nor more than five thousand dollars or imprisoned for not less than two years nor more than ten years, or both.

(4) If the act constituting the offense is equivalent to simple assault as that crime is defined in the Louisiana Criminal Code, he shall be fined not less than one thousand dollars nor more than five thousand dollars or imprisoned for not less than one year nor more than five years, or both.

(5) In all other cases, he shall be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not less than six months nor more than five years, or both.

C. Whoever attempts to commit the crime of obstructing a fireman shall be fined not less than two-thirds of the minimum fine nor more than two-thirds of the maximum fine provided in Subsection B of this Section or imprisoned for not less than two-thirds of the minimum term nor more than two-thirds of the maximum term as provided in Subsection B of this Section, or both. For the purposes of this Subsection, an attempt shall be defined as provided in R.S. 14:27.

D. The penalties provided in this section for the crime of obstructing a fireman shall be in addition to any other penalties provided by existing law.

RS 14:328 — Obstruction or interference with members of staff, faculty, or students of educational institutions; trespass, damage to property; felony; penalties

any state or public owned and operated junior college, college, university or branch thereof or any high school or junior high school in this state, hereinafter referred to as "educational institutions", or at or in any building or other facility thereof, willfully deny to students, school officials, teachers or other employees and invitees and guests thereof:

- (1) Lawful freedom of movement on the campus or grounds;
- (2) Lawful use of any property or facilities of any educational institution; or
- (3) Their right of lawful ingress and egress to and from the physical facilities of such educational institution.

B. No person shall, on the campus or grounds of any educational institution or at or in any building or other facility owned, operated, controlled or administered by the governing authority of any such institution, willfully obstruct or impede any member of the faculty or administrative staff or other personnel of such institution in the lawful performance of their duties, or willfully obstruct or impede any student of such institution in the lawful pursuit of his educational activities or activities related thereto or a part thereof, through the use of restraint, abduction, coercion or intimidation, or by any action as a result of which force and/or violence are present or threatened.

C. No person shall willfully refuse or fail to leave the property of or any building or other facility owned, operated, controlled or administered by the governing authority of any such institution of higher education upon being requested to do so by the chief administrative officer or his designee charged with maintaining order on the campus or grounds and in the facilities thereon, if such person is committing, threatens to commit or incites others to commit any act which would disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions of the educational institution.

D. Nothing in this section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between an educational institution and its employees, or any contractor or subcontractor or any employees thereof. Providing that nothing herein contained shall apply to a bona fide legal labor organization or to any of its legal activities such as picketing, lawful assembly or concerted activities in the interest of its members for the purpose of accomplishing or securing more favorable wage standards, hours of employment and working conditions.

E. Whoever violates any provision of this section shall be punished by a fine of not to exceed five hundred dollars or be imprisoned for not more than six months, or both.

F. The provisions of this section shall be supplemental and in addition to any other applicable laws of this state.

RS 14:329 — Interfering with a law enforcement investigation

tive work at the scene of a crime or the scene of an accident by refusing to move or leave the immediate scene of the crime or the accident when ordered to do so by the law enforcement officer when the offender has reasonable grounds to believe the officer is acting in the performance of his official duties.

B. For the purposes of this Section, "law enforcement officer" means any commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife enforcement agent, state park warden, livestock brand inspector, forestry officer, or probation and parole officer.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

RS 14:329.1 — Riot

violent conduct, results in injury or damage to persons or property or creates a clear and present danger of injury or damage to persons or property.

RS 14:329.2 — Inciting to riot

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RS 14:329.3 — Command to disperse; who may give; failure to comply

y of R.S. 14:329.1 through 329.8 if he reasonably believes that riot is occurring or about to occur. The command to disperse shall be given in a manner reasonably calculated to be communicated to the assemblage.

B. Whoever willfully fails to comply with a lawful command to disperse shall be punished in accordance with the provisions of R.S. 14:329.7.

RS 14:329.4 — Wrongful use of public property; permits for use of public property

the lawful custodian thereof, or his designated representative, at any time when the public property is not open to the public and the remaining in or occupying of any public property after having been requested to leave by the lawful

custodian thereof, or his designated representative, or any law enforcement or peace officer, and

(2) The depriving of the general public of the intended use of public property without a permit.

B. In accordance with R.S. 14:329.1 through 329.8, permits to occupy or use public property may be obtained from the lawful custodian thereof, or his designated representative, upon written application therefor. All such applications shall describe the public property sought to be occupied or used and state the period of time during which the public property will be occupied or used.

C. The lawful custodian, or his designated representative, may issue the permit if he determines that the use or occupation of the public property will not reasonably interfere with the intended or customary use of the public property by the general public and that the intended use will not destroy or damage the public property.

D. For the purposes of this Section, the term "public property" means any public land, building, facility, structure, or enclosure used for a public purpose or as a place of public gathering, owned or under the control of the state or one of its agencies or political subdivisions.

RS 14:329.5 — Prohibition of interference with educational process; certain activities

tional-technical school, special school, elementary

or secondary school in this state, hereinafter referred to as "institutions of learning," or at or in any building or other facility thereof owned, operated or controlled by the state or any of its agencies or political subdivisions, willfully deny to students, school officials, faculty, employees, invitees and guests thereof:

(1) Lawful freedom of movement on the campus or lands; or

(2) Lawful use of the property, facilities or parts of any institution of learning; or

(3) The right of lawful ingress and egress to and from the institution's physical facilities.

B. No person shall, on the campus of any institution of learning or at or in any building or other facility thereof owned, operated or controlled by the state or any agency or political subdivision thereof, willfully impede the staff or faculty of such institution in the lawful performance of their duties, or willfully impede a student of such institution in lawful pursuit of his educational activities, through use of restraint, abduction, coercion, or intimidation, or when force and violence are present or threatened.

C. No person shall willfully refuse or fail to leave the property of, or any building or other facility owned, operated or controlled by the state or any agency or political subdivision thereof, upon being requested to do so by the chief administrative officer thereof, or by his designee charged with maintaining order on the campus or grounds and in its facilities, or a dean of such institution of learning, if such person is committing, threatens to commit, or incites others to commit, any act which would or is likely to disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions of such institutions of learning.

D. Nothing contained in R.S. 14:329.1 through 329.8 shall apply to a bona fide legitimate labor organization or to any of its legal activities such as lawful picketing, lawful assembly or concerted activity in the interest of its

members for the purpose of accomplishing or securing more favorable wage standards, hours of employment or working conditions.

RS 14:329.6 — Proclamation of state of emergency; conditions therefor; effect thereof

territorial limits of any municipality or parish, or in the event of

reasonable apprehension of immediate danger thereof, and upon a finding that the public safety is imperiled thereby, the chief executive officer of any political subdivision or the district judge, district attorney, or the sheriff of any parish of this state, or the public safety director of a municipality, may request the governor to proclaim a state of emergency within any part or all of the territorial limits of such local government. Following such proclamation by the governor, and during the continuance of such state of emergency, the chief law enforcement officer of the political subdivision affected by the proclamation may, in order to protect life and property and to bring the emergency situation under control, promulgate orders affecting any part or all of the territorial limits of the municipality or parish:

(1) Establishing a curfew and prohibiting and/or controlling pedestrian and vehicular traffic, except essential emergency vehicles and personnel;

(2) Designating specific zones within which the occupancy and use of buildings and the ingress and egress of vehicles and persons shall be prohibited or regulated;

NOTE: See HCR 5 of the 2021 R.S. regarding the suspension of certain criminal penalties and restrictions related to religious assemblies through the 60th day after final adjournment of the 2022 R.S.

(3) Regulating and closing of places of amusement and assembly;

(4) Prohibiting the sale and distribution of alcoholic beverages;

(5) Prohibiting and controlling the presence of persons on public streets and places;

(6) Repealed by Acts 2020, No. 325, §3.

(7) Regulating and controlling the possession, storage, display, sale, transport and use of explosives and flammable materials and liquids, including but not limited to the closing of all wholesale and retail establishments which sell or distribute gasoline and other flammable products;

(8) Regulating and controlling the possession, storage, display, sale, transport and use of sound apparatus, including but not limited to public address systems, bull horns and megaphones.

(9) Prohibiting the sale or offer for sale of goods or services within the designated emergency area for value exceeding the prices ordinarily charged for comparable goods and services in the same market area at, or immediately before, the time of the state of emergency, unless the price of the seller is attributable to fluctuation in the applicable commodity markets, applicable regional or national market trends, or to reasonable expenses and a charge for any attendant business risk in addition to the cost of the goods and services which necessarily are incurred in procuring or selling the goods and services during the state of emergency.

B. Such orders shall be effective from the time and in the manner prescribed in such orders and shall be published as soon as practicable in a newspaper of general circulation in the area affected by such order and transmitted to the radio and television media for

publication and broadcast. Such orders shall cease to be in effect five days after their promulgation or upon declaration by the governor that the state of emergency no longer exists, whichever occurs sooner; however, the chief law enforcement officer, with the consent of the governor, may extend the effect of such orders for successive periods of not more than five days each by republication of such orders in the manner hereinabove provided.

C. All orders promulgated pursuant to this Section shall be executed in triplicate and shall be filed with the clerk of court of the parish affected and with the secretary of state of this state.

D. During any period during which a state of emergency exists the proclaiming officer may appoint additional peace officers or firemen for temporary service, who need not be in the classified lists of such departments. Such additional persons shall be employed only for the time during which the emergency exists.

E. During the period of the existence of the state of emergency the chief law enforcement officer of the political subdivision may call upon the sheriff, mayor, or other chief executive officer of any other parish or municipality to furnish such law enforcement or fire protection personnel, or both, together with appropriate equipment and apparatus, as may be necessary to preserve the public peace and protect persons and property in the requesting area. Such aid shall be furnished to the chief law enforcement officer requesting it insofar as possible without withdrawing from the political subdivision furnishing such aid the minimum police and fire protection appearing necessary under the circumstances. In such cases when a state of emergency has been declared by the governor pursuant to R.S. 29:724 et seq., all first responders who are members of a state or local office of homeland security and emergency preparedness, including but not limited to medical personnel, emergency medical technicians, persons called to active duty service in the uniformed services of the United States, Louisiana National Guard, Louisiana Guard, Civil Air Patrol, law enforcement and fire protection personnel acting outside the territory of their regular employment shall be considered as performing services within the territory of their regular employment for purposes of compensation, pension, and other rights or benefits to which they may be entitled as incidents of their regular employment. Law enforcement officers acting pursuant to this Section outside the territory of their regular employment have the same authority to enforce the law as when acting within the territory of their own employment.

F. Notwithstanding the provisions of this Section, except in an imminent life threatening situation nothing herein shall restrict any uniformed employee of a licensed private security company, acting within the scope of employment, from entering and remaining in an area where an emergency has been declared. The provisions of this Subsection shall apply if the licensed private security company submits a list of employees and their assignment to be allowed into the area, to the Louisiana State Board of Private Security Examiners, which shall forward the list to the chief law enforcement office of the parish and, if different, the agency in charge of the scene.

G. As used in this Section:

(1) "Disaster" shall have the same meaning as provided in R.S. 29:723.

(2) "Emergency" shall have the same meaning as provided in R.S. 29:723.

H.(1) The right of each citizen to keep and bear arms is fundamental and shall not be infringed. Nothing in this Section shall authorize the seizure or confiscation of any firearm or ammunition from any individual who is lawfully carrying or possessing the firearm or ammunition except as provided in Paragraph (2) of this Subsection.

(2) A peace officer who is acting in the lawful discharge of the officer's official duties may disarm an individual if the officer reasonably believes it is immediately necessary for the protection of the officer or another individual. The peace officer shall return the firearm to the individual before discharging that individual unless the officer arrests that individual for engaging in criminal activity, or seizes the firearm as evidence pursuant to an investigation for the commission of a crime.

(3) Firearms and ammunition manufacturers, distributors, wholesalers, suppliers, and retailers and shooting ranges are essential businesses and operations for purposes of safety and security and shall not be prohibited or restricted from operating or conducting business during a declared emergency or disaster.

RS 14:329.7 — Punishment

of wrongful use of public property, or violates any other provision hereof shall be fined not more than five hundred dollars or be imprisoned not more than six months, or both.

B. Where as a result of any willful violation of the provisions of R.S.

14:329.1 through 329.8 there is any serious bodily injury or any property damage in excess of five thousand dollars, such offender shall be imprisoned at hard labor for not more than five years.

C. Where, as a result of any willful violation of the provisions of R.S.

14:329.1 through 329.8, the death of any person occurs, such offender shall be imprisoned at hard labor for not to exceed twenty-one years.

RS 14:329.8 — Applicability of other acts

aster Act of 1974, R.S. 29:701 through 716.

RS 14:330 — Motion picture ratings; definitions; prohibition on advertising coming attraction with more restrictive rating

shall spell out on the face of all motion picture advertisements the rating of the advertised attraction, each in conspicuous and legible type in contrast by typography, layout, or color with other printed matter appearing on the advertisement.

B. No owner or operator of any motion picture theatre, including a drive-in theatre, shall advertise, or permit to be advertised by film a coming attraction which has a more restrictive rating than the motion picture currently engaged at the aforementioned establishments. For the purposes of this section a restrictive rating is one which excludes certain people from the viewing audience on the basis of age and the subject matter of the motion picture.

C. Any person who violates the provisions of this section shall be fined not less than one hundred dollars nor more than five hundred dollars or be imprisoned for not more than six months, or both.

RS 14:331 — Prohibition of debt adjusting when conducted for profit

wing words and phrases shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Person" means an individual, corporation, partnership, trust, firm, association or other legal entity.

(2) "Debt adjusting" means the making of a contract, express or implied, with a debtor whereby the debtor agrees to pay a certain amount of money or other thing of value periodically to the person engaged in the debt adjusting business who shall, for a consideration, distribute the same among certain specified creditors in accordance with a plan agreed upon.

The term includes debt adjustment, budget counseling, debt management or debt pooling service or the holding of oneself out, by words of similar import, as providing services to debtors in the management of their debts and contracting with the debtor for a fee to (a) effect the adjustment, compromise, or discharge of any account, note, or other indebtedness, of the debtor, or (b) receive from the debtor and disperse to his creditors any money or other thing of value.

C. This section shall not apply to:

- (1) Situations involving debt adjusting incurred incidentally in the lawful practice of law in this state;
- (2) Banks and fiduciaries, as duly authorized and admitted to transact business in this state and performing credit and financial adjusting service in the regular course of their principal business;
- (3) Title insurers and abstract companies, while doing an escrow business;
- (4) Judicial officers or others acting under court orders;
- (5) Nonprofit or charitable corporations or associations engaged in debt adjusting;
- (6) Situations involving debt adjusting incurred incidentally in connection with lawful practice as a certified public accountant;
- (7) Bona fide trade or mercantile associations in the course of arranging adjustment of debts with business establishments;
- (8) Employers for their employees;
- (9) Any person who, at the request of a debtor, arranges for or makes a loan to the debtor, and who, at the authorization of the debtor, acts as an adjuster of the debtor's debts in the disbursement of the proceeds of the loan, without compensation for services rendered in adjusting the debts.

D. Whoever shall engage in the business of debt adjusting shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:332 — Interference with medical treatment

ic, emergency medical technician, or other medical or hospital personnel in the performance of their duties relating to the care and treatment of patients in any hospital, clinic, other medical facility, or at the scene of a medical emergency.

B. Whoever violates the provisions of this Section shall be fined not less than one hundred dollars or more than two hundred and fifty dollars upon conviction of a first offense, and not less than two hundred fifty dollars or more than five hundred dollars or ten days in jail or both upon conviction of any subsequent offense.

RS 14:333 — Misrepresentation of age to obtain alcoholic beverages or gain entry to licensed premises prohibited; penalties

er to any person having a license or permit to sell alcoholic beverages, under Title 26 of the Louisiana Revised Statutes of 1950, or to his agent or employee any written, printed, or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of obtaining or purchasing alcoholic beverages or attempting to enter the licensed premises.

B. Whoever violates the provisions of this Section shall be punishable by one or more of the following:

- (1) A fine of not more than two hundred dollars.
- (2) An appropriate amount of community service not to exceed thirty hours.
- (3) Suspension of the violator's driver's license for ninety days.

C. As used in this Section, "licensed premises" means an establishment licensed under Title 26 of the Louisiana Revised Statutes of 1950 where the sale of alcoholic beverages constitutes its main business.

RS 14:334 — Ignition interlock device offenses

n R.S. 15:306 shall:

- (1) Operate, lease, or borrow a motor vehicle unless that vehicle is equipped with a functioning ignition interlock device.

(2) Request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

B. No person shall blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person who is prohibited from operating a motor vehicle without an ignition interlock device.

C. No person shall intentionally attempt to tamper with, defeat, or circumvent the operation of an ignition interlock device.

D. Any person convicted of a violation of this Section may be punished by imprisonment for not more than six months or a fine of not more than five hundred dollars, or both.

RS 14:335 — Checks; requiring certain information to be recorded on; prohibited; penalties

stomer's personal check which has been tendered for the payment of goods or services or for cashing.

B. No retail or wholesale merchant shall cause the race of any customer to be recorded on a personal check tendered by such customer for the payment of goods or services or for cashing.

C. Any person convicted of a violation of this Section may be assessed civil damages in an amount not to exceed two hundred fifty dollars.

RS 14:336 — Unlawful aiming of a laser at an aircraft

ircraft jurisdiction of the state of Louisiana.

B. For purposes of this Section, the following terms have the following meanings:

(1) "Laser" means any device that projects a beam or point of light by means of light amplification by stimulated emission of radiation or any device that emits light which simulates the appearance of a laser.

(2) "Police officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, and probation and parole officers.

C. The provisions of this Section shall not prohibit aiming of a laser at an aircraft by any of the following:

(1) An authorized individual in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct research and development or flight test operations.

(2) Members or employees of the United States Department of Defense, United States Department of Homeland Security, or police officers acting in the course and scope of their official duties for the purpose of research, development, operations, testing, or training.

(3) A person using a laser emergency signaling device to send an emergency distress signal.

D.(1) Whoever commits the crime of unlawful aiming of a laser at an aircraft shall be imprisoned with or without hard labor for not less than one year nor more than five years and shall be fined two thousand dollars.

(2) On a conviction for a second or subsequent offense, the offender shall be imprisoned with or without hard labor for not less than two years nor more than ten years and shall be fined four thousand dollars.

RS 14:337 — Unlawful use of an unmanned aircraft system

stem to conduct surveillance of,

gather evidence or collect information about, or photographically or electronically record a targeted facility without the prior written consent of the owner of the targeted facility.

(b) The intentional use of an unmanned aircraft system over the grounds of the governor's mansion, state or local jail, prison, or other correctional facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for violations of criminal law without the express written consent of the person in charge of that state building, state or local jail, prison, or other correctional facility.

(c) The intentional use of an unmanned aircraft system to conduct surveillance of, gather evidence or collect information about, interfere with the operation of, or

photographically or electronically record a federal or state military installation, facility, aircraft, ship, military vehicle, or weapon system located therein without obtaining prior written consent from the military installation or facility commander.

(2) The unmanned aircraft system shall be seized by a law enforcement officer in the course of arrest or issuance of summons or shall be seized by order of court pursuant to other provisions of law.

B. As used in this Section, the following definitions shall apply:

(1) "Federal government" means the United States of America and any department, agency, or instrumentality thereof.

(2) "Federal or state military installation or facility" means either a permanent military base or temporary installation where federal or state military personnel conduct operations related to national or state defense or security including but not limited to the staging or storage of military equipment or service members, base operations or mission related activities, logistical support operations, military drills or exercises, or civil support or rescue services.

(3) "Mitigation measures" mean actions, such as jamming, that are taken to cause electronic interference to neutralize, intercept, disable, or disrupt an unmanned aircraft system in order to prevent illegal or harmful activity.

(4) "Nefarious manner" means an illegal, dangerous, or harmful purpose in which an unmanned aircraft system is used. Such purpose may include but is not limited to spying, smuggling contraband as defined in R.S. 14:402, facilitating criminal activity, or posing a direct threat to public safety.

(5) "State government" means the state of Louisiana and any department, agency, or instrumentality thereof.

(6) "Targeted facility" means the following systems:

- (a) Petroleum and alumina refineries.
- (b) Chemical and rubber manufacturing facilities.
- (c) Nuclear power electric generation facilities.
- (d) School and school premises as defined by R.S. 14:40.6(B).
- (e) Critical infrastructure as defined by R.S. 14:61(B).
- (f) Grain elevators and grain storage facilities.

(7) "Unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable. "Unmanned aircraft system" does not include any of the following:

- (a) A satellite orbiting the earth.
- (b) An unmanned aircraft system used by the federal government or a person who is acting pursuant to contract with the federal government to conduct surveillance of specific activities.
- (c) An unmanned aircraft system used by the state government or a person who is acting pursuant to a contract with the state government to conduct surveillance of specific activities.

(d) An unmanned aircraft system used by a local government law enforcement agency or fire department.

(e) An unmanned aircraft system used by a person, affiliate, employee, agent, or contractor of any business which is regulated by the Louisiana Public Service Commission or by a local franchising authority or the Federal Communications Commission under the Cable Television Consumer Protection and Competition Act of 1992 or of a municipal or public utility, while acting in the course and scope of his employment or agency relating to the operation, repair, or maintenance of a facility, servitude, or any property located on the immovable property which belongs to such a business.

C.(1) Nothing in this Section shall prohibit a person from using an unmanned aircraft system to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record his own property that is either of the following:

(a) Located on his own immovable property.

(b) Located on immovable property owned by another under a valid lease, servitude, right-of-way, right of use, permit, license, or other right.

(2) Third persons retained by the owner of the property described in Paragraph (1) of this Subsection shall not be prohibited under this Section from using an unmanned aircraft system to conduct activities described in Paragraph (1) of this Subsection.

D. The provisions of this Section shall not apply to any of the following:

(1) Any person operating an unmanned aircraft vehicle or unmanned aircraft system in compliance with federal law or Federal Aviation Administration authorization or regulations or to any person engaged in agricultural commercial operations as defined in R.S. 3:41.

(2) The operation of an unmanned aircraft by institutions of higher education conducting research, extension, and teaching programs in association with university sanctioned initiatives.

E.(1) Whoever commits the crime of unlawful use of an unmanned aircraft system as provided in Subparagraph (A)(1)(a) of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) On a conviction for a second or subsequent offense as provided in Subparagraph (A)(1)(a) of this Section, the offender shall be fined not less than five hundred dollars nor more than four thousand dollars or imprisoned, with or without hard labor, for not less than six months nor more than two years, or both. In addition to the sentence imposed pursuant to this Paragraph, the court shall order the forfeiture of the unmanned aircraft system used in connection with the offense and provide for the destruction, sale, or other disposition of the unmanned aircraft system.

(3) Whoever commits the crime of unlawful use of an unmanned aircraft system as provided in Subparagraph (A)(1)(b) of this Section shall be fined not more than two thousand dollars or imprisoned for not more than six months, or both.

(4) On a conviction for a second or subsequent offense as provided in Subparagraph (A)(1)(b) of this Section, the offender shall be fined not less than two thousand dollars nor more than five thousand dollars or imprisoned, with or without hard labor, for not more than

one year, or both.

(5) Whoever commits the crime of unlawful use of an unmanned aircraft system as provided in Subparagraph (A)(1)(c) of this Section shall be fined not less than two thousand dollars nor more than five thousand dollars and imprisoned at hard labor for not more than five years. In addition to the sentence imposed pursuant to this Paragraph, the court shall order the forfeiture of the unmanned aircraft system used in connection with the offense and provide for the destruction, sale, or other disposition of the unmanned aircraft system.

F. The provisions of this Section shall not apply to unmanned aircraft systems used for motion picture, television, or similar production where the filming is authorized by the property owner.

G.(1) A law enforcement officer or agency may take reasonable and necessary mitigation measures against a threat posed by an unmanned aircraft system operating within this state in a nefarious manner. Such measures may include but not be limited to any of the following:

(a) The use of detection, tracking, and identification methods.

(b) The interception or disabling of an unmanned aircraft system through legal and safe methods, including but not limited to jamming, hacking, or physical capture.

(2) A law enforcement officer or agency shall act pursuant to Paragraph (1) of this Subsection only if there is reasonable suspicion that the unmanned aircraft system is involved in criminal activity, poses an imminent threat to public safety, or is otherwise operating in violation of state or federal law.

RS 14:337.1 — Unlawful use of an unmanned aircraft system at a parade

ized person over any parade or parade route for which a permit is issued by a governmental entity.

B. As used in this Section, the following definitions shall apply:

(1) "Parade" means any celebration of Mardi Gras or directly related pre-Lenten or carnival related festivities, school parades, parish parades, state parades or municipal parades, or any demonstration for which a permit is issued by a governmental entity.

(2) "Parade route" means any public sidewalk, street, highway, bridge, alley, road, or other public passageway upon which a parade travels.

C. Whoever commits the crime of unlawful use of an unmanned aircraft system at a parade shall be fined not less than two thousand dollars nor more than five thousand dollars, imprisoned with or without hard labor for not more than one year, or both. In addition to the sentence imposed pursuant to this Subsection, the court shall order the forfeiture of the unmanned aircraft system used in connection with the offense and provide for the destruction, sale, or other disposition of the unmanned aircraft system.

D. Notice of the area known as the "Drone No Fly Zone" shall be posted along the parade route and may be announced through the use of local media outlets or social media platforms.

E. Lack of knowledge that the prohibited act occurred on or within the parade or parade route shall not be a defense.

F. The provisions of this Section shall not apply to unmanned aircraft systems used

for motion picture, television, or similar production where the filming is authorized.

RS 14:338 — Interfering with emergency communication

force or intimidation to

block access to any telephone or telecommunications device with the specific intent to interfere or prevent an individual from doing any of the following:

- (1) Using a 911 emergency telephone number.
- (2) Obtaining medical assistance.
- (3) Making a report to any law enforcement officer.

B. Whoever commits the crime of interfering with emergency communication as defined by this Section shall be either fined not more than five hundred dollars, imprisoned for not more than six months, or both.

C. For the purposes of this Section:

- (1) "Law enforcement officer" shall include commissioned police officers, state police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, and probation and parole officers.
- (2) "Telecommunications device" shall mean any type of instrument, device, or machine that is capable of transmitting or receiving telephonic, electronic, radio, text, or data communications, including but not limited to a cellular telephone, a text-messaging device, a personal digital assistant, a computer, or any other similar wireless device that is designed to engage in a call or communicate text or data.

RS 14:351 — Bail, sale, etc. of real estate securing, prohibited; penalty

ce of the state any real estate offered as security to the state on any bail or appearance bond for the release of any person charged with crime.

B. Whoever violates this Section shall be imprisoned with or without hard labor for not less than six months nor more than twelve months.

RS 14:353 — Documents simulating official court papers for collection purposes, sale or purchase prohibited; use prohibited; penalty

fer to sell, cause to be sold or offer to be sold, or solicit for or offer to purchase, any paper or document, except a paper or document intended for use by a court or a judicial or administrative tribunal or unit, which simulates or purports to be an official paper or document, such as is issued by or from any court or judicial tribunal within the United States and intended or calculated to secure or collect any sum of money or other thing of value.

(B) No person, either as principal or agent, other than a court or a judicial or administrative tribunal or unit shall make use of any paper or document which simulates or purports to be an official paper or document, such as is issued by or from any court or judicial tribunal within the United States and intended or calculated to secure or collect any sums of money or other thing of value.

(C) Whoever violates any provisions of this Section shall be fined not more than one hundred dollars, or imprisoned for not more than sixty days, or both.

RS 14:354 — Fiduciaries, failure to file accounts in court; penalty

court of competent jurisdiction, to file in the court where such trust is exercised, once between the first day of January and the thirty-first day of December of each calendar year, a full and complete account and statement of the trust.

B. Whoever violates this Section shall be fined not more than five hundred dollars and, in default of fine, imprisoned for not more than six months.

RS 14:355 — Property exempt from execution; penalty for deprivation of rights

er to sign away, by contract or otherwise, any of the rights he may have under R.S. 13:3881.

B. Whoever violates this Section shall be fined not more than two hundred dollars, or imprisoned for not more than six months, or both.

RS 14:356 — Sheriffs, etc., solicitation of legal business prohibited; penalty

or otherwise, shall procure or solicit any legal business for any attorney at law under the expectation or promise, whether express or implied, of being paid in any manner.

B. Whoever violates this Section shall be imprisoned with or without hard labor for not more than two years.

C. Proof of solicitation or procurement of any legal business for any attorney at law shall be considered prima facie evidence that the solicitation or procurement has been done for pecuniary reward.

RS 14:356.1 — Unlawful referrals by wrecker drivers and others; penalty

t law any person involved in an accident in connection with which he has provided wrecker services, when the wrecker driver, owner, or other person receives any compensation for such referral.

B. Whoever violates the provisions of this Section shall be fined not more than five thousand dollars or imprisoned for not more than five years, with or without hard labor, or both.

RS 14:356.2 — Unlawful appearance bond procurement

of court's office, or any law enforcement personnel or employee or agent of any law enforcement agency shall negotiate for, procure, solicit, sell, or in any way participate in the negotiation for, procurement, solicitation, or sale of a bond taken to secure the appearance of any person before any court with criminal jurisdiction in the state of Louisiana for any fee, commission, or the receipt of anything of value.

B. Whoever violates any provision of this Section shall upon conviction be fined not more than five thousand dollars, imprisoned for not more than six months, or both.

RS 14:356.3 — Unlawful referrals by ambulance drivers and others; penalty

ney at law any person involved in an accident in connection with which he has provided ambulance services, when the ambulance driver, owner, or other person receives any compensation for such referral.

B. Whoever violates the provisions of this Section shall be fined not more than five thousand dollars or imprisoned for not more than five years, with or without hard labor, or both.

RS 14:357 — Candies, selling without payment of license tax; penalty

sweets on consignment with any person, firm, or corporation, other than schools, churches, religious societies, and civil organizations, who has not paid the privilege or license tax required by law in order to obtain a license to sell and dispose of the articles.

B. Whoever violates this Section, for the first offense, shall be fined not more than one hundred dollars, and for the second offense, not more than five hundred dollars.

RS 14:358 — Subversive activities and communist control law; legislative finding of

alist Republics and the other communist bloc nations, which has as its declared objective, world control. Such world control is to be brought about by aggression, force and violence, and is to be accomplished in large by infiltrating tactics involving the use of fraud, espionage, sabotage, infiltration, subversion, propaganda, terrorism and treachery. The state of Louisiana, as a sovereign political entity under the constitution of the United States, and as a functioning representative State government which is responsible solely to the people of this state under the constitutions of this state and nation, is a most probable and obvious target for those who seek by force, violence and other unlawful means to overthrow constitutional government, and is in imminent

danger of communist espionage, infiltration, subversion and sabotage.

Communist control of a country is characterized by an absolute denial of the right of self-government and by the abolition of those personal liberties which are cherished and held sacred in the state of Louisiana and in the United States of America.

The direction and control of the world communist movement is vested in and exercised by the communist dictatorships of the various communist bloc nations which, in furthering the purposes of the world communist movement, have established or caused the establishment of various action organizations and "front" organizations which are not free and independent, but are sections of a world wide communist organization or apparatus and are controlled and directed by and subject to the discipline of the various communist dictatorships.

These communist action organizations and front organizations so established and utilized in the state of Louisiana, and acting under such control, direction and discipline, endeavor to carry out the objectives of the world communist movement by bringing about the overthrow of existing governments, both national and state, by any available means, including force if necessary, and to set up communist totalitarian dictatorships which will be subservient to the world communist movement.

The agents of the world communist movement who knowingly participate in the conspiratorial subversive work of the world communist movement, by so doing, in effect repudiate their allegiance and loyalty to the state of Louisiana and in effect transfer their allegiance and loyalty to the foreign countries in which is vested the direction and control of the world communist movement. By clever and ruthless tactics of espionage, sabotage, infiltration, fraud, propaganda and subversion, the agents of the world communist movement in many instances in some form or manner successfully evade existing law. Any action organization or front organization managed, operated or controlled by communists, no matter what outward guise, cover, or public image it may assume, is in fact an arm, or tool, or agent organization, of the world communist movement, and its continued operation is a threat and a clear and present danger to the state of Louisiana and the citizens of the state of Louisiana. The effective regulation of such organizations and the control of Communist personalities is in the best interests of the state of Louisiana because the world communist movement is not a legitimate political effort, but is in fact a dangerous criminal conspiracy.

The world communist movement constitutes a clear and present danger to the citizens of the state of Louisiana and is a dangerous enemy of the state of Louisiana. This makes it necessary that the Legislature, in order to protect the people of the state, to preserve the sovereignty of the state under the constitutions of the United States and the state of Louisiana, and to guarantee

to the State a republican form of government, enact appropriate legislation recognizing the existence of the world communist movement and preventing it from the accomplishment of its purposes in the state of Louisiana.

There exists a clear difference between natural persons protected by full constitutional freedoms, and organizations which are artificial entities. With this difference in mind and considering the paramount right and interest of the state to protect itself from subversion, the issue of due process is satisfied in R.S. 14:358 through 373 by the legal test of a preponderance of the evidence in a civil proceeding, R.S. 14:358 through 373 being intended as regulatory rather than punitive. The paramount interest of the state to control a clear and present danger demands the broadest possible venue provisions in such regulations. The guarantees of sovereignty and freedom enjoyed by this state and its citizens are certain to vanish if the United States and its constitution are destroyed by the communists, and any communist effort or attack against the United States is and should rightly be considered an attack upon and a clear and present danger to the state of Louisiana and its citizens.

The Legislature of Louisiana does not intend that R.S. 14:358 through 373 shall in any way regulate or control race relations in the state of Louisiana, the question of race being irrelevant for the purposes of R.S. 14:358 through 373, which is written and passed solely for the purpose of regulating subversive activities directed against the state and people of Louisiana. Nothing in R.S. 14:358 through 373 is in any way intended to improperly infringe upon the constitutionally protected right of freedom of expression, for this right, strong though it may be, is not absolute, and falls short of the right to shout "fire" in a crowded movie theater. The protections afforded by the right to freedom of speech do not extend to acts which are by their very nature a clear and present danger to the state of Louisiana and its citizens and the carrying on of communist propaganda activity and other communist controlled activities in the state of Louisiana is such a danger and is therefore an intolerable abuse of the right to freedom of expression which can and should be regulated by statute for the safety of the people of this state. The public good, and the general welfare of the citizens of this state require the immediate enactment of this measure.

RS 14:359 — Definitions

y group of persons, whether
or not incorporated, banded together for joint action on any subject or subjects.
(2) A "Communist Action Organization" is the Communist Party Of
The United States, the communist party of any state or foreign nation, the
Progressive Labor Movement, or any other organization (other than a
diplomatic representative or mission of a foreign government accredited as
such by the U.S. Department of State), which is substantially directed,
controlled or dominated by any of the foreign governments controlling the

world Communist movement described in R.S. 14:358, and shall include any section, branch, fraction or cell of any such organization as is described in this Section.

(3) A "Communist" is any person who has accepted the discipline of or has become a member of a communist action organization and has remained under the discipline thereof or remained a member thereof knowing it to be such an organization.

(4) A "Communist Front Organization" is any organization other than a communist action organization which is directed, controlled or dominated by a communist action organization or is primarily operated for the purpose of giving aid and support to a communist action organization, a Communist foreign government, or the world Communist movement referred to in R.S. 14:358.

(5) A "Communist Infiltrated Organization" is any organization (other than a communist action organization or a communist front organization) which is substantially directed, controlled or dominated by any person who is a communist or persons who are communists.

(6) A "Communist Organization" is any communist action organization, communist front organization or communist infiltrated organization.

(7) The term "world Communist movement" means a revolutionary movement, the purpose of which is to establish eventually a communist totalitarian dictatorship in any or all the countries of the world through the medium of an internationally coordinated Communist movement.

(8) A "Subversive Organization" is any organization which advocates the overthrow or destruction of the United States, the state of Louisiana, or any political subdivision thereof by revolution, force, violence or other unlawful means, and performs or carries out as a function of the organization, known, agreed to, or knowingly performed by any of the officers of the organization, any affirmative act, including abetting, materially assisting, advising or teaching such overthrow or destruction, with the intent to incite action rather than engage in the mere exposition of theory.

(9) A "Subversive Person" is any person who knowingly is a member of a subversive organization knowing the said organization to be subversive within the meaning of R.S. 14:358 through 373 or any person who commits any act intended to bring about the overthrow or destruction of the United States, the state of Louisiana or any political subdivision thereof by revolution, force, violence or other unlawful means.

RS 14:360 — Due process determination of facts

ed organization, a subversive organization, a communist or a subversive person, the following procedure shall be the legal method of such determination:

Upon any district attorney or the attorney general being reasonably informed that an organization or person is or should be subject to the regulation of R.S. 14:358 through 373, the district attorney having proper jurisdiction, or the attorney general, shall institute in the appropriate district court a civil proceeding in the name of the state of Louisiana against such organization or individual, setting forth the relevant and pertinent facts pertaining to said organization or individual under the definitions provided in R.S. 14:358 through 373, and praying for a judgment of the court determining, from the facts presented concerning said organization or individual, whether or not said organization or individual is in fact a communist action organization, a communist front organization, a communist infiltrated organization, a subversive organization, a communist or a subversive person, as the case may be. All such suits shall be procedurally handled as an adversary proceeding the same as any other civil action. The judgment of the court in such actions shall be based upon a preponderance of the evidence, as in all other civil cases. No determination of fact as provided in this Section concerning any organization or individual shall be made by any other way than by judgment of a district court of this state, which judgment shall, when so justified by the facts presented, be rendered as prayed for by the district attorney or attorney general, as the case may be, identifying the defendant in the terms defined in R.S. 14:359. The provisions of Articles 1871 through 1883, of the Louisiana Code of Civil Procedure, concerning declaratory judgments, shall apply to all civil actions provided for in this Section.

RS 14:361 — Venue

licited funds, is sending or has sent printed propaganda or other printed materials, an agent duly appointed for the service of process resides, or where any agent appointed by action of law for the service of process resides, has officers or members living therein or in which any officer can be found for personal service, or in the case of an individual, in any parish where such individual may be domiciled, temporarily living, be employed, carry on any propaganda activities, solicit or pay out any funds or money, or be found for personal service of process.

RS 14:362 — Registration of organizations

organization, a communist infiltrated organization or a subversive organization, the president, vice president, secretary or treasurer, or in their absence any director or other officer of the organization, shall file or cause to be filed, within five days thereafter and annually thereafter between the 1st and 15th of January, with the commissioner of public safety, or his designated representative, a registration statement, and for the purposes of filing this registration statement only, any member of the bar of this state may be employed. Except with respect to the disclosures required to be made in this registration statement, the legal privileges of the attorney-client relationship shall be observed. The said registration statement shall contain the following information:

The names and current home and office addresses of all current

officers, plus all officers during the year preceding the date of the statement, with a designation of the title of the officer and a brief description of the duties of said officers.

The names and current home and office addresses of all persons or organizations which have contributed funds to said organization in the year preceding the date of the statement plus a statement of the amount and date of each contribution received from each contributor during the year preceding the date of the statement, the qualifications for membership in the organization, a detailed statement of the aims, purposes and activities of the organization and all the means by which they are carried out.

In the case of a communist action organization or a subversive organization, the name and last known address of each person who was a member of the organization at any time during the year preceding the date of the statement.

(In the case of any officer or member listed above who is or has been known by more than one name, each name which such officer or member uses or by which he has been known must be listed to comply with R.S. 14:358 through 373).

An inventory of all property and assets owned by the said organization listing brief description, location and approximate values.

Registrants under this Section shall attach to their registration statements copies of all publications of any kind, including written transcripts of any radio or television broadcasts, published or disseminated by the registering organization during the year preceding the date of the statement, plus, a copy of the Charter, articles of incorporation, bylaws and rules of the organization.

The registration statement of any organization under this Section shall be submitted under oath or by affirmation.

RS 14:363 — Registration of individuals

hall, within five days thereafter, register with the commission of public safety by filing in person a statement under oath or affirmation setting forth his or her name, including any other names used or in use, address, occupation, date and place of birth, features of identification, and name of spouse, if any. All such individual registrants shall be fingerprinted for positive identification at the time of each registration and shall re-register annually between the 1st and 15th of January, for so long as they remain in the state of Louisiana. If a person found to be a communist or a subversive person under the terms of R.S. 14:358 through 373 shall leave the state of Louisiana for a period as long as fifteen days or longer, he or she shall re-register as provided above within five days after he or she shall return to the state.

RS 14:364 — Registration statements to be public records

l be kept

open for public inspection at any reasonable time.

RS 14:365 — Election ballots

the name of any of its nominees printed on any election ballot
used in any primary or general election in the state of Louisiana.

RS 14:366 — Public office and public support, disqualification

R.S. 14:358

through 373 to be Communists or Subversive Persons, and no official or employee of the state of Louisiana or any political subdivision thereof having the authority to hire and fire other employees shall hire or retain on the official payrolls any person about whom the courts have made any such determination under R.S. 14:358 through 373, and further, no official or employee of the state of Louisiana or any political subdivision thereof who has the authority and responsibility to pay out any public funds for any purpose shall pay out any such funds in any amount for any purpose to any person about whom the courts have made any such determination under R.S. 14:358 through 373.

RS 14:367 — Labeling of propaganda

infiltrated organization or a subversive organization

under the provisions of R.S. 14:358 through 373, which publication is intended to be, or which is, circulated or disseminated among two or more persons, shall be marked plainly in block letters in red ink, "Disseminated by _____, a Communist Organization" (or Subversive Organization if the organization has been so designated) inserting in the blank space the full name of the organization.

RS 14:368 — Acts prohibited

of R.S. 14:358 through 373.

2. Fail as an officer of a communist action organization, a communist front organization, a communist infiltrated organization or a subversive organization to perform and carry out the obligations set forth and provided in R.S. 14:362.
3. File any false registration statement under the provisions of R.S. 14:362 and 14:363.
4. Violate the provisions of R.S. 14:367 in regard to the labeling and dissemination of propaganda material.

RS 14:369 — Penalties

ears, or both. Any organization which shall fail to register as provided in R.S. 14:362 when required to do so under the terms of R.S. 14:358 through 373 shall, on the motion of the district attorney or the attorney general as the case may be, have all assets of said organization frozen by preliminary restraining order and injunction of the district court having jurisdiction in the matter and held secure under the jurisdiction of said court and unavailable to said organization until the required registration is completed

or until the owners of the organization petition the said court for a distribution of the assets following a dissolution of the organization.

RS 14:370 — Additional penalties

te of such conviction be barred from:

- (1) Holding any office, elective or appointive, or any other position of profit or trust in or employment by the government of the state of Louisiana or of any agency thereof or of any parish, municipal corporation or other political subdivision of said state;
- (2) Filing or offering for election to any public office in the state of Louisiana; or
- (3) Voting in any election in this state.

RS 14:371 — Screening of prospective public officials and employees

hereof, who or which appoints or employs or supervises in any manner the appointment or employment of public officials or employees, shall establish by rules, regulations or otherwise, procedures designed to reasonably ascertain before any person, including teachers and other employees of any public educational institution in this state, is appointed or employed, that he or she is not a communist or a subversive person, and that there are no reasonable grounds to believe such person is a communist or a subversive person. In the event such reasonable grounds exist, he or she shall not be appointed or employed. In securing any facts necessary to ascertain the information herein required, the applicant may be required to sign a written affidavit containing answers to such inquiries as may be reasonably material.

RS 14:372 — Candidates for public office; filing of nonsubversive affidavits

eated by the constitution or laws of this state unless such candidate for certification by the political party shall have attached to the qualifying papers, the nominating petition or nominating papers filed with the appropriate party committee of this state or the secretary of state, whichever the case may be, a sworn affidavit that the candidate is not and never has been a communist or a subversive person as defined in R.S. 14:359. No qualification of candidates, nominating petition or nominating papers for such office shall be received for filing by the official aforesaid unless the same shall be accompanied by the affidavit aforesaid and there shall not be entered upon any ballot or voting machine at any election the name of any person who has failed or refused to make the affidavit as required above.

RS 14:373 — Citation of subversive activities and communist control law

1965, No. 45, §1.

RS 14:374 — Failure to report bail bonds

to fail to report and remit the premium and any fees or taxes due to the commercial surety company within fifteen days of posting the bail bond.

B. Whoever violates any provisions of this Section shall be fined not more than five hundred dollars and imprisoned for not more than six months or both.

RS 14:375 — Illegal consideration for criminal bail bonds

to procure another to act as a personal surety on a criminal bail bond in the state of Louisiana.

(2) Charge a fee for or to receive anything of value for obtaining a release of a criminal defendant on a bail without surety.

B. An attorney at law admitted to practice in the state of Louisiana, in the course of his representation of his client, shall not be affected by this Section.

C. Whoever violates the provisions of this Section:

(1) When the amount charged or received is valued at five hundred dollars or more, shall be imprisoned with or without hard labor for not more than five years or may be fined not more than five thousand dollars, or both.

(2) When the amount charged or received is valued at one hundred dollars or more, but less than five hundred dollars, shall be imprisoned with or without hard labor for not more than two years or may be fined two thousand dollars, or both.

(3) When the amount received or charged is valued at less than one hundred dollars, shall be imprisoned for not more than six months or fined not more than five hundred dollars, or both.

RS 14:381 — §§381 to 384 Blank

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RS 14:385 — Organizations engaged in social, educational or political activities; Communist affiliations prohibited

Louisiana and engaged in social, educational or political activities are prohibited from being affiliated with any foreign or out of state non-trading corporations, partnerships or associations of persons, any of the officers or members of the board of directors of which are members of Communist, Communist-front or subversive organizations, as cited by the House of Congress un-American Activities Committee, or the United States Attorney. Reports or information from the files of the Committee on un-American Activities of the U.S. House of Representatives shall constitute prima facie evidence of such membership in said organizations.

RS 14:386 — Affidavits

in social, educational or political activities, affiliated with any similar non-trading corporation, partnership or association of persons, chartered, created or operating under the laws of any other state, shall file with the secretary of state yearly, on or before December 31, an affidavit attesting to the fact that none of the officers of such out of state or foreign corporation, partnership or association of persons with which it is affiliated, is a member of any such organization cited by the House of Congress un-American Activities Committee, or the United States Attorney General, as Communist, Communist-front or subversive.

RS 14:387 — Failure to file affidavit; penalty

association of persons operating in this state and affiliated with such out of state or foreign organizations, failing to file such affidavit, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be fined \$100.00 and imprisoned 30 days in the parish jail.

RS 14:388 — False statements in affidavit as perjury

nished as provided by R.S. 14:123.

RS 14:389 — Blank

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RS 14:390 — Declaration of public policy

mittee on Un-American Activities of this Legislature, the public policy of this state is declared to be as follows:

There exists a clear, present and distinct danger to the security of the state of Louisiana and the well-being and security of the citizens of Louisiana arising from the infiltration of a significant amount of communist propaganda into the state. In addition, this state is a stopping place or "way station" for sizeable shipments of dangerous communist propaganda to the rest of the United States and to many foreign countries.

The danger of communist propaganda lies not in its being "different" in the philosophy it expresses from the philosophy generally held in this state and nation, but instead in the fact that it is a specific tool or weapon used by the communists for the express purpose of bringing about the forcible total destruction or subjugation of this state and nation and the total eradication of the philosophy of freedom upon which this state and nation were founded. "Words are bullets" and the communists know it and use them so. Whatever guarantees of sovereignty and freedom are enjoyed by this state and its citizens are certain to vanish if the United States of America is destroyed or taken over by the communists, and we therefore declare that any communist effort by propaganda infiltration or otherwise against the United States is and should rightly be considered an attack upon or clear and present danger to the state of Louisiana and its citizens. Such attacks should therefore be the subject of concurrent jurisdiction through remedial legislation such as is now in effect on both the state and federal level concerning such dangers as the narcotics traffic, bank robbery, kidnapping, etc. We hereby declare that the danger of communist propaganda infiltration is even greater than the danger from narcotics, pornographic literature, switch blade knives, burglar tools or illicit alcohol in dry jurisdictions, all of which have been the subject of valid statutory regulation by the States within the constitutional framework. The federal legislation on this subject matter is either inadequate in its scope, or not being effectively enforced, as much communistic propaganda material unlabeled and unidentified as such, is in fact entering the state of Louisiana at this time.

We further declare that communist propaganda, properly identified in terms similar to those used in the Foreign Agents Registration Act of the United States, is hereby identified as illicit dangerous contraband material. We further declare that certain exemptions hereinafter provided are for the purpose of allowing bona fide students of foreign languages, foreign affairs or foreign political systems, other interested individuals, and also bona fide educational institutions, to obtain this contraband upon specifically requesting its delivery for the purpose of personal or institutional use in the due course of the educational process. We do not believe that the possession or use of such material by knowing and informed individuals for their personal use is any significant danger, and in fact it might be of some benefit in informing such individuals of the cynical and insidious nature of the communist party line. In view of these facts and so that any user of such materials will be adequately forewarned, we declare that all such material in any way entering the state of Louisiana should be required to be clearly labeled as communist propaganda as hereinafter provided.

RS 14:390.1 — Definition of communist propaganda

distributed or disseminated by the Soviet Union, any of its satellite countries, or by the government of any other communist country or any agent of the Soviet Union, its satellite countries or any other communist country, wherever located, or by any communist organization, communist action organization, communist front organization, communist infiltrated organization or communist controlled organization or by any agent of any such organization, which communication or material from any of the above listed sources is

(a) reasonably adopted to, or which the person disseminating the same believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, or in any way influence a recipient or any section of the public with reference to the political or public interests, policies or relations of a government of a foreign country or a foreign political party, or promote in the United States or the state of Louisiana, any attitude or state of mind that tends to undermine the determination of any citizen of the United States or of any of the various states to uphold and defend the Constitution of the United States or the constitutions of the respective states, or tends to create or encourage disrespect for duly constituted legal authority, either federal or state, or

(b) which advocates, advises, instigates or promotes any racial, social, political or religious disorder, civil riot, or other conflict involving the use of force or violence in the United States, the state of Louisiana or any other American republic, or the overthrow of any government or political subdivision of the United States, the state of Louisiana or any other American republic by any means involving the use of force or violence.

(2) For the purposes of R.S. 14:390 through 390.8, the fact that an organization has been officially cited or identified by the attorney general of the United States, the subversive activities control board of the United States or any committee of the United States Congress as a communist organization, a communist action organization, a communist front organization or a communist infiltrated organization or has been in any other way officially cited or identified by any of these aforementioned authorities as a communist controlled organization, shall be considered presumptive evidence of the factual status of any such organization.

RS 14:390.2 — Acts prohibited

he specific exemptions hereinafter provided.

RS 14:390.3 — Legitimate procurement of contraband

accredited educational institutions may obtain communist propaganda and have the same legally delivered to them within the state of Louisiana upon specifically requesting the delivery of the same for the purpose of personal or institutional use in the due course of the educational process. All such communist propaganda legally entering this state under this exemption shall be clearly and legibly labeled on both the front and back cover thereof, or on the front if not covered, with the words "Communist Propaganda" printed or stamped conspicuously in red ink, and failure to so label said material shall constitute a violation of R.S. 14:390 through 390.8 on the part of the sender or distributor thereof, the violation to be considered to take place at the point of actual delivery to the ultimate user who requested the material.

RS 14:390.4 — Venue

nds of the ultimate user.

RS 14:390.5 — Warehousing and storage

found, clear the premises of all human occupants, and padlock the premises until judicially ordered to reopen them. The owner of any padlocked premises may, upon application to the district court of proper jurisdiction and upon showing the court that the premises can be immediately cleared of the prohibited contraband material, obtain an order from the court to the sheriff, authorizing him to supervise the removal of the contraband by the owner of the premises and to re-open the premises thereafter.

RS 14:390.6 — Destruction of contraband

pon summary order of the district court of proper jurisdiction, destroyed, unless needed for official purposes.

RS 14:390.7 — Penalties

x years, or both.

RS 14:390.8 — Short title

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RS 14:401 — Demonstrations in or near building housing a court or occupied as residence by judge, juror, witness, or court officer

administration of justice, or with the intent of influencing any judge, juror, witness, or court officer in the discharge of his duty, pickets or parades in or near a building housing a court of the state of Louisiana, or in or near a building or residence occupied or used by such judge, juror, witness, or court officer, or with such intent uses any sound-truck or similar device or resorts to any other demonstration in or near any such building or residence, shall be fined not more than five thousand dollars or imprisoned not more than one year, or both.

B. Nothing in this Section shall interfere with or prevent the exercise by any court of the state of Louisiana of its power to punish for contempt.

RS 14:402 — Contraband defined; certain activities regarding contraband in correctional facilities

introduce contraband into or upon the grounds of any correctional facility.

B. No person shall possess contraband upon the grounds of any correctional facility.

C. No person shall send, or give or attempt to give, contraband to an inmate of any correctional facility.

D. "Contraband" as used in this Section means:

- (1) Any controlled dangerous substance as defined in R.S. 40:961 et seq., or any other drug or substance that if taken internally, whether separately or in combination with another drug or substance, produces or may produce a hypnotic effect, including nasal inhalators of any variety, sleeping pills, or barbiturates of any variety. The introduction or attempt of introduction by a person of any controlled dangerous substance as defined in R.S. 40:961 et seq. upon the grounds of any correctional facility shall constitute distribution of that controlled dangerous substance and shall be subject to the penalties provided in R.S. 40:961 et seq. The provisions of this Paragraph shall not apply to a drug or substance that has been prescribed by a physician, if the drug or substance is in a container issued by the pharmacy or other place of dispensation; the container identifies the prescription number, prescribing physician, and issuing pharmacist or other person; and the container is not concealed upon the body of the person.
- (2) A dangerous weapon, or other instrumentality customarily used or intended for probable use as a dangerous weapon or to aid in an escape, unless authorized by the warden of the facility or his designee.
- (3) Explosives or combustibles, unless authorized by the warden of the facility or his designee.
- (4) Plans for the making or manufacturing of a dangerous weapon or other instrumentality customarily used or intended for probable use as a dangerous weapon or to aid in an escape, or for the making or manufacturing of explosives or combustibles, or for an escape from a facility, unless authorized by the warden of the facility or his designee.
- (5) An alcoholic beverage or other beverage which produces or may produce an intoxicating effect, unless authorized by the warden of the facility or his designee for employee residential housing areas. However, employee residential housing areas shall not include bachelor officer quarters located within the secure perimeter of the facility. A reasonably small amount of sacramental wine may be permitted by the warden or his designee to be brought onto the grounds of a correctional facility for use by a clergy member only as part of a religious service.
- (6) Stolen property.
- (7) Any currency or coin, unless authorized by the warden of the facility or his designee.
- (8) Any article of food, toiletries, or clothing, unless authorized by the warden of the facility or his designee.
- (9) Any telecommunications equipment or component hardware, including but not limited to cellular phones, pagers, beepers, global satellite system equipment, subscriber identity module (SIM) cards, portable memory chips, batteries, and chargers, whether or not such equipment may be intended for use in planning or aiding an escape or attempt to escape from any facility, unless authorized by the warden of the facility or his designee.
- (10) Any sketch, painting, drawing, or other pictorial rendering produced in whole

or in part by a capital offender, unless authorized by the warden of the facility or his designee.

(11) Any tobacco product as defined in R.S. 14:91.6, unless authorized by the warden of the facility or his designee.

(12) Any equipment, whether professionally made or homemade, intended for use in tattooing.

(13) Any electronic device including but not limited to computers, telephoto equipment, and communications equipment, whether modified or not.

(14) Any hypodermic syringe, needle, or other object used or intended for use, or designed for use in injecting controlled dangerous substances into the human body.

E. Repealed by Acts 2023, No. 302, §3.

F. Any contraband which is seized may be destroyed, donated to a charitable organization, or put to lawful use within the facility, unless it is needed as evidence in a criminal prosecution. However, any money seized which is legal tender shall be placed in a fund at the facility at which the money was seized to be used solely for the purchase of contraband detection and escape chase team equipment. A record of the disposition of all contraband shall be maintained.

G.(1) Whoever violates any provision of this Section shall be fined not less than five hundred dollars and not more than ten thousand dollars and shall be imprisoned with or without hard labor for not more than ten years. Notwithstanding any other law to the contrary, whoever introduces or attempts to introduce contraband as defined in Paragraph (D)(1) of this Section upon the grounds of any correctional facility shall be punished in accordance with the penalties for the distribution of the controlled dangerous substance provided in R.S. 40:961 et seq.

(2) If the person who violates any provision of this Section is incarcerated in the correctional facility in which the contraband is introduced, possessed, or sent from, the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served consecutively to the sentence the person was serving at the time the violation of this Section occurred.

(3) Any fine collected under the provisions of this Subsection shall be placed in a fund located within the division of probation and parole to be used solely for the purchase of reentry services provided to offenders by the division of probation and parole.

H. For purposes of this Section, "correctional facility" means any jail, prison, penitentiary, juvenile institution, temporary holding center, or detention facility.

RS 14:402.1 — Taking of contraband to hospitals unlawful; penalty

r related facility, except through regular

channels as authorized by the administrator of the hospital, any of the following articles which are hereby declared contraband for the purposes of this Section, namely: Any intoxicating beverage or beverage which causes or may cause an intoxicating effect, any controlled dangerous substance that has not been prescribed or recommended in accordance with the Uniform Controlled Dangerous Substances Law at R.S. 40:961 et seq., and any firearm or other instrumentality customarily considered a dangerous weapon possessed by a person who is prohibited from possessing the firearm or instrumentality pursuant to state

or federal law.

B. Whoever violates any provision of this Section shall upon conviction be imprisoned with or without hard labor for not more than three years.

RS 14:403 — Abuse of children; reports; waiver of privilege

y and willfully fails to so report shall

be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(b)(i) Any person who, pursuant to Children's Code Article 609(A), is required to report the sexual abuse of a child, or the abuse or neglect of a child that results in the serious bodily injury, neurological impairment, or death of the child, and the person knowingly and willfully fails to so report, shall be fined not more than three thousand dollars, imprisoned, with or without hard labor, for not more than three years, or both.

(ii) Repealed by Acts 2019, No. 2, §3.

(2) Any person, any employee of a local child protection unit of the Department of Children and Family Services, any employee of any local law enforcement agency, any employee or agent of any state department, or any school employee who knowingly and willfully violates the provisions of Chapter 5 of Title VI of the Children's Code, or who knowingly and willfully obstructs the procedures for receiving and investigating reports of child abuse or neglect or sexual abuse, or who discloses without authorization confidential information about or contained within such reports shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(3) Any person who reports a child as abused or neglected or sexually abused to the department or to any law enforcement agency, knowing that such information is false, shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(4)(a) Notwithstanding the provisions of Paragraph (1) of this Subsection, any person who is eighteen years of age or older who witnesses the sexual abuse of a child and knowingly and willfully fails to report the sexual abuse to law enforcement or to the Department of Children and Family Services as required by Children's Code Article 610, shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

(b) For purposes of this Paragraph, "sexual abuse" shall include but is not limited to the perpetration or attempted perpetration of R.S. 14:41, 42, 42.1, 43, 43.1, 43.2, 43.3, 43.4, 46.2, 46.3, 80, 81, 81.1, 81.2, 86, 89, or 89.1.

B. In any proceeding concerning the abuse or neglect or sexual abuse of a child or the cause of such condition, evidence may not be excluded on any ground of privilege, except in the case of communications between an attorney and his client or between a priest, rabbi, duly ordained minister or Christian Science practitioner and his communicant.

RS 14:403.1 — Substance abuse in schools; definitions; confidential reports; immunity; penalty

employees of the public school systems of this state from liability for damages as a result of reporting substance abuse on school campuses. It is intended that as a result of such reporting, the children attending schools in this state shall not be exposed to

substance abuse while on campus, and law enforcement shall be aided in efforts to eradicate substance abuse by students.

B. For the purposes of this Section, the following terms shall mean:

- (1) "Campus" is all facilities and property within the boundary of the school property and all vehicles used for public transportation of students.
- (2) "Controlled dangerous substance" is any substance regulated or defined in the Uniform Controlled Dangerous Substance Law, Part X, Chapter IV of Title 40 of the Louisiana Revised Statutes of 1950, except where prescribed by a physician and possessed and consumed by the person for whom prescribed.
- (3) "Person" is any employee of a public school system including, but not limited to, teachers, administrators, school bus drivers, janitors, lunch room workers, maintenance employees, and coaches of athletic teams.
- (4) "School" is any public elementary or secondary school in the state of Louisiana.
- (5) "Student" is any person enrolled at school, including any person so enrolled but on temporary suspension, and any person physically on campus, whether a student or non-student.
- (6) "Substance Abuse Prevention Team," hereafter sometimes referred to as "the team," is a panel of not less than six members consisting of at least one administrator, teacher, school counselor, parent representative, and school support person. The team shall be trained by personnel from the Substance Abuse Prevention Education Program of the Louisiana Department of Education.

In the absence of the availability of a team trained by personnel from the Substance Abuse Prevention Education Program, the principal of a school may establish a substantially similar panel which shall be considered a substance abuse prevention team.

C.(1) Any person having reasonable cause to believe that a student possesses a controlled dangerous substance or an alcoholic beverage on a school campus, under circumstances other than those described in Paragraph (2) of this Subsection, shall report such fact to the principal of the school or to the chairman of the Substance Abuse Prevention Team on a report form prepared by the Department of Education or on a substantially similar form. If the report is to the principal, the principal immediately shall forward it to the chairman of the team.

The team shall discuss the circumstances of the report with the student reported without disclosing the name of the reporting person and shall also meet with the parents of the student reported. The team shall thereafter report to the principal of the school and make recommendations for treatment, counselling, or other appropriate action.

(2) Any person having factual knowledge that a student has manufactured, distributed, or possessed with intent to distribute a controlled dangerous substance shall report such fact to the principal of the school who, upon a finding that there is reasonable cause to believe that the student has manufactured, distributed, or possessed with intent to distribute a controlled dangerous substance, shall report such information to the appropriate law enforcement agency. If the principal determines that there are reasonable grounds to believe the student possessed a controlled dangerous substance but did not manufacture, distribute, or possess with intent to distribute a controlled dangerous substance, he shall refer

the matter to the Substance Abuse Prevention Team chairman.

(3) The report required in Paragraphs (1) and (2) of this Subsection shall be written and shall include the name of the person making the report, the name of the student suspected of committing the act so reported, and the specific incident which caused the reporting person to believe the act had occurred. Sufficient detail shall be included to allow the report to be adequately reviewed. When appropriate, the report shall include a behavioral profile of the student since his enrollment in class.

D.(1) The provisions of Subsection C of this Section shall not preclude any person from making a report of conduct to a law enforcement agency when that person has reasonable cause to believe that the manufacture or distribution of a controlled dangerous substance has taken or is taking place and that delay would jeopardize or impair the ability to control the manufacture or distribution of a controlled dangerous substance on a campus.

(2) The provisions of Subsection C of this Section shall not preclude any person from making a report of conduct to a law enforcement agency when that person has reasonable cause to believe that a student on campus is under the influence of alcoholic beverages and that delay would jeopardize or impair the ability to operate the school or result in the student's being a danger to himself or others.

(3) A law enforcement agency receiving a report under the provisions of this Subsection may conduct an investigation of the report. Such investigation may include the administering, upon the school grounds and after consent has been obtained from student's parent or legal tutor, of a breath or urine test for the presence of alcohol or a controlled dangerous substance, if the investigating officer has reasonable cause to believe the student is or recently was on campus while under the influence of alcoholic beverages or a controlled dangerous substance. The methods for the administration and analysis of a breath or urine test under the provisions of this Subsection shall be the same as for chemical testing and analysis authorized under R.S. 32:663. The results of a breath or urine test authorized under this Subsection shall be provided solely to the student, the parent or legal tutor of the student, the principal of the school, and the chairman of the Substance Abuse Prevention Team, and shall not be used as the basis for any disciplinary proceeding against the student. The law enforcement agency may keep a copy of the test results which copy shall not be a public record and shall not be open for public inspection but shall be kept confidential under lock and key and maintained only for internal record keeping purposes to preserve the integrity of said agency's files and shall not be used for any investigative purpose. The test results shall be exempt from the Public Records Act* and shall not be admissible as evidence in any civil or criminal trial, hearing, or other proceeding.

E. All reports filed pursuant to this Section shall be confidential. The identity of the reporting person shall not be disclosed except when the constitution of the State of Louisiana or the United States so requires. All reports shall be exempt from the Public Records Act.

F. Any person who makes a report in good faith, pursuant to Subsections C and D of this Section, shall have immunity from civil liability that otherwise might be incurred. Such immunity shall extend to testimony in any judicial proceeding resulting from such report.

G. The willful failure by a person with permanent status to make a report required by Subsection C of this Section shall constitute willful neglect of duty which may subject the person to dismissal pursuant to R.S. 17:443, R.S. 17:462, R.S. 17:493, R.S. 17:523, or R.S. 17:533, as appropriate. Any person without permanent status may be dismissed for willful neglect of duty under this Section after a hearing in accordance with the procedures set forth in R.S. 17:443.

RS 14:403.2 — Abuse and neglect of adults

emeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

B. Any person who knowingly and willfully violates the provisions of Chapter 14 of Title 15 of the Louisiana Revised Statutes of 1950, or who knowingly and willfully obstructs the procedures for receiving and investigating reports of adult abuse or neglect, or who discloses without authorization confidential information about or contained within such reports shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

C. Any person who reports an adult as abused or neglected to an adult protection agency as defined in R.S. 15:1503 or to any law enforcement agency, knowing that such information is false, shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

D.(1) Any person who retaliates against an individual who reports adult abuse to an adult protection agency or to a law enforcement agency, shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) For the purposes of this Section, "retaliation" is defined as discharging, demoting, or suspending an employee who reports the adult abuse; or threatening, harassing, or discriminating against the reporter in any manner at any time provided the report is made in good faith for the purpose of helping the adult protection agency or law enforcement agency fulfill its responsibilities as set forth in Chapter 14 of Title 15 of the Louisiana Revised Statutes of 1950.

RS 14:403.3 — Reports of missing children; procedures; false reports or communications; penalties

ry of a missing child and having reasonable grounds to believe the report is accurate shall do all of the following immediately after receiving the report:

(a) Enter the name of the child into the National Crime Information Center's database.

(b) Notify each of the following of the facts and contents of the report:

(i) The Department of Children and Family Services to the extent that the reporting is required pursuant to Chapter 5 of Title VI of the Children's Code.

(ii) The office of state police, if it did not originally receive the report.

(iii) The office of the sheriff for the parish in which the report was received, if it did not originally receive the report.

(iv) Any other local, state, or federal law enforcement agency that the law enforcement agency receiving the report deems necessary and appropriate depending upon the facts of each case.

(2) The law enforcement agency may also notify any other appropriate local, state, or federal agency of the fact and contents of the report.

B. No person shall knowingly file a false missing child report with a law enforcement agency.

C. No person shall intentionally communicate false information concerning a missing child, or the recovery of a missing child, to a law enforcement agency when such

information is communicated with the specific intent to delay or otherwise hinder an investigation to locate the child.

D. Whoever violates the provisions of Subsection B of this Section shall be fined not more than two thousand dollars or be imprisoned for not more than one year, with or without hard labor, or both.

E. Whoever violates the provisions of Subsection C of this Section shall be imprisoned at hard labor for not more than five years.

RS 14:403.4 — Burn injuries and wounds; reports; registry; immunity; penalties

offer burn injuries during the commission of their crimes. It is the further intent of this Section to provide for a central registry for burn injuries and wounds data from which effective fire and arson prevention and fire safety education programs may be developed.

B. Every case of a burn injury or wound in which the victim sustains second or third degree burns to five percent or more of the body or any burns to the upper respiratory tract or laryngeal edema due to the inhalation of super-heated air, and every case of a burn injury or wound that is likely to or may result in death shall be reported to the office of state fire marshal, code enforcement and building safety, hereinafter sometimes referred to as the "office". The office may notify the appropriate local or state investigatory agency or law enforcement agency of the receipt of such report and its contents.

C.(1) A report shall be made within two hours of the initial examination or treatment of the victim. The report shall be made by the physician attending or treating the case, or by the manager, superintendent, director, or other person in charge whenever such case is treated in a hospital, burn center, sanitarium, or other medical facility. The report may be recorded electronically or in any other suitable manner, by the office of state fire marshal.

(2) The oral report shall contain the following information if known:

- (a) Victim's name, address, and date of birth.
- (b) Address where the burn injury occurred.
- (c) Date and time of the burn injury.
- (d) Degree of burns and percent of body burned.
- (e) Area of body injured.
- (f) Injury severity.
- (g) Apparent cause of burn injury.
- (h) Name and address of reporting facility.
- (i) Name of the attending physician.

D.(1) The office shall maintain a central registry of all reported cases of the treatment or examination of persons with burn injuries or wounds. The registry may be used to provide information to those agencies whose duties include the investigation into possible arson activities.

(2) The office of state fire marshal may adopt rules and regulations as may be necessary in carrying out the provisions of this Section. Specifically such rules shall provide for cooperation with local investigatory and law enforcement agencies and may also authorize law enforcement personnel and the state fire marshal to review those medical records of reported victims that relate to the burn without the consent of the victim.

E. No cause of action shall exist against any person who in good faith makes a report pursuant to this Section, cooperates in an investigation by any agency, or participates in any judicial proceeding resulting from such report.

F. Any person who knowingly files a false report shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:403.5 — Gunshot wounds; mandatory reporting

ies treated by any medical professionals, practitioners, or associated personnel.

B. In every case of a gunshot wound or injury presented for treatment to a medical professional, practitioner, or associated person, that professional, practitioner, or associated person shall make an oral notification to either the sheriff of the parish in which the wounded person was presented for treatment, or the chief or superintendent of police in the municipality in which the wounded person was presented for treatment immediately after complying with all applicable state and federal laws, rules, and regulations related to the treatment of emergencies and before the wounded person is released from the hospital. A written notation of this action shall be made on the emergency record.

C. The provisions of this Section shall not apply to any wounds or injuries received from the firing of an air gun.

D. Any report of a gunshot wound or injury required to be reported by this Section which does not result in criminal prosecution shall not become public record and shall be destroyed by the law enforcement agency receiving the information.

E. Any person who fails to file a report under this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both. Any person who knowingly files a false report under this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 14:403.6 — Reporting of neglect or abuse of animals

investigates alleged abuse or neglect or sexual abuse of a child, or abuse or neglect of an adult under the provisions of R.S. 15:1507, who becomes aware of evidence of neglect or abuse of an animal shall report such incident to the law enforcement authority of the governing authority in which the incident has occurred or the local animal welfare authority. The name and identifying information regarding the reporter of animal maltreatment shall be confidential.

B. No person required to report under the provisions of Subsection A of this Section shall knowingly and willfully obstruct the procedures for receiving and investigating a report of abuse or neglect or shall disclose, without authorization, confidential information which was reported.

C. No person shall make a report required by this Section knowing that any information therein is false.

RS 14:403.7 — Failure to report a missing child

for in Paragraph (2) of this Subsection.

(2) For purposes of this Subsection, there shall be a presumption that a child is missing and that the child's caretaker knew or should have known that the child is missing when the caretaker does not know the location of the child and has not been in contact with nor verified the location or safety of the child:

(a) With regard to a child over the age of thirteen, for a period of twenty-four hours.

(b) With regard to a child thirteen years of age or younger, for a period of twelve hours.

B. For purposes of this Section:

(1) "Appropriate authority" includes:

(a) A state or local law enforcement agency.

(b) A 911 Public Safety Answering Point as defined in Title 33 of the Louisiana Revised Statutes of 1950.

(2) "Caretaker" means the child's parent, grandparent, legal guardian, or any person who, at the time of the child's disappearance, has physical custody of the child.

(3) "Child" means any person under the age of seventeen years.

(4) Repealed by Acts 2019, No. 2, §3.

C. Any person who violates the provisions of Subsection A of this Section shall be punished as follows:

(1) If the child is found dead or determined to be dead, then the offender shall be

imprisoned at hard labor for not less than two years nor more than fifty years without benefit of parole, probation, or suspension of sentence, and fined not more than fifty thousand dollars.

(2) If the child has remained missing for a period of more than six months at the time of conviction and not determined to be dead, then the offender shall be imprisoned at hard labor for not less than two years nor more than ten years without benefit of parole, probation, or suspension of sentence, and fined not more than twenty-five thousand dollars.

(3) If the child is determined to have been either physically or sexually abused during the time that the child was missing, then the offender shall be imprisoned at hard labor for not more than ten years without benefit of parole, probation, or suspension of sentence, and fined not more than ten thousand dollars.

(4) If the child is found unharmed, then the offender shall be imprisoned for not more than six months, or fined not more than five hundred dollars, or both.

D. The period of time in which a caretaker is required to report a missing child as provided in Subsection A of this Section shall be suspended for the period of time in which the caretaker is unable to make a report due to circumstances beyond the caretaker's control.

RS 14:403.8 — Failure to report the death of a child

s in the physical custody of the

caretaker, within one hour of the caretaker's discovery of the child's death or one hour of the caretaker learning of the location of the child's body.

B. For purposes of this Section:

(1) "Appropriate authority" includes:

(a) A state or local law enforcement agency.

(b) A 911 Public Safety Answering Point as provided in Title 33 of the Louisiana Revised Statutes of 1950.

(c) The coroner of the parish in which the child's body is located.

(d) Emergency medical personnel.

(2) "Caretaker" means the child's parent, grandparent, guardian, or any person who, at the time of the child's death, has physical custody of the child.

(3) "Child" means any person under the age of seventeen years.

C. Whoever violates the provisions of this Section shall be fined not more than five thousand dollars and shall be imprisoned, with or without hard labor, for not more than five years.

D. The period of time in which a caretaker is required to report the death of a child as required by Subsection A of this Section shall be suspended for the period of time in which the caretaker is unable to make a report due to circumstances beyond the caretaker's control.

RS 14:403.9 — Alcohol consumption; emergency assistance and cooperation; immunity

in Subsection B of this Section if the peace officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that all of the following apply:

(1) The law enforcement officer has contact with the person because the person acting in good faith requested emergency medical assistance for an individual who reasonably appeared to be in need of medical assistance due to

alcohol consumption and the person did not illegally provide alcohol to the individual.

(2) The person:

(a) Provided his full name and any other relevant information requested by the peace officer.

(b) Remained at the scene with the individual who reasonably appeared to be in need of medical assistance due to alcohol consumption until emergency medical assistance arrived.

(c) Cooperated with emergency medical assistance personnel and peace officers at the scene.

B. A person who meets the criteria of Subsection A of this Section shall be immune from criminal prosecution for any offense related solely to the possession and consumption of alcohol.

C. A person shall not initiate or maintain an action against a peace officer or the employing state agency or political subdivision based on the officer's compliance or failure to comply with this Section.

D. For the purposes of this Section, "peace officer" shall have the same meaning as defined in R.S. 14:112.1.

RS 14:403.10 — Drug-related overdoses; medical assistance; immunity from prosecution

erdose may not be charged, prosecuted, or penalized for

possession or use of a controlled dangerous substance under the Uniform Controlled

Dangerous Substances Law or of possession of drug paraphernalia as defined in R.S. 40:1021

if the evidence for such offenses was obtained as a result of the person's seeking medical assistance.

(2) Any such person shall also not be subject to the following, if related to seeking medical assistance:

(a) Sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole, related to the incident which required medical assistance as provided in Paragraph (1) of this Subsection.

(b) Civil forfeiture of property, related to the incident which required medical assistance as provided in Paragraph (1) of this Subsection.

B.(1) A person who experiences a drug-related overdose and is in need of medical assistance shall not be arrested, charged, prosecuted, or penalized for possession or use of a controlled dangerous substance under the Uniform Controlled Dangerous Substances Law or for possession of drug paraphernalia as defined in R.S. 40:1021 if the evidence for such offenses was obtained as a result of the overdose and the need for medical assistance.

(2) Any such person shall not be subject to the following, if related to seeking medical assistance:

(a) Sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole, related to the incident which required medical assistance as provided in Paragraph (1) of this Subsection.

(b) Civil forfeiture of property, related to the incident which required medical assistance as provided in Paragraph (1) of this Subsection.

C. Protection from prosecution in this Section may not be grounds for suppression of evidence in other criminal prosecutions.

D. The act of providing or seeking first aid or other medical assistance for someone who is experiencing a drug overdose may be used as a mitigating factor in a criminal prosecution for which immunity provided by Subsection B of this Section is not provided.

E. Nothing in this Section shall limit any seizure of evidence or contraband otherwise

permitted by law.

F. Nothing in this Section shall limit or abridge the authority of a law enforcement officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in Subsections A and B of this Section.

G. Nothing in this Section shall limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regard to a defendant who does not qualify for the protections of Subsection A or B of this Section or with regard to other crimes committed by a person who otherwise qualifies for the protections of Subsection A or B of this Section.

RS 14:403.11 — Administration of opiate antagonists; immunity
of an opiate overdose.

B. For the purposes of this Section, a first responder shall include all of the following:

- (1) A law enforcement official.
- (2) An emergency medical technician.
- (3) A firefighter.
- (4) Medical personnel at secondary schools and institutions of higher education.

C.(1) Before administering an opioid antagonist pursuant to this Section, a first responder shall complete the training necessary to safely and properly administer an opioid antagonist to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose. The training, at a minimum, shall cover all of the following:

- (a) Techniques on how to recognize symptoms of an opioid-related overdose.
- (b) Standards and procedures for the storage and administration of an opioid antagonist.
- (c) Emergency follow-up procedures.

(2) Any first responder administering an opiate antagonist in a manner consistent with addressing opiate overdose shall not be liable for any civil damages as a result of any act or omission in rendering such care or services or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the person involved in said emergency, unless the damage or injury was caused by willful or wanton misconduct or gross negligence.

D. The deputy secretary of public safety services of the Department of Public Safety and Corrections shall develop and promulgate, in accordance with the Administrative Procedure Act, a set of best practices for use by a fire department or law enforcement agency in the administration and enforcement of this Section including but not limited to the training necessary to safely and properly administer an opioid antagonist to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose, the standards and procedures for the storage and administration of an opioid antagonist, and emergency follow-up procedures.

RS 14:404 — Self-mutilation by a prisoner

ctional institution or while in the lawful custody of a peace officer, or the procuring or permitting of another person to inflict injury on such prisoner by means of shooting, stabbing, cutting, applying chemicals or other substances to the body, drinking or eating poisonous or toxic substances, or in any manner, when such results in permanent or temporary injury.

B. Whoever commits the crime of self-mutilation by a prisoner shall be imprisoned at hard labor for a term not exceeding two years. Any sentence imposed under this Section shall run consecutively to any other sentence being served by the offender at the time of the offense.

RS 14:405 — Unlawful establishment of accounts on Internet-based social networking websites by inmates

the Department of Public Safety and Corrections to establish or maintain an account on any Internet-based, social networking website.

B. "Social networking website" means an Internet-based website that has any of the following capabilities:

(1) Allows users to create web pages or profiles about themselves that are available to the general public or to any other users.

(2) Offers a mechanism for communication among users, such as a forum, chat room, electronic mail, or instant messaging.

C. Whoever violates any of the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned not more than thirty days, or both.

RS 14:501 — Killing or injuring a person while hunting; penalty for failure to render aid

ar, slingshot, or other weapon or device used in such taking, and who knowingly either abandons such person or fails to render to such injured person all necessary aid possible under the circumstances, shall be punished by a fine of not more than five hundred dollars.

RS 14:502 — Failure to seek assistance

o without danger or

peril to self or others, give reasonable assistance to the injured person. Reasonable assistance includes immediately seeking or reporting the need for medical assistance from an appropriate authority.

(2) Any person who engages in reckless behavior that results in the serious bodily injury of any person shall, to the extent that the person can do so without danger or peril to self or others, give reasonable assistance to the person. Reasonable assistance includes immediately seeking or reporting the need for medical assistance from an appropriate authority.

B. For purposes of this Section:

(1) "Appropriate authority" includes:

(a) Any state or local law enforcement agency.

(b) A 911 Public Safety Answering Point as defined in Title 33 of the Louisiana Revised Statutes of 1950.

(c) Emergency medical personnel.

(2) "Reckless behavior" means an activity or behavior in which a reasonable person knew or reasonably should have known that the activity or behavior may result in injury to another, including but not limited to excessive consumption of alcohol, binge drinking, drag racing, consumption of any controlled dangerous substance, acts of hazing, or other similar activity, including activity which is defined as a criminal offense under this Title.

(3) Repealed by Acts 2019, No. 2, §3.

C.(1) Except as provided in Paragraph (2) of this Subsection, any person who violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

(2) If the serious bodily injury results in the death of the person, any person who violates the provisions of this Section shall be fined not more than two thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

RS 14:511 — Loansharking; penalty

s forbearance of any right to money or other property, at a rate exceeding forty-five percentum per annum or the equivalent rate for a longer or shorter period. This Section shall not apply to any transaction under Title 6, Title 9, or Sections 1751 through 1770 of Title 37 of the Louisiana Revised Statutes of 1950 or under R.S. 9:3500.

B. Whoever commits the crime of loansharking is guilty of a felony and shall be punished by a fine of not more than ten thousand dollars or imprisoned for not less than one year nor more than five years with or without hard labor, or both.

C. For the purposes of this Part, the term "person" shall mean any individual, partnership, corporation, or combination of individuals.

RS 14:512 — Aggravated loansharking; penalty

r property of another, or which places that other person in fear that such injury will be done.

B. Whoever commits the crime of aggravated loansharking is guilty of a felony and shall be punished by a fine of not more than twenty thousand dollars or imprisoned for not less than five nor more than thirty years with or without hard labor, or both.

RS 14:513 — Possession of loanshark records; penalty

le used to record loansharking transactions.

B. Whoever commits the crime of possession of loanshark records shall be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than one year, or both.

RS 14:601 — Louisiana Felony Class System Task Force

imple sentencing system, whereby nearly

every felony offense falls into a class, with sentencing to be imposed by designated class, to ensure consistency across crimes of similar severity and greater transparency for victims, defendants, and criminal justice practitioners. Such a system will henceforth be referred to as a felony class system.

B. Accordingly, the Legislature of Louisiana hereby authorizes and directs the creation of the Louisiana Felony Class System Task Force to study, evaluate, and develop a recommendation for a felony class system to the legislature before the 2018 Regular Session of the Louisiana Legislature.

C.(1) The membership of the task force shall be as follows:

(a) Three attorneys designated by the president of Louisiana District Attorneys Association.

(b) Two attorneys designated by the state public defender.

(c) One attorney designated by the chief justice of the Louisiana Supreme Court.

(d) One attorney designated by the Louisiana Association of Criminal Defense Lawyers.

(e) Two attorneys designated by the Louisiana District Judges Association.

(f) One attorney designated by the office of the governor.

(g) The chair of the House Committee on Administration of Criminal Justice or his designee.

(h) The chair of the Senate Committee on Judiciary C or his designee.

(i) Each attorney member of the task force shall be an attorney licensed to practice and who practices in this state.

(2)(a) The names of the persons who are to serve on the task force shall be submitted to the chief justice of the Louisiana Supreme Court on or before September 1, 2017.

(b) The chief justice shall call the first meeting of the task force, which meeting shall be held on or before September 15, 2017.

(c) At the first meeting of the task force, its members shall elect from their

membership a chairman and vice chairman and such other officers as the task force may deem advisable. The chief justice, or the chief justice's designee, shall preside over the task force until a chairman is elected.

(d) The task force shall meet a minimum of six times between September 15, 2017, and February 1, 2018, and may hold public hearings as part of its evaluation process. Meetings of the task force shall be held in the state capital.

D. The task force shall prepare and submit a final report of its findings and recommendations, including but not limited to any specific and complete draft legislation, to the governor, the speaker of the House of Representatives, the president of the Senate, the chairman of the House Committee on Administration of Criminal Justice, the chairman of the Senate Committee on Judiciary C, and the chief justice of the Louisiana Supreme Court, no later than February 1, 2018. The report shall be made available to the public and the task force shall be abolished upon submission of the report.

E.(1) The task force may apply for, contract for, receive, and expend for purposes of this Chapter any appropriation or grant from the state, its political subdivisions, the federal government, or any other public or private source.

(2) The books and records of the task force shall be subject to audit by the legislative auditor pursuant to R.S. 24:513.

F. This Chapter shall become null and of no effect on February 2, 2018.

Title 32 — Motor Vehicles and Traffic Regulation

RS 32:1 — Definitions

" means a vehicle of a fire department, a vehicle

of the department's weights and standards police force, a police vehicle, a private vehicle, a privately owned vehicle belonging to members of an organized volunteer fire department or fire district when so designated or authorized by the fire chief of that fire department or fire district, an industrial-owned vehicle assigned to members of a fire department or fire district when so designated or authorized by the fire chief of that fire department or fire district, a vehicle parked or stopped by elevator repair or construction personnel while responding to an elevator emergency, such as ambulances and emergency medical response vehicles certified by the Louisiana Department of Health that are operated by certified ambulance services, vehicles used for coroner investigations as designated by the parish coroner, and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the secretary of the Department of Transportation and Development or by the chief of police of any incorporated municipality. For purposes of this Section, elevator repair shall be limited to those elevators that move people.

(2)(a) "Autocycle" means a three-wheeled motorcycle on which the driver and all passengers ride in either a partially or completely enclosed seating area or in a side-by-side seating area that is equipped with a rollbar or roll cage, safety belts for all occupants, and is designed to be controlled with a steering mechanism and pedals.

(b) For purposes of this Paragraph, "rollbar" or "roll cage" shall mean supports that will bear the vehicle's weight and are so designed as to protect the occupants when the vehicle is resting on the supports.

(3) "Automated speed enforcement device" means an unmanned or handheld camera or optical device installed to work in conjunction with a traffic control signal or radar speed detection equipment, or both, and designed to collect photographic evidence of alleged traffic violations for the issuance of traffic citations by recording images that depict the license plate or other identifying feature of a motor vehicle not in compliance with instruction of a traffic control signal or posted traffic sign.

(4)(a) "Autonomous technology" means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed in high-or full-automation mode, without any supervision by a human operator, with specific driving mode performance by the automated driving system of all aspects of the dynamic driving task that can be managed by a human driver, including the ability to automatically bring the motor vehicle into a minimal-risk condition in the event of a critical vehicle or system failure, or other emergency event.

(b) For purposes of this Paragraph, the following terms shall have the meanings ascribed to them in this Subparagraph:

(i) "Driving mode" means a type of driving scenario with characteristic dynamic driving task requirements including but not limited to expressway merging, high-speed cruising, low-speed traffic jam, or closed-campus operations.

- (ii) "Dynamic driving task" means the operational and tactical aspects of the driving task, but not the strategic aspect of the driving task.
- (iii) "Operational" means steering, braking, accelerating, or monitoring the vehicle and roadway.
- (iv) "Strategic" means determining destinations and waypoints.
- (v) "Tactical" means and includes but is not limited to responding to events or determining when to change lanes, turn, or use signals.
- (5) "Axle" means the common axis of rotation of one or more wheels whether power-driven or freely rotating, and whether in one or more segments, and regardless of the number of wheels carried thereon.
- (6) "Axle group" means an assemblage of two or more consecutive axles considered together in determining their combined load effect on a highway.
- (7) "Bicycle" means every device upon which any person or persons, if the design accommodates passengers, may ride, propelled exclusively by human power, or an electric-assisted bicycle as defined in this Section, having a saddle or seat for each rider, and having two tandem wheels, either of which is sixteen inches or more in diameter, or three wheels, any one of which is twenty inches or more in diameter.
- (8) "Bicycle facility" means any physical facility provided for the exclusive or semi-exclusive use of bicycles. This includes but is not limited to unmarked shared roadways, marked shared roadways, bicycle lanes, shared use trails, and end of trip facilities.
- (9) "Bicycle lane" means the part of the roadway adjacent to the travel lane, designated by official signs or markings for the preferential or exclusive use by bicycles and electric mobility aid users.
- (10) "Bicycle parking" means any facility for the storage of bicycles to protect against theft and damage.
- (11) "Bicycle path or trail" means a public way separated by open space, grade, or other physical barrier from motor traffic, either within the highway right-of-way or within an independent right-of-way, that is designated for use by persons riding bicycles.
- (12) "Bus" or "large passenger vehicle" means every motor propelled vehicle designed for carrying more than ten persons other than a taxicab constructed and designed for transporting persons for commercial purposes.
- (13) "Business district" means the territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations and public buildings which occupy at least three hundred feet frontage on one side or three hundred feet collectively on both sides of the highway.
- (14) "Cargo" means the items or freight to be moved, including items placed on or in a vehicle, towed by a vehicle, or a vehicle itself.
- (15) "Chauffeur" means every person who is employed by another for the principal purpose of driving a motor vehicle, except school bus operators.
- (16) "Combination of vehicles" means every group of two or more vehicles howsoever joined together which are drawn or propelled by a single motor vehicle.
- (17) "Commissioner" means the secretary of the Department of Public Safety and

Corrections.

(18) "Connecting mechanism" means an arrangement of parts interconnecting two or more consecutive axles to the frame of a vehicle in such a manner as to equalize the load between axles.

(19) "Controlled-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

(20) "Crosswalk" means: (a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks, shoulders, or a combination thereof on opposite sides of the highway measured from the curbs or, in absence of curbs, from the edges of the traversable roadway or if there is neither a sidewalk nor shoulder, a crosswalk is the portion of the roadway at an intersection that would be included within the prolongation of the lateral lines of the sidewalk, shoulder, or both on the opposite side of the street if there were a sidewalk or shoulder.

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(21) "Department" means the Department of Transportation and Development.

(22) "Divided highway" means any highway divided into roadways by a median, physical barrier, or clearly indicated dividing section so constructed as to impede vehicular traffic.

(23) "Driver" means every person who drives or is in actual physical control of a vehicle.

(24) "Dummy axle" means a single axle attached independently to the frame of a vehicle and so designed and placed as to indicate the appearance of and to carry a uniformly distributed load of a normal tandem axle.

(25) "Electric-assisted bicycle" means every bicycle upon which any person or persons, if the design accommodates passengers, may ride, having a saddle or seat for each rider, and having two tandem wheels, either of which is sixteen inches or more in diameter, or three wheels, any one of which is twenty inches or more in diameter, equipped with fully operable pedals, and an electric motor of less than seven hundred fifty watts that meets the requirement of one of the following classes:

(a) "Class one electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor, which provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty miles per hour.

(b) "Class two electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor, which may be used exclusively to propel the bicycle and is not capable of providing assistance when the bicycle reaches the speed of twenty miles per hour.

(c) "Class three electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor, which provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty-eight miles per hour.

(26) "Explosives" means any chemical compound or mechanical mixture that is

commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(27) "Factory-built home" has the meaning given to that term in R.S. 9:1149.2.

(28) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(29) "Flammable liquid" means any liquid which has a flash point of seventy degrees F., or less, as determined by a tagliabue or equivalent closed-cup test device.

(30) "Freight-carrying vehicle" means every motor vehicle designed for and used primarily as a carrier of freight transported for commercial purposes, which vehicle is licensed for six thousand pounds or more. This shall not include pick-up or panel trucks unless they are so heavily loaded with such freight as to exceed six thousand pounds gross weight and shall never include any passenger-carrying vehicle.

(31) "Gross weight" means the weight of a vehicle and/or combination of vehicles without load on all axles including the steering axle plus the weight of any load thereon.

(32) "Height" means the total vertical dimension of any vehicle above the ground surface including any load and load-holding devices thereon.

(33) "High pressure pneumatic tire" means a pneumatic tire designed for use and used when inflated with air to one hundred twenty pounds per square inch pressure or more.

(34) "Highway" means the entire width between the boundary lines of every way or place of whatever nature publicly maintained and open to the use of the public for the purpose of vehicular travel, including bridges, causeways, tunnels and ferries; synonymous with the word "street".

(35)(a) "Intersection" means: The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two highways thirty feet or more apart, then every crossing of each highway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two highways thirty feet or more apart, then every crossing of two highways of such highways shall be regarded as a separate intersection.

(c) The junction of an alley or driveway with a street or highway shall not constitute an intersection unless the roadway or highway at said junction is controlled by a traffic control device.

(d)(i) Where a highway includes a stop line, yield line, or crosswalk that has not been designated on the roadway within the median between the separate intersections, the two intersections and the roadway median between them shall be considered as one intersection.

(ii) Where a highway with a stop line, yield line, or crosswalk is designated on the roadway on the intersection approach, the area within the crosswalk or beyond the designated stop line or yield line shall be part of the intersection.

(iii) Where a crosswalk is designated on a roadway on the departure from the intersection, the intersection shall include the area extending to the far side of such crosswalk.

(36) "Interstate highway" means a fully controlled access highway which is a part of the National System of Interstate and Defense Highways.

(37) "Laned roadway or highway" means a roadway or highway which is divided into two or more clearly marked lanes for vehicular traffic.

(38) "Length" means the total longitudinal dimension of a single vehicle, a trailer, or a semi-trailer. Length of a trailer or semi-trailer is measured from the front of the cargo-carrying unit to its rear and includes load-holding devices thereon.

(39) "Light trailer" means every vehicle of the trailer or semi-trailer type having a loaded gross weight of not more than five hundred pounds.

(40) "Load" means a weight or quantity of anything resting upon something else regarded as its support.

(41) "Local municipal authority" means every council, commission, or other board given authority by the constitution and laws of this state to govern the affairs of a municipality.

(42) "Local parish authority" means every police jury, commission, council, or other board given authority by the constitution and laws of this state to govern the affairs of a parish of this state.

(43) "Low pressure pneumatic tire" means a pneumatic tire designed for use and used when inflated with air to less than one hundred twenty pounds per square inch pressure.

(44) "Metal tire" means every tire, the surface of which is in contact with the highway, is wholly or partly of metal or other hard, nonresilient material.

(45) "Military surplus motor vehicle" means a wheeled, multipurpose or tactical motor vehicle manufactured for, and sold directly to, the Armed Forces of the United States in conformity with contractual specifications and subsequently authorized for sale to civilians. "Military surplus motor vehicle" does not include mobile construction equipment, trailers, or semitrailers.

(46) "Mobile speed camera" means a device designed to collect photographic or video evidence of an alleged violation of a posted speed limit by recording images that depict the license plate or other identifying feature of a motor vehicle that is not operated in compliance with a posted speed limit sign.

(47) "Mobility aid" means a device used by individuals to ambulate independently and that is human or electric powered and used in- or outdoors.

(48) "Motor carrier" means any person owning, controlling, managing, operating, or causing to be used or operated any commercial motor vehicle used in the transportation of persons or property over the public highways of this state, whether as a transportation agency or howsoever utilizing said public facilities.

- (49) "Motor driven cycle" means every motorcycle, including every motor scooter, with a motor of not to exceed five horsepower.
- (50) "Motor vehicle" means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, but excluding a motorized bicycle and an electric-assisted bicycle. "Motor vehicle" shall also include a "low-speed vehicle" which is a four-wheeled, electric-powered vehicle with a maximum speed of not less than twenty miles per hour but not more than twenty-five miles per hour and is equipped with the minimum motor vehicle equipment appropriate for vehicle safety as required in 49 CFR 571.500.
- (51) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor, a motorized bicycle, and an electric-assisted bicycle.
- (52) "Motorized bicycle" means a pedal bicycle which may be propelled by human power or helper motor, or by both, but excluding an electric-assisted bicycle, with a motor rated no more than one and one-half brake horsepower, a cylinder capacity not exceeding fifty cubic centimeters, an automatic transmission, and which produces a maximum design speed of no more than twenty-five miles per hour on a flat surface.
- (53) "Multiple-lane highway" means any highway with two or more clearly marked lanes for traffic in each direction.
- (54) "Municipality" means an incorporated village, town, or city created under the authority of the constitution or laws of this state.
- (55) "Operator" means every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.
- (56) "Owner" means a person who holds a legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale, lease, or transfer of possession thereof with the right of purchase upon the performance of the conditions stated in the agreement, with the right of immediate possession in the vendee, lessee, possessor, or in the event such similar transaction is had by means of mortgage and the mortgagor of a vehicle is entitled to possession, then the conditional vendee, lessee, possessor, or mortgagor shall be deemed the owner for the purposes of this Chapter.
- (57) "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
- (58) "Parking area" means an area used by the public as a means of access to and egress from, and for the free parking of motor vehicles by patrons of a shopping center, business, factory, hospital, institution, or similar building or location.
- (59) "Passenger car" means any passenger car required to be equipped with safety belts by Federal Motor Vehicle Standard No. 208 (49 CFR 571.208).
- (60) "Pavement structure" means the combination of subbase, base course, and surface course placed on an earth subgrade to support the traffic load and distribute it to the roadbed.

- (61) "Pedestrian" means any person afoot or utilizing a mobility aid.
- (62) "Platoon" or "platooning" means a group of individual motor vehicles, including any truck, truck-tractor, trailer, semitrailer, or any combination of these vehicles, utilizing vehicle-to-vehicle communication technology to travel in a unified manner at close following distances.
- (63) "Pneumatic tire" means every tire of rubber or other resilient material which depends upon compressed air for support of a load.
- (64) "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
- (65) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.
- (66) "Quadrum axle" means any four consecutive axles whose centers are more than forty inches but not more than ninety-six inches apart, and are designed to equalize the load between axles.
- (67) "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.
- (68) "Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.
- (69) "Railroad train" means a steam or diesel engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.
- (70) "Red light camera" means a device installed at an intersection designed to collect photographic or video evidence of alleged traffic violations by recording images that depict the license plate or other identifying feature of a motor vehicle that is not operated in compliance with instruction of a traffic control signal or a posted traffic sign.
- (71) "Regular operation" means movement over highways of vehicles, combinations of vehicles, and loads thereon, subject to the limitations contained in this Chapter governing maximum weights and dimensions for motor vehicles and loads thereon.
- (72) "Residence district" means the territory contiguous to a highway not comprising a business district, when the frontage on such a highway for a distance of three hundred feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.
- (73) "Right of way" means the privilege of the immediate use of the highway.
- (74) "Road tractor" means every motor vehicle designed, constructed, or used either by itself or for drawing other vehicles used in the construction and maintenance of roads, highways, or streets, and not so constructed as to carry any load thereon, either independently or as a part of the weight of a vehicle or load so drawn.
- (75) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular traffic, exclusive of the berm or shoulder. A divided highway has two or more roadways.
- (76) "Rotary traffic island" means any circular area of ground, surrounded by a highway or roadway which is designed to prevent the crossing of traffic on four or more

otherwise intersecting highways, in order to require all traffic approaching it to proceed for some distance around a portion of the island before entering one of the intersecting highways and to prevent left hand turns onto such otherwise intersecting highways.

(77) "Safety zone" means the area or space officially set apart within a highway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(78) "School bus" means every motor vehicle that is used to transport students to and from school or in connection with school activities, but not including a charter bus or transit bus.

(79) "Seat belt" means the manual restraint system installed by the manufacturer as required by Federal Motor Vehicle Standard No. 208 which became effective January 1, 1968.

(80) "Secretary" means the secretary of the Department of Transportation and Development or his delegated or authorized representative.

(81) "Semitrailer" means every single vehicle without motive power designed for carrying property and passengers and so designed in conjunction and used with a motor vehicle that some part of its own weight and that of its own load rests or is carried by another vehicle and having one or more load-carrying axles.

(82) "Shared use trail" means a public way separated by open space, grade, or other physical barrier from motor traffic, either within the highway right-of-way or within an independent right-of-way, that is designated for use by pedestrians, mobility aid users, and persons riding bicycles.

(83) "Shoulder" means the portion of the highway contiguous with the roadway for accommodation of stopped vehicles, for emergency use, pedestrian use, mobility aid use, bicycle use, and for lateral support of base and surface.

(84) "Sidewalk" means that portion of a highway between the curb lines, or the lateral lines of a highway, and the adjacent property lines, intended for the use of pedestrians.

(85) "Single axle" means an assembly of two or more wheels, whose centers are in one transverse vertical plane or may be included between two parallel transverse vertical planes forty inches apart extending across the full width of the vehicle.

(86) "Single axle weight" means the total weight transmitted to the road by a single axle.

(87) "Special permit" means a written authorization to move or operate on a highway a vehicle or combination of vehicles with indivisible load of size and/or weight exceeding the limits prescribed for vehicles in regular operation.

(88) "Special permit applicant" means an individual, firm, partnership, corporation, or association making application for a special permit to transport a vehicle, combination of vehicles, and/or load which is oversize or overweight and under whose authority and responsibility such vehicle or load is transported.

(89) "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

- (90) "State maintained highway" means any highway in this state which is contained in the state highway system as defined by law or which is maintained by the department.
- (91) "Steering axle" means the axle of a motor vehicle or combination of vehicles by which the same is guided or steered.
- (92) "Stop" means, when required, the complete cessation from movement.
- (93) "Stop" or "stopping" means, when prohibited, any halting, even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, weights and standards police officer, or traffic control sign or signal.
- (94) "Street" means the entire width between the boundary lines of every way or place of whatever nature publicly maintained and open to the use of the public for the purpose of vehicular travel, including bridges, causeways, tunnels, and ferries; synonymous with the word "highway".
- (95) "Tandem axle" means any two consecutive axles whose centers are more than forty inches but not more than ninety-six inches apart, and are designed to equalize the load between axles.
- (96) "Tandem axle weight" means the total weight transmitted to the road by a tandem axle.
- (97) "Tandem truck" means every motor propelled single vehicle designed for the conveyance of property or things for hauling purposes and having one front or steering axle and two rear or load carrying axles, even though one of the load carrying axles is not permanently affixed to the frame of the vehicle and may be removed.
- (98) "Through highway" means every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right of way to vehicles on such through highway in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this Chapter.
- (99) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for purposes of travel.
- (100) "Traffic control device" means all signs, signals, markings, and devices, not inconsistent with this Chapter, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.
- (101) "Traffic control signal" means a type of highway traffic signal, manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.
- (102) "Trailer" means every single vehicle without motive power designed for carrying property or passengers wholly on its own structure, drawn by a motor vehicle which carries no part of the weight and load of the trailer on its own wheels and having two or more load carrying axles.
- (103) "Tridem axle" means any three consecutive axles whose centers are more than forty inches but not more than ninety-six inches apart, and are designed to equalize the load between axles.

(104) "Tridem axle weight" means the total weight transmitted to the road by a tridem axle.

(105) "Truck" means every motor propelled single vehicle for the conveyance of property or things for hauling purposes and having one front steering axle and one rear or load carrying axle.

(106) "Truck-tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load drawn.

(107) "Turning path" means the path of a designated point on a vehicle making a specified turn.

(108) "Turning track width" means the radial distance between the turning paths of the outside of the outer front tire and the outside of the rear tire which is nearest the center of the turn.

(109) "Urban district" means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred feet for a distance of a quarter of a mile or more.

(110) "Vehicle" means every device by which persons or things may be transported upon a public highway or bridge, except devices moved by human power or used exclusively upon stationary rails or tracks. A bicycle or a ridden animal shall be a vehicle, and a trailer or semitrailer shall be a separate vehicle.

(111) "Weights and standards mobile police officer" means an employee of the office of state police of the Department of Public Safety and Corrections, public safety services, with responsibilities and duties as provided by R.S. 40:1379.8.

(112) "Weights and standards stationary scale police officer" means an employee of the Department of Transportation and Development, authorized to enforce the provisions of R.S. 32:380 through 388.1 and 390, R.S. 47:718, Chapter 4 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, the access laws and regulations relative to controlled access highways, and certain other specified statutes and regulations of the Department of Transportation and Development.

(113) "Width" means the total outside transverse dimension of a vehicle including any load or load holding devices thereon but excluding approved safety devices and tire bulge due to load.

RS 32:2 — Authority of Department of Transportation and Development

ays within the state highway system and shall have the authority in its discretion to supervise and regulate all traffic on all highways within this state; promulgate rules and regulations not inconsistent with this Chapter and the general laws relative to highways and their construction, maintenance, and use, and the operation of vehicles and pedestrians thereon; and investigate the highways by utilizing surveys, traffic counts, etc., and effect methods and practices thereto, as in its judgment and experience it deems advisable.

(2) All rules and regulations promulgated by the department shall be adopted in accordance with the provisions of the Administrative Procedure Act.

(3) All orders issued by the department relative to the determination of a maximum or minimum speed limit on a highway or weight limit on a bridge shall be published on the official website of the department. Any such order issued by the department shall become effective upon the erection of signs on the affected highway or bridge.

B. The department shall enforce the provisions of R.S. 32:380 through 388.1 and 390, R.S. 47:718 and the provisions of Chapter 4 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 relating to trucks, trailers, and semi-trailers and Part V of Chapter 7 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 and the department's regulations adopted pursuant thereto on all highways within this state and shall exercise other power and authority as is specifically set forth in this Chapter or other laws of this state.

C.(1) The Weights and Standards Stationary Scales Police Force is hereby created within the department. It may enforce the provisions of R.S. 32:380 through 388.1 and 390, R.S. 47:718 and the provisions of Chapter 4 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 relating to trucks, trailers, and semi-trailers; Part V of Chapter 7 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950; the provisions of R.S. 32:389; and the access laws and regulations relative to controlled access highways.

(2) Members of the Weights and Standards Stationary Scales Police Force are authorized to carry weapons and to make arrests in the enforcement of these laws and regulations, and in that regard, shall have the same authority and powers conferred by law upon other law enforcement officers of this state; however, no member of the Weights and Standards Stationary Scales Police Force shall be authorized to carry a weapon until the member has received P.O.S.T. certification training.

D. The Department of Transportation and Development shall have sole authority over the issuance of special permits as set forth in R.S. 32:387.

E. Repealed by Acts 2021, No. 384, §5, July 1, 2022.

RS 32:3 — Authority of Department of Public Safety and Corrections

ions adopted pursuant thereto on all highways

of this state within its jurisdiction and shall exercise such other power and authority as is specifically set forth in this Chapter or other laws of this state.

B. All rules and regulations promulgated by the commissioner relative to weight enforcement, payment, and collection of procedures shall be adopted in accordance with the provisions of the Administrative Procedure Act. Such rules and regulations shall be referenced to the sections of law which they interpret or apply.

C. Members of the Weights and Standards Mobile Police Force are authorized to carry weapons and to make arrests in the enforcement of these laws and regulations and have the same authority and powers conferred by law upon other law enforcement officers of the state; however, no member of the Weights and Standards Mobile Police Force shall be authorized to carry a weapon until the member has received P.O.S.T. certification training and has been duly commissioned as a peace officer by the deputy secretary of the Department of Public Safety and Corrections, public safety services.

D. The secretary of the Department of Public Safety and Corrections shall provide the personnel and equipment required to fully implement the provisions of R.S. 32:390.23

as it relates to the permit and licensing activities of the department.

RS 32:4 — Authority of departments to summon witnesses

administer oaths and take testimony. They also may cause depositions to be taken and may order the production of books, papers, and documents. The fees for attendance and travel of witnesses shall be the same as for witnesses before the district courts and shall be paid by the state in the same manner as any other expenditure by the departments.

RS 32:5 — Authority of other law enforcement officers; parade marshals in Calcasieu Parish and

of this state or of any political subdivision thereof

invested by law with authority to direct, control, or regulate traffic are authorized to enforce the provisions of this Chapter and regulations of the department and the commissioner adopted pursuant hereto, within their respective territorial jurisdictions, except as otherwise provided by law or this Chapter.

B. The governing authorities of the city of Lake Charles and Calcasieu Parish may employ parade marshals who shall have the authority to direct, control, and regulate traffic for parade events only. However, such parade marshals shall not have the authority to issue traffic citations.

C. The superintendent of police in the city of New Orleans may contract with or employ traffic control officers who shall have the authority to direct, control, and regulate traffic within the city of New Orleans. However, no such officer shall have the authority to issue traffic citations. The New Orleans Police Department shall establish a training program for any such traffic control officers.

RS 32:6 — Authority of Department of Public Safety and Corrections to serve notices and subpoenas; procedure

of Public Safety and Corrections may serve notices and subpoenas by domiciliary service, personal service, or United States mail as provided in Subsection B of this Section. Personal service is made when a process server tenders the notice or subpoena to the addressee. Domiciliary service is made when a process server leaves the notice or subpoena at the dwelling house or usual abode of the addressee with a person of suitable age and discretion residing therein as a member of the domiciliary establishment of the addressee.

B.(1) The department may serve all notices and subpoenas by mailing the same in the United States Post Office, by either certified mail, return receipt requested, or first-class mail to the addressee at the address most recently furnished to the department.

(2) Service by first-class mail shall include a request that the enclosed return form be signed by the addressee and mailed to the department. If a signed return is not received by the department within fifteen days after mailing, the notice or subpoena shall be served by domiciliary or personal service as provided in Subsection A of this Section.

(3) Service by mail shall be considered personal service if the certified return receipt or the return form is signed by the addressee. Service by mail shall be considered domiciliary service if the certified return receipt or the return form is signed by anyone other than the addressee.

C. The department may make service of notices or subpoenas on law enforcement officers through the law enforcement officer's ranking officers or their designated representative, which, upon service thereof, shall have the same legal effect as if domiciliary service had been made upon the law enforcement officer named therein. This service shall be made at the appropriate troop, region, or departmental headquarters of the law enforcement agency. Service may consist of individual notices or subpoenas or may consist of lists which include the officer's name and badge number, case title, and date of commanded appearance. Such lists may be served by the department by means of electronic transfer to printing devices located at the troop, region, or departmental headquarters. The ranking officer, or his designated representative, shall sign for such notices or subpoenas or indicate receipt by electronic verification code, and shall be required to notify the law enforcement officer named therein of receipt of the subpoenas or list. This type of service shall be known as departmental service on law enforcement officers, and shall not be construed to replace domiciliary or personal service on

them but shall be an additional method of service.

D. For purposes of this Section:

- (1) "Addressee" means the individual to whom the subpoena is directed.
- (2) "Process server" means any person otherwise authorized by law to serve process, and shall also mean a chief process server or one of his deputies, which chief process server and as many deputy process servers as necessary shall be appointed by the department.
- (3) "Subpoena" includes a subpoena issued for the attendance of an individual and a subpoena duces tecum.

RS 32:7 — Authority to operate joint weight enforcement scales with contiguous states; joint enforcement of laws

ement scale facilities may enter into interstate agreements with contiguous states through appropriate officials, departments, or agencies to jointly provide for the location, construction, staffing, and operation of scale facilities for the purpose of weighing vehicles and enforcement of the laws, rules, and regulations of this state and the laws, rules, and regulations of the contiguous state, its appropriate agencies, or departments.

B. The interstate agreement may authorize employees of either state to weigh vehicles under the jurisdiction of either state, issue permits, collect fees, taxes, interests, and penalties imposed by the laws, rules, or regulations of either state, its agencies, or departments, and enforce the laws, rules, and regulations of either state.

C.(1) As part of an interstate agreement, the agency of this state may appoint employees of a contiguous state as duly authorized and empowered enforcement officers of that agency for the enforcement of tax, weight, size and load, equipment, safety, and all other state laws, rules, and regulations relating to vehicles entering into, exiting, or traveling upon the highways of this state and may allow employees of this state to accept similar positions or appointments with any contiguous state or appropriate agency or department of such state and to enforce the laws, rules, and regulations of such state, its agencies, and departments.

(2) Any employee of a contiguous state which enters into an interstate agreement pursuant to this Section shall not be considered an employee of this state, and as such, shall not be compensated by this state or entitled to any employment benefits either directly or indirectly from this state. Neither this state nor its officers, agents, or employees shall be subject to civil or criminal liability for the actions or inactions of such persons.

(3) Employees of this state who accept appointments from a contiguous state shall not be considered an employee of that state, compensated by that state, or entitled to any employment rights from that state.

D. The agency of this state shall promulgate all rules and regulations necessary to implement the provisions of this Section in accordance with the Administrative Procedure Act.

E. For purposes of this Section, "agency of this state" shall mean either the Department of Transportation and Development or the Department of Public Safety and Corrections, based upon the authority granted to that department by this Chapter.

F. Any interstate agreement entered into pursuant to this Section shall be subject to oversight by the Joint Committee on Transportation, Highways and Public Works.

RS 32:8 — Final delinquent debt; office of motor vehicles

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

(2) "Delinquent debt" means a debt that is one hundred eighty days or more past due.

(3) "Final debt" means that the debtor has no further right of administrative and judicial review regarding the amount.

(4) "Office of motor vehicles" means the Department of Public Safety and Corrections, office of motor vehicles.

B. The office of motor vehicles may refer a final delinquent debt for which a debtor has not entered into an installment agreement for payment to the office of debt recovery as

provided in R.S. 47:1676. Final delinquent debt referrals shall include data and information in the required format necessary to institute collection procedures. All delinquent debts shall be authenticated by the office of motor vehicles prior to being referred to the office of debt recovery. Once the delinquent debt becomes final and prior to referral to the office of debt recovery, the office of motor vehicles shall notify the debtor in writing that failure to pay the debt in full within sixty days shall subject the debt to the amount owed, as specified in R.S. 32:57.1(B), 863(A)(3)(a), and 863.1, together with the additional fee collected by the office of debt recovery provided for in R.S. 47:1676. Such notice shall also inform the debtor that the debtor may qualify to pay sums due by installment agreement, if eligible, and shall include instructions on how to inquire with the office of motor vehicles to determine eligibility and terms.

C. The office of motor vehicles may promulgate rules and regulations in accordance with the Administrative Procedure Act necessary to implement the provisions of this Section, including rules for referring final delinquent debt.

D. The office of motor vehicles, through the commissioner, may compromise and settle all debt, whether such debt is delinquent debt, final debt, or a debt that has been referred to the office of debt recovery as a final delinquent debt to avoid litigation and further collection expenses of the state upon satisfactory showing of substantial compliance with the law and determination that no fee or lesser fee is due.

RS 32:21 — Uniform application

state and other areas specifically set forth; provided, however, that local authorities may adopt local traffic regulations in accordance with the provisions of R.S. 32:41, 32:42.

RS 32:22 — Persons riding animals or driving animal-drawn vehicles; application of part

e subject to all of the duties applicable to the driver of a vehicle by this Chapter, except those provisions which by their very nature can have no application.

RS 32:23 — Persons and vehicles working on highways; exceptions

actually engaged in work upon a highway, but shall apply to such persons, teams, motor vehicles and other equipment when traveling to or from such work.

RS 32:24 — Emergency vehicles; exceptions

or when responding to, but not upon returning from, a fire alarm, may exercise the privileges set forth in this Section, but subject to the conditions herein stated.

B. The driver or rider of an authorized emergency vehicle may do any of the following:

- (1) Park or stand, irrespective of the provisions of this Chapter.
- (2) Proceed past a red or stop signal or stop sign, but only after slowing down or stopping as may be necessary for safe operation.
- (3) Exceed the maximum speed limits so long as he does not endanger life or property.
- (4) Disregard regulations governing the direction of movement or turning in specified directions.

C. The exceptions herein granted to an authorized emergency vehicle shall apply only when such vehicle or bicycle is making use of audible or visual signals, including the use of a peace officer cycle rider's whistle, sufficient to warn motorists of their approach, except that a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

D. The foregoing provisions shall not relieve the driver or rider of an authorized vehicle from the duty to drive or ride with due regard for the safety of all persons, nor shall such provisions protect the driver or rider from the consequences of his

reckless disregard for the safety of others.

RS 32:25 — Rights of owners of real property

not as a matter of right, from prohibiting such use, or from requiring other or different or additional conditions than those specified in this Chapter, or otherwise regulating such use as may seem best to such owner.

RS 32:41 — Power of local municipal authorities; exception

ys other than state maintained highways

within their corporate limits, from adopting ordinances:

- (1) Regulating the standing or parking of vehicles;
- (2) Enforcing the provisions of this Chapter, regulations of the department and of the commissioner and local regulations adopted pursuant hereto, by means of police officers or by the use of traffic-control devices approved by the department;
- (3) Regulating or prohibiting processions or assemblages on the highways;
- (4) Designating particular highways as one-way highways, or through highways;
- (5) Designating no passing zones;
- (6) Designating routes for freight carrying vehicles;
- (7) Requiring the registration and licensing of bicycles, including the requirement of a registration fee;
- (8) Directing the flow of traffic by designating the places and direction in which turning movements may be made or prohibited;
- (9) Establishing speed limits and speed zones, provided that no speed shall be permitted which is in excess of the specific maximum speed limits established by this Chapter;
- (10) Restricting traffic on limited access highways, or, temporarily reducing the permissible weight of vehicles which may be operated thereon, on other highways, when, because of deterioration, rain, snow, other climatic conditions, or the making of repairs, the highway will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or permissible weight reduced;
- (11) Erecting stop signs at particularly dangerous railroad crossings;
- (12) Requiring pedestrians to comply strictly with the directions of any official traffic-control signal and prohibiting pedestrians from crossing any roadway within a business district or any designated highways except in a crosswalk;
- (13) Directing the installation of speed bumps.
- (14) Creating additional regulations controlling traffic upon nonstate maintained highways within their corporate limits under their general police power so long as such regulations do not modify, or conflict with, the provisions of this Chapter or regulations of the department and the commissioner adopted pursuant hereto.

B. No ordinance or regulation enacted under Paragraph (A)(4), (5), (6), or (10) of this Section shall be effective until signs giving notice of such local traffic regulations are posted upon or at the entrances to the highway or part thereof affected, as may be most appropriate.

C.(1) Local municipal authorities also may adopt ordinances regulating traffic on state maintained highways within their corporate limits, so long as such ordinances do not establish regulations different from, or in addition to, the provisions of this Chapter and the

regulations of the department and the commissioner adopted pursuant thereto. In addition, local municipal authorities may adopt ordinances which supplement the provisions of this Chapter and regulations of the department and commissioner adopted pursuant thereto but only after such ordinances have been approved in writing by the department. However, the municipal ordinance may provide for such penalties as are consistent with the authority granted by the local municipal charter or state statute under which the municipal government operates and the penalties imposed need not necessarily be consistent with the penalties provided by R.S. 32:57.

(2) Furthermore, local municipal authorities may adopt by reference, all or any of the provisions of this Chapter and/or regulations of the department and commissioner adopted pursuant hereto with respect to any highways within their corporate limits.

D. Upon request of either the owner or the person in charge of the general operation and control of a parking area, local municipal authorities may adopt local ordinances to:

(1) Order stop signs, yield signs, or other traffic control devices erected at specified entrance or exit locations to a parking area or at an intersection in the parking area.

(2) Regulate traffic in the parking area, including regulation by means of traffic control signals.

(3) Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations in the parking area.

(4) Regulate the crossing of a roadway in the parking area by pedestrians.

(5) Designate a separate roadway, drive, or lane in the parking area for one-way traffic.

(6) Prohibit, regulate, restrict, or limit the stopping, standing, or parking of vehicles in specified areas of the parking area.

(7) Designate safety zones, loading zones, and other restricted areas in the parking area.

(8) Provide for the removal and storage of vehicles parked or abandoned in the parking area during snowstorms, floods, fires, or other public emergencies, or found unattended in the parking area, if the vehicles constitute an obstruction to traffic or if stopping, standing, or parking is prohibited, and for the payment of reasonable charges for the removal and storage by the owner or the operator of the vehicle.

(9) Adopt additional reasonable rules with respect to traffic and parking in a parking area as local conditions may require for the safety and convenience of the public or users of the parking area.

E. When requested by the owner of a private road located within its corporate limits, a municipal governing authority may adopt ordinances regulating matters enumerated in Paragraphs (A)(2) and (9) of this Section on the private road. Any law enforcement agency with jurisdiction in the municipality may enforce compliance with an ordinance adopted pursuant to this Subsection.

F. Notwithstanding the provisions of Subsection A of this Section or any other law to the contrary, the Board of Supervisors for the University of Louisiana System may adopt a resolution to exercise exclusive jurisdiction, control, maintenance, or enforcement of traffic

and parking regulations on any portion of a public road located within the boundaries of Grambling State University by designating that portion of the public road as a "university road" and posting appropriate signs on the road.

RS 32:42 — Power of local parish authorities

territorial limits, but outside corporate limits of any municipality therein, have henceforth, power to adopt ordinances regulating the matters enumerated in R.S. 32:41.

B. With respect to private roads when requested by the owner within recognized subdivisions within their territorial limits but outside the corporate limits of any municipality therein, local parish authorities shall henceforth have power to adopt ordinances regulating matters enumerated in R.S. 32:41(A)(9) and provides for stop signs at certain intersections.

C. Local parish authorities shall with respect to parking areas located outside the corporate limits of any municipality have, henceforth, the power to adopt ordinances regulating the matters enumerated in R.S. 32:41(D).

RS 32:43 — Automated speed enforcement devices; prohibition

ate traffic on interstate roadways within their corporate or territorial limits. No equipment not on a state right-of-way or local authority right-of-way is authorized to utilize electronic speed enforcement devices.

(2) The provisions of this Section shall not apply to highway construction zones, where work is being performed by the Department of Transportation and Development or a private contractor under contract with the Department of Transportation and Development, where construction workers are present. However, the exemption provided by this Paragraph shall not apply to local municipal authorities and local parish authorities.

(3) Automated speed enforcement devices and mobile speed cameras shall not be used anywhere other than school zones lawfully posted in accordance with R.S. 32:47. An unmanned automated speed enforcement device shall not be used to issue speeding citations in a school zone when a driver is not exceeding the posted speed limit immediately prior to the school zone if school zone signs are not posted at the entrance and exit of the school zone.

(4) The provisions contained in this Section shall not apply to a governing authority of a municipality with a population of less than sixteen thousand and more than fifteen thousand according to the latest federal decennial census within a parish with a population of less than ninety thousand and more than seventy thousand according to the latest federal decennial census.

B. For the purposes of this Section, the term "automated speed enforcement device" means an unmanned or handheld camera or optical device installed to work in conjunction with a traffic control signal or radar speed detection equipment, or both, and designed to collect photographic evidence of alleged traffic violations for the issuance of traffic citations by recording images that depict the license plate or other identifying feature of a motor vehicle not in compliance with instruction of a traffic control signal or posted traffic sign.

C. Effective January 1, 2015, local municipal authorities or local parish authorities shall not impose or collect any civil or criminal fine, fee, or penalty as a result of an image produced by an automated speed enforcement device in violation of this Section.

RS 32:44 — Required notification for red light cameras

dred feet of each red light camera, in such

a manner as to be clearly visible to traffic approaching the red light camera.

B, C. Repealed by Acts 2025, No. 107, §3.

RS 32:45 — Required notification for automated speed enforcement devices and mobile speed

utomated speed enforcement device or mobile speed camera is present. The sign shall be posted no less than two hundred fifty feet and no more than five hundred feet of the location of each automated speed enforcement device or mobile speed camera in such a manner as to be clearly visible, not obstructed by any barrier, equipment, vegetation, or other object, and shall be easily viewable by drivers approaching the automated speed enforcement device or mobile speed camera. The sign shall comply with the current manual and specifications adopted by the Department of Transportation and Development pursuant to R.S. 32:235.

B.(1) Failure of a municipal or parish authority to comply with Subsection A of this Section shall prohibit the use of any photographic or video images collected by the automated speed enforcement device or mobile speed camera to impose or collect any civil or criminal fine, fee, or penalty by or on behalf of the municipal or parish authority.

(2) In any proceeding to collect a civil or criminal fine, fee, or penalty by or on behalf of a municipal or parish authority, a rebuttable presumption shall exist that signs were posted in accordance with Subsection A of this Section.

C. For the purposes of this Section, an "automated speed enforcement device or mobile speed camera" means a manned, unmanned, or portable device designed to collect photographic or video evidence of an alleged violation of a posted speed limit by recording images that depict the license plate or other identifying feature of a motor vehicle that is not operated in compliance with a posted speed limit sign.

RS 32:46 — Electronic enforcement devices; school zone restrictions

traffic cameras, and mobile speed cameras used for the purpose of regulating and enforcing traffic violations in which citations are issued by mail.

B. Local municipal authorities and local parish authorities shall only operate electronic enforcement devices in a school zone on school days during the specified time periods when children are in school. Devices shall only be operated one hour before and one hour after the beginning of a school day and one hour before and one hour after the end of a school day.

C. The provisions contained in this Section shall not apply to a governing authority of a municipality with a population of less than sixteen thousand and more than fifteen thousand according to the latest federal decennial census within a parish with a population of less than ninety thousand and more than seventy thousand according to the latest federal decennial census.

D.(1) Revenue generated as a result of electronic enforcement devices in school zones shall be divided between the governing authority of the school where the traffic citation was issued and the municipality after the governing authority pays the contractor or vendor for the costs of providing the electronic enforcement devices and related services.

(2) A cooperative endeavor agreement executed by the municipality and each

governing authority of the schools located within the municipality's boundaries shall be in place prior to the implementation of automated speed enforcement devices and mobile speed cameras.

E.(1) Any jurisdiction that submits a local match waiver for capital outlay shall disclose the amount of revenue collected from electronic enforcement devices. The failure to disclose the information required by this Subsection shall result in any local match waiver being revoked.

(2) No local match waiver shall be revoked pursuant to this Subsection for any of the following types of capital outlay projects:

- (a) Water system projects.
- (b) Sewer system projects.
- (c) Natural gas system projects.

RS 32:47 — Use of speed recording devices; restrictions

be used by local municipal

authorities or local parish authorities in the following instances:

(1) The device or camera is being operated by a trained member of law or traffic enforcement that are sworn or P.O.S.T.-certified. Deputized agents, contractors, subcontractors of an agency, office, local municipality, local authority, or any political subdivision of this state are strictly prohibited from operating handheld or manned devices for the purpose of issuing a citation violation by mail.

(2) The device or camera is in a school zone lawfully posted in accordance with this Subsection.

(3) There are forty-eight-inch by forty-eight-inch signs, the bottom of which shall be at least seven feet from the ground, indicating that a device or camera is present, no less than five hundred feet and no more than one thousand feet before the device or camera, in a manner as to be clearly visible to approaching traffic. The signs shall be bright yellow and shall read "Photo enforcement devices at use".

(4) Upon the entrance to each school zone, there shall be painted a two-foot-wide yellow stripe completely across the roadway with "Entering School Zone" painted in twelve-inch white lettering visible therein.

(5) Two hundred feet before the entrance to each school zone, there shall be painted a two-foot-wide yellow stripe completely across the roadway with "School Zone Ahead" painted in twelve-inch white lettering visible therein.

(6) Local municipal authorities or local parish authorities shall post signs, indicating that an automated speed enforcement device camera is present, within two hundred feet of the school zone, in such a manner as to be clearly visible to traffic approaching the school zone.

(7)(a) If a device or camera is used while in an authorized vehicle, the authorized vehicle shall be clearly marked as a law enforcement vehicle.

(b) If a device or camera is used by a traffic or law enforcement officer while not in a vehicle, the officer shall wear a reflective vest, clearly indicating that the officer is law enforcement or that the officer is conducting speed enforcement measures.

B. Criminal fines or fees shall not be imposed as a result of automated speed enforcement devices or mobile speed cameras for the purpose of issuing a citation violation by mail, nor shall failure to pay the citation result in reporting to any credit bureaus.

C. In addition to any other remedy provided by law, the use of handheld, manned, or unmanned automated speed enforcement devices or mobile speed cameras that can be mounted in a vehicle or deployed at various locations to monitor and record the speed of passing traffic for the purpose of issuing a citation of an alleged violation by mail intentionally inconsistent with R.S. 32:43 et seq. shall be punishable as provided for in R.S. 14:134.

RS 32:48 — Violations; administrative hearing

ile speed cameras in which

a citation is issued by mail shall establish an administrative hearing process for a motorist to appeal the citation violation.

B. The administrative process shall include, at a minimum, the following:

- (1) A written citation with a detailed description of the alleged violation.
- (2) Ability to request an administrative hearing before a traffic adjudication hearing officer appointed by the local governing authority. The traffic adjudication hearing officer shall be an independent third party who was not a participant in the issuance of the violation.
- (3) Clear notice with a minimum of fifteen days to respond.

(4) It shall be an affirmative defense to the imposition of civil liability pursuant to this Subpart when:

(a) The traffic-control signal was not in proper position and sufficiently legible to an ordinarily observant person.

(b) The operator of the vehicle was acting in compliance with the lawful order or direction of a law enforcement or public safety officer.

(c) The operator of the vehicle violated the instructions of the traffic-control signal so as to yield the right-of-way to an immediately approaching authorized emergency vehicle.

(d) The vehicle was being operated as an authorized emergency vehicle under R.S. 32:24, and the operator was acting in compliance with R.S. 32:24.

(e) At the time of the violation, the person who received the notice of violation was not the owner of the vehicle at the time of the violation or the vehicle was in the care, custody, and control of another person where the owner certifies or otherwise indicates that the vehicle at the time of the violation was not in his care, custody, or control or that the person was not the owner of the vehicle.

(f) The presence of ice, snow, unusual amounts of rain, or other unusually hazardous road conditions existed that would make compliance with this Subpart more dangerous under the circumstances than noncompliance.

(g) At the time of the violation, the vehicle was a stolen vehicle or the license plate displayed on the vehicle was a stolen plate, which must include proof acceptable to the hearing officer that the theft of the vehicle or license plate had been timely reported to the appropriate law enforcement agency.

(5) The hearing officer at any administrative adjudication hearing under this Subpart

shall issue an order clearly stating the decision rendered.

(6) Ability to seek petition for judicial review within thirty days of an adverse decision rendered by the hearing officer.

(7) The issuance of a citation under this Subpart shall not be considered a criminal conviction.

(8) A civil penalty may not be imposed under this Subpart on the owner of a vehicle if the operator of the vehicle was arrested or was issued a citation and notice to appear by a law or public safety officer as a violation of R.S. 32:232 if the violation was captured by an electronic enforcement device.

(9) Any administrative hearing or judicial review of an adverse decision shall be conducted at no cost to the owner of the vehicle requesting review.

(10) Each mailed citation shall include a self-addressed stamped envelope, a Quick Response code, or other internet link to a portal that provides vehicle owners access to the certification referenced in Subparagraph (4)(e) of this Subsection without a fee.

RS 32:49 — Citations

r who receives the violation can attest either that at the time of the violation, the person who received the notice of violation was not the owner of the vehicle or that the vehicle was in the care, custody, and control of another at the time of the violation. Nothing in this Section shall require that the owner's attestation referenced in this Section be notarized. The driver who receives the violation shall have the option to provide information on who was the owner or driver of the vehicle at the time of the violation but shall not be required to do so.

B. Citations issued through the use of automated speed enforcement devices, red light cameras, or mobile speed cameras that become final delinquent debts, pursuant to R.S. 32:8, shall not be referred to the office of debt recovery within the Department of Revenue.

RS 32:51 — Vehicle license required

hereon, and it is operated in accordance with the provisions of this Chapter and other laws of this state.

RS 32:52 — Driver must be licensed

or shall any person permit or allow any other person to drive or operate any vehicle owned or controlled by him upon highways of this state unless and until such other person has been issued a license to so do as required by the laws of this state.

RS 32:53 — Proper equipment required on vehicles; display of plate

, on any highway of this state, at any time,

any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property, or which does not contain those parts or is not at all times equipped with such lamps and other equipment, in proper condition and adjustment, as required in this Chapter, or which is constructed or equipped in any manner in violation of this Chapter, and no person shall do any act forbidden or fail to perform any act required under this Chapter.

(2) The permanent registration license plate assigned to a trailer, semitrailer, motorcycle, or other motor vehicle shall be attached to the rear thereof. Notwithstanding the foregoing, the permanent registration license plate assigned to any truck having a gross

vehicle weight in excess of ten thousand pounds or to any dump truck may be attached to either the front or rear thereof. For the purposes of this Section, dump truck means any truck with a bed that raises to dump a load. The permanent registration license plate shall be so displayed during the current registration year, except as otherwise provided herein.

(3) Every permanent registration license plate shall at all times be securely fastened to the vehicle to which it is assigned, so as to prevent the plate from swinging, and at a height not less than twelve inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible. Unless authorized by the commissioner, a person shall not apply a covering or any substance to the license plate or use an electronic device or electrochromatic film that obscures from any angle the numbers, characters, year registration sticker, or name of the jurisdiction issuing the plate.

(4) The provisions of this Section shall not be construed to prohibit placing a permanent registration license plate on a rear fender as long as it is facing to the rear of the vehicle.

B. Nothing contained in this Chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this Chapter.

C. The provisions of this Chapter with respect to equipment on vehicles shall not apply to implements of husbandry, nor to vehicles used solely in building highways when they are temporarily upon the highways, except as herein made applicable. These exceptions shall not exclude any vehicle or combination of vehicles not used primarily for this purpose, or ordinary commercial vehicles upon which are placed removable machinery for such purposes, or vehicles designed for the purpose of evading the limitations of this Chapter.

D. No person shall drive a vehicle upon highways within this state, or permit or allow any vehicle owned by him or under his control to be driven on said highways, unless and until such vehicle bears an inspection tag showing it to have been inspected and approved as required by the provisions of R.S. 32:1301 through 1310, if such vehicle is required to be so inspected.

RS 32:54 — Size, weight and load of vehicles limited

this state when such vehicle is of a size or weight exceeding the limitations stated in this Chapter or otherwise in violation of this Chapter, and the maximum size and weight of vehicles herein specified shall be lawful throughout the state.

B. The provisions of this Chapter governing size, weight and load shall not apply to fire apparatus, vehicles and machinery used solely in the building of highways while actually temporarily engaged in work upon a highway, to implements of husbandry, including farm tractors temporarily moved upon a highway, or to a vehicle operated under the terms of a special permit issued as herein provided, or to trolley coaches or motor buses operated under a franchise or indeterminate permit wholly within the corporate limits of a municipality having a population of one hundred thousand or more inhabitants.

C. These exceptions shall not include any vehicle or combinations of vehicles not used primarily for such purposes, nor ordinary commercial vehicles upon which are placed removable machinery for such purposes, nor vehicles designed for the purpose of evading the limitations of this Part.

RS 32:55 — Exclusion of vehicles from highways; notice required

excluded, provided notice of such exclusion is conspicuously posted at the entrance to such highway.

RS 32:56 — Obedience to police officers, weights and standards police officers, and traffic signs

s and standards police officer invested by law with authority to direct, control, or regulate traffic.

B. No person shall fail or refuse to comply with the instruction or direction of any traffic control device which has been erected under authority of this Chapter or other law of this state.

RS 32:57 — Penalties; alternatives to citation

Chapter or any regulation of the

department, secretary, and commissioner made pursuant thereto shall be punished by a fine of not more than one hundred seventy-five dollars or by imprisonment for not more than thirty days, or both, unless otherwise specifically provided. A subsequent violation shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than ninety days, or both.

(2) If a violation of R.S. 32:53(A)(2) is committed in the preparation of or during the commission of a felony offense in order to escape detection, the violator shall be punished by an additional fine of two hundred dollars or by imprisonment of an additional thirty days, or both. For any violation of R.S. 32:53(A)(2), the vehicle may be immediately impounded.

B. If the violator is other than an individual, there shall be no imprisonment but a double fine imposed.

C.(1) Each governing authority on whose behalf citations are issued for alleged violations of the provisions of this Chapter shall establish a procedure by which alleged offenders may promise, in writing, to appear in court to answer the charge or charges. The written promise to appear shall be accepted in lieu of posting bond or depositing a driver's license.

(2) Each city, parish, and district court for traffic offenses within their respective jurisdictions may also establish a procedure by court rule by which certain traffic offenses, as determined by the court, constitute one-time-appearance violations. Alleged offenders who are charged with a one-time-appearance violation and who have not paid the fine prior to the date and time for appearance as indicated on the citation shall be presumed to plead not guilty. The alleged offender shall then, at the date and time indicated on the citation, appear in court, be arraigned and proceed to trial. If the trial is not held on the date indicated on the citation and no continuance has been granted, then the charges against the alleged offender may be dismissed.

D. Each governing authority on whose behalf citations are issued for alleged violations of the provisions of this Chapter shall establish a procedure by which alleged offenders may plead guilty or nolo contendere to the alleged offense and pay the fine by mail. However, if the offender fails to pay the fine by mail in advance of adjudication and fails to appear at the time and date indicated on the citation, the court may impose an additional penalty in an amount not to exceed the amount of the fine for the original violation unless the fine was paid by certified mail and the postmark indicates that the payment was mailed on or before the date indicated on the citation. In addition, each governing authority shall establish a procedure allowing for payment of the fine by credit card as it may designate. However, the procedure shall not limit such payments to payment by credit card.

E. The provisions of Subsections C and D of this Section shall not apply to citations

alleging that the operator of the motor vehicle was:

- (1) Operating the motor vehicle under the influence of alcohol or controlled substances.
- (2) Exceeding the speed limit by fifteen miles per hour or more.
- (3) Exceeding the speed limit in a school zone.
- (4) Driving with a suspended license.
- (5) Drag racing.
- (6) Cited for failure to maintain compulsory security.

F. The provisions of Subsections C and D of this Section shall not apply when the operator was involved in an accident in which a person was injured, nor shall those provisions apply when an operator is alleged to have committed the same offense twice within a period of one hour.

G.(1) Notwithstanding any provision of law to the contrary, any person who is found guilty, pleads guilty, or pleads nolo contendere to any motor vehicle offense when the citation was issued for a violation on the Huey P. Long Bridge or the Lake Pontchartrain Causeway Bridge or approaches to and from such bridges by police employed by the Greater New Orleans Expressway Commission shall pay an additional cost of five dollars.

(2) All proceeds generated by this additional cost shall be deposited into the state treasury.

H. If a person operating a motor vehicle exceeds the speed limit or breaches a construction zone or utility work safety zone on the portion of a highway or road which is under active construction or maintenance and construction or utility workers are on site, or which is in the process of being repaired and construction or utility workers are on site, the fine shall be not less than five hundred dollars nor more than one thousand dollars.

I. If a person operating a motor vehicle violates the provisions of this Chapter while on the portion of a highway which is designated as a highway safety corridor pursuant to R.S. 32:267, the fine shall be not less than seven hundred fifty dollars nor more than one thousand dollars, or imprisonment for not more than thirty days, or both, unless otherwise specifically provided.

J. For purposes of Subsections H and I of this Section, the following words shall have the following meanings:

- (1) "Construction zone" shall mean an area of a highway with construction, maintenance, or utility work activities marked by temporary traffic control devices consisting of signs, channelizing devices, barriers, pavement markings, and work vehicles.
- (2) "Utility work safety zone" shall mean an area where utility companies are actively performing work such as digging, installing, or repairing underground or overhead utilities marked by temporary traffic control signs.

RS 32:57.1 — Failure to honor written promise to appear; penalty; disposition of fines

lace and time specified in a summons described in R.S. 32:391(B)

fails to honor his written promise to appear, the magistrate or judge of the court exercising jurisdiction may immediately forward to the Department of Public Safety and Corrections notice of the failure to appear, with information necessary for identification of the arrested

person. Thereupon, unless the original charges have been disposed of, the Department of Public Safety and Corrections shall immediately notify the arrested person by regular mail and any available electronic communication that his operator's license may be suspended if he fails to honor the written promise to appear or pay an appropriate fine for the offense within one hundred eighty days after the date the notice was received. The Department of Public Safety and Corrections shall send a second notice to the arrested person by regular mail and any available electronic communication no later than one hundred twenty days after the department receives notice from the court exercising jurisdiction of the pending suspension of the operator's license of the arrested person.

B. Whenever the arrested person makes an appearance as required by Subsection A of this Section or pays an appropriate fine for the offense committed, as determined by the court, the prosecuting authority shall immediately notify the Department of Public Safety and Corrections thereof through the same means as the original notification of the arrested person's failure to appear. Upon such notification, and payment of one hundred dollars to the department, if the operator's license of the arrested person was suspended pursuant to Subsection A of this Section, the operator's license of the arrested person shall be released from the pending suspension, renewed, or reissued for the purpose of this Section. This fee may only be assessed once per summons as described in Subsection A of this Section.

Twelve dollars and fifty cents of any fine imposed by this Section shall be paid to the court exercising jurisdiction, to be deposited in that court's criminal court fund and to be used in the same manner as the other sums deposited in the fund.

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

D. The failure to appear due to incarceration shall be a valid defense for any violation of this Section, if the arrested person provides evidence of incarceration to the court pursuant to R.S. 15:714. The license shall be renewed and reissued without payment, all failure to appear payments waived, and any other flags reported to the Department of Public Safety and Corrections shall be resolved pursuant to statute.

E. All notices from the Department of Public Safety and Corrections described in Subsections A and B of this Section shall include the following information: the summons information that the person failed to appear on; the date of the failure to appear; and the contact information and name of the court where the person needs to appear.

RS 32:57.2 — Fee for expenses incurred for renewal or reissuance of suspended operator's license; office of the prosecuting authority

provided in R.S. 32:57.1, shall pay to the office of the prosecuting authority an additional fee of twenty-five dollars to defray the administrative costs incurred by the office of the prosecuting authority in handling such renewal or reissuance of the suspended driver's license.

RS 32:57.3 — Failure to respond to an HOV violation

's license or vehicle

registration of a frequent violator as provided in R.S. 47:820.5.9(J)(2), the office of motor

vehicles shall issue a notice to the violator at the address listed on the violator's driver's license, unless a more current address is on file, that shall identify the vehicle or vehicles subject to HOV violations by vehicle identification number and the assigned license plate number. The notice shall also advise the registered owner that his registration privileges and driver's license will be blocked against renewal or reissuance, including any request for a duplicate registration or driver's license. The office of motor vehicles shall obtain a certificate of mailing at the time the notice is mailed to the frequent violator.

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

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

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

RS 32:58 — Careless operation

Person. Failure to drive in such a manner shall constitute careless operation.

B. If the careless operation of the motor vehicle directly or proximately causes the death of a human being, when the operator fails to maintain control of the vehicle because of falling asleep, in addition to any penalties provided in this Title, the person shall also be ordered to serve court-approved community service for not more than two hundred fifty hours and the department may suspend the operator's license for a period of two years.

RS 32:58.1 — Careless operation during flood conditions

Person. Failure to drive in such a manner shall

constitute careless operation during flood conditions.

B. There shall be a rebuttable presumption that the following persons were operating a motor vehicle in a careful and prudent manner during flood conditions:

(1) Any person operating a vehicle owned or operated by a public utility, whether publicly or privately owned, while acting in the course and scope of his employment or agency relating to the operation, repair, or maintenance of a facility, servitude, or any property owned by the utility.

(2) Any person operating a military, law enforcement, or emergency services vehicle while acting in the course and scope of his employment or official duties.

RS 32:59 — Use of wireless telecommunications device prohibited; exceptions

in R.S. 32:1. As used in this Section, the following terms shall apply:

(1) "Autonomous vehicle" means a vehicle that is equipped with autonomous technology as defined in R.S. 32:1, which is licensed to operate on the public roads and highways of this state and shall meet all applicable financial responsibility requirements.

(2) "Hands-free wireless telephone" means a wireless telecommunications device that has an internal feature or function, or is equipped with an attachment or addition, whether or not permanently part of such device, by which a user engages in a conversation

without the use of either hand. The term "hands-free wireless telephone" as defined in this Paragraph shall not preclude the use of either hand to activate, deactivate, or initiate a function of the device.

(3) "Lawfully stationary" means any motor vehicle that has stopped, is in park or neutral, or is standing while in gear and not moving, while also in a travel lane or on the shoulder of a public road or highway, including when such action is necessary to observe or avoid conflict with traffic or in compliance with the directions of law enforcement or a traffic control device or signal.

(4) "Motor vehicle" means any self-propelled mechanical device on wheels, designed primarily for use or that is primarily used on public roads and highways. The term "motor vehicle" shall not include autonomous vehicles, all-terrain vehicles, golf carts, vehicles propelled or drawn by horses or human power, or motorists wheelchairs operated by handicapped persons.

(5) "Wireless telecommunications device" means a cellular telephone, a text-messaging device, a personal digital assistant, a stand-alone computer or other electronic device, or any other substantially similar portable wireless device that is readily removable from the vehicle and is used to write, send, or read text or data through manual input. The term "wireless telecommunications device" shall not mean any device or component that is permanently affixed to a motor vehicle, or a device used hands-free, citizens band radios, citizens band radio hybrids, commercial two-way radio communications devices, two-way radio transmitters or receivers used by licensees of the Federal Communications Commission in the Amateur Radio Service, or electronic communication devices with a push-to-talk function.

B.(1) Notwithstanding any provision of law to the contrary, except as provided in Subsection C of this Section, no person shall operate any wireless telecommunications device while operating a motor vehicle upon any public road or highway, unless the motor vehicle is lawfully stationary.

(2) Operating a wireless telecommunications device shall include:

(a) Engaging in a call, which means talking or listening during a voice transmission on a wireless telecommunications device or manually entering names or telephone numbers to initiate a voice transmission, except when using a hands-free wireless telephone.

(b) Writing, sending, or reading a text-based communication, which means using a text message, instant message, electronic mail, or other text-based application to communicate with any person.

(c) Accessing, reading, or posting to a social networking site, which means using a wireless telecommunications device to access, read, or post on such device to any web-based service that allows individuals to construct a profile within a bounded system, articulate a list of other users with whom they share a connection, and communicate with other members of the site.

(d) Accessing, viewing, posting, editing, or creating a video, photograph, or other image.

(e) Accessing, reading, viewing, composing, browsing, transmitting, saving, or

retrieving electronic data from any application or other media.

(f) Using any application or feature of a wireless telecommunications device by making manual entries of letters, numbers, symbols, commands, or any combination thereof.

(g) Holding or physically supporting a wireless telecommunications device in either or both hands, except for an earpiece or headphone device as defined in R.S. 32:295.2(A) or a device worn on the wrist to talk or listen during a voice transmission.

C. The provisions of Subsection B of this Section shall not apply to a person who uses a wireless telecommunications device to do any of the following:

(1) Report a traffic collision, medical emergency, other emergency, or serious road hazard.

(2) Report a situation in which the person believes that an individual is in jeopardy of serious injury or death.

(3) Relay information between a transit of a for-hire operator, including a transportation network company driver, and that operator's dispatcher, in which the device is affixed to the vehicle.

(4) Operate a wireless telecommunications device while the motor vehicle is lawfully stationary and not in violation of any other law. A utility vehicle or roadside assistance vehicle which is parked while the utility worker or roadside responder is in the course and scope of performing his duties shall be considered lawfully stationary.

(5) Use a wireless telecommunications device in an official capacity as an operator of an authorized emergency vehicle while in performance of official duties as a law enforcement officer, firefighter, or emergency services or EMS practitioner.

(6) View data or images related to navigation of a motor vehicle using a hands-free global positioning system.

(7) Dial 9-1-1 to report a crime in progress.

D.(1) Any violation of this Section shall constitute a nonmoving violation.

(2) If a violation of this Section occurs in a school zone or in a highway construction zone it shall be a primary offense and shall be punishable as follows:

(a) By a fine of two hundred fifty dollars. At the judge's discretion, the fine may be reduced to one hundred dollars with community service not to exceed fifteen hours, at least half of which shall consist of a litter abatement program in a school zone or highway construction zone.

(b) If a person is involved in a crash at the time of the violation, then the fine shall be equal to double the amount of the fine imposed in Subparagraph (a) of this Paragraph and the law enforcement officer investigating the crash shall indicate on the written accident report that the person was using a wireless telecommunications device at the time of the crash.

(3) If a violation of this Section occurs in any location other than a school zone or highway construction zone it shall constitute a secondary offense when the officer detains a driver for an alleged violation of another provision of this Chapter and shall be punishable as follows:

(a) By a fine of one hundred dollars. At the judge's discretion, the fine may be

reduced to fifty dollars with community service not to exceed fifteen hours, at least half of which shall consist of the litter abatement program.

(b) If a person is involved in a crash at the time of the violation, then the fine shall be equal to double the amount of the fine imposed in Subparagraph (a) of this Paragraph and the law enforcement officer investigating the crash shall indicate on the written accident report that the person was using a wireless telecommunications device at the time of the crash.

(4) For violations of this Section not resulting in a crash causing bodily injury or death of another person, a person may plead guilty or nolo contendere to the alleged offense and pay the applicable fine specified in this Subsection. If a person pleads guilty or nolo contendere to the alleged offense, the person shall not be required to appear in court if he waives the right to contest the charges and pays the applicable fine specified in this Subsection.

(5) Use of a wireless telecommunications device for any purpose provided for in Subsection C of this Section shall be an affirmative defense to a violation of this Section and the operator of a motor vehicle may produce documentary or other evidence in support of his defense.

(6) For any violation occurring before January 1, 2026, the law enforcement officer shall only issue a written warning.

E.(1) A citation for a secondary offense violation of this Section shall be based solely upon a law enforcement officer's clear and unobstructed view of a person using a wireless telecommunications device as prohibited by this Section.

(2) A law enforcement officer shall not do any of the following based solely upon a secondary offense violation of this Section:

(a) Seize, search, view, or require the forfeiture of a wireless telecommunications device.

(b) Search or request to search a motor vehicle, motor vehicle operator, or passenger.

(c) Make a custodial arrest except upon any open warrant including but not limited to a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine.

F. The state preempts the field of regulating the use of a wireless telecommunications device by the operators of motor vehicles. The provisions of this Section shall supersede any local laws, ordinances, rules, or regulations enacted by a parish, municipality, or other political subdivision to regulate the use of a wireless telecommunications device by the operator of a motor vehicle.

G. Beginning April 1, 2027, and continuing until April 1, 2032, the Department of Transportation and Development and the Department of Public Safety and Corrections, office of state police shall submit a report annually to the legislature regarding the impact of the provisions of this Section, including the number of crashes caused by inattentive or distracted driving for each year, divided by different areas of the state, as such data is already collected. The report shall be based on data the Department of Transportation and Development and the office of state police collect under existing state law.

RS 32:61 — Maximum speed limit

except

as follows:

(1) No person shall operate a vehicle on any interstate or controlled access highway of this state in excess of seventy miles per hour.

(2) No person shall operate a vehicle on any multi-lane divided highway of this state which has partial or no control of access in excess of sixty-five miles per hour.

(3) A person may operate a vehicle in excess of any maximum speed set forth in this Chapter within a speed zone established by the department as provided in R.S. 32:63(C).

B. The Department of Transportation and Development shall develop criteria to determine which portions of a highway warrant a speed limit lower than the speed limits established by this Section. The criteria shall be based on an engineering study which shall consider, but not necessarily be limited to, the design speed of the road, the road geometry, the use of land surrounding the road, and the accident history of the road.

C.(1) In addition to any penalties imposed pursuant to this Section, upon violation the offender shall be fined an additional five dollars.

(2) Monies collected pursuant to this Subsection shall be forwarded by the sheriff to the state treasurer within thirty days of collection.

(3) After allocation to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the state treasurer shall deposit the collections into the Louisiana Emergency Response Network Fund as established in R.S. 40:2845.

RS 32:62 — Repealed by Acts 2010, No. 81, §2.

n Rouge, Louisiana 70804-9062

RS 32:63 — Establishing of speed zones

than is reasonable or safe under the conditions found to exist upon any highway of this state, or any part thereof, the department may determine and declare a reasonable and safe maximum speed limit thereat, which, when appropriate signs giving notice thereof are erected, shall be effective at all times or at such specific times as may be determined by the department.

B. Whenever the department determines on the basis of an engineering and traffic investigation that slow speeds on any highway of this state, or part thereof, consistently impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit thereat, below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law. Minimum speeds so determined shall become effective upon the erection of signs giving notice thereof.

C. The department may establish a speed zone and may determine and declare a speed in excess of any maximum speed set forth in this Chapter within such speed zone on any highway of this state, whenever the department shall determine on the basis of an engineering and traffic investigation that such speed is reasonable and safe. The department shall erect appropriate signs giving notice thereof.

RS 32:63.1 — Repealed by Acts 2010, No. 146, §1.

on Rouge, Louisiana 70804-9062

RS 32:64 — General speed law

existing,

having due regard for the traffic on, and the surface and width of, the highway, and the

condition of the weather, and in no event at a speed in excess of the maximum speeds established by this Chapter or regulation of the department made pursuant thereto.

B. Except when a special hazard exists that requires lower speed for compliance with paragraph A of this section, no person shall operate or drive a motor vehicle upon the highways of this state at such a slow speed as to impede the normal and reasonable movement of traffic.

C. Rolling roadblocks shall be prohibited from operating on all Interstate highways in the state.

D.(1) In addition to the penalties imposed pursuant to this Section, upon violation the offender shall be fined an additional five dollars.

(2) Monies collected pursuant to this Subsection shall be forwarded by the sheriff to the state treasurer within thirty days of collection.

(3) After allocation to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the state treasurer shall deposit the collections into the Louisiana Emergency Response Network Fund as established in R.S. 40:2845.

RS 32:65 — Drag racing and racing on public roads and certain property; exemptions

st, test of physical endurance, exhibition of speed or acceleration,

or for the purpose of making a speed record upon the public roads in this state or upon any publicly-owned or privately-owned property to which the public's access is not prohibited, and no person shall in any manner participate in any such race, speed competition, drag race, test of physical endurance, exhibition, or attempt to make a speed record.

B. For the purposes of this Section, "drag race" means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.

C. For the purposes of this Section, "race" means the use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, or to test the physical stamina or endurance of drivers.

D. Any person convicted of violating the provisions of this Section shall be punished as follows:

(1) If there is no serious personal injury involved, the person shall be subject to the penalties as provided in R.S. 32:57.

(2)(a) If, during the course of commission of the violation, a serious bodily injury or death occurs which is in any way connected to the violation, the penalty shall be a fine of not less than five hundred or more than two thousand dollars or imprisonment, with or without hard labor for not less than one year or more than five years, or both.

(b) For the purposes of this Paragraph, "serious bodily injury" means bodily injury which involves unconsciousness; protracted and obvious disfigurement; protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or a substantial risk

of death.

E. The prohibitions contained in this Section shall not apply to events sanctioned by local governing authorities.

F. Any law enforcement agency authorized to enforce traffic regulations in this state shall have the authority to impound, at the owner's expense, any vehicle driven in a manner that violates this Section for up to fourteen days to gather evidence pertaining to the offense. If the owner of the vehicle has not violated this Section, that owner may claim the vehicle from the impound facility once notified by law enforcement. In addition, if the vehicle driven in a manner that violates this Section has been rented from a car rental agency, only the driver of the vehicle shall be subject to higher fines and the total cost of impound fees. The car rental agency, or person who owns the vehicle, may claim the vehicle from the impound facility once notified by law enforcement.

G.(1) In addition to any penalties imposed pursuant to this Section, upon violation the offender shall be fined an additional amount as follows:

(a) Ten dollars for a first offense.

(b) Twenty dollars for a second offense.

(c) Forty dollars for a third offense.

(d) One hundred dollars for a fourth or subsequent offense.

(2) Monies collected pursuant to this Subsection shall be forwarded by the sheriff to the state treasurer within thirty days of collection.

(3) After allocation to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the state treasurer shall deposit the collections into the Louisiana Emergency Response Network Fund as established in R.S. 40:2845.

RS 32:71 — Driving on right side of road; exceptions

When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement, including passing lanes;

(2) When the right half of a roadway is closed to traffic while under construction or repair;

(3) Upon a roadway designated and signposted for one-way traffic.

B.(1)(a) Upon all multilane highways, no vehicle shall be driven in the left-hand lane except when directed otherwise, preparing for a left turn at an intersection or private road or driveway, overtaking or passing another vehicle proceeding in the same direction, or when right-hand lanes are congested; however, no vehicle being driven in the left lane except when directed otherwise or preparing for a left turn at an intersection, private road, or driveway shall impede any other vehicle that is traveling in the same lane and behind that vehicle.

(b) Upon all multilane highways, no vehicle traveling in the left-hand lane shall be driven at a speed slower than any vehicle traveling to its right on the same roadway.

(c) Upon all multilane highways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the circumstances then existing, shall be driven in the right-hand lane then available for traffic except when preparing for a left turn at an intersection or into a private road or driveway, or passing or overtaking a vehicle proceeding

in the same direction, if passing on the left side of it. Nothing herein contained shall be construed to authorize driving any vehicle in the left lane so as to prohibit, impede, or block passage of an overtaking vehicle in such lane and in such event the vehicle in the left lane prohibiting, impeding, or blocking passage of an overtaking vehicle shall expeditiously merge into the right lane of traffic.

(d) The provisions of this Subsection shall not apply during a declared state of emergency when contraflow has been activated.

(2) Any vehicle proceeding on a multilane highway at a speed slower than the posted maximum speed limit shall be driven in the right hand lane then available for traffic, or as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing a vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway. Persons in violation of this Paragraph shall be punished as follows:

(a) A fine of one hundred fifty dollars for the first offense.

(b) A fine of two hundred fifty dollars for a second subsequent offense within a twelve-month period of the first offense.

(c) A fine of three hundred fifty dollars for a third subsequent offense within a twelve-month period of the first offense or imprisonment for not more than thirty days, or both.

C. The Department of Public Safety and Corrections, office of motor vehicles, is directed to include a summary of this Section in any instructional publication for drivers.

D. The Department of Transportation and Development is directed to place signs on multilane highways, in an effort to make motorists aware of the provisions provided for in this Section.

E. The Louisiana Highway Safety Commission and the Department of Transportation and Development are directed to cooperatively develop and engage a public awareness campaign to notify motorists of the provisions of this Section.

RS 32:72 — Passing vehicles proceeding in opposite directions

of traffic in each direction each driver shall give to the other at least one-half of the main traveled portion of the roadway as nearly as possible.

RS 32:73 — Passing a vehicle on the left

hereinafter stated:

(1) Except when overtaking and passing on the right is permitted, the driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

RS 32:73.1 — Rolling roadblocks prohibited on certain multiple-lane highways; definitions; penalties

1(42), but shall only include a multiple-lane highway outside the city limits with a posted speed limit of fifty-five miles per hour or more.

B. A vehicle which remains in the passing lane of a multiple-lane highway as defined in Subsection A of this Section traveling at the same speed as the vehicle in the right lane and impedes the flow of traffic shall be deemed a "rolling

roadblock" which shall be prohibited. The provisions of this Subsection shall not apply to vehicles stopped at a traffic signal or traveling at a slower rate due to traffic congestion as long as the vehicle is not causing traffic congestion.

C. Violations of this Section shall be punishable as provided in R.S. 32:57.

RS 32:74 — When passing on the right is permitted

aking or about to make a left turn;

(2) Upon a one-way street, or upon a highway on which traffic is restricted to one direction of movement, where the highway is free from obstructions and of sufficient width for two or more lines of moving vehicles;

(3) Upon multiple-lane highways.

B. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main traveled portion of the highway.

C. This Section does not prohibit the use of a bicycle in a bicycle lane or on a shoulder.

RS 32:75 — Limitations on passing on the left

t side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred feet of any vehicle approaching from the opposite direction.

RS 32:76 — Further limitations on passing on the left

upon a curve in the highway, where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(2) when approaching within one hundred feet of or traversing any intersection or railroad grade crossing;

(3) when the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, or tunnel.

B. The foregoing limitations shall not apply upon a one-way roadway or a multiple lane highway nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

RS 32:76.1 — Limitations on passing bicycles

me direction on the roadway, shall exercise due care while the motor vehicle is passing the bicycle and shall leave a safe distance between the motor vehicle and the bicycle of not less than three feet and shall maintain such clearance until safely past the overtaken bicycle. An operator of a motor vehicle may pass a bicycle traveling in the same direction in a no-passing zone only when it is safe to do so.

C. The Department of Public Safety and Corrections, office of motor vehicles, is directed to include a summary of this Section in any instructional publication for drivers.

D. The Department of Transportation and Development is directed to place signs in areas frequently used by bicyclists in an effort to make motorists aware of the need to share the road with bicyclists.

E. The Louisiana Highway Safety Commission is directed to engage in a public awareness campaign to notify motorists and bicyclists of the provisions of this Section.

F. Any person who violates this Section shall be fined not more than two hundred fifty dollars.

RS 32:77 — No passing zones

and shall by appropriate signs or markings on the roadway indicate the beginning and end of such zones, and when such signs and markings are in place and are clearly visible to an ordinary observant person, every driver shall obey the directions thereof.

B. Where signs or markings are in place to define a no-passing zone as set forth in paragraph A, no driver shall at any time drive on the left side of the roadway within such zone, or on the left side of any pavement striping, designated to mark such no-passing zone, throughout its length.

RS 32:77.1 — School zones; no passing zones

o violates this Section shall be subject to the following penalties:

- (1) Upon conviction for a first offense, the person shall be issued a written warning.
- (2) Upon conviction for a second offense, the person shall be fined one hundred dollars.
- (3) Upon conviction for a third offense, the person shall be fined two hundred fifty dollars.

RS 32:78 — One-way roadways and rotary traffic islands

pon a roadway designated and signposted for one-way traffic a vehicle shall be driven only in the direction designated, and a vehicle shall be driven as nearly as practicable entirely within a single line of traffic and shall not be moved from such line of traffic until the driver has first ascertained that such movement can be made with safety.

C. A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

RS 32:79 — Driving on roadway laned for traffic

l apply.

- (1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.
- (2) The department may erect signs directing slow moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction, and drivers of vehicles shall obey the directions of such signs.

RS 32:80 — Overtaking and passing certain school buses

ceiving or discharging any

school children shall stop the vehicle not less than thirty feet from the school bus before reaching such school bus when there are in operation on said school bus visual signals as required by R.S. 32:318, and said driver shall not proceed until such bus resumes motion or the visual signals are no longer activated.

(2) The driver of any school bus is authorized to notify the appropriate law enforcement authority of any violation of this Subsection within twenty-four hours of the violation. This notification shall be in writing on a form provided to the bus driver by the school board, shall be signed by the school bus driver, under penalty of criminal prosecution, in the presence of two witnesses, and it shall include the license plate number and color of the vehicle. The notice may be sent to the appropriate law enforcement agency by mail, fax, or electronically. If mailed, the notice shall be deemed timely if postmarked the day after the violation.

(3) The appropriate authority may issue a citation to the owner or, in the case of a leased vehicle, the lessee of the vehicle involved, on the basis of this information. The owner or lessee shall not be cited if the vehicle is stolen, or if another driver is cited for the violation.

(4)(a) Any person who is found guilty of or pleads guilty or nolo contendere to a violation of the provisions of this Subsection shall be subject to the following penalties:

- (i) If the violation does not result in the injury, serious bodily injury, or death of another person, the offender shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not more than six months, or both, in accordance with the provisions of R.S. 32:398.2 and shall have his driver's license suspended in accordance with the provisions of R.S. 32:414(A)(2).
- (ii) If the violation results in the injury of another person, the offender shall be fined not less than two hundred dollars nor more than five hundred dollars and may be subjected

to a driver's license suspension for a period up to ninety days, or both.

(iii) If the violation results in the serious bodily injury of another person, the offender shall be fined not less than five hundred dollars nor more than one thousand dollars and may be subjected to a driver's license suspension of a period up to one hundred eighty days, or both.

(iv) If the violation results in the death of another person, the offender shall be fined not less than one thousand dollars nor more than five thousand dollars and may be subjected to a driver's license suspension for the greater of a period up to three hundred sixty days or as provided in R.S. 32:414(A)(2), or both.

(b) In addition to the fines and penalties set forth in Items (a)(ii), (iii), and (iv) of this Paragraph, whoever is responsible for these violations shall be subject to the following penalties:

(i) If the violation results in the injury of another person, the offender may be imprisoned for not more than six months.

(ii) If the violation results in serious bodily injury of another person as defined in Subparagraph (c) of this Paragraph, the offender may be subjected to imprisonment up to six months.

(iii) If the violation results in the death of another person, the offender may be subject to imprisonment up to twelve months.

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

B.(1) Every school bus shall bear upon the front and rear thereof the words "SCHOOL BUS" in black letters not less than eight inches in height placed as high as possible without impairment of visibility, and no other lettering shall be visible from the front or rear except the words "emergency exit" shall be painted in black letters at least two inches in height and approximately located near such exit.

(2)(a) In addition, every school bus shall be equipped with visual signs and signals as required in R.S. 32:318. Such signs and signals shall be activated by the driver of said school bus under and only under one of the following conditions:

(i) Such vehicle is stopped or is about to stop on the roadway for the purpose of receiving or discharging school children.

(ii) Though not receiving or discharging school children, the bus is stopped or is about to stop because it meets or is following another bus that has such signs and signals activated.

(b) The driver of any school bus shall activate the amber lamps at least one hundred feet, but not more than five hundred feet, before every stop for which activation is required and upon stopping shall activate the red lamps and the stop signal arms provided for in R.S. 32:318(B)(2) and (3) and the crossing control device as provided in R.S. 17:164.1 and upon resuming motion shall deactivate the lamps, the stop signal arms, and the crossing control device.

C.(1) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(2) A highway with one lane in each direction and with a dedicated two-way left-turn lane shall not be considered a divided highway with separate roadways for purposes of this Section.

D. When, if, and on the date that the Department of Transportation and Development develops, adopts, and promulgates guidelines to establish school bus loading zones pursuant to Senate Concurrent Resolution No. 9 of the 1983 Regular Session of the Louisiana Legislature, the requirements of Subsection A of this Section regarding a vehicle stopping on a highway when meeting or overtaking a school bus and regarding the driver of a school bus activating the visual signs and signals shall be effective when a school bus stops on the shoulder of a highway for the purpose of receiving or discharging any school children as provided in the guidelines.

E. For the purposes of this Section, "school bus" means a school bus as defined in R.S. 32:1 that is used to transport students to and from home or school bus stops.

RS 32:81 — Following vehicles; exceptions

ehicle and the traffic

upon and the condition of the highway.

B. The driver of a motor truck, when traveling upon a highway outside a business or residential area, shall not follow another motor truck within four hundred feet, but this shall not be so construed as to prevent one motor truck from overtaking and passing another.

C. Motor vehicles being driven upon any roadway outside of a business or residential area in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to a funeral procession.

D. A platoon may be operated pursuant to this Section if the platoon operator has an operational plan approved by the Department of Public Safety and Corrections, office of state police, and the Department of Transportation and Development. The Department of Public Safety and Corrections, office of state police, and the Department of Transportation and Development may promulgate rules as necessary to implement the provisions of this Subsection.

E. The provisions of this Section shall not apply to the operation of a non-lead motor vehicle in a platoon.

F. The operation of a platoon shall not be authorized on a two-lane highway.

RS 32:82 — Driving on divided highways

ede vehicular

traffic, every vehicle shall be driven only upon the right hand roadway and no vehicle shall be driven over, across, or within the median, barrier, or section, except through an improved opening or at a crossover or intersection established under authority of this Chapter.

(2) No vehicle, other than an authorized vehicle, shall be driven through or use an improved opening or crossover on any interstate highway. For the purposes of this Paragraph, "authorized vehicle" means "authorized emergency vehicles", as defined in R.S. 32:1, and towing and recovery vehicles operating under the direction of a law enforcement agency.

B. No vehicle shall cross the painted continuous centerline of any multiple lane highway, except for the purpose of making a turn.

RS 32:83 — Driving on highways with two-way left-turn lanes and dedicated left-turn lanes

-turn lanes on highways at intersections.

(2) A highway with two or more lanes in each direction and with a designated two-way left-turn lane shall be considered a divided highway with separate roadways.

(3) A two-way left-turn lane is a lane near the center of the highway for use by vehicles making left turns in both directions to and from connections on both sides of the highway. At an intersection, the department may designate the two-way left-turn lane as a dedicated left-turn lane.

B.(1) A vehicle shall not be driven in a two-way left-turn lane for more than two hundred feet while making a left turn from a highway or when making a u-turn.

(2) A vehicle shall not be driven in a two-way left-turn lane for more than two hundred feet while making a left turn onto a highway and merging into the adjacent lanes of travel.

(3) A vehicle shall not be driven in a two-way left-turn lane for more than two hundred feet to reach a dedicated left-turn lane at an intersection.

C. A vehicle in a dedicated left-turn lane at an intersection shall turn at the intersection only as designated by posted pavement marking, signing, or traffic signal indication.

D. Vehicles shall not be driven across dedicated left-turn lanes at intersections or across areas delineated with pavement markings consisting of solid lines and filled in with diagonal striping. A vehicle may be driven across a two-way left-turn lane.

RS 32:101 — Required position and method of turning at intersections

turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection in the safest lane lawfully available to traffic moving in such direction upon the roadway being entered.

B. The department may modify the foregoing methods of turning at intersections on highways of the state by signs directing the course to be followed by vehicles at those intersections, and no driver shall fail to follow such directions.

C. No person shall drive any vehicle through or over private property, including, but not limited to, any corner parking or driveway facility, from a highway solely for the purposes of entering another highway.

RS 32:102 — Turning on curve or crest of grade prohibited

ehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet.

RS 32:104 — Turning movements and required signals

o enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety.

B. Whenever a person intends to make a right or left turn which will take his vehicle from the highway it is then traveling, he shall give a signal of such intention in the manner described hereafter and such signal shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning.

C. No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

D. The signals provided for in R.S. 32:105(B) shall be used to indicate an intention to turn, change lanes or start from a parked position and shall not be flashed on one side only on a parked or disabled vehicle, or flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear.

RS 32:105 — Signals by hand and arm or signal lamps

therwise provided in Paragraph B.

B. Any motor vehicle in use on a highway shall be equipped with, and the required signal shall be given by, signal lamps when the vehicle is so constructed, loaded or operated as to prevent the hand and arm signal from being visible, both to the front and to the rear.

RS 32:106 — Methods of giving hand and arm signals

icate as follows:

- (1) Left turn--hand and arm extended horizontally, with the hand open and the back of the hand to the rear.
- (2) Right turn--hand and arm extended upward at an angle of forty-five degrees from shoulder or elbow, with the hand open and the back of the hand to the rear. A bicyclist may also extend the right hand and arm horizontally with the hand open and back of the hand to the rear.
- (3) Stop or decrease speed--start--hand and arm extended downward at an angle of forty-five degrees from shoulder or elbow, with the hand open and the back of the hand to the rear.
- (4) Pulling from curb or side of highway--same as for left turn.

B. A bicyclist is not required to continuously give the signals required by Subsection A of this Section if the hand or arm is needed to control the bicycle.

RS 32:121 — Vehicle approaching or entering intersection

all yield the right of way to the vehicle on the right.

B. The right of way rule declared in Subsection A is modified at through highways and otherwise as hereinafter stated in this part.

RS 32:122 — Vehicle turning left at intersection

which are within the intersection or so close thereto as to constitute an immediate hazard.

RS 32:123 — Stop signs and yield signs; penalties for violations

officer or traffic-control signal, every driver and operator of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to all vehicles which have entered the intersection from another highway or which are approaching so closely on said highway as to constitute an immediate hazard.

C. At a four-way stop intersection, the driver of the first vehicle to stop at the intersection shall be the first to proceed. If two or more vehicles reach the four-way stop intersection at the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

D. The driver or operator of a vehicle approaching a yield sign shall slow down to a speed reasonable for the existing conditions, or shall stop if necessary, before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where

the driver has a view of approaching traffic on the intersecting roadway. Having slowed or stopped in this manner, the driver shall yield the right-of-way to any pedestrian legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard.

E.(1) Any person who is found guilty of or pleads guilty or nolo contendere to a violation of the provisions of this Section shall be subject to the following penalties:

(a) If the violation results in the injury of another person, the offender shall be fined not less than two hundred dollars nor more than five hundred dollars and may be subjected to a driver's license suspension for a period up to ninety days, or both.

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

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

(d) In addition to the fines and penalties set forth in Subparagraphs (a), (b), and (c) of this Paragraph, whoever is responsible for these violations shall be subject to the following penalties:

(i) If the violation results in serious bodily injury of another person as defined in Paragraph (2) of this Subsection, the offender may be subjected to imprisonment up to six months.

(ii) If the violation results in the death of another person, the offender may be subject to imprisonment up to twelve months.

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

RS 32:124 — Vehicle entering highway from private road, driveway, alley or building

hicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right of way to any pedestrian as may be necessary to avoid collision, and shall yield the right of way to all approaching vehicles so close as to constitute an immediate hazard.

RS 32:125 — Procedure on approach of an authorized emergency vehicle; passing a parked

r visual signals, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the highway clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

B. When any vehicle making use of any visual signals as authorized by law, including the display of alternately flashing green, amber, or yellow warning lights, is parked on or near the highway, the driver of every other vehicle shall:

(1) When driving on an interstate highway or other highway with two or more lanes traveling in the same direction, yield the right-of-way by making a lane change into a lane not adjacent to the parked vehicle, if possible with due regard to safety and traffic conditions.

If a lane change is not possible, the driver shall slow to a reasonably safe speed.

(2) Maintain a safe speed for road conditions, if unable or unsafe to change lanes, or driving on a two-lane road or highway.

C. This Section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

D. Any person who violates the provisions of this Section shall, upon conviction, be subject to a fine not to exceed two hundred dollars.

RS 32:126 — Cattle crossings

one portion of property owned or leased by a person to another portion of property owned or leased by that person when such portions of the property are divided by the highway.

(2) A flagman is directing traffic.

(3) A cattle crossing sign is posted by the Department of Transportation and Development at the request of the person who owns or leases such property.

B. The Department of Transportation and Development shall adopt rules to determine where such cattle crossing signs shall be placed in accordance with the provisions of this Section.

C. The provisions of this Section are not intended and shall not be construed to impose any liability on the state of Louisiana for any actions taken by the state under the provisions of this Section.

RS 32:127 — Golf cart and all-terrain vehicle crossings

or crossings for such vehicles within the town limits of Grand Isle between sunrise and sunset.

B. A valid driver's license shall be a prerequisite for operating a golf cart or all-terrain vehicle when crossing Louisiana Highway 1 in the town of Grand Isle.

C. Crossing signs may be posted by the Department of Transportation and Development at the request of the governing authority of the town of Grand Isle.

D. The Department of Transportation and Development, with the consultation and advice of the governing authority of the town of Grand Isle, shall formulate guidelines to determine where such crossing signs shall be placed in accordance with the provisions of this Section.

E. For the purposes of this Section, the provisions of R.S. 32:53(D), R.S. 32:235(C), R.S. 32:261, and Chapter 5 of this Title shall not apply and golf carts and all-terrain vehicles shall not be considered a vehicle for purposes of defining "equipment" as referenced in Part V of Chapter 1 of this Title.

RS 32:127.1 — Golf cart crossings

and Louisiana Highway 99 on marked or designated paths or crossings for such vehicles within the town limits of Welsh between sunrise and sunset. The department shall consult with the governing authority of the town of Welsh to determine which intersection or intersections of United States Highway 90 and intersection or intersections of Louisiana Highway 99 within the town limits of Welsh would provide the most convenient and safest location for golf cart crossings.

B. A valid driver's license shall be a prerequisite for operating a golf cart when crossing United States Highway 90 and Louisiana Highway 99 in the town of Welsh.

C. Crossing signs may be posted by the Department of Transportation and Development at the request of the governing authority of the town of Welsh.

D. The Department of Transportation and Development, with the consultation and advice of the governing authority of the town of Welsh, shall formulate guidelines to determine where such crossing signs shall be placed in accordance with the provisions of this Section.

E. For the purposes of this Section, the provisions of R.S. 32:53(D), 235(C), 261, and Chapter 5 of this Title shall not apply, and golf carts shall not be considered a vehicle for purposes of defining "equipment" as referenced in Part V of Chapter 1 of this Title.

RS 32:127.2 — Golf carts; Palmetto Island State Park

of Palmetto Island State Park by any operator who is in possession of a valid driver's license and liability insurance.

B. For the purposes of this Section, the provisions of R.S. 32:53(D), 261, and Chapter 5 of this Title shall not apply, and golf carts shall not be considered a vehicle for purposes of defining "equipment" as referenced in Part V of Chapter 1 of this Title.

RS 32:127.3 — Golf carts; Lake Fausse Pointe State Park

n the boundaries of Lake Fausse

Pointe State Park by any operator who is in possession of a valid driver's license and liability insurance.

B. For the purposes of this Section, the provisions of R.S. 32:53(D), 261, and Chapter 5 of this Title shall not apply, and golf carts shall not be considered a vehicle for purposes of defining "equipment" as referenced in Part V of Chapter 1 of this Title.

C. For the purposes of this Section, "golf cart" means a vehicle that was originally intended for use off-road on golf courses and other green spaces and that has a maximum speed of twenty-five miles per hour.

RS 32:127.4 — Golf cart crossings; city of Westlake

ay 379 at Hilma Street and

Gray Street on marked, designated paths or crossings for such vehicles within the city of Westlake between sunrise and sunset.

B. A valid driver's license shall be a prerequisite for operating a golf cart when crossing Louisiana Highway 378 and Louisiana Highway 379 at the designated crossings.

C. Crossing signs shall be posted by the Department of Transportation and Development at the request of the governing authority of the city of Westlake.

D. The Department of Transportation and Development, with the consultation and advice of the governing authority of the city of Westlake, shall formulate guidelines to determine where such crossing signs shall be placed in accordance with the provisions of this Section.

E. For the purposes of this Section, the provisions of R.S. 32:53(D), 235(C), 261, and Chapter 5 of this Title shall not apply, and golf carts shall not be considered a vehicle for purposes of defining "equipment" as referenced in Part V of Chapter 1 of this Title.

RS 32:127.5 — Golf carts; Church Point

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Highway 95, Louisiana Highway 35, Louisiana Highway 1104, and Louisiana Highway 178 on marked or designated paths or crossings for such vehicles within the town limits of Church Point between sunrise and sunset.

B. A copy of the applicant's valid driver's license and liability insurance, a signed liability waiver, and a seventy-five dollar permit fee shall be submitted annually with a utility terrain vehicle permit application as a prerequisite for operating a golf cart when crossing Louisiana Highway 95, Louisiana Highway 35, Louisiana Highway 1104, and Louisiana Highway 178 in the town of Church Point.

C. Signs, markers, or traffic control devices designating paths or crossings for golf carts shall be posted by the Department of Transportation and Development or by the town of Church Point with prior approval from the Department of Transportation and Development. The costs for material, fabrication, mounting posts, and installation of any sign, marker, or traffic control device shall be provided by the town of Church Point.

D. The Department of Transportation and Development shall promulgate rules and regulations necessary to implement the provisions of this Section. The department shall report to the Joint Legislative Committee on Transportation, Highways and Public Works

for review and approval of any rules or regulations promulgated by the department.

E. For the purposes of this Section, the provisions of R.S. 32:53(D) and Chapter 5 of this Title shall not apply, and the provisions relative to equipment of vehicles referenced in Part V of Chapter 1 of this Title shall not apply to golf carts.

RS 32:127.6 — Golf carts; Lake Arthur

na Highway

26 on marked or designated paths or crossings for such vehicles within the town limits of Lake Arthur between sunrise and sunset. The department shall consult with the governing authority of the town of Lake Arthur to determine which intersection or intersections of Louisiana Highway 26 within the town limits of Lake Arthur would provide the most convenient and safest location for golf cart crossings.

B. A valid driver's license shall be a prerequisite for operating a golf cart when crossing Louisiana Highway 26 in the town of Lake Arthur.

C. Crossing signs may be posted by the Department of Transportation and Development at the request of the governing authority of the town of Lake Arthur.

D. The Department of Transportation and Development, with the consultation and advice of the governing authority of the town of Lake Arthur, shall formulate guidelines to determine where such crossing signs shall be placed in accordance with the provisions of this Section.

E. For the purposes of this Section, the provisions of R.S. 32:53(D), 235(C), 261, and Chapter 5 of this Title shall not apply, and golf carts shall not be considered a vehicle for purposes of defining "equipment" as referenced in Part V of Chapter 1 of this Title.

RS 32:141 — Stopping, standing, or parking outside business or residence districts

either attended or unattended, upon the paved or main traveled part of the highway when it is practicable to stop, park or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of two hundred feet in each direction upon such highway.

B. The provisions of this Section shall not apply to the driver of any vehicle which is disabled while on the main traveled portion of a highway so that it is impossible to avoid stopping and temporarily leaving the vehicle in that position. However, the driver shall remove the vehicle as soon as possible, and until it is removed it is his responsibility to protect traffic.

C. The driver of any vehicle left parked, attended or unattended, on any highway, between sunset and sunrise, shall display appropriate signal lights thereon, sufficient to warn approaching traffic of its presence. If the vehicle is not removed from the highway within twenty-four hours, the provisions of R.S. 32:473.1(B) shall apply.

D. In the event of a motor vehicle accident, if the driver is not prevented by injury and the vehicle is not disabled by the accident, or the accident has not resulted in serious injury or death of any person, the driver shall remove the vehicle from the travel lane of the highway to the nearest safe shoulder. Compliance with the provisions of this Subsection shall in no way be interpreted as a violation of requirements to remain at the scene of an accident as provided for in the Highway Regulatory Act or by R.S. 32:414.*

RS 32:142 — Officers authorized to remove illegally stopped vehicles

thorized to move such vehicle, or require the driver or other person in charge of the vehicle to move it to a position off the paved or main traveled part of the highway.

B. Whenever any police officer finds a vehicle unattended upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic, the officer is hereby authorized to provide for the removal of the vehicle to the

nearest garage or other place of safety.

C. Whenever any police officer finds a vehicle unattended upon any portion of the Crescent City Connection, whether on the traffic lane or shoulder, the officer is hereby authorized to provide for the immediate removal of the vehicle to the nearest garage or other place of safety.

RS 32:143 — Stopping, standing or parking prohibited in specified places

the directions of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within fifteen feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within twenty feet of a crosswalk at an intersection;
- (7) Within twenty feet upon the approach to any flashing beacon stop sign, or traffic control signal located at the side of a roadway;
- (8) Between a safety zone and the adjacent curb, or within twenty feet of points on the curb immediately opposite the ends of a safety zone;
- (9) Within fifty feet of the nearest rail of a railroad crossing;
- (10) Within twenty feet of the driveway entrance to any fire station, and on the side of a street opposite the entrance to any fire station within seventy-five feet of said entrance, when properly posted;
- (11) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
- (12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (14) At any place where official signs prohibit such;
- (15) Any place where parking will obscure or obstruct visibility of any traffic control device.

B. No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.

RS 32:143.1 — Blocking of private driveways, highways and department rights of way, penalties

private driveways.

B. Whenever any law enforcement officer finds such an unlawfully parked vehicle as described in Subsection A above, he may move the vehicle, or require the driver or other person in charge of the vehicle to move it to a legally permissible position away from the private driveway.

C.(1) The owner or operator of any vehicle parked in violation of Subsection A above may, within twenty days after the date when a ticket giving notice of such violation was attached to such vehicle, pay to the chief of police, sheriff, or other chief law enforcement officer, in full satisfaction of such violation, the sum of one dollar plus any towing charges for moving the vehicle.

(2) The owner or operator of any vehicle parked in violation of Subsection A above, who fails to pay the chief of police, sheriff or other chief law enforcement officer the sum of one dollar plus towing charges, as provided herein, shall upon conviction thereof, be fined, according to the discretion of the court, not less than two dollars and fifty cents nor more than twenty dollars plus any towing charges.

RS 32:143.2 — Private driveways, highways, and public rights-of-way; sporting activities; penalties

right-of-way while in the course of participating in any sporting activity when such activity obstructs the flow of traffic or is a hazard to public safety.

B. Any person who violates the provisions of this Section, or if the offender is a minor, any parent, guardian, or person with legal responsibility for such minor, shall, upon conviction, be subject to a fine not to exceed twenty-five dollars, including all costs of court.

C. Repealed by Acts 2005, No. 361, §1, eff. July 1, 2005.

RS 32:144 — Additional parking regulations

right-hand wheels of such vehicle parallel to and within eighteen inches of the right-hand curb.

B. The department may place signs prohibiting or restricting the stopping, standing or parking of vehicles on any highway where in its opinion such stopping, standing or parking is dangerous to those using the highway, or where such would unduly interfere with the free movement of traffic thereon. Such signs shall be official signs, and no person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs.

RS 32:145 — Unattended motor vehicles

ively setting the brake thereon, and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

RS 32:146 — Prohibited parking; leased or rented motor vehicles

cal ordinance, or regulation, and a citation is issued at a time when the driver is not present to receive the citation, prior to any proceedings on the citation, the governing authority under whose jurisdiction the citation is issued shall request an affidavit from the registered owner attesting to the name, address, and driver's license number of the person to whom the vehicle was leased or rented at the time the citation was issued.

B. The owner of each leased or rented motor vehicle may place an identification tag attached to the inside of the bottom right side of the windshield of such vehicle. The identification tag shall state that the vehicle is rented or leased and shall list the name and address of the registered owner. All such information shall be clearly visible from the outside of the vehicle. The Department of Public Safety shall approve the forms for the identification tags.

C. Upon the request to furnish the affidavit pursuant to Subsection (A) of this Section, the owner shall within seven days after the receipt of the request, mail or deliver to the requesting authority an affidavit attesting to the name, address, and driver's license number of the person to whom the vehicle was rented or leased. The affidavit shall create the presumption that the person to whom the vehicle was leased or rented was the driver who parked the vehicle in violation of the law, ordinance or regulation, and the requesting authority shall notify the driver of his responsibility for the violation.

D. Whenever a leased or rented motor vehicle is not identified as provided in Subsection B of this Section or when the requested owner of a properly identified leased or rented vehicle fails to furnish the affidavit, the presumption created under Subsection C of this Section shall not apply and the citation shall be treated as any other regular parking citation.

E. This Section shall supercede any conflicting provisions of R.S. 32:41 and 32:42 and any local ordinance or regulation adopted pursuant thereto or pursuant to any other authority.

RS 32:151 — Open roads agreement

n roads agreement which requires only that portion of any state roadway which is necessary for the safe management and clearance of a traffic incident shall be closed. The agreement shall set forth performance standards for the response and clearance of traffic incidents and include a post-action review process to ensure that long delays in opening all lanes will be evaluated, reported, and used to improve the delivery of traffic incident management services.

B. Each agency responding to the incident shall implement training and policy enhancements to ensure that all employees are knowledgeable about the open roads agreement adopted pursuant to this Section.

C. The agreement shall be provided to each parish and municipal governing authority which may, at its discretion, adopt such agreement for the management of any incident on a local roadway. Each governing authority shall be encouraged to adopt such agreement to ensure safe and consistent management of incidents on local and state roadways throughout the state.

D. The open roads agreement required by this Section shall be completed and implemented no later than January 1, 2009.

RS 32:152 — Police Officer Standards and Training (POST) certified course for Traffic Incident Management

rtified course to be taught at a POST-certified academy. Any training shall include the basic process to follow for Unified Command as contained in The National Incident Management System Law of 2004. The training shall also include a

summary of the open roads agreement and Louisiana laws pertaining to traffic incident management. Such training program shall be developed by January 1, 2009, and be offered as a course of training to all classes after January 1, 2009.

B. The training program shall also be offered to all other entities that respond to emergencies on Louisiana roadways.

RS 32:153 — Instant Tow Dispatch Pilot Program; Expedited Towing Pilot Program

s on Louisiana's multilane highways. A coordinated interagency open roads policy will contribute to timely deliveries, safe travel, and improved safe movement of goods and persons along critical multilane highways.

B. In order to achieve improved traffic incident management practices that will decrease the impact of all types of incidents on Louisiana's multilane highways, the Department of Transportation and Development and the Department of Public Safety and Corrections, office of state police, shall coordinate with the Louisiana Motor Transport Association, the Towing and Recovery Professionals of Louisiana, and the appropriate municipal and parochial law enforcement associations to develop an Instant Tow Dispatch Pilot Program for passenger vehicles and an Expedited Towing Pilot Program for freight-carrying vehicles, provided for in Subsections C and D of this Section.

C.(1) The Instant Tow Dispatch Pilot Program shall develop and implement a plan to reduce the time required to arrive and remove disabled or damaged vehicles. This program shall be developed by the creation of a pilot program in two areas of the state with high density interstate highway traffic. The Department of Transportation and Development is authorized to make "dry run" payments, in an amount to be determined by such department, for tows that are dispatched to the scene of an incident and are not used, provided that the "dry run" is documented by the appropriate Department of Transportation and Development or Department of Public Safety and Corrections, office of state police, dispatch center. The Department of Transportation and Development and the Department of Public Safety and Corrections, office of state police, along with the other associations provided for in Subsection B of this Section shall:

- (a) Determine the numbers of incidents tows are used and the time required to complete restoration of traffic.
- (b) Document the results of the pilot program.
- (c) Submit a written report to the Senate and House committees on transportation, highways, and public works no later than March 1, 2010. Such report shall document proposals for suggested legislation that will alleviate extended delays associated with motor vehicle accidents on Louisiana's multilane highways.

(2) The Expedited Towing Pilot Program shall develop and implement a plan identifying procedures that will reduce interstate highway blockage time and provide for a more effective incident response performance that will mitigate resulting traffic congestion, as well as efficiently preserving commercial goods. This program shall be developed by the creation of a pilot program in two areas of the state with high density interstate highway traffic that are at a greater risk of incidents involving freight-carrying vehicles. The Department of Transportation and Development and the Department of Public Safety and Corrections, along with the other associations provided for in Subsection B of this Section shall:

- (a) Determine the number of freight-carrying vehicle incident tows that are used and the time required to complete restoration of traffic.
- (b) Document loss of any freight.
- (c) Document the results of the pilot program.
- (d) Submit a written report to the Senate and House committees on transportation, highways, and public works no later than March 1, 2010. Such report shall document proposals for suggested legislation that will alleviate extended delays associated with freight-carrying vehicle incidents on Louisiana's multilane highways.

D. Prior to implementation of the Instant Tow Dispatch Pilot Program and the Expedited Towing Pilot Program as required in Subsection C of this Section, the participating entities shall develop procedures which they propose will be followed in each of the programs. Such procedures shall be approved by the House and Senate transportation, highways, and public works committees prior to implementation of such programs.

RS 32:154 — Removal of bodies

of the deceased person shall not be disturbed from the position in which it is found by any person without authorization from the coroner, or his designee, except the investigating law enforcement agency may disturb the body in order to obtain the identification of the deceased, preserve the body from loss or destruction, or maintain the flow of traffic on a highway or railroad.

RS 32:155 — Authority to remove vehicles and cargo

the owner, immediately remove or have removed any vehicle, cargo, or other movable property that has been damaged or spilled upon the roadway or shoulder of the roadway which constitutes a hazard or obstructs traffic when such removal will improve public health or safety and reduce crash- or incident-related traffic congestion and delay.

B. When a motor vehicle crash or traffic incident occurs during peak traffic hours, any police officer or any person acting at the officer's direction or request shall take immediate action and give priority to opening all roadway lanes to traffic so as to relieve traffic congestion and minimize delay to the motoring public provided such action does not impair the protection of public safety. For purposes of this Section, peak traffic hours shall be considered 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. on weekdays.

C. No liability shall attach to any police officer or to any person acting under the officer's direction or request for damages to a vehicle, cargo, or other movable property, that may result from the exercise or failure to exercise any authority granted under this Section in the absence of gross negligence.

D. The provisions of this Section apply only to roadways in this state included in the state and federal highway system.

RS 32:168 — Equipment of locomotive with bell and whistle or horn, sounding of signals

a bell and a whistle or horn which, under normal conditions, can be heard at a distance of not less than one quarter of a mile.

B. Except as specifically exempted by law, any person controlling the motion of an engine on any railroad shall commence sounding the audible signal when such engine is approaching and not less than one quarter of a mile from the place where such railroad crosses any highway. Such sounding shall be prolonged either continuously or by blasts of the whistle or horn to be sounded in the manner provided by the Uniform Code of Railroad Operating Rules until the engine has crossed the roadway, unless the distance from that crossing to the start of the movement or the distance between the crossings is less than one quarter of a mile, in which event such warning signals shall be so sounded for the lesser distance. In cases of emergency said whistles or horn may be sounded in repeated short blasts.

RS 32:169 — Cross buck, stop and warning signs, traffic control devices

ose contained in the maintenance system of the department, shall erect and maintain a "Railroad Cross Buck" sign at the crossings above referred to which shall be white with the "Railroad Crossing" in black letters. The sign shall be reflectorized. If there are two or more tracks, same shall be indicated on an auxiliary sign of inverted "T" shape mounted below the cross buck. This sign shall be erected on the right hand side of the roadway of such approach to the crossing not more than fifty feet nor less than fifteen feet from the nearest rail and not less than six feet or more than twelve feet from the edge of the roadway. The sign shall be ten feet above the level of the highway and said sign shall be constructed in accordance with the standards of the department.

B. The person, firm, or corporation controlling any railroad track hereinabove referred to may, with written approval of the chief engineer of the department or his designated representative, erect stop signs at any grade crossings of railroads on highways not contained in the state maintenance system. Said signs shall be octagonal in shape, shall have a red background, and carry the word "stop" in white letters all in accordance with the standards of the department. Said signs shall be located not less than fifteen feet nor more than fifty feet from the nearest rail and shall be erected on the right hand side of the highway of each approach to the crossing and not less than six feet nor more than twelve feet from the edge of the roadway. Where "stop" signs are erected the said railroad shall also erect and maintain a railroad advance warning sign on the right side of the road not less than one hundred feet nor more than three hundred feet from the nearest rail of said crossing measured along the highway, said sign shall be a yellow disk thirty-six inches in diameter carrying a ninety degree cross buck x and the letters R.R. in black in accordance with the standards of the department. When such signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon the exercising of due care and being sure that it is safe to proceed.

C. All cross buck and warning signs provided for herein shall be installed by the person, firm or corporation controlling the railroad as the present signs are replaced.

D. Subsections A and B of this Section do not apply to grade crossings of any roadway which is contained in the state maintained highway system.

E.(1) A railroad company shall install a traffic control device or devices at a public railroad grade crossing pursuant to an agreement with the Department of Transportation and Development. Whenever the department determines that a particular traffic control device needs to be installed at a public highway railroad grade crossing, the railroad company shall cooperate with the department in the installation of such device or devices. In the case of a federally funded grade crossing project, the railroad company shall enter into an agreement with the department for the installation or upgrade of such traffic control device. A railroad company shall not be required to provide the non-federal share of costs involved in federally funded grade crossing improvement projects.

(2)(a) The Department of Transportation and Development, in cooperation with each parish superintendent of transportation, shall identify all public highway railroad grade crossings located on state highways within one-half mile of any public or private elementary or secondary school. The department shall further identify such grade crossings that have active warning devices in place, whether such active warning devices include lights only or lights and cross-arms, and also identify the grade crossings that are scheduled to have active warning devices installed, and the grade crossings that do not have active warning devices in place.

(b) The survey shall be completed no later than February 1, 2003. A report of the survey shall be submitted to the Senate Committee on Transportation, Highways and Public Works and the House Committee on Transportation, Highways and Public Works no later than March 1, 2003. Beginning in 2004, the department shall file an annual report with the committees no later than March first of each year. The report shall contain but not be limited to the following information: the number of grade crossings located within one-half mile of any public or private elementary or secondary school; the number of affected grade crossings that have active warning devices in place; whether such active warning devices include lights only or lights and cross-arms; the number of affected grade crossings scheduled to have active warning devices installed; the expected dates of installation of active warning devices for those affected grade crossings; and the number of affected grade crossings that do not have active warning devices in place.

(c) After all grade crossings located within one-half mile of any public or private elementary or secondary school have been identified and the initial report has been filed, the department shall prioritize the affected grade crossings according to standards of the industry as set forth in the Railroad Grade Crossing Handbook. The department is authorized to use at least twenty-five percent of all federal or state funds available to the department for grade crossing upgrades to upgrade such affected grade crossings, each year, until all such affected grade crossings have been upgraded with active warning devices, including lights and cross-arms provided that such use complies with all other state and federal laws and regulations.

(3) A railroad company may install a traffic control device or make other improvements or modifications at a railroad grade crossing at its own expense under the following conditions:

(a) When such crossing upgrade, improvement, or modification will improve the safety of the traveling public, train crew members, or train passengers.

(b) When such crossing upgrade, improvement, or modification is needed due to the presence of hazardous conditions or certain operation factors or a combination of both.

(c) When such crossing upgrade, improvement, or modification is incidental to a railroad improvement project relating to track structures or train control systems.

(4) Any upgrade, improvement, or modification performed by a railroad company under the provisions of this Subsection shall comply with all conditions and requirements in the Manual on Uniform Traffic Control Devices.

F. Nothing in this Section shall relieve a railroad company of its responsibility to maintain safe crossings.

G. In any civil action to recover damages arising from or out of a railroad grade crossing accident, the survey and initial or annual reports of railroad grade crossings prepared pursuant to Subsection E of this Section shall not be considered as comparative negligence and shall not be discoverable or admissible as evidence in any civil trial.

RS 32:170 — Exemptions; Old Metairie railroad corridor; elimination of railroad liability

racks, industry tracks, and plantation tracks, since the intention is that such provisions apply only to tracks over which trains are operated at high speed; also such provisions do not modify or repeal any parochial or municipal ordinance relating to signs or signals at public railroad crossings.

B.(1) The provisions of R.S. 32:168 requiring the sounding of a bell, whistle, or horn by a locomotive engine when it approaches a street or highway crossing shall not apply to crossings in the Old Metairie railroad corridor in Jefferson

Parish between Airline Highway and the 17th Street Canal when train activated flashing light signals and gates are installed and operating at those crossings, and such soundings in the corridor are hereby prohibited except in cases of emergency.

(2) After train activated flashing light signals and gates are installed and operating at crossings in the Old Metairie railroad corridor in Jefferson Parish between Airline Highway and the 17th Street Canal, a railroad company or its employees shall not be liable to any person or other entity for civil damages for injury or death of persons or damage to property which occur due to failure of an oncoming train to sound an audible warning approaching or at such crossings.

RS 32:171 — Motor vehicles approaching railroad crossings; reporting violations; penalties

Under the circumstances stated in this Section, the driver of such vehicle shall

stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad, and

shall not proceed until he can do so safely. The foregoing requirements shall apply when:

(1) A clearly visible electric or mechanical signal device gives warning of the

immediate approach of a railroad train or other on-track equipment.

(2) A crossing gate is lowered or when a human flagman gives or continues to give

a signal of the approach or passage of a railroad train or other on-track equipment.

(3) A railroad train or other on-track equipment approaching within approximately nine hundred feet of the highway crossing emits a signal in accordance with R.S. 32:168, and such railroad train or other on-track equipment, by reason of its speed or nearness to such crossing, is an immediate hazard.

(4) An approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to such crossing.

(5) A stop sign is erected at the approach to a railroad grade crossing.

B. No person shall stop a motor vehicle upon any railroad crossing.

C. No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed when an approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to such crossing.

D. No person shall drive any vehicle across any railroad crossing while the signal devices are flashing when an approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to such crossing.

E. At any railroad grade crossing provided with railroad cross buck signs, without automatic, electric, or mechanical signal devices, crossing gates, or a human flagman giving a signal of the approach or passage of a train or other on-track equipment, the driver of a vehicle shall in obedience to the railroad cross buck sign, yield the right of way and slow down to a speed reasonable for the existing conditions and shall stop, if required for safety, at a clearly marked stopped line or, if no line, within fifty feet but not less than fifteen feet from the nearest rail of the railroad and shall not proceed until he or she can do so safely. If a driver is involved in a collision at a railroad crossing or interferes with the movement of a train or other on-track equipment after driving past the railroad cross buck sign, the collision or interference is prima facie evidence of the driver's failure to yield the right of way.

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

(1) On first offense the fine shall be not more than two hundred dollars or

imprisonment for not more than thirty days, or both. In addition, the person in violation shall be required to attend an Operation Lifesaver Course to be given by a certified Operation Lifesaver presenter within one hundred eighty days after adjudication of the citation. It shall be the responsibility of the violator to notify the appropriate court of the successful completion of the Operation Lifesaver Course. Twenty-five dollars of each fine imposed pursuant to the provisions of this Paragraph shall be collected by the court and shall immediately be forwarded to the state treasurer for deposit in the state treasury.

(2) On second and each subsequent offense, the fine shall not be more than five hundred dollars or imprisonment for not more than ninety days, or both. In addition, the person in violation shall be required to attend a one-day safe driver's course designed by Operation Lifesaver within one hundred eighty days after adjudication of the citation. It shall be the responsibility of the violator to notify the appropriate court of the successful completion of the Operation Lifesaver Course. Twenty-five dollars of each fine imposed pursuant to the provisions of this Paragraph shall be collected by the court and shall immediately be forwarded to the state treasurer for deposit in the state treasury.

(3) Any person who violates any provision of this Section by racing a train or other on-track equipment to a railroad crossing and thereby causes immediate danger to any railroad crew member, the general public, or damage to any property in the immediate vicinity of the crossing shall be fined not more than one thousand dollars. In addition, the person in violation shall be required to attend a one-day safe driver's course designed by Operation Lifesaver within one hundred eighty days after the adjudication of the citation. It shall be the responsibility of the violator to notify the appropriate court of jurisdiction of the successful completion of the Operation Lifesaver Program.

(4) If a violator fails to attend any safe driving courses pursuant to this Subsection, the department shall suspend such violator's driving privileges for a period of thirty days.

G. The governing authority of a municipality may enter into a cooperative endeavor agreement authorizing certified railroad law enforcement officers to assist in the enforcement of state laws and local ordinances pertaining to railroad grade crossings within its municipal limits.

H. The operator, engineer, or conductor of any train or other on-track equipment is authorized to notify the appropriate law enforcement authority of any railroad grade crossing violation within thirty-six hours of the violation. The operator, engineer, or conductor shall report such violations by affidavit which shall contain the color, license number, and any other identifiable information from the vehicle involved in the violation. In addition to the affidavit, the law enforcement officer may rely upon other evidence of a grade crossing violation including photographic or video evidence. A law enforcement officer may issue a citation to the owner or driver of the vehicle, or in the case of a leased vehicle, the lessee or driver of the leased vehicle, on the basis of the information contained in the affidavit or photographic or video evidence. The owner or lessee shall not be cited if the vehicle had been stolen.

RS 32:172 — All vehicles must stop at certain railroad grade crossings
particular danger to public safety and shall erect

stop signs thereat.

(2) The department shall also make a preliminary determination of highway grade crossings of railroads on non-state maintained public highways or roads which are of particular danger to public safety which shall be made available to parishes and municipalities. The governing authorities of such parishes and municipalities may erect stop signs at such crossings.

(3) The department shall promulgate rules and regulations, not later than December 15, 1998, which set forth criteria to determine those crossings which are particularly dangerous, to include but not be limited to crossings where multiple collisions have occurred, crossings which are high-profile crossings, and crossings with reduced sight distance or visibility. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet, but not less than fifteen feet, from the nearest rail of such railroad and shall proceed only upon exercising due care.

B. The opinions and final report of the department promulgated or published pursuant to this Section shall not be subject to any discovery or production nor be admissible evidence in any judicial proceeding in this state.

C. A decision of the department relative to the placement of a stop sign at a crossing which possesses any other warning device shall not be considered as presumptive or conclusive evidence of fault on the part of the state or its agents or any political subdivision or its agents.

D. Nothing in this Section shall relieve the railroad of its responsibility to maintain safe crossings and operate its trains and other on-track equipment in a safe manner.

RS 32:173 — Repealed by Acts 2008, No. 614, §2.

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RS 32:173.1 — Railroad grade crossings; stopping required

y which a commercial motor vehicle carrying certain materials and buses transporting passengers, shall stop at railroad grade crossings within fifty feet of, and not closer than fifteen feet to, the tracks; thereafter, the driver shall listen and look in each direction along the tracks for an approaching train and ascertain that no train is approaching. When it is safe to do so, the driver may drive the commercial motor vehicle or bus across the tracks in a gear that permits the commercial motor vehicle to complete the crossing without a change of gears.

B. Notwithstanding any provision of law to the contrary, the driver of any motor vehicle carrying passengers for hire, or of any school bus whether carrying any school child or not, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet, but not less than fifteen feet, from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding, when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing, and the driver shall not shift gears while crossing the track or tracks.

C. The driver of any school bus, in addition to the requirements of Subsection B of this Section, after coming to a complete stop, shall open the door of the school bus and shall leave it open while ascertaining that no train or other vehicle is approaching on the railroad track from either side and until immediately prior to proceeding over the railroad crossing.

RS 32:174 — Moving heavy equipment at railroad grade crossings

g speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this Section.

B. Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.

C. Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions, and shall not proceed until the crossing can be made safely.

D. No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

RS 32:175 — Vehicles must yield at railroad grade crossings; exceptions; penalties for violations

e presence of a railroad cross buck sign shall slow down to a speed reasonable for the existing conditions, or shall stop if necessary, before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, or if none, then at the point nearest the intersecting rail of such railroad where the driver or operator has a clear view of any approaching train. The driver or operator shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train. Having slowed or stopped in this manner, the driver or operator shall yield the right-of-way to any approaching train and then shall proceed only upon exercising due care and upon being sure that it is safe to proceed.

B. The driver or operator of a vehicle need not yield at any such rail-highway grade crossing where a police officer or traffic-control signal directs traffic to proceed.

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

(1) On first offense, the fine shall be not more than two hundred dollars or imprisonment for not more than thirty days, or both. In addition, the person in violation shall be required to attend an Operation Lifesaver Course to be given by a certified Operation Lifesaver presenter within one hundred eighty days after adjudication of the citation. It shall be the responsibility of the offender to notify the appropriate court of the successful completion of the Operation Lifesaver Course.

(2) On second and subsequent offenses, the fine shall be not more than five hundred dollars or imprisonment for not more than ninety days, or both. In addition, the person in violation shall be required to attend a one-day safe driver's course designed by Operation Lifesaver within one hundred eighty days after adjudication of the citation. It shall be the responsibility of the offender to notify the appropriate court of the successful completion of the Operation Lifesaver Course.

(3) If an offender fails to attend any safe driving course as required in this Subsection, the department shall suspend such offender's driving privileges for a period of thirty days.

(4) No less than twenty-five dollars of each fine imposed pursuant to the provisions of this Section shall be collected by the court and shall immediately be forwarded to the state treasurer for deposit in the state treasury.

D. The provisions of this Section do not relieve drivers or operators of the

responsibility to comply with the provisions of R.S. 32:171 and 173.

RS 32:176 — Required notification of recording devices carried on railroad trains

to provide the information, shall inform the law enforcement officer investigating such accident if the train possesses an event recorder which records and preserves any information which is relevant to the accident or may be of assistance in the investigation of the accident. Upon request of the law enforcement officer, the railroad or its representative shall provide, in a timely manner, any such information contained on the event recorder whose release is not prohibited by federal law, rule, or regulation.

RS 32:190 — Safety helmets

helmet of the type and design manufactured for use by operators of such vehicles, which shall be secured properly with a chin strap while the vehicle is in motion. All such safety helmets shall consist of lining, padding, visor, and chin strap and shall meet such other specifications as shall be established by the commissioner.

B. It shall be unlawful to manufacture, sell, or distribute any protective helmet for use by the operator of a motorcycle, motor driven cycle, or motorized bicycle, or for use by the passenger thereon, unless such protective helmet is of a type and specification approved by the commissioner who shall publish a notice of such approval.

C. Notwithstanding the provisions of this Section, the police authorities of a village, town, city, or parish may issue a permit exempting members of organizations sponsoring, conducting, or participating in parades or other public exhibitions from the provisions of this Section while such members are actually participating in a parade or other public exhibition.

D. This Section does not apply to a person operating or riding in an autocycle if the vehicle is equipped with supports that meet or exceed the standards for a safety helmet or a rollbar or roll cage. As used in this Subsection, "rollbar" or "roll cage" shall mean supports that will bear the vehicle's weight and are so designed as to protect the occupants when the vehicle is resting on the supports.

E. It shall be unlawful to manufacture, sell, or distribute any protective helmet for use by the operator of a motorcycle, motor driven cycle, or motorized bicycle, or for use by the passenger thereon, unless the manufacturer of the protective helmet obtains and maintains liability insurance of not less than one hundred thousand dollars for each occurrence of liability of the manufacturer for fault in the design, materials, or workmanship of the protective helmet. In addition to any other penalty provided in this Section, the commissioner may prohibit the movement, sale, or distribution of any protective helmet if the manufacturer is not covered by insurance as required by this Subsection.

F. Any person who violates any provision of this Section shall upon conviction be fined fifty dollars which shall include all costs of court. Notwithstanding any contrary provision of law, no other cost or fee shall be assessed against any person for a violation of this Section.

RS 32:190.1 — Eye protective devices to be worn by motorcyclist; windshield on motorcycle

type approved for such use by the secretary, except when the motorcycle or motor driven cycle is equipped with a windshield of sufficient height to afford adequate eye protection that meets the requirements of R.S. 32:358.

B. The secretary shall approve only goggles, face shields, or safety glasses which will meet performance specifications established by him.

C. Eye protective devices used at night shall not be tinted.

D. This Section shall not apply to persons riding within an enclosed cab.

RS 32:191 — Riding on motorcycles

any other person or child ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear or side on the motorcycle.

B. A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with not more than one leg on each side of the motorcycle.

C. No person shall operate a motorcycle while carrying any package, bundle, or other article which prevents him from keeping both hands on the handlebars.

D. No operator shall carry any person or child nor shall any person or child ride in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

E. No operator shall carry or transport an infant or child on a motorcycle who is required to be restrained in a rear-facing child safety seat or a forward-facing child safety seat according to the provisions of R.S. 32:295. A child at least five years of age or older is only authorized to be a passenger on a motorcycle if such child is properly seated on the motorcycle and such child is wearing a safety helmet in accordance with the provisions of R.S. 32:190.

RS 32:191.1 — Operating motorcycles on roadways laned for traffic

the full use of a lane. This Subsection

shall not apply to motorcycles operated two abreast in a single lane.

B. The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

C. No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

D. Motorcycles shall not be operated more than two abreast in a single lane.

E. Subsections (B) and (C) shall not apply to police officers in the performance of their official duties.

F. Penalties imposed by this Chapter shall be applicable to any driver or operator of a vehicle, as defined in R.S. 32:1, who is found guilty of or pleads guilty or nolo contendere to a violation of the provisions of this Chapter, including this Section, or any regulation of the department, secretary, and commissioner made pursuant thereto.

RS 32:191.3 — Footrests and handlebars

motorcycle with handlebars that require the hands of the operator to be above the operator's shoulder height when the operator is sitting astride the seat and the operator's hands are on the handlebar grips.

RS 32:192 — Riding on motor-driven cycles

responsibilities navigating this website,

RS 32:193 — Operation of bicycles; general provision

shall be subject to those exceptions stated hereafter.

RS 32:194 — Traffic laws apply to persons riding bicycles

operation of a vehicle by this Chapter, except as to special regulations in this Part, including special regulations applying to peace officers utilizing bicycles in furtherance of their official duties, and except as to those provisions of this Chapter which by their very nature can have no application.

RS 32:195 — Riding on bicycles

no more than the number for which it is designed and equipped.

C. A person operating a bicycle shall at all times keep at least one hand upon the handle bars thereof.

RS 32:196 — Clinging to vehicles

. 310, §1; Acts 2004, No. 572, §1.

RS 32:197 — Riding on roadways and bicycle paths

ng vehicle or one proceeding in the same direction, except under any of the following circumstances:

- (1) When overtaking and passing another bicycle or vehicle proceeding in the same direction.
- (2) When preparing for a left turn at an intersection or into a private road or driveway.
- (3) When reasonably necessary to avoid fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lane or any other conditions that make it unsafe to continue along the right-hand curb or edge of the roadway. For purposes of this Paragraph, a "substandard width lane" is a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane.
- (4) When approaching a place where a right turn is authorized.

B. Repealed by Acts 2011, No. 244, §3.

C. Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

D. Persons riding bicycles shall be allowed to operate on the shoulder of a roadway.

E. Any person operating a bicycle upon a roadway or a highway, where there are two or more marked traffic lanes and traffic travels in only one direction, may ride as near the left-hand curb or shoulder of that roadway as practicable when preparing for a left turn.

RS 32:198 — Operating motorized bicycles

r's license and shall not be operated upon sidewalks or interstate highways.

RS 32:199 — Bicycle helmets; restraining seats

r exceeds the following minimum bicycle helmet safety standards:

- (a) A bicycle helmet that was manufactured prior to March, 1999, shall meet or exceed the minimum bicycle helmet safety standards set by the American National Standards Institute or the Snell Memorial Foundation.
- (b) A bicycle helmet that was manufactured after March, 1999, shall meet or exceed the minimum bicycle helmet safety standards set by the Consumer Product Safety Commission.
- (2) "Bicycle" means a human-powered vehicle with two tandem wheels designed to transport, by pedaling, one or more persons.
- (3) "Operator" means a person who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle.
- (4) "Passenger" means any person who travels on a bicycle in any manner except as an operator.
- (5) "Restraining seat" means a seat separate from the saddle seat of the operator of the bicycle that is fastened securely to the frame of the bicycle and is adequately equipped to restrain the passenger in such seat and protect such passenger from the moving parts of the bicycle.

B. With regard to any bicycle used on a public roadway, public bicycle path, or other public right-of-way, no parent, guardian, or person with legal responsibility for the safety and welfare of a child shall knowingly allow any of the following:

- (1) Such child under the age of twelve to operate or ride as a passenger on a bicycle without wearing an approved helmet of good fit fastened securely upon the head with the straps of the helmet.
- (2) Such child who weighs less than forty pounds or is less than forty inches in height to be a passenger on a bicycle without being properly seated in and adequately secured to a restraining seat.

C. Notice shall be provided in accordance with the following provisions:

- (1) A person regularly engaged in the business of selling or renting bicycles shall post a sign stating the following:
"Louisiana law requires a bicycle operator or passenger under the age of twelve years to wear a bicycle helmet when

riding a bicycle. Louisiana law also requires a passenger who weighs less than forty pounds or is less than forty inches in height to be properly seated in and adequately secured to a restraining seat."

(2) The sign must be at least twenty-four inches in length and twelve inches in width. The lettering on the sign must be at least one inch in height. The sign must be posted conspicuously so that it is clearly visible to all persons buying or renting bicycles.

D. The issuance of a citation for a violation of this Section shall not be prima facie evidence of negligence. The comparative negligence statutes of Louisiana shall apply in these cases as in all other cases of negligence.

E. The Louisiana Highway Safety Commission shall provide funds to the Louisiana Safe Kids Coalition to be used for the purchase of bicycle helmets. These helmets shall be distributed by the Louisiana Safe Kids Coalition to indigent persons in furtherance of the provisions of this Section.

F. The provisions of R.S. 32:57 shall not apply to a violation of this Section. No civil penalties or court costs shall be assessed for any violation of this Section.

RS 32:200 — Operation of motor scooters on sidewalks

years old or older between sunrise and sunset on any sidewalk under its jurisdiction.

B. With regard to any motor scooter used pursuant to Subsection A of this Section, no parent, guardian, or person with legal responsibility for the safety and welfare of a child shall knowingly allow such child under the age of eighteen to operate or ride as a passenger on a motor scooter without wearing an approved helmet of good fit fastened securely upon the head with the straps of the helmet.

C. Notice shall be provided in accordance with the following provisions:

(1) A person regularly engaged in the business of selling or renting motor scooters shall post a sign stating the following: "Louisiana law requires a motor scooter operator or passenger under the age of eighteen years to wear a helmet when riding a motor scooter."

(2) The sign must be at least twenty-four inches in length and twelve inches in width. The lettering on the sign must be at least one inch in height. The sign must be posted conspicuously so that it is clearly visible to all persons buying or renting motor scooters.

D. The issuance of a citation for a violation of this Section shall not be prima facie evidence of negligence. The comparative negligence statutes of Louisiana shall apply in these cases as in all other cases of negligence.

RS 32:201 — Harassment of bicyclists prohibited; penalties

olates this Section shall be fined not less than two hundred dollars or imprisoned for not more than thirty days.

RS 32:202 — Louisiana Bicycle and Pedestrian Safety Dedicated Fund Account

cated Fund Account, to be referred to as the account. The

source of monies for the account shall be that portion of the monies derived from fees imposed and dedicated to the account pursuant to the provisions of R.S. 47:463.148, and grants, gifts, and donations and any other monies received by the state for the purposes of bicycle and pedestrian safety and which are appropriated to the account.

B. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana, relative to the Bond Security and Redemption Fund, an amount equal to that deposited into the state treasury from the foregoing sources shall be deposited in and credited to a special agency account. Funding deposited into the account shall be considered fees and self-generated revenues and shall be available for annual appropriations by the legislature.

C. Monies in the account shall be subject to annual appropriation by the legislature for use by the Department of Transportation and Development. The monies in the account shall be allocated and disbursed by the secretary of the Department of Transportation and

Development and used solely for bicycle and pedestrian safety.

RS 32:203 — Motor vehicles operating in bicycle lanes

two hundred feet from the intersection.

(2) To enter or leave the roadway onto an alley, private road, or driveway.

(3) To enter or leave a parking space when parking is permitted adjacent to the bicycle lane.

B. Any person operating a motor vehicle upon a bicycle lane in accordance with Subsection A of this Section shall yield the right-of-way to all bicycles and electric mobility aids within the bicycle lane.

C. This Section shall not prohibit the use of a motorized bicycle or an electric-assisted bicycle in a bicycle lane when the operator travels at no speed greater than what is reasonable or prudent, has due regard for visibility, traffic conditions, and the condition of the roadway surface of the bicycle lane and in a manner which does not endanger the safety of bicyclists.

D. In case of an emergency, the driver of a motor vehicle may lawfully operate the vehicle in a bicycle lane in accordance with the normal standards of prudent conduct to protect himself and others from harm. When the emergency ends, the motor vehicle shall not be operated in the bicycle lane.

RS 32:204 — Riding on electric-assisted bicycles; rights and duties of electric-assisted bicycles

n electric-assisted bicycle shall be afforded all the rights and privileges, and

shall be subject to all of the duties, of a bicycle or the operator of a bicycle. An electric-assisted bicycle shall be considered a vehicle in the same regards as a bicycle.

B. On and after August 1, 2020, manufacturers and distributors of electric-assisted bicycles shall apply a label permanently affixed in a prominent location to each electric-assisted bicycle. The label shall contain the classification number, top-assisted speed, and motor wattage of the electric-assisted bicycle.

C. No person shall tamper with or modify an electric-assisted bicycle so as to change its classification, unless the manufacturer's label indicating the classification is appropriately replaced.

D. An electric-assisted bicycle shall comply with the equipment and manufacturing requirement for bicycles adopted by the United States Consumer Product Safety Commission (16 CFR Part 1512).

E. An electric-assisted bicycle shall operate in a manner so that the electric motor is disengaged or ceases to function when the rider stops pedaling or when the brakes are applied.

F. Except as otherwise provided by this Subsection, an electric-assisted bicycle may be ridden in places where bicycles are allowed, including but not limited to streets, highways, roadways, bicycle facilities, bicycle lanes, shared-use trails, bicycle paths, or trails.

(1) Following notice and public hearing, a local municipal authority, local parish authority, or state agency having jurisdiction over a shared-use trail or bicycle path or trail may prohibit the operation of Class one or Class two electric-assisted bicycles on such path or trail, if it finds that such a restriction is necessary for safety reasons or compliance with

other laws or legal obligations.

(2) A local municipal authority, local parish authority, or state agency having jurisdiction over a shared-use trail or bicycle path or trail may prohibit the operation of Class three electric-assisted bicycles on such path or trail.

(3) This Subsection shall not apply to a trail that is specifically designated as nonmotorized and that has a natural surface tread that is made by clearing and grading the native soil with no added surface materials. A local municipal authority, local parish authority, or state agency having jurisdiction over a trail described in this Subsection may regulate the use of an electric-assisted bicycle on that trail.

G. No person under the age of twelve shall operate a Class three electric-assisted bicycle. A person under the age of twelve may ride as a passenger on a Class three electric-assisted bicycle designed to accommodate passengers.

H. All operators and passengers of a Class three electric-assisted bicycle shall wear an approved bicycle helmet.

(1) For the purpose of this Subsection, "approved helmet" shall have the same meaning as provided in R.S. 32:199.

(2) The issuance of a citation for a violation of this Section shall not be prima facie evidence of negligence. The comparable negligence statutes of Louisiana shall apply in these cases.

(3) The provisions of R.S. 32:57 shall not apply to a violation of this Section. Any person who violates any provision of this Section shall upon conviction be fined fifty dollars, which shall include all costs of court. Notwithstanding any contrary provision of law, no other cost or fee shall be assessed against any person for a violation of this Section. This fine shall be waived if the operator of the Class three electric-assisted bicycle provides proof of purchasing an approved helmet.

I. All Class three electric-assisted bicycles shall be equipped with a speedometer that displays the speed in miles per hour.

RS 32:206 — Electric mobility aids

addition, an electric mobility aid may be operated on the following roadways during daylight hours only:

(1) A road or street where the posted speed limit is twenty-five miles per hour or less or where suitable sidewalks or bicycle paths are not available.

(2) A marked bicycle path or designated bicycle lane.

(3) Within any residential subdivision.

(4) Any street or roadway when necessary to cross or as a reasonable accommodation under the Americans with Disabilities Act, 42 U.S.C. 12131, et seq., because of physical barriers, such as a lack of curb cuts or sidewalks, to other means of access by persons using mobility aids.

B. An electric mobility aid shall not be considered a vehicle for purposes of defining "equipment" as referenced in Part V of Chapter 1 of this Title.

C. A valid driver's license shall not be prerequisite to operating an electric mobility aid.

D. Electric mobility aids shall not be required to register and be insured in accordance with R.S. 32:51.

E. As used in this Section, an "electric mobility aid" shall mean a mobility aid, usable indoors and designed for and used by individuals and which is prescribed by a physician for a medical condition that affects the user's ability to ambulate independently. To qualify as an electric mobility aid, a mobility aid must not be capable of exceeding a speed of twenty

miles per hour on a paved surface when operating under its own power.

F. A parish, municipality or the Department of Transportation and Development may prohibit or regulate the operation of an electric mobility aid on any road, sidewalk, street, or bicycle path under its jurisdiction if the governing body of the parish, municipality, or the Department of Transportation and Development determines that such a prohibition or regulation is necessary and in the interest of safety.

RS 32:210 — Definitions

ty, including a corporation, association,

partnership, or sole proprietorship, that is formed for the purpose of making a profit.

(3) "Nonpedestrian area" shall consist of any divided highway, highway, roadway, or street where the posted speed limit is thirty-five miles per hour or less.

(4) "Pedestrian area" means a sidewalk, crosswalk, school crosswalk, school crossing zone, or safety zone.

(5) "Personal delivery device" means a powered device that travels at the speed of twenty miles per hour or less, is less than five hundred pounds, excluding cargo, is manufactured for transporting cargo and goods in a pedestrian area or supplementary areas, and is equipped with automated driving technology, including software and hardware, that enables the operation of the device with the remote support and supervision of a human being.

RS 32:210.1 — Applicable law

For the purpose of this Subpart, a personal delivery device operated in compliance with this Subpart shall not be considered a vehicle.

RS 32:210.2 — Operator of personal delivery device

is trained and capable to

monitor or exercise physical control over the navigation and operation of the device.

B. Except as provided by Subsection C of this Section, when a personal delivery device operated by a business entity is engaged, the business entity is considered to be the operator of the device solely for the purpose of assessing compliance with applicable traffic laws.

C. When a personal delivery device operated by a business entity is engaged and an agent of the entity controls the device in a manner that is outside the scope of the agent's scope of employment, the agent is considered to be the operator of the device.

D. A person is not considered to be the operator of a personal delivery device solely because the person requests a delivery or service provided by the device, or dispatches the device.

RS 32:210.3 — Device operation

cable to pedestrians, unless the provision cannot apply to the device.

(2) Yield to or not obstruct the right-of-way to all other lawful traffic, including pedestrian traffic.

(3) Not unreasonably interfere with other traffic, including pedestrian traffic.

(4) Display the lights required by R.S. 32:301 et seq., if the personal delivery device is operated at night.

(5) Comply with any applicable regulations adopted by local authority.

(6) Not transport hazardous materials regulated under the Hazardous Materials Transportation Act, pursuant to 49 U.S.C. 5103 and required to be placarded under 49 CFR Part 172, Subpart F.

(7) Be monitored or controlled by an agent of the business entity meeting the requirements of R.S. 32:210.2(A).

RS 32:210.4 — Areas of operation

(2) At a speed not to exceed twenty miles per hour in a nonpedestrian area, provided that the personal delivery device shall not cross any divided highway, highway, roadway, or street with a posted speed limit in excess of thirty-five miles per hour at an intersection.

RS 32:210.5 — Personal delivery device equipment

ct information

of the owner and a unique identification number that is specific to each individual personal delivery device.

(2) Be equipped with a braking system that enables the device to come to a controlled stop.

B. A personal delivery device operated under this Subpart at night shall be equipped with lights on the front and rear of the device. The lights affixed to the personal delivery device shall be visible under normal atmospheric conditions for up to five hundred feet away from the device.

RS 32:210.6 — Local authority regulation

est of public safety.

(2) Personal delivery devices may also be prohibited by airport authorities by resolution or ordinance in the interest of public safety.

B. Nothing in this Subpart shall affect the authority of a peace officer to enforce the laws of this state relating to the operation of a personal delivery device.

RS 32:210.7 — Insurance

hundred thousand dollars, for damages arising from the operation of the personal delivery device.

RS 32:211 — Pedestrians subject to traffic regulations

I other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this Part.

RS 32:212 — Pedestrians right-of-way in crosswalks

the roadway within a crosswalk when the pedestrian is upon the roadway upon which the vehicle is traveling or the roadway onto which the vehicle is turning.

B. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

C. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

D. Subsection A of this Section shall not apply where the pedestrian is crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided.

RS 32:213 — Crossing at other than crosswalks

f-way to all vehicles upon the roadway.

B. Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

RS 32:214 — Drivers to exercise due care

I give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a highway.

RS 32:216 — Pedestrians on highways or interstate highways

vided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the highway or its shoulder, facing traffic which may approach from the opposite direction.

C. It shall be unlawful for any pedestrian to cross an interstate highway, except in the case of an emergency.

D. Upon conviction of a violation of this Section, a court may order, in lieu of the penalty provisions provided in R.S. 32:57, that the offender perform three eight-hour days of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program.

RS 32:217 — Blind and incapacitated pedestrians; use of canes; persons in wheelchairs; vehicles

ic street or highway, to carry in a raised or extended position a cane or walking stick which is metallic or white in color or white tipped with red.

B. Whenever a pedestrian guided by a guide dog, or carrying in a raised or extended position a cane or walking stick which is metallic or white in color, or white tipped with red, or a pedestrian who requires a wheelchair or motorized wheelchair for transportation is crossing or attempting to cross a public street or highway, at or near an intersection or crosswalk, the driver of every vehicle approaching the intersection or crosswalk shall take such precautions as may be necessary to avoid injuring or endangering such pedestrian, and if injury or danger to such pedestrian can be avoided only by bringing his vehicle to a full stop, he shall bring his vehicle to a full stop.

C. Nothing contained in this Section shall be construed to deprive any totally or partially blind or otherwise incapacitated person, not carrying such a cane or walking stick or not being guided by a dog, of the rights and privileges conferred by law upon pedestrians crossing streets or highways, nor shall the failure of such totally or partially blind or otherwise incapacitated person to carry a cane or walking stick, or to be guided by a guide dog upon the streets, highways or sidewalks of this state, be held to constitute nor be evidence of contributory negligence.

RS 32:218 — Pedestrians soliciting rides or business

iness from the occupant of any
vehicle.

B.(1) Subject to the permission of the local municipal or parish authority in which the roadway is located, a member of a professional firefighters association, a police officer, or other public safety officer shall not be prohibited by this Section nor any other provision of state law from standing on a public roadway for the purpose of soliciting contributions on behalf of bona fide charitable or civic organizations during daylight hours, if all of the following are satisfied:

(a) The charitable or civic organization complies with applicable local government regulations. A local municipal or parish authority may enact or enforce regulations that restrict, but shall not prohibit, the activity described in this Subsection.

(b) The charitable or civic organization maintains at least five hundred thousand dollars in liability insurance.

(c) The person is eighteen years of age or older.

(d) The person is wearing high-visibility safety apparel that meets current American standards promulgated by the International Safety Equipment Association.

(e) The portion of the roadway upon which the solicitation occurs is not a work zone and is within an intersection where traffic control devices are present.

(2) A local municipal or parish authority with jurisdiction over a roadway upon which solicitation occurs as described in this Subsection shall not be liable for any claim for damages arising out of the use of the roadway as described in this Subsection.

(3) A person who violates this Subsection may be assessed a civil penalty.

(4) As used in this Subsection, "charitable or civic organization" means a nonprofit organization that is qualified under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, 26 U.S.C. 501, or a veteran's organization that has tax-exempt status under the Internal Revenue Code.

(5) A local municipal or parish authority that has enacted or is enforcing regulations that are prohibited under this Subsection shall bring those regulations into compliance with this Subsection no later than sixty days following its effective date.

C. This Section shall be known as the Rivers Lacrouts Charitable Solicitation Act.

RS 32:219 — Pedestrians right-of-way on sidewalks

ng on any sidewalk extending across such alley, road or driveway, or building entrance.

RS 32:231 — Obedience to and required traffic-control devices

visions of this Chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this Chapter.

B. No provision of this Chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in a position and where it can be seen by an ordinarily observant person. Whenever a particular Section does not state that signs are required, such Section shall be effective even though no signs are erected or in place.

RS 32:232 — Traffic-control signals

nation, only the colors

green, red, and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) GREEN indication:

(a) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall stop and yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall stop and yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) Unless otherwise directed by a pedestrian control signal as provided in R.S.

32:233, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady YELLOW indication:

(a) Vehicular traffic facing a steady yellow signal alone is thereby warned that the related green signal is being terminated or that a red signal will be exhibited immediately thereafter and such vehicular traffic shall not enter the intersection when the red signal is exhibited.

(b) Unless otherwise directed by a pedestrian control signal as provided in R.S.

32:233 a pedestrian facing a steady yellow signal is thereby advised that there is insufficient time to cross the roadway before a red signal is exhibited and no pedestrian shall then start to cross the roadway.

(3) Steady RED indication:

(a) Vehicular traffic facing a steady circular red signal alone shall stop at a clearly marked stop line, or if none, then before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection, and shall remain standing until an indication to proceed is shown except as provided in Subparagraph (c) of this Paragraph.

(b) Vehicular traffic facing a steady red arrow signal shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make a movement permitted by another signal, shall stop at a clearly marked stop line, or if none, then before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection, and shall remain standing until an indication permitting the movement indicated by such red arrow is shown except as provided in Subparagraph (c) of this Paragraph.

(c) Except when a sign prohibits a turn, vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right, or to turn left from a one-way street into a one-way street, or to U-turn at a signalized U-turn after stopping as required by Subparagraph (a) or Subparagraph (b) of this Paragraph. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(d) Unless otherwise directed by a pedestrian-control signal as provided in R.S.

32:233, a pedestrian facing a steady circular red or red arrow signal shall not enter the roadway.

(e) Notwithstanding any provision contained in this Section to the contrary, for red indications or signal infractions, if the violation results in the injury of another person, the offender shall be fined not less than two hundred dollars nor more than five hundred dollars and may be subjected to a driver's license suspension for a period of ninety days, or both.

(f) If the violation results in the serious bodily injury of another person, the offender shall be fined not less than five hundred dollars nor more than one thousand dollars, imprisoned for not more than six months, or both. The offender may also be subjected to a driver's license suspension for a period of one hundred eighty days.

(g) If the violation results in the death of another person, the offender shall be fined not less than one thousand dollars nor more than five thousand dollars, imprisoned for not more than one year, or both. The offender may also be subjected to a driver's license suspension for a period of up to three hundred sixty-five days.

(4) Flashing YELLOW indication. When a flashing yellow arrow indication is activated, vehicular traffic, on an approach to an intersection, facing a flashing yellow arrow signal indication, displayed alone or in combination with another signal indication, is permitted to cautiously enter the intersection only to make the movement indicated by such arrow. In addition, vehicular traffic facing a flashing yellow arrow, turning left or making a U-turn to the left shall yield the right-of-way to other vehicles approaching from the opposite direction. Such vehicular traffic, including vehicles making a U-turn, shall yield the right-of-way to pedestrians lawfully within the associated crosswalk, and to other vehicles lawfully within the intersection.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this Section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made at the signal.

RS 32:232.1 — Vehicle approaching intersection in which traffic lights are inoperative

on, and the signal lights are completely dark, the intersection shall revert to an all-way stop and traffic shall proceed in accordance with the provisions of R.S. 32:121(A).

B. Unless otherwise directed by a law enforcement officer, when a traffic control signal is flashing yellow, it shall be treated as a "caution" sign in accordance with the provisions of R.S. 32:234.

C. Unless otherwise directed by a law enforcement officer, when a traffic control signal is flashing red, it shall be treated as a stop sign in accordance with the provisions of R.S. 32:234.

RS 32:233 — Pedestrian-control signals

K--A pedestrian facing the signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by a driver of a vehicle.

(2) Flashing or Steady DON'T WALK--No pedestrian shall start to cross the roadway in the direction of the signal, but a pedestrian who has partially completed his crossing on the "Walk" signal shall proceed to a sidewalk or safety island while the "Don't Walk" signal is showing.

RS 32:234 — Flashing signals

SIGNAL)--When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) FLASHING YELLOW OR AMBER (CAUTION SIGNAL)--When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through or past such signal only with caution.

B. This Section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossing shall be governed by the rules set forth in R.S. 32:171 through 32:174.

RS 32:235 — Uniform highway marking system

on highways within this state. Such uniform system shall correlate with and so far as possible conform to the system then current as approved by the United States Department of Transportation, Federal Highway Administration, Manual on Uniform Traffic Control Devices (MUTCD), except that the department shall develop a supplement to the manual with all symbol-based or bilingual signs that display terms in both English and Louisiana French, subject to approval by the United States Department of Transportation, Federal Highway Administration, which permits parish governing authorities to adopt such supplement, request that signs along state and federal highways within their boundaries be bilingual, and display terms in both English and Louisiana French. In developing the supplement, the department shall adhere to the following:

(2) The department shall coordinate with the Council for the Development of French in Louisiana pursuant to R.S. 25:651 et seq., prior to application for approval from the United States Department of Transportation, Federal Highway Administration.

(3) The supplement shall provide a process by which a parish governing authority may formally adopt the supplement. In the event the United States Department of Transportation, Federal Highway Administration does not approve the bilingual supplement, it shall be returned to the governing authority of the parish which requested approval of a bilingual supplement. The parish governing authority may only proceed with local adoption of the supplement as it was submitted to the United States Department of Transportation, Federal Highway Administration but shall not erect any bilingual sign on any state or federal highway within the parish; signs installed on parish roads shall be at the expense of the parish.

(4) The department may deviate from the system and erect advisory signs only to post advisory weight limits on state bridges where a state bridge is scheduled for replacement or strengthening within three years from the date of approval by the chief engineer of the department's weight rating evaluation of any state bridge. In addition, the department may deviate from the criteria contained in said system for location of traffic signals to the extent that additional weighted consideration shall be given to pedestrian and vehicular traffic volumes associated with schools which are located on state highways.

(5) The department shall require that any signage on public highways which indicates maximum or minimum speed limits in kilometers also indicate such speed limits in miles per hour.

B. Local municipal and parish authorities in their respective jurisdictions shall place and maintain such traffic control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this Chapter, regulations of the department and commissioner adopted pursuant hereto, and local traffic ordinances adopted pursuant to the authority granted by R.S. 32:41 and R.S. 32:42. All such traffic control devices hereafter erected shall conform to the department's manual or specifications. If any such device hereafter erected by a political subdivision of this state fails to conform to the manual or specifications, payment of any funds allocated to that political subdivision shall be withheld by the department until the standards established by the department are complied with.

C. No local municipal or parish authority shall place or maintain any traffic control device upon any state maintained highway without having first obtained the written approval of the department.

D. Wherever any highway crosses the boundaries of and enters into the state of Louisiana, the department may erect appropriate signs giving notice of the maximum speed limits authorized by law for each type of vehicle upon the highways of this state.

E. Proof that any state, parochial or municipal authority was at the time of any incident complained of in compliance with the provisions of the department's traffic control devices manual shall be prima facie evidence of discharge by such authority of its obligations to the motoring public.

RS 32:236 — Privately owned signs on public rights of way prohibited; exceptions; authority of municipalities and department of highways; advertising on convenience facilities at public transit stops

son, contractor, or public service corporation shall erect or maintain any sign of any nature or a traffic control device or any thing resembling a traffic control device within the right-of-way of any highway or street, without having official permission to install or maintain same in the public right-of-way under the provisions of R.S. 48:344 and R.S. 48:381, except the governing authority maintaining the highway or street.

B. Contractors may place such signs and warning devices and permit holders may place such temporary signs and warning devices as are authorized to warn the traveling public of dangers arising from the work being done within the right-of-way. The department may place such directional, regulatory, and warning signs, signals and barricades, or other traffic control devices as are desirable in its judgment to guide, inform, regulate, and warn the traveling public.

C. A public body, such as a parish or municipal governing authority maintaining a highway or street, may authorize and adopt rules to regulate advertising on convenience facilities such as benches, shelters, and kiosks, located within the public rights of way at designated stops of a public transit system, as designated or contracted for by the governing authority.

RS 32:237 — Barricades, signs, and signals; prohibition against tampering with, removing, possessing, and violating instructions; exceptions

any barricade, sign, or signal placed upon any highway by the department or by any contractor or subcontractor doing highway construction or repair work under or by authority of the department; nor shall any person disobey the instructions, signals, warnings, or markings of any warning signs, signals, or barricades so placed upon any highway under construction or repair; nor shall any person disobey the instructions, signals, or warnings of any flagman; nor shall any person drive around or through any barricade or fences placed upon any closed highway by the department or any contractor or subcontractor doing highway construction or repair work under or by authority of the department unless at the time otherwise directed by a police officer.

(2) No individual shall without proper authority:

(a) Sell or purchase any official sign or signal of the department, or

(b) Remove or possess such sign or signal without the intention of returning the sign or signal to its original location.

B. Persons violating this Section shall be prima facie at fault and responsible for any damage to persons or property resulting from the said violation. Nothing contained in this Section shall be construed to affect the liability of any other persons for failure to properly maintain warnings and markings of construction work.

C. The provisions of this Section shall not apply to the employees of the department or of any contractor or subcontractor or other person whose proper and lawful duties require them to go upon any portion of a highway which is under construction or in the process of being repaired, nor shall the presence of such persons, or that of machinery being operated by them, upon any portion of a highway, which is under construction or in the process of being repaired, be deemed negligent.

D. Nothing contained in this Section shall be construed to prevent or interfere with peaceful picketing by a labor organization.

E. Every person convicted of a violation of this Section shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment.

RS 32:238 — Directional signs

y of the streets and highways which are within the state highway system and which are within the territorial jurisdiction of the governing authority making the request.

B. As used in this Section, a "directional sign" is a sign which serves the public purpose of directing vehicular traffic to or identifying streets, highways, buildings, facilities, or other entities or locations which are of interest to the public. Entities or locations which are of interest to the public include but are not limited to governmental buildings, churches, libraries, public or private schools, hospitals, historic districts, seasonal attractions, and tourist attractions.

C. The request for directional signs shall be in writing, shall be in the form of a resolution unanimously passed by the governing authority making the request, and shall state the information which is to appear on the sign, the name and general location of the entity to which the public is to be directed, and the general location at which the sign is to be located.

D. The Department of Transportation and Development shall erect and maintain each sign requested under this Section in accordance with federal regulations.

E. The Department of Transportation and Development shall adopt administrative rules to implement the provisions of this Section as authorized by and in accordance with state law and federal regulations.

F. Any signing requested shall be paid for in advance, sign cost only, by the requestor or public body making such request.

RS 32:251 — Permission for operation; crossing railroad grade crossings; markings

on duty, cross any railroad without coming to a full stop, before reaching it, in such manner and for such time as to make certain that no train or other facility is approaching, as provided in R.S. 32:173. If the vehicle is transporting explosives, the operator shall proceed across the tracks only under the protection of a competent flagman furnished by the owner or himself. Under no circumstances whatever shall any vehicle transporting explosives carry as part of its load any other commodity or thing.

B. The commissioner is authorized to adopt regulations concerning the markings and identification of vehicles transporting explosives and flammable liquids.

RS 32:252 — Equipment and inspection

in working condition, and placed at a convenient point on the motor vehicle.

B. REPEALED BY ACTS 1989, NO. 330, §2.

RS 32:253 — Commissioner; transportation of explosives

highways of this state as he shall deem advisable for the protection of the public.

RS 32:261 — Authority to prohibit use of road

highway whenever any such highway, because of its substandard condition or because of deterioration, rain, snow, or other climatic conditions, or construction thereof, or because of traffic conditions thereon, will be seriously damaged or destroyed, or the public endangered by the use of vehicles thereon unless such use is prohibited or the permissible weights thereof reduced.

RS 32:262 — Controlled access highways

. When signs are erected giving notice thereof, no person shall drive a vehicle onto or from any controlled access highway except at such entrances and exits as have been designated by the department.

RS 32:263 — Special restrictions on use of Louisiana Interstate highways

legally permit such live stock to go upon any Louisiana interstate highway.

B. No person shall drive, or permit to be driven on any Louisiana interstate highway, any farm tractor, road tractor or other vehicle which is normally operated at a speed of less than 20 miles per hour.

C. The use of any Louisiana interstate highway by pedestrians, bicycles, or other non-motorized vehicles is prohibited.

RS 32:264 — Authority to regulate traffic through tunnels

over-weight or over-sized permits may be granted for passage through a tunnel.

B. Regulations adopted pursuant to this Section shall be posted in a conspicuous place near each vehicular entrance to the tunnel.

RS 32:265 — Designating through highways

for vehicles approaching or entering such highways.

RS 32:266 — Enforcement of speed limit on certain highways; disposition of fines

means a fully controlled access highway which is part of the National System of Interstate and Defense Highways.

(2) "Local law enforcement body" means any law enforcement body seated in a jurisdiction that is not governed by a home rule charter and has the authority to write civil or criminal traffic citations within that area and all the agents or contractors thereof.

B.(1) After deposit to the Bond Security and Redemption Fund as required under the provisions of Article VII, Section 9(B) of the Constitution of Louisiana, all fines or penalties collected by or on behalf of a local law enforcement body for citations issued for exceeding the posted speed limit by less than ten miles per hour on an interstate highway, shall be forwarded to the state treasurer and credited to a special fund which is hereby created in the state treasury and designated as the "Louisiana Highway Safety Fund."

(2) The monies in the Louisiana Highway Safety Fund shall be used solely to fund the costs to purchase and install permanent radar speed displays on interstate highways and only in the amounts appropriated each year to the Department of Transportation and Development by the legislature. Any surplus monies and interest remaining to the credit of the fund on June thirtieth of each year after all such appropriations of the preceding fiscal year have been made shall remain to the credit of the fund, and no part thereof shall revert to the state general fund.

RS 32:267 — Highway safety corridor

and

Highway Safety Commission may establish a highway safety corridor program under which critical infrastructure consisting of a portion of highways in the state highway system and

interstate highway system may be designated by the secretary of the Department of Transportation and Development as highway safety corridors to address highway safety problems through law enforcement, education, and safety enhancements.

(2) After review of all data and studies used in the establishment of a highway safety corridor and the subsequent establishment of the highway safety corridor, the secretary of the Department of Transportation and Development, the superintendent of the Louisiana State Police, and the executive director of the Louisiana Highway Safety Commission shall not be liable for any property damages, injuries, or deaths that may arise from any enforcement pursuant to this Section in the highway safety corridor.

(3) "Highway safety corridor" means a special segment of a highway that has been identified by data analysts and approved by a majority vote of the Safety Corridor Advisory Group to be locations with a high potential for safety improvement, especially for fatal and serious injury crashes. The primary cause of these crashes is driver behavior such as speeding, aggressive driving, impairment, and distracted driving.

(4) "Highway safety corridor violation" means use of a highway safety corridor in a manner not authorized by this Chapter or any regulation promulgated pursuant to this Chapter.

B.(1) The Safety Corridor Advisory Group is established and the following members shall serve on the advisory group:

(a) The secretary of the Department of Transportation and Development or designee.

(b) The superintendent of the Louisiana State Police or designee.

(c) The executive director of the Louisiana Highway Safety Commission or designee.

(d) The Regional Traffic Safety Coalition representative or designee in the Strategic Highway Safety Plan that has jurisdiction over the location of the proposed highway safety corridor.

(e) Each chief law enforcement officer, or designee, that has jurisdiction over the location of the proposed highway safety corridor.

(f) Each district attorney, or designee, that has jurisdiction over the location of the proposed highway safety corridor.

(2) A local medical professional from the local area of the proposed Highway Safety Corridor may be appointed by the secretary of the Louisiana Department of Health to serve on the Safety Corridor Advisory Group.

(3) The Safety Corridor Advisory Group shall elect a chairman, vice chairman, and secretary from its membership.

(4) The members of the Safety Corridor Advisory Group shall serve without compensation and reimbursement of expenses other than compensation and reimbursement provided by their employers.

(5) The advisory group shall:

(a) Establish objective criteria for designating a segment of highway as a safety corridor, including but not limited to a review of crash data, crash reports, type and volume of vehicle traffic, and engineering and traffic studies.

(b) Establish objective criteria for safety enhancements, engineering improvements,

infrastructure investments, queue detection systems, extended Motorist Assistance Patrols, or instant tow dispatch and public outreach.

C. The secretary shall hold a minimum of one public hearing before designating any specific highway corridor as a highway safety corridor. The public hearing for a specific corridor shall be held at least thirty days prior to the designation at a location as close to the proposed corridor as practical.

D. The Department of Transportation and Development shall erect a sign at each end of the highway safety corridor and at appropriate intermediate sites along the corridor indicating that it is a highway safety corridor.

E. Any person violating the provisions of this Chapter while on the portion of a highway which is designated as a highway safety corridor shall be fined and penalized as provided in R.S. 32:57(I).

F. The Department of Transportation and Development may adopt rules and regulations necessary to carry out the provisions of this Section.

RS 32:268 — Repealed by Acts 2024, No. 127, §1.

aton Rouge, Louisiana 70804-9062

RS 32:281 — Limitations on backing

vehicle shall not back the same upon any shoulder or roadway of any controlled-access highway except as a result of an emergency caused by an accident or breakdown of a motor vehicle.

RS 32:282 — Obstruction to driver's view or driving mechanism

uct the view of the driver to the front sides or rear of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

B. No passenger in a vehicle shall ride in such a position as to interfere with the view of the driver to the front, sides or rear of the vehicle or to interfere with his control over the driving mechanism of the vehicle.

C. No person shall drive any vehicle with any nontransparent material upon the windshield, side wings, side or rear windows, other than a certificate or other paper required to be so displayed by law, or permitted by regulation of the secretary of public safety.

RS 32:283 — Improper opening or leaving open of vehicle doors

fere with the movement of traffic or endanger any other person or vehicle.

B. No person shall leave open any door of a motor vehicle located on a highway for a period of time longer than necessary to load or unload passengers.

RS 32:284 — Riding in house trailers, on fenders, on running board or on rear racks prohibited; open pickup trucks; utility trailers

upon a highway of this state.

B. No person shall be allowed to ride on running boards, fenders, tail gates, or rear racks of motor vehicles while moving upon a highway of this state, provided, that this section shall not apply to emergency and public sanitation vehicles.

C. No person or persons under the age of twelve years shall be permitted to be a passenger in the open bed of a truck with a gross weight of six thousand pounds or less, commonly referred to as a pickup truck, or in a utility trailer while moving upon a highway of this state. The provisions of this Subsection shall not apply to a pickup truck traveling not more than fifteen miles per hour while participating in an authorized parade in a controlled situation. The provisions of this Section shall be inapplicable in an emergency situation if the child is accompanied within the truck bed by an adult.

D. No person shall be permitted to be a passenger in the open bed of a truck with a gross weight of six thousand pounds or less, commonly referred to as a pickup truck, while the truck is moving upon an interstate highway of this state. The provisions of this Subsection shall be inapplicable in an emergency situation.

RS 32:285 — Coasting prohibited

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RS 32:286 — Following authorized emergency vehicles prohibited

l call of duty closer than five hundred feet or drive into or park such vehicle within the block where such vehicle has stopped in answer to an official call.

RS 32:287 — Crossing fire hoses

official in command.

RS 32:288 — Driving through safety zone prohibited

fficulties navigating this website,

RS 32:289 — Cellular radio telecommunication device use by operators of school buses prohibited;

driving a school bus.

B. For purposes of this Section, "cellular radio telecommunication device" shall mean a device capable of sending or receiving telephone communications without an access line for service and which requires the operator to dial numbers manually or by voice recognition. It does not include citizens band radios or citizens band radio hybrids or any device with a push-to-talk function used in a similar manner as a citizens band radio or a citizens band radio hybrid.

C. This Section does not apply to the use of a cellular telecommunication device for the purpose of communicating with any of the following regarding an emergency situation:

- (1) An emergency system response operator, 911 public safety communications dispatcher, or school administrator.
- (2) A hospital or emergency room.
- (3) A physician's office or health clinic.
- (4) An ambulance or fire department rescue service.
- (5) A fire department, fire protection district, or volunteer fire department.
- (6) A law enforcement agency.

D. A violation of this Section shall be a misdemeanor, and upon conviction, punished by imprisonment for not more than ninety days, or by a fine not exceeding five hundred dollars, or both, in the discretion of the court.

RS 32:289.1 — Cellular telephone use; certain drivers prohibited; exceptions; penalties

rst driver's license from this state shall be prohibited from using a cellular telephone for any purpose while operating a motor vehicle for a period of one year commencing from the date of issuance of his first driver's license. The date of the original issuance shall be indicated on the reverse of the license. However, this prohibition shall not apply to any person who was previously licensed to drive in another jurisdiction.

B. The provisions of this Section shall not apply in any of the following circumstances:

- (1) A person contacting a public safety entity.
- (2) A person in a parked motor vehicle.
- (3) Emergency response personnel while in the performance of their duty, including firefighters, emergency medical service personnel, and law enforcement or peace officers.
- (4) The use of citizens band radios, citizens band radio hybrids, commercial two-way radio communication devices, or electronic communication devices with a push-to-talk function.

C. A first offense violation of the provisions of this Section shall be punished by a fine of one hundred dollars or by sentence of sixteen hours of community service, or both. For each subsequent offense, the offender shall be punished by a fine of two hundred fifty dollars or by sentence of twenty-four hours of community service, or both.

D. Any violation of this Section shall constitute a non-moving violation and shall be a secondary offense and a driver may be cited only if stopped for a moving violation.

E. If the person is involved in an accident at the time of the violation, then the law enforcement officer investigating the accident shall indicate on the written accident report that the person was using a wireless telecommunications device and such person shall be subject to a fine equal to double the amount of the standard fine imposed in this Section.

RS 32:290 — Driving across ditches; requirements

ing, at his own expense, a bridge over a ditch in such a way as not to in any way retard the drainage.

RS 32:291 — Liability for damage to highway or structure

ucture may sustain as a result of any illegal operation, driving or moving of such vehicle, object or contrivance, or as a result of operating, driving or moving any vehicle, object or contrivance weighing in excess of the maximum weight permitted in this Chapter even if authorized by a special permit issued as provided in R.S. 32:388.

B. Whenever such driver is not the owner of such vehicle, object or contrivance but is so operating, driving or moving the same with the express or implied permission of said owner, then said owner and driver shall be jointly and severally liable for any such damage.

RS 32:291.1 — Roadway hazard cleanup

leanup or remove the hazard, the vehicle owner or operator who is issued a citation for a traffic violation at the scene of the crash or incident shall reimburse the responding agencies for the extraordinary cost of the cleanup.

B. However, if a court subsequently finds that the owner or operator who received a citation was not legally responsible or was only partially responsible for the crash or incident, he shall be reimbursed by the responding agency for any money he has expended on the cost of the cleanup or removal which is a percentage of such cost equal to the percentage of the crash or incident for which he was not held legally responsible. The party who was found legally responsible for the crash or incident shall then pay the responding agency for the cost of the cleanup or removal which is a percentage of such cost equal to the percentage of the crash or incident for which he was held legally responsible.

C. Nothing in this Section shall require a tow truck owner, operator, or employee to follow a directive or order that is unsafe or beyond the operational standard or capacity of any equipment being used in cleanup or in removing the roadway hazard. If a tow truck owner or operator refuses to follow a directive or order because of an unsafe condition, no adverse action by a law enforcement agency shall be taken against such owner or operator including removal from any rotation list.

RS 32:292 — Hunting or discharge of firearms, when prohibited

in the performance of their duties.

Whoever violates this Section shall be fined not more than fifty dollars or imprisoned for not more than thirty days or both.

RS 32:292.1 — Transportation and storage of firearms in privately owned motor vehicles

firearm in a locked, privately-owned motor vehicle in any parking lot, parking garage, or other designated parking area.

B. No property owner, tenant, public or private employer, or business entity or their agent or employee shall be liable in any civil action for damages resulting from or arising out of an occurrence involving a firearm transported or stored pursuant to this Section, other than for a violation of Subsection C of this Section.

C. No property owner, tenant, public or private employer, or business entity shall prohibit any person from transporting or storing a firearm pursuant to Subsection A of this Section. However, nothing in this Section shall prohibit an employer or business entity from adopting policies specifying that firearms stored in locked, privately-owned motor vehicles on property controlled by an employer or business entity be hidden from plain view or within a locked case or container within the vehicle.

D. This Section shall not apply to:

(1) Any property where the possession of firearms is prohibited under state or federal law.

(2) Any vehicle owned or leased by a public or private employer or business entity and used by an employee in the course of his employment, except for those employees who are required to transport or store a firearm in the official discharge of their duties.

(3) Any vehicle on property controlled by a public or private employer or business entity if access is restricted or limited through the use of a fence, gate, security station, signage, or other means of restricting or limiting general public access onto the parking area, and if one of the following conditions applies:

(a) The employer or business entity provides facilities for the temporary storage of unloaded firearms.

(b) The employer or business entity provides an alternative parking area reasonably close to the main parking area in which employees and other persons may transport or store firearms in locked, privately-owned motor vehicles.

RS 32:293 — Prohibiting standing of school children under certain circumstances; limiting number of children transported at one time

iver or operator of any school bus while transporting school children to permit any child to stand in said bus while same is in motion if there is seating space available for the use of such child.

C. It shall be unlawful for anyone responsible for the transportation of school children on school buses, including drivers or operators of buses, transportation supervisors, school superintendents, and members of parish and city school boards to permit a number of children exceeding the number of seats available on a bus to be transported at one time on such bus.

RS 32:294 — Mississippi River Bridge crossings prohibited

erwidth permit issued by the secretary of the department, as provided for in R.S. 32:387, shall enter upon or cross over any bridge which spans the Mississippi River or, within a distance of two miles of such bridge, park within seventy-five feet of the highway approaching such bridge, in the parishes of Orleans or Jefferson, between hours of six-thirty a.m. and nine a.m. and between the hours of three-thirty p.m. and six p.m. from Monday through Friday of each week, except on legal state holidays; however, this provision shall not apply to any such bridge spanning said river between the parishes of East Baton Rouge and West Baton Rouge.

B. Whoever violates the provisions of this Section shall be guilty of a misdemeanor and shall be fined fifty dollars or imprisoned for not more than ten days, or both. For any subsequent violations the penalty provided herein shall be doubled.

RS 32:295 — Child passenger restraint system

een years in a motor vehicle that

is in motion and is required by federal safety standards to be equipped with a safety belt system or lower anchors and tethers for children in a passenger seating position shall have the child properly restrained according to the vehicle and child safety seat manufacturer's instructions, as follows:

(1) A child who is younger than the age of two years shall be restrained in a rear-facing child restraint system that complies with all applicable federal regulations until the

child reaches the weight or height limit of the child restraint system as set by the manufacturer.

(2) A child who is at least two years of age or older and has reached the rear-facing weight or height limits of the child restraint system as set by the manufacturer, shall be restrained in a forward-facing child restraint system with an internal harness until the child reaches the weight or height limit of the child restraint system set by the manufacturer.

(3) A child who is at least four years of age and has outgrown the forward-facing weight or height limits of the child restraint system as set by the manufacturer shall be restrained in a belt-positioning child booster seat, secured with a vehicle lap-shoulder seat belt, according to the manufacturer's instructions.

(4) A child who is at least nine years of age or has outgrown the height or weight limits of a child restraint system or belt-positioning child booster seat as set by the manufacturer shall be restrained with the motor vehicle's adult safety belt adjusted and fastened around the child's body to fit correctly. The adult safety belt fits correctly when the child sits all the way back against the vehicle seat, the child's knees bend over the edge of the vehicle seat, the belt fits snugly across the child's thighs and lower hips, and not the child's abdomen, and when the shoulder strap snugly crosses the center of the child's chest and not the child's neck.

(5) A child who is younger than thirteen years of age shall be transported in the rear seat of a motor vehicle, when available, in a properly used child restraint system, belt-positioning child booster seat, or adult safety belt that complies with all applicable federal regulations.

(6) A child who because of age or weight can be placed in more than one category shall be placed in the more protective category.

B.(1) The term "motor vehicle" as used in this Section shall not mean the following: bicycle; farm tractor; motorcycle or motor-driven cycle; truck of manufacturer's rating carrying capacity of over two thousand pounds; ambulance or other emergency vehicle; school bus as defined in R.S. 32:1(62)(a) and (b); church bus, private bus, or recreational vehicle which has a passenger capacity of over ten persons; or commercial truck, van, or taxi.

(2) The term "child restraint system" as used in this Section shall mean a lap belt, a shoulder harness, or an age- or size-appropriate child safety seat as required by this Section.

(3) The term "child booster seat" as used in this Section means a child passenger restraint system that meets the Federal Motor Vehicle Safety Standards set forth in 49 CFR 571.213 and is designed to elevate a child to properly sit in a federally approved safety belt system.

C. When the vehicle is equipped with a passenger side air bag supplemental restraint system and the air bag system is activated, the driver of a vehicle transporting a child who is younger than six years of age or weighs less than sixty pounds shall transport the child in the rear seat positions in the vehicle, if rear seats are available.

D. When the number of children under the age of thirteen in the motor vehicle exceeds the number of age- or size-appropriate passenger restraint systems and seat belts available in the motor vehicle, the unrestrained children shall be seated in a rear seat, if rear seats are available.

E. The provisions of this Section shall not apply when one of the following conditions exists:

(1) The motor vehicle is being used as an ambulance or other emergency vehicle.

(2) An emergency exists which threatens the life of any person operating a motor vehicle to whom this Section otherwise would apply or the life of any child who otherwise would be required to be restrained under this Section.

(3) Any child who would otherwise be required to be restrained under this Section who is physically unable because of medical reasons to use a child passenger safety system or safety belt.

F. In no event shall failure to wear a child passenger safety seat system be considered as comparative negligence, nor shall such failure be admissible as evidence in the trial of any civil action with regard to negligence, nor shall such failure be considered a moving violation.

G. Any operator of a motor vehicle stopped for a violation of this Section and against whom enforcement action has been taken shall not be guilty of a subsequent violation of this Section until after twenty-four hours have elapsed from the date and time of the violation as indicated on the traffic ticket.

H. A violation of this Section involving failure to secure a child in any type of child restraint system shall be a primary offense. However, failure to secure a child in the age- or size-appropriate restraint, as specified by Subsection A of this Section, shall be a secondary offense and a driver may be cited only if stopped for a moving violation.

I.(1) Notwithstanding any other provisions of law to the contrary and except as provided by Paragraph (2) of this Subsection, any person who violates this Section shall upon conviction be fined one hundred dollars for a first offense, not less than two hundred fifty dollars and not more than five hundred dollars for a second offense, and five hundred dollars plus all costs of court for a third or subsequent offense.

(2) Any person who violates this Section but whose violation is limited to failure to utilize an age- or size-appropriate child restraint system to secure an otherwise restrained child shall not be fined more than one hundred dollars including fees and court costs.

J. The Department of Public Safety and Corrections shall initiate an educational program designed to encourage compliance with the child passenger restraint system requirements of this Section.

RS 32:295.1 — Safety belt use; tags indicating exemption

his state shall have a safety belt

properly fastened about his or her body at all times when the vehicle is in forward motion.

The provisions of this Section shall not apply to those cars, vans, sports utility vehicles, or pickups manufactured prior to January 1, 1981.

(2) A person operating or riding in an autocycle shall wear seatbelts while in forward motion.

(3) Each driver of a passenger car, van, sports utility vehicle, or truck having a gross weight of twenty-six thousand pounds or less shall not transport more persons than there are safety belts available in the vehicle.

B. Except as provided by R.S. 32:295 for children under the age of thirteen or as otherwise provided by law, each occupant of a passenger car, van, sports utility vehicle, or truck having a gross weight of twenty-six thousand pounds or less in this state shall have a safety belt properly fastened about his or her body at all times when the vehicle is in forward motion.

C. This Section shall not apply to the following:

(1) A motor vehicle operated by a rural letter carrier of the United States Postal Service while performing his or her duties as a rural letter carrier, to a farm vehicle being operated within five miles of the place of its principal use, to a motor vehicle being operated

by a newspaper delivery person while he or she is engaged in the distribution of regularly published newspapers.

(2) A motor vehicle operated by a utility worker, including any water, gas, or electric meter reader, in the course of his employment which requires the person to emerge from and re-enter a passenger vehicle at frequent intervals. However, while engaged in such work, such utility worker shall not drive or travel in such vehicle at a speed exceeding 20 miles per hour.

D.(1) This Section shall not apply to an occupant of a passenger car or operator with a physically or mentally disabling condition whose physical or mental disability would prevent appropriate restraint in the safety belt; however, the condition shall be duly certified by a physician who shall state the nature of the disability, as well as the reason such restraint is inappropriate.

(2)(a) On the application of any person with a mental or physical disability whose impairment is permanent and prevents use of a seat belt, the commissioner shall issue a special tag for the benefit of the applicant which indicates such condition. The fee for the tag shall be five dollars. In lieu of issuance of the special tag, the commissioner shall indicate on the face of the applicant's driver's license, as provided in R.S. 32:403.2 and 410, that the applicant is not required to use a seat belt.

(b) Each application shall be accompanied by a physician's statement certifying that the applicant is permanently disabled and that such disability prevents the applicant's use of a seat belt.

(3)(a) On application of any person with a mental or physical disability whose impairment prevents use of a seat belt, but is not permanent, the commissioner shall issue a special temporary tag for the benefit of the applicant which indicates such condition. The fee for the temporary tag shall be five dollars.

(b) Each application for a temporary tag shall be accompanied by a physician's statement certifying that the applicant is temporarily disabled and certifying a period of time for which the disability will prevent the applicant's use of a seat belt.

(c) Any individual who has been issued a temporary tag under the provisions of this Section and who desires to extend the time period for which the tag is valid shall provide to the office of motor vehicles a physician's statement certifying that the applicant continues to have a disability which prevents the applicant's use of a seat belt and certifying a period of time for which the tag should be renewed. Failure to provide recertification statements shall result in the suspension of such privilege.

(4) No individual to whom a tag has been issued shall do any of the following:

(a) Display or permit the display of the tag on any motor vehicle in which he is not a passenger.

(b) Refuse to return or surrender the tag when required.

(5)(a) If a tag is lost, destroyed, or mutilated, the individual to whom the card was issued may obtain a duplicate by doing all of the following:

(i) Furnish suitable proof of the loss, destruction, or mutilation to the secretary.

(ii) Complete an application as required by this Section for the issuance of an

original tag.

(iii) Pay a fee of five dollars for reissuance.

(b) Any individual who loses a tag and, after obtaining a duplicate, finds the original, shall immediately surrender the original tag to the commissioner or to any field office of the office of motor vehicles and shall not display the original tag on any vehicle.

(6) Any individual who is not impaired as provided in this Section and who willfully and falsely represents himself as having the conditions to obtain a special tag authorized by this Section shall be fined not less than one hundred dollars nor more than two hundred fifty dollars, or shall be imprisoned for not more than thirty days, or both, and on subsequent offenses, shall be fined not less than two hundred fifty dollars nor more than five hundred dollars, or shall be imprisoned for not more than ninety days, or both.

(7) Any individual who utilizes a tag authorized by this Section which was not legally issued to him and who is not transporting the individual to whom the tag was issued shall be fined not less than fifty dollars nor more than two hundred fifty dollars or shall be imprisoned for not more than thirty days, or both, and on second and subsequent offenses, shall be fined not less than one hundred dollars nor more than five hundred dollars, or shall be imprisoned for not more than sixty days, or both.

(8) Any individual to whom a tag is issued under the provisions of this Section and who allows his tag to be used by an individual not entitled to the use of such tag shall have his tag suspended for six months and shall be fined not less than fifty dollars nor more than two hundred fifty dollars, or shall be imprisoned for not more than thirty days for the first offense, or both. On the second and subsequent offenses, said suspension shall be for one year, and the individual shall be fined not less than two hundred fifty dollars nor more than five hundred dollars, in addition to suspension of said privileges, or shall be imprisoned not more than thirty days, or both.

(9) Any physician who willfully and falsely certifies that an individual is impaired in order to allow that person to obtain the special tag authorized in this Section shall be fined one thousand dollars, or shall be imprisoned for not more than ninety days, or both.

(10) The commissioner shall promulgate rules and regulations in accordance with the Administrative Procedure Act for the implementation of the provisions of this Section. The commissioner shall determine the design, color, and placement of the tag issued under the provisions of this Section, provided that such design, color, and placement is easily discernable to law enforcement officers as designating individuals who are exempted from seat belt usage and provided that the tag includes a photograph of the person entitled to the tag.

E. Repealed by Acts 2020, 1

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Ex. Sess., No. 36, §1, and No. 37, §5, eff. Jan. 1, 2021.

F. Probable cause for violation of this Section shall be based solely upon a law enforcement officer's clear and unobstructed view of a person not restrained as required by this Section. A law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this Section.

G.(1) Any person who violates this Section shall be subject to the following penalties:

(a) Upon conviction of a first offense, the fine shall be fifty dollars which shall include all costs of court.

(b) Upon conviction of a second offense, the fine shall be seventy-five dollars which shall include all costs of court.

(c) Upon conviction of a third offense and any subsequent offense, the fine shall be seventy-five dollars plus all costs of court.

(2) Any person who violates the provisions of this Section in Orleans Parish shall have an additional twenty dollar penalty assessed for each violation. The funds collected pursuant to the provisions of this Paragraph shall be deposited in the indigent defender fund pursuant to the provisions of R.S. 15:571.11(A)(1)(d).

(3) Notwithstanding any contrary provision of law, no other cost or fee shall be assessed against any person for a violation of this Section.

H. The Department of Public Safety and Corrections shall initiate an educational program designed to encourage compliance with the safety belt usage requirements of this Section.

I. Repealed by Acts 1997, No. 383, §1, and Acts 1997, No. 511, §1.

RS 32:295.2 — Wearing of headphones; prohibitions; exceptions

t, headphone, or listening device other than a hearing aid or instrument for the improvement of defective human hearing which covers both ears or which is inserted into both ears. Any headset, headphone, or other listening device which covers or which is inserted into only one ear may be used at any time.

B. The provisions of this Section shall not apply to:

(1) Any law enforcement officer or emergency vehicle operator equipped with any communication device necessary in performing his assigned duties.

(2) Any person operating a motorcycle who is using a headset that is installed in a helmet and worn so as to prevent the speakers from making direct contact with the user's ears so that the user can hear surrounding sounds.

C. The Department of Public Safety and Corrections, office of motor vehicles, shall adopt rules and regulations in accordance with the Administrative Procedure Act to establish standards and specifications for headset equipment, the use of which is permitted under this Section. The department shall inspect and review all such devices submitted to it and shall publish a list by name and type of approved equipment.

D. No vehicle, contents of a vehicle, or driver in a vehicle shall be inspected, stopped, detained, or searched solely because of a violation of or to determine compliance with this Section.

E. The operation of a vehicle in violation of the provisions of this Section shall not be considered a moving violation as provided for under the provisions of Title 32 of the Louisiana Revised Statutes of 1950.

F. Whoever violates the provisions of this Section shall be fined twenty-five dollars in addition to court costs.

RS 32:295.3 — Leaving children unattended and unsupervised in motor vehicles; prohibition; penalties

d and unsupervised in a motor vehicle.

B.(1) The term "unattended" as used in this Section means a child who has been left in a motor vehicle when the driver or operator of the vehicle is more than ten feet from the vehicle and unable to continuously observe the child.

(2) The term "unsupervised" as used in this Section means an unattended child when a person ten years of age or older is not physically present in the motor vehicle.

C.(1) A law enforcement officer who observes a child left unattended and unsupervised for a period in excess of ten minutes in violation of the provisions of this Section shall use whatever means are reasonably necessary to protect the child and remove the child from the motor vehicle.

(2) If the child is removed from the immediate area by a law enforcement officer pursuant to the provisions of this Section, the law enforcement officer shall place notification on the motor vehicle. The law enforcement officer shall hold the child until the parent or guardian returns.

D. Whoever violates this Section shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. For each second or subsequent offense, the defendant shall be subject to imprisonment, with or without hard labor, of not less than one year nor more than two years and a fine of not less than one thousand dollars nor more than two thousand dollars, or both.

E. Any law enforcement officer acting in good faith pursuant to the provisions of this Section shall have immunity from any civil liability that otherwise might be incurred or imposed.

RS 32:295.3.1 — Child safety alarms in motor vehicles used to transport children; day care facilities; quality care rating system

led in any vehicle owned or operated by the day care center that is used to transport children to or from the day care center. The installation of the child safety alarm shall be completed by a person or business that is approved by the manufacturer of the child safety alarm.

B. An owner or director of a day care center who elects to have a child safety alarm installed in a vehicle owned or operated by the day care center shall ensure that the child safety alarm is properly maintained and in good working order each time the vehicle is used for transporting children to or from a day care center.

C. For the purposes of this Section, the following definitions shall apply:

(1) "Child safety alarm" shall mean an ignition-based alarm system that voice prompts the driver of certain vehicles owned or operated by a day care center to inspect the vehicle for children before exiting the vehicle.

(2) "Vehicle" shall mean a vehicle owned or operated by the day care center, its owner, operator, or employees that is used to transport children to and from the day care center and that has a seating capacity of six or more passengers in addition to the driver.

D. The Department of Children and Family Services shall promulgate rules and procedures, no later than May 31, 2012, relative to the installation of child safety alarms in vehicles owned or operated by a day care center owner, operator, or employee that are used to transport children to or from day care centers.

RS 32:295.4 — Guidelines for seat belt, motor vehicle inspection, and motor vehicle liability security checkpoints; law enforcement agencies

blish guidelines for the operation of seat belt checkpoints, motor vehicle inspection checkpoints, or proof of compulsory motor vehicle liability security checkpoints. Such guidelines shall include but not be limited to the following provisions:

(1) The location, time, and duration for seat belt, motor vehicle inspection, or compulsory motor vehicle liability security checkpoints shall be established in written form by supervisory or other administrative personnel of the law enforcement agency rather than the field officers implementing the checkpoint.

(2) For purposes of motor vehicle inspections, the location of the checkpoint shall not be less than five hundred feet from an intersection between a state and federal highway.

(3) Provision for advance warning to the approaching motorists with signs, flares, and other indications to warn motorists of an impending stop and to provide indication of its official nature as a police checkpoint.

(4) Provisions to ensure detention of motorists for a minimal length of time.

(5) The use of systematic, nonrandom criteria for stopping motorists.

(6) Provisions prohibiting the establishment of checkpoints where the only vehicles subject to or targeted for inspection are motorcycles, as defined in R.S. 32:1.

RS 32:296 — Stopping, parking, or standing upon the highway shoulder; driving upon the highway shoulder

less such stopping, parking, or standing is made necessary by an emergency, except:

- (1) In those areas designated as parking areas by the Department of Transportation and Development, or
 - (2) By any public utility personnel or public utility equipment engaged in the operation of the utility business, public vehicles owned by public bodies which are engaged in the conduct of official business, or privately owned vehicles which are engaged in services authorized by the local governing authority.
 - (3) Persons riding bicycles shall be allowed to operate on the shoulder of a roadway.
- B. In case of an emergency, the driver of a vehicle may lawfully operate the vehicle on any state highway shoulder in accordance with the normal standards of prudent conduct to protect himself and others from harm. When the emergency ends, the vehicle shall not be operated on the state highway shoulder.
- C. If the vehicle is not removed from the highway within twenty-four hours, the provisions of R.S. 32:473.1(B) shall apply.

RS 32:297 — Low rider vehicles

minimum and maximum requirements for height of headlights.

- (2) The vehicle has operational shock absorbers and springs and has at least three inches of suspension travel.
- (3) The vehicle has at least four inches of ground clearance measured from the frame with the vehicle on a level surface.
- (4) The vehicle complies with the general requirements for motor vehicles.

RS 32:297.1 — Alternative pathways for golf carts and low-speed vehicles

electric four-wheeled vehicle originally intended for use

off-road on golf courses and other green spaces whose maximum speed is twenty-five miles per hour.

(2) "Governing authority" means the town council of the town of Golden Meadow, Louisiana.

(3) "Low-speed vehicle" means any four-wheeled electric or gasoline powered vehicle that has a top speed greater than twenty miles per hour but less than twenty five miles per hour and is equipped with headlamps, front and rear turn signal lamps, tail lamps, stop lamps, reflex reflectors, including one on each side as far to the rear as practicable, and one red reflector on the rear of the vehicle, an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror, a parking brake, a windshield that conforms to the American National Standard Institute's "Safety Code for Safety Glazing Material for Glazing Motor Vehicles Operating on Land Highways - Safety Standard", a windshield wiper, speedometer, odometer, braking for each wheel, a seat belt assembly installed at each designated seating position, and a vehicle identification number.

(4) "Town" means the town of Golden Meadow, Louisiana.

B.(1) Notwithstanding any other provision of law to the contrary, the governing authority may, in its discretion, by ordinance authorize the operation of golf carts and low-speed vehicles only on the shoulder of a public road and street, except for Louisiana Highway

3235, having a speed limit of thirty miles or less per hour. The authorization shall be contained in an ordinance and recorded in the minutes of the governing authority. The authorization may be accompanied by conditions not inconsistent with this Section and may be revoked, in whole, or in part, by the governing authority at any time.

(2) Any person operating a golf cart or low-speed vehicle on the shoulder of a public road or street in the town pursuant to this Section shall be properly licensed to operate a vehicle upon any highway within this state and shall have in his possession proof of insurance as required by Part I-A of Chapter 5 of this Title.

C.(1) Every golf cart and low-speed vehicle operated pursuant to this Section shall

be required to be registered with the governing authority. The owner of the golf cart or low-speed vehicle shall be issued a registration decal by the governing authority that must be

displayed as determined by the governing authority. The registration shall remain valid for as long as the registering owner owns the golf cart or low-speed vehicle.

(2) The governing authority may, by ordinance, establish a registration fee for golf carts and low-speed vehicles. The registration fee shall be retained by the municipal clerk and deposited into the municipal general fund.

RS 32:298 — Farm equipment on highway shoulders

of any publicly maintained highway with improved asphalt or concrete shoulders except an interstate highway. However, any farm equipment operating on the shoulders of a publicly maintained highway with improved asphalt on concrete shoulders except an interstate highway shall have in use hazard warning signals as provided in R.S. 32:320.1, or shall have displayed a slow-moving vehicle emblem as provided in R.S. 32:377 or any other hazard warning device which has been approved by the commissioner, or any combination thereof.

B. Notwithstanding R.S. 32:402 or any law to the contrary, no driver's license shall be required by a person who operates farm equipment on the shoulder of a highway, provided that the person is at least twelve years of age and the operation of such equipment is in compliance with Subsection A of this Section.

RS 32:299 — Off-road vehicles; authorization for use on the shoulders of certain public roads and highways; authorization for use on certain public property

o three-wheelers, four-wheelers, or other all-terrain vehicles which are not specifically designated for road use may travel on the shoulders of all public roads and highways except interstate highways in the manner provided for in this Section solely for the purposes of farm-related activities within a five-mile radius of a farmer's farm, provided that the operator possesses a valid Class "E" driver's license. The owner or operator of the off-road vehicle shall carry a copy of the motor vehicle registration, upon his person or on the off-road vehicle, to prove he owns at least one motor vehicle which is registered as a vehicle engaged in the business of actual farming under the provisions of R.S. 47:462. As an alternative to the ownership of the motor vehicle, the operator of the off-road vehicle may carry a sworn affidavit attesting that he is engaged in the business of actual farming under the provisions of R.S. 47:462. Any agricultural consultant as defined in R.S. 3:3202 may also operate off-road vehicles for the purposes of farm-related activities within a five-mile radius of a farmer's farm.

(2) Off-road vehicles may travel on the shoulders of all public roads or highways, except interstate highways, during each day starting thirty minutes after sunrise and ending thirty minutes before sunset. Incidental crossing of public roads or highways shall be authorized.

(3) Off-road vehicles may be operated by university or college employees, law enforcement officers, and certified emergency technician-paramedics in the course and scope of their employment while on streets within the boundaries of state-owned colleges and universities. Incidental crossings of public roads or highways are authorized.

B. The provisions of this Section do not relieve drivers or operators of the responsibility to comply with all the other applicable provisions of R.S. 32:298 and 301. However, the provisions of R.S. 32:190 shall not apply to this Section.

C. Operators of off-road vehicles shall provide, upon demand, proof that the off-road vehicle is covered by valid liability insurance and other proof required in this Section.

D. The provisions of this Section shall not apply to roads and highways in Orleans Parish.

RS 32:299.1 — Off-road vehicles

at such coroner has investigated for the prior calendar year.

RS 32:299.2 — Off-road vehicles; mini-trucks

ss highway or a multi-lane divided highway which has partial or no control of access.

B. Subject to Subsection A of this Section, a mini-truck operated upon a highway of this state shall be equipped with head lamps, front and rear turn signal lamps, tail lamps, stop lamps, an exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror, a parking brake,

a windshield wiper, speedometer, odometer, braking for each wheel, a seat belt assembly installed at each designated seating position, and a vehicle identification number.

C. Any mini-truck operated upon a highway of this state shall register as an off-road vehicle and shall display a decal issued by the office of motor vehicles. The office of motor vehicles may require presentation of a notarized translation of a mini-truck title presented in a foreign language, if necessary. The translation shall be provided at the expense of the applicant.

D. No mini-truck shall be operated upon a highway of this state by an unlicensed driver.

E. Any mini-truck operated upon a highway of this state shall have liability insurance with the same minimum limits as required by the provisions of R.S. 32:900(B).

F. As used in this Section, "mini-truck" shall mean any four-wheeled, reduced dimension truck that may not have a National Highway Safety Administration classification, with a top speed of sixty-five miles per hour, equipped with a truck bed or compartment for hauling, and having an enclosed passenger cab.

G. The Department of Public Safety and Corrections, office of motor vehicles, shall adopt rules and regulations in accordance with the Administrative Procedure Act, subject to oversight by the House and Senate committees on transportation, highways, and public works, as necessary to implement the provisions of this Section.

H.(1) Nothing contained in this Section shall be construed to prohibit the Department of Transportation and Development from prohibiting the operation of any mini-truck upon any state highway under its jurisdiction if the department determines that such prohibition is necessary for the safety of the motoring public.

(2) Nothing contained in this Section shall be construed to prohibit parish or municipal governments from prohibiting the operation of any mini-truck upon any parish or municipal road or highway under its jurisdiction if such parish or municipal government determines that such prohibition is necessary for the safety of the motoring public.

RS 32:299.3 — Off-road vehicles; utility terrain vehicles

over designated roads, with a

minimum width of fifty inches but not exceeding seventy-four inches and a minimum weight of at least seven hundred pounds but not exceeding three thousand five hundred pounds.

"Utility terrain vehicle" shall include those vehicles not equipped with a certification label as required by 49 CFR Part 567.4.

(2) "Utility terrain vehicle" does not include golf carts, vehicles specially designed to carry a disabled person, or vehicles otherwise registered under R.S. 32:299. A "utility terrain vehicle" or "UTV" also means a recreational off-highway vehicle or ROV.

B. Notwithstanding the provisions in R.S. 32:299, the operation of a utility terrain vehicle upon the public roads or streets of this state is prohibited, except as follows:

(1) A utility terrain vehicle may be operated only upon a parish road that has been designated by a parish or a municipal street that has been designated by a municipality for use by a utility terrain vehicle. Upon a designation that a utility terrain vehicle may be operated on a designated road or street, the responsible governmental entity shall post appropriate signage indicating that the operation is authorized.

(2) A utility terrain vehicle may cross any divided highway, highway, roadway, or street with a posted speed limit in excess of thirty-five miles per hour at an intersection.

C. A utility terrain vehicle operated on any roadway or street shall be equipped with the minimum motor vehicle equipment appropriate for motor vehicle safety including, headlamps, front and rear turn signal lamps, tail lamps, stop lamps, reflex reflectors, including one on each side as far to the rear as practicable and one red reflector on the rear of the vehicle, an exterior mirror mounted on the driver's side of the vehicle and either an

exterior mirror mounted on the passenger's side of the vehicle or an interior mirror, a parking brake, an adequate windshield, a windshield wiper, speedometer, odometer, braking for each wheel, a seat belt assembly installed at each designated seating position, and a vehicle identification or serial number.

D. Any utility terrain vehicle operated upon a parish road or municipal street shall be registered with the state of Louisiana through the Department of Public Safety and Corrections, office of motor vehicles, as an off-road vehicle and shall display a decal issued by the office of motor vehicles.

E. A person operating a utility terrain vehicle shall be at least twenty-one years of age and possess a valid driver's license.

F. Any utility terrain vehicle operated upon a highway of this state shall have liability insurance with the same minimum limits as required by the provisions of R.S. 32:900(B).

G.(1) No person shall be a passenger in the open bed of a utility terrain vehicle while traveling upon a parish road or municipal street. The provisions of this Subsection shall not apply in an emergency situation.

(2) The number of persons permitted to travel in a utility terrain vehicle is limited to the number of available seat belts.

H. Nothing contained in this Section shall be construed to prevent parish or municipal governments from prohibiting the operation of any utility terrain vehicle on any parish road or municipal street under its jurisdiction if the parish or municipal government determines that the prohibition is necessary for the safety of the motoring public.

I. The Department of Public Safety and Corrections, public safety services, shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to oversight by the House and Senate committees on transportation, highways, and public works, as necessary to implement the provisions of this Section. The rules and regulations shall become effective no later than January 15, 2016.

RS 32:299.4 — Golf carts; safety equipment requirements; exemptions; registration
green spaces whose maximum speed is twenty-five miles per hour.

B. The operation of a golf cart upon the public roads or streets of this state is prohibited, except as otherwise provided in this Subsection:

(1) A golf cart may be operated only upon a parish road that has been designated by a parish or a municipal street that has been designated by a municipality for use by a golf cart. Upon a designation that a golf cart may be operated on a designated road or street, the responsible governmental entity shall post appropriate signage indicating that such operation is authorized.

(2) A golf cart may be used to cross a part of a state highway where a golf course is constructed on both sides of the state highway if the Department of Transportation and Development has issued a permit for the crossing.

C. A golf cart operated on a parish road or municipal street shall be equipped with efficient brakes, a reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear of the vehicle. Such golf cart shall

also be equipped with headlamps, front and rear turn signal lamps, tail lamps, and brake lamps.

D. Any golf cart operated upon a parish road or municipal street shall be registered with the state of Louisiana through the Department of Public Safety and Corrections, office of motor vehicles, as an off-road vehicle and shall display a decal issued by the office of motor vehicles.

E. No person shall operate a golf cart upon a parish road or municipal street without a valid driver's license.

F. Any golf cart operated upon a parish road or municipal street shall have liability insurance with the same minimum limits as required by the provisions of R.S. 32:900(B).

G.(1) A parish or municipal government may enact an ordinance relating to golf cart operation and require equipment which is more extensive than those enumerated in this Section. Upon enactment of such ordinance, the parish or municipal government shall post appropriate signage or otherwise inform residents that such an ordinance exists and that it will be enforced within the parish or municipal government's jurisdictional territory.

(2) Notwithstanding any provision of law to the contrary, any parish or municipal ordinance that was in effect prior to January 1, 2015, shall be exempt from the requirements of this Section.

(3) Nothing contained in this Section shall be construed to prohibit parish or municipal governments from prohibiting the operation of any golf cart on any parish road or municipal street under its jurisdiction if such parish or municipal government determines that such prohibition is necessary for the safety of the motoring public.

H. The Department of Public Safety and Corrections, public safety services, shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to oversight by the House and Senate committees on transportation, highways and public works, as necessary to implement the provisions of this Section. Such rules and regulations shall become effective no later than January 15, 2016.

RS 32:299.5 — Military surplus motor vehicles; operation; safety equipment; registration

um motor vehicle equipment appropriate for motor vehicle safety, including headlamps, front and rear turn signal lamps, tail lamps, stop lamps, an exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror, a parking brake, an adequate windshield, a windshield wiper, a speedometer, an odometer, braking for each wheel, a seat belt assembly installed at each designated seating position, tire equipment as required by R.S. 32:362, and a vehicle identification or serial number.

B. Any military surplus motor vehicle operated upon any highway of this state shall be registered with the state of Louisiana through the Department of Public Safety and Corrections, public safety services, office of motor vehicles, as a limited use vehicle and shall display a special license plate issued by the office of motor vehicles.

C. A person operating a military surplus motor vehicle shall be at least twenty-one years of age and possess a valid driver's license.

D. Any military surplus motor vehicle operated upon a highway of this state shall

have liability insurance with the same minimum limits as required by the provisions of R.S. 32:900(B).

E. The number of persons permitted to travel in a military surplus motor vehicle is limited to the number of available safety belts.

F. Nothing contained in this Section shall be construed to prevent the Department of Transportation and Development, or any parish or municipal government from prohibiting the operation of any military surplus motor vehicle on any state highway, parish road, or municipal street under its jurisdiction if the Department of Transportation and Development, parish or municipal government determines that the prohibition is necessary for the safety of the motoring public.

G. The Department of Public Safety and Corrections, public safety services, shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to oversight by the house and senate committees on transportation, highways and public works, as necessary to implement the provisions of this Section. The rules and regulations shall become effective not later than January 20, 2019.

RS 32:300 — Possession of alcoholic beverages in motor vehicles

public highway or right-of-way, to possess an open alcoholic beverage container, or to consume an alcoholic beverage, in the passenger area of a motor vehicle.

B. For purposes of this Section, the following words have the following meanings ascribed to them:

(1) "Alcoholic beverage" means any of the following:

(a) Beer, ale, porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

(b) Wine of not less than one-half of one percent of alcohol by volume.

(c) Distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

(2) "Motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated exclusively on a rail or rails.

(3)(a) "Open alcoholic beverage container" means any bottle, can, or other receptacle that contains any amount of alcoholic beverage and to which any of the following is applicable:

(i) It is open or has a broken seal.

(ii) Its contents have been partially removed.

(b) "Open alcoholic beverage container" shall not mean any bottle, can, or other receptacle that contains a frozen alcoholic beverage unless the lid is removed, a straw protrudes therefrom, or the contents of the receptacle have been partially removed.

(4) "Passenger area" means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. It shall not mean a locked glove compartment or behind the last upright seat, or any area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

(5) "Public highway or right-of-way" means the entire width between and immediately adjacent to the boundary lines of publicly maintained highways or roads when any part thereof is open to the use of the public.

C. Notwithstanding R.S. 32:391 and 411, whoever violates the provisions of this Section shall not be taken into custody by the arresting officer, but instead shall be required either to deposit his driver's license with the arresting officer or give his written promise to appear. Furthermore, a violation of the provisions of this Section shall not be included in the records kept by the commissioner required in R.S. 32:393.1.

D. (1) Whoever violates the provisions of this Section shall be fined not more than one hundred dollars. Court costs shall be assessed in addition to the fine authorized by this Subsection.

(2) For purposes of enforcement, the observance of a glass, cup, or other container that, on its face, does not indicate that the container contains an alcoholic beverage, shall not, absent other circumstances, constitute probable cause for a law enforcement officer to stop and question a person.

E. This Section shall preempt the authority of a municipal or parish governing authority to enact any code or ordinance regulating the possession of alcoholic beverages in motor vehicles. However, the local governing authority of a local governmental subdivision with a population of over fifty thousand as of the most recent federal decennial census may enact a code or ordinance that does not conflict with the substantive provisions of this Section, and such local code or ordinance may provide for the imposition and collection of fines and court costs for violations thereof for amounts in excess of the amounts provided in this Section. The preemption contained in this Subsection is solely for the purpose of providing for a uniform open container prohibition in motor vehicles throughout the state, and nothing in this Section shall be construed to further preempt the authority of a local government to provide for any other type of alcohol beverage regulation within its jurisdiction.

F. The provisions of this Section shall not apply to the following persons or in the following areas:

(1) Any person operating or occupying a motor vehicle who, as a condition of his employment and while acting in the course and scope of such employment, is required to carry open alcoholic beverage containers, provided that the operator or passenger does not consume the alcoholic beverages.

(2) Any paid fare passenger on a common or contract carrier vehicle, as defined in R.S. 45:162.

(3) Any paid fare passenger on a public carrier vehicle, as defined in R.S. 45:200.2.

(4) Any passenger in a courtesy vehicle which is operated as a courtesy vehicle.

(5) Any passenger of a self-contained motor home which is in excess of twenty-one feet in length.

(6) Possession of an open container of alcoholic beverage in the trunk of a motor vehicle.

(7) If the motor vehicle is not equipped with a trunk, possession of an open container or alcoholic beverages in any of the following areas:

(a) In a locked glove or utility compartment.

(b) In an area of the vehicle not normally occupied by, and not readily accessible, to the driver or passengers.

(8) Passengers and krewe members riding on a parade float.

(9) Any passenger in a privately owned limousine the driver of which possesses a Class D commercial driver's license.

RS 32:300.1 — Low-speed vehicles; safety equipment requirements; exemptions; registration; safety inspections

posted speed limit is thirty-five miles per hour or less and may cross any divided highway, highway, roadway, or street with a posted speed limit in excess of thirty-five miles per hour at an intersection or may traverse any divided highway, highway, roadway, or street with a posted speed limit of not more than forty-five miles per hour for a distance not exceeding one quarter mile as a means of conveyance in connecting from one divided highway, highway, roadway, or street where the posted speed limit is no more than thirty-five miles per hour to another divided highway, highway, roadway, or street where the posted speed limit is no more than thirty-five miles per hour.

B. A low-speed vehicle operated upon any divided highway, highway, roadway, or street shall be equipped with the minimum motor vehicle equipment appropriate for motor vehicle safety as provided in 49 C.F.R. 571.500. This equipment shall include headlamps, front and rear turn signal lamps, taillamps, stop lamps, reflex reflectors, including one on each side as far to the rear as practicable, and one red reflector on the rear of the vehicle, an exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror, a parking brake, a windshield that conforms to the American National Standard Institute's "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways", a windshield wiper, speedometer, odometer, braking for each wheel, a seat belt assembly installed at each designated seating position, and a vehicle identification number.

C.(1) Any low-speed vehicle operated upon any divided highway, highway, roadway, or street shall be registered with the state of Louisiana, office of motor vehicles, in the same manner as motor vehicles intended for personal use; such

low-speed vehicles shall be issued a license plate and shall be required to pay an annual registration license fee to be collected by the office of motor vehicles every two years in accordance with the procedures and schedule of fees provided for in R.S. 47:463.

(2) Any low-speed vehicle operated on any divided highway, highway, roadway, or street shall be required to comply with the provisions of R.S. 32:861 and 862 relative to required compulsory motor vehicle liability security.

D. No low-speed vehicle shall be operated by an unlicensed driver.

E. All low-speed vehicles shall be required to comply with the provisions of R.S. 32:1301 et seq.; however, low-speed vehicles shall not be subject to emissions requirements.

F.(1) Nothing contained in this Section shall be construed to prohibit the Department of Transportation and Development from prohibiting the operation of any low-speed vehicle on any state highway under its jurisdiction if the department determines that such prohibition is necessary for the safety of the motoring public.

(2) Nothing contained in this Section shall be construed to prohibit parish or municipal governments from prohibiting the operation of any low-speed vehicle on any parish or municipal road or highway under its jurisdiction if such parish or municipal government determines that such prohibition is necessary for the safety of the motoring public.

RS 32:300.1.1 — Electric low-speed scooters; operation; exceptions

municipal governing authority, or both,

may limit or prohibit the operation of such scooters on any sidewalk, bicycle path, or highway under its jurisdiction if such prohibition or regulation is in the interest of safety.

(2) A parish or municipal governing authority may reasonably regulate and assess penalties for moving or parking violations applicable to the operator of an electric low-speed scooter on any sidewalk, bicycle path, or highway under its jurisdiction.

B. For purposes of this Section, the term "electric low-speed scooter" shall mean a rental or commercial scooter weighing less than one hundred pounds that has handlebars and an electric motor, is solely powered by an electric motor or human power, and has a maximum speed of not more than twenty miles per hour on a paved level surface when powered solely by an electric motor. An electric low-speed scooter shall not be considered a motor-driven cycle, a vehicle, or a motor vehicle.

C. No electric low-speed scooter shall be used to carry more persons at one time than the number of persons for whom it is designed and equipped.

D. No person operating an electric low-speed scooter shall attach himself or the scooter to any other vehicle being operated upon a highway.

E. No person operating an electric low-speed scooter on a roadway shall carry any package, bundle, or article that prevents the operator from keeping at least one hand on its handlebars.

F.(1) Every person operating an electric low-speed scooter upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or a vehicle proceeding in the same direction, except under any of the following circumstances:

(a) When overtaking and passing another electric low-speed scooter, bicycle, or vehicle proceeding in the same direction.

(b) When preparing to turn or turning left at an intersection, or into a private road or driveway.

(c) When reasonably necessary to avoid fixed or moving objects, vehicles, bicycles,

pedestrians, animals, surface hazards, substandard width lanes, or any other condition that makes it unsafe to continue along the right-hand curb or edge of the roadway. For purposes of this Paragraph, a "substandard width lane" is a lane that is too narrow for an electric low-speed scooter and another electric low-speed scooter, bicycle, or a vehicle to travel safely side-by-side within the lane.

(2) The operator of a motor vehicle, when overtaking and passing an electric low-speed scooter proceeding in the same direction on the roadway, shall exercise due care when

the motor vehicle is passing the electric low-speed scooter, and shall leave a safe distance between the motor vehicle and the electric low-speed scooter of not less than three feet, and shall maintain such safe distance until safely past the overtaken electric low-speed scooter.

The operator of a motor vehicle may pass an electric low-speed scooter traveling in the same direction in a no-passing zone only when it is safe to do so.

(3) Every person operating an electric low-speed scooter upon a highway of this state shall be granted all of the rights and shall be subject to all the duties applicable to the driver of a vehicle by this Chapter, except as provided in this Section or as otherwise limited or prohibited by the department or any parish or municipal governing authority, and except as to those provisions of this Chapter which by their very nature can have no application.

G. An electric low-speed scooter shall be equipped with a brake which enables the operator to make its braked wheels skid on dry, level, and clean pavements.

H. An electric low-speed scooter, when in use during the times specified in R.S. 32:301, shall be equipped with appropriate lights, reflectors, or reflective markings.

I. Any operator of an electric low-speed scooter under the age of seventeen years shall wear an approved helmet as provided in R.S. 32:199.

RS 32:300.2 — Electric personal assistive mobility devices; operation; exceptions

ted speed limits of twenty-five miles per hour or less, except that any parish or municipal governing authority may limit or prohibit the operation of such devices on any sidewalk, bicycle path, or highway under its jurisdiction if such a prohibition or regulation is necessary and in the interest of safety.

B. For purposes of this Section, the term "electric personal assistive mobility device" shall mean a self-balancing two-, non-tandem wheeled device designed to transport only one person at a time, with an electric propulsion system which limits the maximum speed of the device to not more than twenty miles per hour. An electric personal assistive mobility device shall not be considered a motor scooter, an electric scooter, a vehicle, or a motor vehicle.

RS 32:300.3 — Funeral processions

xcept for an authorized emergency or law enforcement vehicle making use of audible or visual signals, or when directed otherwise by a law enforcement officer, pedestrians and operators of all motor vehicles shall yield the right-of-way to each vehicle participating in a funeral procession. However, the operator of a motor vehicle may pass a funeral procession which is traveling in the right lane of a divided highway, multiple-lane highway, or interstate. If the procession has a police escort, whenever the lead vehicle in a funeral procession lawfully enters an intersection, the remainder of the vehicles in the procession may continue to follow through the intersection notwithstanding any signals from traffic control devices. A motor vehicle participating in a funeral procession shall not leave the procession while it is traveling unless specifically permitted to do so by a law enforcement officer or by making a right turn out of the procession. No motor vehicle which leaves a funeral procession shall be permitted to rejoin the procession. The operator of each vehicle participating in a funeral procession shall exercise due care to avoid colliding with any other vehicle or pedestrian upon the roadway.

C. No person shall operate a vehicle in a funeral procession unless the headlights of such vehicle are lighted and its emergency lights are flashing.

D. This Section shall not create a cause of action or substantive legal rights against any funeral home, its director, or any of its employees or agents, or any law enforcement agency or officer. Furthermore, a funeral home, its director, or any of its employees or agents, or any law enforcement agency or officer shall not be held liable for a violation of this Section if the operator of a motor vehicle fails to exercise due care while participating in a funeral procession.

E. Whoever violates the provisions of this Section shall be assessed a penalty of one hundred dollars for each violation.

RS 32:300.4 — Smoking in motor vehicles prohibited; penalties

in a motor vehicle, passenger van, or pick-up

truck when a child who is younger than thirteen is also present in such vehicle, regardless of whether windows of the motor vehicle are down. For purposes of this Section, the term "smoke" shall mean to inhale, to exhale, to burn, or to carry any activated aerosol or vapor or any lighted cigarette, cigar, pipe, weed, plant, or other combustible substance in any manner or in any form.

B. Whoever violates the provisions of this Section shall be fined one hundred fifty dollars per offense, or at the discretion of the judge, may be sentenced to no less than twenty-four hours of community service.

C. Probable cause for a violation of this Section shall be based solely upon a law enforcement officer's clear and unobstructed view of a person smoking as prohibited by this Section. Violation of this Section shall be considered a primary offense, and any law enforcement officer may stop a motor vehicle solely because of a violation of this Section; however, a law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this Section.

D. A violation of this Section shall be considered a nonmoving violation, and a citation issued by a law enforcement officer for such violation shall not be included on the driver's operating record.

RS 32:300.4.1 — Smoking or vaping marijuana in motor vehicles prohibited; penalties

ated on a public highway or right-of-way, to smoke or vape

any form of marijuana as defined by R.S. 40:961, or a substance classified in Schedule I that is marijuana, tetrahydrocannabinol, or chemical derivatives thereof.

B. For purposes of this Section, the following words have the following meanings ascribed to them:

(1) "Public highway or right-of-way" means the entire width between and immediately adjacent to the boundary lines of publicly maintained highways or roads when any part thereof is open to the use of the public.

(2) "Smoke" means inhaling, exhaling, burning, or carrying any activated aerosol or vapor or any lighted cigarette, cigar, pipe, weed, plant, or other combustible substance in any manner or in any form.

C. Whoever violates the provisions of this Section shall be fined one hundred dollars.

D.(1) A law enforcement officer shall enforce the provisions of this Section only as a secondary action when the law enforcement officer detains a driver for another violation.

(2) A violation of this Section shall be considered a nonmoving violation, and a citation issued by a law enforcement officer for such violation shall not be included on the

driver's operating record.

RS 32:300.5 — Repealed by Acts 2025, No. 288, §3.

aton Rouge, Louisiana 70804-9062

RS 32:300.6 — Repealed by Acts 2025, No. 288, §3.

aton Rouge, Louisiana 70804-9062

RS 32:300.7 — Repealed by Acts 2025, No. 288, §3.

aton Rouge, Louisiana 70804-9062

RS 32:300.8 — Repealed by Acts 2025, No. 288, §3.

aton Rouge, Louisiana 70804-9062

RS 32:301 — When lighted lamps are required

vehicles subject to exception with respect to parked vehicles at any of the following times:

- (1) At any time between sunset and sunrise.
- (2) When, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernable at a distance of five hundred feet ahead.
- (3) When moisture in the air or precipitation necessitates the continuous use of windshield wipers.
- (4) While driving in a tunnel.

B. Any person found in violation of Subsection A of this Section may be fined not more than twenty-five dollars. No court costs shall be assessed in addition to the fine authorized by this Section. Violations of the provisions of this Section shall not be considered moving violations.

RS 32:302 — Visibility distance and mounted height of lamps

ance such lamps or devices shall be visible, said provisions shall apply during the times stated in R.S. 32:301, in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

B. Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

RS 32:303 — Headlamps on motor vehicles; motorcycles and motordriven cycles

n each side of the front of the motor vehicle, which headlamps shall comply with the requirements and limitations set forth in this Chapter.

B. Every motorcycle and every motor-driven cycle shall be equipped with at least one and not more than two headlamps which shall comply with the requirements and limitations of this Chapter.

C. Every headlamp upon every motor vehicle, including every motorcycle and motordriven cycle, shall be located at a height, measured from the center of the headlamp, of not more than 54 inches nor less than 24 inches to be measured as set forth in R.S. 32:302.

D.(1) Every headlamp described in this Section shall emit a white light only, including light emitted by white high intensity discharge forward lighting.

(2) No motor vehicle shall be equipped with headlamps that are off-road colored lights. The provisions of this Subparagraph shall not apply to white emitting lights.

RS 32:304 — Tail lamps

mounted on the rear, which, when lighted as required in R.S. 32:301, shall emit a red light plainly visible from a distance of one thousand feet to the rear, provided that in the case of a train of vehicles only the tail lamps on the rearmost vehicle need actually be seen from the distance specified. Every vehicle or trailer listed in this Subsection, other than a motorcycle or motor driven cycle registered in this state and manufactured or assembled after December 31, 1962, shall be equipped with at least two tail lamps mounted on the rear, on the same level and as widely spaced laterally as

practicable, which, when lighted as herein required, shall comply with the provisions of this Section.

B. Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two inches nor less than fifteen inches measured as provided in R.S. 32:302.

C. Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

RS 32:305 — New motor vehicles to be equipped with reflectors

part of the tail lamps or separately, two red reflectors, except that every motorcycle and every motor-driven cycle shall carry at least one reflector, meeting the requirements of this section, and except that vehicles of the type mentioned in R.S. 32:308 shall be equipped with reflectors as required in those Sections applicable thereto.

B. Every such reflector shall be mounted on the vehicle at a height of not less than 20 inches nor more than 60 inches measured as set forth in R.S. 32:302, and shall be of such size and characteristics and so mounted as to be visible at night from all distances within 350 feet to 100 feet from such vehicle when directly in front of lawful upper beams of head lamps, except that visibility from a greater distance is hereinafter required of reflectors on certain types of vehicles.

RS 32:306 — Stop lamps and turn signals required on new motor vehicles

ber 31, 1962, unless it is equipped with at least two stop lamps meeting the requirements of R.S. 32:319, except that a motorcycle, motor-driven cycle, or truck tractor manufactured or assembled after said date shall be equipped with at least one stop lamp meeting the requirements of said R.S. 32:319.

B. No person shall sell or offer for sale or operate on the highways of this state any motor vehicle, trailer, or semitrailer manufactured or assembled after December 31, 1962, unless it is equipped with electrical turn signals meeting the requirements of R.S. 32:319. This Subsection shall not apply to any motorcycle or motor-driven cycle.

RS 32:307 — Application of succeeding sections

amps and reflectors, shall apply as stated in said sections to vehicles of the types therein enumerated, namely; buses, trucks, truck tractors, motor homes, motor vehicles with mounted truck camper, and trailers, semitrailers and pole trailers, respectively, when operated upon any highway within this state and said vehicles shall be equipped as required and all lamp equipment required shall be lighted at the times mentioned in R.S. 32:301. For purposes of the sections enumerated herein, a truck camper, when mounted upon a motor vehicle, shall be considered part of the permanent structure of that motor vehicle.

RS 32:308 — Additional equipment required on buses, trucks, truck tractors, trailers, semi-trailers and pole trailers

ipped as herein stated under the conditions stated in R.S. 32:301.

A. Buses, trucks, motor homes, and motor vehicles with mounted truck camper, eighty or more inches in width shall meet equipment requirements as follows:

(1) On the front: two clearance lamps, one at each side, and all such vehicles manufactured or assembled after December 31, 1972 shall have three identification lamps meeting the specification of Subsection F of this section.

(2) On the rear: two clearance lamps, one at each side, and all such vehicles assembled or manufactured after December 31, 1972 shall have three identification lamps meeting the specifications of Subsection F of this section.

(3) On each side: two side marker lamps and two reflectors one of each at or near the rear and at or near the front.

B. Trailers and semi-trailers eighty inches or more in width, except boat trailers, shall meet equipment requirements as follows:

(1) On the front: two clearance lamps, one at each side.

(2) On the rear: two clearance lamps, one at each side, and all such vehicles manufactured or assembled after December 31, 1972, three identification lamps meeting the specifications of Subsection F of this section.

(3) On each side: two side marker lamps and two reflectors one of each at or near the front and at or near the rear.

C. Truck tractors shall meet equipment requirements as follows:

(1) On the front: two cab clearance lamps, one at each side, and on vehicles manufactured or assembled after December 31, 1972, three identification lamps meeting the specifications of Subsection F of this section.

(2) On each side: two amber side marker lamps and two amber reflectors, one of each at or near the front and at or near the rear.

D. Trailers, semi-trailers and pole trailers thirty feet or more in length shall have one amber side marker lamp and one amber reflector, centrally located with respect to the length of the trailer, on each side. Pole trailers shall also have on each side, at the rearmost support for the load, one combination marker lamp showing amber to the front and red to the rear and side, mounted to indicate maximum width of the pole trailer.

E. Boat trailers eighty inches or more in width shall meet equipment requirements as follows:

(1) On each side: two side marker lamps and two reflectors, one of each at or near the front and at or near the rear, and at or near the midpoint, one clearance lamp performing the function of both a front and rear clearance lamp.

(2) On the rear of boat trailers manufactured or assembled after December 31, 1972, shall be three identification lamps meeting the specifications of Subsection F of this section.

F. Whenever required or permitted by this chapter, identification lamps shall be mounted as close as practicable to the top of the vehicle, and grouped in a horizontal row, one on the vertical center line and one on each side of the vertical center line with lamp centers spaced not less than six inches or more than twelve inches apart; provided, however, that where the cab of a vehicle is not more than forty-two inches wide at the front roof line, a single identification lamp at the center of the cab shall be deemed to comply with the requirements for front identification lamps.

RS 32:309 — Color of clearance lamps, identification lamps, side marker lamps, backup lamps and reflectors

n the side near the front of a vehicle shall display or reflect an amber color.

B. Rear clearance lamps, identification lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.

C. All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light, which must be red, or other signal device, which may be red, amber or yellow, and except that the light illuminating the license plate shall be white and the light emitted by a backup lamp shall be white.

RS 32:310 — Mounting of reflectors, clearance lamps and side marker lamps

he ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than 15 inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit.

The rear reflectors on a pole trailer may be mounted on each side of the bolster or load.

The two red reflectors of a truck tractor may be mounted on the back of the cab at a minimum height of not less than four inches above the height of the rear tires.

Any required red reflector on the rear of the vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this chapter.

B. Clearance lamps shall, so far as is practicable, be mounted on the permanent structure of the vehicle in such a manner as to indicate the extreme height and width of the vehicle. Provided, that when rear identification lamps are required and are mounted as high as it is practicable, rear clearance lamps may be mounted at optional height and when the mounting of front clearance lamps results in such lamps failing to indicate the extreme width of the trailer, such lamps may be mounted at optional height but must indicate, as near as practicable, the extreme width of the trailer. Clearance lamps on truck tractors shall be located so as to indicate the extreme width of the truck tractor cab. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both.

RS 32:311 — Visibility of reflectors, clearance lamps, identification lamps, and

ics and so maintained as to be readily visible at

nighttime from all distances within 600 feet to 100 feet from the vehicle when

directly in front of lawful lower beams of headlamps, except that the visibility

for reflectors on vehicles manufactured or assembled prior to January 1, 1970, shall be measured in front of lawful upper beams of headlamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

B. Front and rear clearance lamps and identification lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required in R.S. 32:301 at all distances between 500 feet and 50 feet from the front and rear, respectively, of the vehicle on which mounted.

C. Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required in R.S. 32:301 at all distances between 500 feet and 50 feet from the side of the vehicle on which mounted.

RS 32:311.1 — Equipment combinations

re met, except that no clearance lamp may be combined optically with any tail lamp or identification lamp.

RS 32:312 — Obstructed lights not required

on of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

RS 32:313 — Lamp or flag on projecting load

e load, at the time specified in R.S. 32:301, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. The red light or lantern required under this Section shall be in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than 12 inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

RS 32:314 — Lamps on parked vehicles

e vehicle, and a red light visible from a distance of 1,000 feet to the rear of the vehicle. The location of said lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic.

B. Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal persons and vehicles within a distance of 1,000 feet upon such street or highway, no lights need be displayed upon such parked vehicle.

C. Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is insufficient light to reveal any person or object within a distance of 1,000 feet upon such highway, such vehicle so parked or stopped shall be equipped with and shall display lamps meeting the requirements of Subsection A.

D. Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.

E. When the parking lamps are activated, the tail lamps, license plate lamps, and side marker lamps shall also be activated.

F. The foregoing provisions shall not apply to motorcycles or motor driven cycles.

RS 32:315 — Lamps on farm tractors, farm equipment and implements of husbandry

I at all times mentioned in R.S. 32:301 be equipped with at least one lamp displaying a white light visible when lighted from a distance of not less than 500 feet to the front of such vehicle and shall also be equipped with at least one lamp displaying a red light visible when lighted from a distance of not less than 500 feet to the rear of such vehicle.

B. Every self-propelled unit of farm equipment not equipped with an electric lighting system shall at all times mentioned in R.S. 32:301, in addition to the lamps required in Sub-section A, be equipped with two reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful upper beams of head lamps.

C. Every combination of farm tractor and towed unit of farm equipment or implement of husbandry not equipped with an electric lighting system at all times mentioned in R.S. 32:301 shall be equipped with the following lamps:

- (1) At least one lamp mounted to indicate as nearly as practicable the extreme left projection of said combination and displaying a white light visible when lighted from a distance of not less than 500 feet to the front of said combination, and
- (2) Two lamps each displaying a red light visible when lighted from a distance of not less than 500 feet to the rear thereof and two red reflectors visible from all distances within 600 feet to 100 feet to the rear thereof when illuminated by the upper beams of head lamps.

D. Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry equipped with an electric lighting system shall at all times mentioned in R.S. 32:301 be equipped with two single beam or multiple beam head lamps meeting the requirements of R.S. 32:323 or 32:321 respectively or, as an alternative, R.S. 32:325, and at least one red lamp visible when lighted from a distance of not less than 500 feet to the rear provided, that every such self-propelled unit of farm equipment other than a farm tractor shall have two such red lamps or, as an alternative, one such red lamp and two red reflectors visible from all distances within 600 feet to 100 feet when directly in front of lawful upper beams of head lamps.

E. Every combination of farm tractor and towed farm equipment or towed implement of husbandry equipped with an electric lighting system shall at all times mentioned in R.S. 32:301 be equipped with lamps as follows:

- (1) The farm tractor element of every such combination shall be equipped as required in Sub-section D of this Section.
- (2) The towed unit of farm equipment or implement of husbandry element of such combination shall be equipped with two red lamps visible when lighted from a distance of not less than 500 feet to the rear or, as an alternative, two red reflectors visible to the rear directly in front of lawful upper beams of head lamps.
- (3) Said combinations shall also be equipped with a lamp displaying a white or amber light, or any shade of color between white and amber, visible when lighted from a distance of not less than 500 feet to the front and a lamp displaying a red light visible when lighted from a distance of not less than 500 feet to the rear.

F. The lamps and reflectors required in this Section shall be so positioned as to show from front and rear as nearly as practicable the extreme projection of the vehicle carrying them on the side of the roadway used in passing such vehicle. If a farm tractor, or a unit of farm equipment, whether self-propelled or towed, is equipped with two or more lamps or reflectors visible from the front or two or more lamps or reflectors visible from the rear, such lamps or reflectors shall be so positioned that the extreme projections both to the left and to the right of said vehicle shall be indicated as nearly as practicable.

RS 32:315.1 — Reflecting tape on trailers hauling sugarcane

ement of and standards for the tape and may require other reflective devices on trailers hauling sugarcane for the safety of motorists.

RS 32:316 — Lamps on other vehicles and equipment

ipped with lamps or other lighting devices, shall at all times specified in R.S. 32:301 be equipped with at least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of said vehicle, and shall also be equipped with two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of said vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from a distance of 100 to 600 feet to the rear when illuminated by lawful lower beams of head lamps.

B. After January 1, 1975, every animal drawn vehicle shall at all times be equipped with a slow-moving vehicle emblem complying with the provisions of R.S. 32:377.

RS 32:317 — Spotlights and auxiliary lamps

(b) The vehicle is operated by a public service corporation as approved by the secretary of the Department of Public Safety.

(c) The spotlight is for use within a municipality where such use is specifically permitted by special ordinance and such use shall be restricted to such municipalities.

(d) The vehicle is owned and operated by a farmer. A spotlight authorized by this Subparagraph:

(i) Shall only be mounted on the back panel of the cab of a pickup truck,

(ii) Shall not rotate more than 180 degrees at the rear of the cab,

(iii) Shall not face the front of the vehicle at any time,

(iv) Shall be used solely for agricultural purposes, and

(v) Shall not be operated on any state or local highway.

(2) When use of a spotlight is permitted, every such illuminated spotlight shall be operated upon approaching another vehicle so that no part of the high intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than one hundred feet ahead of the vehicle.

B. Any motor vehicle may be equipped with not more than two fog lamps mounted on the front of the vehicle at a height of not less than 12 inches nor more than 30 inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high intensity portion of the light to the left of the center of the vehicle shall at a distance of 25 feet ahead project higher than a level of 4 inches below the level of the center of the lamp from which it comes. Lighted fog lamps meeting the above requirements may be used with lower head lamp beams as specified in R.S. 32:321.

C. Any motor vehicle may be equipped with not more than two auxiliary passing lamps mounted on the front of the vehicle at a height not less than 24 inches nor more than 42 inches above the level surface upon which the vehicle stands. The provisions of R.S. 32:321 shall apply to any combination of head lamps and auxiliary passing lamps.

D. Any motor vehicle may be equipped with not more than two auxiliary driving lamps mounted on the front of the vehicle at a height not less than 16 inches nor more than 42 inches above the level surface upon which the vehicle stands. The provisions of R.S. 32:321 shall apply to any combination of head lamps and auxiliary driving lamps.

RS 32:318 — Audible and visual signals on certain vehicles

fire district shall, in addition to any

other equipment and distinctive markings required by this Chapter, be equipped with a siren, exhaust whistle, or bell capable of giving an audible signal.

B.(1) Every school bus that is used to transport students to and from home or school bus stops shall, in addition to any other equipment and distinctive markings required by this Chapter, be equipped with four amber and four red school bus signal lamps.

(2)(a) Every school bus that is used to transport students to and from home or school bus stops and that has a rated capacity of sixteen or more passengers including the operator shall also be equipped with two stop signal arms mounted on the left side of the bus.

(b) Every school bus that is used to transport students to and from home or school bus stops and that has a rated capacity of ten to fifteen passengers including the operator shall also be equipped with at least one stop signal arm mounted on the left side of the bus.

C. Every authorized emergency vehicle shall, in addition to any equipment and distinctive markings required by this Chapter, be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight. In lieu of the alternately flashing red lights in the front, an authorized emergency vehicle may be equipped with a large revolving red light on the roof which is discernible in all directions and which shall also

have sufficient intensity to be visible at five hundred feet in normal sunlight. In lieu of the large revolving red light on the roof, authorized emergency vehicles of organized fire companies only shall be equipped with a large revolving alternating red and white light on the roof encased in a clear dome, which is discernible in all directions and which shall also have sufficient intensity to be visible at five hundred feet in normal sunlight.

D. A police vehicle when used as an authorized emergency vehicle may, but need not, be equipped with alternately flashing red lights specified herein.

E. The use of the signal equipment described herein shall impose upon drivers of other vehicles the obligation to yield the right of way and to stop as prescribed in R.S. 32:80 and 32:125.

F.(1) In lieu of the alternating flashing red lights in the front of the vehicle, or of the large revolving red light on the roof of the vehicle, all law enforcement officers are hereby authorized to equip, operate, and use motor vehicles with blue colored electric emergency lights in the exercise of their official duties. These lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight.

(2) All persons other than law enforcement officers on official duty are prohibited from equipping, operating, or using motor vehicles with blue colored electric lights thereon.

G.(1) Notwithstanding any other provision of law to the contrary, privately owned motor vehicles belonging to members of the emergency medical team as designated by the commander of the United States Army Community Hospital at Fort Polk may be equipped with a large flashing red light which shall have sufficient intensity to be visible at five hundred feet in normal sunlight.

(2) The commander shall submit the name and motor vehicle license number of each member of the emergency medical team to the secretary of the Department of Public Safety and the secretary of the Department of Transportation and Development.

(3) The secretary of the Department of Public Safety shall issue, after review and recommendation of the secretary of the Department of Transportation and Development, to each team member a letter of authorization for the use of the light whenever the member is en route to the hospital in an emergency as declared by the hospital commander.

(4) The letter of authorization shall be located within the vehicle for which it has been issued. The provisions of R.S. 32:24 shall extend to the driver of any vehicle issued the letter of authorization under this Subsection.

H. Notwithstanding any provision of law to the contrary, all publicly owned fire department vehicles and all licensed ambulances may use blue-colored electric lights. The lights shall be on the rear of the vehicle and shall not exceed fifty percent of the visual lights. For purposes of this Section, the term "ambulance" shall have the meaning ascribed in R.S. 40:1131.

RS 32:319 — Signal lamps and signal devices

light, visible from a distance of not less than 300 feet to the rear in normal sunlight, and which shall be actuated upon application of the service (foot) brake, and which may, but need not be, incorporated with one or more other rear lamps.

B. Any vehicle may be equipped and when required under R.S. 32:306(B) shall be equipped with electric turn signals which shall indicate an intention to turn by flashing lights showing to the front and rear of a vehicle or on a combination of

vehicles, on the side of the vehicle or combination toward which the turn is to be made. The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit amber light, provided that on any vehicle manufactured prior to January 1, 1969, the lamps showing to the front may emit white or amber light, or any shade of light between white and amber. The lamps showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable, and, when signaling, shall emit a red or amber light, or any shade of color between red and amber. Turn signal lamps on vehicles 80 inches or more in overall width shall be visible from a distance of not less than 500 feet to the front and rear in normal sunlight. Turn signal lamps on vehicles less than 80 inches wide shall be visible at a distance of not less than 300 feet to the front and rear in normal sunlight. Turn signal lamps may, but need not be, incorporated in other lamps on the vehicle.

C. A truck-tractor need not be equipped with turn signal lamps mounted on the rear provided the turn signal lamps mounted at or near the front are double-faced and so located as to be visible both to the front and to the rear from a distance of not less than 500 feet in normal sunlight.

RS 32:320 — Additional lighting equipment

e equipped with not more than one running board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

C. Any motor vehicle may be equipped with not more than two backup lamps either separately or in combination with other lamps, but any such backup lamp shall not be lighted when the motor vehicle is in forward motion.

Backup lights are required on all passenger vehicles manufactured after January 1, 1969. The backup lamp shall be illuminated when the ignition switch is energized and reverse gear is engaged. Backup lamps shall not be lighted when the vehicle is in forward motion. Backup lamps shall be mounted on the rear so that the center of the lens, or at least one lamp is visible from any eye point elevation from at least six feet to two feet above the horizontal plane on which the vehicle is standing; and from any position in the area, rearward of a vertical plane perpendicular to the longitudinal axis of the vehicle, six feet to the rear of the vehicle and extending three feet beyond each side of the vehicle. Maximum candlepower is 300 cp total.

D. Any vehicle eighty inches or more in overall width, if not otherwise required by R.S. 32:308, may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted as specified in Subsection (F) of R.S. 32:308.

E. Any vehicle may be equipped with one or more side marker lamps and any such lamp may be flashed in conjunction with turn or vehicular hazard warning signals. Side marker lamps located toward the front of a vehicle shall be amber and side marker lamps located toward the rear shall be red.

RS 32:320.1 — Vehicular hazard warning signals

rise of unusual care in approaching, overtaking or passing.

B. Every vehicle other than a motorcycle or motor-driven cycle registered in this state and manufactured or assembled after December 31, 1972, shall be equipped with vehicular hazard warning signal lamps meeting the requirements of this section.

C. Vehicular hazard warning signal lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously flashing amber lights, provided that on any vehicle manufactured prior to January 1, 1975, the lamps showing to the front may display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than 500 feet in normal sunlight on vehicles 80 inches or more in overall width and 300 feet in normal sunlight on vehicles less than 80 inches in overall width.

RS 32:321 — Multiple beam road lighting equipment

motorcycles or motor-driven cycles shall be so arranged that the driver may control the selection between the distributions of light projected to different elevations, subject to the following requirements and limitations:

- (1) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 500 feet ahead for all conditions of loading.
- (2) There shall be a lowermost distribution of light, or composite beam, so aimed and of such intensity to reveal persons and vehicles at a distance of at least 150 feet ahead; and on a straight level road under any condition of loading none of the high intensity portion of the beam shall be directed to strike the eye of an approaching driver.
- (3) Every new motor vehicle, other than a motorcycle or motor-driven cycle, registered in this state after January 1, 1955, which has multiple beam road lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

RS 32:322 — Use of multiple beam road lighting equipment

a distribution of light or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at safe distance in advance of the vehicle subject to the following requirements and limitations.

- B. Whenever a driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in R.S. 32:321, shall be dimmed to avoid glare at all times, regardless of road contour and loading.
- C. Whenever the driver of a vehicle follows another vehicle within 200 feet to the rear, except when engaged in the act of overtaking or passing, such driver shall use a distribution of light permissible under this Chapter other than the uppermost distribution of light specified in R.S. 32:321(1).
- D. Whenever the driver of a vehicle approaches an oncoming vehicle within five hundred feet or follows another vehicle two hundred feet to the rear, such driver shall not use any fog lamps or other auxiliary driving or passing lamps, except during periods of inclement weather or fog.

RS 32:323 — Single-beam road-lighting equipment

ple beam road lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

- (1) The head lamps shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light shall at a distance of 25 feet ahead project higher than a level of 5 inches below the level of the center of the lamp from which it comes, and in no case higher than 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead.
- (2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet.

RS 32:324 — Lighting equipment on motor-driven cycles

ents and limitations as follows:

- (1) Every said head lamp or head lamps on a motor-driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than 100 feet when the motor-driven cycle is operated at any speed less than 25 miles per hour and at a distance of not less than 200 feet when the motor-driven cycle is operated at a speed of 25 or more miles per hour, and at a distance of not less than 300 feet when the motor-driven cycle is operated at a speed of 35 or more miles per hour.
- (2) In the event the motor-driven cycle is equipped with a multiple beam head lamp or head lamps the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in R.S. 32:321(1), and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in R.S. 32:321(2).
- (3) In the event the motor-driven cycle is equipped with a single beam lamp or lamps, said lamp or lamps shall be so aimed that when the vehicle is loaded none of the high intensity portion of light, at a distance of 25 feet ahead, shall project higher than the level of the center of the lamp from which it comes.

RS 32:325 — Alternate road-lighting equipment

sons and objects 75 feet ahead in lieu of lamps required in R.S. 32:321 or 32:323, provided, however, that at no time shall it be operated at a speed in excess of 20 miles per hour but only on such highways, or parts thereof, that such slow

speeds are permitted.

RS 32:326 — Number of driving lamps required or permitted; parking lights

ehicle other than a motorcycle or motor-driven cycle, except when such vehicle is parked subject to regulations governing lights on parked vehicles.

B. Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or any other lamp on the front thereof projecting a beam of intensity greater than 300 candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway of this state.

C. No moving vehicle upon any public highway within this state shall be operated with only the parking lights for illumination.

RS 32:327 — Special restrictions on lamps

cle warning lamps

and school bus warning lamps, which project a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of seventy-five feet from the vehicle.

B. No person shall drive or move any vehicular equipment upon any highway of this state with any lamp or device thereon displaying a red or green light visible from directly in front of the center thereof. This Section shall not apply to any vehicle upon which a red or green light visible from the front is expressly authorized or required by this Chapter or by regulation of the department. Additionally, this Section shall not apply to any department vehicle displaying green lights.

C. Flashing lights are prohibited except on authorized emergency vehicles, school buses, or on any vehicle as a means of indicating a right or left turn, or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing.

D. No person shall sell a dashboard, hood, vehicle front grill, or vehicle roof mounted emergency light that emits a blue glow to any person.

E. No person shall sell a dashboard, hood, vehicle front grill, or vehicle roof mounted emergency light that emits a red glow, or that emits a glow of red and white, to any person who is not a peace officer, a firefighter, or a person employed in the performance of emergency, highway construction, or public utility services. No person shall possess such an emergency light except peace officers or firefighters or public utility, highway construction, or emergency personnel. However, vehicles which are owned and operated by members of nonprofit corporations as provided in R.S. 12:201 et seq. and which are tax exempt in accordance with Section 501(c) of the Internal Revenue Code, for exhibition in shows, parades, tours, and other special events and not for general transportation may be equipped with alternately flashing red lights and these lights may have sufficient intensity to be visible at five hundred feet in normal sunlight, provided that such use shall only be allowed when the vehicle is participating in exhibitions, shows, parades, tours, and other special events, and not for general transportation. The secretary by rule shall establish the criteria to be used in determining which persons, other than members of such nonprofit corporations, qualify to purchase or possess emergency lights as described in this Subsection.

RS 32:328 — Special lighting equipment on school buses

es to be carried by school

buses consistent with the provisions of this Chapter, but supplemental thereto. Such standards and specifications shall correlate with and, so far as possible, conform to the specifications then current as approved by the Society of Automotive Engineers.

B. It shall be unlawful to operate any flashing warning signal light on any school bus except when the school bus is stopped or is in the act of coming to a complete stop on a highway for the purpose of permitting school children to board or alight from the school bus.

RS 32:329 — Repealed by Acts 2011, No. 244, §3.

on Rouge, Louisiana 70804-9062

RS 32:329.1 — Bicycles; front lamps; rear lamps; side and rear reflectors

that shall emit a white light visible from a distance of at least five hundred feet to the front. A generator-powered lamp that emits light only when the bicycle is moving may be used to meet this requirement.

(2) A lamp mounted on the rear that shall emit either a flashing or steady red light visible from a distance of five hundred feet to the rear.

(3) A red reflector mounted on the rear and a reflector on each side facing outward at a right angle to the bicycle frame that shall be visible from all distances from one hundred feet to six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.

B. A bicycle or its operator may be equipped with lights or reflectors in addition to those required by Subsection A of this Section, except that red lamps and red reflectors shall not be used on the front of the bicycle and white lamps and white reflectors shall not be used on the rear of the bicycle.

C. A lamp or lamps worn by the operator of a bicycle shall comply with the requirements of Subsection A of this Section, if the lamp or lamps can be seen at the distances specified.

D. No person shall operate any bicycle on a state highway, parish road, or city street at a time specified in R.S. 32:301 unless such bicycle is equipped with lamps and reflectors to comply with Subsection A of this Section. Whoever violates this Section shall be subject to a fine of not more than twenty-five dollars which shall include all costs of court.

E. No retailer, distributor, wholesaler, or manufacturer in this state shall sell or offer for sale any bicycle unless such bicycle is equipped with lamps and reflectors as required by Subsection A of this Section.

F. This Section shall not apply to operators of bicycles or bicycles while the operator or bicycle is engaged in sanctioned competition races or to bicycles while utilized by peace officers in furtherance of their official duties.

RS 32:330 — Selling or using lamps or equipment

ny such vehicle any head lamp, auxiliary or fog lamp, rear lamp, signal lamp, or reflector, which reflector is required hereunder, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the commissioner and approved by him. This Section shall not apply to equipment in actual use on August 1, 1962, or replacement parts therefor.

B. No person shall have for sale, sell, or offer for sale for use upon or as a part of a motor vehicle, trailer, or semitrailer any lamp or device mentioned in this Section which has been approved by the commissioner unless such lamp or device bears thereon the trademark or name under which it is approved so as to be legible when installed.

C. No person shall use upon any motor vehicle, trailer, or semitrailer any lamps mentioned in this Section unless said lamps mentioned in this Section are equipped with bulbs of a rated candlepower and are mounted and adjusted so as to focus and aim in accordance with instructions of the commissioner.

RS 32:331 — Authority of commissioner with reference to lighting devices

ndards and specifications for the approval of such lighting devices, their installation, aiming, and readjusting. Such regulations shall correlate with and, so far as practicable, conform to the then current standards and specifications of the Society of Automotive Engineers applicable to such equipment.

B. The commissioner is hereby required to approve or disapprove any lighting device of a type on which approval is specifically required in this Chapter, within a reasonable time after such device has been submitted.

C. The commissioner is further authorized to set up the procedure which will be followed when any device is submitted for approval and to charge fees for the approval or disapproval of those lighting devices submitted. The fee shall not exceed twenty-five dollars for each type of lamp or lighting device submitted.

RS 32:332 — Adjustment certificate

this Chapter.

B. When head lamps and auxiliary driving lamps have been adjusted in conformity with the instructions issued by the Department of Public Safety, a certificate of adjustment shall be issued by the Department of Public Safety to the driver of the motor vehicle on forms issued in duplicate and showing the date of issue, registration number of the motor vehicle, owner's name, make, and official designation of the adjusting station.

RS 32:333 — Certain lights around license plates prohibited

vehicle license plates, for motor vehicles is prohibited.

B. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, or imprisoned not more than six months, or both.

RS 32:334 — Installation or use of certain lamps prohibited

ector, or parts of any of the foregoing, which tend to change the original design or performance, unless the lamp or parts of the lamp is in compliance with Federal Motor Vehicle Safety Standard No. 108, as adopted by the National Highway Traffic Safety Administration.

B. No person shall operate a motor vehicle that is equipped with any head lamp, auxiliary or fog lamp, rear lamp, signal lamp, or reflector, or parts of any of the foregoing, which tend to change the original design or performance, unless the lamp or parts of the lamp is in compliance with Federal Motor Vehicle Safety Standard No. 108, as adopted by the National Highway Traffic Safety Administration.

C. An official inspection station shall be prohibited from issuing an official certificate of inspection to the driver of a motor vehicle that is in violation of this Section.

D.(1) A first violation of the provisions of Subsection A or B of this Section shall be punishable by a fine of fifty dollars.

(2) Each subsequent violation shall be punishable by a fine of an additional twenty-five dollars to the original fine.

RS 32:341 — Brake equipment required

ement of and to stop and hold such vehicle, including two separate means of applying the brakes, each of which shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that the failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

B. Every motorcycle and every motor-driven cycle, when operated upon a highway of this state, shall be equipped with at least one brake, which may be operated by hand or foot.

C. Every trailer or semi-trailer of a gross weight of 3,000 pounds or more, when operated upon a highway of this state, shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and said brakes shall be so designed and connected that in case of an accidental breakaway of the towed vehicle the brakes shall be automatically applied.

D. Every motor vehicle, trailer or semi-trailer manufactured or assembled after December 31, 1962, and thereafter sold in this state and operated upon the highways of this state shall be equipped with brakes upon all wheels of every such vehicle, except that no motorcycle, motor-driven cycle, or semi-trailer of less than 1,500 pounds gross weight, need be equipped with brakes.

E. Parking brakes--adequacy--Every such vehicle and combination of vehicles, except motorcycles and motor-driven cycles, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice, or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent

means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

F. The brake shoes operating within or upon the drums on the vehicle wheels of any motor vehicle may be used for both service and hand operation.

G. All sport, boat, or any other nonagricultural trailers and semi-trailers of less than 3000 pounds gross weight need not be equipped with brakes.

H. Every trailer or semi-trailer of between three thousand and one and five thousand pounds gross weight need only have brakes on a single axle.

I. Vehicles carrying forest products in their natural state shall not be required to have a brake on the drag axle if the wheels of the axle touch the ground only when the vehicle is loaded; however, this provision does not apply to trailers or trucks with more than two axles.

RS 32:341.1 — Exemptions; farm vehicles and equipment

ed prior to January 1, 1973 and operated or moved only incidentally on the highways of this state shall be exempt from the braking requirements imposed by the State of Louisiana, including more particularly but not exclusively those requirements set forth in this subpart, provided its gross weight does not exceed ten thousand pounds or when the speed of such vehicle does not exceed thirty miles per hour. The exemption for farm vehicles described herein shall apply only to those vehicles used exclusively in transporting farm produce, livestock, farm supplies and implements of husbandry.

B. All farm trailers or farm semi-trailers of a gross weight exceeding three thousand pounds manufactured or assembled after January 1, 1973, and used on the highways of this state shall be required to meet the braking requirements imposed by the state of Louisiana. Any rubber-tired farm wagon or cart, drawn rubber-tired farm equipment, or implement of husbandry, manufactured or assembled after January 1, 1973, and designed primarily for field use, and operated or moved only incidentally on the highways of this state, shall continue to be exempt from the braking requirements imposed by the state of Louisiana, including more particularly but not exclusively those requirements set forth in this subpart, provided its gross weight does not exceed ten thousand pounds or the speed of such vehicle does not exceed thirty miles per hour. The provisions of this paragraph shall be applicable only to vehicles used exclusively in transporting farm produce, livestock, farm supplies and implements of husbandry.

RS 32:342 — Performance ability of brakes

be capable of:

(1) Developing a braking force that is not less than the percentage of its gross weight tabulated herein for its classification;

(2) Decelerating in a stop from not more than 20 miles per hour at not less than the feet per second tabulated herein for its classification; and

(3) Stopping from a speed of 20 miles per hour in not more than the distance tabulated herein for its classification, such distance to be measured from the point at which movement of the service brake pedal or control begins.

B. Test for deceleration and stopping distance shall be made on a substantially level (not to exceed plus or minus one per cent grade), smooth, hard surface that is free from loose material.

CLASSIFICATION TABLE FOR APPLICATION

Classification of vehicles

and combinations

Braking force as a
percentage of gross
vehicle or combination
wt.

Deceleration in feet
per second

Brake system
application and
braking distance in
feet per second

I

II

III

IV

(1)

Passenger vehicles, not
including buses

(2)

Single-unit vehicles with a
manufacturer's
gross weight rating
of less than 10,000
pounds

(3)

Single-unit, 2 axle vehicles with a
manufacturer's
gross vehicle weight
rating of 10,000 lbs.
or more, and buses
not having a
manufacturer's
gross vehicle weight
rating

(4)

All other vehicles and combinations
with a manufac-
turer's gross vehicle
weight rating of
10,000 or more lbs.

52.8%

43.5%

43.5%

43.5%

17

14

14

14

25

30

40

50

RS 32:343 — Condition of brakes

with respect to the wheels on opposite sides of the vehicle.

RS 32:344 — Brakes after engine failure

distance after the engine has become inoperative.

RS 32:345 — Brakes on motor driven cycles

with the performance ability standard set forth in R.S. 32:342, or which in his opinion is not so designed or constructed as to insure reasonable and reliable performance in actual use.

B. The commissioner may refuse to register or may suspend or revoke the registration of any vehicle referred to in this Section when he determines that the brake thereon does not comply with the provisions of this Chapter.

C. No person shall operate on any highway of this state any vehicle referred to in this Section if the commissioner has disapproved the brake equipment upon such vehicle or type of vehicle.

RS 32:351 — Horns and warning devices

conditions from a distance of not less than two hundred feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall, when reasonably necessary to ensure safe operation, give audible warning with his horn, but shall not otherwise use such horn when upon a highway of this state.

(2) Persons with mobility impairments, while operating a motor vehicle upon any state or local highway of this state, may utilize the horn of such vehicle if the nature of the operator's physical impairment requires use of the horn in a situation other than one required to ensure safe operation of the motor vehicle and the operator is operating a motor vehicle with a mobility impairment license plate or the operator has been issued a mobility impairment hang tag.

B. No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell, except as otherwise permitted in this Section.

C. It is permissible but not required that any commercial vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

D. Any authorized emergency vehicle may be equipped with a siren, whistle, or bell capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type approved by the commissioner, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which events the driver of the vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof. However, motor vehicles which are owned and operated by members of nonprofit corporations as provided in R.S. 12:201 et seq. and which are tax exempt in accordance with Section 501(c) of the Internal Revenue Code, for exhibition in shows, parades, tours, and other special uses and not for general transportation may be equipped with a siren, whistle, or bell capable of emitting sound audible under normal conditions from a distance of up to five hundred feet but such sound equipment shall not be used except when such vehicle is participating in shows, parades, tours, and other special events.

RS 32:352 — Mufflers; requirements; prevention of excessive noise, fumes and smoke

t excessive or unusual noise.

B. No person shall use a muffler cut-out, bypass or similar device upon a motor vehicle on a highway of this state.

C. The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

RS 32:353 — Modification of exhaust systems

tted by the muffler originally installed on the vehicle and the original muffler shall comply with all of the requirements of R.S. 32:352.

RS 32:354 — Mirrors

the left side of the vehicle and so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of the vehicle.

B. Every motor vehicle of a type subject to registration in this state, except a motorcycle or motor driven cycle, shall be equipped with an additional mirror mounted either inside the vehicle approximately in the center or outside the vehicle on the right side and so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of the vehicle. When the required view from the inside mirror is obstructed, an outside mirror on the right side of the vehicle shall be required.

C. All mirrors required by this section shall be maintained in good condition at all times.

D. In addition to the mirrors required in Subsections A and B of this Section, every school bus shall be equipped with a mirror on the right side of the vehicle and so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of the vehicle.

E. Every school bus shall be equipped with a mirror of a type and so located as to give the seated driver a view of the area immediately in front of the front bumper, provided, however, that any Type II school bus constructed in such a way that the seated driver has a view of the area immediately in front of the front bumper need not be equipped with the mirror otherwise required by this Subsection.

F. Notwithstanding any provision of this Section or any other provision of law to the contrary, motor vehicles which are used by rural mail carriers in the performance of their duties shall not be required to be equipped with a mirror on the passenger side of the vehicle.

G. In addition to the mirrors required in Subsections A and B of this Section, every delivery van which is part of an official state motor vehicle fleet shall be equipped with a mirror of a type and so located as to give the seated driver a view of the area immediately in the rear of the rear bumper.

RS 32:355 — Fire extinguishers

ition and conveniently located for immediate use.

RS 32:356 — Windshields must be equipped with wiping and washing systems

in, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle. In addition, every such motor vehicle manufactured or assembled after December 31, 1972, shall be equipped with a two-speed, power driven windshield wiping and washing system which will adequately clean rain, snow or other moisture from the windshield regardless of engine load and speed and so constructed as to be controlled and operated by the driver of the vehicle.

B. Every windshield wiping system upon a motor vehicle shall be maintained in good working order. The windshield washing system upon a vehicle that is not more than six years old from the date of manufacture or assembly shall be maintained in good working order.

RS 32:358 — Motorcycle windshields

, §1.

RS 32:359 — Safety glass required

ing materials of a type approved by the director of public safety wherever glazing materials are used in doors, windows and windshields. The foregoing provisions shall apply to all passenger type motor vehicles, including passenger buses

and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glazing material shall apply to all glazing material used in doors, windows and windshields in the driver's compartments of such vehicles.

RS 32:360 — Safety glass defined

, the likelihood of injuries to persons by objects from external sources or by glass, when the glass is cracked or broken.

RS 32:361 — Approved types of safety glass

Chapter, and the Department of Public Safety shall not issue a license for or relicense any motor vehicle subject to the provisions of this Chapter, unless such motor vehicle is equipped, as herein provided, with such approved type of glass.

RS 32:361.1 — View outward or inward through windshield or windows; obscuring prohibited

meanings, unless the context of use clearly indicates otherwise:

- (1) "Distributor" means any person or company who markets, delivers, or distributes any sun screening device for motor vehicles in Louisiana.
- (2) "Installer" means any person or company who affixes, places, fastens, or secures any sun screening device to any windshield or window of a motor vehicle in Louisiana.
- (3) "Light transmission" means the ratio of the amount of total light to pass through the product or material, including any glazing material, to the amount of total light falling on the product or material and the glazing.
- (4) "Luminous reflectance" means the ratio of the amount of total light that is reflected outward by the product or material to the amount of total light falling on the product or material.
- (5) "Manufacturer" means a person who engages in the manufacture or assembly of a vehicle sun screening device, or who fabricates, laminates, or tempers a safety glazing material, incorporating, during the manufacturing process, the capacity to reflect or reduce the transmission of light.
- (6) "Seller" means any person or company who transfers in the contract of sale any sun screening device for windshields or windows of motor vehicles in Louisiana.
- (7) "Sun screening device" means a film material or device that is designed to be used in conjunction with motor vehicle safety glazing materials for reducing the effects of the sun.

B. Except as provided by R.S. 32:361.1(C), no person may operate a motor vehicle with any object or material placed on or affixed to the front windshield or to front side windows of the vehicle so as to obstruct or reduce the driver's clear view through the front windshield or front side windows, nor place on or affix to the front windshield or the front side windows of a motor vehicle, any transparent material if the material alters the color or reduces the light transmission of the windshield or front side windows.

C. The provisions of this Section do not apply to any of the following:

- (1) A sun screening device when used in conjunction with automotive safety glazing materials on the front side window, with a light transmission of at least twenty-five percent, all tolerances included, side window behind the driver with a light transmission of at least twenty-five percent, all tolerances included, and rearmost windows with a light transmission of at least twelve percent, all tolerances included. All sun screening devices shall not have a luminous reflectance of more than twenty percent.
- (2) A transparent material, not red or amber in color, affixed to the topmost portion

of the windshield not to extend more than five inches down from the top.

(3) An adjustable nontransparent sun visor mounted forward of the side windows and not attached to the glass.

(4) Publicly owned law enforcement vehicles including those vehicles owned or used by the Department of Wildlife and Fisheries for enforcement operation.

D.(1) Each manufacturer shall certify to the Department of Public Safety and Corrections, office of motor vehicles, by independent test laboratory data, that a sun screening device marketed in this state is in compliance with the luminous reflectance and transmittance requirements of this Section.

(2) Each installer shall provide a label not to exceed one and one-half square inches in size, with a means for the permanent and legible installation between the sun screening material and each glazing surface to which it is applied, which contains the installer's name and city where the business is located.

(3) The person placing the material on the glazing surface shall affix the label to the lower right corner of the driver's side window.

(4) The light transmittance requirement of this Section does not apply to windows behind the driver on trucks, busses, trailers, motor homes, multipurpose passenger vehicles, and all windows on vehicles used for law enforcement purposes and tinted in accordance with the provisions of this Section.

E. Except as provided in Subsections G and H of this Section, anyone who operates a motor vehicle registered in this state in violation of the provisions of this Section shall be fined not more than one hundred fifty dollars for a first offense, not more than two hundred fifty dollars for a second offense, and not more than three hundred fifty dollars for a third or subsequent offense.

F. Except as provided in Subsections G and H of this Section, anyone who violates the provisions of this, or any rules or regulations applicable thereto shall be fined in accordance with the provisions of R.S. 32:57.

G. Any seller, installer, manufacturer, or distributor of a sun screening device who violates the provisions of this Section shall be fined one thousand dollars for a first offense, two thousand dollars for a second offense, and shall be prohibited from conducting any business specified in this Section upon conviction for a third or subsequent offense.

H. The provisions of this Section shall apply to all vehicles manufactured on or after January 1, 1994, unless exempted in accordance with R.S. 32:361.1.

I. All vehicles that have windows tinted on or before December 31, 1993, in compliance with then existing provisions of law are exempt from the provisions of this Section, provided that a certificate is obtained by the owner, operator, or licensee certifying that the tinting was done prior to January 1, 1994. The office of motor vehicles shall adopt rules, regulations, and a form for proof of prior tinting in accordance with provisions of this Subsection. The certificate must be present in the vehicle at all times when being operated and presented upon demand by a law enforcement officer.

J. The provisions of this Section apply to any other vehicles not included in Subsections H and I of this Section on and after January 1, 1994.

RS 32:361.2 — Medical exemption

rized to

operate the motor vehicle has an affidavit signed by an optometrist or physician, including but not limited to an ophthalmologist or dermatologist licensed to practice in this state stating that such person has a physical or medical condition involving the effects of the sun that makes it necessary to equip the motor vehicle with sun screening material which would be of a light transmission or luminous reflectance in violation of R.S. 32:361.1. A copy of the affidavit shall be kept in the motor vehicle at all times.

(2) The affidavit, prepared by the office of state police, shall list the World Health Organization International Classification of Disease ICD-9-CM recognized conditions that would qualify an individual for a medical exemption under this Section. Included on the affidavit shall be a section for the optometrist or physician, including but not limited to an ophthalmologist or dermatologist licensed to practice in this state, to describe a medical condition that is not listed on the affidavit as a condition requiring a medical exemption under this Section. The office of state police may seek the opinion of the Louisiana Medical Advisory Board on whether to grant a medical exemption. A copy of this affidavit shall be kept in the vehicle at all times.

(a) If the optometrist or physician, including but not limited to an ophthalmologist or dermatologist licensed to practice in this state, finds photophobia as the medical condition requiring the medical exemption provided for in this Section, the optometrist or physician shall write in the appropriate section why a correct pair of sunglasses will not provide the necessary protection, and why the window tint will not affect the person's ability to drive at night.

(b) An individual seeking the medical exemption shall sign a notarized release authorizing the release to the department of all medical records dealing with the exemption.

(3)(a) Any medical exemption granted shall be due to a diagnosed condition made only by an optometrist or physician, including but not limited to an ophthalmologist or dermatologist licensed to practice in this state, and such condition shall be verifiable in the World Health Organization International Classification of Disease ICD-9-CM as a recognized condition that would warrant an exemption pursuant to this Section.

(b) The secretary or his designated representative shall conduct a case-by-case review of grants and denials and shall make such changes as he deems necessary based on evidence presented to him by a person seeking an exemption.

(c) Any exemption granted under the provisions of this Section shall be subject to review every three years unless deemed otherwise by the department; however, an exemption granted to a person with a diagnosed light-sensitive porphyria shall be valid for the duration of the ownership of a vehicle.

(d)(i) Persons convicted of violent crimes or drug offenses shall not be eligible for a medical exemption. Therefore, at the time of applying for the exemption, the applicant shall provide written consent on a form approved by the Louisiana Bureau of Criminal Identification and Information authorizing the bureau to release any information contained in the applicant's criminal history record and identification files to the office of state police

for verification that the applicant has not been convicted of a violent crime or drug offense.

(ii) Applicants shall submit a full set of fingerprints and the department shall authorize the bureau to conduct a state and federal criminal history record check, which shall include a check of National Criminal History Records from the Federal Bureau of Investigations Criminal Justice Information Services Division.

(e) Any exemption issued shall be subject to administrative review and possible cancellation as a result of a documented event involving a threat to police officer safety.

B.(1) The affidavit shall include a description of the vehicle and shall be in the possession of the person so afflicted, or the person's legal representative, at all times while being transported in the motor vehicle or be kept within the described vehicle.

(2) If a vehicle is traded or sold that is covered by an exemption, then the person accepting the vehicle to be transferred shall be responsible for removing the tint, unless the new owner has applied for and received an exemption.

C. Any medical exemption issued prior to January 1, 2005 shall expire one year from the date of issuance.

D. Any exemption granted pursuant to this Section shall not apply to the area below the top six inches of a motor vehicle windshield unless specifically authorized by the optometrist or physician granting or requesting the medical exemption provided for in this Section for a patient who is diagnosed with a light-sensitive porphyria.

E. The Department of Public Safety and Corrections shall issue a decal for each vehicle covered by an exemption issued pursuant to this Section. The decal shall be prominently displayed on the vehicle at all times and shall indicate that the vehicle has tinted windows because an occupant has a medical issue warranting an exemption under this Section.

RS 32:361.3 — Security exemption

Department of Public Safety and Corrections stating that valid security reasons exist which make it necessary to equip the motor vehicle with sun screening material which would be of a light transmission or luminous reflectance in violation of R.S. 32:361.1. The affidavit shall include a description of the vehicle and be kept within the described vehicle.

Additionally, at the time of applying for the exemption, the applicant shall provide written consent on a form approved by the Louisiana Bureau of Criminal Identification and Information authorizing the bureau to release any information contained in the applicant's criminal history record and identification files to the office of state police for verification that the applicant has not been convicted of a violent crime or drug offense. The department shall adopt rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section.

B. Any vehicle owned, leased, operated, or otherwise controlled by a governmental or law enforcement agency to conduct official business shall qualify for the security exemption provided for in this Section without the necessity of applying for the exemption or providing written consent for release of criminal history record and identification files for the operator of such vehicle.

C. Any exemption granted pursuant to this Section shall not apply to the area below the top six inches of a motor vehicle windshield.

RS 32:362 — Restrictions as to tire equipment

of the flange of the entire periphery of the rim of the wheel.

B. No tire on a vehicle moved on a highway shall have on its periphery any protuberances of any material, other than rubber, which projects beyond the thread of the traction surface of the tire, except that it shall be permissible to:

(1) Use farm machinery with tires having protuberances which will not injure the highways; and

(2) Use tire chains of reasonable proportions upon any vehicle, when required for safety because of conditions tending to cause a vehicle to slide or skid.

C. The department may issue emergency permission authorizing the operation upon the highways of traction engines or tractors having movable tracks with transverse corrugations upon their periphery, or farm tractors or other farm machinery or instruments of husbandry.

D. No person shall operate or move on any highway of this state any motor vehicle, trailer, or semi-trailer having any metal tire in contact with the highway.

E. It shall be unlawful for any person to sell, offer to sell or trade, or knowingly use any motor vehicle tire not in compliance with Sub-section A of this Section; or to sell, offer to sell, or trade, or knowingly use any motor vehicle tire the original tread of which has been worn, and which without additional treading being added, has been grooved so as to give the appearance of a new tire or a tire which has been recapped. Any person violating the provisions of this Sub-section upon conviction, shall be punished by a fine of fifty dollars or thirty days in jail for the first offense and, a fine of two hundred fifty dollars or three months in jail, or both, for a second offense, and for a third or subsequent offense, shall be fined five hundred dollars and shall be imprisoned for six months in jail.

RS 32:363 — Fuel tank caps

tible materials.

RS 32:364 — Fenders and mudguards

cluding flaps or splash aprons, or fender flares to effectively minimize the spray or splash of water or mud or loose material on the highways to the rear of the vehicle unless the body of the vehicle or attachments thereto afford such protection.

The width of such fenders, covers, or other devices shall be at least the width of the tires of the motor vehicle.

B. This Section does not apply to those vehicles exempt from registrations, nor to any other vehicle having an unladen weight of under one thousand five hundred pounds, nor to those vehicles which were not supplied with the equipment required in Subsection A of this Section at the time of manufacture, nor to trucks and farm vehicles handling and hauling agricultural and forestry products.

RS 32:365 — Television

television broadcast or a video signal that produces entertainment or business applications where the moving images are visible to the driver while the motor vehicle is in motion.

Additionally, no retailer shall install a television receiver, screen, or other means of receiving a visual television broadcast or video signal that produces entertainment or business applications, in a motor vehicle at any point which would make the moving images visible to the driver while the motor vehicle is in motion. The provisions of this Paragraph shall also apply to "digital versatile disc" or "digital video disc" players which are also commonly known as DVD players.

(2) The provisions of Paragraph (1) of this Subsection shall not apply to the following equipment when installed in a motor vehicle:

(a) A vehicle information display.

(b) A navigation or global positioning display.

(c) A mapping display.

(d) A visual display used to monitor the area immediately around a motor vehicle for the purpose of maneuvering the vehicle.

(e) A television receiver, video monitor, television or video screen that produces entertainment or business applications, or any other similar means of visually displaying a television broadcast or video signal, if that equipment has a device that, when the motor vehicle is being driven, disables the equipment for all uses except as a visual display as

described in Subparagraphs (a) through (d) of this Paragraph.

(3) The provisions of Paragraph (1) of this Subsection shall not apply to a self-contained motor home which is in excess of twenty-one feet in length.

B.(1) Law enforcement officers of the state or any political subdivision shall be authorized to operate video recording equipment and monitors in their law enforcement vehicles while in the performance of their duties.

(2) Agents, contractors, or subcontractors of an agency, office, local municipality, local authority, or any political subdivision of this state with the authority to enforce traffic regulations shall be strictly prohibited from using video recording equipment and monitors while in the performance of their duties for the purpose of monitoring, recording, and issuing a traffic citation by mail, except as required to provide the ministerial tasks of providing law enforcement with video evidence necessary for law enforcement to make a determination to issue a traffic citation.

RS 32:366 — Required equipment of tow cars

ent shall remove all glass and debris deposited upon the roadway by the disabled vehicle which is to be towed.

(2) A shovel, and whenever practical the tow car driver engaged to remove any disabled vehicle shall spread dirt upon that portion of the roadway where oil or grease has been deposited by such disabled vehicle.

(3) A fire extinguisher of at least two quart capacity of a type capable of extinguishing a fire of flammable liquid.

RS 32:367 — Certain vehicles to carry flares or other warning devices

ehicle, upon any highway of this state at any time between sunset and sunrise, unless there is carried in such vehicle the following equipment, except as provided in Subsection B:

(1) At least three flares, three red electric lanterns, or three portable red emergency reflectors, each of which shall be capable of being seen and distinguished at a distance of not less than six hundred feet under normal atmospheric conditions at night time.

No flare, fuses, electric lantern, or cloth warning flag shall be used for the purpose of compliance with the requirements of this Subsection unless such equipment is of a type which has been submitted to the secretary of public safety and been approved by him.

No portable reflector unit shall be used for the purpose of compliance with the requirements of this Subsection unless it is so designed and constructed as to include two reflecting elements, one above the other, each of which shall be capable of reflecting red light clearly visible, from all distances within six hundred feet to one hundred feet under normal atmospheric conditions at night, when directly in front of lawful upper beams of headlamps, and unless it is of a type which has been submitted to the commissioner and been approved by him.

(2) At least three red burning fuses, unless red electric lanterns or red portable emergency reflectors are carried.

(3) At least two red cloth flags not less than twelve inches square, with standards to support such flags.

B. No person shall operate, at the time and under conditions stated in Sub-section A, any motor vehicle used for the transportation of explosives, any cargo tank truck used for the transportation of flammable liquids or compressed gases, or any motor vehicle using compressed gas as a fuel, unless there is carried in such vehicle three red electric lanterns or three red emergency reflectors meeting the requirements of Sub-section A of this section, and there shall not be carried in any such vehicle any flares, fuses or signals produced by flame.

RS 32:368 — Display of warning devices when vehicle disabled

vehicle, is disabled upon the traveled portion of any highway of this state, or the shoulder thereof, at any time when lighted lamps are required on vehicles, the driver of such vehicle shall display the following warning devices upon the highway during the time the vehicle is so disabled on the highway except as provided in Subsection B of this Section:

(1) A lighted fuse, a lighted red electric lantern or a portable red emergency reflector shall be immediately placed at the traffic side of the vehicle in the direction of the nearest approaching traffic.

(2) As soon thereafter as possible, but in any event within the burning period of the fuse (15 minutes), the driver shall place three liquid burning flares (put torches), or three lighted red electric lanterns or three portable red emergency reflectors on the traveled portion of the highway in the following order:

(a) One, approximately 100 feet from the disabled vehicle in the center of the lane occupied by such vehicle and toward traffic approaching in that lane.

(b) One, approximately 100 feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by such vehicle.

(c) One at the traffic side of the disabled vehicle approximately 10 feet rearward or forward thereof in the direction of the nearest approaching traffic.

B. Whenever any vehicle referred to in this Section is disabled within 500 feet of a curve, hillcrest or other obstruction to view, the warning signal in that direction shall be placed as to afford ample warning to other users of the highway, but in no case less than 100 feet nor more than 500 feet from the disabled vehicle.

C. Whenever any vehicle of a type referred to in this Section is disabled upon any roadway of a divided highway of the state during the time that lights are required, the appropriate warning devices prescribed in Sub-sections A and E of this Section shall be placed as follows:

(1) One at a distance of approximately 200 feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane;

(2) One at a distance of approximately 100 feet from the vehicle in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane;

(3) One at the traffic side of the vehicle and approximately 10 feet from the vehicle in the direction of the nearest approaching traffic.

D. Whenever any vehicle of a type referred to in this Section is disabled upon the traveled portion of a highway of this state or the shoulder thereof, outside of any municipality, at any time when the display of fuses, flares, red electric lanterns or portable red emergency reflectors is not required, the driver of the vehicle shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, one at a distance of approximately 100 feet in advance of the vehicle, and one at a distance of approximately 100 feet to the rear of the vehicle.

E. Whenever any motor vehicle used in the transportation of explosives, any cargo tank truck used for the transportation of any flammable liquid or compressed flammable gas, or any motor vehicle using compressed gas as a fuel, is disabled upon a highway of this state at any time or place mentioned in Sub-section A of this Section, the driver of such vehicle shall immediately display the following warning devices:

(1) One red electric lantern or portable red emergency reflector placed on the roadway at the traffic side of the vehicle; and

(2) Two red electric lanterns or portable red reflectors, one placed approximately 100 feet to the front and one placed approximately 100 feet to the rear of the disabled vehicle in the center of the traffic lane occupied by such vehicle.

Flares, fuses or signals produced by flame shall not be used as warning devices for disabled vehicles of the type mentioned in this Sub-section.

F. The flares, fuses, red electric lanterns, portable red emergency reflectors and flags to be displayed as required in this Section shall conform with the requirements of R.S. 32:367 applicable thereto.

RS 32:369 — Red flags, use in parking certain vehicles

eight carrying vehicles and combinations thereof, shall be equipped with two red flags, one to be placed 100 feet behind and the other 100 feet ahead of said parked vehicles and in such a position as to be visible to all approaching traffic during the daylight hours.

RS 32:370 — Warning devices must be approved by commissioner prior to sale or use thereof

a motor vehicle on the highways in this state any warning device mentioned in this Chapter, unless such device has been submitted to the commissioner and been approved by him.

RS 32:371 — Enforcement of Part

provided for, and he shall have the power to make and publish regulations and requirements with reference to the types of flares, flags, or warning devices to be carried as equipment by motor vehicles.

RS 32:372 — Warning devices, submission to commissioner; fee

together with a fee of twenty-five dollars. This fee shall be used in making proper tests of the devices submitted and in issuing certificates of approval therefor in accordance with the requirements for oil burning flares or reflectors or similar devices as adopted by him.

RS 32:373 — Removal of warning device

pon the highway.

RS 32:374 — Violation of regulations of commissioner

ended by Acts 1977, No. 113, §1, eff. June 22, 1977.

RS 32:375 — Air conditioning equipment

d maintained with due regard for the safety of the occupants of the vehicle and the public, and shall not contain any refrigerant which is toxic to persons or which is flammable.

B. The commissioner may adopt and enforce safety requirements, regulations, and specifications consistent with the requirements of this Section applicable to such equipment, which shall correlate with and, so far as possible, conform to the current recommended practice or standard application to such equipment approved by the Society of Automotive Engineers.

C. No person shall have for sale, offer for sale, sell or equip any motor vehicle with any equipment unless it complies with the requirements of this Section.

D. No person shall operate on any highway of this state any motor vehicle equipped with any air conditioning equipment unless said equipment complies with the requirements of this Section.

RS 32:376 — Special lights for certain department vehicles

he rear, which lights may be illuminated while the vehicles are in use upon the highway.

RS 32:377 — Slow moving vehicle, identification

lement of husbandry normally operating at speeds not in excess of twenty-five miles per hour on public streets and roads at all times shall be equipped with a slow moving vehicle emblem as follows:

- (1) Where the towed unit or any load thereon obscures the slow moving vehicle emblem on the towing unit, the towed unit shall be equipped with a slow moving vehicle emblem.
- (2) Where the slow moving vehicle emblem on the towing unit is not obscured by the towed unit or its load, then either or both may be equipped with the required emblem, but it shall be sufficient if either has it.
- (3) The emblem required shall comply with current standards and specifications as established by the American Society of Automotive Engineers and approved by the commissioner.

RS 32:378 — School bus body, hood, and bumpers; color of paint; back-up audible alarms

national school bus yellow except that the hood shall be painted the same color or lusterless black and its roof may be painted white. Bumpers shall be painted glossy black, except that for increased night visibility they may be covered with a retroreflective material.

B. Any school bus that is not used to transport students to and from home or school bus stops shall be painted a color other than national school bus yellow, and all lights, signals, and other devices and any lettering identifying the vehicle as a school bus shall be removed.

C. Nothing contained in this Section shall prohibit a yellow school bus owned by a church from being used for other church related purposes.

D. Every new school bus ordered or purchased after August 15, 1993, and every used bus not in service as a school bus on that date, but put into service as a school bus thereafter, shall be equipped with an automatic back-up audible alarm which sounds on backing and which is capable of emitting sound audible under normal conditions from a distance of not less than one hundred feet. The alarm shall also be capable of operating automatically when the vehicle is in neutral or a forward gear but rolls backward.

RS 32:378.1 — Display of patently obscene words, photographs, and depictions

rt of such motor vehicle any sticker, decal, emblem, or other device containing patently obscene words, photographs, or depictions that are displayed to members of the public not occupying such vehicle. For the purposes of this Section, "obscene" shall have the meaning of "obscurity" as contained in R.S. 14:106.

B. Any person who violates the provisions of R.S. 32:378.1, upon conviction, may be penalized by a fine not to exceed one hundred dollars.

RS 32:378.2 — Ignition interlock devices; condition of probation for certain DWI offenders;

ection I of this Section, the court may require that any person who is placed on probation as provided in R.S. 14:98.1, and the court shall require that any person who is placed on probation as provided by R.S. 14:98.2, not operate a motor vehicle during the period of probation unless the vehicle is equipped with a functioning ignition interlock device as provided in this Section.

B.(1) Any person who has had his driver's license suspended, revoked, or canceled under any of the following conditions shall, upon proof to the Department of Public Safety and Corrections that his motor vehicle has been equipped with a functioning ignition interlock device as provided in this Section, be issued a restricted driver's license:

(a)(i) Upon first or second conviction, or entry of a plea of guilty or nolo contendere and sentence thereupon or the forfeiture of bail, for the offense of operating a motor vehicle while under the influence of alcoholic beverages.

(ii) However, if the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the following restrictions shall apply:

(aa) Upon first offense, if the offender had a blood alcohol concentration of 0.15 percent or greater, the offender shall be issued a restricted driver's license during the entire period of the two-year driver's license suspension imposed under the provisions of R.S. 14:98.1(A)(3)(b) and (c) and shall be required to have a functioning ignition interlock device installed on his vehicle during the period of the suspension.

(bb) Upon second offense, if the offender has a blood alcohol concentration of 0.15 percent or greater, the offender shall be eligible for a restricted driver's license for the period of suspension as imposed under the provisions of R.S. 14:98.2(A)(3)(b) and (c). The offender may be issued a restricted license during the entire four years on his suspension and shall be required to have a functioning ignition interlock device installed on his vehicle during the four-year suspension.

(b) For the offense of driving while under suspension if the suspension was the result of a conviction, or entry of a plea of guilty or nolo contendere and sentence thereupon or the forfeiture of bail, for a first or second offense of operating a motor vehicle while under the

influence of alcoholic beverages.

(c) For the refusal to submit to a chemical test for the purpose of determining the alcoholic content of his blood when arrested for a first or second offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while believed to be under the influence of alcoholic beverages.

(d) For submitting to a chemical test to determine the alcohol content of blood where the test results showed over 0.08 percent by weight of alcohol in the blood, or where the results showed under 0.08 percent by weight of alcohol in the blood but the person was nevertheless convicted for a first or second offense of a law or ordinance which prohibits operating a vehicle while intoxicated.

(2) The restricted license shall be designated as such by a large red "R" and shall be effective for the remaining period of suspension or as long as the functioning ignition interlock device is in place, whichever period is longer.

(3) The department shall designate in writing, and upon application of the person, amend as necessary, the routes over which and the times during which the restricted licensee shall be permitted to operate designated motor vehicles in order to earn his livelihood, which written restrictions shall be attached to the restricted license and kept with it at all times.

(4) Any person granted a restricted driver's license under the provisions of this Subsection who tampers with, circumvents the operation of, or removes the ignition interlock device during the period for which the restricted license is granted shall have his driving privileges suspended for a period of time not to exceed one year and may be punished by imprisonment of twenty days, such punishment to be in addition to other penalties provided by law for related offenses.

C. No person whose driving privilege has been restricted under a condition of probation as provided in this Section shall:

(1) Rent, lease, or borrow a motor vehicle unless that vehicle is equipped with a functioning ignition interlock device.

(2) Request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

D. No person shall blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to another person whose driving privilege is restricted.

E. No person shall tamper with or circumvent the operation of an ignition interlock device.

F. Any person convicted of a violation of this Section shall be punished by imprisonment for not more than six months or a fine of not more than five hundred dollars, or both.

G. If the court imposes the use of an ignition interlock device as a term of probation on a person whose driving privilege is not suspended or revoked, the court shall require the person to provide proof of compliance to the court or the probation officer within thirty days. If the person fails to provide proof of installation within that period, absent a finding by the

court of good cause for that failure which is entered into the court record, the court shall revoke the person's probation.

H. The person whose driving privilege is restricted pursuant to this Section shall have the system monitored by the manufacturer, at the manufacturer's expense, for proper use at least every thirty days, and more frequently as the court may order, on the operation of each ignition interlock device in the person's vehicles. A report of monitoring shall be issued by the manufacturer to the court and the department within fourteen days after the system is monitored. However, the report issued to the department shall be in an electronic format specified by the department.

I. If a person is required to operate a motor vehicle in the course and scope of his employment which does not have an approved ignition interlock device, and if the vehicle is owned by the employer, the court may allow the person who is prohibited from operating a motor vehicle without such a device to operate the employer's vehicle while actually in the course and scope of employment, if the employer has been notified by the person that the person's driving privilege has been restricted and if the person has proof of that notification and evidence of court approval in his possession or the notice, or a facsimile copy thereof, is with this vehicle. The exemption provided by this Subsection shall not apply to any motor vehicle owned by a business entity which is all or partly owned or controlled by a person otherwise subject to this Subsection.

J.(1) The secretary of the Department of Public Safety and Corrections shall certify, or cause to be certified, ignition interlock devices required by this Section, and publish a list of approved devices. All reasonable costs of certification shall be borne by the manufacturer. The manufacturer of the system shall be responsible for the installation or the training of installers, and shall educate users and service and maintain the system.

(2) The secretary shall formulate and promulgate a set of standards for the proper use of ignition interlock devices in full compliance with this Section. The standards shall include, but not be limited to, requirements that the devices or systems:

- (a) Do not impede the safe operation of the vehicle.
- (b) Have features that make circumventing difficult and that do not interfere with the normal use of the vehicle.
- (c) Correlate well with established measures of alcohol impairment.
- (d) Work accurately and reliably in an unsupervised environment.
- (e) Resist tampering and give evidence if tampering is attempted.
- (f) Are difficult to circumvent, and require premeditation to do so.
- (g) Minimize inconvenience to a sober user.
- (h) Require a proper, deep lung breath sample or other accurate measure of blood alcohol content equivalence.
- (i) Operate reliably over the range of automobile environments.
- (j) Are manufactured by a party who will provide product liability insurance.

K. The Department of Public Safety and Corrections may, in its discretion, and consistent with this Section, adopt in whole or relevant part, the guidelines, rules, regulations, studies, or independent laboratory tests performed on and relied upon in the

certification or approval of ignition interlock devices by other states, their agencies or commissions.

L. The secretary shall design and adopt by regulation a warning label which shall be affixed to each ignition interlock device upon installation. The label shall contain a warning that any person tampering, circumventing, or otherwise misusing the device is guilty of a misdemeanor and may be subject to civil liability.

M.(1) Any individual who installs an ignition interlock device, approved by the Department of Public Safety and Corrections, as a requirement of bail, a part of a pre-trial diversion program, or a term of a suspended or deferred sentence as provided in Code of Criminal Procedure Article 894, for an offense involving the operation of a motor vehicle while under the influence of alcohol, drugs, or a combination of alcohol and drugs and is arrested or subsequently convicted for such an offense, shall receive credit towards suspension time or any reinstatement requirement that may be imposed if any of the following occurs:

(a) The installation and monitoring of the ignition interlock device is reported to the Department of Public Safety and Corrections by the manufacturer in accordance with Subsection H of this Section.

(b) The individual whose driving privilege is restricted appears at an office of motor vehicles field office and is issued a renewed or duplicate driver's license that contains a restriction code indicating that any vehicle operated by the individual shall be equipped with an ignition interlock device.

(2) No credit towards suspension time or any reinstatement requirement shall be given if any of the following occur:

(a) The manufacturer reports to the Department of Public Safety and Corrections that any of the following violations have occurred once during the period of installation:

(i) Tampering with the device.

(ii) Circumventing the device.

(b) The restricted operator fails to have the ignition interlock device serviced by an approved ignition interlock provider every thirty days more than two times during the period of installation.

(c) The device has recorded any of the following, or any combination of the following, three or more times in a thirty-day period:

(i) Failure to take or pass an initial breath test where pass is defined as a breath alcohol concentration less than 0.02g of alcohol per 210L of breath.

(ii) Failure to take or pass a retest where pass is defined as a breath alcohol concentration less than 0.02g of alcohol per 210L of breath.

(d) Unauthorized removal of the device.

(3) No credit towards suspension time or any reinstatement requirement shall be given if the individual is charged or arrested for any offense involving the operation of a motor vehicle while under the influence of alcohol, drugs, or a combination of alcohol and drugs during the period in which the individual is required to have an ignition interlock device as a requirement of bail, a part of a pre-trial diversion program, or a term of a

suspended or deferred sentence as provided in Code of Criminal Procedure Article 894.

(4) The Department of Public Safety and Corrections shall promulgate such rules and regulations as are necessary to implement the provisions of this Subsection.

N. As used in this Section, "ignition interlock device" means a constant monitoring device that prevents a motor vehicle from being started at any time without first determining the equivalent blood alcohol level of the operator through the taking of a breath sample for testing. The system shall be calibrated so that the motor vehicle may not be started if the blood alcohol level of the operator, as measured by the test, reaches a level established by the court, consistent with the rules promulgated by the Department of Public Safety and Corrections.

O.(1) Any driver statutorily required to utilize and maintain an ignition interlock device shall be in and remain in compliance with the standards set forth in Paragraph (M)(2) of this Section. Upon notice to the Department of Public Safety and Corrections of any violations of Paragraph (M)(2) of this Section, the department shall further restrict the driver's license and extend the period the ignition interlock device is required as follows:

(a) One month if the ignition interlock device was installed pursuant to a first offense of any violation provided for in Paragraph (B)(1) of this Section.

(b) Six months if the ignition interlock device was installed pursuant to a second or subsequent offense of any violation provided for in Paragraph (B)(1) of this Section.

(2) The department shall notify the driver that his driver's license will be restricted for the length of time provided in Paragraph (1) of this Subsection.

(3) A report of such noncompliance shall be issued by the manufacturer to the department in accordance with Subsection H of this Section.

P. No provision of this Section shall be construed to require the use of any particular vendor who meets the requirements set forth in R.S. 15:307 for ignition interlock devices.

RS 32:378.3 — Installation of sound amplification systems to exterior of vehicle; prohibited

ited to vehicle grill or undercarriage, or used in such a manner as to emit sound outside of a vehicle.

B. Vehicle horns shall not be wired in order to make a sound other than the sound made by the manufactured installed horn.

C. Every person convicted of a violation of this Section shall be punishable by a fine of not less than five hundred dollars. No less than twenty-five dollars of each fine imposed pursuant to the provisions of this Section shall be collected by the court and shall immediately be forwarded to the state treasurer for deposit in the state treasury. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana, the remainder shall be appropriated to the Louisiana Commission for the Deaf.

D. The provisions of this Section shall not apply to emergency response vehicles, recreational vehicles, vehicles while in a parade, vehicles towing trailers, or vehicles used solely for commercial purposes.

RS 32:378.4 — Autonomous vehicle equipment requirements

be subject to motor vehicle

equipment laws or equipment regulations of this state that relate to or support motor vehicle operation by a human driver and are not relevant for an automated driving system.

RS 32:379 — Applicability; regulations in excess of R.S. 32:380 through R.S. 32:386 prohibited

icles in regular operation, as defined in R.S. 32:1. Vehicles operated under the terms of special permits are covered in R.S. 32:387.

B. The department shall not enact any regulation to allow any vehicle to travel the highways of this state in excess of the limits or requirements provided in R.S. 32:380 through R.S. 32:386, both inclusive.

RS 32:380 — Width; projecting loads on vehicles

e inches beyond the width of its body.

C. The width of a farm tractor shall not exceed nine feet.

D. The secretary shall designate the qualifying highway system to which the foregoing width limitations shall apply.

E. Repealed by Acts 2003, No. 347, §2.

RS 32:381 — Height

ay system shall not exceed fourteen feet, provided that vehicles operating on the interstate highway system shall have reasonable access, within one road mile from the interstate highway to terminals and facilities for food, fuel, repairs, and rest, unless prohibited for specific safety reasons on individual routes.

(2) The operator of a vehicle that is higher than thirteen feet six inches shall ensure that the vehicle will pass through each vertical clearance of a structure in its path without touching the structure.

(3) Any damage to a bridge, underpass, or similar structure caused by the height of a vehicle shall be the responsibility of the owner of the vehicle.

B. Nothing in this Section shall be interpreted to require the state or any subdivision thereof or any person, firm, or corporation in this state to raise, alter, construct, or reconstruct any overpass, wire, pole, trestle, or other structure to provide such clearance.

RS 32:381.1 — Prohibited vehicle modifications; wheel well

t fender is six or more inches greater than

the height of the rear fender. For the purposes of this Subsection, the height of the fender shall be a vertical measurement from and perpendicular to the ground, through the centerline of the wheel, and to the bottom of the fender.

B. The provisions of this Section shall only apply to vehicles with no payload and no trailer attached.

RS 32:382 — Length; special length limits

ot exceed thirty feet. The

length of the semitrailer portion of a tractor-semitrailer combination shall not exceed fifty-nine feet and six inches. The length of the semitrailer or trailer portion of a tractor-semitrailer-trailer combination shall not exceed thirty feet.

The length of the trailer portions of a tractor-trailer-trailer combination shall not exceed thirty feet. The length of the semitrailer portions of a tractor-semitrailer-semitrailer combination shall not exceed thirty feet.

(2)(a) The load carried by a combination of vehicles transporting timber poles and piling shall not exceed sixty-five feet plus one foot additional tolerance in length. The load carried by a combination of vehicles transporting forest products in their natural or treated state shall not exceed sixty-five feet plus one foot additional tolerance in length. Said combinations transporting poles and piling or forest products in their natural or treated state shall operate only during daylight hours and shall display a red flag or cloth not less than one foot square at the rear of the load. A combination of vehicles transporting forest products in their natural state shall be equipped with stationary vertical retaining poles on the driver's side of the trailer portion.

(b) No combination of vehicles shall consist of more than two vehicles, except as provided in R.S. 32:384(C) and Paragraph (3) of this Subsection and except that combinations of truck-tractor and two trailers; truck-tractor and two semi-trailers; or truck-tractor, semi-trailer, and trailer are permitted.

(c) The combination of vehicles consisting of three vehicles excepted in this Section by Subparagraph (b) of this Paragraph shall be permitted to operate over all highways within the Interstate System and other highways designated by the secretary.

(d) No combination of vehicles operated on any parish road under the jurisdiction of the police jury shall consist of more than two vehicles, except as provided in Paragraph (3) of this Subsection.

(3)(a) A vehicle having no more than two axles may tow any combination of two vehicles, provided the combination of vehicles does not exceed sixty-five feet.

(b) A vehicle having no more than two axles and owned and/or operated by a manufacturer or dealer of boats may tow two boat trailers.

B. Special length limits

(1) Subject to the provisions of R.S. 32:380 and 381 and Subsection A of this Section, the load upon any single vehicle or upon the front vehicle of a combination of vehicles shall not project more than four feet beyond the foremost part of said vehicle, and the load upon any single vehicle or upon the rear vehicle of a combination of vehicles shall not project more than eight feet beyond the rear of the bed or body of said vehicle, except that the load upon the rear vehicle of a combination of vehicles transporting poles and piling shall not project more than fifteen feet beyond the rear of the bed or rear tire of said vehicle, whichever is further from the cab, and the load upon the rear vehicle of a combination of vehicles transporting forest products in their natural state shall not project more than twenty feet beyond the rear of the bed or rear tire of said vehicle, whichever is further from the cab, and said load or loads must maintain a two foot clearance above the pavement structure, and provided further said combination of vehicles transporting forest products in their natural state with a rear projecting load in excess of fifteen feet shall operate only during daylight hours and shall display a red flag or cloth not less than one foot square at the rear of its projected load. A combination of vehicles transporting forest products in their natural state shall be equipped with stationary vertical retaining poles on the driver's side of the trailer portion.

(2) Equipment that is permanently attached to and cannot be readily removed from a vehicle shall not constitute load and the provisions of Paragraph (1) of this Subsection shall not apply to such vehicles if the following conditions exist:

(a) The vehicle meets requisite state safety standards to be and is licensed for use on state highways; and

(b) That portion of such equipment which extends in front of the foremost part of said vehicle has a minimum vertical clearance above the surface of the highway of six feet.

(c) The provisions of this Section shall not apply to vehicles collecting garbage, rubbish, refuse, or recyclable materials which are equipped with front-end loading attachments and containers provided that the vehicles are actively engaged in the collection of garbage, rubbish, refuse, or recyclable materials.

(3) Sportsmen coaches or vehicles obviously used solely for recreational purposes and registered therefor may tow a combination of no more than two vehicles and shall not exceed seventy feet in total length.

C. The combinations of vehicles consisting of three vehicles excepted by Subparagraph (A)(2)(b) of this Section shall have reasonable access, not to exceed ten miles, between the interstate system or other highways designated by the secretary and terminals and facilities for food, fuel, repairs, and rest, unless otherwise prohibited. Household goods carriers shall have unrestricted access for loading and unloading purposes only, unless otherwise prohibited.

D. The secretary shall designate the qualifying highway system to which the foregoing length limitations shall apply.

E. The foregoing regulations of tractor-semi-trailer combinations shall not prohibit the operation, replacement, or reasonable business expansion of those types or lengths of vehicles which are in actual and lawful use on or before July 2, 1983.

F. All vehicles of legal length on the interstate system and other designated systems but which are not of legal length off of the interstate system and other designated systems shall have reasonable access, not to exceed ten miles, between the interstate system or other highways designated by the secretary and terminals and facilities for food, fuel, repairs, and rest, unless otherwise prohibited. Household goods carriers shall have unrestricted access for loading and unloading purposes only, unless otherwise prohibited.

RS 32:383 — Loads on vehicles; care required thereto; penalties; definition

o secure traction or a liquid substance may be dropped on a highway to clean or maintain such highway.

(2) Any load of garbage, refuse, sludge, and other discarded material being transported by a commercial hauler shall be covered while being transported in such a manner as to prevent the load from spilling or dropping from the vehicle.

(3) Any violation of Paragraph (2) of this Subsection for failure to cover any load of garbage, refuse, sludge, and other discarded material shall be punishable by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both.

(4) The penalty provisions of Paragraph (3) of this Subsection shall not apply when the load was properly covered and subsequently became uncovered as the result of an accident or circumstances beyond the control of the operator of the vehicle.

B.(1) The load on any vehicle shall be securely fastened so as to prevent the covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

(2) Freight containers, as defined in 49 CFR 171.8, used in both the waterborne transport of cargo and in the overland transport of cargo shall be properly secured so as to prevent the container from becoming loose, detached, or in any manner a hazard to other users of the highway.

(3) Any violation of Paragraph (2) of this Subsection shall be punishable by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both.

(4) The penalty provisions of R.S. 32:383(B)(3) shall not apply when the freight container was properly secured and subsequently became loose or detached as the result of an accident or circumstances beyond the control of the operator of the vehicle.

C. "Loose material" means dirt, sand, gravel, nails, or other material that is capable of blowing or spilling from a vehicle as a result of movement or exposure to air, wind currents, or weather, but shall not include agricultural products in their natural state or wood chips.

RS 32:383.1 — Loads of loose materials on vehicles; care required thereto; penalties

by the state or any political subdivision of this state after August 15, 1999, shall be covered in such a manner as to prevent the load from blowing, spilling, or dropping from the vehicle. However, a load of dirt or sand shall be exempt from the provisions of this Section if the load is being transported within a municipality with a population of not less than ten thousand five hundred nor more than eleven thousand two hundred in a parish with a population of no less than thirty-one thousand two hundred fifty nor no more than thirty-two thousand five hundred all according to the latest decennial census, and the speed of the vehicle transporting the load does not exceed twenty-five miles per hour.

B. Any violation of this Section for failure to cover a load of loose material while being transported shall be punishable by a fine of not less than one hundred dollars or more than two hundred dollars.

RS 32:384 — Trailers and towed vehicles

feet from one vehicle to the other, except that the drawbar or connection may exceed fifteen feet between any two vehicles transporting poles, pipes, machinery, or other objects of a structural nature which cannot be readily dismembered.

B. When the connection between a vehicle and a towed vehicle is a chain, rope, or cable, a red flag or cloth not less than one foot square shall be displayed upon such connection between sunrise and sunset, and a red light, plainly visible under ordinary atmospheric conditions for a distance of at least five hundred feet, shall be displayed upon such connection between sunset and sunrise.

C. Truck-tractors may be transported by a drawbar, pintle connection, or by the triple saddle mount method of transportation, consisting of a combination of four truck-tractors where the front axle of one truck-tractor is mounted on the fifth wheel of the lead truck-tractor, the front axle of the third truck-tractor is mounted on the fifth wheel of the second truck-tractor, and the front axle of the fourth truck-tractor is mounted on the fifth wheel of the third truck-tractor; and with the rear wheels of the second, third, and fourth truck-tractors trailing on the ground behind the operating motor unit, provided that:

(1) The combination of vehicles shall be equipped with necessary lights and signals in accordance with Louisiana law and Bureau of Motor Carrier Safety, United States Department of Transportation, Federal Highway Administration Safety Rules and Regulations;

(2) The rear wheels of the second, third, and fourth truck-tractors of the combination shall be equipped with adequate splash guards or mud flaps; and,

(3) It shall be unlawful to operate this combination of vehicles in excess of fifty-five miles per hour.

D. Every trailer and semitrailer with a loaded gross weight capacity of up to six thousand pounds shall be equipped with safety chains or other safety device approved in accordance with Subsection E. The safety chains or other approved safety device shall be securely attached to the towing vehicle when the trailer or semitrailer is in motion and shall be of sufficient strength to hold the trailer behind the towing vehicle in case the connection between the two vehicles detaches.

E.(1) The Department of Public Safety and Corrections, office of state police, shall have the authority to approve safety devices other than safety chains to be used when towing trailers or semitrailers. The approval of a safety device shall be in writing. Any such device shall be inspected by the office of state police before written approval is given. The following criteria shall be considered in making the determination of whether or not to approve such safety device as an alternative

to safety chains:

(a) The physical characteristics of the device, including but not limited to the material or materials used in constructing the device.

(b) The method by which the device is attached to the trailer or semitrailer.

(c) The overall strength of the device.

(2) The office of state police shall promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Subsection, including but not limited to the procedure for accepting and processing applications for approval of alternative safety devices.

RS 32:385 — Farm vehicles and equipment; exemptions

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transportation of farm vehicles and equipment to be used for normal farm purposes by persons transporting such farm equipment or machinery, for distances not to exceed fifty miles from the point of origin, and fertilizer tending units shall be exempt from the requirements of R.S. 32:380 through 382 and, additionally, farm equipment shall be exempt from the requirements of R.S. 32:384.

(b) Trailers and semi-trailers with a gross vehicle weight rating of not more than twelve thousand pounds, when owned and used by a retail business in this state and designed and used exclusively for the purposes of pick-up or delivery of new, used, or repaired farm equipment for distances not to exceed fifty miles from the point of origin, shall be exempt from the requirements of R.S. 32:380.

(2) Vehicles being operated to transport timber cutting or logging equipment from one job site to another and the equipment being transported, when the trailer upon which the equipment is towed and the equipment are owned or leased by the same person, shall be exempt from the requirements of R.S. 32:380, 381, and 382.

(3) Such farm vehicles and vehicles transporting cutting or logging equipment may use any public highways other than those designated as part of the national system of interstate and defense highways during the period from sunrise until sunset without obtaining a special permit from the secretary, as provided in R.S. 32:387, or from any other agency or department of the state or political subdivisions, provided that such machinery or equipment being shipped by persons to be used for normal farm purposes shall be equipped with front and rear reflector lights and with a blinking hazard light clearly visible from the front and rear.

B. The provisions of R.S. 32:380, 381, and 382, relative to limitations on the width, height, and length of motor vehicles shall not apply to trucks which transport seed cotton modules or cotton from the field to the gin, or cotton seed from the gin to the mill, if the owner or operators of such trucks obtain an annual permit to be issued by the secretary for an annual fee of five dollars, according to rules and regulations to be promulgated by the secretary.

NOTE: Subsection C eff. upon exemption notification from federal Dept. of Transportation. See Acts 1991, No. 445.

C. Notwithstanding any other provisions of law to the contrary, Part 393.86 of the Federal Motor Carrier Safety Regulations and state law as they pertain to the requirements

of bumpers or devices serving similar purposes shall not apply to any vehicle transporting seed cotton modules if such vehicle was manufactured prior to September 1, 1991.

RS 32:385.1 — Recreational vehicles; exemptions

purtenance that extends no more than six inches beyond the body of the vehicle.

RS 32:386 — Weight

gross weight.

B. No tire mounted on any axle attached to any vehicle or combination of vehicles shall impose a greater weight on the surface of a highway than six hundred fifty pounds per inch width of tire.

C. The total gross weight of any single axle attached to any vehicle and equipped with low pressure pneumatic tires shall not exceed twenty thousand pounds.

D. The total gross weight of any tandem axle or tandem steering axle attached to any vehicle and equipped with low pressure pneumatic tires shall not exceed thirty-four thousand pounds. However on any vehicle carrying forest products in their natural state, the weight limitation shall be thirty-seven thousand pounds per tandem axle and equipped with low pressure pneumatic tires except on the Interstate system.

E.(1)The total gross weight of any tridum axle attached to any vehicle and equipped with low pressure pneumatic tires shall not exceed forty-two thousand pounds.

(2) The total gross weight of any quadrum axle attached to any vehicle and equipped with low pressure pneumatic tires shall not exceed fifty thousand pounds.

F. The total gross weight of any single axle or any single steering axle attached to any vehicle and equipped with high pressure pneumatic, solid rubber or cushion tires shall not exceed eighteen thousand pounds.

G. The total gross weight of any tandem axle or any tandem steering axle attached to any vehicle and equipped with high pressure pneumatic, solid rubber or cushion tires shall not exceed thirty-two thousand pounds.

H.(1) For vehicles using the Interstate system, the overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles, shall be produced by application of the following formula:

$$W = 500(LN/(N - 1) + 12N + 36)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each provided the overall distance between the first and last axles of the consecutive sets of tandem axles is thirty-six feet or more. The overall gross weight shall not exceed eighty thousand pounds, including all enforcement tolerances, except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits.

(2) In accordance with 23 U.S.C.A. 127, certain vehicles carrying certain commodities shall be exempt from application of the formula. The exemptions shall include the following:

Vehicles with Type Two axle configuration (three axle combination with one single axle and one set of tandem axles); or Type Six axle configuration (five axle combination with one single axle and two sets of tandem axles); or a vehicle with Type Eight axle configuration (six axle combination with one single axle, one tandem axle, and one tridem axle); or vehicles with Type Ten axle configuration (double bottom); or Type Eighteen axle configuration (four axle combination with one single axle and one set of tridem axles) carrying any of the following bulk commodities thereof: forest products in their natural state, lumber, sand, gravel, agricultural products in their natural state, loose or mixed concrete (including asphaltic or Portland cement), or bulk liquid commodities.

(3) All vehicles which are rendered economically useless by application of the bridge formula which are legal and operational on the effective date of this Subsection shall remain legal for a period of five years from the effective date of this Subsection. The trucking industry is hereby granted a phase-in period to extend for a period of five years from the effective date of this Subsection, within which time it shall adjust, modify, or replace equipment to comply with the provisions of this Subsection.

I. Notwithstanding the provisions of Subsection (A) of this Section and subject to the provisions of Subsections B, C, D, and E of this Section, the total gross weight of any combination of vehicles which has a tridum axle or a quadrum axle shall not exceed eighty-eight thousand pounds while operating on any state-maintained highway except the Interstate System and shall not exceed eighty-three thousand four hundred pounds while operating on the Interstate System within this state.

J. When by reason of the condition of the weather or other emergency, or the physical condition of any highway or its recent construction, or the making of repairs thereto, the secretary deems it necessary, then for such time as is reasonably necessary to remedy the situation, he may prohibit the use of such highway or specify lesser gross weights than those fixed in this Section, pursuant to the recommendations of the chief engineer of the department, in order to protect the public highways and the persons and property of the traveling public from unnecessary damage. Notice of such restrictions, prohibitions, or weight reductions shall be given by the secretary by posters at the terminal of the highway. However, failure to post such notice shall under no circumstances make either the state or the department liable for damages which may result because of such failure.

K. Vehicles and combinations of vehicles shall be loaded in such manner that the axle limitations set forth in Subsections C, D, E, F, and G of this Section are not exceeded. However, while operating on any state-maintained highway except the Interstate System, the provisions of Subsections C, D, E, F, and G of this Section shall not be deemed to have been violated unless the axle weight exceeds by more than two thousand pounds Subsections C and F of this section or more than three thousand pounds Subsections D, E, and G of this Section. This Subsection shall in no way be construed to allow the total gross weight in any vehicle or combination of vehicles to exceed the gross weight limits set forth in Subsection A or I of this Section.

L.(1) Notwithstanding any provision of law to the contrary, a vehicle that is operated by an engine fueled primarily by compressed or liquified natural gas may exceed the gross

vehicle weight limits and any axle weight limits imposed by this Section by an amount, not to exceed a maximum of two thousand pounds, that is equal to the difference between the weight of the vehicle attributable to the natural gas tank and fueling system carried by the vehicle and the weight of a comparable diesel tank and fueling system.

(2) The weight exception provided in this Subsection shall apply to all state roads and interstate highways per the exemption expressly permitted by 23 U.S.C. 127, as amended by Section 1410 of the Fixing America's Surface Transportation Act of 2015.

RS 32:386.1 — Blanket oversize yearly permit; fees

vehicles the width of which does not exceed twelve feet, the height of which does not exceed fourteen feet and four inches, a length not to exceed ninety feet, and the front and rear overhang of which does not exceed twenty-five feet. The fee for this yearly permit shall be five hundred dollars. The secretary shall promulgate rules and regulations to provide for the implementation of this Section.

RS 32:387 — Special permits

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special permit from the department in addition to any other special permit which may be required from any other agency or department of the state or a political subdivision, and the special permit herein provided for shall be issued at the discretion of the secretary. If a permit issued pursuant to Subsection B of this Section authorizes a vehicle to operate on interstate highways, the secretary may allow the vehicle to operate on interstate highways at night if requested by the owner or operator.

B.(1) The secretary may issue a special permit for the operation of vehicles or combination thereof having dimensions or weights in excess of the limits imposed by R.S. 32:380 through 386 if the shipment is not readily divided, broken, or dismantled, or the operation of such vehicles is otherwise prohibited by law, however, if the parts which have been divided, broken or dismantled from the shipment weight in the aggregate of five hundred pounds, or less, then the shipment shall be considered as indivisible. Provided further, however, that the secretary may issue special overwidth permits for vehicles transporting pipe. In the exercise of his discretion, the secretary shall consider the following factors, as well as any other circumstances existing in the particular case:

- (a) There is a vital and exceptional economic necessity therefor;
- (b) The existence of a real necessity of transportation by public roads; or,
- (c) The secretary considers the best interest of the state requires the issuance of the permit.

(2) Subject to the provisions of Paragraphs (3) and (4) of this Subsection, the secretary may issue special permits to permit movement along the interstate highway system within Louisiana of vehicles and loads that do not meet the requirements of R.S. 32:380 through 386. The request for a permit may be denied, if the secretary determines that the vehicle or load traveling along the proposed route would endanger the public due to construction, highway conditions, or traffic along the proposed route. Any vehicle traveling under a special permit issued pursuant to the provisions of this Paragraph shall not exceed a speed of fifty-five miles per hour.

(3)(a) When an application for a special permit is made, the secretary may require

the special permit applicant to supply any information the secretary deems necessary for the protection of the interests of the state, the state highway system, and the public.

(b) Due to concurrent authority between the Department of Transportation and Development and the Department of Public Safety and Corrections for the enforcement of weight, size, and measurement laws and regulations, the secretary shall provide computer terminal access to information pertaining to all special permits to the Department of Public Safety and Corrections. All costs related to the acquisition of such access shall be incurred by the Department of Public Safety and Corrections.

(c) Due to concurrent authority between the Department of Transportation and Development and the Department of Public Safety and Corrections for the enforcement of weight, size, and measurement laws and regulations, the secretary of the Department of Public Safety and Corrections shall provide computer access to information pertaining to all special permits to the Department of Transportation and Development. All costs related to the acquisition of such access shall be incurred by the Department of Transportation and Development.

(4) The secretary may impose conditions upon the issuance of a special permit and may impose requirements upon its use, including but not restricted to the use of additional axles, so as to require that the axle weight conform as closely as possible to the weights provided in R.S. 32:386; the routing over the highways of the shipment under the special permit; the date, time of day, and speed limit; the furnishing of a bond with good and solvent surety to protect the state, the department, and all political corporations and subdivisions of the state from all liability and damage resulting from the use of such permit; the accompaniment of the vehicle and shipment by a proper escort, all at the expense of the permittee; and such other conditions or requirements as the secretary deems necessary and proper. When state police vehicles are required as a proper escort, there shall be a charge for the use thereof, and the secretary of the Department of Public Safety and Corrections shall determine the fees charged for the use of the state police vehicles so used. Such charge shall be based on the mileage of the escort with a minimum charge of twenty-five dollars. Any fees charged in excess of twenty-five dollars shall be adopted pursuant to the Administrative Procedure Act, R.S. 49:950 et seq.

(5) An overweight special permit shall be issued for the gross weight of the vehicle or combination of vehicles.

(6) The secretary may issue special permits to those vehicles transporting hay due to a disaster or emergency, including but not limited to severe and extended drought conditions. The secretary may promulgate the rules and regulations in accordance with the Administrative Procedure Act as may be necessary to implement the provisions of this Paragraph.

C.(1) The secretary may issue an annual special permit for the operation of those vehicles which are of such a particular design that they do not comply with R.S. 32:386.

This type of annual special permit shall be issued only if:

(a) The vehicles are nonload carrying, primarily operate off the road and only occasionally use the state maintained highway system, or,

(b) The vehicle is a waste disposal truck that was in actual use in this state as of January 1, 1977, and,

(c) Such vehicles are mounted with a minimum size 10.00 tire or such size tire as is required by the secretary.

The secretary may establish and collect a reasonable fee for this annual special permit.

(2)(a) In addition, subject to the provisions of Paragraphs (B)(3), (4), (5), and (6) of this Section, the secretary may issue special permits he finds essential and in the best interest of the state by reason of an emergency situation, unusual circumstances, natural catastrophes, or disasters affecting the transportation on the highways of the state of farm products in their natural state or forest products in their natural state. The weight limitations of any special farm or forest product permit so issued shall not exceed those set forth in R.S. 32:386(D), (E), (F), and (G); the gross weight of any combination of vehicles shall not exceed one hundred thousand pounds; and the length of any vehicle or combination of vehicles shall not exceed seventy-five feet. Each such special farm or forest product permit shall be issued for designated routes.

(b) The secretary may establish and collect reasonable fees for each special farm or forest product permit issued. Permit fees shall be uniform for each classification of vehicle and the purpose for which issued.

(3)(a) In addition, upon application of the owner or operator of any vehicle or combination of vehicles transporting farm and forest products in their natural state, transporting seed cotton modules, transporting cotton seed from the gin to the mill, transporting raw sugar from the mill to the refinery, or transporting brewer's grain, the secretary shall issue special harvest season permits within forty-eight hours of application and payment of fee for the transportation of farm and forest products in their natural state, for the transportation of seed cotton modules, for the transportation of cotton seed from the gin to the mill, for the transportation of raw sugar from the mill to the refinery, or for the transportation of brewer's grain on any state-maintained highway except the interstate system for a total gross weight of eighty-six thousand six hundred pounds for any vehicle or combination of vehicles provided:

(i) The total weight of any single axle shall not exceed twenty-two thousand pounds.

(ii) The total gross weight of any tandem axle shall not exceed thirty-seven thousand pounds, except as provided for vehicles carrying forest products in their natural state in R.S. 32:386(K).

(b) Under the same special harvest season permit, the owners and operators shall be authorized to transport farm and forest products in their natural state, to transport seed cotton modules, to transport cotton seed from the gin to the mill, to transport raw sugar from the mill to the refinery, or to transport brewer's grain on the interstate system for a total gross weight of eighty-three thousand four hundred pounds for any vehicle or combination of vehicles provided:

(i) The total gross weight of any single axle shall not exceed twenty thousand pounds.

- (ii) The total gross weight of any tandem axle shall not exceed thirty-five thousand two hundred pounds.
- (c) The provisions of Paragraphs (B)(1), (2), and (3) of this Section and R.S. 32:388(D) shall not apply to special harvest season permits.
- (d)(i) The secretary shall collect a one-time fee of ten dollars for each harvest year for the issuance of the special harvest season permits.
- (ii) An applicant for a timber harvest season permit for the operation of a vehicle or combination of vehicles that will be used to transport pulp wood, wood chips, unrefined timber, or woody biomass products in their natural state shall have the option to pay a one-time fee of one hundred dollars to the secretary for each harvest year for the issuance of such permit. Notwithstanding any provision of law to the contrary, any vehicle or combination of vehicles owned or operated by a timber harvest season permittee who paid one hundred dollars for the permit shall:
 - (aa) Be equipped with weight scales for purposes of weight regulation.
 - (bb) Not be assessed a penalty for exceeding its maximum permissible axle weight, as determined by law, provided the total excess gross weight does not exceed ninety-two thousand pounds.
 - (cc) Not exceed fifty-five miles per hour on the public highways of this state.
- (e) In addition, upon application of the owner or operator of any vehicle or combination of vehicles which has a minimum of eighteen wheels and which is engaged in the transfer of commercial and household trash, garbage, refuse waste, or recyclable waste material loaded exclusively from Department of Environmental Quality authorized pickup stations, or transfer stations, or both, and upon payment of a fee of ten dollars, the secretary shall issue a special permit authorizing the vehicle or combination of vehicles to operate on any state-maintained highway except the interstate system at a total gross weight of eighty-six thousand six hundred pounds. The permit shall be valid for one year. Except as otherwise provided in this Subparagraph, all of the provisions of this Paragraph shall apply to permits issued under the provisions of this Subparagraph and to vehicles or combinations of vehicles for which permits are issued under the provisions of this Subparagraph.
- (f)(i) In addition, upon application of the owner or operator of any vehicle or combination of vehicles which has a minimum of eighteen wheels, used to transfer commercial and household trash, garbage, refuse, or recyclable waste material loaded exclusively from the Department of Environmental Quality authorized pickup stations, or transfer stations, or both, and upon payment of a fee of one thousand dollars, the secretary shall issue a special permit authorizing the vehicle or combination of vehicles to operate at the maximum axle weights provided under the Department of Transportation and Development's regulations for overweight permit loads, on any state-maintained highway except the interstate system. The permit shall be valid for one year. Except as otherwise provided in this Subparagraph, all of the provisions of this Paragraph shall apply to permits issued under the provisions of this Subparagraph and to vehicles or combinations of vehicles for which permits are issued under the provisions of this Subparagraph.
- (ii) In addition, upon application of the owner or operator of any vehicle or combination of vehicles which has a minimum of eighteen wheels used to transfer bundled

or bailed recyclable waste paper products and upon payment of a fee of one thousand dollars, the secretary shall issue a special permit authorizing the vehicle or combination of vehicles to operate at the maximum axle weights provided under the Department of Transportation and Development's regulations for overweight permit loads on any state-maintained highway except the interstate system. Such vehicles or the loads thereon shall not exceed a width of ten feet. The permit shall be valid for one year. Except as otherwise provided in this Subparagraph, all the provisions of this Paragraph shall apply to permits issued under the provisions of this Subparagraph and to vehicle or combinations of vehicles for which permits are issued under the provisions of this Subparagraph. The provisions of this Item shall include the equipment necessary for the loading or unloading of the load.

(g) In addition, upon application of the owner or operator of any truck fitted with a compactor body which is engaged in the collecting and hauling of solid waste including residential solid waste, agricultural waste, commercial solid waste, construction or demolition debris, garbage, industrial solid waste, trash, white goods, woodwaste, and yard trash as defined by the Department of Environmental Quality's rules and regulations, and upon payment of a fee of fifty dollars, the secretary of the Department of Transportation and Development shall issue a special permit authorizing said single vehicles with tandem axles to operate on any state-maintained highway including the interstate system at a total gross weight not to exceed sixty-eight thousand pounds provided the federal government does not raise any objections to such permitted weight limitations and the secretary shall issue a special permit authorizing said single vehicles which have tridum axles to operate on any state-maintained highway including the interstate system at a total gross weight not to exceed eighty thousand pounds provided the federal government does not raise any objection to such permitted weight limitation. The permit shall be valid for one year. Except as otherwise provided herein, all of the provisions of this Paragraph shall apply to permits issued under the provisions herein and to said trucks for which permits are issued hereunder. Nothing herein shall preempt municipal or parish ordinances regulating weight limits on municipal or parish streets or roads.

(4) The secretary may issue an annual special overwidth permit for the operation of vehicles transporting pulpwood and plywood bolts not to exceed nine feet and forest management equipment except general construction equipment such as bulldozers, draglines, and graders, not to exceed ten feet. The secretary shall collect an annual fee of ten dollars for each pulpwood, plywood bolt, or forest management equipment special permit. This Paragraph does not apply to the operation of vehicles on the interstate system.

(5) The secretary may issue a special overwidth permit for the transportation of privately owned pleasure craft together with its accompanying trailer when the width does not exceed ten feet. The permit shall be valid for a period of thirty days from the date of issuance. The secretary shall collect a fee of ten dollars for each permit issued. This permit shall not be issued to companies or individuals engaged in the business of buying, selling, or transporting pleasure craft. The permit shall not apply to the operation on the interstate system or to other highways which may be designated by the secretary. The secretary may promulgate rules and regulations in accordance with the Administrative Procedure Act as

may be necessary to effectuate these provisions.

(6) The secretary may issue special permits to those vehicles transporting commodities between a port facility located outside the state of Louisiana on the Mississippi River and a manufacturing facility located within the state of Louisiana where the vehicle must enter the state via a bridge crossing the Mississippi River and transport commodities to a manufacturing facility located within the same parish as the bridge. The special permit issued shall provide for size and weight limitations and shall specify the roads or highways over which the vehicle may operate. The secretary may promulgate rules and regulations in accordance with the Administrative Procedure Act as may be necessary to effectuate the provisions of this Paragraph.

D. Neither the state nor the department shall incur any liability of any nature whatsoever to any permittee or any other person arising from the use of a special permit. Every special permit is issued upon the condition that the permittee accepts and uses it at his own risk, even though the directions and instructions of the secretary and particularly such instructions and requirements as those relating to routing, are faithfully complied with.

E.(1)(a) The secretary shall charge fees for special permits as provided in Subsection H of this Section for special permit applicants, if each permittee provides the department a surety bond or cash deposit in the minimum amount of one thousand dollars or any amount in excess thereof fixed by the secretary to guarantee payment of said account. To facilitate the use of such credit accounts, the department shall provide a sufficient number of Louisiana inbound wide area telephone service lines for use by the trucking industry.

(b) All of such special permit fees collected by the secretary shall be paid into the state treasury on or before the twenty-fifth day of each month following their collection and, in accordance with Article VII, Section 9 of the Constitution of Louisiana, shall be credited to the Bond Security and Redemption Fund. After compliance with the requirements of the Bond Security and Redemption Fund, the treasurer shall deposit an amount equal to all fees collected pursuant to special permits into the Transportation Trust Fund.

(2) The department shall keep a set of books showing from whom every dollar is received and for what purpose and to whom every dollar is paid and for what purpose. It also shall keep in its file vouchers and receipts for all monies paid out.

F. Any special permit shall be carried with the vehicle using the same and shall be available at all times for inspection by the proper authorities.

G. The secretary may adopt rules and regulations necessary to carry out the purpose of this Section relating to the issuance of special permits.

H. Special permit fees.

(1)(a) Except as provided for mobile homes in Subparagraph (b) of this Paragraph, the fee for each overwidth, overheight, or overlength permit shall be ten dollars per trip or ten dollars per operating day for trips lasting more than one calendar day provided such vehicle or combination of vehicles is not also overweight; provided, however, that the fee for trailers or semitrailers hauling loads of the same product which exceed the legal limit shall be ten dollars per operating day provided such vehicles or combination of vehicles is also not overweight. Overwidth, overheight, and overlength permits may be issued on a

monthly basis for a fee of ten dollars per operating day, except equipment used in an unloaded condition by companies engaged in the business of moving buildings may obtain one permit per company per month for a fee of fifteen dollars.

(b) The permit fee for the transporting of each overwidth, overheight, or overlength mobile home shall be a total of ten dollars per permit, provided the vehicle is not overweight, and each permit shall be issued for a consecutive seventy-two hour period.

(c) Single-trip permits issued to facilitate the movement of sealed ocean containers shall not require the specific identification of the vehicle carrying the permitted container. The single-trip permit shall be issued based upon the specific container and seal number.

(2) Fees for an overweight permit shall be as set forth in the following schedules:

(a) This schedule is for three types of vehicles:

(i) Vehicles and combinations of vehicles which do not exceed the legal gross weight, but which exceed the legal axle weight on one to three single or individual axles or on tandem, tridum, or quadrum axles, including the steering axles.

(ii) Vehicles or combinations of vehicles which have two or three single or individual axles total and which exceed both their legal gross weight and legal axle weight.

(iii) Off-road equipment with two to four single or individual axles, or tandem, or tridum axles.

PERMIT FEE DOLLARS

EXCESS WEIGHT

DISTANCE IN MILES

POUNDS

0-50

51-100

101-150

151-200

OVER 200

0-10,000

\$ 30.00

\$ 45.00

\$ 52.50

\$ 67.50

\$ 82.50

10,001-20,000

52.50

97.50

135.00

172.50

210.00

20,001-30,000

82.50

150.00

210.00
277.50
345.00
30,001-40,000

105.00
202.50
292.50
382.50
472.50
40,001-50,000

135.00
255.00
367.50
487.50
607.50
50,001-60,000

157.50
307.50
450.00
592.50
735.00

Over 60,000--\$15.00 permit fee plus \$0.10 per ton-mile will be charged
(b) This schedule is for combinations of vehicles with four single or individual axles including the steering axle.

FOUR AXLES, INCLUDING STEERING AXLE:

PERMIT FEE DOLLARS

GROSS WEIGHT

DISTANCE IN MILES

POUNDS

0-50

51-100

101-150

151-200

OVER 200

66,001-80,000

\$ 30.00

\$ 52.50

\$ 67.50

\$ 90.00

\$ 105.00

80,001-90,000

67.50

112.50

165.00

217.50

262.50

(c)(i) This schedule is for combinations of vehicles with five or more single or individual axles, or tandem, or tridum axles, including the steering axle, where the gross weight exceeds eighty thousand pounds.

FIVE OR MORE AXLES INCLUDING STEERING AXLE

WHERE GROSS WEIGHT EXCEEDS 80,000 POUNDS

PERMIT FEE DOLLARS

GROSS WEIGHT

DISTANCE IN MILES

POUNDS

0-50

51-100

101-150

151-200

OVER 200

80,001-100,000

\$ 45.00

\$ 67.50

\$ 97.50

\$ 120.00

\$ 150.00

100,001-108,000

75.00

142.50

202.50

270.00

330.00

108,001-120,000

105.00

195.00

285.00

375.00

465.00

120,001-132,000

135.00

255.00

375.00

495.00

622.50

132,001-152,000

180.00
337.50
502.50
667.50
832.50
152,001-172,000
232.50
442.50
660.00
877.50
1095.00
172,001-192,000
285.00
547.50
817.50
1087.50
1357.50
192,001-212,000
337.50
652.50
975.00
1297.50
1620.00
212,001-232,000
390.00
757.50
1132.50
1507.50
1875.00
232,001-254,000
442.50
862.50
1290.00
1717.50
2130.00

(ii) Notwithstanding any other provision of law to the contrary, any combination vehicle with a gross weight greater than 212,000 pounds, but not in excess of 254,000 pounds shall be authorized a maximum tandem axle weight of forty-five thousand pounds and a maximum steering axle weight of thirteen thousand pounds, provided the spread between axle groups is a minimum of twelve feet and the spread between tires in a group is a minimum of four feet.

(iii) Loads exceeding 232,001 pounds, but not greater than 254,000 pounds shall be

allowed statewide movement on the Department of Transportation and Development selected and approved routes, the majority of which are interstate highways only; however, those portions of their route from the load's origin to the National Highway System and that portion from the National Highway System to its destination shall be subject to the structural evaluation provided for in this Subparagraph.

(iv) OVER 254,000 -- \$15.00 permit fee, plus \$0.75 per ton-mile of weight in excess of 80,000 pounds, plus a fee for structural evaluation based on the following schedule:

(aa) \$187.50 -- for evaluation of treated timber, concrete slab, and precast concrete slab bridge.

(bb) \$1,275.00 -- for evaluation of truss, continuous span, and movable bridges and for all Mississippi River structures.

(cc) \$750.00 -- for all other structures.

(d) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, any revenues collected by the secretary for issuance of permits pursuant to this Paragraph in excess of twenty million dollars in a fiscal year shall be paid into the state treasury for deposit into the Construction Subfund of the Transportation Trust Fund pursuant to the requirements of Article VII, Section 27(B)(2) of the Constitution of Louisiana.

(3) A permit granted under the provisions of Paragraph (2) of this Subsection shall include the operation of vehicles or combination of vehicles having both dimensions and weights in excess of the limits imposed in Subpart A of this Part, without the payment of any fee other than that imposed in the schedules above set forth in Paragraph (2) of this Subsection.

I. All vehicles or combinations of vehicles utilizing a balance type utility trailer or a fifth-wheel type utility trailer engaged in the transportation of utility poles shall be deemed to have a special permit by operation of law and may use the public highways of this state for the transportation of utility poles by a utility, its representative, or its contractor for the normal operation of its facilities to provide service to the area it serves. Such vehicles or combinations of vehicles shall be subject to the restriction that no load consisting of such poles shall extend more than thirty-five feet past the rear of the vehicle or combination of vehicles carrying the load, and the load shall maintain a minimum clearance of one and one-half feet above the ground. These restrictions shall be deemed to be in lieu of those set forth in R.S. 32:382.

J. Notwithstanding other provisions of this Subpart or other provisions of law to the contrary, vehicles hauling prepackaged products in international trade originating from or destined to an intermodal facility, which are containerized in such a manner as to make subdivision thereof impractical, shall be authorized special container permits. For the purposes of this Subsection, the contents of a sealed container being used in international trade in conjunction with a maritime shipment shall be considered indivisible. The special container permits shall be subject to the following provisions:

(1)(a) Upon application of the owner or operator of any vehicle transporting intermodal containers, within a fifty-mile radius of a statutorily defined port or harbor

district, the secretary shall issue a Class I Ocean Container Permit for the transportation of such containers with the gross vehicle weight limitation not to exceed eighty thousand pounds and the axle weight not to exceed forty thousand pounds per tandem axle group. Additionally, provided there are no objections raised by the Federal Highway Administration, any vehicle transporting intermodal containers with an open-top or flat rack with a gross vehicle weight not to exceed eighty thousand pounds and axle weight not to exceed forty thousand pounds per tandem axle group shall be eligible for the Class I Ocean Container Permit. The applicant shall indicate on the application the vehicle identification number of the vehicle for which the permit shall be issued. The annual fee for the permit shall be fifty dollars per vehicle. If the vehicle for which the permit issued is no longer usable to the owner or operator, the permit may be transferred to a replacement vehicle. However, such transfer shall be authorized only one time during the year for which the permit is in effect. All fines and penalties assessed against a vehicle hauling containerized prepackaged products in international trade for failing to provide proof to any law enforcement or weight enforcement officer that the cargo originated from or is destined to an intermodal facility shall be waived by the Department of Transportation and Development upon submission to the department of satisfactory proof that the cargo originated from or was destined to an intermodal facility.

(b) For the purposes of this permit a vehicle is deemed to be in international trade if the bill of lading contains, but is not limited to any one of the following references: a port facility, a booking number, a vessel name, a voyage number, a foreign port of discharge, or a steamship line.

(c) The provisions of this Paragraph limiting the transportation of sealed intermodal containers within a fifty-mile radius of a statutorily defined port or harbor district shall not apply to vehicles transporting such containers within a fifty-mile radius of the Interstate Ten Twin Span Bridge, until such time as the Interstate Ten Twin Span Bridge is opened to owners or operators of any vehicle transporting sealed intermodal containers.

(2)(a) Upon application of the owner or operator of any vehicle transporting sealed intermodal containers, the secretary shall issue a Class II Ocean Container Permit for the transportation of such containers with the gross vehicle weight limitation not to exceed ninety-five thousand pounds and the axle weight not to exceed twenty-two thousand pounds per axle. The applicant shall indicate on the application the vehicle identification number of the vehicle for which the permit shall be issued. The biannual fee for the permit shall be three hundred seventy-five dollars per vehicle. The secretary may establish routes for any owner or operator who receives a permit. The secretary may revoke the permit of any owner or operator that fails to adhere to the route designated by the secretary. If the vehicle for which the permit is issued is no longer usable by the owner or operator, the permit may be

RS 32:387.1 — Escort vehicles; permit to operate required

on adopted under authority

thereof, or of any other provision of law or rule or regulation, all motor vehicles excluding motorcycles, shall be proper escorts in accordance with the provisions of R.S. 32:388 and any other laws and rules or regulations providing with respect to motor vehicles and traffic

regulation, for the moving of house trailers on the roads, streets and highways of this state.

B.(1) Each company which operates an escort service in this state shall register annually with the secretary in accordance with rules and regulations adopted by the secretary. The oversight review of the rules and regulations adopted pursuant to this Section shall be conducted by the House and Senate Committees on Transportation, Highways and Public Works. The secretary shall establish a permit fee sufficient to cover the costs of the service. The fee shall not be less than ten dollars.

(2) Each application for registration shall be accompanied by each of the following:

(a) The name and address of the agent for service of process. The agent shall reside in and shall be domiciled in this state.

(b) Proof of coverage for general liability insurance, motor vehicle liability insurance, and workers' compensation, each providing for a minimum of five hundred thousand dollars in coverage.

(c) Proof that each driver of an escort vehicle has a valid operator's license issued by a state or territory of the United States.

(d) Such other information as the secretary by rule may require.

C. The secretary may revoke, suspend, or refuse to issue a registration for any violation of the provisions of Subsection B of this Section.

D. Whoever violates the provisions of Subsection B of this Section shall be fined one hundred dollars for each offense.

RS 32:387.2 — Special permits; vehicles or tandem loads hauling divisible or nondivisible
e secretary shall issue a

biannual permit for the operation of a combination of vehicles or tandem loads hauling divisible or nondivisible container imports or exports to and from any port facility in the state, provided the combination of vehicles or tandem loads meets all of the following requirements:

(1) Does not exceed one hundred forty thousand pounds gross weight.

(2) Does not exceed forty thousand pounds per tandem axle spread and sixty thousand pounds per tridem axle spread as defined by the Department of Transportation and Development.

(3) Does not exceed eighty-three feet in length.

(4) Is equipped with a dual-axle dolly and a dolly safety system with tilt sensors attached to the dolly that provide feedback on tilt information to the driver of the vehicle to ensure safe operations.

B. The permits and route via state and federal roadways, excluding the interstate system, shall be issued at the truck permit office of the Department of Transportation and Development.

C. The secretary shall adopt rules in accordance with the Administrative Procedure Act to implement the provisions of this Section.

D. The provisions of this Section and all legislative authority for the existence of the permits authorized in this Section shall cease to exist on August 1, 2026.

RS 32:387.3 — Repealed by Acts 2011, No. 162, §2.

RS 32:387.4 — Equipment destined to or from any oil or gas facility or petrochemical complex; Interstate highways

permits for the movement of equipment destined to or from any oil or gas facility and/or petrochemical complex on Interstate highways located in this state. Vehicles transporting such equipment on Interstate highways shall not exceed a speed of forty-five miles per hour and shall be accompanied by a state police escort.

B. The provisions of R.S. 32:387 which are not in conflict herewith are applicable to the issuance of special permits under this Section.

C. The secretary may refuse to issue a special permit under this Section whenever, because of construction or the condition of the highway or because of traffic conditions thereon, the public would be endangered by the use sought to be permitted.

RS 32:387.5 — Special permits; authorization to travel on portions of Interstate 49

in addition to such permitted weight limitations, Interstate 49 from its northern intersection with U.S. Highway No. 167 near Meeker in Rapides Parish to its southern intersection with U.S. Highway No. 167 near Washington in St. Landry Parish is hereby deemed as an alternate route for U.S. Highway No. 167. Any vehicle traveling under a special permit issued under the provisions of this Subpart, the conditions of which permit travel on U.S. Highway No. 167, is hereby authorized to travel Interstate 49 under the same conditions and restrictions as those applicable to its permit to travel on U.S. Highway No. 167.

RS 32:387.6 — Special permits; trucks hauling cotton modules

cotton modules and are in compliance with the provisions of the Federal Motor Carrier Safety Regulations. These permits shall be issued in accordance with the following provisions:

- (1) The permits shall be issued at the truck permit office of the Department of Transportation and Development.
- (2) The fee for the permits shall be fifty dollars per permit per year.
- (3) The permit shall authorize the operation of a three-axle vehicle at a gross weight of sixty-eight thousand pounds; with a tandem axle not to exceed forty-eight thousand pounds; and a single axle not to exceed twenty thousand pounds. These permits shall allow travel on any state-maintained highway with the exception of interstates.
- (4) The secretary may impose a civil penalty of up to five cents per pound for each violation of the limit established in this Subsection. The secretary, by rule, shall establish procedures for enforcing the provisions of this Subsection, including a procedure by which persons accused of violations may contest those accusations.

RS 32:387.7 — Special permits; vehicles hauling sugarcane

shall issue annual special permits to persons who own or operate vehicles which haul sugarcane. Such permits may be issued to either the pulling unit or the trailer contained in the combination which shall have a minimum of eighteen wheels.

These permits shall be issued in accordance with the following provisions:

- (1) The permits shall be issued at the truck permit office of the Department of Transportation and Development.
- (2) The fee for the permits shall be one hundred dollars per permit per year.
- (3) The permit shall authorize the operation of the vehicle combination at a gross weight not to exceed one hundred thousand pounds.
- (4)(a) The secretary may impose a civil penalty of up to five cents per pound for each violation of the one hundred thousand pound limit.
- (b) Beginning August 1, 2005, a first violation of the one hundred thousand pound limit shall result in the civil penalty imposed in accordance with the provisions of this Section and a warning that a second violation shall result in the penalty and the forfeiture of the permittee's eligibility to apply for and receive an annual special permit for the following year. A second violation of the one hundred thousand pound limit shall result in the penalty and the forfeiture of the permittee's eligibility to apply for and receive an annual special permit for the following year. A third violation shall result in the penalty and the permanent revocation of the permittee's eligibility to apply for and receive an annual special permit.

(c) Any owner or operator who has a civil penalty levied against him for a violation of the permitted weight limit of this Section shall be entitled to appeal the penalty in accordance with the provisions of R.S. 32:389.

(d) The Department of Transportation and Development, in cooperation with the Department of Public Safety and Corrections, office of state police, shall promulgate rules and regulations as are necessary, in accordance with the Administrative Procedure Act, to implement the provisions of this Section, subject to oversight by the House and Senate Transportation, Highways and Public Works Committees. The office of state police shall be responsible for promulgating rules and regulations regarding enforcement procedures.

(5) The permit shall be specific to the vehicle that is indicated by the permit applicant upon application.

B. Beginning August 1, 2012, the secretary shall not issue an annual special permit pursuant to the provisions of this Section to any owner or operator of a vehicle hauling sugarcane who has not added an additional single axle on the sugarcane trailer for a total of six axles for the vehicle and trailer combination. The provisions of this Subsection shall not prohibit the secretary from issuing an annual special permit to any owner or operator of a vehicle hauling sugarcane pursuant to the provisions of any other Section.

RS 32:387.8 — Vehicles requiring steering axle permit; interstate highways

an additional permit, provided the single axle vehicles requiring such permit do not exceed twenty-four thousand pounds in weight.

RS 32:387.9 — Special permit; vehicles hauling agronomic or horticultural crops

vehicles hauling agronomic or horticultural crops in their natural state. Such permits may be issued to either the pulling unit or the trailer contained in the combination which shall have a minimum of eighteen wheels. These permits shall be issued in accordance with the following provisions:

- (1) The permits shall be issued at the truck permit office of the Department of Transportation and Development.
- (2) The fee for the permits shall be one hundred dollars per permit per year.
- (3) The permit shall authorize the operation of the vehicle combination at a gross weight not to exceed one hundred thousand pounds.
- (4) The secretary may impose a civil penalty of up to five cents per pound for each violation of the limit established in this Section. The secretary, by rule, shall establish procedures for enforcing the provisions of this Section, including a procedure by which persons accused of violations may contest those accusations.
- (5) Vehicles permitted under the provisions of this Section shall be prohibited from traveling on the interstate system.
- (6) The permit shall be specific to the vehicle that is indicated by the permit applicant upon application.

RS 32:387.9.1 — Special permits; vehicles hauling agronomic or horticultural crops; authorization to travel upon segment of Interstate 49 as alternate route to US 71 and US 167

if law to the contrary, and provided the federal government does not raise any objection to such permitted weight limit, any vehicle issued an annual special permit pursuant to the provisions of R.S. 32:387.9 may travel upon that segment of Interstate 49 between its interchange with US 71 and US 167 (MacArthur Drive) south of the city of Alexandria and its interchange with Rapides Station Road north of the city of Alexandria as an alternate route to US 71 and US 167.

RS 32:387.10 — Special permit; vehicles transporting timber cutting or logging equipment

not more than two, but not more than two, pieces of timber cutting or logging

equipment from one job site to another, the secretary shall issue an annual special overweight permit to the person who operates the vehicle. The permit shall be issued in accordance with the following provisions:

- (1) The permit shall be issued at the truck permit office of the Department of Transportation and Development.
- (2) The fee for the permit shall be one hundred dollars per permit per year.
- (3) The permit shall authorize the operation of the truck, trailer, and load thereon to operate at the maximum axle weights provided for overweight permit loads, with a gross

vehicle weight not to exceed one hundred five thousand pounds. The maximum width on such truck, trailer, and the load thereon shall not exceed fourteen feet.

B. The special permit shall not authorize the operation of the vehicle on the interstate system of the state.

C. The special permit authorizes operation of the vehicle during daylight hours and prohibits such operation during heavy rain or when visibility is less than five hundred feet.

RS 32:387.11 — Semiannual critical off-road equipment permit; authorization

The Administrative Procedure Act as may be necessary to provide for a semiannual critical off-road equipment permit. Critical off-road equipment as defined in the manual entitled "Louisiana Regulations for Trucks, Vehicles and Loads" are either vehicles or combinations of vehicles with booster units, or vehicles not designated as noncritical off-road equipment, or those vehicles classified as critical off-road equipment by the department.

B. The fee for a semiannual critical off-road equipment permit shall be based on the following formula:

of lbs. over weight

x \$.07/ton x # of miles in 6 mos. + \$25(adm. fee)

2000

RS 32:387.12 — Annual noncritical off-road equipment permit; authorization

The Administrative Procedure Act as may be necessary to provide for an annual noncritical off-road equipment permit.

"Noncritical off-road equipment" means either vehicles or combinations of vehicles without booster units, or vehicles with a single-single, single-tandem, single-triple, or tandem-tandem axle configuration in which no single axle is in excess of thirty thousand pounds nor tandem or triple axles in excess of fifty-four thousand pounds, as defined in the manual entitled "Louisiana Regulations for Trucks, Vehicles and Loads", or those vehicles classified as noncritical off-road equipment by the department.

B. The fee for a noncritical off-road equipment permit shall be one thousand dollars per permit per year.

C. Notwithstanding any provision of law to the contrary and provided that there are no objections raised by the federal government, noncritical off-road equipment that has been issued a valid annual noncritical off-road equipment permit may be allowed to tow a two-axle motor vehicle as long as the towed vehicle does not exceed ten thousand pounds gross vehicle weight, and the combination of the off-road equipment and the towed vehicle does not exceed an overall length of sixty-five feet. Counterweights are allowed to be carried on the off-road equipment when carried in a functional position.

RS 32:387.13 — Repealed by Acts 2011, No. 162, §2.

on Rouge, Louisiana 70804-9062

RS 32:387.14 — Special permit; heavy equipment

the annual special permits

to transporters of heavy equipment. Notwithstanding any other provision of law to the contrary, permits issued under this Section may be amended or transferred between vehicles four times per calendar year. Any additional transfers are within the discretion of the Department of Transportation and Development. The secretary shall promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section, including but not limited to the fee for such annual permit, which shall not exceed two thousand five hundred dollars, and the size and weight authorized under the permit, which shall not exceed size and weight restrictions for transporters of heavy equipment under this Part.

RS 32:387.15 — Repealed by Acts 2011, No. 162, §2.

on Rouge, Louisiana 70804-9062

RS 32:387.16 — Special permit; sealed containerized cargo for export; containerboard, kraft liner, and roll pulp; limitations

secretary may issue special annual permits for one-way hauls from Pineville, Louisiana to New Orleans, Louisiana of sealed containerized cargo intended for exportation. This special annual permit shall be limited to sealed containerized cargo which contains containerboard, kraft liner, or roll pulp. These permits shall be issued in accordance with the following provisions:

- (1) The permits shall be issued at the truck permit office of the Department of Transportation and Development.
- (2) The fee for the permit shall be seven hundred fifty dollars per year.
- (3) The permit shall authorize the operation of a vehicle or combination of vehicles with not more than five axles at a total gross vehicle weight not to exceed ninety thousand pounds; and a tandem axle weight not to exceed forty thousand pounds.

B. The secretary may impose a civil penalty of up to five cents per pound for each violation of the limit established in this Section. The secretary may promulgate rules and regulations in accordance with the Administrative Procedure Act as are necessary to enforce the provisions of this Section.

RS 32:387.17 — Special permit; containerized cargo intended for export; rules and regulations; ports in Ouachita Parish

e secretary of the Department of Transportation and Development may issue special annual permits for sealed containerized cargo in international trade intended for exportation within a fifty mile radius of the Port of Ouachita. These special permits shall be issued in accordance with the following provisions:

- (1) The permit shall be issued at the truck permit office of the Department of Transportation and Development.
- (2) The fee for the permit shall be seven hundred fifty dollars annually.
- (3) The permit shall authorize the operation of a vehicle or combination of vehicles with a total gross vehicle weight not to exceed ninety thousand pounds and a tandem axle weight not to exceed forty thousand pounds.
- (4) The secretary may impose a civil penalty of up to five cents per pound for each violation of the weight limit established by this Section.
- (5) The authority of the secretary to issue this special permit shall terminate effective July 1, 2012.

B. The secretary may promulgate rules and regulations in accordance with the Administrative Procedure Act as are necessary to enforce the provisions of this Section.

RS 32:387.18 — Repealed by Acts 2011, No. 162, §2.

on Rouge, Louisiana 70804-9062

RS 32:387.19 — Special permit; bagged rice for export; rules and regulations; Port of Lake Charles

partment of Transportation and Development may issue special annual permits for one-way hauls of bagged rice for export within a sixty-mile radius of the Port of Lake Charles. These special permits shall be issued at the truck permit office of the Department of Transportation and Development.

- (1) The permit shall be issued at the truck permit office of the Department of Transportation and Development.
- (2) The fee for the permit shall be five hundred dollars annually.
- (3) The permit may authorize the operation of a vehicle or combination of vehicles with a total gross vehicle weight not to exceed ninety-five thousand pounds. No tandem axle set equipped with low pressure pneumatic tires shall exceed thirty-four thousand pounds on the interstate system or thirty-seven thousand pounds off the interstate system. No tridum axle set equipped with low pressure pneumatic tires shall exceed forty-two thousand pounds on the interstate system or forty-five thousand pounds off the interstate system.
- (4) The secretary may impose a civil penalty of up to five cents per pound for each violation of the weight limit established by this Section.

B. The secretary may promulgate rules and regulations in accordance with the Administrative Procedure Act as are necessary to enforce the provision of this Section.

RS 32:387.20 — Special permit; ready-mixed concrete trucks

y-mixed concrete trucks on state-maintained highways and frontage roads adjacent to a federal interstate highway. The permit

shall not authorize the operation of ready-mixed concrete trucks on interstate highways.

B.(1) The permit shall authorize the operation of a ready-mixed concrete truck with a gross vehicle weight not to exceed sixty-nine thousand pounds if a rear tandem-axle mixer truck, a gross vehicle weight not to exceed eighty-three thousand pounds if a rear tri-axle mixer truck, and a gross vehicle weight not to exceed eighty-four thousand pounds if a rear quad-axle mixer truck.

(2) The permit shall be specific to the vehicle that is listed in the permit application.

(3) The fee for the permit shall be collected annually per vehicle in the following amounts:

(a) Eight hundred dollars for a rear tandem-axle ready-mixed concrete truck.

(b) Four hundred dollars for a rear tri-axle ready-mixed concrete truck.

(c) Four hundred dollars for a rear quad-axle ready-mixed concrete truck.

C. A permit issued pursuant to this Section shall be valid for one year and shall be carried in the vehicle for which it is issued.

D. When the department issues a permit pursuant to this Section, it shall issue a sticker to be placed in the front windshield of the vehicle above the inspection certificate issued to the vehicle. The department shall design the form of the sticker to aid in the enforcement of weight limits for vehicles. The sticker shall indicate the expiration date of the permit and be removed from the vehicle when the permit for the operation of the vehicle expires, the lease of the vehicle expires, or the vehicle is sold.

E. If the permitted gross vehicle weight is not exceeded, there shall be no fines imposed for over axle weight.

F. As used in this Section, "ready-mixed concrete truck" shall mean a vehicle designed exclusively to transport or manufacture ready-mixed concrete.

G. All fees collected pursuant to the provisions of this Section shall be deposited into the Transportation Trust Fund.

RS 32:387.21 — Special permit; trucks transporting earthen materials for government funded levee

per project special overweight permit for each truck transporting earthen materials for government-funded levee projects. Each per project permit shall be valid for one year from the date of issuance.

B. The permit shall be issued in accordance with the following provisions:

(1) Upon application for a special permit, the applicant shall designate the specific routes to be utilized for transporting the materials and identify the project for which they are transporting materials.

(2) The fee for the permit shall be one thousand dollars per project. However, if the project exceeds the one-year validity of the permit, a new permit shall be required.

(3) The permit shall authorize the operation of the vehicle or straight truck at a gross weight not to exceed seventy thousand pounds for which twenty-two thousand pounds for steering axle and forty-eight thousand pounds for tridum group while operating on any

state-maintained highway except on the interstate system. Nothing contained in this Section shall preempt municipal or parish ordinances from regulating weight limits on municipal or parish streets or roads.

C. The secretary shall impose a penalty for each violation of the weight limit pursuant to R.S. 32:388.

D. As used in this Section, "earthen materials" includes minerals, rocks, and soil.

E. The secretary may promulgate rules and regulations in accordance with the Administrative Procedure Act as are necessary to enforce the provisions of this Section.

RS 32:387.22 — Special permit; ten percent weight variance for trucks or trucks and trailers hauling

aw to the contrary, relating only to the hauling of

raw input materials for concrete and finished concrete products, the secretary shall issue annual special permits for a fee of four hundred dollars per unit that prohibit both gross weight and axle weight penalties for the operation of trucks or truck-and-trailers on roads of the state when the total excess weight is ten percent or less of the truck or truck and trailer's maximum permissible gross weight as provided by law. The permit shall not authorize any truck or truck-trailer combination described in this Part to exceed load posted weight limits on any bridge.

RS 32:387.23 — Special permit; twelve percent weight variance for single unit dump trucks

mitation as to the material being hauled, the secretary shall issue

annual special permits for a fee of eight hundred dollars per truck that prohibit both gross weight and axle weight penalties for the operation of dump trucks on state-maintained highways when the total excess weight is twelve percent or less of the truck's maximum permissible gross weight as provided by law. The permit shall not authorize any truck described in this Part to exceed load posted weight limits on any bridge.

RS 32:388 — Penalties; payments

nt to R.S.

32:380 through 385 or in violation of R.S. 32:380 through 385 shall be assessed a penalty of one hundred dollars for each violation.

(2) All commercial vehicles rated one ton or greater, except automobiles, private passenger pickup trucks, private passenger vans, recreational vehicles, buses, utility vehicles conveying to or from emergency service restoration due to a natural disaster, and tow trucks unless the tow truck has a gross vehicle weight rating in excess of twenty-six thousand pounds or is hauling or carrying a vehicle not exempt from the provisions of this Section, shall be required to stop at a stationary weight enforcement scale location.

(3) Each vehicle that is required to stop at a department stationary weight enforcement scale location and that fails to stop shall be assessed the following penalty:

(a) Vehicles with a gross vehicle weight rating of less than twenty-six thousand pounds shall be fined one hundred dollars for failure to stop at the department stationary weight scales. This fine shall be in addition to any other fine which may be assessed for other violations.

(b) Vehicles with a gross vehicle weight rating of twenty-six thousand pounds or

more shall be fined five hundred dollars for failure to stop at the department stationary weight scales. This fine shall be in addition to any other fines which may be assessed for other violations.

(4) Any vehicle which inadvertently bypasses the department stationary weight scales and returns to the scales voluntarily without the assistance of law enforcement shall not be assessed any penalty for bypassing the scales.

B.(1)(a) Except as provided in Subparagraphs (b) and (c) of this Paragraph, whoever owns or operates any vehicle or combination of vehicles in violation of any rule, regulation, directive, or requirement of the secretary adopted under R.S. 32:386 or in violation of R.S. 32:386 shall be required to reduce the load to the maximum permissible gross weight and shall be assessed a penalty on such weight which exceeds the maximum permissible gross weight as defined by R.S. 32:386 or maximum allowable axle weights, whichever results in the higher fine, in accordance with the following schedule:

OVERWEIGHT

PENALTY

POUNDS

1 to 999\$10.00 minimum

1,000 to 1,9991¢ per pound in excess of legal limit

2,000 to 2,9992¢ per pound in excess of legal limit

3,000 to 3,9993¢ per pound in excess of legal limit

4,000 to 4,9994¢ per pound in excess of legal limit

5,000 to 5,9995¢ per pound in excess of legal limit

6,000 to 6,9996¢ per pound in excess of legal limit

7,000 to 7,9997¢ per pound in excess of legal limit

8,000 to 8,9998¢ per pound in excess of legal limit

9,000 to 9,9999¢ per pound in excess of legal limit

10,000 to 10,99910¢ per pound in excess of legal limit

11,000 and over11¢ per pound in excess of legal limit

(b)(i) Any truck hauling concrete or construction aggregates shall not be assessed a penalty for weight which exceeds the maximum allowable axle weights, if such truck does not also exceed the maximum permissible gross weight as provided in R.S. 32:386 and such truck is not operating on the interstate system.

(ii) Any truck hauling hot mix asphalt which is performing work pursuant to a contract with the state or the governing authority of a parish or municipality shall not be assessed a penalty for weight which exceeds the maximum allowable axle weights, if such truck does not also exceed the maximum permissible gross weight as provided in R.S. 32:386 and such truck is not operating on the interstate system.

(iii) Any truck fitted with a compactor body which is engaged in the collecting and hauling of solid waste including residential solid waste, agricultural waste, commercial solid waste, construction or demolition debris, garbage, industrial solid waste, trash, white goods, woodwaste, and yard trash, as defined in the rules and regulations of the Department of Environmental Quality, shall not be assessed a penalty for weight which exceeds the

maximum allowable axle weights if such truck does not also exceed the maximum permissible gross weight as provided in R.S. 32:386 and 387 and such truck is not operating on the interstate system. Such truck shall not be assessed a penalty for exceeding its maximum permissible gross weight, as determined by law or pursuant to issuance of a special permit, if the waste is wet and the location from which the waste was collected had received measurable precipitation, as recorded by National Weather Service recognized observation stations, within twenty-four hours prior to collection provided the total excess weight is ten percent or less of the truck's maximum permissible gross weight and such truck is not operating on the interstate system. If the total excess weight is greater than ten percent of the truck's maximum permissible gross weight, as determined by law or pursuant to issuance of a special permit, the assessed penalty shall be calculated only on the excess weight which is above the ten percent allowance for water weight.

(iv) Effective from August 1, 2012 through July 31, 2020, no truck hauling ready-mixed concrete shall be assessed a penalty for exceeding its maximum permissible gross

weight, as determined by law, provided the total excess weight is ten percent or less of such truck's maximum permissible gross weight, such truck contains a certificate evidencing its most recent mixer chip-out of build-up occurred within the previous ninety days, such truck does not exceed the posted load while crossing a posted bridge, such truck is not operating on the interstate system, and no tire on such truck exceeds its tire weight rating. If such truck's total excess weight is greater than ten percent of its maximum permissible gross weight, as determined by law, such truck shall be assessed a penalty calculated on the total amount by which the truck's weight exceeds its maximum permissible gross weight, as determined by law. For the purposes of this Item, a "ready-mixed concrete truck" is defined as a vehicle designed exclusively to transport or manufacture ready-mixed concrete and includes a concrete pump truck engaged in hauling ready-mixed concrete. This Item shall not apply to any ready-mixed concrete truck as defined in R.S. 32:387.20 that has been issued a permit pursuant to R.S. 32:387.20.

(v) No dump truck hauling concrete or construction aggregates shall be assessed a penalty for exceeding its maximum permissible axle weight, as determined by law, provided that the total excess gross weight is five percent or less of the truck's maximum permissible gross weight, the truck does not exceed the posted load while crossing a posted bridge, the truck is not operating on the interstate system, and no tire on the truck exceeds its tire weight rating. However, the maximum gross vehicle weight of any such vehicle shall not exceed eighty thousand pounds plus a tolerance thereon of not more than two percent. If the truck's total excess gross weight is greater than five percent of its maximum permissible gross weight, as determined by law, the truck shall be assessed a penalty calculated on the total amount by which the truck's weight exceeds its maximum permissible gross weight, as determined by law, and shall not exceed eighty thousand pounds plus a tolerance thereon of not more than two percent. For the purposes of this Section, "dump truck" shall mean a vehicle designed exclusively to transport construction aggregates.

(c) Prior to assessment of a penalty for weight which exceeds the maximum allowable axle weights, the owner or operator is authorized to shift the load to reduce or

eliminate such excess axle weight penalties as long as no part of the shipment is removed.

(2) Whoever owns or drives any vehicle or combination of vehicles with a gross weight in excess of its licensed weight but less than or equal to its legal maximum gross weight may be assessed a penalty of one hundred dollars and shall be required to increase its license to the weight being carried not to exceed the legal maximum.

(3) The owner or driver of a vehicle or combination of vehicles in violation of the bridge formula axle spacing requirements of R.S. 32:386(H) shall be fined fifty dollars for each violation.

(4)(a) Whoever owns any business entity engaged in the sale or shipment of construction aggregates requiring a weigh master, not including asphalt, or transfer sales or shipment from rail, barge, or ship to wholesale stockpiles or inventories within a five-mile radius of the point where the shipment was transferred, who violates, or whose driver or contract driver violates any rule, regulation, directive, or requirement of the secretary adopted under R.S. 32:386 or violates R.S. 32:386 shall also be assessed a separate penalty for each violation in accordance with the schedule set forth in Paragraph (1) of this Subsection.

However, notwithstanding any other provision of this Chapter or any law to the contrary, any such business, or weigh master thereof, who releases a vehicle that is within the maximum permissible gross weight limitations for travel on a state highway shall not be assessed any penalty when said vehicle is found in violation of gross maximum weight limitations while traveling on any interstate highway. For purposes of enforcing this Subsection, any weights and standards or state policeman having reason to believe that such owner is in violation of R.S. 32:386 is authorized to enter and go upon, without formal warrant, any vehicle, stand, place, building, or premises, for the purpose of inspecting only the shipping ticket or tickets issued in connection with the particular load found in violation of R.S. 32:386 by any weights and standards police in order to determine whether such sales at the origin of shipment contain the amounts represented and are offered for sale or sold in a manner in accordance with law. The discovery of an overweight vehicle after proper weighing shall constitute "reason to believe" for purposes of this Subsection.

(b) When used in this Section, "construction aggregates" means any of the following:

- (i) Sand.
- (ii) Gravel.
- (iii) Crushed stone.
- (iv) Reef shell.
- (v) Clam shell.
- (vi) Sand-clam shell mixture.
- (vii) Sand-reef shell mixture.
- (viii) Sand clay gravel.
- (ix) Clam-reef shell mixture.
- (x) Crushed concrete.
- (xi) Expanded clay.
- (xii) Calcium sulfate hemihydrate.
- (xiii) Asphalt.

(xiv) Bulk soil.

(xv) Dirt.

(xvi) Bulk rock.

(xvii) Sand rock.

(xviii) Asphalt millings.

C.(1) Whoever owns or drives any vehicle or combination of vehicles in violation of any rule, regulation, directive, or requirement of the secretary adopted pursuant to R.S. 32:387 or in violation of the terms and conditions of any special permit issued under R.S. 32:387 shall be assessed a penalty of one hundred dollars.

(2) Whoever owns or drives a vehicle or combination of vehicles in violation of an overweight special permit shall be assessed a penalty for each pound of gross weight in excess of the special permit weight in accordance with the following schedule and may increase the permissible gross weight authorized by the special permit if he shall satisfy any special conditions imposed by the secretary or otherwise shall reduce his load to the maximum weight allowed under his special permit:

Pounds Over Permit

Gross Weight

Penalty

0 to 3,000

2¢ per pound

3,001 to 5,000

3¢ per pound

5,001 to 10,000

4¢ per pound

10,001 and over

\$100 plus 5¢ per pound

(3) Repealed by Acts 2021, No. 384, §5, eff. July 1, 2022.

D. Whoever owns or drives any vehicle or combination of vehicles in violation of R.S. 32:387(F) shall be assessed a penalty of twenty-five dollars.

E. Whoever owns or drives a vehicle or combination of vehicles without a proper escort when such escort is required by a special permit shall be assessed a penalty of one hundred dollars, and the vehicle or combination of vehicles shall be impounded until a proper escort is secured by the permittee.

F. Payments for penalties imposed by the Department of Transportation and Development and the Department of Public Safety and Corrections shall be remitted to the Transportation Trust Fund. However, any payments for citations for weight limit violations on parish roads in a parish shall be paid to the public works department of said parish.

G.(1) All penalties collected by the secretary and the commissioner shall be paid into the state treasury on or before the twenty-fifth day of each month following their collection and, in accordance with Article VII, Section 9 of the Constitution of Louisiana, shall be credited to the Bond Security and Redemption Fund. However, after a sufficient amount of the penalties collected by the secretary and the commissioner is allocated from the fund to

pay all obligations secured by the full faith and credit of the state within any fiscal year, the treasurer shall pay an amount equal to the fees paid into the Bond Security and Redemption Fund pursuant to this Paragraph into the Transportation Trust Fund created under Article VII, Section 27 of the Constitution of Louisiana.

(2) The Department of Public Safety and Corrections, public safety services, and the Department of Transportation and Development shall keep a set of books showing from whom every dollar is paid and for what purpose. It also shall keep in its file vouchers or receipts for all monies paid out.

RS 32:388.1 — Penalties; multiple violations

d the greater or the

greatest of the penalties, in the full amount of the penalty. The department is hereby authorized to promulgate rules and regulations to provide that in addition to assessment of the greater or greatest penalty, the owner or driver shall be assessed a penalty not to exceed ten dollars for each other violation committed at the same time; however, such rules and regulations shall only be promulgated provided the Federal Highway Administration initiates official sanctions which would result in the loss of National Highway System apportionment or other federal funds should such penalties for multiple violations not be provided.

RS 32:389 — Weights and standards stationary scale police; enforcement procedure; payment and ce and the state police shall

have concurrent authority to enforce the provisions of R.S. 32:380 through 388.1 and 390.

B.(1) Any weights and standards stationary scale police officer having reason to believe that any vehicle or combination of vehicles exceeds or is in violation of the provisions of R.S. 32:380 through 386 or 388.1 through 390, or the terms and conditions of a special permit issued under R.S. 32:387 or regulations of the department or secretary, adopted pursuant to this Part, is authorized to stop such vehicle or combination of vehicles and to inspect, measure, or weigh such vehicle, either by means of portable or stationary scales, or to require that such vehicle be driven to the nearest available location equipped with facilities to inspect, measure, or weigh such vehicle.

(2) Any state policeman having reason to believe that any vehicle or combination of vehicles exceeds or is in violation of the provisions of R.S. 32:380 through 386 or 388.1 through 390, or the terms and conditions of a special permit issued under R.S. 32:387 or regulations of the department or secretary adopted pursuant to this Part is authorized to stop such vehicle or combination of vehicles and to inspect or measure such vehicle or to require that such vehicle be driven to the nearest available location equipped with facilities to inspect or measure such vehicle, provided that any state policeman having reason to believe that any vehicle or combination of vehicles exceeds or is in violation of the provisions of R.S. 32:386, any overweight special permit as provided in R.S. 32:387, or the department's regulations adopted pursuant thereto, may escort such vehicle to the nearest permanent or portable scale operated by the department's weights and standards police force, where a weights and standards police officer shall weigh such vehicle and if such vehicle is overweight, is in violation of an overweight special permit, or the department's or secretary's regulations adopted pursuant thereto, shall issue a violation ticket in accordance with Subsection C of

this Section.

C.(1) Whenever any carrier, common carrier, contract carrier, private carrier, transport vehicle, or driver is found in violation of any provision of this Chapter, the commissioner or secretary shall send the responsible party a "Notice of Violation, Proposed Finding and Proposed Civil Penalty", hereafter referred to as a "notice of violation", within thirty calendar days of the violation.

(2)(a) Each notice of violation shall clearly indicate if a monetary penalty is assessed for the violation or if the notice of violation is only a warning. When a monetary penalty is assessed, each notice of violation shall be sent to the responsible party by certificate of mailing. Such notice of violation shall also contain notice that the responsible party shall have forty-five calendar days from the date of issuance of the notice of violation to either pay the monetary penalty for the violation or to request, in writing, an administrative hearing to review the notice of violation. When the amount of the civil penalty is negotiated between the commissioner or secretary and the responsible party, the commissioner or secretary shall send written notification to the responsible party of the amount of the negotiated civil penalty within thirty calendar days of the date of the final negotiation. Such payment shall be made by certified check, money order, or credit card. If made by credit card, the payment shall be deemed received by the commissioner or secretary when tendered and an approval code is obtained from the credit card company or credit card processor.

(b) The commissioner or secretary shall adopt rules and regulations in accordance with the Administrative Procedure Act, subject to oversight by the House and Senate committees on transportation, highways and public works as are necessary regarding the administrative hearing, including but not limited to rules and regulations regarding notification and the procedure for requesting a hearing provided such rules shall not conflict with the provisions of R.S. 32:388.1.

(3) If the commissioner or secretary fails to issue the notice of violation to the responsible party within thirty calendar days of the violation in accordance with the provisions of this Section, the violation shall be dismissed. However, the commissioner or secretary shall be granted an additional sixty calendar days to send the responsible party a notice of violation in accordance with the provisions of this Section if he experiences a data system failure caused by either an act of God or an intentional act of sabotage.

(4) Any appeal of the findings of the administrative law judge shall be filed in a state district court with proper venue over the matter.

D.(1) If a carrier is determined to be the responsible party for a notice of violation by the commissioner or secretary and, if the carrier fails to pay the assessed penalty within forty-five calendar days of issuance of the notice of violation, or in the case of an administrative hearing, the responsible party fails to pay the assessed fine within thirty calendar days of receiving a notice of final judgment from the administrative law judge, the outstanding penalty amount shall be posted on the commissioner's or secretary's official website. The outstanding penalty amount for such responsible party shall continue to appear on the website until all fines and fees are paid in full. The commissioner or secretary shall transmit the vehicle identification number of the offending vehicle for which the notice of

violation was written to the office of motor vehicles. The office of motor vehicles shall not renew the registration of the offending vehicle until all fines and fees associated with the notice of violation have been paid in full. Within seven calendar days of receiving documentation from the responsible party that all fines and fees have been paid in full, the commissioner or secretary shall remove the posting of the notice of violation from his website. Additionally, upon payment of all fines and fees associated with the notice of violation, the office of motor vehicles shall immediately authorize renewal of the vehicle's registration. Such payment shall be made by certified check, money order, or credit card. If made by credit card, the payment shall be deemed received by the commissioner or secretary when tendered and an approval code is obtained from the credit card company or credit card processor.

(2) If the driver of a motor vehicle is found to be the responsible party for a notice of violation by the commissioner or secretary, the driver shall be responsible for the payment of all fines and fees associated with issuance of the notice of violation. Such payment shall be made by certified check, money order, or credit card. If made by credit card, the payment shall be deemed received by the commissioner or secretary when tendered and an approval code is obtained from the credit card company or credit card processor. If the commissioner or secretary fails to receive payment within forty-five calendar days of issuance of the notice of violation, or in the case of an administrative hearing, the responsible party fails to pay the assessed penalty within thirty calendar days of receiving a notice of final judgment from the administrative law judge, the commissioner or secretary shall transmit the driver's license number to the office of motor vehicles. Upon receipt of the driver's license number, the office of motor vehicles shall immediately notify the driver, by first class mail, that his driver's license shall be suspended thirty calendar days after the date of mailing the notice unless all fines and fees associated with the notice of violation or final judgment from the administrative law judge are paid in full together with notice of the imposition of a fifty-dollar fee by the office of motor vehicles to cover its administrative costs. The driver's license shall remain suspended until all fines and fees associated with the notice of violation or final judgment from the administrative law judge and the fifty-dollar fee for the office of motor vehicles are paid in full. Upon payment of all fines and fees, the office of motor vehicles shall immediately authorize the reinstatement of the driver's license.

(3) Motor carriers shall not be responsible for driver violations.

E.(1) The commissioner or secretary and any law enforcement officer working for the commissioner or secretary shall be prohibited from seizing a motor vehicle or the registration license plate of a motor vehicle for failing to pay a fine for a notice of violation.

(2) In the event a motor vehicle for which a notice of violation has been issued is subsequently sold, the new owner of such vehicle shall not be responsible for any outstanding fines or fees associated with a notice of violation. The new owner of the motor vehicle shall present proper documentation to the commissioner or secretary evidencing the lawful transfer of ownership.

F. During a state of emergency declared by the governor, the commissioner or secretary shall be granted an additional sixty calendar days to send the responsible party a

notice of violation in accordance with the provisions of this Section. Such extension of time shall terminate not later than sixty days from the date the state of emergency ends.

G. Notwithstanding the provisions of this Section, any member of the armed forces, who is in uniform or presents an order for duty and who is operating a military vehicle in the line of duty in violation of any provision of R.S. 32:380 through 387, or any regulation adopted pursuant thereto, shall not be required to pay the penalty assessed, nor shall the member be required to surrender his Louisiana driver's license. However, the owner of the vehicle or the federal government shall pay the penalty within forty-five days.

H. The failure of any vehicle or combination of vehicles to stop at a weigh facility may be excused if stopping the vehicle or combination of vehicles creates a serious traffic hazard. The commissioner or secretary shall promulgate rules under the provisions of the Administrative Procedure Act to implement the provisions of this Subsection. These rules shall define "serious traffic hazard" and shall authorize the use of green traffic signal lights to allow vehicles to pass the weigh facility at times as vehicles have accumulated on the entrance ramp to the weigh facility to the extent that the vehicles present a traffic hazard. Rules previously adopted by the department shall remain in full force and effect until such time as the commissioner or secretary promulgates rules pursuant to this Subsection. These rules shall be subject to oversight by the House and Senate committees on transportation, highways and public works.

RS 32:390 — Weigh-In-Motion (WIM) System

funds are available for the program.

B. The Weigh-In-Motion (WIM) System shall provide integrated functions of traffic management, weight enforcement, and data collection for a weigh station bypass monitoring system, which shall include an Enforcement Camera System (ECS).

C. All trucks attempting to bypass weigh station facilities using certain off-ramp bypass routes will be screened and monitored by a Weigh-In-Motion (WIM) Photo Enforcement System. Trucks which do not exit to the weigh station shall be weighed and classified by a highly accurate Weigh-In-Motion (WIM) Photo Enforcement System. As trucks traverse the Weigh-In-Motion (WIM) site a camera will capture an image of the truck and match it with the truck's weight. Its images shall be captured and stored by the Roadside Weigh-In-Motion (WIM) Electronics and shall be transmitted to the central office station computer via a communication modem. At the central office, a station computer with monitor will display the image of the violating truck, with the truck's gross weight indicated on the screen. This image can then be printed in the central office and used for enforcement purposes.

D. When it is determined that a truck is in violation, the driver shall stop at the weigh station within twenty-four hours of the violation.

E. Whoever violates the provisions of this Part shall be subject to the penalties provided in R.S. 32:388.

RS 32:390.21 — Louisiana Truck Center; creation; purpose

to as the "truck center". The purpose of this truck center shall be to serve as the headquarters and central location for motor carriers in obtaining all permits and for payment of any fees or charges required to engage in the motor carrier trade in the state of Louisiana.

B.(1) For the purposes of this Section, "permit" means any license, certificate, registration, permit, or any other form of authorization required by a state agency to engage in the motor carrier trade in the state of Louisiana.

(2) However, the provisions of this Part shall not apply to any permit or other form of authorization which requires the approval of the Public Service Commission after notification and public hearings.

C. The truck center shall provide centralized services to assist motor carriers in identifying and securing all appropriate permits required to operate a motor carrier business in the state. The goal of the truck center shall be to enable interested parties to secure permits and information regarding such permits at a single location.

RS 32:390.22 — Services and assistance

, and operating a system of:

- (1) Assisting the trucking interests by providing both general and specific information on permitting and by furnishing permit application forms pertaining to their specific businesses.
- (2) Compiling a list of all state permits and categorizing the required permits into a comprehensive handbook that is readily available to persons interested in establishing a motor carrier trade.
- (3) Providing an applicant with on-site contacts with the proper state agency representative responsible for processing and reviewing the respective permit application.
- (4) Assisting the applicant in the following:
 - (a) Clarification of licensing requirements and standards.
 - (b) Preparation of applications and forms.
 - (c) Determination of the status of an application during the review process, including the resolution of disputes.
 - (d) General coordination of the various aspects of the permitting or licensing process.
 - (e) Coordinating federal, state, and local permit review actions to the extent practicable.
 - (f) Allow trucking interests to procure and pay for needed authorizations at a one-stop site.

RS 32:390.23 — Agency representatives

Department of Public Safety and Corrections, public safety services.

(3) The Department of Revenue.

(4) The Department of Transportation and Development.

B. All state agencies involved in the regulation and licensing of motor carriers shall provide at their own expense all personnel and equipment necessary for the following:

- (1) The issuance of all permits, licenses, certificates, or other authorizations.
- (2) The provision of both general and specific information as may be required by the respective state agency to adequately provide the services as set out in this Part.

RS 32:391 — Appearance upon arrest

and Corrections adopted pursuant thereto, except as otherwise provided in this Section, the arresting officer shall take his name, address, the license number of his motor vehicle, and the number of his operator's license, and shall issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons and notice. The arresting officer's original or electronic signature shall be affixed to the summons. The time shall be at least five days after arrest, unless the person arrested demands an earlier hearing. If the person arrested demands an earlier hearing, he shall have a right to an immediate hearing or a hearing within twenty-four hours, at a convenient hour, to be before a magistrate within the parish where the offense was committed. Except as otherwise provided in this Section, the person arrested shall have the option of remaining in custody pending his furnishing bail as fixed by a magistrate or depositing his operator's license with the arresting officer, as provided in R.S. 32:411.

B. If the person arrested holds a Louisiana operator's license and gives his written promise to appear at the time and place stated, the officer may release him from custody or take him immediately before a magistrate, but shall not require the person arrested to deposit his operator's license. Any such person refusing to give the written promise to appear shall be taken immediately by the arresting officer before the nearest or most accessible magistrate having jurisdiction. Any person who willfully violates his written promise to appear shall be punished as provided in R.S. 32:57.1, regardless of the disposition of the charge upon which he was arrested originally. The arresting officer shall fully inform the arrested person of the consequences of failing to honor a written promise to appear pursuant to R.S. 32:57.1.

C. Notwithstanding any other provision of law to the contrary, in Orleans Parish, if the person arrested holds a Louisiana operator's license and gives his written promise to appear at the time and place stated, the officer shall release him from custody, and shall not require the person arrested to deposit his operator's license. Any such person refusing to give the written promise to appear shall be taken immediately by the arresting officer before the nearest or most accessible magistrate having jurisdiction. Any person who willfully violates his written promise to appear shall be punished as

provided in R.S. 32:57.1, regardless of the disposition of the charge upon which he was arrested originally. The arresting officer shall fully inform the arrested person of the consequences of failing to honor a written promise to appear pursuant to R.S. 32:57.1.

D. This Section does not apply to any person charged with an offense involving or contributing to an accident resulting in injury or death to any person, or to any person charged with driving while under the influence of intoxicants or narcotics, or to any person whom the arresting officer has good cause to believe has committed any felony or misdemeanor, and in any of these cases the arresting officer shall immediately take the person arrested before the nearest or most accessible magistrate having jurisdiction.

E. This Section does not apply to any person owning or operating a vehicle or combination of vehicles found in violation of R.S. 32:380 through R.S. 32:387.

RS 32:392 — Impounding of vehicles; prohibitions

by the weights and standards

police officer or state policeman to the nearest appropriate place suitable for unloading to its licensed gross weight or maximum size requirements as provided in this Chapter and storage of said product to preserve it for its intended use in commerce and in either case shall be detained or unloaded at the expense and responsibility of the owner or driver. The department shall not detain or impound any vehicle issued a violation ticket for any violation of the provisions of R.S. 32:380 through 387 prior to the final disposition of the violation ticket. For purposes of this Section, "final disposition" shall be defined as a final decision, not capable of appeal or review.

(2) When used in this Subsection, the phrase "minor traffic violation" shall mean any violation of the Highway Regulatory Act as provided for in this Title. However, R.S. 32:380 through 387 are exempted from this definition.

(a) "Perishable products" means products which are subject to lose their commercial value or decay in a short period of time, including but not limited to agricultural or seafood products and concrete.

(b) "Products once loaded which become indivisible" means products divisible by nature, but which become indivisible once loaded upon a vehicle because the required manner or method of unloading would be such that the entire load or portion of the load required to be unloaded could not be preserved for its intended use in commerce, or which endangers the public safety, including but not limited to forest products in their natural state.

B. A vehicle impounded for violations of the provisions of this Chapter other than R.S. 32:380 through 387 shall be detained until released by any court or committing magistrate having jurisdiction over the offense. The court or committing magistrate having jurisdiction over an offense involving a vehicle shall not order or allow the release of the vehicle prior to the full satisfaction of all penalties or charges assessed on account of the offense, except upon the execution of an appearance bond in the maximum amount of such penalties and charges, with good and solvent surety approved by the court or committing magistrate.

C. Repealed by Acts 2001, No. 1201, §2.

RS 32:392.1 — Repealed by Acts 2012, No. 512, §1.

on Rouge, Louisiana 70804-9062

RS 32:393 — Persons charged with traffic violations; time for disposition, licenses, reports, and records to be sent to Department of Public Safety and Corrections; fee charged; record of unpaid traffic fines and

parking fines

A. Whenever any person is charged with a violation of any provision of this Chapter or regulation of the department disposition thereof shall be made as soon as feasibly possible.

B.(1) Whenever any person is convicted of an offense for which this Chapter makes mandatory the revocation of the license of such person, the court in which such conviction is had must require the surrender of the license then held by the person convicted and must thereupon forward the same, together with a record of the conviction, to the commissioner.

(2) Whenever the driver's license of any person is mandatorily suspended under the provisions of R.S. 32:414, the court in which the conviction is had or in which bail is forfeited shall attach the license to a record of the conviction or bail forfeiture and shall forward both to the Department of Public Safety and Corrections, public safety services.

C.(1)(a) Every court in this state shall keep a full report of every case in which a person is charged with violation of any provision of this Chapter or any regulation of the department or the commissioner adopted pursuant thereto, or any law of this state or of any municipal or parish governing authority lawfully established for regulating the operation of motor vehicles on highways.

(b) If such person is convicted and sentenced thereupon, or his bail is forfeited as a result of a final judgment of forfeiture, or other final disposition be made, an abstract of the report, all parking convictions only excepted, shall be sent by the court or the district attorney, as the case may be, to the commissioner as follows:

(i) Not later than thirty days after the date of such person's conviction and sentencing thereupon, forfeiture of his bail and final judgment of forfeiture, or the final disposition of his case, if such person holds a Class "D" or "E" driver's license, or both.

(ii) In an electronic format not later than ten days after the date of such person's conviction and sentencing thereupon, forfeiture of his bail and final judgment of forfeiture, or the final disposition of his case, if such person holds a commercial driver's license or commercial driver's license permit, or both.

(iii) This report shall not be a court record.

(iv) A conviction shall be reported to the department regardless of whether the provisions of either Article 893 or 894 of the Code of Criminal Procedure are invoked.

(2) No state agency or political subdivision, nor any law enforcement agency of either, nor any officer, official, or employee thereof, shall transfer, disseminate, distribute, or otherwise communicate a record or other compilation of an individual's unpaid fines for parking violations to any credit bureau, credit information agency or bureau, or a subsidiary entity operating such a business in this state, or to a collection agency or firm. No such state agency or political subdivision, nor law enforcement agency of either, nor any officer, official, or employee thereof, shall confect, enter into, or maintain a contract or agreement to provide such a record or compilation to any credit bureau, credit information agency or bureau, or subsidiary entity, or to a collection agency or firm. State agencies, departments, political subdivisions, and any law enforcement agency may enter into a written contract with any consumer reporting agency to assist the state agency, department, political subdivision, or law enforcement agency in obtaining the most current information on an individual with an unpaid traffic fine. The state agency, department, political subdivision, or law enforcement agency shall not be provided with any information from the consumer reporting agency other than the individual's name, social security number, if available, present and previous address, phone number, and present and previous place of employment. No additional or financial information of the individual shall be provided to any state agency, department, political subdivision, or law enforcement agency unless the individual consents to the release of such information.

(3) Failure of an individual to pay fines for traffic violations shall not be reported to any consumer reporting agency and shall not appear on any consumer report for the individual unless one hundred twenty days have passed from the final disposition of the traffic fine. Final disposition shall be defined in this Paragraph as a final conviction, not capable of appeal or review, and not subject to dismissal.

D. Abstracts required by this Section shall be made on forms prepared by the commissioner and may include all necessary information as to the parties to the case, the nature of the offense, the date of hearing, the plea, the judgment, the amount of the fine or forfeiture, as the case may be, or the final disposition. When the nature of the offense is specified as speeding, the abstract shall also include a statement of the miles per hour in excess of the speed limit that the person charged was alleged to have been traveling. Every such abstract shall be certified by the judge or the clerk of such court as a true abstract of the records of the court. If the abstract is sent by the district attorney, it shall be certified by him as a true abstract of the final disposition of the case as contained or found in the files of his office.

E. Certified copies of the judgment also shall be forwarded to the commissioner upon the conviction of any person of any felony in the commission of which a vehicle was used. The commissioner shall keep these records in his office, and they shall be open to public inspection during reasonable business hours.

F.(1) For each conviction or forfeiture of bail as outlined above, a fee of two dollars shall be added to the fine of the person convicted, except in Orleans Parish where for each such conviction or forfeiture of bail a fee of ten dollars shall be added to the fine of the person convicted. This fee shall be retained by the respective court to cover the cost of preparing and submitting the abstract of the report to the commissioner.

(2) In addition to the two dollar fee provided for in Subsection F of this Section, the City Court of Bossier City is hereby authorized to collect an additional fee of one dollar for each conviction or forfeiture of bail which shall be added to the fine of the person convicted.

G. Whenever a certified statement of revocation or suspension of a driver's license from the Department of Public Safety is offered in evidence in any court of competent jurisdiction, it shall be received in evidence by such court as prima facie proof of its contents, provided that the party against whom the certificate is sought to be used may summon and examine those making the said certificate as witnesses under cross-examination.

H. Whenever any person is charged with a violation of any provision of this Chapter or regulation of the department, and the law enforcement officer issuing the citation has reason to believe that there exists a medical condition which constitutes cause for revocation or suspension under the provisions of R.S. 32:414(E), notification of such medical condition shall be made to the medical/conviction unit of the office of motor vehicles of the Department of Public Safety and Corrections at the same time and in the same manner as notification of the violation, provided that the law enforcement officer first consults with his superior officer as to his specific observations and such superior officer concurs with the issuing officer's belief.

I. Notwithstanding any provision of law to the contrary, the record of a conviction for a traffic violation which is based solely on evidence from a traffic camera shall not be forwarded to the Department of Public Safety and Corrections and no record of such conviction shall be made part of any person's driving record.

RS 32:393.1 — Records of convictions; extracts; fees

r federal court and magistrates have forwarded to the Department of Public Safety. Extract copies of such records shall be available through the Baton Rouge office and at least two offices in every district.

B. The commissioner shall furnish an extract copy of license records required to be kept by Subsection A hereof to state, parish, municipal, and court officials of this state for official use only, without charge.

C. The commissioner shall charge a fee of five dollars for furnishing extract copies from the Baton Rouge office of license records required to be kept by Subsection A to other persons, firms, or corporations for uses other than official. The fee for extract copies furnished from local field offices shall be ten dollars.

D. All fees collected by the department's local field offices shall be paid into the state treasury on or before the twenty-fifth day of each month following their collection and, in accordance with Article VII, Section 9 of the Constitution of Louisiana shall be credited to the Bond Security and Redemption Fund.

E. REPEALED BY ACTS 1983, 1ST EX. SESS., NO. 33, §6, EFF. JAN. 19, 1983.

RS 32:393.2 — Reports; diplomatic immunities and privileges; U.S. Department of State; deadlines

wise claims immunities or privileges under Title 22, Chapter 6 of the United States Code, is stopped by a law enforcement officer who has probable cause to believe that the driver has committed a violation of any provision of this Chapter or when any such driver has been involved in a motor vehicle accident, the law enforcement officer shall record the driver's name, address, motor vehicle license number, operator license number, and all other relevant information

contained on the driver's license or identification card issued by the United States Department of State. If the driver has been stopped, the officer shall forward such information, with a copy of the traffic citation, if applicable, to the Department of Public Safety and Corrections within seven calendar days after the traffic stop. If the driver is involved in a motor vehicle accident, the law enforcement officer shall forward such information with a copy of the written report of the accident investigation to the Department of Public Safety and Corrections within forty-eight hours after completion of the accident investigation.

B. The Department of Public Safety and Corrections shall receive all information, including copies of citations and accident reports, required under the provisions of this Section and shall forward such information and copies of reports and citations to the Bureau of Diplomatic Security, Office of Foreign Missions, of the United States Department of State within seven calendar days following receipt of such information.

C. The provisions of this Section shall not be construed to prohibit or limit the application of any criminal law or motor vehicle regulation to an individual who has or claims immunities or privileges under Title 22, Chapter 6 of the United States Code.

RS 32:394 — Flagrant violations; courts to give details on request of department

agrand cases which may be heard before them. They may make recommendations to the commissioner as to the suspension or revocation of the licenses and the certificates of registration of the defendant in such cases as they deem necessary.

RS 32:395 — Police officers not impeded by this chapter

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of their office or performing their duties in the enforcement of this Chapter, the regulations of the department or of the commissioner adopted pursuant hereto, or any other law of this state within the scope of their authority upon any highway, whether or not the highway is located in whole or in part within the corporate limits of any incorporated municipality of whatsoever population or within any parish of this state. However, in doing so, they shall observe the traffic and police regulations of such municipalities and parishes and, whenever practicably possible, shall cooperate with the police departments of such municipalities or parish officials who shall aid and assist them in the enforcement of this Chapter.

RS 32:396 — Commissioner to publish records

tolen and recovered motor vehicles and of suspensions and revocations of operators' and chauffeurs' licenses. He also shall furnish copies of such records to the police departments and sheriffs' offices throughout the state.

RS 32:397 — Commissioner to furnish forms and receive accident reports

lling for sufficiently detailed information to disclose, with reference to a highway accident, the cause, the conditions then existing, the persons and vehicles involved, the names of the liability carriers and policy numbers for the vehicles, and the name, address, and telephone number of the insurance agents who procured the liability policies providing coverage for the vehicles.

B. The commissioner shall receive accident reports required to be made by law and shall tabulate and analyze such reports and publish, annually or at more frequent intervals, statistical information based thereon as to the number, cause, and location of highway accidents.

RS 32:397.1 — Accident reports; citizens right to privacy

enacted to serve the public purpose of providing the citizens of this state with access to information which affects the citizens of the state. The Legislature of Louisiana further finds that the salutary purpose which underlies the provisions of Title 44 has become subverted by certain businesses which use information which appears in the public record solely because a citizen had the misfortune to become involved in a traffic accident as a means of aggressively soliciting that

citizen for the commercial gain of that business. The legislature further finds that this aggressive commercial solicitation violates the provisions of Article I, Section 5 of the Constitution of Louisiana, which establishes the right of the citizens of this state to be free from unreasonable invasions of privacy.

B. The Legislature of Louisiana hereby declares that the provisions of this Section are enacted for the purpose of implementing the right to privacy found in Article I, Section 5 of the Constitution of Louisiana, by establishing a procedure by which citizens who are involved in traffic accidents can prohibit commercial solicitation connected with that accident.

C. The office of motor vehicles shall establish a form which shall be made available, at cost, to all law enforcement agencies. The form shall provide each person who is involved in a traffic accident with a method of stating that the person does not wish to be solicited by specific commercial businesses. The businesses shall include but shall not be limited to attorneys, health care providers, motor vehicle repair businesses, and insurance businesses. The form shall allow the person who was involved in the accident to state that the person does not wish to be solicited by specific businesses or does not wish to be solicited by any businesses.

D. Each law enforcement officer who investigates and writes up a traffic accident shall furnish a form provided for in this Section to each person whose name appears in the accident report.

E. Each such form which is returned to the law enforcement officer shall be filed with the accident report.

F. Upon filing, the form shall become public record, and under the "public records doctrine" shall become binding on all businesses which are listed on the form.

G. When a form has been executed by a person who was involved in a traffic accident, and the form has been filed with an accident report, the solicitation of that citizen by a business with regard to any commercial activity which is reasonably related to the accident which is the subject of the report, in contravention of the statement on the form, is hereby declared to be an unreasonable invasion of privacy as denounced by the provisions of Article I, Section 5 of the Constitution of Louisiana, and is hereby prohibited.

H. Whoever violates the prohibition of Subsection G of this Section shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

I. In addition to the criminal penalties of Subsection H of this Section, a violation of the prohibition of Subsection G of this Section may be considered a violation of the ethical requirements of any profession or business which is regulated by a governing body which is created or recognized by law, and may subject the violator to sanctions by that governing body, including suspension or revocation of any license, permit, certificate, or similar document held by the offender.

J. The provisions of this Section shall not prohibit the sale of police accident reports or other driving record information to consumers of on-line driving records under written contracts with the Department of Public Safety and Corrections. The department shall include a clause in all such contracts which precludes the release of information in contravention of this Section.

RS 32:398 — Crash reports; when and to whom made; information aid; fees for copies; fees for death of any

person or property damage in excess of five hundred dollars shall:

- (1) Immediately give notice of the crash to the local police department if the crash occurs within an incorporated city or town or, if the crash occurs outside of an incorporated city or town, to the nearest sheriff's office or state police station.
- (2) Give his name, address, and the registration number of the vehicle he was driving and, upon request and if available, exhibit his license or permit to drive to any person injured in the crash or to the driver or occupant of or person attending any vehicle or other property damaged in the crash.
- (3) Give such information and, upon request, exhibit such license or permit to any police officer at the scene of the crash or who is investigating the crash.
- (4) If the crash occurs in a geographical area under order of evacuation by a competent authority or is under a declared state of emergency, the driver shall comply with

the provisions of Paragraphs (1) and (2) of this Subsection within seventy-two hours after the occurrence of the crash.

B. It shall be the duty of the state police or the sheriff's office to investigate all crashes required to be reported by this Section when the crash occurs outside the corporate limits of a city or town, and it shall be the duty of the police department of each city or town to investigate all crashes required to be reported by this Section when the crashes occur within the corporate limits of the city or town. Every law enforcement officer who investigates a crash, as required by this Subsection, shall instruct the driver of each vehicle involved in the crash to report the following to all parties suffering injury or property damage as an apparent result of the crash:

- (1) The name and address of the owner and the driver of the vehicle.
- (2) The license number of the vehicle.
- (3) The name of the liability carrier for the vehicle and the name, address, and telephone number of the insurance agent who procured the liability policy providing coverage for the vehicle.

C. Within forty-eight hours after completing the investigation, the investigating law enforcement agency shall forward a copy of the crash report or data contained in the report to the Department of Transportation and Development. However, if the crash occurred within the corporate limits of a city or town, the investigating law enforcement agency shall forward a copy of the crash report to the police department of the city or town and a duplicate report to the Department of Transportation and Development within forty-eight hours after completing the investigation.

D.(1) The state police, any local police department, or any sheriff's office shall provide copies of crash reports and may charge a fee, not to exceed the sum of five dollars per report that does not exceed two pages, and not to exceed twenty dollars, inclusive of all service fees and other charges, per report that exceeds two pages.

(2) If the state police establishes a lesser charge for electronic copies of crash reports, then a local police department or sheriff's office shall charge the amount established by state police for any electronic copies of crash reports provided pursuant to this Subsection.

(3) All data and reports shall be owned by the law enforcement agency who created the report, and all collective data shall be owned by the state of Louisiana. Third-party vendors under contract with a state or local agency shall not be prohibited from selling individual crash reports on behalf of the agency. However, third-party vendors, including contracted agents of law enforcement entities, shall not sell any aggregated or compiled data owned either by the state of Louisiana or a local law enforcement entity, unless specifically authorized by the state of Louisiana.

E. The state police, any local police department, or any sheriff's office shall provide copies of photographs of crashes or other photographs required of the investigating agency, video recordings, audio recordings, and any extraordinary-sized documents, or documents stored on electronic media, to any interested person upon request and may charge a reasonable fee for such copies.

F. Every person holding the office of coroner in this state, or, in the event of a

vacancy in the office, the person performing the duties of coroner, shall report to the Department of Transportation and Development the death of any person as a result of a crash involving a motor vehicle, and the circumstances of the crash within sixty days following the death.

G. The Department of Public Safety and Corrections shall prepare and, upon request, shall supply the office of state police, a municipal police department, the sheriff's office, and any other authorized agency or individual, with electronic forms of crash reports that provide sufficient detailed information to disclose, with reference to a highway crash, the cause, conditions then existing, and the persons and vehicles involved. All crash reports required pursuant to this Section shall be provided on electronic forms approved by the Department of Public Safety and Corrections. The Department of Public Safety and Corrections shall establish the format required for crash reports.

H.(1) The Department of Transportation and Development shall receive crash data derived from the crash reports and may tabulate and analyze the data and publish annually, or at more frequent intervals, statistical information as to the number, cause, and location of highway crashes.

(2) Based upon its findings after analysis, the Department of Transportation and Development may conduct further necessary detailed research to determine more fully the cause and control of highway crashes. It may further conduct experimental field tests within areas in the state occasionally to prove the practicality of various ideas advanced in traffic control and crash prevention.

I.(1)(a) The reports required by this Section, and the information contained in the reports, shall be confidential, shall be exempt from the provisions of R.S. 44:1 et seq., and shall be made available only to the parties to the crash, parents or guardians of a minor who is a party to the crash, and insurers, or an insurance support organization under contract to provide claims and underwriting, of any party which is the subject of the report; to any healthcare provider, or their agent, that rendered healthcare services to any party which is the subject of the report; to the succession representatives of those parties or the attorneys of the parties or succession representatives; or to a news-gathering organization that requests documents related to a specific crash. Upon request, crash reports shall be made available to the above-enumerated persons within seven working days following the completion of the crash investigation.

(b) For purposes of this Subsection, "insurance support organization" means any of the following:

- (i) Any person who regularly engages, in whole or in part, in the practice of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurance institution or agent for insurance transactions, including the furnishing of consumer reports or investigative consumer reports to an insurance institution or agent for use in connection with an insurance transaction.
- (ii) The collection of personal information from insurance institutions, agents, or other insurance support organizations for the purpose of detecting or preventing fraud, material misrepresentation, or material nondisclosure in connection with insurance

underwriting or insurance claim activity.

(iii) Agents, governmental institutions, and insurance institutions shall not be considered an "insurance support organization".

(c) For purposes of this Subsection, "news-gathering organization" means any of the following:

(i) A newspaper or news publication, printed or electronic, of current news and intelligence of varied, broad, and general public interest, having been published for a minimum of one year and that can provide documentation of membership in a statewide or national press association, as represented by an employee who can provide documentation of his employment with the newspaper, wire service, or news publication.

(ii) A radio broadcast station, television broadcast station, cable television operator, or wire service as represented by an employee who can provide documentation of his employment.

(2) The information in the reports may be tabulated and included in the statistical information published under the provisions of Subsection H of this Section.

(3) Nothing in this Section shall prohibit the sale of driving record information to consumers of online driving records under written contract for purchase of records with the Department of Public Safety and Corrections.

(4) The information in the reports may be used by the office of motor vehicles for the purpose of maintaining operating records.

J. Whenever any person is involved in a crash resulting in injury to or death of any person, or property damage in excess of five hundred dollars and the law enforcement officer investigating the crash has reason to believe that there exists a medical condition which constitutes cause for revocation or suspension of a license under the provisions of R.S. 32:414(E), notification of such medical condition shall be made to the medical/conviction unit of the Department of Public Safety and Corrections, office of motor vehicles, provided that the law enforcement officer first consults with his superior officer as to his specific observations and his superior officer concurs with the issuing officer's belief.

K.(1) All police, state or local, shall immediately contact the Department of Transportation and Development's district office or the local roadway owner when called to the scene of a crash where that department's or local roadway owner's property has been damaged.

(2) Upon completion of the investigation, all police, state or local, shall make available, at no cost to the Department of Transportation and Development or the local roadway owner, copies of crash reports that indicate damage to property of the Department of Transportation and Development or the local roadway owner.

RS 32:398.1 — Traffic citations; form; issuance

sued through one of the following manners:

(1) Books with citations in quadruplicate and meeting the requirements of this Part and approved by the commissioner.

(2) Electronic tickets or e-tickets meeting the requirements of this Part and approved

by the commissioner. For the purposes of this Section, an "electronic ticket" or "e-ticket" means a ticket that is electronically generated and transmitted.

B. The chief administrative officer of each traffic-enforcement agency shall issue these books, maintain a record of each book and each citation contained therein issued to all individual members of the traffic enforcement agency and shall require and retain a receipt for each book issued.

C. Repealed by Acts 2018, No. 192, §1.

RS 32:398.2 — Disposition of traffic citations; unlawful acts; records

Any state or of any traffic ordinance of any city or town shall deposit the original citation or a copy of such traffic citation with a court having jurisdiction over the alleged offense or with the appropriate traffic violations bureau. However, a citation for a violation of R.S. 32:80(A) shall be deposited only with a court and not with a traffic violations bureau.

B. Upon the deposit of the original citation or a copy of the traffic citation with a court having jurisdiction over the alleged offense or with the traffic violations bureau as set forth herein, the original citation or copy of such traffic citation shall be disposed of only by trial in the court of proper jurisdiction or any other official action by a judge of the court, including forfeiture of the bail, or by the deposit of sufficient bail with the traffic violations bureau or payment of a fine to said bureau by the person to whom such traffic citation has been issued. However, a citation or its copy alleging a violation of R.S. 32:80(A) shall be disposed of only by trial or acceptance of a plea in open court.

C. It shall be unlawful for any traffic enforcement officer or any other officer or public employee to dispose of a traffic citation or copies thereof or of the record of the issuance of the citation in a manner other than as required herein.

D. The chief administrative officer of each traffic enforcement agency in the state shall require all traffic officers under his supervision to return to him a copy of every traffic citation which was issued by the officer for the violation of a traffic law or ordinance, and in addition shall require the return of all copies of every traffic citation which has been spoiled or upon which an entry has been made without having issued the citation to the alleged violator.

E. The chief administrative officer shall also maintain or cause to be maintained in connection with every traffic citation issued by an officer under his supervision a record of the disposition of the charge by the court or its traffic violations bureau in which the original or a copy of the traffic citation was deposited.

F. Nothing herein shall be construed as prohibiting or interfering with the authority of a district attorney or other prosecuting attorney to dismiss a traffic citation or charge by entry of a nolle prosequi.

RS 32:398.3 — Illegal cancellation of traffic citation; penalty; audit of citation records; publication

provided in this Part, shall be guilty of a misdemeanor, and shall, upon conviction, be fined not more than five hundred dollars or imprisoned for not more than six months or both.

B. Each record of traffic citations required in this Part shall be audited quarterly by the appropriate fiscal officer of the governmental agency to which the traffic enforcement agency is responsible.

RS 32:398.4 — When copy of citation shall be deemed a lawful complaint

general laws of this state with respect to a

complaint which charges commission of the offense alleged in the citation to have been committed, then such citation, when filed with a court of proper jurisdiction, shall be deemed to be a lawful complaint for the purpose of prosecution under this Part. An electronic signature from a notary or ex officio notary shall be authorized for this purpose.

RS 32:398.5 — Applicability

accomplishing the purposes set forth in this Part and which are not in direct conflict with any of the provisions of this Part.

RS 32:398.10 — Collection and reporting of statistical information relating to traffic stops

following information:

(1) The number of persons stopped for traffic violations.

(2) Characteristics of race, gender, age, and state of residence of such persons, provided the identification of such characteristics shall be based on the observation and perception of the law enforcement officer responsible for reporting the stop and the information shall not be required to be provided by the person stopped.

(3) The nature of the alleged traffic violation that resulted in the stop.

(4) Whether a warrant or citation was issued, an arrest made, or a search conducted as a result of the stop.

(5) If a search was conducted, the type of search and the legal basis for that search, and whether contraband was discovered and property was seized.

(6) The number of persons stopped for violations of R.S. 32:300.5 and 300.6.

(7) The number of violations of R.S. 32:300.7.

(8) The number of violations of R.S. 32:289.1.

B. Any law enforcement officer who in good faith records traffic stop information pursuant to the requirements of this Section shall not be held civilly liable for the act of recording such information.

C. Law enforcement agencies shall submit the information required by Subsection A of this Section for all traffic citations issued by their law enforcement officers on a quarterly basis to the Department of Public Safety and Corrections.

D. The secretary of the Department of Public Safety and Corrections shall collect statistical information regarding the age, sex, race, and state of residence of motorists issued traffic citations by Louisiana law enforcement agents and shall provide a report of this information annually to the governor and members of the legislature on or before May first of every year.

E. Except for the office of state police, the provisions of this Section shall be inapplicable to any local law enforcement agency or department that has adopted a written policy against racial profiling.

F. Each state or local law enforcement agency or department covered by this Section shall require every law enforcement officer within their respective agency or department to view the video on racial profiling produced by the Department of Public Safety and Corrections, public safety services.

RS 32:399 — Citation

d either as Sections of the Highway Regulatory Act or as Sections of the Revised Statutes. Thus Section 5 of the Highway Regulatory Act may also be referred to or cited as R.S. 32:5.

Whenever reference is made herein to a Section of the Highway Regulatory Act, the same shall also relate to the corresponding Section of the Revised Statutes.

RS 32:400.1 — Definitions

utomated driving system" means the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether it is limited to a specific operational design domain.

(2) "Autonomous commercial motor vehicle" means a motor vehicle used in commerce and equipped with an automated driving system, including those designed to function without a driver.

- (3) "Commerce" means transportation for the purpose of compensation, remuneration, employment, trade, or payment of any thing of value.
- (4) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle has a gross combination weight rating of twenty-six thousand one or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds.
- (5) "Conventional human driver" means a driver who manually exercises in-vehicle braking, accelerating, steering, and transmission gear selection input devices in order to operate a vehicle.
- (6) "Dynamic driving task" means all of the real-time operational and tactical functions required to operate a vehicle in on-road traffic excluding strategic functions such as trip scheduling and selection of destinations and waypoints.
- (7) "Minimal risk condition" means a condition to which a user or an automated driving system may bring a vehicle in order to reduce the risk of a crash upon experiencing a failure of the vehicle's automated driving system that renders the vehicle unable to perform the entire dynamic driving task.
- (8) "Operational design domain" means a description of the specific operating domain in which an autonomous commercial motor vehicle is designed to properly operate including but not limited to roadway types, speed, environmental conditions, and other domain constraints.
- (9) "Remote driver" means a natural person who is not seated in an autonomous commercial motor vehicle, but is able to perform the entire dynamic driving task.
- (10) "Teleoperation system" means hardware and software installed on a motor vehicle that allow a remote driver to operate the vehicle.

RS 32:400.2 — Controlling authority; compliance

ed driving systems

shall be governed exclusively by this Part.

B. Notwithstanding any provision of law to the contrary, the Department of Transportation and Development shall be the sole and exclusive agency with jurisdiction over autonomous commercial motor vehicles and automated driving systems and shall implement the provisions of this Part.

C. The provisions of this Section shall not be construed to limit the applicability of state dealer franchise laws under the provisions of R.S. 32:1251 through 1269.

RS 32:400.3 — Operation; criteria

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present in the vehicle if the autonomous commercial motor vehicle meets all of the following criteria:

- (1) Is capable of operating in compliance with applicable federal law and the traffic and motor vehicle laws of this state including but not limited to applicable laws concerning the capability to safely navigate and negotiate railroad crossings.
- (2) Is properly registered and titled in accordance with R.S. 32:701 et seq. and R.S. 47:463.

(3) Is certified in accordance with 49 CFR Part 567 as being in compliance with federal motor vehicle safety standards and bears the required certification label or labels including reference to any exemption granted under applicable federal law.

(4) Is capable of achieving a minimal risk condition if a failure occurs rendering the vehicle unable to perform the dynamic driving task relevant to its intended operational design domain or if the vehicle exits its operational design domain.

(5) Is covered by motor vehicle liability coverage in an amount not less than two million dollars.

B. The registration of an autonomous commercial motor vehicle shall not be interpreted to abrogate or amend any statutory or regulatory provisions or any aspects of law pertaining to liability for any harm or injury caused.

C. Prior to commencing the operation of an autonomous commercial motor vehicle without a conventional driver present in the cab, a person or entity shall submit a written statement to the Department of Transportation and Development certifying that the vehicle meets the requirements of this Section.

RS 32:400.4 — Owners and operators of an autonomous commercial motor vehicle

ment to the Department of Transportation and Development pursuant to the provisions of R.S. 32:400.3(C) shall be subject to all applicable laws, rules, ordinances, and statutes of this state and will be considered to be licensed to operate the vehicle. The person or entity operating the autonomous commercial motor vehicle may be issued a traffic citation or other applicable penalty if the vehicle fails to comply with any traffic or motor vehicle laws of this state.

RS 32:400.5 — Reporting an accident

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remain at the scene of the accident and the operator or any person on behalf of the operator of the autonomous commercial motor vehicle shall comply with the provisions of R.S. 32:398 relative to contacting the appropriate law enforcement agency and furnishing all relevant information.

RS 32:400.6 — Remote drivers; teleoperations; compliance

to be the operator of the vehicle for the purpose of assessing compliance with applicable traffic or motor vehicle laws including the rules of the road.

B. The remote driver shall hold the proper class of license required for a conventional driver to operate the vehicle.

C. If an accident occurs involving a commercial motor vehicle equipped with a teleoperation system while the teleoperation system is engaged, the vehicle shall remain at the scene of the accident and the owner or remote driver shall comply with the provisions of R.S. 32:398 relative to contacting the appropriate law enforcement agency and furnishing all relevant information.

RS 32:400.7 — Teleoperations; operation; criteria

state without a conventional

driver physically present in the vehicle if a remote driver is operating the vehicle and the commercial motor vehicle meets all of the following criteria:

- (1) Is properly registered.
- (2) Is in compliance with applicable federal law.
- (3) Is certified in accordance with 49 CFR Part 567 as being in compliance with federal motor vehicle safety standards and bears the required certification label or labels, including reference to any exemption granted under applicable federal law.
- (4) Is capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state, regardless of whether the vehicle is operated by a remote driver including but not limited to applicable laws concerning the capability to safely navigate and negotiate railroad crossings.
- (5) Is covered by motor vehicle liability coverage in an amount not less than two million dollars.
- (6) Is capable of achieving a reasonably safe state, such as bringing the vehicle to a stop if a failure of the teleoperation system occurs that renders the remote driver unable to perform the entire dynamic driving task for the vehicle.

B. Prior to commencing the operation of a commercial motor vehicle equipped with a teleoperation system without a conventional driver present in the cab, an owner, a remote driver, or the remote driver's employer shall submit a written statement to the Department of Transportation and Development certifying that the vehicle meets the requirements of this Section.

RS 32:400.8 — Liability; jurisdiction

hicle owner, operator, manufacturer, component part supplier, or retailer including any law that may apply to jurisdiction for any bodily injury or property damage claims arising out of this Part. All choice of law conflicts with respect to bodily injury or property damage claims shall be resolved in accordance with Louisiana law.

RS 32:401 — Definitions

- (1) "Agricultural movements" means the operation of a motor vehicle or combination of vehicles by a farmer to transport agricultural products, farm machinery, and farm supplies; or agricultural crop production fertilizers, agricultural chemicals, or agricultural related fuels, found to be hazardous under the provisions of the Hazardous Materials Transportation Act which requires the motor vehicle to bear a placard under the provisions of the Hazardous Materials Regulations (99 CFR Part 172, Subpart F); to and from a farm within one hundred fifty air miles of the owner's or operator's farm, and which is not used in the operation of a common or contract carrier or used to transport passengers or property for hire.
- (2)(a) "Autocycle" means a three-wheeled motorcycle on which the driver and all passengers ride in either a partially or completely enclosed seating area or in a side-by-side seating area that is equipped with a rollbar or roll cage, safety belts for all occupants, and is designed to be controlled with a steering mechanism and pedals.
- (b) For purposes of this Paragraph, "rollbar" or "roll cage" shall mean supports that will bear the vehicle's weight and are so designed as to protect the occupants when the

vehicle is resting on the supports.

(3) "Cancellation" means that a driver's license is annulled because of some error or defect or because the licensee is no longer entitled to such license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after such cancellation.

(4) "Commerce" means transportation for the purpose of compensation, remuneration, employment, trade, or payment of any thing of value.

(5) "Commercial driver's license" means a driver's license to operate a commercial motor vehicle.

(6) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle meets one of the following requirements:

(a) Has a gross combination weight rating of twenty-six thousand one or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds.

(b) Has a gross vehicle weight rating of twenty-six thousand one or more pounds.

(c) Is designed to transport sixteen or more passengers, including the driver.

(d) Is of any size and is used in the transportation of materials found to be hazardous under the provisions of the Hazardous Materials Transportation Act which requires the motor vehicle to bear a placard under the provision of the Hazardous Materials Regulations (CFR 49 Part 172, Subpart F). This shall not include hazardous materials used in agricultural movements as defined in this Chapter.

(7) "Convicted" or "conviction" includes the entry of a plea of guilty or nolo contendere to an offense; the forfeiture of bail of any person charged with an offense; and the adjudication of a person as a delinquent for the commission of an offense pursuant to juvenile proceedings.

(8) "Department" means the Department of Public Safety and Corrections.

(9) "Driver rehabilitation specialist" means an individual who provides comprehensive services in clinical evaluation of physical functioning, visual/perceptual/cognitive screening, as it pertains to the driving test, and wheelchair/seating assessment, driving assessment, vehicle modification prescription, and driver education; possesses at a minimum an undergraduate degree in a rehabilitation, education, health, safety, physical, occupational, kinesio, or recreational therapy, or related profession or an equivalent of eight years experience in driver rehabilitation/education; and has a minimum of one year of experience in the area of driver evaluation and training for persons with disabilities or possesses current recognition from the Association for Driver Rehabilitation Specialists (ADED) as a driver rehabilitation specialist.

(10) "Driver's license division" means the driver's license division of the Department of Public Safety and Corrections.

(11) "Drug offense" means any criminal offense which includes:

(a) The possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any

substance the possession of which is prohibited under the Controlled Dangerous Substances Law, or

(b) The operation of a motor vehicle under the influence of such a substance.

(12) "Farmer" means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which are owned by that person, or are under the direct control of that person.

(13) "Gross vehicle weight rating" (GVWR) means that value specified by the manufacturer as the maximum loaded weight of a single or combination (articulated) vehicle. The gross vehicle weight rating of a combination (articulated) vehicle, commonly referred to as the "gross combination weight rating" (GVWR), is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of the towed unit or units. In the absence of a value specified for the towed unit or units by the manufacturer, the gross vehicle weight rating of a combination (articulated) vehicle is the gross vehicle weight rating of the power unit plus the total weight of the towed unit or units, including their loads.

(14) "License" or "driver's license" means any license, which shall include a license that complies with the standards of REAL ID as provided for in R.S. 32:410(E), secured from the Department of Public Safety and Corrections, in accordance with this Chapter to operate a motor vehicle on the highways of this state.

(15) "License fee" means the privilege, tax, or fee imposed by this Chapter.

(16) "Light vehicle" means any motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle has a gross combination weight rating of less than twenty-six thousand and one pounds inclusive of a towed unit with a gross vehicle weight rating of ten thousand pounds or less; or has a gross vehicle weight rating of less than twenty-six thousand and one pounds; or is designed to carry fewer than sixteen passengers, including the driver, and is not used in the transportation of materials found to be hazardous under the provisions of the Hazardous Materials Transportation Act, or a state law or regulation, which requires the vehicle to bear a placard under the provision of the Federal Hazardous Materials Regulations or under state law or regulation.

(17) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor and an electric-assisted bicycle or a motorized bicycle.

(18) "Motor-driven cycle" means every motorcycle, including every motor scooter, with a motor of not to exceed five horsepower.

(19) "Motorized bicycle" means a pedal bicycle which may be propelled by human power or helper motor, or by both, with a motor rated no more than one and one-half horsepower, a cylinder capacity not exceeding fifty cubic centimeters, an automatic transmission, and which produces a maximum design speed of no more than twenty-five miles per hour on a flat surface, but excluding an electric-assisted bicycle.

(20) "Motor vehicle" means and includes automobiles, trucks, truck-tractors, trailers, semitrailers, and motorcycles, propelled by steam, gasoline, electricity, or any other source of energy other than muscular power, except electric-assisted bicycles, farm implements temporarily operated or moved on a highway or vehicles operated only on rails or tracks

constructed therefor.

(21) "Power cycle" means every motor vehicle propelled by an engine developing not more than five brake horse power, designed to travel on not more than three wheels, at a speed under thirty-five miles per hour, and equipped with brakes adequate to stop such vehicle upon a reasonably clean, dry, level surface within forty-five feet from the spot where the brakes were first applied when the vehicle is travelling at twenty miles per hour.

(22) "Revocation" means that the driver's license to drive a motor vehicle on the highways is terminated and shall not be renewed, except that an application for a new license may be presented and acted upon by the department after the expiration of at least one year after revocation.

(23) "Suspension" means that the driver's license to drive a motor vehicle on the highways is temporarily withdrawn during the period of such suspension.

(24) "Transportation of passengers for hire or fee" means the movement of passengers by motor vehicle for direct monetary payment to a taxicab, limousine service, livery, and/or any common carrier of passengers.

RS 32:402 — Mandatory licensure; exceptions; violations

ore driving or operating any such

motor vehicle on any public street, road, or highway of this state, shall secure from the department, or a public license tag agent authorized to issue drivers' licenses as provided in Paragraph (B)(2) of this Section, an appropriately classified driver's license with all necessary endorsements.

B.(1)(a)(i) It shall be unlawful for any person to drive a motor vehicle on any public street, road, or highway of this state unless he has been issued a license by the department, or by a public license tag agent, authorized to issue drivers' licenses as provided in this Subsection, or a license issued by another state or foreign government and recognized by the department, in accordance with the provisions of this Chapter.

(ii) The provisions of Item (i) of this Subparagraph shall not apply in the following circumstances:

(aa) When an agent, a properly licensed and contracted third-party tester, or employee of the office of motor vehicles is administering an on-road driving skills test required to obtain a Class "D" or "E" driver's license as provided in R.S. 32:408 or to convert a Class "E" learner's license to a Class "E" intermediate license as provided in R.S. 32:407.

(bb) When an unlicensed minor is participating in a driver education course or a precensuring training course approved and certified by the Department of Public Safety and Corrections, public safety services.

(cc) When an unlicensed minor who is at least fourteen years of age is driving with a parent or guardian in the vehicle who holds a valid driver's license and is providing driving instruction to the minor child, provided that the minor is not driving on a public street, road or highway.

(b) It shall also be unlawful for any person to apply for or obtain more than one valid license.

(c) Penalties for convictions of Subparagraph (a) of this Paragraph are as follows:

(i) Repealed by Acts 2008, No. 645, §1, eff. June 1, 2009.

(ii) If the unlicensed person is involved in a collision which results in the serious bodily injury or death of another person, the person shall be subject to a fine of not less than five hundred dollars and not more than one thousand dollars, or imprisonment for up to six months, or both. However, nothing in this Item shall be construed to prevent an unlicensed person from being charged with vehicular homicide in violation of R.S. 14:32.1 or negligent homicide in violation of R.S. 14:32 if the collision results in the death of another person, or from being charged with negligent injury, if the collision results in the serious injury of another person. For purposes of this Item, "serious bodily injury" means a bodily injury which involves unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

(iii) If the court finds that at the time of the violation of Subparagraph (a) of this Paragraph the unlicensed driver was driving a vehicle for which a Class "D" or Class "E" driver's license is required, he may be fined up to five hundred dollars or imprisoned for not more than six months, or both.

(iv) If the court finds that if at the time of the violation of Subparagraph (a) of this Paragraph, the unlicensed driver was driving a vehicle for which a Class "A", "B", or "C" driver's license is required, he may be fined up to five thousand dollars or imprisoned for not more than six months, or both.

(v) If the court finds that if at the same time of the violation of Subparagraph (a) of this Paragraph, the unlicensed driver was driving and engaging in conduct that results in a conviction for a second or subsequent offense violation of R.S. 14:98, the offender shall be fined not less than three hundred dollars nor more than five hundred dollars and imprisoned not less than seven days nor more than six months. At least seven days of such imprisonment shall be without benefit of probation, parole, or suspension of sentence and shall be consecutive to any sentence imposed for the violation of R.S. 14:98. In addition, the person may be subject to a civil penalty of up to one thousand two hundred fifty dollars.

(vi) If the court finds that if at the same time the violation of Subparagraph (a) of this Paragraph the unlicensed driver was driving a vehicle for which a Class "A", Class "B", or Class "C" driver's license is required and engaging in conduct that results in a conviction for a second or subsequent offense violation of R.S. 14:98, the unlicensed driver shall be fined not less than three hundred dollars nor more than five thousand dollars and imprisoned for not less than seven days nor more than six months. At least seven days of such imprisonment shall be without benefit of probation, parole, or suspension of the sentence and shall be consecutive to any sentence imposed for the violation of R.S. 14:98. In addition, the person may be subject to a civil fine of up to two thousand five hundred dollars.

(2)(a) The department is hereby authorized to contract with or enter into agreements with a public license tag agent for the issuance of Class "D" or "E" drivers' licenses, provided such public license tag agent complies with all provisions of state and federal laws regarding the issuance of drivers' licenses, and complies with all policies and procedures adopted by the department regarding the issuance of drivers' licenses. The department may contract with

or enter into agreements with a public license tag agent or certify or license such agent to issue drivers' licenses. The department shall by rule establish minimum qualifications for public license tag agents authorized to issue drivers' licenses and prescribe the procedures to be used.

(b) Public license tag agents must use the same technology utilized by the department for issuance of licenses to ensure that licenses issued by such agents are identical to licenses issued by the department. These requirements and conditions shall be included in any contract or agreement between the department and a public license tag agent and shall be a part of any license, certificate, or permit issued to a public license tag agent.

(3) The department shall by rule establish a system to regulate public license tag agents issuing drivers' licenses, and these regulations shall have the full force and effect of law. The department shall promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section.

(4) In addition to any other applicable sanction, improper issuance of a driver's license by a public license tag agent shall subject such agent to the penalties imposed by this Chapter, a civil penalty of not more than five thousand dollars per violation, revocation, or suspension of the privilege to issue drivers' licenses, or any or all of the above sanctions.

C.(1) Notwithstanding any provision of this Section or any other law to the contrary, the only driver's license required of a full-time, regularly paid operator of an emergency medical vehicle or firefighting equipment employed by the Louisiana Department of Agriculture and Forestry, or a municipality, parish, fire protection district, or other political subdivision of the state, or civilian employees of the United States military who are required to operate emergency vehicles, shall be a Class "E" driver's license when operating such vehicle or equipment in the course and scope of his employment. The emergency vehicle or firefighting equipment shall be equipped with audible and visual signals as required by Federal Motor Carrier Safety Administration rules.

(2) Notwithstanding any provision of this Section or any other law to the contrary, the only driver's license required of a driver for an industrial mutual aid response team or a volunteer operator of an emergency medical vehicle or firefighting equipment shall be a Class "E" driver's license when operating such vehicle or equipment.

(3) Notwithstanding any other state law, and subject to the approval of the United States Department of Defense, active or reserve members of the United States military and active or reserve members of the National Guard shall be authorized to operate commercial motor vehicles or buses with a Class "E" driver's license when operating such vehicles or buses in the course and scope of military duties during a gubernatorially declared state of emergency.

(4) Notwithstanding any provision of this Section or any other law to the contrary, the only driver's license required of an operator of an emergency command post vehicle which would otherwise meet the definition of a commercial motor vehicle, and who is employed by the Governor's Office of Homeland Security and Emergency Preparedness or a parish office of emergency preparedness, shall be a Class "E" driver's license when operating such vehicle in the course and scope of his employment. Such vehicle shall be

equipped with audible and visual signals as required by Federal Motor Carrier Safety Administration rules.

(5) Notwithstanding any provision of this Section or any other law to the contrary, the only driver's license required of an operator of an emergency command post vehicle or other law enforcement equipment which would otherwise meet the definition of a commercial motor vehicle, and who is employed as a law enforcement officer, shall be a Class "E" driver's license when operating such vehicle or equipment in the course and scope of his employment. Such vehicle or equipment shall be equipped with audible and visual signals as required by Federal Motor Carrier Safety Administration rules.

(6) Notwithstanding any provision of this Section or any other law to the contrary, an employee of the Department of Transportation and Development who is operating a bus, in the course and scope of his employment, during a gubernatorially declared state of emergency or disaster shall only be required to possess a Class "E" driver's license.

D.(1) Upon the written request of a licensed physician for driver assessment, the secretary may authorize a driver rehabilitation specialist as defined in this Chapter to issue a temporary Class "E" driving permit for the purpose of driver assessment and training to an individual who is not licensed to drive under the provisions of this Chapter or who has an expired license provided such license is not currently under suspension or revocation. If a license has been suspended or revoked, the temporary medical assessment permit may only be issued upon receipt of special authorization from the department.

(2) The temporary permit shall be issued for a total time period of six weeks; however, such period of time shall begin on the first date of evaluation which shall be indicated on the permit and signed by the driver rehabilitation specialist. The temporary permit shall only be issued to those who are sixteen years of age or older.

(3) The temporary permit shall be valid only during the individual's participation in an actual in-car evaluation process during which time the evaluator shall be present.

(4) The department shall promulgate rules and regulations necessary to the administration and enforcement of this Subsection, to include but not be limited to the design of the application and the permit.

E. No person who holds a valid state driver's license shall be deemed to be in violation of this Section because such license is not in his immediate physical possession.

F.(1) The exceptions provided for in Subsection C of this Section shall only apply to drivers licensed by the state of Louisiana and drivers licensed by a state with which Louisiana has a reciprocity agreement.

(2) The exceptions in Paragraphs (C)(1), (2), (4), and (5) of this Section shall only apply to the operation of commercial motor vehicles for which the particular exception applies when those commercial motor vehicles are equipped with audible and visual signals and the operation of the commercial motor vehicle is necessary for the preservation of life or property or in the execution of emergency governmental functions.

RS 32:402.1 — Driver education; required

also submitted with the

application, on a form approved by the secretary of the Department of Public Safety and

Corrections, public safety services, written evidence of the successful completion by the applicant of one of the following:

(1)(a) A "driver education course" for any person under the age of eighteen, which shall consist of not less than eight hours of actual driving instruction and thirty hours of classroom instruction. A person shall not be allowed to receive more than four hours of actual driving instruction on any single calendar day. The Department of Public Safety and Corrections, public safety services, shall establish rules and regulations to administer and define the requirements of the course. The rules and regulations established by the Department of Public Safety and Corrections, public safety services, shall provide for instruction relative to trailer safety, to the economic effects of littering, to accessible parking and access aisles, and to appropriate driver conduct when stopped by a law enforcement officer. Oversight review of these rules shall be conducted by the House and Senate committees on transportation, highways and public works in accordance with the Administrative Procedure Act.

(b) Upon completion of the required supervised driving practice pursuant to R.S. 32:405.1 and 407, a properly licensed and contracted third-party tester may administer the on-road driving skills test to the student. Upon successful completion, such third-party tester shall provide the student with a department approved certificate of successful completion in a sealed envelope to be delivered to the department.

(2) A "prelicensing training course" administered by a Class "D" and "E" driver education provider licensed and contracted pursuant to R.S. 40:1461 for any person eighteen years or older if a driver education course is not completed. The prelicensing training course shall consist of a minimum of six hours of classroom instruction and a minimum of eight hours of actual driving instruction, including the administering of the skills test. A person shall not be allowed to receive more than four hours of actual driving instruction on any single calendar day. A properly licensed third-party examiner may, at his discretion, administer the skills test to the student prior to the conclusion of the eight hours of actual driving instruction. Upon successful completion of the instruction and skills test, the third-party tester shall provide the student with a department-approved certificate of successful completion in a sealed envelope to be delivered to the department. If the student fails to successfully complete the skills test, the third-party examiner shall issue a department-approved certificate indicating completion of the driver education course but failure of the skills test. The Department of Public Safety and Corrections, public safety services, shall establish rules and regulations to administer and define the requirements of the course. Oversight review of these rules shall be conducted by the House and Senate committees on transportation, highways and public works in accordance with the Administrative Procedure Act. The rules shall provide for:

(a) Licensing or contractual requirements for third-party training schools and high school instructors.

(b) Course content and presentation, including content relative to trailer safety, to the economic effects of littering, to accessible parking and access aisles, and to appropriate driver conduct when stopped by a law enforcement officer.

(c) Instructor qualifications and certification.

(d) Classroom size and facilities.

(e) Certificates of completion.

(f) Required records and reporting.

(g) Penalties for noncompliance of the mandatory instructional and driving requirements and penalties for the falsification of documents and certificates.

(h) Repealed by Acts 2011, No. 294, §6.

(3) Foreign nationals in Louisiana under an H-2A visa who possess a valid foreign driver's license are exempt from prelicensing training course and driver's education course requirements.

B. The Department of Public Safety and Corrections, public safety services, shall establish a portion of the "driver education course" and "prelicensing training course" relative to the economic and adverse effects of littering in conjunction with Keep Louisiana Beautiful, Inc.

C. The Department of Public Safety and Corrections, public safety services, shall establish and implement a portion of the "driver education course" and "prelicensing training course" relative to managing a routine traffic stop. The department shall establish rules and regulations to administer and define the requirements within the course. The curriculum shall be developed considering the actions of officers, the drivers and occupants, the number of occupants, the time and reason for the stop, the location of the stop, and any other circumstance surrounding the stop. At a minimum, the course shall include the following:

(1) Instruction concerning law enforcement procedures for traffic stops.

(2) Instruction on the importance of officers, drivers, and passengers maintaining integrity and respect during traffic stops.

(3) Demonstrations of appropriate interactions with law enforcement.

(4) Demonstrations of the proper actions to be taken during traffic stops.

D. No person under the age of fifteen shall be allowed to enroll or participate in the driving experience portion of any driver education course or driver training program. A person, no sooner than ninety days prior to his fifteenth birthday and who is in, at a minimum, grade eight, shall be permitted to participate in the classroom instruction component of a driver education course or driving program.

E.(1) Any person who is at least of age to participate in the classroom instruction portion of a driver education course, driver training program, or a prelicensing training course shall apply to the department for a Class "E" temporary instructional permit prior to the administration of the knowledge test. The application for a Class "E" temporary instructional permit shall be in accordance with R.S. 32:409.1 and 410. The fee for a Class "E" temporary instructional permit shall be the same as the fee for a Class "E" driver's license. The Class "E" temporary instructional permit issued pursuant to this Section shall contain a highly visible distinctive color or restriction code that clearly indicates the permit has been issued for the purpose of on-road driving skills instruction with a Department of Public Safety and Corrections certified driving instructor.

(2) A person shall be required to possess a Class "E" temporary instructional permit

in order to participate in the administration of the knowledge test, operate a motor vehicle during on-road driving skills instruction, or participate in the administration of an on-road driving skills test.

(3) A person with a Class "E" temporary instructional permit required by this Subsection is permitted to operate a motor vehicle on the public highways and streets of this state only when the permit holder is accompanied by an instructor of driver education and traffic safety, and while actually operating a motor vehicle during the behind-the-wheel instruction or during the administration of the skills test.

(4) The holder of a Class "E" temporary instructional permit required by this Subsection shall be in possession of the permit during the period of its validity and such permit shall be presented for examination when so requested by any law enforcement officer or representative of the department.

(5) Upon successful completion of a driver education course, driver training program, or prelicensing training course and the knowledge test, a person who is ineligible for a permanent license pursuant to R.S. 32:407, shall surrender a Class "E" temporary instructional permit issued pursuant to this Subsection to the department and apply for the issuance of a learner's license. The department shall not charge a fee for a learner's license issued in connection with the surrender of a Class "E" temporary instructional permit.

(6) Upon successful completion of a driver education course, driver training program, or prelicensing training course, and the knowledge and on-road driving skills test, a person who is eligible for a permanent license pursuant to R.S. 32:407, shall surrender their Class "E" temporary instructional permit issued pursuant to this Section to the department and apply for the issuance of a permanent license. The department shall not charge a fee for a license issued in connection with the surrender of a Class "E" temporary instructional permit.

(7) The Class "E" temporary instructional permit issued pursuant to this Subsection shall not be required for any person to enroll in a driver education course, driver training program, or prelicensing course administered in conjunction with a National Guard Youth Challenge Program. A person enrolled in a driver education course, driver training program, or prelicensing course administered in conjunction with a National Guard Youth Challenge Program may operate a motor vehicle on the public highways of this state without a Class "E" temporary instructional permit provided that such person is accompanied by an instructor of driver education and safety.

(8)(a) In the event that the person applying for the temporary instructional permit has or has had his driving privileges suspended pursuant to R.S. 32:661 et seq., and the person is required to have an ignition interlock as a condition of reinstatement, then the temporary instructional permit may be issued for purposes of operating a motor vehicle during the behind-the-wheel portion of the driver education program or while administering the road skills test without an ignition interlock device being required.

(b)(i) If the driving school instructor suspects that the person is impaired at the time he presents himself for the behind-the-wheel training or the administration of the road skills test, the driving school instructor shall not conduct the behind-the-wheel instruction or

administer the road skills test, and the driving school instructor shall promptly report the incident to the office of motor vehicles.

(ii) The office of motor vehicles shall promulgate such rules as are necessary to implement the provisions of this Subparagraph.

(c) Neither the driving school instructor, nor the driving school utilizing the driving school instructor shall be liable in any manner to any person who is denied behind-the-wheel training pursuant to Subparagraph (b) of this Paragraph, except for any partial refund attributable to the behind-the-wheel portion of the training or the road skills test.

F.(1) A driver education provider licensed pursuant to R.S. 40:1461 may provide all or part of the six-hour classroom instruction portion of an approved prelicensing training course required by Paragraph (A)(2) of this Section for persons eighteen or older by an alternative method of instruction that does not require students to be present in a traditional classroom if the Department of Public Safety and Corrections, public safety services, approves the alternative method. The Department of Public Safety and Corrections, public safety services, may approve the alternative method only if both of the following conditions are met:

(a) The alternative method includes testing and security measures that the department determines are at least as secure as the measures available in the traditional classroom setting.

(b) The six-hour classroom instruction portion of the prelicensing training course for persons eighteen years of age or older that is required by Paragraph (A)(2) of this Section with the use of the alternative method satisfies any other requirement applicable to a prelicensing training course in which the classroom instruction is taught to students in the traditional classroom setting.

(2) No portion of the thirty-hour classroom instruction of the driver education course, required by Paragraph (A)(1) of this Section for persons under the age of eighteen shall be provided by an alternative method of instruction that does not require students to be present in a traditional classroom.

(3) The Department of Public Safety and Corrections, public safety services, may establish rules and regulations as determined necessary to define the requirements for alternative methods of instruction for the prelicensing training course, which rules shall be subject to oversight review by the House and Senate committees on transportation, highways, and public works.

RS 32:402.2 — Repealed by Acts 2011, No. 294, §6.

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RS 32:402.3 — Motorcycle Safety, Awareness, and Operator Training Program; dedicated fund

, Awareness, and Operator Training Program, hereinafter referred to as the "program", on a statewide basis. The program shall consist of motorcycle operator training and campaigns to promote participation, motorcycle safety, and motorcycle awareness. For the purposes of this Section, the word "motorcycle" shall have the meaning as provided for in R.S. 32:401(18) and the word "deputy secretary" shall mean the deputy secretary of the Department of Public Safety and Corrections.

B. The purposes of the program shall be to:

- (1) Educate motorcycle operators in the safe operation of motorcycles.
- (2) Provide for the certification of motorcycle operator education and training instructors and the training of law enforcement personnel in the proper operation of motorcycles.
- (3) Develop campaigns to promote participation in the program, motorcycle safety, and motorcycle awareness.

C. Participation in the program shall be voluntary for any person who meets the qualifications of the Department of Public Safety and Corrections to apply for a motorcycle operator's endorsement. Those persons who satisfactorily complete the program shall receive a motorcycle operator's endorsement without the necessity of taking a written knowledge test or an operator's skill test.

D. The Department of Public Safety and Corrections shall adopt rules and regulations in accordance with the provisions of R.S. 49:950 et seq. as are necessary and proper to provide for the conduct and operation of the program. Oversight review of the rules and regulations shall be conducted by the Senate Committee on Transportation, Highways and Public Works and the House Committee on Transportation, Highways and Public Works meeting jointly.

E. The deputy secretary is hereby authorized to purchase for cash, or by lease/purchase agreement, all the necessary equipment, training aids, devices, and all related materials required to conduct and operate the program with funds appropriated for those purposes.

F. The deputy secretary shall include the program as a line-item expenditure in his annual budget.

G. The deputy secretary may levy and collect a per person charge of not more than twenty-five dollars to participate in the program; however, no such charge shall be applicable to any commissioned law enforcement officer within the state.

H. Notwithstanding the provisions of any other law to the contrary, the proprietor of the motorcycle training school shall not be required to provide a motorcycle or motorcycles to be used by students who are taking a test at the conclusion of the course.

I. The Motorcycle Safety, Awareness, and Operator Training Program Account, provided for in R.S. 32:412(C)(2) shall continue to fund the operator training, instructor training, and motorcycle safety and awareness programs under the operation of the Department of Public Safety and Corrections.

RS 32:403 — Application; fee; duration of license

ked, cancelled, or suspended. Application for license shall be made to the department on a form and in a manner prescribed by the department. No license shall be issued until the application has been approved by the driver's license division. No fee shall be collected from any child who is in foster care, as defined in Article 603 of the Louisiana Children's Code.

RS 32:403.1 — Application of persons sixty years of age or above

eport from a duly licensed physician or optometrist indicating his visual ability and a detailed medical report from a duly licensed physician indicating his physical condition and specifying any defects in connection therewith which might impair the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. The provisions of

this Section shall not apply to persons applying for a renewal license except for those persons subject to R.S. 32:403.4.

However, it shall not be a breach of duty to the public or the individual if the department inadvertently fails to require a report from such applicant or if the department issues a license under the mistaken belief that such applicant is capable of driving safely.

RS 32:403.2 — Application of persons with physical disability or mental disability

shall attach to his application a detailed medical report, or a report from an optometrist if it is a visual defect, from a duly licensed physician indicating the severity of his disability and the limitations imposed thereby which might impair the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. The department may waive the furnishing of the report by any person applying for a renewal license under the provisions of this Chapter, except for a person subject to the provisions of R.S. 32:403.4.

RS 32:403.3 — Identification stickers and decals; deaf and hard of hearing; autism spectrum

rtment of Public Safety and

Corrections is hereby authorized to issue an identification sticker or decal, which shall be the international symbol of deafness, at no cost for use by deaf and hard of hearing persons who are granted a driver's license. A deaf or hard of hearing person applying for a driver's license or registration who wants an identification decal or sticker shall attach to the application proof as provided in Subsection C of this Section.

(b) The sticker or decal shall be offered at the time the driver's license or a registration in compliance with R.S. 47:505 is issued and shall be prepared so that it may, at the option of the user, be applied to the windshield and viewed from the outside of the vehicle or on the license plate, or both, in a space that does not interfere with the visibility of the operator of the motor vehicle.

(2) In addition to the identification sticker or decal provided for in this Subsection, the office of motor vehicles of the Department of Public Safety and Corrections shall create a flag code to be placed on the registration of a motor vehicle which shall indicate that the driver of the vehicle is deaf or hard of hearing. Upon the initial application for or renewal of the registration of a motor vehicle, the flag shall be placed on the registration at the driver's request at no additional cost, provided the driver produces proof as provided in Subsection C of this Section.

B.(1)(a) The office of motor vehicles of the Department of Public Safety and Corrections is hereby authorized to issue an identification sticker or decal which shall be the awareness symbol for autism spectrum disorder at no cost for use by persons with autism spectrum disorder who have obtained the autism spectrum disorder designation in accordance with R.S. 32:412(P) or a parent, legal guardian, or other caregiver of such a person. A person with autism spectrum disorder applying for a driver's license or registration who wants an autism spectrum disorder sticker or decal shall attach to the application proof as provided in Subsection C of this Section.

(i) A parent, legal guardian, or other caregiver of a person with autism spectrum disorder applying for a driver's license or registration who wants an autism spectrum disorder sticker or decal shall attach to the application proof of the diagnosis of the person in his care as provided in Subsection C of this Section and sufficient documentation of the relationship to the person.

(ii) The sticker or decal shall be offered at the time the driver's license or a

registration is issued and shall be prepared so that it may, at the option of the user, be applied to the rear window of the vehicle and viewed from the outside of the vehicle in a space that does not interfere with the visibility of the operator of the motor vehicle.

(b) In addition to the identification sticker or decal provided for in this Paragraph, the office of motor vehicles of the Department of Public Safety and Corrections shall create a flag code to be placed on the registration of a motor vehicle which shall indicate that the driver of the vehicle has an autism spectrum disorder or is the parent, legal guardian, or caregiver of a person with an autism spectrum disorder. Upon the initial application for or renewal of the registration of a motor vehicle, the flag shall be placed on the registration at the driver's request at no additional cost, provided the driver produces proof as required by this Paragraph.

(2)(a) The office of motor vehicles of the Department of Public Safety and Corrections is hereby authorized to issue an identification sticker or decal, which shall be "an orange square", at no cost for use by persons with a mental, physical, or developmental disability or a parent, legal guardian, or other caregiver of a person with a mental, physical, or developmental disability. A person with a mental, physical, or developmental disability applying for a driver's license or registration who wants a sticker or decal shall attach to the application proof of the disability pursuant to Subsection C of this Section. The sticker or decal shall be offered at the time of application of the driver's license or a registration is issued and shall be prepared so that it may, at the option of the user, be applied to the rear window of the vehicle in a space that does not interfere with the visibility of the operator of the motor vehicle.

(b) In addition to the identification sticker or decal provided for in this Paragraph, the office of motor vehicles of the Department of Public Safety and Corrections shall create a flag code to be placed on the registration of a motor vehicle which shall indicate that the driver of the vehicle has a mental, physical, or developmental disability or is the parent, legal guardian, or caregiver of a person with a mental, physical, or developmental disability. Upon the initial application for or renewal of the registration of a motor vehicle, the flag shall be placed on the registration at the driver's request at no additional cost, provided the driver produces proof as required by this Paragraph.

C.(1) In order to receive the appropriate sticker or decal or to have a flag or code placed on the registration record, the applicant shall attach to his application a statement which contains proof indicating the applicant's disability attested by one of the following: a physician, audiologist, speech pathologist, mental health professional, or occupational therapist.

(2) The office of motor vehicles shall deny the application if the person fails to provide the requisite documentation at the time of application.

D. All documentation submitted pursuant to this Section by an applicant shall be confidential and not subject to disclosure pursuant to the Public Records Law, R.S. 44:1 et seq. Any person seeking the documentation submitted pursuant to this Section shall obtain a court order after a contradictory hearing against the applicant.

E. The secretary shall adopt rules and regulations in accordance with the

Administrative Procedure Act as are necessary to implement the provisions of this Section.

RS 32:403.4 — Medical evaluation report required of persons driving a commercial motor vehicle

al disability affecting the ability to exercise ordinary and reasonable control in the operation of a commercial motor vehicle. Such person, unless exempted by the office of motor vehicles or by a rule or regulation, shall provide a current medical examiner's certificate, on a form approved by the office of motor vehicles, prepared by a duly licensed medical examiner, certifying that he is capable of exercising ordinary and reasonable control in the operation of a commercial motor vehicle. Such person shall submit a valid medical examiner's certificate at every renewal and shall carry a current medical examiner's certificate on his person at all times when driving a commercial motor vehicle requiring either a Class "A", "B", or "C" commercial driver's license as defined herein.

(2) A person applying for a commercial driver's license shall certify one of the following:

(a) Non-excepted interstate. That he operates or expects to operate in interstate commerce, is subject to and meets the qualification requirements of 49 Part CFR 391, and is required to obtain a medical examiner's certificate as required by 49 CFR 391.45.

(b) Excepted interstate. That he operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations that are exempted from the qualification requirements of 49 CFR Part 391 pursuant to 49 CFR 390.3(f), 391.2, 391.68, or 398.3, and is therefore not required to obtain a medical examiner's certificate by 49 CFR 391.45.

(c) Non-excepted intrastate. That he operates only in intrastate commerce and therefore is subject to state driver qualification requirements.

(d) Excepted intrastate. That he operates in intrastate commerce but engages exclusively in transportation or operations excepted from state driver qualification requirements.

B. "Medical examiner" means a person who is licensed, certified, or registered to perform physical examinations.

RS 32:403.5 — Application of persons using bioptic telescopic lenses

onstrates a visual acuity of at least 20/200 in one or both eyes and a field of one hundred ten degrees horizontal vision without or with corrective carrier lenses, or if he has vision in one eye only, demonstrates a field of at least forty degrees temporal and thirty degrees nasal horizontal vision.

(2) Demonstrates a visual acuity of at least 20/60 in one or both eyes with the bioptic telescopic lenses and without the use of field expanders.

(3) Meets all other criteria for licensure.

(4) Submits, with the license application, a report of examination by an ophthalmologist or optometrist on a form prescribed by the office of motor vehicles. Such report shall certify that no ocular diagnosis or prognosis currently exists or is likely to occur during the period of issuance of the license which would cause deterioration of visual acuity or visual field to levels below the minimum standards provided for in this Section.

(5) Presents proof to the office of motor vehicles of completion of at least thirty hours of behind-the-wheel training from a driver education or prelicensing training course which has instructors with advanced education and practice in teaching individuals who use bioptic lenses, all as approved by the Department of Public Safety and Corrections.

(6) Successfully passes a comprehensive driver's skills test which tests the applicant's driving skills over a route specifically designed to test the applicant's competency using a bioptic telescopic device.

B. A person using bioptic telescopic lenses shall be eligible for a learner's license issued under R.S. 32:422, if he first meets the requirements of Subsection A of this Section.

C. A person using bioptic telescopic lenses shall be subject to the following restrictions:

(1) He shall only be eligible for a Class "E" driver's license, and he shall not be permitted to operate a motorcycle or motor scooter.

(2) His driver's license shall permit the operation of a motor vehicle only during the period beginning one-half hour after sunrise and ending one-half hour before sunset.

(3) He shall be prohibited from driving during adverse weather conditions which significantly reduce the visibility of the roadway, other traffic, and traffic control devices.

D. Notwithstanding the provisions of Paragraph (C)(2) of this Section, a person using bioptic telescopic lenses may be licensed to drive a motor vehicle between one-half hour before sunrise and one-half hour after sunset if he meets all of the following requirements:

- (1) Demonstrates a visual acuity of at least 20/40 in one or both eyes with the bioptic telescopic lenses and without the use of field expanders.
- (2) Has been licensed under Subsection C of this Section for at least one year.
- (3) Passes a skills test taken at night over a route which is specifically designed to test the applicant's competency using a bioptic telescopic device.
- (4) Drives for twelve months without any at-fault accidents and without any license suspensions or revocations.

RS 32:404 — Operation of motor vehicles by nonresidents, students, and military personnel and

o has been licensed to drive or operate

a motor vehicle under the laws of his home state and who has in his immediate possession a valid license issued to him by his home state, shall be permitted to drive a motor vehicle in this state without examination or license for a period not to exceed ninety days. The department is authorized to promulgate rules and regulations covering the case of any person whose home state does not require a license, and they shall have the full force and effect of law.

B. A student attending a Louisiana school but who is domiciled in another state, and who has in his immediate possession both a valid license issued to him by his home state and a current student identification card, shall be permitted to drive a motor vehicle in this state without examination or Louisiana license during his enrollment as a student and for not more than ninety days thereafter.

C.(1) A person on active duty with the armed forces of the United States and stationed within Louisiana who is domiciled in another state and who has in his immediate possession both a valid license issued to him by his home state and a current military identification card, hereafter in this Section referred to as a person on active duty, may drive a motor vehicle in this state without examination or Louisiana license during the period of residency in Louisiana and for not more than ninety days thereafter.

(2) A resident dependent of any person on active duty with the armed forces of the United States and stationed within Louisiana but who is domiciled in another state and who has in his immediate possession both a valid license issued to him by his home state and a current military dependent identification card, hereafter in this Section referred to as a military dependent, shall be permitted to drive a motor vehicle in this state without examination or Louisiana license during the period of residency with the supporting member of the armed forces while stationed in Louisiana and for not more than ninety days thereafter.

D. A nonresident, a student, a person on active duty, or a military dependent who has in his immediate possession a license not valid in his home state, but which has not been revoked or suspended, may be issued a temporary license for a period not to exceed ten days for the purpose of allowing such person a period of time sufficient to acquire a valid license in his home state. Only one temporary license shall be issued to the same individual within the twelve-month period immediately following the issue of a temporary license.

E. Except as provided herein, each nonresident, student, person on active duty, or military dependent must meet all the requirements set forth in Chapter 2 of this Title except

as to residence.

F.(1) The deputy secretary of public safety services of the Department of Public Safety and Corrections is hereby authorized to promulgate rules and regulations as may be necessary to enter into reciprocity agreements with jurisdictions or agencies in foreign countries or with foreign governments that issue driver's licenses or the equivalent.

(2) The rules shall specify the following:

(a) The driver's license standards of the licensing jurisdiction or agency in a foreign country or the foreign government shall be comparable to those of this state.

(b) The foreign drivers, who are operating a motor vehicle in Louisiana under such a reciprocity agreement, shall comply with the compulsory motor vehicle liability security laws of this state.

(c) The department shall specify in the agreement which licensing requirements may be waived for an applicant for a driver's license in this state.

(3) The issuance of a commercial driver's license pursuant to a reciprocity agreement shall be prohibited.

RS 32:404.1 — Commercial driver's license applicant; domiciliary of state requirement; time limits; reciprocity

for a nonresident commercial driver's license. A person domiciled in and holding a valid commercial driver's license from another jurisdiction meeting the standards contained in 49 Code of Federal Regulations Part 383, shall not be required to obtain a Louisiana driver's license while operating in this state. However, a holder of a commercial driver's license who has been a resident of this state for thirty days or longer shall be considered a domiciliary of this state for purposes of this Chapter and shall obtain a Louisiana commercial driver's license within the time period specified in R.S. 32:404. An applicant for a Louisiana commercial driver's license shall surrender any driver's license from this or any other state or any jurisdiction meeting the requirements contained in 49 Code of Federal Regulations Part 383. A driver holding a commercial driver's license from any other jurisdiction shall apply for a Louisiana commercial driver's license within no more than thirty days after establishing a domicile in this state.

RS 32:405 — Application must be verified

oaths. The officers and employees of the drivers' license division are authorized to administer oaths without fee, and notaries public or other officers shall not charge in excess of twenty-five cents for the administration of such oath.

RS 32:405.1 — Age requirements

s shall be granted only to persons eighteen years of age or above. Notwithstanding any provision to the contrary, an eighteen year old or older or parent or guardian of a seventeen year old first time applicant for a Class "E" license shall provide a signed statement to the department attesting that the applicant has completed a minimum of fifty hours of supervised driving practice with a licensed parent, guardian, or adult at least age twenty-one or older. However, if the first time applicant for a Class "E" license is seventeen years of age and emancipated, the applicant shall provide the attestation for himself, provided that the applicant has the necessary identifying information and documents. At least fifteen of these hours must be nighttime driving. However, hazardous materials endorsements shall be issued only to persons twenty-one years of age or above. The age limitations are subject to the minimum age requirements set forth in the Commercial Motor Vehicle Safety Act of 1986 and the regulations promulgated thereunder relative to licensing of carriers in interstate commerce.

RS 32:406 — Licensee must give notice of change of address

the application he shall, within

ten days thereafter, notify the driver's license division, in writing or electronically, of such change and of his new address.

B.(1) A licensee may update their permanent address in person, by mail, or online

to correct their address for the issuance of a Class "D" or "E" license. The reconstructed driver's license shall be mailed to the licensee's updated permanent address.

(2) No cost shall apply pursuant to R.S. 32:412.1 and 413 for transactions to correct an address due to the renaming of a street or highway in accordance with a parish or municipal ordinance.

C. The provisions contained in Subsection B of this Section shall not apply to a license which is REAL ID compliant. The address of a REAL ID compliant license shall be changed at a motor vehicle field office or the office of a public license tag agent authorized to issue REAL ID compliant licenses.

RS 32:407 — Applications of minors; revocation; applications of persons less than twenty-one years

d, unless it is signed by either the father or mother of the applicant, who has legal custody of the applicant, otherwise, by the tutor or other person having custody of him.

However, only the domiciliary parent may sign if joint custody has been awarded. A license issued to a minor shall be issued upon compliance with the other provisions of this Chapter.

(2)(a) Upon completion of a driver's education course approved by the Department of Public Safety and Corrections, public safety services, and upon passing a visual examination and a road knowledge test, including rules of the road, signs, and signals, sharing the road with motorcycles and tractor/trailer trucks, knowledge of distracted driving issues, knowledge of trailer safety, knowledge of appropriate driver conduct when stopped by a law enforcement officer, knowledge of accessible parking and access aisles, and not less than two questions relative to railroad and highway grade railroad safety, an applicant at least fifteen years of age, but less than seventeen years of age, applying for the first time may be issued a Class "E" learner's license. The license may be issued for a four-year period at the same fee as a Class "E" driver's license and must be maintained for at least one hundred eighty days, unless prior to such time the driver reaches seventeen years of age, prior to being converted to a Class "E" intermediate driver's license. The Class "E" learner's license shall authorize the holder to drive while being accompanied by a licensed parent, guardian, adult at least age twenty-one or older, or licensed sibling at least age eighteen or older.

(b) Any applicant at least sixteen years of age, but less than seventeen years of age, moving into Louisiana from another state shall be eligible for the issuance of a Class "E" intermediate driver's license provided such applicant meets all other requirements for licensure in Louisiana and furnishes the department with proof of successful completion of an equivalent driver's education course and proof of issuance of a learner's license for a minimum of one hundred eighty days, unless prior to such time the driver reaches seventeen years of age, from the state of previous residence.

(3) The Class "E" learner's license may be converted to a Class "E" intermediate license upon the applicant being at least sixteen years of age and meeting the following conditions:

(a) The applicant's parent or legal guardian shall provide a signed statement to the department attesting that the applicant has completed a minimum of fifty hours of supervised driving practice with a licensed parent, guardian, or adult at least age twenty-one or older.

At least fifteen of these hours must be nighttime driving.

(b) The applicant shall pass an on-road driving skills test. An applicant may satisfy this requirement by one of the following means:

(i) The applicant passes the test administered by an employee of the department.

(ii) The applicant provides a certificate to the department from an agent or properly licensed and contracted third-party tester as provided in this Chapter.

(c) The applicant shall have held the Class "E" learner's license for at least one hundred eighty days if he is not seventeen years of age while remaining accident free, except where the licensee was not at fault, and receiving no convictions for moving violations or violations of the seat belt or curfew laws of this state or any law pertaining to drug or alcohol use, to which the applicant's parent or legal guardian shall attest by providing a signed statement to the department.

(4) The intermediate license shall restrict those under the age of seventeen from driving between 11:00 p.m. and 5:00 a.m. unless otherwise accompanied by a licensed parent or guardian, a licensed adult at least twenty-one years of age, or a licensed sibling at least eighteen years of age. In addition to a licensed parent, sibling, or guardian, there may be other members of the licensee's immediate family in the vehicle. Unless accompanied by a licensed parent, guardian, or adult at least age twenty-one or older, an intermediate licensee may not between the hours of 6:00 p.m. and 5:00 a.m. transport more than one passenger that is under twenty-one years of age and not a member of the intermediate licensee's immediate family. When the intermediate licensee is accompanied by a driver's education instructor, there may be one or more fellow driver's education students in the vehicle. The intermediate licensee shall not place the vehicle in motion until every occupant of the vehicle has been restrained by a properly fastened seat belt or other occupant restraint system unless such person is not required to be restrained pursuant to R.S. 32:295.1.

(5) Upon completing the Class "E" intermediate licensing stage, and upon demonstrating that the licensee has remained accident free, except in cases where the licensee was not at fault, has received no convictions for moving violations, and has received no convictions for violations of the seat belt or curfew laws of this state or any laws pertaining to drug or alcohol use for twelve consecutive months after being issued his intermediate license, an applicant may be issued full Class "E" driving privileges.

(6) The department may establish rules and regulations to extend the term of the intermediate license if an applicant's license has been suspended, the applicant has been placed on probation by a court due to a driving violation, or the applicant has violated any of the provisions of Paragraph (5) of this Subsection. The term of the extension of the intermediate license shall be for no less than thirty days nor more than one hundred eighty days from the end of any suspension or probation period, or from the date he would otherwise have been eligible to apply for a Class "E" permanent license in the case of a violation of Paragraph (5) of this Subsection. The applicant shall attend and successfully complete either an approved driver education course or prelicensing training course established under contract or license with the Department of Public Safety and Corrections, public safety services, regardless of any prior completion of such course, as a condition of reinstatement of the license suspended pursuant to this Paragraph. The licensee shall have

the right to an administrative hearing to appeal the determination of the department to extend the applicant's intermediate license. The provisions of this Paragraph shall apply to any licensee who has not attained the age of eighteen.

B. Notwithstanding any provision of law to the contrary, the department may deny the application or revoke the license of a minor upon the forwarding of a written request to the department by the parent, tutor, or other person having legal custody who has not signed the application for a license.

C. The department may promulgate rules and regulations for the enforcement and administration of this Section.

D. Beginning January 1, 2000, and thereafter, licenses issued pursuant to this Section to applicants less than twenty-one years of age shall contain a highly visible distinctive color to clearly indicate that the license has been issued to an applicant less than twenty-one years of age. The Department of Public Safety and Corrections, office of motor vehicles, shall promulgate rules and regulations no later than December 1, 1999, in accordance with the Administrative Procedure Act to implement the provisions of this Section, including but not limited to the choice of color and placement on the license.

E. Repealed by Acts 2010, No. 1039, §2, eff. Jan. 1, 2011.

F. Any person under eighteen years of age shall be subject to the requirements of R.S. 32:431.1.

G. In accordance with R.S. 9:2618, the department may develop a web-based application by which a minor's parent or legal guardian has the option to provide an electronic signature for all approvals, consents, or attestations required in connection with the application of a minor for any credential authorized in this Chapter which allows the operation of a motor vehicle. The provisions of this Subsection shall not apply to a first or initial issuance of any license or permit under this Chapter. The first-time or initial issuance shall be an in-person transaction.

RS 32:408 — Examination of applicants required; classes of licenses

ative of the type of motor vehicle he operates or

expects to operate, or provide evidence on a form approved by the department that he has successfully passed the written knowledge test and a driving or skills test administered by an authorized third party. In addition to the specialized knowledge and skills tests, each such examination shall include: a test of the applicant's eyesight; his ability to understand highway signs regulating, warning, and directing traffic; his knowledge of railroad and highway grade crossing safety; his knowledge of sharing the road with motorcycles and tractor/trailer trucks; his knowledge of the economic effects of littering; his knowledge of distracted driving issues; his knowledge of trailer safety; his knowledge of accessible parking and access aisles; his knowledge of appropriate driver conduct when stopped by a law enforcement officer; and his knowledge of all relevant traffic regulations.

(2) All tests shall be constructed in such a way as to determine if the applicant possesses the required knowledge and skills for the group of motor vehicles that will be operated. The department shall develop specifications for tests for each vehicle group and endorsement, which shall be at least as stringent as the standards established by the Federal

Highway Administration in 49 Code of Federal Regulations Part 383. The department shall determine specific methods for scoring the knowledge and skills tests. The department shall develop standardized scoring sheets for the skills tests, as well as standardized driving instructions for the applicant. Knowledge and skills tests shall be based solely on information contained in the driver's manual. Each test shall have administrative procedures, designed to achieve inter-examiner reliability, that are sufficient to ensure fair pass/fail rates.

The knowledge tests may be given in oral, written, or automated form. A simulator or off-road course may be used for skills testing as long as such testing is combined with actual on-the-road testing. If the applicant does not obey traffic laws or causes an accident during the test, he shall automatically fail the test.

(3) Each knowledge test for a Group "D" or "E" vehicle shall contain at least thirty-two items, exclusive of the number of items testing airbrake knowledge. Not less than two

of the thirty-two items shall be relative to railroad and highway grade crossing safety. Not less than two of the thirty-two items shall be relative to the economic effects of littering. For each endorsement, the knowledge test and the airbrake component of the basic knowledge test shall contain a number of questions that are sufficient to test the applicant's knowledge of the required subject matter with validity and reliability. The applicant for a Class "A", "B", "C", "D", or "E" license shall correctly answer at least eighty percent of the questions on each knowledge test in order to achieve a passing score on such knowledge test. To achieve a passing score on the skills test, an applicant for a Class "A", "B", "C", "D", or "E" license shall demonstrate that he can successfully perform all of the required skills. If an applicant for a Class "A", "B", or "C" commercial driver's license scores less than eighty percent on the airbrake component of the basic knowledge test, the driver shall fail the airbrake component and, if the driver is issued a driver's license, an airbrake restriction shall be indicated on the commercial driver's license. If an applicant for a Class "A", "B", or "C" commercial driver's license performs the skills test in a vehicle not equipped with air brakes, the driver shall have omitted the airbrake component of the skills test and, if the driver is issued a driver's license, the airbrake restriction shall be indicated on the license.

(4)(a) The knowledge and skills tests for all applicants may be administered by the department or the department may elect to authorize a third party, including another state, an employer, a public license tag agent, a private training facility or other private institution, driver education course provider, or a department, agency, or instrumentality of state or local government, to administer knowledge and skills tests to applicants for Class "D" or "E" drivers' licenses and to administer skills tests to applicants for a Class "A", "B", or "C" commercial driver's license. The department may contract with or enter into agreements with such third parties or certify or license them to perform the testing. However, the department shall ensure that examiners are qualified to administer the tests on the basis of training or other experience. The department shall establish minimum qualifications for persons administering driver's license tests and prescribe the procedures to be used, including procedures which ensure confidentiality of tests. The tests given by the third party shall be the same as those that would otherwise be given by the department.

(b) All third-party examiners shall meet the same qualifications and training as state examiners to the extent necessary to conduct knowledge and skills tests in compliance with

this Subsection. Department employees shall at least every two years take the tests actually administered by the third party as if the employee were a test applicant, or the department shall test a sample of drivers who were examined by the third party to compare pass/fail results. These requirements and conditions shall be included in any third-party contract or agreement and shall be a part of any license, certificate, or permit issued to such third parties. The department shall devise a system to regulate such third parties and the regulations shall have the full force and effect of law.

(c) The department shall submit any such third party contract or agreement to the commissioner of the division of administration for his approval.

(d) The third party shall provide proof of testing in a manner prescribed by the department.

(e) The Federal Highway Administration, or its representative, and the department, or its representative, may conduct random examinations, inspections, and audits without prior notice. The department, or its representative, shall conduct a random inspection at least annually.

(f) The department shall set the cost of any license, permit, or certificate to test applicants and may set any maximum fee that such third parties may charge applicants.

(g) In addition to any other applicable sanction, improper issuance of proof of successful completion of the knowledge and skills tests shall subject the third party to the penalties imposed by this Chapter, up to a five thousand dollar civil penalty per violation, or revocation or suspension of the privilege to test applicants, or both.

(5) Notwithstanding any other provision to the contrary, the skills test required for Classes "A", "B", and "C" commercial driver's licenses shall be waived for an applicant who meets one of the following requirements:

(a) Certifies that, during the two-year period immediately prior to applying for a commercial driver's license, he has not had any of the following:

(i) More than one license, except for a military license.

(ii) Any license suspended, revoked, or cancelled.

(iii) Any convictions for any type of motor vehicle for the disqualifying offenses contained in Federal Motor Carrier Safety Administration Regulations.

(iv) More than one conviction for any type of motor vehicle for serious traffic violations contained in Federal Motor Carrier Safety Administration Regulations.

(v) Any conviction for a violation of military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident, and has no record of an accident in which he or she was at fault.

(b) Provides evidence and certifies that he is or was any of the following:

(i) Regularly employed within the last twelve months in a military position requiring operation of a commercial motor vehicle.

(ii) Exempted from the commercial driver's license requirements in 383.3(c) of the Federal Motor Carrier Safety Administration Regulations.

(iii) Operating a vehicle representative of the commercial motor vehicle the driver applicant operates or expects to operate, for at least the two years immediately preceding

discharge from the military.

(6) At the discretion of the department, the driving skills tests may be waived for a driver who is licensed prior to the institution of the new testing program and substituted with either an applicant's driving record and previous passage of an acceptable skills test, or an applicant's record in combination with at least two years of driving experience in a vehicle representative of the vehicle he operates or expects to operate.

(7) In addition to the exemptions granted in Subsection (A)(6) of this Section, the department may exempt the drivers of the vehicles listed in Subsection (A)(8) of this Section from the retest requirements.

(8) The department may permit drivers possessing a valid Class "D" or "E" license issued pursuant to this Chapter to operate the following vehicles without a commercial driver's license, subject to the following limitations:

(a) A vehicle designed for personal use unless used for commercial purposes or used to transport hazardous materials required to be placarded.

(b) A farm vehicle which is controlled and operated by a farmer, including operation by employees or family members, is used to transport agricultural products, farm machinery, or farm supplies, to or from a farm, is not used in the operations of a common or contract motor carrier, and is used within one hundred fifty miles of the farmer's farm. In order to qualify for this exemption, an applicant shall meet the following criteria:

(i) An applicant with one to two years of driving experience shall demonstrate a satisfactory operating record for his entire driving history. An applicant with more than two years of driving experience shall demonstrate a satisfactory operating record for the two most recent years of his driving history. An applicant who has not previously been issued a driver's license shall not be eligible for this exemption.

(ii) For purposes of this Subparagraph, "satisfactory operating record" shall mean that an applicant has not had more than one license, has not had any license suspended, revoked, or canceled, has not had any conviction for a driving offense which requires disqualification as provided for in R.S. 32:414.2, has not had any conviction of a serious traffic violation as provided for in R.S. 32:414.2, and has not had any conviction of a state or local law relating to traffic control, other than a violation arising in connection with a traffic accident, and has no record of an accident in which the applicant was at fault.

(9) The department is authorized to promulgate rules and regulations necessary to administer and enforce this Subsection, in accordance with the Administrative Procedure Act, subject to oversight by the Joint Legislative Committee on Transportation, Highways, and Public Works. The department may delegate the duties and authority imposed by this Subsection.

(10) Provision shall be made for examination in the parish wherein an applicant resides, except for commercial driver skill and knowledge testing. The department shall locate testing centers for driver skill and knowledge testing in locations convenient to applicants.

(11) One of the motor vehicle field offices established within a parish shall be located in the parish seat. If an existing office is not in the parish seat, an additional office

shall be located in the parish seat.

B.(1) There shall be three general types of drivers' licenses:

(a) The "Commercial Driver's License" (Classes "A", "B", and "C").

(b) The "Chauffeur's License" (Class "D").

(c) The "Personal Vehicle Driver's License" (Class "E").

(2) A commercial driver's license shall be required when a vehicle is used in commerce as defined in this Chapter, and is a commercial motor vehicle as defined in this Chapter. A farmer shall not need a commercial driver's license when operating a motor vehicle as provided for in Subparagraph (e) of this Paragraph. The department may elect to or, if required by the Federal Highway Administration, shall change the weight and passenger limits expressed herein to conform to regulations by the Federal Highway Administration.

The department shall do so by regulations promulgated in accordance with the Administrative Procedure Act subject to oversight by the Joint Legislative Committee on Transportation, Highways and Public Works. A commercial learner's permit issued to an individual of this state or another jurisdiction, in accordance with rules and regulations of the Federal Motor Carrier Safety Administration, when carried with a valid driver's license issued by the same state or jurisdiction, authorizes the permittee to operate a class of commercial motor vehicle when accompanied by a holder of a valid commercial driver's license for purposes of behind-the-wheel training. When issued to the holder of a commercial driver's license, a commercial learner's permit serves as authorization to take part in behind-the-wheel training in a commercial motor vehicle for which the driver is not licensed to drive. The different classes of drivers' licenses to be issued shall be as follows:

(a)(i) Class "A" "Commercial Driver's License" - "Combination Vehicle".

Permits the operation of all vehicles within Classes "B", "C", "D", and "E", with any appropriate endorsements, and any combination of vehicles with a gross combination weight rating of twenty-six thousand and one or more pounds, provided that the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of ten thousand pounds. This class of vehicles does not include the operation of motorcycles and motor scooters except as an endorsement to the basic license.

(ii) Restriction. An individual who takes a skills test for a Class "A" Commercial Driver's License in a motor vehicle other than a tractor-trailer combination, sometimes referred to as an "eighteen wheeler", shall be issued a license with a restriction prohibiting the operation of a tractor-trailer combination. This restriction shall be lifted only if the individual successfully completes a skills test in a tractor-trailer combination. For purposes of this Item, a power unit with a gross vehicle weight rating of less than twenty-six thousand one pounds shall not qualify as the tractor portion of a tractor-trailer combination. An individual who takes a skills test for a Class "A" commercial driver's license in a motor vehicle with the power unit and towed unit connected with a pintel hook or other non-fifth wheel connection, shall be issued a license with a restriction prohibiting the operation of a tractor-trailer combination connected by a fifth wheel that requires a Class "A" commercial driver's license.

(b) Class "B" Commercial Driver's License - "Heavy Straight Vehicle".

Permits the operation of any vehicle within Classes "C", "D", and "E", with any appropriate endorsements, plus any single vehicle with a gross vehicle weight rating of twenty-six thousand and one or more pounds, or any such vehicle towing a vehicle not in excess of ten thousand pounds gross vehicle weight rating. A "straight vehicle" is defined for the purpose of this class as being one that does not bend or have any moveable joint in its frame between the driver's seat and the cargo or passenger compartment. This class does not include the operation of motorcycles and motor scooters except as an endorsement to the basic license.

(c) Class "C" Commercial Driver's License - "Light Vehicle".

Permits the operation of any vehicle within Classes "D" and "E", with any appropriate endorsements, plus any single vehicle less than twenty-six thousand and one pounds gross vehicle weight rating, or any such vehicle towing a vehicle not in excess of ten thousand pounds gross vehicle weight rating. This group includes vehicles designed to transport sixteen or more passengers including the driver and which are not within the definition of a Group "A" or "B" vehicle, and vehicles used in the transportation of materials found to be hazardous for purposes of the Federal Hazardous Materials Transportation Act, 49 United States Code 1801 et seq. or under state law or regulation and which require the motor vehicle to be placarded under the Federal Hazardous Materials Regulations (49 Code of Federal Regulations Part 172, Subpart F) or under state law or regulation. This class does not include the operation of motorcycles and motor scooters except as an endorsement to the basic license.

(d) Class "D" Chauffeur's License.

Permits the operation of all vehicles included in Class "E" plus any single motor vehicle used in commerce to transport passengers or property if the motor vehicle has a gross vehicle weight rating of ten thousand one or more pounds but less than twenty-six thousand one pounds, or any combination of vehicles used in commerce to transport passengers or property if the motor vehicle has a combined gross vehicle weight rating of ten thousand one or more pounds but less than twenty-six thousand one pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds; or any vehicle designed or utilized for the transportation of passengers for hire or fee; and not utilized in the transportation of materials found to be hazardous under the provisions of the Hazardous Materials Transportation Act which requires the vehicle to bear a placard under the provision of Hazardous Materials Regulations, 49 CFR Part 172, Subpart F. The provisions of this Subparagraph shall not apply to taxi cab drivers. Taxi cab drivers shall only comply with the requirements for a Class "E" driver's license.

(e) Class "E" Driver's License - "Personal Vehicle".

Permits the operation of any single motor vehicle under ten thousand one pounds gross vehicle weight rating or any such vehicle towing a vehicle not in excess of ten thousand pounds gross vehicle weight rating; any personal use of recreational vehicle or combination of vehicles; or any vehicle which is not within the definition of Group "A", "B", "C", or "D" and not utilized in the transportation of materials found to be hazardous under the provision of the Hazardous Materials Transportation Act which requires the vehicle to bear a placard

under provisions of the Hazardous Materials Regulations (49 CFR Part 172, Subpart F). This class of vehicles does not include the operation of motorcycles and motor scooters except as an endorsement to the basic license.

(3) The department shall issue endorsements for commercial drivers' licenses if applicants for such endorsements pass the appropriate knowledge and skills tests necessary for issuance of the endorsement and if the applicant passes any requisite security assessment for issuance of a particular endorsement. However, if an applicant for an endorsement is eligible for a waiver of the test requirements pursuant to any applicable federal waiver program implemented by the department at the time the applicant applies for the endorsement, the department shall issue the endorsement to the applicant. A federal waiver program may be implemented at the department's discretion. The following endorsements shall be available to the classes of commercial drivers' licenses:

(a) "T" - double/triple trailers. This endorsement shall not be construed so as to allow operation of triple trailer combinations in this state.

(b) "P" - passenger vehicle.

(c) "N" - tank vehicle.

(d) "H" - hazardous materials. This endorsement may be issued only if the department receives a "Determination of No Security Threat" from the Transportation Security Administration. This endorsement shall be denied or revoked if the Transportation Security Administration issues a "Determination of a Threat" assessment.

(e) "X" - combination tank vehicle and hazardous materials.

(f) "S"-school bus. This endorsement shall be denied or canceled if the applicant is disqualified in accordance with R.S. 32:414.2(E).

(g) Any other endorsement required by the department as long as it is fully explained on the license.

(4) There shall be the following restrictions possible to the classes of commercial driver's license:

(a) "L" - airbrake restriction.

(b) Any other restriction required by the department as long as it is fully explained on the license.

(c) Repealed by Acts 2008, No. 160, §2.

(5) The department may elect to issue a "nonresident commercial driver's license" to a person domiciled in a foreign country if the Federal Highway Administrator has determined that the commercial motor vehicle testing and licensing standards in the foreign domicile do not meet the standards contained in 49 Code of Federal Regulations Part 383. If the department elects to issue nonresident commercial drivers' licenses, the procedures for issuance and the notification to the Commercial Driver's License Information System shall be the same as those pertaining to any other commercial driver's license. Prior to issuing any nonresident commercial driver's license, the department shall establish enforcement procedures for disqualifying the holder of a nonresident commercial driver's license and for withdrawing, suspending, canceling, or revoking the nonresident commercial driver's license under the same conditions applicable to a commercial driver's license issued to a resident of

this state. The department may set the fees to be charged for such license and the duration of such license by regulation in accordance with the Administrative Procedure Act subject to oversight by the Joint Legislative Committee on Transportation, Highways and Public Works.

(6)(a) Notwithstanding any other provision of law to the contrary, the department shall issue a temporary driver's permit to an applicant who is a foreign national who has been present in the state for thirty or more days and who is employed in the agricultural industry; provided, however, that any person's status for the purposes of this Paragraph shall be determined regardless of immigration status.

(b) Such applicant shall provide an individual taxpayer identification number issued to the applicant by the Internal Revenue Service, proof of Louisiana residency, and any other forms of identification required by the department. Proof of residency shall include but not be limited to paid receipts for utility bills and bank statements.

(c)(i) A temporary driver's permit shall be readily distinguishable from all other permits and licenses issued by the department. Such permit shall expire one year from the date of issuance and may be renewed annually if the driver remains qualified pursuant to this Paragraph. Renewal of the permit shall be made in person.

(ii) The temporary permit shall be considered a license to drive and shall not be considered a form of identification.

(d) The department may set the fees to be charged for such permit by regulation in accordance with the Administrative Procedure Act, subject to oversight by the Joint Legislative Committee on Transportation, Highways and Public Works.

(7)(a) Commercial driver applicants not meeting the physical standards as set forth in 49 CFR 391.41(b)(10), pertaining to vision requirements, may apply to the department for an intrastate driver waiver. Minimum vision requirements for such waiver are as follows:

(i) Distant visual acuity of at least 20/40 (Snellen) or better in at least one eye with or without corrective lenses.

(ii) Field of vision of at least seventy degrees in one direction and thirty-five in the other direction of the horizontal meridian of the applicant's better eye.

(iii) The ability to distinguish colors of signals and devices showing standard red, green, and amber as demonstrated by ishihara color plates or their equivalent.

(b) The applicant for the waiver shall supply the department with the following information when requesting the waiver:

(i) A copy of the medical examination performed pursuant to 49 CFR 391.43.

(ii) A copy of any medical certificate issued as a result of a medical examination completed pursuant to 49 CFR 391.43.

(iii) A medical evaluation completed by an optometrist certified by the Louisiana State Board of Optometry Examiners to treat diseases and disorders of the eye and its adnexa or an ophthalmologist certified by the American Board of Ophthalmology. If the visual impairment is a progressive disorder, a medical evaluation completed by an optometrist certified by the Louisiana State Board of Optometry Examiners to treat diseases and disorders of the eye and its adnexa or an ophthalmologist certified by the American Board

of Ophthalmology as required in this Item shall be supplied to the department every six months for the duration of the waiver.

(iv) A copy of the driver applicant's road test and certificate issued pursuant to 49 CFR 391.31(b) through (g).

(v) A copy of the driver applicant's previous waiver of certain physical defects, when applicable.

(vi) The class of vehicle to be used by the applicant, if granted a waiver. To qualify for the waiver, the applicant shall have had two years commercial driving experience within the five years immediately preceding the application date for the class of vehicle indicated. This driving experience shall be verified by a notarized statement provided by the applicant's current or previous employers or by himself, if self-employed.

(vii) Evidence, on a form approved by the department, that the applicant has successfully passed a skills test administered by an authorized third party for the class of vehicle to be used by the applicant, if granted a waiver. The skills test shall be administered following the diagnosis which prevents the applicant from failing to meet the physical standards set forth in 49 CFR 391.41(b)(10), pertaining to vision requirements. The skills test required by this Item shall be required only upon the initial application for a waiver issued pursuant to this Paragraph.

(c) The department shall issue an intrastate driver waiver to an applicant if it finds that he meets the minimum vision requirements as stated by Subparagraph (a) and Items (b)(i) through (iii) of this Paragraph, and granting the waiver would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such waiver.

(d) Applicants granted a waiver shall drive only within the territorial limits of Louisiana.

(e) Applicants who are issued a waiver are prohibited from transporting passengers for hire, manifested hazardous wastes, or hazardous material required to be placarded. In addition, applicants who are issued a waiver pursuant to this Paragraph are prohibited from driving commercial motor vehicles for public utilities that are regulated by the Louisiana Public Service Commission or the city council of the city of New Orleans.

(f) Waivers granted pursuant to this Paragraph shall be valid for the duration of the applicant's commercial driver's license. An applicant desiring a waiver pursuant to this Paragraph shall reapply for the waiver each time he renews his commercial driver's license. The skills test required by Item (b)(vii) of this Paragraph shall be required only upon the initial application for a waiver issued pursuant to this Paragraph.

(g) Nothing in this Paragraph shall be construed to relieve a commercial driver of any of his responsibilities required by state or federal law, rule, or regulation.

(h) The Department of Public Safety and Corrections, office of motor vehicles, may, in accordance with the Administrative Procedure Act, promulgate rules and regulations for the efficient implementation and enforcement of this Paragraph.

(8) Results of skills tests of applicants for Class "A", "B", or "C" driver's licenses shall be submitted to the department electronically. The department may promulgate rules

in accordance with the Administrative Procedure Act to implement the requirement set forth in this Paragraph.

C.(1) Motorcycles, motor driven cycles, and motorized bicycles shall not be given a separate class, as such, but their use shall be provided for by making an endorsement on one of the basic classes outlined in this Section. Such an endorsement shall be made only after the applicant has taken and successfully passed tests specifically designed for the operation of such vehicles. No written knowledge test or operator's skill test shall be required if an applicant has successfully completed the Motorcycle Safety, Awareness, and Operator Training Program provided in R.S. 32:402.3.

(2) The provisions of this Subsection shall not apply to motorcycles, motor driven cycles, and motorized bicycles under five horsepower. Their operation shall not require a license or endorsement.

(3) The provisions of Paragraph (1) of this Subsection shall not apply to autocycles as defined by R.S. 32:401. As such, the operation of an autocycle shall not require a special endorsement but shall require only that the operator hold a valid driver's license.

D. Authorized emergency vehicles shall not be given a special class, as such, but their lawful operation shall be provided for by an appropriate special endorsement on a class "E" license indicating the group or groups of motor vehicles the driver is authorized to operate.

E. The license or special certificate of each applicant shall be endorsed appropriately with respect to his qualifications to operate said vehicles. Any applicable restriction shall be noted on the driver's license or special certificate.

F.(1) The department shall make provisions for testing noncommercial driver's license or special certificate applicants in languages other than English and for testing deaf applicants. However, this shall not be construed to require the department to furnish an interpreter. Except as required by 49 CFR Part 383.133, a skills test for a commercial driver's license shall be conducted in English without the use of interpreters.

(2) Notwithstanding Subsection (G)(1) of this Section, a driver, unless exempted by the department by rule or regulations, who transports hazardous materials required to be placarded or who is otherwise subject to the English literacy requirement of 49 CFR Part 391, shall be able to read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records.

G. The deputy secretary of public safety services shall adopt and promulgate any rules and regulations relative to motor carrier operator qualifications, including minimum qualifications of operators of motor rules and regulations in accordance with the Administrative Procedure Act. Oversight review shall be conducted by the Joint Legislative Committee on Transportation, Highways, and Public Works. All rules and regulations adopted by the deputy secretary relative to motor carrier vehicle operator qualifications shall be consistent with the regulations of the United States Department of Transportation contained in Title 46 and Title 49 of the Code of Federal Regulations relative to motor carrier safety and the transportation of hazardous materials.

H.(1) Information on how to obtain a driver's license and endorsements shall be included in manuals made available by the office of motor vehicles to applicants at a cost to be established by regulation. The information provided to the applicant shall include:

- (a) Information on the requirements and qualifications for obtaining a driver's license.
 - (b) The procedures for issuance of a driver's license.
 - (c) Information on third party testing.
 - (d) Information on the experience substitute for the skills tests.
 - (e) Information on any exemptions to the retest requirements.
 - (f) Any special test specification modifications for certain drivers.
 - (g) Information on the vehicle groups and endorsements.
 - (h) The substance of the knowledge and skills which drivers must have for the different vehicle groups and endorsements, including information on railroad and highway grade crossing signage and safety procedures.
 - (i) Information on the airbrake restriction.
 - (j) Details of testing procedures, including the purpose of the test, how to respond, any time limits for taking the test, and any other special procedures determined by the department.
 - (k) Directions on taking the tests.
 - (l) Information on the implied consent provision to be tested for alcohol or drugs.
 - (m) Information on the criminal and civil penalties imposed on drivers of commercial motor vehicles, including the disqualifications offenses.
- (2) A supply of guides shall be furnished to libraries and schools in each parish and shall be available for use in the library or school at no cost to the applicant.
- (3) Details on testing and other requirements established by the department shall be included in driver examiner manuals and made available to examiners and third party testers at a cost to be established by regulation. The information made available to the examiner shall include:
- (a) Information on driver application procedures.
 - (b) Information on third party testing.
 - (c) Information on the procedures for issuance of the driver's license.
 - (d) Information on the experience substitute for the skills tests.
 - (e) Information on any exemption to the retest requirement.
 - (f) Details on the information which must be given to the applicant, including information on the implied consent provision to be tested for alcohol or drugs, the criminal and civil penalties faced by persons who operate commercial motor vehicles, and on the disqualification offenses.
 - (g) Details on how to conduct the tests.
 - (h) Scoring procedures and minimum passing scores.
 - (i) Information for selecting driving test routes.
 - (j) A list of skills to be tested.
 - (k) Instructions on where and how the skills will be tested.

(l) How performance of the skills will be scored.

(m) Criteria for automatic failures of the skills test.

(4) Information on any special procedures for applying for any other special endorsement, any special qualifications required of such persons, and any special knowledge or skills drivers are required to possess shall be included in a manual or manuals, unless such information is included in the driver's manual, and shall be made available to the applicant at a cost to be established by regulation. However, a supply of guides shall be furnished to libraries and schools in each parish, where they shall be available for use at no cost to the applicant.

RS 32:408.1 — Third-party testing; proof of testing

iver training facility, driver

education course provider, or other private institution, or a department, agency, or instrumentality of a local government to administer the skills tests as specified herein if all of the following conditions are met:

(1) The tests given by the third party are the same as those which would otherwise be given by the department.

(2) The third party has a contract or license with the department to administer skills tests for Class "D" or "E" driver's licenses containing, at a minimum, provisions which:

(a) Allow the Department of Public Safety and Corrections, public safety services, or its representative to conduct random examinations, inspections, and audits without prior notice;

(b) Require the Department of Public Safety and Corrections, public safety services, to conduct onsite inspections at least annually;

(c) Require that all third-party examiners meet the same qualification and training standards as Department of Public Safety and Corrections, public safety services, examiners to the extent necessary to conduct skills tests in compliance herein;

(d) Require that, at least on an annual basis, designated Department of Public Safety and Corrections, public safety services, employees take the tests actually administered by the third party as if said employee were a test applicant, or that the Department of Public Safety and Corrections, public safety services, test a sample of drivers who were examined by the third party to compare pass/fail results; and

(e) Reserve unto the Department of Public Safety and Corrections, public safety services, the right to take prompt and appropriate remedial action against the third-party testers in the event that the third party fails to comply with state or federal standards for the commercial driver's license testing program or with any other terms of the third-party contract.

(3) The third party has a contract or license with the department to administer skills tests for Class "A", "B", or "C" driver's licenses which, at minimum, complies with 49 CFR 383.75. In addition, the third-party tester must initiate and maintain a surety bond in the amount of forty thousand dollars.

B. A driver applicant who takes and passes driving tests administered by an authorized third party shall provide evidence to the state licensing agency that he has

successfully passed the driving tests administered by the third party on a form approved by the department.

C.(1) Any third party or Department of Public Safety and Corrections, public safety services, employee authorized under the provisions of this Chapter to administer tests to applicants for commercial driver's licenses shall not falsify information regarding test results or applicant qualification or in any way participate in, aid, or abet the fraudulent testing or issuance to an applicant of a commercial driver's license or endorsement. Any person who violates this Paragraph shall be liable under this Chapter for civil penalties of not less than five hundred nor more than five thousand dollars per act. Furthermore, the Department of Public Safety and Corrections, public safety services, may establish procedures to void all transactions and any licenses issued as a result of such falsification or fraud, such procedures to be established pursuant to the Administrative Procedure Act. Any authorized third-party tester suffering a sanction under the provisions of this Chapter shall forfeit his authorized third-party-testing status and contract and shall not qualify for such status henceforth.

(2) A third-party tester or third-party examiner with whom the Department of Public Safety and Corrections, public safety services, has a contract or to whom has issued a license shall administer the skills test for a commercial driver's license or an endorsement on a commercial driver's license in accordance with state and federal statutes and regulations and policies adopted by the Department of Public Safety and Corrections, public safety services, in accordance with such statutes and regulations.

D. A person or business shall not operate, advertise, or hold oneself or itself out as a third-party tester or a third-party examiner unless such person or business has a current contract with the Department of Public Safety and Corrections, public safety services, to operate as a third-party tester or a third-party examiner or is currently licensed by the Department of Public Safety and Corrections, public safety services, to operate as a third-party tester or a third-party examiner.

E. The principal of the third-party examiner or tester who has or is seeking a contract with the Department of Public Safety and Corrections, public safety services, to administer commercial or noncommercial driving examinations and tests shall consent to, pass, and pay the costs of a criminal history background check pursuant to R.S. 15:587.

F.(1) The Department of Public Safety and Corrections, public safety services, may issue a cease and desist order to any person or business operating in violation of this Section. Any such cease and desist order shall be served either by regular mail with a proof of mailing issued by the United States Postal Service, or by hand delivery by a representative of the department. If the cease and desist order is served by mail with proof of mailing, it shall be deemed delivered on the seventh calendar day after the date affixed by the post office on the certificate or proof of mailing. The presumption of delivery in this Subsection shall not apply if the postal service returns the cease and desist order as undeliverable.

(2) If the person or business subject to the cease and desist order in this Section cannot be served, or does not comply with the cease and desist order, the Department of Public Safety and Corrections, public safety services, may file a petition for injunctive relief as provided in the Code of Civil Procedure in district court. There shall be no suspensive

appeal or stay of an order or judgment of the district court granting the Department of Public Safety and Corrections, public safety services, a preliminary or permanent injunction.

(3) The Department of Public Safety and Corrections, public safety services, may promulgate rules in accordance with the Administrative Procedure Act to implement the provisions of this Subsection.

RS 32:408.2 — Third party testing; limitation of liability

ained, brought, or prosecuted in any manner based upon, occasioned by, or attributable to any injury, infringement, or damage arising from, or claimed to have arisen from, acts committed by a driver who has been given a written knowledge test or a skills test by such third party tester provided the test was administered in accordance with Louisiana rules, regulations, and laws.

RS 32:409 — Filing of applications; use of abbreviations; release of information

he applicant, including only applications granted, and shall assign to each applicant a distinguishing number. The driver's license division shall also maintain an alphabetical file containing the names of all persons whose licenses have been suspended, cancelled, or revoked by it or by a court of competent jurisdiction and the reasons therefor. For purposes of the driver's license law the department may, by regulation, require the use of an abbreviated form of an excessively lengthy name.

B. Upon written request, the department may provide information contained in these files to any interested party for a reasonable fee. These fees shall be adopted pursuant to R.S. 49:950 et seq.

C.(1) Any law enforcement officer or officer of court shall be given the option of exempting his name and the name of any member of his immediate family from release to interested parties except a law enforcement officer acting within the scope of his duties or pursuant to a court order. If a law enforcement officer or officer of the court requests the exemption, it shall be in effect until the officer or family member requests that it be changed. The office of motor vehicles shall promulgate rules and regulations as are necessary in accordance with the Administrative Procedure Act and shall provide forms to implement the provisions of this Subsection. As used in this Section, the following words shall have the following meaning, unless the context clearly indicates otherwise:

(a) "Court officer" shall mean any active or retired justice of the peace, or judge or justice from a city, parish, state, or federal court located in this state. Court officer shall also mean any district attorney, assistant district attorney, investigator, or city prosecutor in this state. Court officer shall also include any administrative law judge or the director of the division of administrative law as provided in Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950.

(b) "Immediate family member" shall mean the spouse, child, or parent of a law enforcement or court officer or any other adult who lives in the same residence as a law enforcement or court officer.

(c) "Law enforcement officer" shall mean any active duty or retired city, parish, or state law enforcement officer, peace officer, sheriff, probation and parole officers, marshals or deputies, wildlife enforcement agents, state correctional officers, and any commissioned agent of the Louisiana Department of Public Safety and Corrections.

(2) In accordance with the provisions of 18 U.S.C. 2721, the office of motor vehicles may only release the personal information of a party who elects to exempt his name from release in accordance with the provisions of this Section for one of the following reasons:

(a) It is requested or demanded by a law enforcement officer within the scope of his duties or pursuant to a court order.

(b) Matters of motor vehicle or driver safety and theft.

(c) Motor vehicle emissions.

(d) Motor vehicle product alterations, recalls, or advisories.

(e) Performance monitoring of motor vehicles and dealers by motor vehicle manufacturers.

(f) Removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of titles I and IV of the Anti-Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and Chapters 301, 305, and 321-331 of Title 49 of the United States Code.

(3) A party who elects to exempt his name from release in accordance with the provisions of this Subsection may sign a waiver authorizing the office of motor vehicles to release his personal information to a specified third party.

RS 32:409.1 — Application or special certificate applications; penalties for false information

requirements of the certifications listed below, the department shall

require applicants for a driver's license to make the following certifications:

(a) An applicant for a commercial driver's license who operates or expects to operate in interstate or foreign commerce or who is otherwise subject to 49 CFR Part 391, shall certify that he meets the qualification requirements contained in 49 CFR Part 391, including twenty-one year age requirement, English literacy requirement, special knowledge and skills, reporting violations, and employment history.

(b) An applicant for a commercial driver's license who operates or expects to operate entirely in intrastate commerce and who is not otherwise subject to 49 CFR Part 391 shall certify that he is not subject to such provisions.

(c) An applicant shall certify and the department shall verify that the motor vehicle in which he will take or has taken the driving or skills test is representative of the type of motor vehicle he operates or expects to operate.

(d) An applicant shall certify that his driver's license is not suspended, revoked, or cancelled; that he is not disqualified from operating a motor vehicle; and that he has not otherwise lost the privilege to drive.

(e) An applicant for a commercial driver's license shall certify he does not have a driver's license from more than one state or jurisdiction. Additionally, an applicant for a commercial driver's license shall provide the department with a list of all states in which the applicant was licensed to operate any type of motor vehicle during the last ten years.

(f) Any other certification required by the department.

(2) An applicant for a driver's license shall provide the following information:

(a) Full name.

(b) Current mailing address.

(c) Current residential address. However, law enforcement officers, court officers, and members of their immediate families as defined in R.S. 32:409(C) shall be given the option of providing their official work address or post office box address instead of a residential address. If a person exercises such option, then the person shall not be eligible for voter registration at the driver's license facility as provided for in R.S. 18:114.

(d) Identifying information including:

(i) Date of birth (month, day, and year).

(ii) Sex.

(iii) Height.

(iv) Weight.

(v) Eye and hair color.

(vi) Social security number. Any alien individual residing in Louisiana who does not possess and is ineligible to obtain a social security number shall not be required to furnish a social security number for issuance of a Class "E" driver's license. However, prior to the issuance of a Class "E" driver's license, in addition to other required documentation,

the department shall require the alien individual to present a document demonstrating lawful presence in the United States in a status in which the alien individual may be ineligible to obtain a social security number. The list of acceptable documents demonstrating lawful presence shall be determined by the department. The department shall maintain confidentiality of an applicant's social security number. The department shall not deny any person a driver's license or a renewal if that person has not obtained a government-issued social security number based on Section 7 of Pub. L. 93-579 Section (a)(1).

(vii) Signature or a mark attested to by at least one witness if the applicant cannot make a signature.

(viii) Any other information required by the department.

(ix) Proof of Louisiana residency. Proof of residency shall include but not be limited to paid receipts for utility bills and bank statements.

(x) One primary and two secondary documents of identification or two primary documents of identification from a list of acceptable documents determined by the department. However, such documentation shall include at least one of the following:

(aa) Certified copy of a birth certificate, original certificate of birth, or birth registration card or certificate issued by a state or county bureau of vital statistics with raised agency seal.

(bb) Certification of birth abroad issued by the United States Department of State.

(cc) Certificate of citizenship.

(dd) Current United States military identification card or draft record or military dependent identification card.

(ee) United States Coast Guard Merchant Mariner card.

(ff) Passport. Foreign passports must be appropriately stamped and accompanied by proper immigration documents that permit the applicant to maintain a legal presence in the United States for at least one hundred eighty calendar days; except, however, such passports and immigration documents of applications who are employed in the agricultural industry must permit the applicant to maintain a legal presence in the United States for at least sixty calendar days, and such passports and immigration documents of applicants who are attempting to renew a driver's license must permit the applicant to maintain a legal presence in the United States for at least thirty calendar days.

(gg) Permanent resident alien card issued after July 1, 1997.

(hh) Native American tribal document.

(ii) In cases where none of the above is available, some document of equal significance considered by the secretary of the department or his designee to assure sufficient proof of identity.

(3) An applicant falling within the provisions of R.S. 32:403.1, 403.2, or 403.4 shall provide a medical report and all applicants shall pass a vision test.

(4) An applicant for a driver's license shall pass a knowledge test for the type of motor vehicle he operates or expects to operate and, except as otherwise provided herein, the department has authority to waive said skills test. Every applicant shall pass a driving or skills test taken in a motor vehicle which is representative of the type of motor vehicle the

applicant operates or expects to operate, or provide evidence on a form approved by the department that he has successfully passed a driving or skills test administered by an authorized third party in such a representative vehicle.

(5) An applicant for a commercial driver's license or a chauffeur's license shall surrender any driver's license issued by this or any other state or jurisdiction. An applicant for a Class "E", "Personal Vehicle" driver's license, shall surrender any driver's license issued by this or any other state or jurisdiction, unless such state or jurisdiction requires him to have a local driver's license.

(6) The department shall initiate and complete a check of the applicant's driving record to ensure that the person is not subject to any disqualifications, suspensions, revocations, or cancellations and that the driver does not have a driver's license from more than one state. The record check for a commercial driver's license shall include:

(a) A check of the applicant's driving record as maintained by his current state of licensure and a check of any state in which the applicant was licensed to operate any motor vehicle during the last ten years, if any.

(b) A check with the Commercial Driver's License Information System (CDLIS) to determine if the applicant has a commercial driver's license, if the applicant's license has been suspended, revoked, or cancelled, or if the applicant has been disqualified from operating a commercial motor vehicle.

(c) A check with the National Driver Register (NDR), if it is determined to be operational by the Federal Highway Administrator, to determine if the applicant:

(i) Has been disqualified from operating a motor vehicle other than a commercial motor vehicle.

(ii) Has had a license other than a commercial driver's license suspended, revoked, or cancelled for cause in the three year period ending on the date of application.

(iii) Has been convicted of any of the offenses contained in 49 U.S.C.A. 30304(a)(3).

The department may perform a similar record check for all applicants of a Class "D" chauffeur's license or a Class "E" personal vehicle driver's license. The department shall give full weight and consideration to such information in deciding whether to issue a driver's license to such applicant. The department shall not issue a driver's license to an applicant who is disqualified from operating a motor vehicle, whose driver's license has been suspended, revoked, or canceled, or who has otherwise lost the privilege to drive in another state or jurisdiction, except for the limited exception provided in R.S. 32:404. However, inadvertent issuance of a driver's license to such an applicant shall not be considered a breach of duty on the part of the department to the public or the individual.

(d) Beginning on November 18, 2024, a check with the Federal Motor Carrier Safety Administration, Drug and Alcohol Clearinghouse, on all applications for the transfer, issuance, renewal, or upgrade of a commercial driver's license or a commercial learner's permit. If the department receives notification that the applicant is prohibited from operating a commercial motor vehicle, the department shall not issue, renew, upgrade, or transfer a commercial learner's permit. In the event that the department receives such notification from the Drug and Alcohol Clearinghouse separate from any applicant made pursuant to this

Paragraph, the department shall downgrade or disqualify the commercial driver's license or learner's permit in accordance with the suspension, revocation, or denial of a driver's license as provided in R.S. 32:414. An inadvertent issuance of a commercial driver's license or learner's permit to such an applicant shall not be considered a breach of duty on the part of the department to the public or the individual.

(e) Beginning on or after February 7, 2022, a check with the Federal Motor Carrier Safety Administration, Training Provider Registry to determine compliance with training standards in the following instances:

(i) Before issuing a skills test.

(ii) On initial commercial driver's license issuance.

(iii) On any commercial driver's license class upgrade.

(iv) On any issuance of a passenger, school bus, or hazardous materials endorsement.

(7) The department shall inform all applicants for a commercial driver's license, subject to R.S. 32:414.2, of the implied consent provision to be tested for alcohol, controlled substances, or for any other substance which may impair his ability to safely drive and of the resultant exposures and penalties. The department shall also inform such an applicant that he may be subject to stiffer criminal and civil penalties for offenses involving a commercial motor vehicle or a commercial driver's license. However, inadvertent failure of the department to so inform the applicant shall not be a breach of duty on the part of the department to the public or to the applicant and shall not constitute a defense in a subsequent criminal or civil action against the applicant.

(8) The department shall not knowingly issue a commercial driver's license, a commercial special license or permit, or a provisional or temporary license, any of which would permit a person to drive a commercial motor vehicle during a period in which the person is disqualified from operating a commercial motor vehicle, the person's noncommercial driving privilege has been revoked, suspended, or canceled, or any driver's license held by a person is suspended, revoked, or canceled by this state or any other state where the person is licensed for a violation of any state or local law related to traffic control other than parking violations.

B. Prior to renewing a driver's license, the department shall require the certifications specified in Paragraph (A)(1); complete a check of the applicant's record as specified in Paragraph (A)(6); request and receive updates of the information specified in Paragraph (A)(2); require the applicant to pass the test for a hazardous materials endorsement if he wishes to retain the endorsement; require the applicant to furnish a current medical report and pass a vision test as specified in Paragraph (A)(3); require the applicant to be tested with respect to his qualifications at least every four years, provided, however, that the department may waive the actual demonstration of the applicant's ability to operate the vehicle; and, any other requirement of the department established by rule or regulation.

C. Prior to issuing an upgrade of a driver's license or issuing a special certificate, the department shall require the applicant to provide the certifications specified in Paragraph (A)(1), complete a check of the applicant's record as specified in Paragraph (A)(6), request and receive updates of the information specified in Paragraph (A)(2), and require the

applicant to pass the tests related to the new vehicle group or endorsements or special certificate. The department shall require a medical report or vision test as specified in Paragraph (A)(3) and any other requirement established by rule or regulation.

D. When applying to transfer a driver's license from a previous state of domicile to this state, an applicant shall apply for a driver's license from this state within no more than thirty days after establishing a domicile in this state. Prior to issuing a driver's license to a person who wishes to transfer his driver's license from another state, the department shall require the applicant to provide the certifications specified in Paragraph (A)(1), complete a check of the applicant's record as specified in Paragraph (A)(6), and request updates of the information specified in Paragraph (A)(2). If the applicant wishes to retain a hazardous materials endorsement, the department shall ensure that the applicant has, within two years preceding the transfer, either passed the test for such endorsement or successfully completed a hazardous materials test or training given by a third party deemed by the department to cover the same knowledge base as the state-administered test. The department shall further require the applicant to submit a medical report and to take a vision test as specified in Paragraph (A)(3), to obtain the driver's license issued by the applicant's previous state of domicile, to require the applicant to submit to a knowledge or skills test if the department so provides by rule or regulation, and to meet any other requirements of the department established by rule or regulation.

E. If the department determines, in its check of an applicant's license status and record prior to issuing a driver's license, or at any time after the driver's license is issued, that the applicant has falsified information specified in Paragraph (A)(2) or any of the certifications specified in Paragraph (A)(1), the department shall, within thirty days after discovering the falsification, suspend, revoke, or cancel the person's driver's license or his pending application. The provisions of this Subsection shall be in addition to any other penalties imposed by this Chapter.

RS 32:410 — Form of license; photograph, signature of licensee, anatomical gift statement,

A.(1) Every application for a driver's license and the license issued as a result of such application shall contain the photograph of the applicant or licensee, as the case may be. At the time of renewal of a license, the expired or expiring license shall be surrendered to the office of motor vehicles of the Department of Public Safety and Corrections.

(2) The Department of Public Safety and Corrections shall use such process or processes in the issuance of licenses that prohibit as nearly as possible the ability to alter or reproduce a license or to superimpose a photograph on such license without ready detection. All licenses and photo attachments shall be processed in color.

(3)(a) Every license issued shall bear thereon:

(i) The distinguishing number assigned to the applicant and shall contain the name of the state.

(ii) The applicant's full legal name. For the purposes of this Item, an applicant's full legal name shall be defined in compliance with the Real ID Act, if implemented. If and until such time as the Real ID Act is implemented, the applicant's full legal name shall be defined as the given name or names that appear on an official birth certificate together with the

surname as it appears on the official birth certificate, unless the surname is changed in accordance with R.S. 9:292. No other name shall be permitted to be used unless the applicant provides proof of name change granted by a district court in accordance with the law. Should the Real ID Act be implemented, the full legal name shall be defined as stated by the Real ID Act. The department shall promulgate rules and regulations as are necessary to implement the provisions of this Item.

(iii) The applicant's mailing address and residential address, if different from the mailing address. The residential address provided for issuance of a driver's license for any law enforcement officer, court officer, or member of his immediate family as defined in R.S. 32:409(C) shall be the residential address which appears on the driver's license.

(iv) The dates of issuance and expiration.

(v) The group or groups of motor vehicles the applicant is authorized to operate.

(vi) The endorsements for which the driver has qualified.

(vii) Any applicable restrictions to which the applicant is subject.

(viii) Other information to identify the applicant including date of birth (month, day, and year), sex, height, weight, and eye and hair color. An applicant's license may bear his social security number at his option.

(ix) Parish of residence code number. The parish code shall be consistent with the numerical code as designated by the secretary of state.

(b) Every applicant for a license shall write his usual signature with pen and ink in the space provided for that purpose on the license issued to him immediately upon receipt of such license, and such license shall not be valid until so signed, except in the case of a person who cannot write his or her name, and in such case he may make his mark in the presence of one attesting witness and any other information requested by the department.

(c) Every license issued shall include the words "DON'T DRINK AND DRIVE; DON'T LITTER LOUISIANA" and "Crisis Lifeline dial 988".

(d) The magnetic strip on the back of the license shall contain only the information required in Subparagraph (a) of this Paragraph. No other personal information of any kind shall be contained on the magnetic strip. In no case shall information not included on the face of the driver's license, including the Social Security number, be included on the magnetic strip.

(4) Every commercial driver's license must contain a prominent statement that the license is a "Commercial Driver's License" or "CDL". The word "nonresident" shall be added to the face of a nonresident commercial driver's license. The word "nonresident" shall be conspicuously and unmistakably displayed but may be noncontiguous with the words "Commercial Driver's License" or "CDL". Additionally, every commercial driver's license must state: "Holder of this license must be twenty-one years of age or older to utilize the privileges of this license in interstate commerce pursuant to 49 Code of Federal Regulations 391.11."

(5) Beginning January 1, 2007, the office of motor vehicles of the Department of Public Safety and Corrections shall provide for a method by which an applicant has the option of including emergency contact information in the operating record of the driver's

license to which law enforcement and emergency personnel will have access.

(6)(a) Beginning July 1, 2013, the office of motor vehicles of the Department of Public Safety and Corrections shall provide a method by which an applicant may choose to include a special endorsement code on his driver's license to indicate whether the applicant has been issued any of the following:

(i) A lifetime hunting or fishing license issued pursuant to R.S. 56:649.1 et seq.

(ii) A certificate of completion of firearm and hunter education issued pursuant to R.S. 56:699.5.

(iii) A certificate of completion of boating safety education issued pursuant to R.S. 34:851.36.

(b) Inclusion of a special endorsement code pursuant to Subparagraph (a) of this Paragraph on his driver's license shall be solely at the option of the applicant. If applicant opts to include any such endorsement code, possession of his driver's license which displays such endorsement code shall satisfy any requirement to possess and exhibit such license and certificate.

B.(1)(a) The Department of Public Safety and Corrections shall give the widest possible dissemination to the anatomical donation program relating to eyes, kidneys, entire bodies, etc., and shall make whatever provisions are feasible and desirable, through its drivers licensing examining offices, to enable persons desiring to make such anatomical donations to confirm their desires and intentions through the use of suitable documents to be maintained and issued in all driver's license examining offices. Additionally the license issued by the department shall contain an indication thereon whether or not the named applicant has elected to make an anatomical gift pursuant to the provisions of this Chapter or R.S. 17:2351 et seq., said indication to be by placing an "X" in the appropriate box marked "Yes" or "No" under or adjacent to the term "anatomical gift".

(b) The following information shall be made available free of charge to applicants for a driver's license on a form to be promulgated by the department and maintained on file with the department:

(i) An anatomical gift statement indicating the organs donated for the purpose of transplantation or transplantation research;

(ii) A space for indicating any limitation or special wish of the donor; and

(iii) The signature of the donor and the witnesses to the signature of the donor.

(c) If the applicant elects not to execute an anatomical gift statement at the time of application, the statement shall remain blank when presented to the licensee so it can be executed by the licensee at any time after the license is issued. No other form or statement shall be required for the purpose of providing for the donation of organs.

(2) The applicant shall be asked at the time of application if he would like to be an organ donor and informed that the gift may be made either to a named donee or without the naming of a donee and the effect thereof as provided in R.S. 17:2354(D).

(3) An anatomical gift made pursuant to this Subsection may be revoked as provided in R.S. 17:2351 et seq.

(4) The state or any of its agencies, departments, or political subdivisions shall not

be liable in damages or otherwise for any removal or use of any anatomical gift made pursuant to this Subsection.

(5) The attending physician, and the hospital where an anatomical gift is made or was to be made, shall not be liable for the removal, use, or the failure to remove or use any anatomical gift made pursuant to this Subsection.

(6) Except as otherwise provided in this Subsection, the document of donation and the donation shall be made pursuant to R.S. 17:2351 et seq.

(7) The department shall furnish upon request, written information to each applicant for a driver's license or renewal thereof at the time of the application, stating that if such applicant has executed a document of gift pursuant to the Anatomical Gift Act, and if the document has been deposited in any hospital, registry office, or depository that accepts such documents for safekeeping or for facilitation of procedures after death, he may authorize the department to include on an organ donor card a notification disclosing that a document has been executed including the file number for the document. When so authorized by the applicant, the department shall in such manner and form as it determines include on the donor card a notification disclosing that a document has been executed, and disclosing the place where the document is deposited including the file number for the document, in order to provide the widest possible dissemination of the information.

C.(1)(a) The Department of Public Safety and Corrections shall give the widest possible dissemination to the declarations concerning life-sustaining procedures under the provisions of R.S. 40:1151 et seq., and shall make whatever provisions are feasible and desirable, through its driver's licensing examining offices, to enable persons desiring to make such declarations to confirm their desires and intentions through the use of suitable documents to be maintained and issued in all driver's license examining offices. Additionally, the license issued by the department shall contain an indication thereon whether or not the named applicant has elected to make such a declaration, said indication to be by placing an "X" in the appropriate box marked "Yes" or "No" under or adjacent to the term "living will".

(b) If the applicant elects not to execute a declaration concerning life-sustaining procedures at the time of application, the statement shall remain blank when presented to the licensee so it can be executed by the licensee at any time after the license is issued.

(2) The applicant shall be asked at the time of application if he would like to make a declaration concerning life-sustaining procedures or a living will.

(3) The state or any of its agencies, departments, or political subdivisions shall not be liable in damages or otherwise for any declaration made pursuant to this Subsection.

D.(1) Upon request, the license holder's blood type shall be exhibited on the back of the driver's license regardless of its class. No additional fee shall be charged to include such designation. The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall promulgate, in accordance with the Administrative Procedure Act, rules and regulations necessary to implement the provisions of this Subsection.

(2) No action taken by any person, whether private citizen or public officer or employee, with regard to any driver's license displaying a blood type, shall create a warranty

of the reliability or accuracy of the document or electronic image, or create any liability on the part of the state, or on the part of any department, office, or agency of the state, or on the part of any officer, employee, or agent of the state.

E.(1) The department shall provide for the option of the issuance of drivers' licenses that are either compliant or not compliant with the standards of the REAL ID Act of 2005, P. L. 109-13, and federal rules adopted pursuant thereto as of January 1, 2016, hereinafter collectively referred to as REAL ID, in the manner set forth in this Subsection.

(2) Any person applying for a driver's license pursuant to the provisions of this Chapter may elect to apply for a driver's license that complies with the standards of REAL ID. If that person is eligible for a driver's license to be issued pursuant to the provisions of this Chapter and meets all requirements of the United States Department of Homeland Security for a REAL ID compliant credential, that person shall be issued a driver's license which bears a United States Department of Homeland Security approved security marking reflecting that such credential meets REAL ID standards. A person who is issued a REAL ID compliant driver's license shall not be issued a REAL ID compliant special identification card.

(3) Any person applying for a driver's license pursuant to the provisions of this Chapter, who elects not to apply for a driver's license that complies with REAL ID standards, and who is otherwise eligible to be issued a driver's license pursuant to the provisions of this Chapter, shall be issued a driver's license which indicates the driver's license is not in compliance with REAL ID. If the person has elected not to apply for a REAL ID compliant driver's license, the department shall not require the applicant to comply with any REAL ID requirements that were not required by the state as of January 1, 2016, or require the applicant to submit to a facial image capture in connection with such application prior to determining if such applicant is eligible to be issued a driver's license pursuant to the provisions of this Chapter. If the person has elected not to apply for a REAL ID compliant driver's license, the department shall not copy, scan, maintain, or share a copy of the applicant's documents proving his identity. This includes but is not limited to the applicant's birth certificate, social security card, or United States issued passport.

(4)(a) Each applicant for a driver's license shall be informed that he is not required by law to be issued a REAL ID compliant driver's license and may be issued a driver's license which is not REAL ID compliant. The applicant shall be required to indicate on his driver's license application whether he is applying for a REAL ID compliant driver's license or a driver's license that is not REAL ID compliant. Additionally, each applicant shall indicate receipt of the printed document required by Subparagraph (b) of this Paragraph on the application for a driver's license.

(b) The department shall provide each applicant for a driver's license a printed document that includes the following information:

(i) The documents that an applicant is required to provide to obtain a REAL ID compliant driver's license, and the documents an applicant is required to provide to obtain a driver's license that is not REAL ID compliant.

(ii) The purposes for which a REAL ID compliant driver's license may be utilized,

and the purposes for which a driver's license that is not REAL ID compliant may be utilized.

(iii) The electronic technology incorporated into a REAL ID compliant driver's license, and the electronic technology incorporated into a driver's license that is not REAL ID compliant.

(5) Compliance with REAL ID referenced in this Subsection shall be limited to those standards in effect as of January 1, 2016. Any subsequent changes or additions to federal laws or rules for implementation of REAL ID shall be implemented by the state only if such changes are approved by the legislature by a favorable vote of a majority of the elected members of each house.

(6) Any eligible person electing to obtain a driver's license which bears a United States Department of Homeland Security approved security marking reflecting that such credential meets REAL ID standards prior to the renewal date of his driver's license may be issued such driver's license at the cost of a duplicate license.

(7) Upon the request of any applicant for a driver's license, the department shall record and retain the applicant's name, date of birth, certificate numbers, date filed, and issuing agency in lieu of retaining an image or copy of the applicant's birth certificate.

(8) The department shall not participate in any programs that exchange or allow the access of facial biometric data of Louisiana citizens obtained in the issuance or renewal of a Louisiana driver's license to the agencies, governments, or contractors of other states or nations without a warrant or a court order issued for access to that data.

F.(1) Upon request of any person, any personal identifying source documents or photographs of such person obtained by the department or a contractor in the process of a person applying for or renewing a driver's license between July 7, 2008, and June 14, 2016, that were not required by state law to be captured by the department or a contractor as of July 7, 2008, shall be disposed of as follows:

(a) Personal identifying source documents shall be removed and purged from department and contractor databases and systems.

(b) All photographs of persons obtained by the department which are in the possession of a contractor shall be purged from the database or system of that contractor.

(2) As used in this Subsection, the following terms shall mean and include:

(a) "Contractor" shall mean and include any contractor of the department, any affiliate or subsidiary of such contractor, and any subcontractor of such contractor or any affiliate or subsidiary of such subcontractor.

(b) "Personal identifying source documents" shall mean and include any document provided by any person to prove his identity or residence. It shall include all copies, scans, or digital images of such documents.

(c) "Photographs" shall mean and include any captured image, digital or otherwise, of a person's face. It shall include all copies, scans, or digital images of such image.

G. Any person between the ages of eighteen and forty years old applying for or renewing their driver's license may indicate their intention to be a bone marrow donor on the application for the driver's license or on any other document provided by the department during the application or renewal process. The person shall give written consent for their

personal identifying information and contact information to be shared with the National Marrow Donor Program. The department shall provide the personal identifying information and contact information of any person who has given written consent to share their information to the National Marrow Donor Program for that program to contact the person to obtain their genetic information. The genetic information shall be stored in a secure national database accessible to cancer doctors to find a match for their patients. The department shall promulgate such rules as are necessary to implement this Subsection.

RS 32:410.1 — Novelty or unofficial credentials; prohibited

s intended to simulate a credential issued

by any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any foreign country or government, a United States government-issued credential, or a United States passport or foreign government visa.

B. For purposes of this Section, a credential shall include but is not limited to any driver's license, driver permit, temporary driver's license, restricted or hardship driver's license, government-issued identification card, school-issued identification card, vehicle registration certificate, or vehicle license plate.

C. It shall not be a defense to a violation of this Section that a fictitious or facsimile credential contains words indicating that it is a novelty item or an indication that it is not a valid identification document, vehicle registration certificate, or vehicle license plate.

D. The Department of Public Safety and Corrections, office of motor vehicles, may issue a cease and desist order to any person or business who manufactures, advertises for sale, sells, or possesses any credential, including any novelty or unofficial credential, which it determines to be in violation of this Section. Any such cease and desist order may be served by regular mail with a proof of mailing issued by the United States Postal Service, or hand delivered by a representative of the department. If the cease and desist order is served by mail with proof of mailing, it shall be deemed delivered on the seventh calendar day after the date affixed on the certificate or proof of mailing. The presumption of delivery in this Subsection shall not apply if the cease and desist order is returned as undeliverable.

E.(1) If the person or business subject to the cease and desist order cannot be served or does not comply with the cease and desist order, the department may file a petition for injunctive relief as provided in the Code of Civil Procedure for injunctions in the district court. There shall be no suspensive appeal or stay of an order or judgment of the district court granting the department a preliminary or permanent injunction.

(2) In the suit for an injunction, the department may demand of the defendant a penalty of not more than five hundred dollars for each day the defendant engaged in any activity prohibited by the cease and desist order issued by the department and court costs. Judgment for penalty and court costs may be rendered in the same judgment in which the injunction is made final.

F. The department may promulgate rules it determines necessary to aid in the implementation and enforcement of this Section.

RS 32:410.2 — International driver's license

of 1949 and is presented with a valid driving permit or valid driver's license from the holder's country of residence.

(2) As defined in Paragraph (1) of this Subsection, an international driving permit or driver's license in this state shall be valid only as a non-commercial driver's license, shall not be valid and used in lieu of a learner's permit, commercial learner's permit, or commercial driver's license, and shall not be valid if the holder's driving privileges are suspended or revoked in this state or any other state.

B. It shall be unlawful for any person to issue an international driver's license in this state for use in this state or in any other state or territory of the United States.

C. The Department of Public Safety and Corrections, office of motor vehicles, may issue a cease and desist order to any person or business issuing an international driver's license in violation of this Section. Any such cease and desist order may be served by regular mail with a proof of mailing issued by the United States Postal Service, or hand delivered by a representative of the department. If the cease and desist order is served by mail with proof of mailing, it shall be deemed delivered on the seventh calendar day after the date affixed on the certificate or proof of mailing. The presumption of delivery in this Subsection shall not apply if the cease and desist order is returned as undeliverable.

D. If the person or business subject to the cease and desist order cannot be served or does not comply with the cease and desist order, the department may file a petition for injunctive relief as provided in the Code of Civil Procedure for injunctions in the district court. There shall be no suspensive appeal or stay of an order or judgment of the district court granting the department a preliminary or permanent injunction.

E. The department may promulgate rules and regulations necessary to implement and enforce the provisions of this Section.

RS 32:411 — Deposit of license in lieu of security upon arrest; receipt; licensee to have license or permits

A. Except as is otherwise specifically provided in this Section, the deposit of a driver's license in connection with the issuance of a citation alleging the commission of a traffic offense is prohibited.

B.(1) An arresting officer may retain the driver's license of an operator of a motor vehicle when that operator has been issued a citation alleging that the operator was:

(a) Operating the motor vehicle under the influence of alcohol or controlled substances.

(b) Exceeding the speed limit by twenty-five miles per hour or more.

(c) Exceeding the speed limit in a school zone.

(d) Driving with a suspended license.

(e) Drag racing.

(f) Cited for failure to maintain compulsory security.

(2) An arresting officer may retain the driver's license of an operator when the operator was involved in an accident in which a person was injured, or when an operator:

(a) Is alleged to have committed the same offense twice within a period of one hour.

(b) Is alleged by the investigating law enforcement officer to have a medical condition which could result in suspension or revocation of his driver's license under the provisions of R.S. 32:414(E), provided that the arresting officer first consults with his superior officer as to his specific observations and such superior officer concurs with the issuing officer's belief.

(3) In each instance listed in this Subsection, the provisions of Subsections C through H of this Section shall apply.

C. Whenever any person lawfully possessed of a driver's license issued to him by either:

(1) The Department of Public Safety and Corrections; or

(2) The appropriate agency of another state if such person resides in this state and either:

(a) Is on active duty with the armed forces of the United States or is a dependent of any person described in this Subparagraph; or

(b) Is enrolled in a Louisiana college or university is arrested and charged with a violation of the Louisiana Highway Regulatory Act or any municipal or parish ordinance regulating traffic in any municipality or in any parish he shall have the option of depositing his driver's license with the arresting officer in lieu of bail.

(3) The arresting officer shall immediately forward any license so deposited to the sheriff, district attorney, or city court clerk of the parish in which the charge is filed, except in the parish of Orleans, where the license shall be forwarded to the clerk of the traffic court.

Additionally, any person described in Paragraph (2) of this Subsection must also furnish satisfactory proof of his residency in this state by either providing the arresting officer with a copy of orders assigning him, or the person whose dependent he is, to an area inside Louisiana or with a valid student identification card issued by a Louisiana college or university.

(4) This Subsection does not apply when the arresting officer has probable cause to believe that the person charged has committed an offense as defined in Title 14 of the Louisiana Revised Statutes of 1950. The arresting officer shall take these persons forthwith before the nearest or most accessible magistrate having jurisdiction.

D. Whenever any person as described in Subsection C of this Section deposits his driver's license as provided in said Subsection, the arresting officer shall issue said person a receipt for said license upon a form approved or provided by the Department of Public Safety and Corrections, and thereafter said person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited.

E. The district attorney, sheriff, or clerk of a court accepting the license as provided in Subsection C of this Section, shall forward as soon as practicable to the Department of Public Safety and Corrections, the license of a driver deposited in lieu of bail if the driver fails to appear in answer to the charge filed against him. The department shall not return, reissue, or renew the license until authorized to do so by the forwarding court.

F.(1) The licensee shall have his physical license, or a digitized driver's license as provided in this Section, in his immediate possession at all times when driving a motor vehicle and shall display it upon demand of any officer or agent of the department or any police officer of the state, parish, or municipality, except that where the licensee has previously deposited his license as provided in Subsection C of this Section, and has received a receipt, as provided in Subsection D of this Section, the licensee shall display the receipt upon demand of any officer or agent of the department or any police officer of the state, parish, or municipality, the same to serve as a substitute for the license until the license is returned to the licensee. However, when an officer or agent of the department or any police officer of the state, or any parish or municipality has reasonable grounds to believe a person

has committed an offense of driving without a valid driver's license in his possession, the police officer shall make every practical attempt based on identifying information provided by the person to confirm that the person has been issued a valid driver's license. If the police officer determines that the person has been issued a valid driver's license that is not under revocation, suspension, or cancellation, but that the license is not in his possession, the peace officer shall issue a written summons to the offender in accordance with law, commanding him to appear and answer the charge.

(2) The provisions of this Subsection shall in no way limit the peace officer from issuing a citation for operating a motor vehicle without physical possession of a valid driver's license.

(3)(a) For the purposes of this Subsection, a digitized driver's license, which shall include a license that complies with the standards of REAL ID as provided for in R.S. 32:410(E), shall mean a data file available on any mobile device which has connectivity to the internet through an application that allows the mobile device to download the data file from the department or an authorized representative of the department, contains all of the data elements visible on the face and back of the license, and also displays the current status of the license. For the purposes of this Subparagraph, "current status" shall include but is not limited to valid, expired, cancelled, suspended, disqualified, hardship, or interlock hardship status.

(b) A digital copy, photograph, or image of a driver's license which is not downloaded through the application on a mobile device shall not be a valid digitized driver's license as provided by this Section.

(c) A person shall not be issued a citation for driving a motor vehicle without a physical driver's license in his possession if he presents a digitized driver's license to a law enforcement officer in connection with a traffic stop or checkpoint in Louisiana. However, in connection with requests for identification not associated with traffic stops or checkpoints in Louisiana, a person may be required to produce a physical driver's license to a law enforcement officer, a representative of a state or federal department or agency, or a private entity when so requested and be subject to all the applicable laws and consequences for failure to produce such license.

(d) The department shall promulgate such rules as are necessary to implement a digitized driver's license. No digitized driver's license shall be valid until the department has adopted such rules.

(e) The display of a digitized driver's license shall not serve as consent or authorization for a law enforcement officer, or any other person, to search, view, or access any other data or application on the mobile device. If a person presents their mobile device to a law enforcement officer for purposes of displaying their digitized driver's license, the law enforcement officer shall promptly return the mobile device to the person once he has had an opportunity to verify the identity and license status of the person.

(f) The fee to install the application to display a digitized driver's license as defined in Subparagraph (a) of this Paragraph shall not exceed six dollars.

G. When a person is arrested or issued a summons for a violation of R.S. 14:98 or

98.1, the arresting officer shall determine whether the person is the owner of the vehicle used. If the person is not the owner, the arresting officer, his agency of employment, or the Department of Public Safety and Corrections shall take all reasonable measures to identify and locate the registered owner and notify him of the arrest or summons. Such notification may be oral or written. A record shall be kept of whether or not such notification was given.

H.(1) When a fine is levied against a person convicted of any offense as described in Subsection C and the defendant is granted an extension of time to pay the fine, the judge of the court having jurisdiction may order the driver's license to be surrendered to the sheriff or official of the court collecting fines for a period of time not to exceed one hundred eighty days. If, after expiration of one hundred eighty days, the defendant has not paid the fine, the sheriff or official of the court designated to collect fines shall forward the license to the Department of Public Safety and Corrections.

(2) Upon receipt of a surrendered driver's license, the sheriff or court official responsible for collection of such fines shall issue a temporary permit for a period not to exceed one hundred eighty days or for a period of time set forth by the judge having jurisdiction. The Department of Public Safety and Corrections shall devise such temporary permits and provide for a procedure for distributing such permits, all by the promulgation of rules and regulations according to the Administrative Procedure Act. After final promulgation of such rules and regulations, or after six months from August 15, 1995, whichever occurs first, the temporary permits shall be distributed to the courts or other agencies responsible for the collection of the fines and court costs for such violations.

(3) The department shall not return, reissue, or renew a driver's license in its possession pursuant to this Section until payment of the fine and any additional administrative cost, fee, or penalty required by the judge having the jurisdiction and any other cost, fee, or penalty required by the department.

RS 32:411.1 — Licensee to have license in immediate possession; notification to vehicle owner; surrender of license; issuance of temporary permits

to him by either the Department of Public Safety and Corrections or the appropriate agency of another state if such person resides in this state shall have such license in his immediate possession at all times when driving a motor vehicle and shall display it upon demand of any officer or agent of the department or any police officer of the state, parish, or municipality.

(2) However if the person is on active duty with the armed forces of the United States or is a dependent thereof, or is enrolled in a Louisiana college or university and is charged with a violation of the Louisiana Highway Regulatory Act or any municipal or parish ordinance regulating traffic in any municipality or in any parish the provisions of C.Cr.P. Article 211.4 shall apply.

(3) Additionally, any person described in Paragraph (2) of this Subsection shall also furnish, upon demand, satisfactory proof of his residency in this state by either providing the arresting officer with a copy of orders assigning him, or the person whose dependent he is, to an area inside Louisiana or with a valid student identification card issued by a Louisiana college or university.

(4) Whenever any person who resides in this state is arrested and charged with a violation of the Louisiana Highway Regulatory Act or any municipal or parish ordinance regulating traffic in any parish or municipality such person shall be released on his own recognizance upon signing the promise to appear section of the traffic citation. This shall only apply to such persons who are not wanted for failure to appear in connection with other traffic citations or for whom a warrant has been issued for any other reason. If the offender fails to pay the fine by mail in advance of adjudication and fails to appear at the time and date indicated on the citation, the court may impose an additional penalty in an amount not to

exceed the amount of the fine for the original violation.

B. When the arresting officer has probable cause to believe that the person charged has committed an offense as defined in Title 14 of the Louisiana Revised Statutes of 1950 he shall take such person forthwith before the nearest or most accessible magistrate having jurisdiction.

C.(1) When an officer or agent of the department or any police officer of the state, or any parish or municipality has reasonable grounds to believe a person has committed an offense of driving without a valid driver's license in his possession, the police officer shall make every practical attempt based on identifying information provided by the person to confirm that the person has been issued a valid driver's license. If the police officer determines that the person has been issued a valid driver's license which is neither under revocation, suspension, or cancellation, but that the license is not in his possession, the peace officer shall issue a written summons to the offender in accordance with law, commanding him to appear and answer the charge.

(2) The provisions of this Subsection shall in no way limit the peace officer from issuing a citation for operating a motor vehicle without physical possession of a valid driver's license.

D. When a person is arrested or issued a summons for a violation of R.S. 14:98 or 98.1, the arresting officer shall determine whether the person is the owner of the vehicle used. If the person is not the owner, the arresting officer, his agency of employment, or the Department of Public Safety and Corrections shall take all reasonable measures to identify and locate the registered owner and notify him of the arrest or summons. Such notification may be oral or written. A record shall be kept of whether or not such notification was given.

E.(1) When a fine is levied against a person convicted of any violation of the Louisiana Highway Regulatory Act or any municipal or parish ordinance regulating traffic in any municipality or in any parish and the defendant is granted an extension of time to pay the fine, the judge of the court having jurisdiction may order the driver's license to be surrendered to the sheriff or official of the court collecting fines for a period of time not to exceed one hundred eighty days. If, after expiration of one hundred eighty days, the defendant has not paid the fine, the sheriff or official of the court designated to collect fines shall forward the license to the Department of Public Safety and Corrections.

(2)(a) Upon receipt of a surrendered driver's license, the sheriff or court official responsible for collection of such fines shall issue a temporary permit for a period not to exceed one hundred eighty days or for a period of time set forth by the judge having jurisdiction. The Department of Public Safety and Corrections shall devise such temporary permits and provide for a procedure for distributing such permits, all by the promulgation of rules and regulations according to the Administrative Procedure Act. After final promulgation of such rules and regulations the temporary permits shall be distributed to the courts or other agencies responsible for the collection of the fines and court costs for such violations.

(b) The sheriff or court official responsible for issuing temporary permits pursuant to the provisions of this Subsection may prepare and issue such permits electronically to any defendant granted an extension of time to pay a fine for a violation of the Louisiana Highway Regulatory Act or any municipal or parish ordinance regulating traffic. In cases where temporary permits are issued electronically, the sheriff or court official shall sign the electronic permit in an appropriate place and shall maintain possession of the defendant's driver's license until the fine and all fees, costs, and penalties are paid in full or the expiration of one hundred eighty days, whichever is sooner.

(3) The department shall not return, reissue, or renew a driver's license in its possession pursuant to this Subsection until payment of the fine and any additional administrative cost, fee, or penalty required by the judge having the jurisdiction and any other cost, fee, or penalty required by the department.

RS 32:412 — Amount of fees; credit or refund; duration of license; veteran designation; special

"E" drivers' licenses; disposition of certain fees;

exception

A.(1) Every applicant for a Class "D" driver's license, or for a renewal of a Class "D" driver's license, except those bona fide residents of the city of New Orleans, shall pay for such basic license a fee of forty-two dollars and seventy-five cents. Eleven dollars and fifteen cents of the fee shall be paid to the Louisiana State Police Retirement System Fund. One dollar and fifty cents of the fee shall be forwarded by the department to the litter abatement account which is created within the Conservation Fund through the provisions of

R.S. 56:10(B)(15).

(2) The fee for Class "D" driver's licenses, or renewal of a Class "D" driver's license, issued to bona fide residents of the city of New Orleans shall be fifty-four dollars, fifteen dollars of which shall be payable by the department to the board of trustees of the police pension fund of the city of New Orleans. One dollar and eighty-four cents of the fee shall be paid to the Louisiana State Police Retirement System Fund. One dollar and fifty cents of the fee shall be forwarded by the department to the litter abatement account which is created within the Conservation Fund through the provisions of R.S. 56:10(B)(15).

(3) There shall be a fee of seven dollars and fifty cents for an emergency vehicle endorsement for any vehicle group.

(4)(a) A Class "D" driver's license shall expire on the anniversary of the birthday of the applicant which is nearest to a period of six years subsequent to the issuing of the license, unless suspended, revoked, or canceled prior to that time.

(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, the department may issue the license for a period of less than six years in circumstances of medical limitation, limitation on lawful presence, or other special restrictions. When the department issues a license to a properly documented alien student or nonresident alien, the license shall both:

(i) Expire on the date on which the alien's documents which demonstrate lawful presence expire, if sooner than the date specified in Subparagraph (a) of this Paragraph.

(ii) Contain a restriction code which declares that the license holder is an alien student or a nonresident alien.

(5) Every applicant for a Class "E" driver's license, or for a renewal of a Class "E" driver's license, except those bona fide residents of the city of New Orleans, shall pay for such basic license a fee of twenty dollars and twenty-five cents, which shall be the cost of such basic license. Five dollars and sixty-three cents of the fee shall be paid to the Louisiana State Police Retirement System Fund. One dollar and fifty cents of the fee shall be forwarded by the department to the litter abatement account which is created within the Conservation Fund through the provisions of R.S. 56:10(B)(15).

(6) The fee for a Class "E" driver's license, or renewal of a Class "E" driver's license, issued to bona fide residents of the city of New Orleans shall be twenty dollars and twenty-five cents, three dollars and seventy-five cents of which shall be paid by the department to the board of trustees of the police pension funds of the city of New Orleans. Three dollars and seventy-five cents of the fee shall be paid to the Louisiana State Police Retirement System Fund. One dollar and fifty cents of the fee shall be forwarded by the department to the litter abatement account which is created within the Conservation Fund through the provisions of R.S. 56:10(B)(15).

(7)(a) A Class "E" driver's license shall expire on the anniversary of the birthday of the applicant which is nearest to a period of six years subsequent to the issuing of the license, unless suspended, revoked, or canceled.

(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, the department may issue the license for a period of less than six years in circumstances of

medical limitation, limitation on lawful presence, or other special restrictions. When the department issues a license to a properly documented alien student or nonresident alien, the license shall both:

- (i) Expire on the date on which the alien's immigration documents expire, if sooner than the date specified in Subparagraph (a) of this Paragraph.
- (ii) Contain a restriction code which declares that the license holder is an alien student or a nonresident alien.

B.(1) Every applicant for a Class "A", "B", or "C" commercial driver's license, or for a renewal of a basic Class "A", "B", or "C" commercial driver's license, except for those bona fide residents of the city of New Orleans, shall pay for such basic license a fee of sixty-one dollars and fifty cents. Sixteen dollars and twenty cents of the fee shall be paid to the Louisiana State Police Retirement System Fund. One dollar and fifty cents of the fee shall be forwarded by the department to the litter abatement account which is created within the Conservation Fund through the provisions of R.S. 56:10(B)(15).

(2) The fee for a basic Class "A", "B", or "C" commercial driver's license, or for the renewal of a basic Class "A", "B", or "C" commercial driver's license, issued to bona fide residents of the city of New Orleans shall be seventy-six dollars and fifty cents, fifteen dollars of which fee shall be paid by the department to the board of trustees of the police pension fund of the city of New Orleans. Fifteen dollars of the fee shall be paid to the Louisiana State Police Retirement System Fund. One dollar and fifty cents of the fee shall be forwarded by the department to the litter abatement account which is created within the Conservation Fund through the provisions of R.S. 56:10(B)(15).

(3) In addition to the basic fee, there shall be a skills test fee of not more than sixty dollars for commercial drivers' licenses in Class "A", "B", or "C". This fee shall be charged by the department or by a third party tester, whichever administers the test. The department may increase the maximum amount of this fee to reflect increased costs. The increased maximum fee shall be established by rule adopted in accordance with the Administrative Procedure Act, subject to oversight by the House of Representatives and Senate Committees on Transportation, Highways and Public Works. If the department elects to administer skills tests for commercial drivers' licenses in Class "A", "B", or "C", the department may charge fees for those tests. The amount of those fees shall be established in accordance with the provisions of this Paragraph. If an applicant for a commercial driver's license in Class "A", "B", or "C" has successfully completed a skills test administered by a third party, the department shall not charge a skills test fee.

(4) The application fee shall be fifteen dollars which is nonrefundable.

(5) There shall be a fee of seven dollars and fifty cents for each endorsement to the basic licenses listed in R.S. 32:408(B).

(6) Repealed by Acts 1995, No. 151, §2.

(7)(a)(i) A Class "C" commercial driver's license not carrying an endorsement permitting the transportation of material found to be hazardous for purposes of the Federal Hazardous Material Transportation Act, 49 U.S.C. 5101 et seq. or under state law or regulation shall expire on the anniversary of the birthday of the applicant which is nearest

to a date of six years subsequent to the issuing of the license, unless revoked, canceled, or suspended prior to that time.

(ii) Notwithstanding the provisions of Item (i) of this Subparagraph, the department may issue the license for a period of less than six years in circumstances of medical limitations, limitation on lawful presence, or other special restrictions. When the department issues a license to a properly documented alien student or nonresident alien, the license shall both:

(aa) Expire on the date on which the alien's immigration documents expire, if sooner than the date specified in Item (i) of this Subparagraph.

(bb) Contain a restriction code which declares that the license holder is an alien student or a nonresident alien.

(b)(i) A Class "C" commercial driver's license carrying an endorsement permitting the transportation of materials found to be hazardous for purposes of the Federal Hazardous Material Transportation Act, 49 U.S.C. 5101 et seq. or under state law or regulation shall expire on the anniversary of the birthday of the applicant which is nearest to a date of six years subsequent to the issuing of the license, unless revoked, canceled, or suspended prior to that time.

(ii) Notwithstanding the provisions of Item (i) of this Subparagraph, the department may issue the license for a period of less than six years in circumstances of medical limitation, limitation on lawful presence, or other special restrictions. When the department issues a license to a properly documented alien student or nonresident alien, the license shall both:

(aa) Expire on the date on which the alien's immigration documents expire, if sooner than the date specified in Item (i) of this Subparagraph.

(bb) Contain a restriction code which declares that the license holder is an alien student or a nonresident alien.

(c)(i) A Class "B" commercial driver's license shall expire on the anniversary of the birthday of the applicant which is nearest to a date of six years subsequent to the issuing of the license, unless revoked, canceled, or suspended prior to that time.

(ii) Notwithstanding the provisions of Item (i) of this Subparagraph, the department may issue the license for a period of less than six years in circumstances of medical limitation, limitation on lawful presence, or other special restrictions. When the department issues a license to a properly documented alien student or nonresident alien, the license shall both:

(aa) Expire on the date on which the alien's immigration documents expire, if sooner than the date specified in Item (i) of this Subparagraph.

(bb) Contain a restriction code which declares that the license holder is an alien student or a nonresident alien.

(d)(i) A Class "A" commercial driver's license shall expire on the anniversary of the birthday of the applicant which is nearest to a date of six years subsequent to the issuing of the license, unless revoked, canceled, or suspended prior to that time.

(ii) Notwithstanding the provisions of Item (i) of this Subparagraph, the department

may issue the license for a period of less than six years in circumstances of medical limitation, limitation on lawful presence, or other special restrictions. When the department issues a license to a properly documented alien student or nonresident alien, the license shall both:

(aa) Expire on the date on which the alien's immigration documents expire, if sooner than the date specified in Item (i) of this Subparagraph.

(bb) Contain a restriction code which declares that the license holder is an alien student or a nonresident alien.

(e)(i)(aa) Every applicant seventy years of age or older for a Class "E" driver's license, or for the renewal of a Class "E" driver's license, except those bona fide residents of the city of New Orleans, shall pay for such basic license a fee of six dollars and seventy-five cents, which shall be the cost of the license. The license shall expire on the anniversary of the birthday of the applicant which is nearest to a date of six years subsequent to the issuing of the license, unless revoked, canceled, or suspended.

(bb) Notwithstanding the provisions of Subitem (aa) of this Item, the department may issue the license for a period of less than six years in circumstances of medical limitation, limitation on lawful presence, or other special restrictions. When the department issues a license to a properly documented alien student or nonresident alien, the license shall both:

(I) Expire on the date on which the alien's immigration documents expire, if sooner than the date specified in Subitem (aa) of this Item.

(II) Contain a restriction code which declares that the license holder is an alien student or a nonresident alien.

(cc) Seventy-five cents of the fee shall be paid to the office of state police. Two dollars and seventy-five cents of the fee shall be paid to the Louisiana State Police Retirement System Fund. One dollar and fifty cents of the fee shall be forwarded by the department to the litter abatement account which is created within the Conservation Fund through the provisions of R.S. 56:10(B)(15).

(dd)(I) Every applicant seventy years of age or older for a Class "D" driver's license, or for the renewal of a Class "D" driver's license, except those bona fide residents of the city of New Orleans, shall pay for such basic license a fee of twenty-two dollars and thirteen cents, which shall be the cost of the license. The license shall expire on the anniversary of the birthday of the applicant which is nearest to a date of six years subsequent to the issuing of the license, unless revoked, canceled, or suspended.

(II) Notwithstanding the provisions of Subsubitem (I) of this Subitem, the department may issue the license for a period of less than six years in circumstances of medical limitation, limitation on lawful presence, or other special restriction. When the department issues a license to a properly documented alien student or nonresident alien, the license shall both expire on the date for which the alien's immigration documents expire, if sooner than the date specified in Subsubitem (I) of this Subitem, and contain a restriction code which declares that the license holder is an alien student or a nonresident alien.

(ee) Five dollars and fifty-six cents of the fee shall be paid to the Louisiana State

Police Pension and Retirement System Fund. One dollar and fifty cents of the fee shall be forwarded by the department to the litter abatement account which is created within the Conservation Fund through the provisions of R.S. 56:10(B)(15).

(ii)(aa) Every applicant seventy years of age or older for a Class "E" driver's license, or for the renewal of a Class "E" driver's license, issued to bona fide residents of the city of New Orleans, shall pay for such basic license a fee of six dollars and seventy-five cents, which shall be the cost of the license. This license shall expire on the anniversary of the birthday of the applicant which is nearest to a date of six years subsequent to the issuing of the license, unless revoked, canceled, or suspended.

(bb) Notwithstanding the provisions of Subitem (aa) of this Item, the department may issue the license for a period of less than six years in circumstances of medical limitation, limitation on lawful presence, or other special restriction. When the department issues a license to a properly documented alien student or nonresident alien, that license shall both expire on the date for which the alien's immigration documents expire, if sooner than the date specified in Subitem (aa) of this Item, and contain a restriction code which declares that the license holder is an alien student or a nonresident alien.

(cc) One dollar and fifty cents of the fee shall be paid to the Board of Trustees of the Police Pension Fund of the city of New Orleans. One dollar and fifty cents of the fee shall be paid to the State Police Pension and Retirement Fund. One dollar and fifty cents of the fee shall be forwarded by the department to the litter abatement account which is created within the Conservation Fund through the provisions of R.S. 56:10(B)(15).

(dd)(I) Every applicant seventy years of age or older for a Class "D" driver's license, or for the renewal of a Class "D" driver's license, issued to bona fide residents of the city of New Orleans, shall pay for such basic license a fee of twenty-seven dollars and seventy-five cents, which shall be the cost of the license. This license shall expire on the anniversary of the birthday of the applicant which is nearest to a date of six years subsequent to the issuing of the license, unless revoked, canceled, or suspended.

(II) Notwithstanding the provisions of Subsubitem (I) of this Subitem, the department may issue the license for a period of less than six years in circumstances of medical limitation, limitation on lawful presence, or other special restriction. When the department issues a license to a properly documented alien student or nonresident alien, the license shall both expire on the date for which the alien's immigration documents expire, if sooner than the date specified in Subsubitem (I) of this Subitem, and contain a restriction code which declares that the license holder is an alien student or a nonresident alien.

(ee) Seven dollars and fifty cents of the fee shall be payable by the department to the board of trustees of the police pension fund of the city of New Orleans. Ninety-two cents of the fee shall be paid to the State Police Pension and Retirement Fund. One dollar and fifty cents of the fee shall be forwarded by the department to the litter abatement account which is created within the Conservation Fund through the provisions of R.S. 56:10(B)(15).

(8) Persons who hold certain specified licenses issued by the office of motor vehicles and who apply for other specified licenses issued by the office of motor vehicles shall receive credit for the unexpired portion of the first license. The credit shall be computed in

accordance with the provisions of Paragraph (9) of this Subsection. As used in this Paragraph, the phrase "prior provisions of law" means provisions of law in effect prior to the effectiveness of Act No. 293 of the 1989 Regular Session of the Legislature (the "Commercial Drivers License Law"). The three circumstances in which credit shall be given are as follows:

(a) When a person who holds a Class "B", "C", or "D" license issued under prior provisions of law applies for a Class "A", "B", or "C" commercial driver's license issued under current provisions of law.

(b) When a person who holds a Class "B", "C", or "D" license issued under current provisions of law applies for a commercial driver's license of a higher class.

(c) When a person who holds a Class "A" driver's license issued under prior provisions of law or a Class "E" personal vehicle driver's license issued under current provisions of law applies for any commercial driver's license or chauffeur's license.

(9) The credit shall be computed on a basis under which each month from the date of the issuance of the existing license to the date of the expiration of the license shall be given an equal monetary value. The applicant shall be given credit toward the fee for the license for which the applicant has applied based on the monetary value of the remaining months of validity of the existing license. In computing the credit, only whole months shall be used.

C.(1) The addition of a motorcycle or motor scooter endorsement to a basic license will require, besides the specific examination for such vehicles, the payment of an additional fee of twelve dollars. If the motorcycle endorsement is to any license which is valid for less than six years, the fee for the endorsement will be six dollars.

(2) Notwithstanding any provisions of law to the contrary and subject to the exceptions contained in Article VII, Section 9(A) of the Constitution of Louisiana, the amount of seven dollars and fifty cents from the fee for a motorcycle or motor scooter endorsement to a basic license, or the amount of three dollars from the fee if the motorcycle endorsement for any person is to a license that is valid for only less than six years shall be credited to the Bond Security and Redemption Fund. After a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal years, the treasurer shall pay an amount equal to the fees paid into the Bond Security and Redemption Fund pursuant to this Paragraph into a special agency account which is hereby created in the state treasury and designated as the "Motorcycle Safety, Awareness, and Operator Training Program Dedicated Fund Account", to be referred to as the "account". The monies credited to the account shall be used solely for operator training, instructor training, and motorcycle safety and awareness programs. Any unexpended and unencumbered monies remaining to the credit of the account on June thirtieth of each year, after all appropriations of the preceding fiscal year have been made, shall revert to the state general fund. The monies in the account shall be expended solely from year to year as appropriated by the legislature for the purposes of motorcycle safety and awareness and operator training. Any amounts earned through investment of the monies in the account shall revert to the state general fund. Funding deposited into the account shall

be considered fees and self-generated revenues and shall be available for annual appropriations by the legislature.

D.(1) Upon application and payment of the fee imposed by this Chapter and subject to the requirements of R.S. 32:408, a license shall be renewable on or before its expiration.

An application for renewal may be made at any time within one hundred and eighty days prior to expiration unless the renewal is otherwise restricted by the department.

(2) Each person who is less than seventy years of age and who applies for the renewal of a license which expired more than ten days prior to the date of the application shall pay a late fee of fifteen dollars. The late fee shall not affect the criminal penalties imposed by R.S. 32:402 and 427.

(3) A Class "D" or "E" operator's license may be renewed by mail or electronic commerce, except as follows:

(a) No renewal by mail or electronic commerce shall be granted to any person who is seventy years of age or older.

(b) No renewal by mail or electronic commerce shall be granted if the license was renewed by mail or electronic commerce at the last occurrence of its expiration.

(c) No renewal by mail or electronic commerce shall be granted if the previously issued license has been expired for more than twelve months, or has been suspended, revoked, canceled, or lost, or if it is in the possession of a law enforcement agency as a result of an accusation that the driver has violated a traffic law. A Class "D" or "E" driver's license may be renewed by mail or electronic commerce if the license has been expired for a period of twelve months or less and the applicant is otherwise eligible to renew the license by mail or electronic commerce. An applicant for renewal by mail or electronic commerce of an expired Class "D" or "E" driver's license shall pay a special late fee of ten dollars. There shall be no grace period for imposition of the special late fee.

(d) The department may establish rules and regulations to grant or deny renewal by mail in cases where a Louisiana resident is temporarily domiciled out of state or out of country, or temporarily residing, employed, or attending school in another state or foreign country, even if the resident does not meet the qualification criteria under this Section.

(e) No renewal by mail or electronic commerce shall be granted to alien students or nonresident aliens.

(f) Notwithstanding Subparagraphs (a) and (b) of this Paragraph, a renewal by mail may be granted to a person seventy years of age or older who is medically diagnosed with a disability that precludes that person from renewing their license in person.

(4) The renewal by mail or electronic commerce shall include the following:

(a) A statement from the applicant that he has not experienced any loss of consciousness other than normal sleep and has no current physical or mental condition which would impair his ability to operate a motor vehicle safely.

(b) Repealed by Acts 1995, No. 1015, §2.

(c) A statement from the applicant indicating that all motor vehicles owned by the applicant are covered by liability insurance or security and said coverage will be maintained until such time as a vehicle is no longer utilized on the highways of this state, or until a

vehicle is transferred to another.

(d) If the person seeking the renewal is seventy years of age or older, a sworn affidavit by a physician certifying that the person possesses all cognitive functions reasonably necessary to be a prudent driver.

(5) Upon receipt of the required statements by the department and upon renewal of the license, the state shall not be liable for any property damages, injuries, or deaths that may arise from an applicant's involvement in an accident where said accident can be attributed to the applicant's medical condition that may have existed which rendered him incapable of operating a motor vehicle safely.

(6) When a license is renewed by mail or electronic commerce, the secretary shall issue a new license which indicates the new expiration date.

(7) The secretary of the department, in accordance with the Administrative Procedure Act, shall promulgate rules and regulations as are necessary to implement the provisions of Paragraphs (3), (4), (5), and (6) of this Subsection.

(8) The ten-dollar special late fee for the renewal of an expired Class "D" or "E" driver's license by mail or electronic commerce shall be forwarded to the state treasurer for deposit into the Office of Motor Vehicles Customer Service and Technology Dedicated Fund Account created pursuant to the provisions of R.S. 32:429.2.

E. If the failure to make timely application is attributable to the fact that the applicant has had no occasion to operate a motor vehicle since the expiration date, then the additional fee shall be waived upon the filing of an affidavit by the applicant to evidence this fact.

F.(1) The Louisiana driver's license, regardless of its class, issued to any person who serves in the Peace Corps or the armed forces of the United States stationed outside the state of Louisiana, and his dependents who are residing with him, if such license has not been revoked or suspended, shall be considered valid during the period of service in the armed forces or the Peace Corps and for a period of sixty days after discharge from such service. Any person to whom this Subsection applies shall be exempt from any late fees provided the person makes an application for renewal within sixty days of the date in which the applicant, or the person upon whom the applicant is dependent, is discharged from the armed forces or terminates his service with the Peace Corps.

(2) Any person to whom this Subsection applies, while operating a motor vehicle, shall carry upon his person the last license issued to him and conclusive evidence that he is a member of the United States armed forces or the Peace Corps, and if discharged from the armed forces, a copy of such discharge or proof of his last date of service with the Peace Corps. The dependent of a person in such service shall carry upon his person the last license issued to him and copies of conclusive evidence that the person upon whom they are dependent is a member of the armed forces or the Peace Corps, and if such person has been discharged or has terminated his position with the Peace Corps, a copy of such discharge or proof of his last date of service with the Peace Corps, respectively.

(3) As used in this Subsection, the term "dependent" means a spouse or minor child.

G. It shall be unlawful for any person to drive a motor vehicle on any public street, road, or highway of this state with an expired driver's license.

H. Each person who takes a test a second or subsequent time, whether written or driving, which is administered by the office of motor vehicles in connection with an application for the issuance or renewal of a driver's license shall pay a testing fee. The fee shall not be refundable. The office of motor vehicles shall establish the fee by rule adopted in accordance with the Administrative Procedure Act. The amount of the fee shall not exceed ten dollars. The fees collected under the provisions of this Subsection shall be deposited immediately upon receipt into the state treasury.

(2),(3) Repealed by Acts 2012, No. 834, §13, eff. July 1, 2012.

I.(1) The Louisiana driver's license, regardless of its class, issued to any person who is required to register as a sex offender pursuant to R.S. 15:542 and R.S. 15:542.1 shall contain a restriction code which declares that the license holder is a sex offender. The secretary of the Department of Public Safety and Corrections shall comply with the provisions of this Subsection and the driver's license shall include the words "sex offender" which shall be orange in color.

(2) Any person to whom this Subsection applies shall carry upon his person the last driver's license issued to him.

(3) The department shall issue a license required pursuant to this Subsection for a period of one year. When the department issues a license pursuant to this Subsection the license shall be valid for a period of one year from the date of issuance.

(4) Any person to whom this Subsection applies shall personally appear at a motor vehicle field office to renew his driver's license every year, in addition to the yearly reregistration pursuant to R.S. 15:542 et seq. Reregistration shall include the submission of current information to the department and the verification of registration information, including the street address and telephone number of the registrant; name, street address and telephone number of the registrant's employer, and any other registration information that may need to be verified. Upon successful completion of reregistration, the bureau shall electronically transmit this fact to the office of motor vehicles which may then proceed to renew the driver's license. In order to reimburse the office of motor vehicles for the cost of a yearly issuance, the regular renewal fee shall be collected at each renewal pursuant to this Subsection.

(5) The provisions of this Subsection shall apply to all registered sex offenders regardless of the date of conviction.

J. Notwithstanding any law to the contrary, any child who is in foster care, as defined in Article 603 of the Louisiana Children's Code, may obtain a driver's license without charge.

K. Upon request, the word "Veteran" shall be exhibited in the color black below the person's photograph on the driver's license regardless of its class, upon presentation of a copy of the person's DD Form 214 issued by the United States Department of Defense, or equivalent, as established by administrative rule. No additional fee shall be charged to include such designation. The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall comply with the provisions of this Subsection. The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall establish rules and regulations as are necessary to implement the provisions of this

Subsection.

L.(1) Upon request and payment of an additional fee, the designation "I'm a Cajun" shall be exhibited in the color black below the person's photograph on the driver's license regardless of its class. The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall comply with the provisions of this Subsection.

(2) The department shall collect an annual fee of five dollars for inclusion of the designation "I'm a Cajun" on any class of driver's license, which fee shall be disbursed in accordance with Paragraph (3) of this Subsection. This fee shall be in addition to the payment of any driver's license fee.

(3) The monies received from the additional fee shall be disbursed quarterly by the department to the Council for the Development of French in Louisiana. The monies received from the additional five-dollar fee shall be disbursed solely to fund scholarships for the "La Fondation Louisiane for the Escadrille Louisiane" scholarship program of the Council for the Development of French in Louisiana.

(4) The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall establish such rules and regulations as are necessary to implement the provisions of this Subsection.

M.(1) Upon request and payment of a university logo fee, if any, as established by any Louisiana university for the use and display of its logo, the logo of the university shall be exhibited in color on the driver's license regardless of its class. The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall comply with the provisions of this Subsection.

(2) The department shall collect such university logo fee, if any, which shall be disbursed in accordance with Paragraph (3) of this Subsection. This university logo fee shall be in addition to the payment of any other driver's license fee.

(3) Any monies received from such university logo fees shall be disbursed quarterly by the department to the foundation of the university.

(4) The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall establish such rules and regulations as are necessary to implement the provisions of this Subsection.

(5) Any implementation costs shall be incurred by the foundation of the university participating in the university logo program.

N. Upon request, the words "100% DAV" shall be exhibited in the color black below the person's photograph on the driver's license regardless of its class, upon presentation of a copy of the person's DD Form 214, issued by the United States Department of Defense or equivalent, and presentation of one hundred percent disabled veteran status as determined by the United States Department of Veterans Affairs, as established by administrative rule. No additional fee shall be charged to include such designation. The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall comply with the provisions of this Subsection. The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall establish rules and regulations as are necessary to implement the provisions of this Subsection.

O.(1) Upon request of an applicant for a driver's license who needs accommodation, a designation that the applicant needs accommodation shall be exhibited on the driver's license, upon presentation of a statement from a qualified medical professional licensed in Louisiana or any other state or territory of the United States verifying the medical reason, including any mental, physical, or developmental disability, the applicant needs accommodation as established by administrative rule. No additional fee shall be charged to include such designation.

(2) The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall promulgate rules and regulations to implement this Subsection, including a waiver of liability for the release of any medical information. Such rules shall be effective no later than July 1, 2018. Notwithstanding the provisions of R.S. 49:966(B)(12), the Senate and House committees on transportation, highways and public works shall have oversight of the adoption of rules and regulations required by this Subsection.

(3) The designation authorized by this Subsection shall not be available prior to the effective date of the administrative rules required by Paragraph (2) of this Subsection.

P.(1) Upon request of an applicant for a driver's license, a designation that the applicant has autism spectrum disorder shall be exhibited on the driver's license upon presentation of a statement from a qualified medical or mental health professional licensed in Louisiana or any other state or territory of the United States verifying the applicant's disability as established by administrative rule. The qualified medical or mental health professional shall be authorized to diagnose autism spectrum disorder. No additional fee shall be charged to include such designation.

(2) Upon the renewal of a driver's license, a driver who has autism spectrum disorder shall provide a statement from a qualified medical or mental health professional licensed in Louisiana or any other state or territory of the United States verifying his disability as established by administrative rule.

(3) Any person who has not been diagnosed with autism spectrum disorder who willfully and falsely represents himself as having the qualifications to obtain the special designation authorized by this Section shall be fined not less than one hundred dollars nor more than two hundred fifty dollars, or shall be imprisoned for not more than thirty days, or both. Any subsequent offense shall result in a fine of not less than two hundred fifty dollars nor more than five hundred dollars, or imprisonment for not more than ninety days, or both.

(4) In addition to the requirements of R.S. 40:2404.2(C), the Department of Public Safety and Corrections, public safety services, shall establish and implement a law enforcement training course relative to law enforcement officers' interaction with persons who have autism spectrum disorder. The course shall instruct law enforcement officers on sensitivity and awareness to ensure equitable treatment and how to effectively communicate and interact with persons with autism spectrum disorder. At a minimum, the course shall include the following:

(a) Identification of indicators that a person has autism spectrum disorder.

(b) Identification of procedures that an officer should employ when encountering a

person with autism spectrum disorder.

(c) Demonstrations of communication and interactive techniques required to effectively interact with a person with autism spectrum disorder.

(d) Explanations that provide law enforcement officers with an understanding of the developmental disability and examples of unexpected actions potentially taken by persons diagnosed with autism spectrum disorder.

(e) Explanations of the resources available to assist an officer encountering a person who has autism spectrum disorder.

(f) Descriptions of the procedures an officer should use to ensure compliance with the Americans with Disabilities Act when encountering a person with autism spectrum disorder.

(5) The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall promulgate rules and regulations as necessary to implement the provisions of this Subsection, including a waiver of liability for the release of any medical information. Notwithstanding the provisions of R.S. 49:966(B)(12), the House and Senate committees on transportation, highways and public works shall have oversight of the adoption of rules and regulations required by this Subsection.

Q.(1) Upon request of an applicant for a driver's license, a designation that the applicant has a seizure disorder shall be exhibited on the driver's license upon presentation of a statement from a qualified medical health professional licensed in Louisiana or any other state or territory of the United States verifying the applicant's disability as established by administrative rule. The qualified medical professional shall be authorized to diagnose a seizure disorder. No additional fee shall be charged to include such designation.

(2) Upon the renewal of a driver's license, a driver who has a seizure disorder shall provide a statement from a qualified medical health professional licensed in Louisiana or any other state or territory of the United States verifying his disability as established by administrative rule.

(3) Any person who has not been diagnosed with a seizure disorder who willfully and falsely represents himself as having the qualifications to obtain the special designation authorized by this Section shall be fined not less than one hundred dollars nor more than two hundred fifty dollars, or shall be imprisoned for not more than thirty days, or both. Any subsequent offense shall result in a fine of not less than two hundred fifty dollars nor more than five hundred dollars, or imprisonment for not more than ninety days, or both.

(4) The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall promulgate rules and regulations as necessary to implement the provisions of this Subsection, including a waiver of liability for the release of any medical information.

R. An applicant for any class of license may choose to donate one dollar in addition to any license fee required by this Section to the Louisiana Military Family Assistance Fund.

RS 32:412.1 — Handling charges

dollars for

vehicle titling and registration:

- (1) New vehicle or out-of-state title.
- (2) Transfer of ownership.
- (3) Record and cancel mortgage.
- (4) Lost plate and sticker.
- (5) Conversion of license plate.
- (6) Duplicate title.
- (7) Letter of authorization to operate an unregistered vehicle.
- (8) Motor vehicle inspection sticker and rejection stickers.
- (9) Motor vehicle inspection station permits.
- (10) Duplicate motor vehicle inspection station permits.
- (11) Motor vehicle inspection station signs.
- (12) Motor vehicle inspection mechanic inspection license.
- (13) Duplicate motor vehicle inspection mechanic inspection license.
- (14) Sheriff's certificate of chattel mortgages.
- (15) Recordation of floor plans.
- (16) Dealer temporary marker.
- (17) Agriculture permits.
- (18) Refunds - driver's license and vehicle registration.
- (19) Certified copies.
- (20) Claims against dealer bonds.
- (21) Titles, certificates, or similar documents for salvaged vehicles.
- (22) Department of Transportation and Development ticket assessments.
- (23) Nonresident cab cards.
- (24) Reciprocity cab cards.
- (25) Records created by R.S. 9:1149.6.

B.(1) Except as provided in Subsection E of this Section, the office of motor vehicles shall collect, in addition to any fee authorized by law, a handling charge of twelve dollars for each of the following Class "D" and "E" driver's license transactions:

- (a) New applications.
- (b) Renewals.
- (c) Duplicates.
- (d) Valid without photo.

(2) The provisions of this Subsection shall not apply to Class "D" and "E" driver's licenses for a duplicate transaction pursuant to R.S. 32:406 when the change of address was caused by the renaming of a street or highway in accordance with a parish or municipal ordinance.

(3) Except as provided in Subsection E of this Section, the office of motor vehicles shall collect, in addition to any fee authorized by law, a handling charge of twelve dollars for each of the following identification card transactions:

- (a) New applications.
- (b) Renewals.
- (c) Duplicates.

C. Additional handling charges of eight dollars may be established by the office of motor vehicles upon transactions not specifically named in Subsections A and B of this Section in accordance with procedures in the Administrative Procedure Act.

D. Three dollars and seventy-five cents on Class "D" and "E" driver's license transactions, and two dollars and fifty cents of the fee charged for all other handling fees charged or collected shall be forwarded to the state treasurer for deposit in to the Office of Motor Vehicles Customer Service and Technology Dedicated Fund Account created pursuant to the provisions of R.S. 32:429.2.

E. A child who is in foster care, as defined in Article 603 of the Louisiana Children's Code, shall not be required to pay the handling fee or other charge in order to obtain a driver's license or identification card.

RS 32:412.2 — Disabled veteran exemption

identification card, issued pursuant to R.S. 40:1321, if the veteran meets all of the following qualifications:

- (1) Was honorably discharged.
- (2) Has a service-related disability of at least fifty percent.
- (3) Receives compensation from the United States government because of such disability.
- (4) Is not subject to the registration requirements of Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

B. The provisions of this Section shall not apply to the fee imposed by R.S. 32:668(B)(1)(a)(i).

C. The department shall adopt rules relative to the proof of entitlement to such exemption and any other rules as may be necessary to implement the provisions of this Section.

RS 32:412.3 — Office of Motor Vehicles Driver's License Escrow Dedicated Fund Account; Office

atorily dedicated fund accounts in the state

treasury, the Office of Motor Vehicles Driver's License Escrow Dedicated Fund Account, hereafter referred to as the "License Fund Account" and the Office of Motor Vehicles Handling Fee Escrow Dedicated Fund Account, hereafter referred to as the "Handling Fee Account".

B.(1) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and after a sufficient amount is allocated from that fund to pay all of the obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer shall pay an amount equal to one-third of the monies received by the state treasury pursuant to the provisions of R.S. 32:412 into the License Fund Account. The monies in this account shall be used solely as provided in Subsection D of this Section. All unexpended and unencumbered monies in this account at the end of the fiscal year shall remain in the account to cover under collections in any subsequent fiscal year. The monies in the account shall be invested by the state treasurer in the same manner as monies in the state general fund and shall be deposited into the state general fund. Monies deposited into the License Fund Account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

(2) The calculation required under the provisions of Subsection D of this Section shall be made prior to the distribution to the board of trustees of the police pension funds of

the city of New Orleans, the Louisiana State Police Retirement System Fund, and the Conservation Fund under the provisions of R.S. 56:10(B)(15).

C. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and after a sufficient amount is allocated from that fund to pay all of the obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer shall pay an amount equal to one third of the monies received by the state treasury pursuant to the provisions of R.S. 32:412.1 into the Handling Fee Account. The monies in this account shall be used solely as provided in Subsection E of this Section. All unexpended and unencumbered monies in this account at the end of the fiscal year shall remain in the account to cover under collections in any subsequent fiscal year. The monies in the account shall be invested by the state treasurer in the same manner as monies in the state general fund and shall be deposited into the state general fund. Monies deposited into the Handling Fee Account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

D. Of the monies placed in escrow in the License Fund Account, one-half shall be appropriated in Fiscal Years 2020, 2026, and 2032 and one-half shall be appropriated in Fiscal Years 2021, 2027, and 2033.

E. Monies deposited into the Handling Fee Account shall be available for appropriation in Fiscal Years 2026, 2027, 2032, 2033, 2038, and 2039.

RS 32:413 — Loss or destruction of licenses; duplicate driver's license

license at a motor vehicle office, an authorized agent of the office of motor vehicles, or through the motor vehicle website online application. Any application submitted pursuant to this Section shall include a statement executed by the applicant attesting to the facts regarding the lost or destroyed driver's license.

B. For each duplicate driver's license so issued a five dollar charge shall be collected, except no fee shall be charged to a child who is in foster care, as defined in Children's Code Article 603. However, if the original license was stolen as evidenced by a police report, the charge provided for in this Subsection and the handling charge provided for in R.S. 32:412.1 shall not be collected.

C. If any driver's license which was issued to a Louisiana domiciliary or resident who is temporarily out of state, or who is a domiciliary or resident who is an active member of the armed forces, or who is a domiciliary resident dependent of a member of the active armed forces, in lieu thereof has been lost or destroyed, the person who was issued the driver's license, or the person who has power of attorney for the person to whom the driver's license was issued, may submit satisfactory proof to the office of motor vehicles of the loss or destruction and may apply for a duplicate driver's license.

D.(1) The holder of a valid driver's license, regardless of class, may apply for a duplicate driver's license by mail or electronic commerce, except as follows:

(a) No duplicate driver's license by mail or electronic commerce shall be granted if a previous duplicate license was issued prior to the license expiration.

(b) No duplicate driver's license by mail or electronic commerce shall be granted to an alien student or nonresident alien.

(2) The department may establish rules and regulations to grant or deny a duplicate driver's license by mail in cases where a Louisiana resident is temporarily domiciled out of the state or out of the country, or temporarily residing, employed, or attending school in a foreign state or country, even if the resident does not meet the qualification criteria in this Section.

(3) The application for a duplicate driver's license by mail or electronic commerce shall include the following:

(a) A statement from the applicant that he has not experienced any loss of consciousness other than normal sleep and has no current physical or mental condition which would impair his ability to operate a motor vehicle safely.

(b) A statement from the applicant indicating that all motor vehicles owned by the applicant are covered by liability insurance or security and coverage will be maintained until such time as a vehicle is no longer used on the highways of this state, or until a vehicle is

RS 32:414 — Suspension, revocation, renewal, and cancellation of licenses; judicial review

ing, from any district, city, or municipal court, of this state or of any other state, having traffic jurisdiction, or from any federal court or magistrate having traffic jurisdiction, satisfactory evidence of the conviction or of the entry of a plea of guilty or nolo contendere and sentence thereupon or of the forfeiture of bail of any such person charged with the first offense for vehicular negligent injuring, R.S. 14:39.1, or for operating a motor vehicle while under the influence of beverages of high alcoholic content, of low alcoholic content, of narcotic drugs, or of central nervous system stimulants, including those cases where a person's sentence is suspended pursuant to Code of Criminal Procedure Article 893 or 894. The department shall promptly investigate an allegation made by such licensee that the suspension of his driving privileges will deprive him or his family of the necessities of life, or will prevent him from earning a livelihood. If the department so finds, it may reinstate the license of such licensee; however, such suspension and reinstatement shall be considered as a first suspension and grant of restricted driving privileges for the purposes of R.S. 32:415.1, and the driving privileges of the licensee shall be restricted as provided in R.S. 32:415.1 for a period of twelve months from the date of conviction or the entry of a plea of guilty or nolo contendere and sentence thereupon or of the forfeiture of bail. Notice of the restriction shall be attached to the license.

(b) Any licensee who has had his driver's license suspended for operating a motor vehicle while under the influence of alcoholic beverages under the provisions of this Subsection shall, upon proof to the Department of Public Safety and Corrections that his motor vehicle has been equipped with a functioning ignition interlock device, be issued a restricted driver's license. In the event that the department fails or refuses to issue the restricted driver's license, the district court for the parish in which the licensee resides may issue an order directing the department to issue the restricted license either by ex parte order or after contradictory hearing.

(c) Notwithstanding the provisions of Subparagraphs (a) and (b) of this Paragraph,

upon first or second conviction, or a plea of guilty or nolo contendere and sentence thereupon or forfeiture of bail of any person charged with the offense of driving while intoxicated when the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the following restrictions on suspension and issuance of a restricted driver's license shall apply:

(i) Upon first conviction, if the offender had a blood alcohol concentration of 0.15 percent or greater, his driver's license shall be suspended for two years, and the offender shall be issued a restricted driver's license for the entire period of the suspension after the offender has provided proof to the department that his motor vehicle is equipped with a functioning ignition interlock device. A functioning ignition interlock device shall remain installed on his vehicle during the period of the suspension of his driver's license.

(ii) Upon second conviction, if the offender has a blood alcohol concentration of 0.15 percent or greater, his driver's license shall be suspended for four years. The offender shall be eligible for a restricted license for the four-year period of suspension after the offender has provided proof to the department that his motor vehicle is equipped with a functioning ignition interlock device. A functioning ignition interlock device shall remain installed on his vehicle during the four-year period of the suspension of his driver's license.

(d) When any person's driver's license has been suspended in connection to a first offense violation of R.S. 14:98, the office of motor vehicles shall suspend the person's driver's license consistent with the blood alcohol concentration reflected in the final case disposition and sentencing minutes. The administrative suspension for any chemical test submission shall be updated to be consistent with the blood alcohol concentration reflected in the final case disposition and sentencing minutes.

(2) The department shall suspend the license of any person for a period of thirty days upon a first conviction; sixty days upon a second conviction; and, one year upon a third conviction for violation of R.S. 32:80(A)(1) relative to a failure to stop or passing a school bus which is stopped for loading or unloading children.

(3)(a) The department shall forthwith suspend the license of any person thirty days upon third violation, and sixty days upon fourth and any subsequent violation of R.S. 30:2531(A) or 2531.1 relative to litter violations.

(b) When a person in violation of the provisions of R.S. 30:2531(A) or 2531.1 has failed to pay any penalty assessed in any previous violation of such Sections, his driver's license shall be suspended sixty days upon third violation and one hundred twenty days upon fourth and subsequent violation.

(c) The department shall promptly investigate an allegation made by such licensee that the suspension of his driving privileges will deprive him or his family of the necessities of life or will prevent him from earning a livelihood. If the department so finds, it may reinstate the license of such licensee; however, such suspension and reinstatement shall be considered as a first suspension and grant of restricted driving privileges for the purposes of R.S. 32:415.1. However, nothing contained in this Paragraph (3) shall be construed as limiting or prohibiting a district court from granting a hardship or restricted driver's license for the full period of the suspension.

B. The department shall forthwith suspend the license of any person, for a period of twenty-four months, upon receiving satisfactory evidence of the conviction or of the entry of a plea of guilty and sentence thereupon or of the forfeiture of bail of any such person charged with any of the following crimes:

(1) Manslaughter, vehicular homicide, third degree feticide, as provided in R.S.

14:32.8(A)(2), or negligent homicide resulting from the operation of a motor vehicle.

(2)(a) Conviction or the entry of a plea of guilty and sentence thereupon, or of the forfeiture of bail of any such person on the second offense for vehicular negligent injuring or for operating or being in actual physical control of a motor vehicle while under the influence of intoxicating beverages, of central nervous system stimulants or depressants, or of narcotic drugs or any other drug or substance to a degree which renders him incapable of safely operating a motor vehicle, when any or all of the offenses were the result of violations of a state law, a municipal ordinance, a federal law, or any combination of them; however, any offense for vehicular negligent injuring or for operating or being in actual physical control of a motor vehicle while under the influence of alcoholic beverages which was committed more than ten years prior to the commission of a subsequent such offense of operating or being in actual physical control of a motor vehicle while under the influence of alcoholic beverages shall not be considered in determining the number of such offenses of operating or controlling a motor vehicle while under the influence of alcoholic beverages which the person has committed.

(b) Any licensee who has had his license suspended for operating a motor vehicle while under the influence of alcoholic beverages under the provisions of this Subsection shall be eligible to apply for a restricted driver's license after a period of forty-five days, upon proof that his motor vehicle has been equipped with a functioning ignition interlock device. In the event that the department fails or refuses to issue the restricted driver's license the district court for the parish in which the licensee resides may issue an order directing the department to issue the restricted license by ex parte order or after contradictory hearing.

(3) Any felony in the commission of which a motor vehicle is used.

(4) Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another.

(5) Conviction or forfeiture of bail upon three charges of reckless driving committed within a period of twelve months.

C. The department shall forthwith suspend the license of any person upon receipt of evidence satisfactory to the department of such person's violation of any of the provisions of R.S. 32:414.1 constituting an unlawful use of a driver's license. The suspension for a first violation shall be for a period of ninety days. The suspension for a second or subsequent violation shall be for a period of twelve months. On a first offense violation, the department is hereby authorized to issue a hardship driver's license to any person who has violated the provisions of R.S. 32:414.1.

D.(1)(a) The department shall suspend the license of any person for a period of thirty-six months upon receiving satisfactory evidence of conviction, plea of guilty, or plea of nolo contendere, and sentence thereon, or of the forfeiture of bail of any such person as

determined by any court of jurisdiction as set forth in this Section, with regard to a third or subsequent offense for vehicular negligent injuring or for operating a motor vehicle while under the influence of beverages of alcoholic content, of narcotic drugs, or of central nervous system stimulants. Third or subsequent offenses for purposes of this Subsection does not refer to the criminal charge but rather to the number of offenses resulting in conviction, guilty pleas, nolo contendere pleas, or bond forfeitures within five years from date of first offense to the date of third offense.

(b) Any licensee who has had his license suspended for operating a motor vehicle while under the influence of alcoholic beverages under the provisions of this Subsection shall be eligible to apply for a restricted driver's license upon proof that his motor vehicle has been equipped with a functioning ignition interlock device. The ignition interlock device shall remain on the motor vehicle for not less than twelve months from the date the restricted driver's license is granted. In the event that the department fails or refuses to issue the restricted driver's license, the district court for the parish in which the licensee resides may issue an order directing the department to issue the restricted license either by ex parte order or after contradictory hearing.

(c) Any licensee who is enrolled in a driving while intoxicated court or probation program or sobriety court probation program certified by the Louisiana Supreme Court Drug Court Office or the Louisiana Highway Safety Commission as part of a drug division probation program as provided in R.S. 13:5304 and who is in good standing with the presiding judge may, not less than forty-five days following suspension of his license and upon order of the presiding judge to the department, be issued an ignition interlock restricted license sufficient to maintain livelihood or allow the licensee to maintain the necessities of life or to attend chemical dependency treatment sessions or meetings. The presiding judge may revoke the restricted license, by order to the department, upon receiving satisfactory evidence of violation of any restriction placed upon the licensee.

(2) Upon termination of the twenty-four month suspension set forth in this Subsection, the person whose license has been suspended shall be reinstated, provided no other suspension of license is outstanding and upon satisfaction of any financial responsibility law requirements and upon payment of a reinstatement fee as required by this Section.

E. The department may conduct an investigation to determine whether the license shall be suspended, cancelled, or revoked upon a showing by its records or other sufficient evidence that the licensee:

- (1) Has committed an offense for which mandatory revocation of license is required.
- (2) Has been involved as a driver in any accident resulting in the death or personal injury of another or serious property damage.
- (3) Has been convicted of or has forfeited bail for traffic offenses involving movement of vehicles with such frequency as to indicate a disrespect for traffic laws and a disregard for the safety of others.
- (4) Is a habitually reckless or negligent driver of a motor vehicle.
- (5) Is incompetent to drive a motor vehicle.

(6) Has permitted an unlawful or fraudulent use of such license.

(7) Has committed an offense in another state or federal jurisdiction which if committed in this state would be grounds for suspension or revocation.

(8) Is afflicted with such mental or physical infirmities or disabilities as would constitute grounds for refusal of a license.

F.(1) Upon the conclusion of such investigation, the person holding such investigation shall prepare findings based upon the evidence received and considered. If the findings are to the effect that the person referred to herein is incompetent or is unfit to operate a motor vehicle upon any grounds upon which license may be refused as stated in this Chapter, the department upon a review of such findings shall have authority to forthwith revoke the license of such person, or if the findings are to the effect that the person therein referred to has by reason of negligence or reckless driving endangered life, limb, or property or has thereby caused loss of life or injury to person or property, the department upon a review of such findings shall have power to suspend the license of such person for a period not to exceed six months or may revoke such license and in either event shall require that such license be surrendered to the department.

(2) For cause satisfactory to the department, it is hereby authorized to suspend, cancel, or revoke the license of any person for a period of not more than one year.

(3) Any person whose license has been suspended, cancelled, or revoked by the department shall be notified of such suspension, cancellation, or revocation in writing by the department. This notice shall be sent by certified mail to the last address furnished by such person, and the person within five days shall return his or her license to the department. The notice shall also advise such person that he or she may obtain a special identification card from the driver's license division of the Department of Public Safety and Corrections pursuant to R.S. 40:1321.

(4) The failure on the part of any person to comply with this provision shall be punishable as herein provided. Any person denied a license or whose license has been suspended, cancelled, or revoked shall have the right to file an application within thirty days thereafter for a hearing before the district court of the parish in which the applicant resides. That court is vested with jurisdiction to set the matter for hearing in open court upon ten days' written notice to the department and thereupon to determine whether the person is entitled to a license or is subject to suspension, cancellation, or revocation of license under the provisions of this Chapter. Appeal from the decision of the district court may be taken to any court of competent appellate jurisdiction.

G. Any period of suspension or revocation under this Chapter shall begin upon receipt by the department of the operator's license or proof of its loss, upon the expiration of the operator's license, or thirty days after the date the notice of suspension is mailed to the licensee by the department, whichever occurs first.

H. Except as provided in Subsections I and J of this Section, upon the expiration of the period of the suspension or revocation of any license, the department shall return the license to the licensee or in its discretion may issue him a new license but only after a reinstatement fee of sixty dollars has been paid to the department and the requirements of

R.S. 32:896 relative to proof of financial responsibility have been satisfied. Ten dollars of this fee shall be appropriated annually by the legislature for emergency medical services (EMS) needs and expenses. The collecting agency shall make a monthly report of the EMS funds collected under this provision to the state treasurer. The legislature shall appropriate the total as follows: fifty percent to the Louisiana Department of Health for the operation of emergency medical services, forty-five percent to the governing authority of the parish or municipality of origin to be used for the governing authority's emergency medical services and public safety needs, and five percent to the Department of Public Safety and Corrections for expenses incurred in the administration of these fees.

I.(1) The reinstatement fee for a license of a person who has been convicted of or forfeited bond on or entered a plea of guilty or nolo contendere to a charge of operating a motor vehicle while under the influence of beverages of high alcoholic content, of low alcoholic content, of narcotic drugs, or of central nervous system stimulants shall be one hundred dollars if one conviction appears listed on his record prior to application for reinstatement; two hundred dollars if two such convictions appear on his record prior to application for reinstatement; and three hundred dollars for each conviction on his record after the second conviction prior to application for reinstatement, and the requirements of R.S. 32:896 relative to proof of financial responsibility have been satisfied.

(2) After deposit in the Bond Security and Redemption Fund under the provisions of Article VII, Section 9 of the Constitution of Louisiana, an amount equal to forty dollars of each reinstatement fee for a single conviction and ninety dollars of each reinstatement fee for two or more convictions is hereby dedicated to the Department of Public Safety and Corrections, public safety services, for traffic control and DWI programs and shall be appropriated by the legislature each year for that purpose.

(3) Ten dollars of the fee levied under the provisions of this Subsection shall be paid into the state general fund to be appropriated annually by the legislature for emergency medical services (EMS) needs and expenses. The collecting agency shall make a monthly report of the EMS funds collected under this provision to the state treasurer. The legislature shall appropriate the total as follows: fifty percent to the Louisiana Department of Health for the operation of emergency medical services, forty-five percent to the governing authority of the parish or municipality of origin to be used for the governing authority's emergency medical services and public safety needs, and five percent to the Department of Public Safety and Corrections for expenses incurred in the administration of these fees.

J. If the suspension or revocation was due to mental or physical infirmities or disabilities, when such physical infirmities or disabilities are not the result of alcohol or drug abuse, upon the expiration of the period of the revocation of the license, the department shall return the license to the licensee or in its discretion may issue him a new license but only after a reinstatement fee in an amount equal to the issuance fees provided in R.S. 32:412 has been paid to the department.

K.(1) When any person's driver's license has been seized, suspended, or revoked, and the seizure, suspension, or revocation is connected to a charge or charges of violation of a criminal law, and the charge or charges do not result in a conviction, plea of guilty, or bond

forfeiture, the person charged shall not be required to pay any reinstatement fee if at the time for reinstatement of driver's license, it can be shown that the criminal charges have been dismissed or that there has been a permanent refusal to charge a crime by the appropriate prosecutor or there has been an acquittal. If however, at the time for reinstatement, the licensee has pending against him criminal charges arising from the arrest which led to his suspension or revocation of driver's license, the reinstatement fee shall be collected. Upon subsequent proof of final dismissal or acquittal, other than under Articles 893 or 894 of the Code of Criminal Procedure, the licensee shall be entitled to a reimbursement of the reinstatement fee previously paid. In no event shall exemption from this reinstatement fee or reimbursement of a reinstatement fee affect the validity of the underlying suspension or revocation.

(2) If a licensee qualifies for the exemption from the reinstatement fee or for a reimbursement of the reinstatement fee as provided in Paragraph (1), the licensee shall receive credit for the unexpired portion of the license which was seized, and shall be exempt from the payment of, or shall receive reimbursement for the payment of, the duplicate license fee and the handling fee with regard to the license which was seized.

(3) Reinstatement under this provision does not apply to the commercial driver's license (CDL) disqualification of the license.

L. The department shall forthwith suspend the license of any person, for a period of ninety days, upon receiving satisfactory evidence of conviction, plea of guilty, or nolo contendere of any person charged with a violation of R.S. 14:333, if the court has ordered, as part of the sentence, the suspension of such person's driving privileges.

M. Repealed by Acts 2008, No. 555, §1.

N.(1) The department may suspend the driving and motor vehicle registration privileges of any person who pays taxes or fees either to the office of motor vehicles or to a public license tag agent contracted with and acting on behalf of the office of motor vehicles with a check which is subsequently dishonored for insufficient funds, if the person fails to redeem the check within thirty days after the date that notice of suspension is mailed to the licensee by the department. The period of suspension shall begin thirty days after the date that the notice of suspension is mailed to the licensee by the department. Any license so suspended shall remain suspended until all pending assessments against the person, including a reinstatement fee provided for in Subsection H of this Section, have been paid.

(2) The department may suspend the driving and motor vehicle registration privileges of any person who pays taxes or fees either to the office of motor vehicles or to a public license tag agent contracted with and acting on behalf of the office of motor vehicles with a credit or debit card or any form of electronic payment that is the subject of a chargeback, if the person fails to make the required payment within thirty days after the date that notice of suspension is mailed to the licensee by the department. The period of suspension shall begin thirty days after the date that the notice of suspension is mailed to the licensee by the department.

(3) The department shall promulgate rules as may be necessary to implement the provisions of this Subsection.

O. The department shall suspend the driver's license of any person upon receiving satisfactory evidence of conviction, plea of guilty, or nolo contendere of any person charged with a violation of R.S. 14:67.17.

P. The department shall suspend the driver's license of any person, for a period of six months, if it has received satisfactory evidence of conviction, plea of guilty, or nolo contendere of any person charged with a violation of R.S. 14:100(C)(2).

Q. In accordance with Article 885.1 of the Code of Criminal Procedure, the department shall suspend the driving privileges of the person upon receiving notification from the court and sending the required notice to the person informing him of the suspension.

R.(1) The secretary of the Department of Public Safety and Corrections shall suspend and deny the renewal of a taxpayer's driver's license when notified by the Department of Revenue that the department has an assessment or judgment against the individual that has become final and nonappealable, as provided in R.S. 47:296.2.

(2) The reinstatement and renewal of a taxpayer's driver's license shall be denied until such time as the individual has paid or made arrangements to pay the delinquent tax, interest, penalty, and all costs and the Department of Revenue notifies the Department of Public Safety and Corrections, office of motor vehicles, of the payment or arrangement to pay.

(3) The Department of Public Safety and Corrections, office of motor vehicles, shall issue an economic hardship license, for a period of one year or until such time as the individual has paid or made payment arrangements as described in Paragraph (2) of this Subsection, whichever occurs first, when an individual's driver's license is suspended and has not been renewed under the provisions of this Section.

S.(1) The department shall suspend the driver's license of any person upon receiving a court order mandating such a suspension for a violation of R.S. 14:93.12.

(2) The department shall suspend the driver's license of any person upon receiving a court order mandating such a suspension for a violation of R.S. 14:93.13.

T.(1) Upon notification of the first or second conviction under R.S. 32:295, the department shall send written notification to the driver that the driver has thirty days from the mailing of the notice to provide the department with a notarized affidavit stating he has acquired an approved age- or size-appropriate child restraint system where applicable. Should the driver fail to provide the department with the affidavit within thirty days of the date of the mailing of the notice, the department shall suspend the license until such time that the affidavit is produced and the driver has complied with all other requirements of reinstatement as provided by law and department regulation.

(2) The department shall suspend the license of any person for a period of one hundred eighty days upon notification of the third or subsequent conviction under R.S. 32:295. Reinstatement of licenses suspended pursuant to this Paragraph shall not occur until the end of the one-hundred-eighty-day suspension period, and the person has provided the department with a notarized affidavit stating he has acquired an approved age- or size-appropriate child restraint system where applicable and complied with all other requirements of reinstatement as provided by law and department regulation.

(3) Any person whose license is suspended for a second or subsequent conviction of R.S. 32:295 shall not be eligible to apply for or receive a hardship license.

U. The department shall deny or suspend the driver's permit or license of any person, until his eighteenth birthday, who fails or refuses to present appropriate documentation that the person has complied with R.S. 32:431.1 regarding mandatory school attendance or if the department receives written notification pursuant to that provision that the person is a dropout or is habitually absent or tardy.

V.(1) The department shall suspend the license of a person for the same period of time as provided in Subparagraphs (A)(1)(a), (B)(2)(a), and (D)(1)(a) of this Section for the conviction or the entry of a plea of guilty and sentence thereupon, or the forfeiture of bail of any such person charged with vehicular negligent injuring committed while operating a watercraft or for operating a watercraft while under the influence of beverages of high alcoholic content, of low alcoholic content, of narcotic drugs, or of central nervous system stimulants.

(2) Any suspension or revocation of license due to the conviction or the entry of a plea of guilty or nolo contendere and sentence thereupon or the forfeiture of bail on the charge of vehicular negligent injuring or for operating a motor vehicle while under the influence of beverages of high alcoholic content, of low alcoholic content, of narcotic drugs, or of central nervous system stimulants as provided for in this Section shall also prohibit the operation or physical control of a watercraft upon the waterways of this state during the time period of such suspension or revocation.

W. The department may suspend the license of any person for a period of two years upon receiving satisfactory evidence of a conviction, plea of guilty, or plea of nolo contendere for a violation of R.S. 32:58 when the operator fails to maintain control of the vehicle because of falling asleep and when such operation directly or proximately causes the death of a human being.

RS 32:414.1 — Unlawful use of license

or chauffeur's license, or an operator's or chauffeur's license which has been intentionally altered, or has been caused to be altered, by such person;

2. To lend his operator's or chauffeur's license to any other person or knowingly permit the use thereof by another;
3. To display or represent as one's own any operator's or chauffeur's license not issued to him;
4. To fail or refuse to surrender to the department upon its lawful demand any operator's or chauffeur's license which has been suspended, revoked or cancelled;
5. To use a false or fictitious name in any application for an operator's or chauffeur's license or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application, or to commit perjury by making any false affidavit, or knowingly swearing or affirming falsely to any matter or thing required by the terms of this Chapter to be sworn to or affirmed;
6. To permit any unlawful use of an operator's or chauffeur's license issued to him; or
7. To do any act forbidden or fail to perform any act required by this Chapter.

RS 32:414.2 — Commercial motor vehicle drivers and drivers with a commercial learner's permit;

A.(1)(a) Notwithstanding any other law to the contrary, a person shall be disqualified from driving a commercial motor vehicle for committing any offense specified in this Section. The disqualification offenses apply to violations occurring in this or any other state

or in any foreign jurisdiction complying with the requirements of the Federal Motor Carrier Safety Administration for commercial motor vehicles. The department shall suspend, revoke, or cancel the commercial driving privileges of a person who is disqualified to drive pursuant to this Section. If the Federal Motor Carrier Safety Administration so provides, the department may establish procedures by which a driver with a lifetime disqualification under Paragraph (2) of this Subsection may apply to have the disqualification reduced to a period of not less than ten years and be eligible for reinstatement of commercial driving privileges. Any subsequent offense specified in Paragraph (2) of this Subsection shall disqualify the individual from commercial driving privileges for life. Such individual shall not be eligible for reinstatement. If a driver is suspended or revoked from operating a Class "D" or "E" motor vehicle, he shall also be disqualified from operating a commercial motor vehicle.

(b)(i) There shall be no economic hardship license to operate a commercial motor vehicle. Upon receipt of a conviction of an offense which requires disqualification of commercial driving privileges, the department shall disqualify the individual from commercial driving privileges. A disqualification shall be imposed even if the conviction is set aside or dismissed pursuant to any provision of the Code of Criminal Procedure unless the conviction is set aside or dismissed because of an appeal of the conviction. The disqualification shall become part of the individual's official operating record.

(ii) Whenever a person has been disqualified from driving a commercial motor vehicle, such person shall be issued a Class "D" or "E" driver's license upon expiration of any license suspension, revocation, or cancellation resulting from the disqualifying offense and provided his Class "D" or "E" driving privileges are otherwise valid. The license shall be valid for the duration of the disqualification of his commercial motor vehicle privileges. When the license becomes invalid, the licensee shall apply for a renewal of the license if he desires to retain his Class "D" or "E" driving privileges. The license shall not be issued until the licensee's commercial driver's license has been surrendered to the office of motor vehicles. The driving record shall reflect the class of license previously held. When the licensee's privilege to operate a commercial motor vehicle has been restored, his commercial driver's license shall be returned to him if it has not expired during the duration of the disqualification. If the commercial driver's license has expired, the licensee shall report to a driver's license office for renewal of the commercial driver's license.

(iii) The department shall promulgate rules and regulations necessary to the administration and enforcement of this Subparagraph.

(c) As used in this Section:

(i) "Alcohol concentration" shall mean the concentration of alcohol in a person's blood, breath, or urine, or other bodily substance. When expressed as a percentage, alcohol concentration means the numbers of grams of alcohol per one hundred milliliters of blood, the number of grams of alcohol per two hundred ten liters of breath, the number of grams of alcohol per sixty-seven milliliters of urine, or their equivalents.

(ii) "Commercial driver's license" shall mean a commercial driver's license, a commercial learner's permit, or both, held by a person even if the holder of a commercial learner's permit holds a commercial driver's license for a class lower than the class for which

he holds a commercial learner's permit.

(d) For the purposes of this Section, when operating a commercial motor vehicle, "serious traffic violation" means conviction of any of the following:

- (i) Excessive speeding, involving any single offense for any speed of fifteen miles per hour or more above the posted speed limit.
- (ii) Reckless driving, as defined by state or local law or regulation, including, but not limited to, offenses of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property.
- (iii) Improper or erratic traffic lane changes.
- (iv) Following the vehicle ahead too closely.
- (v) Except as otherwise provided in this Section, a violation arising in connection with a fatal accident or of a state or local law relating to motor vehicle traffic control, other than a parking violation. Serious traffic violations shall not include vehicle weight and defect violations.
- (vi) Driving a commercial motor vehicle without first obtaining a commercial driver's license.
- (vii) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession.
- (viii) Driving a commercial motor vehicle without the proper class of commercial driver's license.
- (ix) Driving a commercial motor vehicle without possessing the proper endorsement for the vehicle being operated or for the passengers or cargo being transported.
- (x) Texting while driving.
- (xi) Use of a handheld mobile telephone while driving a commercial motor vehicle.

For purposes of this Item, "driving" shall include all times that a commercial motor vehicle is being operated on the highway, including while the vehicle is stationary on the highway due to traffic, a traffic control device, or other momentary delays, but shall not include times when the vehicle is pulled to the side of, or off of, a highway, and is halted in a location where the vehicle can remain safely stationary.

(e) For the purposes of this Section, when operating a commercial motor vehicle, "railroad grade crossing violation" shall mean a conviction for any of the following:

- (i) Failure to slow down and check that the railroad grade crossing is clear from an approaching train if the driver is not required to stop at such crossing according to the provisions of this Chapter.
- (ii) Failure to stop before a railroad grade crossing when there is an approaching train if the driver is not otherwise required to stop at such crossing according to the provisions of this Chapter.
- (iii) Failure to stop before traversing a railroad grade crossing if the driver is required to stop at such crossing according to the provisions of this Chapter.
- (iv) Failure to completely traverse a railroad grade crossing without stopping.
- (v) Failure to obey a traffic control device or the directions of an enforcement official at a railroad grade crossing.

(vi) Failure to negotiate a railroad grade crossing due to insufficient undercarriage clearance.

(2) Any person shall be disqualified for life from operating a commercial motor vehicle for:

(a) Use of a commercial motor vehicle or noncommercial motor vehicle by a commercial driver's license holder in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute, or dispense a controlled substance, and the commercial driver's license holder shall not be eligible for the ten-year reinstatement. For purposes of this Subparagraph, "felony" shall be defined as an offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year.

(b) Use of a commercial motor vehicle or noncommercial motor vehicle by a commercial driver's license holder in the commission of more than one felony arising out of different crime episodes. For purposes of this Subparagraph, "felony" shall be defined as an offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year.

(c) Use of a commercial motor vehicle in the commission of a felony involving sex trafficking as defined in 22 U.S.C. 7102.

(d)(i) A second reported submission to a chemical test in connection with an arrest for the offense of operating under the influence of alcohol, operating with an alcohol concentration of 0.08 percent or more, or operating while under the influence of a controlled substance while operating a commercial motor vehicle or noncommercial motor vehicle by a commercial driver's license holder. A disqualification pursuant to this Item for which a timely administrative hearing request has not been received or a disqualification pursuant to this Item which has been affirmed after an administrative hearing shall be considered a conviction for purposes of compliance with federal motor carrier rules.

(ii) A second reported submission to a chemical test by a commercial driver's license holder in connection with a traffic stop where the driver was found to have been driving under the influence of alcohol with an alcohol concentration of at least 0.04 percent but under an alcohol concentration of 0.08 percent while operating a commercial motor vehicle. A disqualification pursuant to this Item for which a timely administrative hearing request has not been received or a disqualification pursuant to this Item which has been affirmed after an administrative hearing shall be considered a conviction for purposes of compliance with federal motor carrier rules.

(iii) A second reported conviction of operating under the influence of alcohol, or operating while under the influence of a controlled substance while operating a commercial motor vehicle or noncommercial motor vehicle by a commercial driver's license holder.

(e) A second offense of leaving the scene of an accident in a commercial motor vehicle or noncommercial motor vehicle by a commercial driver's license holder.

(f) A second offense of refusal to submit to an alcohol concentration or drug test, while operating a commercial motor vehicle or noncommercial motor vehicle by a commercial driver's license holder.

(g) Two or more of any combination of the offenses listed in Paragraph (4) of this Subsection, which arise from different episodes.

(h) A second offense of operating a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is suspended, revoked, canceled, or disqualified.

(i) A second offense of causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the offenses of manslaughter, negligent homicide, and vehicular homicide.

(3) Any person shall be disqualified from operating a commercial motor vehicle for a minimum period of three years for any of the offenses listed in Paragraph (A)(4), while transporting hazardous materials required to be placarded, or any other disqualification established by the department by regulation.

(4) Except as provided in Subparagraph (2)(a) of this Subsection for lifetime disqualification, and in Paragraph (3) of this Subsection for three years disqualification for offenses committed while transporting hazardous materials, any person shall be disqualified from operating a commercial motor vehicle for a minimum period of one year for:

(a)(i) A first reported submission to a chemical test in connection with an arrest of a commercial driver's license holder, while operating a commercial motor vehicle or a noncommercial motor vehicle, of operating under the influence of alcohol, operating with an alcohol concentration of 0.08 percent or more, or operating under the influence of a controlled dangerous substance. A disqualification pursuant to this Item for which a timely administrative hearing request has not been received or a disqualification pursuant to this Item which has been affirmed after an administrative hearing shall be considered a conviction for purposes of compliance with federal motor carrier rules.

(ii) A first reported submission to a chemical test by a commercial driver's license holder in connection with an investigation of driving under the influence of alcohol with an alcohol concentration of at least 0.04 percent but under an alcohol concentration of 0.08 percent while operating a commercial motor vehicle. A disqualification pursuant to this Item for which a timely administrative hearing request has not been received or a disqualification pursuant to this Item which has been affirmed after an administrative hearing shall be considered a conviction for purposes of compliance with federal motor carrier rules.

(iii) A first reported conviction of a commercial driver's license holder, while operating a commercial motor vehicle or a noncommercial motor vehicle, or operating under the influence of a controlled dangerous substance.

(b) Using a commercial motor vehicle or noncommercial motor vehicle by a commercial driver's license holder in the commission of a felony not described in Subparagraph (A)(2)(a) of this Section.

(c) A first offense of leaving the scene of an accident in a commercial motor vehicle or noncommercial motor vehicle by a commercial driver's license holder.

(d) A first offense of refusal to submit to an alcohol concentration or drug test, while operating a commercial motor vehicle or noncommercial motor vehicle by a commercial driver's license holder.

(e) A first offense of operating a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is suspended, revoked, canceled, or disqualified.

(f) A first offense of causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the offenses of manslaughter, negligent homicide, and vehicular homicide.

(5) Any person shall be disqualified from operating a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations or convicted of one railroad grade crossing violation, or not less than one hundred twenty days if convicted of three serious traffic violations or two railroad grade crossing violations, arising from separate incidents occurring within a three-year period. Any person shall be disqualified from operating a commercial motor vehicle for a period of not less than one year if convicted of three railroad grade crossing violations arising from separate incidents occurring within a three-year period.

(6) For purposes of Paragraph (A)(5) of this Subsection, any person who commits a serious traffic offense as defined in Paragraph (A)(1), including driving under the influence of alcohol or a controlled substance with an alcohol concentration of 0.04 percent or more, while operating a Class "A", "B", or "C" motor vehicle, shall be subject to the reporting, suspension, revocation, or enhancement penalties provided for in this Section and R.S. 32:1471 et seq.

(7)(a) In accordance with the provisions of this Subsection and the reporting requirements of the Federal Motor Carrier Safety Administration, if the department disqualifies the driving privileges of a person licensed in another jurisdiction, the department shall notify the licensing entity of the jurisdiction in which the person is licensed of the person's disqualification of nonresident driving privileges in Louisiana. The notice shall include the disqualification and the violation that caused the disqualification.

(b) Any notice of disqualification the department receives from another jurisdiction shall be included in a person's official operating record in accordance with the reporting requirements of the Federal Motor Carrier Safety Administration.

(8)(a) The department may report to the Federal Motor Carrier Safety Administration any driver operating a commercial motor vehicle whose driving may constitute an imminent hazard. An imminent hazard shall be defined as the existence of a condition which presents a substantial likelihood that death, serious illness, severe personal injury, or substantial endangerment to health, property, or the environment will occur before the reasonably foreseeable completion date of a formal proceeding commenced to lessen the risk of death, illness, injury, or endangerment.

(b) Any disqualification imposed on a driver, licensed in Louisiana, whose driving is determined by the Federal Motor Carrier Administration to constitute an imminent hazard shall become part of the individual's official operating record.

(c) A driver disqualified under other provisions of this Section who is simultaneously disqualified under the provisions of this Paragraph shall serve the disqualification periods concurrently.

(9)(a) The operating record of a commercial motor vehicle driver shall include those offenses where an individual has pled guilty and been sentenced thereupon, forfeited bond resulting in a final judgment of forfeiture, or been found guilty in a final disposition by a court of competent jurisdiction of violating a law in the operation of a motor vehicle, regulatory actions in which an individual has been adjudged at fault, and any accident in which the driving privileges of the person are suspended for failure to provide liability security or proof of financial security. "Final disposition" for purposes of this Paragraph shall mean a final conviction, not capable of appeal or review, and not subject to dismissal. "Conviction" for purposes of this Section shall include an unvacated adjudication of guilt or a determination in a court of original jurisdiction or by an authorized administrative tribunal that a person has violated or failed to comply with the law; an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court; a plea of guilty or nolo contendere accepted by a court; the payment of a fine or court costs; or a violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated. A conviction shall occur regardless of whether a person is referred to a remedial or pretrial diversion program as an alternative to the imposition of a penalty, fine, or other sanction.

(b) Any law enforcement officer who cites the operator of a commercial motor vehicle for a moving violation on a Department of Public Safety and Corrections motor carrier safety inspection report shall issue the operator of the commercial motor vehicle a ticket in compliance with R.S. 32:398.1 and dispose of such ticket as provided for in R.S. 32:398.2. A citation for a moving violation issued by the Department of Public Safety and Corrections on a motor carrier safety inspection report shall not result in a fine, civil penalty, or fee.

B.(1)(a) Notwithstanding any other law to the contrary or Subsection A of this Section, an operator of a commercial motor vehicle shall not have any measured alcohol concentration or any detected presence of alcohol or a controlled dangerous substance while operating or taking part in operating, or in physical control of, a commercial motor vehicle.

(b) For purposes of this Subsection, an out-of-service order means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction, declaring that a commercial motor vehicle driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. 386.72, 392.5, 395.13, or 396.9, or other compatible laws, or pursuant to the North American Uniform Out-of-Service criteria.

(c) Violation of this Subsection or refusal to submit to an alcohol concentration or drug test shall subject the person to a minimum twenty-four-hour out-of-service period.

(2) Any driver who is found in violation of an out-of-service order while driving a commercial motor vehicle shall be subject to the following penalties:

(a) Upon a first conviction, the driver shall be subject to disqualification for a period of not less than one hundred eighty days nor more than one year. Any driver who is found in violation twice within a ten-year period shall be subject to disqualification for not less than two years nor more than five years. If a driver is found in violation three or more separate times within a ten-year period, the driver shall be subject to disqualification for not less than

three years nor more than five years.

(b) Upon a first conviction, if the driver was transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 App. U.S.C.A. 1801-1813) or a vehicle designed to transport more than fifteen persons, the driver shall be subject to disqualification for a period of not less than one hundred eighty days nor more than two years. If a driver is found in violation two or more separate times within a ten-year period while transporting hazardous materials or while operating a vehicle designed to transport more than fifteen persons, the driver shall be subject to disqualification for not less than three years nor more than five years.

C.(1) The act of operating a commercial motor vehicle shall constitute implied consent to be tested for any trace of alcohol, or controlled substances.

(2) The procedures for testing commercial motor vehicle operators for alcohol or controlled substances, and for reporting the results shall, with any appropriate modifications, be the same as for other drivers. The department may enact special provisions by regulation to take into account the unique requirements imposed by this Section. An officer need only have a reasonable belief that such a driver is under the influence of alcohol or drugs which may impair the driver's ability to safely drive to place him out-of-service. If a person operating a commercial motor vehicle refuses to submit to an alcohol concentration or drug test, the officer shall inform him that he may be disqualified from driving for the time periods specified in this Section and may be subject to stiffer criminal and civil penalties.

D.(1) Except as otherwise provided in this Section, the department shall notify, in accordance with the reporting requirement of the Federal Motor Carrier Safety Administration, the licensing entity of another jurisdiction when any driver licensed by that jurisdiction is convicted in Louisiana of a traffic control violation, other than a parking violation, under either of the following circumstances:

(a) Regardless of the type of vehicle in which the violation occurred, the person convicted holds a commercial driver's license.

(b) Regardless of the type of license the person convicted holds, the violation occurred in a commercial motor vehicle.

(2) Licensing entities in other jurisdictions shall notify, in accordance with the reporting requirement of the Federal Motor Carrier Safety Administration, the department when a person holding a Louisiana driver's license is convicted of a traffic control violation, other than a parking violation, under either of the circumstances described in Paragraph (1) of this Subsection. When the department receives notice as provided for in this Paragraph, the conviction shall become part of the driver's official operating record.

E.(1) Unless a longer suspension or disqualification period is provided for in Subsections A through D of this Section, a commercial driver's license applicant or holder shall be disqualified from operating a school bus for a period of ten years for the following:

(a) Conviction of driving under the influence of alcohol or a controlled substance while operating a commercial motor vehicle or noncommercial motor vehicle.

(b) Refusal to submit to a chemical test for the purpose of determining the alcoholic content of his blood when arrested for an offense arising out of acts alleged to have been

committed while the driver was driving or in actual physical control of a commercial motor vehicle or noncommercial motor vehicle while believed to be under the influence of alcoholic beverages or a controlled substance.

(2) Upon application of the driver, the department may reinstate the "S" endorsement if the driver meets all of the following conditions:

(a) The driver is not convicted of driving under the influence of alcohol or a controlled substance while operating a commercial motor vehicle or noncommercial motor vehicle for a period of five years after conviction of the disqualifying offense or refusal.

(b) The driver has not refused to submit to a chemical test for the purpose of determining the alcoholic content of his blood when arrested for an offense arising out of acts alleged to have been committed while the driver was driving or in actual physical control of a commercial motor vehicle or noncommercial motor vehicle while believed to be under the influence of alcoholic beverages or a controlled substance for a period of five years after the disqualifying offense or refusal.

(c) The driver has successfully completed medical treatment or medically approved group therapy or special education courses for or about the disease of alcoholism, alcohol abuse, or drug abuse, in a suitable public or private institution or program approved by the appropriate state authority following the disqualifying offense or refusal.

F.(1)(a) If the office of motor vehicles receives credible information that a holder of a commercial license plate or commercial driver's license is suspected, but has not been convicted, of fraud related to the issuance of the commercial license plate or commercial driver's license, the office of motor vehicles shall require the driver to retake the skills or knowledge test, or a combination of both tests.

(b) Within thirty days of receiving a retest notification from the office of motor vehicles, the holder suspected of fraudulently obtaining a commercial license plate or commercial driver's license shall make an appointment or otherwise schedule to take the next available test. The office of motor vehicles shall disqualify the commercial license plate or commercial driver's license holder's driving privileges indefinitely if the holder of a commercial license plate or commercial driver's license fails to schedule a retest appointment within thirty days.

(c) The office of motor vehicles shall disqualify the commercial license plate or commercial driver's license holder's driving privileges indefinitely if the driver fails the knowledge or skills test or does not retake the test.

(2) Once the holder of a commercial license plate or commercial driver's license has been disqualified, the driver shall apply for a commercial license plate or commercial driver's license as a new applicant in accordance with R.S. 32:408.

(3) The office of motor vehicles shall disqualify the commercial license plate or commercial driver's license holder's driving privileges indefinitely if the driver fails to surrender the credentials for replacement when required by the office of motor vehicles.

RS 32:414.3 — Commercial motor vehicle drivers; employer responsibilities

tractor while in the course of operating a commercial motor vehicle, who is employed by an employer.

B. For purposes of this Section and R.S. 32:414.4, "employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns employees to operate a commercial motor vehicle.

RS 32:414.4 — Commercial motor vehicle operator; notification requirements

ents of 49 Code of Federal Regulations Part 383 relating to motor vehicle traffic control, other than a parking violation, in any other state, or such foreign jurisdiction, shall notify the department, in the manner specified by the secretary (unless exempted by the department by rule or regulation), of such violation within thirty days after the date he is adjudicated guilty in a court of competent jurisdiction, enters a plea of nolo contendere or guilty, suffers a forfeiture in connection with any such violations, or suffers a conviction as defined herein. The department may waive this requirement if permitted by the Federal Highway Administration.

(2) The driver of a commercial motor vehicle who drives for hire or compensation or who operates a commercial motor vehicle as a part of his employment, even if such operation is only occasional and who violates a state or local law relating to motor vehicle traffic control other than a parking violation, in any other state, shall notify his employer, in the manner specified by the department and the employer, of such violation within thirty days after he is adjudicated guilty in a court of competent jurisdiction, enters a plea of nolo contendere, or suffers a forfeiture in connection with any such violation. The department or the employer may require the driver to report violations of foreign law relating to motor vehicle traffic control, other than a parking violation. A violation includes an administrative action.

B. A driver of a commercial motor vehicle who drives for hire or who operates a commercial motor vehicle as part of his employment, even if such operation is only occasional; whose driver's license is suspended, revoked, or cancelled by any state; who loses the privilege to drive in any state for any period; or who is disqualified from driving for any period, including out-of-service orders, shall notify his employer in the manner specified by the department before the end of the next business day following the day the driver received notice of the fact. A nonresident commercial driver shall report any such suspension, revocations, or cancellation by any foreign jurisdiction. An employer or the department shall require the driver to report such actions taken by foreign authorities.

C. A driver applying for employment as a commercial motor vehicle operator or who operates a commercial motor vehicle in the course and scope of his employment, even if such operation is only occasional, shall notify his prospective employer of any previous employment. This information shall include a list of names and addresses of the driver's previous employers for which he drove a commercial motor vehicle, the dates the applicant drove for such employer, and the reason for leaving the employment. The applicant shall certify that such information is true and correct. The department or the employer may require the applicant to furnish additional information.

RS 32:414.5 — Information falsified by aliens; cancellation of drivers' licenses and special identification cards

hall be canceled if the alien has falsified any information required in R.S. 32:409.1 for the purposes of obtaining a driver's license or a special identification card from the office of motor vehicles. The secretary shall notify the person who is the subject of the notice at that person's last known address.

B. When a law enforcement officer places a person under arrest and seizes the driver's license or the special identification card in accordance with R.S. 14:100.13(B), the driver's license or special identification card shall be surrendered to the office of motor vehicles for cancellation.

RS 32:414.6 — Office of motor vehicles issued credentials; qualifications of voters; notice;

license, regardless of class, to any person who is not either a citizen of the United States or an alien lawfully present in the United States. An alien who is lawfully present in the United States, but has not attained citizenship, may be issued a state identification card or driver's license, but the state identification card or driver's license must contain a restriction code.

B.(1) In addition to the requirement contained in Subsection A of this Section, the office of motor vehicles shall issue a notice in the form of official correspondence to any person who is not a citizen of the United States, or an alien who is lawfully present in the United States, but has not attained citizenship, that reads as follows:

"(NOTICE OF VOTING RESTRICTIONS)

Under Article I, Section 10 of the Constitution of Louisiana, persons who are not citizens of the United States shall not be allowed to register and vote in this state. Persons who are not citizens of the United States who attempt to register to vote or attempt to vote in Louisiana violate Louisiana Revised Statute 14:133.1.1. This is a felony offense punishable by a fine of up to two thousand dollars, imprisonment for up to two years, or both."

(2) The notice shall include a French, Hindi, Mandarin, Spanish, Tagalog, and Vietnamese translation, along with any other translation as may be required by federal law.

(3) The office of motor vehicles shall maintain a record of noncitizens who have been provided notice as required by this Section. The data required by this Paragraph shall be transmitted monthly to the secretary of state for the purpose of voter list maintenance, in accordance with an agreement executed between the parties.

C.(1) The office of motor vehicles shall adopt rules and regulations necessary to implement the requirements of this Section, including mailing the notice of voting restrictions and procedures for determining an individual's citizenship and immigration status, along with a restriction code identifier, for the purpose of assigning the restriction code.

(2) If the office of motor vehicles' system is unable to accommodate the inclusion of the new restriction codes or credentials, any system upgrade shall include the capability to comply with the requirements of this Section.

RS 32:415 — Operating vehicle while license is suspended; offenses in other states; record of
y public

highway of this state during the period of suspension, revocation or cancellation of any license which may have been issued to him by this state or by any other state.

B.(1) Any period of suspension or revocation shall automatically be extended for a period of one year from the date the licensee would otherwise have been entitled to apply for a new license upon his conviction for any offense involving the operation of a motor vehicle committed during such period. No driver shall use a license issued to him in another state or the privilege of a nonresident to drive a motor vehicle in this state, upon receiving notice of his conviction, or of the entry of a plea of guilty and sentence thereupon, or of the forfeiture of bail in another state of federal jurisdiction for any offense, which if committed in this state, would be grounds for suspension or revocation of the license.

(2) The court may order a licensee who violates the provisions of Subsection A of this Section to have an ignition interlock device installed on any vehicle in which the licensee operates when the license was suspended, revoked, or canceled pursuant to the implied consent law in accordance with the provisions of R.S. 32:661 et seq. or for a violation of any of the following:

- (a) R.S. 14:98.
- (b) R.S. 14:32.1.
- (c) R.S. 14:39.1.
- (d) R.S. 14:39.2.

(e) A parish or municipal ordinance that prohibits the operation of a motor vehicle while under the influence of alcohol or drugs.

(3) If the provisions of Paragraph (1) of this Subsection are ordered by a court, the court shall order that the ignition interlock device remain installed for a period of time not less than the remaining period of suspension, revocation, or cancellation.

C.(1) A person with a Class "D" or Class "E" driver's license who violates the provisions of Subsection A of this Section may be fined up to five hundred dollars or imprisoned for not more than six months, or both, and may be subject to a civil penalty of up to one thousand two hundred fifty dollars. A person shall not be arrested or imprisoned for a violation of this Section due solely to a suspension imposed pursuant to R.S. 32:414(R)(1).

(2) A person with a Class "A", "B", or "C" driver's license who violates the provisions of Subsection A of this Section may be fined up to five thousand dollars or imprisoned for not more than six months or both and may be subject to a civil penalty of up to two thousand five hundred dollars.

D.(1) If the court finds that the defendant violated Subsection A at the time of conduct resulting in a conviction for a second or subsequent offense violation of R.S. 14:98, the offender shall be fined not less than three hundred dollars nor more than five hundred dollars and imprisoned for not less than seven days nor more than six months. At least seven days of such imprisonment shall be without benefit of probation, parole, or suspension of sentence and shall be consecutive to any sentence imposed for the violation of R.S. 14:98. In addition the person may be subject to a civil penalty of up to one thousand two hundred fifty dollars.

(2) If the person is operating a Group "A", "B", or "C" vehicle, and the court finds that the defendant violated Subsection A of this Section, at the time of conduct resulting in a conviction for a second or subsequent offense in violation of R.S. 14:98, the offender shall be fined not less than three hundred dollars nor more than five thousand dollars and imprisoned for not less than seven days nor more than six months. At least seven days of such imprisonment shall be without benefit of probation, parole, or suspension of sentence and shall be consecutive to any sentence imposed for the violation of R.S. 14:98. In addition, the person may be subject to a civil fine of up to two thousand five hundred dollars.

RS 32:415.1 — Economic and medical hardship appeal of driver's license suspension

or cancellation of a person's driver's license for the first time only as provided for under R.S. 32:414 and 415, the person, after initial notice from the department, shall have the right to apply to the department for a restricted license. In the event that the department fails or refuses to issue the restricted license, the person shall have the right to file a petition for a restricted driver's license in the district court of the parish in which the applicant is domiciled. Such application or petition for a restricted license shall allege that revocation of his driving privileges will deprive him or his family of the necessities of life, will prevent him from earning a livelihood, or prevent him from obtaining proper medical treatment if disabled. The district court is vested with jurisdiction to set the matter for contradictory hearing in open court upon ten days written notice to the department, and thereupon to determine whether the allegations of hardship have merit. Upon determination by the department or the court that the lack of a license would deprive the person or his family of the necessities of life or prevent the licensee from obtaining proper medical treatment if disabled, the department may grant or the court may order that the person be granted, by the department, a restricted license to enable the person to continue to support his family or to obtain such medical treatment as provided for in this Section. The restrictions of said license

shall be determined by the department or the court and shall include the following:

- (a) Licensee shall be permitted to operate a motor vehicle only on such streets or watercraft on the waterways of the state as would enable him to earn his livelihood or for treatment of his debilitating condition as provided for in Subparagraph (e) of this Paragraph.
- (b) Such operation is restricted to such times during which he is involved in earning a livelihood or for treatment of his debilitating condition as provided for in Subparagraph (e) of this Paragraph.
- (c) During the period of suspension, licensee shall be responsible for applying to the court in the event that either earning his livelihood or treatment of his debilitating condition as provided for in Subparagraph (e) of this Paragraph necessitates a change in the original restrictions proposed by the department or the court.
- (d) Any other restrictions that the court determines to be necessary and proper.
- (e) If the licensee is disabled and such disability is a physical impairment that substantially limits one or more of the major life activities of the licensee, such licensee shall be permitted to operate a motor vehicle only on such streets and at such times as would enable him to obtain medical treatment for his debilitating condition.
- (f) In addition to any other restrictions determined necessary and proper by the department or the court, a license ordered issued and restricted under this Section must include the requirement of installation and maintenance of an ignition interlock device upon a motor vehicle to be used by the licensee during the course of the term of the restricted license, when the suspension of driving privileges arises from operating a vehicle under the influence of alcoholic beverages.

(2) Notwithstanding the restrictions contained in Paragraph (1) of this Subsection, in any case in which the applicant for a restricted driver's license has had his driver's license suspended, revoked, or cancelled upon conviction or entry of plea of guilty and sentence thereupon, or the forfeiture of bail if the offense involved constituted operating or being in actual physical control of a motor vehicle while under the influence of intoxicating beverages, the court may additionally order that the applicant's restricted license include permission to operate a motor vehicle on such streets as would enable him to go to and from meetings of Alcoholics Anonymous and to go to and from approved group therapy or special education courses for or about the disease of alcoholism, alcohol abuse or drug abuse, in a suitable public or private institution or program approved by the appropriate state authority; provided however, that the receipt of such a restricted license may be conditioned upon (1) a medical evaluation and a recommendation that the convicted person is pathologically addicted to alcohol and/or a habitual alcoholic or other drug offender and (2) on the condition that such convicted individual submit to medical treatment and/or medically approved group therapy or special education courses for or about the disease of alcoholism, alcohol abuse or drug abuse, in a suitable public or private institution or program approved by the appropriate state authority; and the provisions of this Paragraph shall apply only to persons never previously convicted of operating or being in actual physical control of a motor vehicle while under the influence of intoxicating beverages.

(3) Any person whose driver's license is suspended, revoked, or cancelled for a first or subsequent violation of R.S. 32:415 may apply to the department or petition the district court for a restricted license as provided for in this Section if the original suspension, revocation, or cancellation of the driver's license resulted from a violation of R.S. 32:57.1.

B. A copy of the order shall be sent to the department along with a copy of the conviction notice. A copy of the order containing the restrictions shall be attached to the license of the person convicted and must be in possession of the person whenever he is operating a motor vehicle or watercraft. A restricted license shall be issued by the department and designated by a large red R printed on the face of the license. The term of the restrictions shall be the same as the term of the original suspension, cancellation, or revocation.

C. A violation of the restrictions or a subsequent conviction of any offense involving the operation of a motor vehicle or watercraft during the term of the restricted license shall result in the extension of the period of suspension, revocation, or cancellation for one year from the date upon which the licensee would otherwise have been able to apply for new license and shall also constitute contempt of court. Suspension, revocation, or cancellation that results from such a violation shall not be subject to appeal as set forth in this Section. Except as provided in R.S. 32:378.2(B), restricted driving privileges for this Section may be allowed to a person only once.

D. The provisions of this Section shall apply to Class "D" and Class "E" licenses.

RS 32:415.2 — Operating vehicle while under suspension or revocation; removal of license plate

or in connection with an alleged violation of the law, or when a law

enforcement officer investigates an accident, or for any other reason, the law enforcement officer shall determine if the driver's license of the operator of a motor vehicle registered in this state is suspended or revoked. The law enforcement officer shall further determine if the operator is the registered owner of the motor vehicle stopped, involved in the accident, or otherwise subject to any investigation for any other reason as contemplated by this Section.

(2)(a) If the law enforcement officer determines the driver's license of the operator of a motor vehicle registered in this state is suspended or revoked at the time of the stop, pursuant to any provision of this Title or any court order, and the motor vehicle registered in this state is registered in the name of the operator in the department's vehicle registration records, the law enforcement officer shall remove the license plate from the motor vehicle, and the operator of the motor vehicle shall be issued a notice of suspension or revocation of his driving privileges on a physical form or a similar electronic form that is provided by the department.

(b) A copy of the notice of suspension or revocation of driving privileges shall be attached to the motor vehicle license plate and both shall be delivered to an office of motor vehicles, in the parish or municipality where the violation occurred, within three calendar days after the notice of suspension or revocation of driving privileges was served on the person violating this Section. Upon receipt of such notification, the department shall revoke the registration of such motor vehicle after verifying that the operator of the motor vehicle is also the registered owner of the vehicle. The office of motor vehicles shall store any license plate removed pursuant to this Section at the office to which it was delivered for ten business days after receipt.

(c) The notice of the suspension or revocation of driving privileges shall serve as notice of judicial review rights. Any action for judicial review of the suspension or revocation of driving privileges shall be in the same manner and under the same conditions as provided in R.S. 32:414.

(d) An operator of a motor vehicle who has a revoked or suspended driver's license shall have ten business days from the date that the notice of suspension or revocation of driving privileges was issued, to comply with all laws and regulations, including payments of fees and penalties due, to have his driving privileges reinstated. If the operator of the motor vehicle does not or cannot comply with all of the reinstatement requirements for all of the suspensions and revocations of his driving privileges within ten business days of the receipt of the notice of driver's license suspension or revocation, the office of motor vehicles shall destroy the seized license plate.

(e) The department shall promptly investigate an allegation made by such operator of a motor vehicle that the removal of the vehicle's license plate and the suspension or revocation of his driving privileges will deprive him or his family of the necessities of life, or will prevent him or his family from earning a livelihood. If the department so finds, it may issue a hardship license plate to be placed on the motor vehicle. The office of motor vehicles may establish rules and regulations necessary to implement the provisions of this Subsection.

B. Prior to reinstatement of registration and license plate privileges, any operator

who cannot prove, within ten business days after the offense, that his driver's license was not suspended or revoked at the time of the offense shall pay a reinstatement fee of ten dollars to the Department of Public Safety and Corrections to offset the costs of administering this Section. The reinstatement fee required in this Subsection shall be in addition to any other reinstatement requirements imposed for each pending suspension or revocation on the operator's driving record at the time of reinstatement.

C.(1) If the operator and owner of the motor vehicle was properly licensed in this state at the time notice was issued, any valid license plate shall be returned within forty-eight hours of providing proof he was properly licensed, exclusive of legal holidays, to the owner of the motor vehicle at no cost.

(2)(a) Any law enforcement officer who removes a license plate pursuant to the provisions of this Section shall issue a temporary sticker, denoting its use in lieu of an official license plate, to be attached to the rear end of the motor vehicle. The sticker shall bear the date upon which it was issued in written or stamped numerals or letters not less than three inches in height. The temporary sticker shall be valid for a period of ten business days for an operator with a valid driver's license to operate the motor vehicle on the public streets and highways. After the expiration of the ten-day period, the vehicle shall not be operated on the public streets and highways until the motor vehicle is registered in accordance with this Section. Nothing in this Section shall prohibit the sale, transfer, or other reassignment of the motor vehicle, except that if the department determines the sale, transfer, or other reassignment was done to avoid compliance with this Section, the department may refuse to re-register the vehicle until the operator complies with the requirements of this Section.

(b) The temporary stickers required by this Paragraph shall be designed and produced by the Department of Public Safety and Corrections, public safety services, and the department shall supply such stickers, at no cost, to law enforcement agencies authorized by law to enforce traffic laws.

(c) Upon expiration of the sticker, the motor vehicle shall not be driven until the owner or lessee has complied with the requirements of this Section. In the event the motor vehicle is being driven after the expiration of the temporary sticker provided for in this Paragraph, the motor vehicle shall be impounded.

D.(1) The Department of Public Safety and Corrections, public safety services, shall promulgate rules and regulations for implementation of the provisions of this Section. Once the department has published the notice of intent to adopt the permanent rules in the Louisiana Register, and the period for public comment has expired, the department is authorized to adopt the proposed rule as an emergency rule to expedite the enforcement of this Section subject to legislative oversight as provided in R.S. 49:961, 962, and 966.

(2) To this end, no license plate shall be taken or destroyed pursuant to the authority granted by this Section until such rules are properly promulgated in accordance with law.

(3) The limitation provided in Paragraph (2) of this Subsection shall not be construed as to otherwise limit the enforcement of laws relative to operating a motor vehicle without a valid driver's license.

E. Nothing in this Section shall be construed or interpreted as authorizing any action

under this Section if the operator is not also the registered owner of the vehicle as is reflected in the vehicle registration records of the department.

RS 32:415.3 — Ex-offender provisional driver's license

o is released from incarceration

after serving a minimum of one year and whose Class "E" driver's license will be or is suspended, revoked, or cancelled for any reason upon his release. The license issued pursuant to this Section shall be valid for one year from the date of issuance.

(2) The provisions of this Section shall apply only to Class "E" driver's licenses and shall not apply to any other class of driver's licenses.

(3) The provisions of this Section shall not apply in the following circumstances:

(a) When a person's Class "E" driver's license has been suspended, revoked, or cancelled pursuant to a report of conviction received pursuant to Article III of the Driver License Compact.

(b) When a person was imprisoned for vehicular homicide, a third or subsequent violation of R.S. 14:98, or a third or subsequent violation of any other law or ordinance that prohibits operating a vehicle while intoxicated.

(4) A person may be issued only one provisional Class "E" driver's license in his lifetime pursuant to this Section.

(5) For the purposes of this Section, a "person who is released from incarceration" includes but is not limited to any individual who is housed in a federal residential reentry management center, also known as a halfway house.

B. A provisional Class "E" driver's license shall be issued pursuant to this Section upon the submission of proof of release from incarceration for a violation not included in Paragraph (A)(3) of this Section and the collection of the standard fees and handling charges for the issuance of driver's licenses as required by R.S. 32:412 and 412.1. The department shall defer payment of all other fees, penalties, and charges authorized by this Title that are incurred prior to or during the term of incarceration and owed by the applicant to the department.

C.(1) The holder of a provisional license issued pursuant to this Section shall have one year from the date of issuance to clear his driving record of any suspensions, revocations, or cancellations so that he may be eligible for a regular Class "E" driver's license.

(2) The holder of a provisional license issued pursuant to this Section and all state entities or political subdivisions to whom such holder may owe an obligation or debt shall notify the department upon satisfaction of such obligation or debt.

(3) If the holder of a provisional license issued pursuant to this Section qualifies for full and unrestricted Class "E" driving privileges at the end of the term of the provisional license, the department shall issue the holder a Class "E" driver's license upon the collection of the standard fees and handling charges for the issuance of the driver's license as required by R.S. 32:412 and 412.1. The department shall collect all other fees, penalties, and charges authorized by this Title that are incurred prior to or during the applicant's incarceration and owed by the applicant to the department prior to the issuance of a Class "E" driver's license pursuant to this Paragraph.

(4) The department shall reimpose all suspensions, revocations, or cancellations of driving privileges for the balance of any suspension, revocation, or cancellation period after the expiration of the one-year provisional driver's license if the holder has not come into compliance with requirements of this Title within one year following the issuance of such provisional license. Additionally, at that time, any block on the issuance of a driver's license shall be reset if the holder of a provisional driver's license issued pursuant to this Section has not come into full compliance with the requirements of this Title.

D.(1) The department may revoke the provisional license issued pursuant to this Section if the holder commits any of the following:

(a) A new offense.

(b) An act or omission that causes the community supervision, mandatory supervision, or parole of the holder of a provisional license to be revoked.

(2) A probation or parole department or division shall notify the department if the community supervision of the holder of a provisional license is revoked.

(3) A court shall notify the department if the holder of the provisional license is charged with a new offense.

(4) If the department revokes a provisional license pursuant to this Section, the holder shall not be entitled to receive another provisional license.

E. The department may promulgate rules and regulations in accordance with the Administrative Procedure Act as necessary to implement this Section, including but not limited to eligibility criteria for a provisional license, proof of insurance, and proof of employment, if applicable.

RS 32:416 — Unlawful operation by persons under the age of seventeen; parents responsible

or a power cycle upon any public road or highway unless such child or ward is licensed by the state to do so. However, the provisions of this Section shall not apply to a minor who is participating in a driver education course or a prelicensing training course approved and certified by the Department of Public Safety and Corrections, public safety services.

RS 32:416.1 — Unlawful operation by persons less than seventeen years of age; operation of motor vehicles and power cycles between certain hours prohibited

enteen years of age to drive a motor vehicle or a power cycle upon any highway, street, public road, or public thoroughfare at any time between 11 p.m. and 5 a.m. except when accompanied by a parent, tutor, or any other person twenty-one years of age or older, having custody of the minor.

RS 32:417 — Allowing unlicensed person under the age of seventeen to drive

or a power cycle upon any public road or highway in this state unless such child shall have first obtained a license to drive a motor vehicle or a power cycle. However, the provisions of this Subsection shall not apply to a minor who is participating in a driver education course or a prelicensing training course approved and certified by the Department of Public Safety and Corrections, public safety services.

B. It shall be unlawful for any person knowingly to rent for hire a motor vehicle to be operated by any person who does not have a current license or, in the case of a non-resident who has not been licensed to drive a motor vehicle under the laws of his resident state, if the laws of his resident state so require.

C. It shall be unlawful for any person or entity to employ any person as a driver of a motor vehicle if said person being employed does not have a current, valid license issued by the department in accordance with the provisions of this Chapter.

D. Any person who causes or who knowingly permits an unlicensed minor under the age of seventeen to drive a motor vehicle or power cycle on a public road or highway and the owner of a vehicle who knowingly gives or furnishes a motor

vehicle or power cycle to an unlicensed minor under the age of seventeen shall be jointly and severally liable for damages caused by the negligence or wilful misconduct of the minor driving the vehicle.

E. The following penalties shall be imposed for a violation of this Section:

(1) The person shall be fined not less than one hundred dollars and not more than five hundred dollars for each offense, or imprisoned for not more than six months, or both.

(2) However, if an unlicensed minor under the age of seventeen is involved in a collision which results in the serious bodily injury or death of another person, the person shall be subject to the penalties provided for in R.S. 14:92.2(B)(3).

For purposes of this Paragraph, "serious bodily injury" means a bodily injury which involves unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

RS 32:418 — Selective Service registration; age restrictions

if he is not already registered, in compliance with the requirements of Section 3 of the "Military Selective Service Act", 50 U.S.C. 451 et seq., when applying to receive or renew an instruction permit, driver's license, commercial driver's license, or identification card.

(2) Any United States male citizen or immigrant who is fifteen years of age, but less than eighteen years of age, shall provide personal information to the office of motor vehicles when applying to receive or renew an instruction permit, driver's license, commercial driver's license, or identification card, for registration with the Selective Service. Upon the applicant attaining eighteen years of age, the applicant shall automatically be registered with the Selective Service.

B. The office of motor vehicles shall forward to the Selective Service System, in an electronic format, the necessary personal information required for registration of any person identified in Subsection A of this Section after receiving the application to issue or renew an instruction permit, driver's license, commercial driver's license, or identification card.

C. The office of motor vehicles shall include the following statement on an application for a permit, license, or card as described in Subsection A of this Section: "By submitting this application, I am consenting to registration with the federal Selective Service System, if so required. If under 18 years of age, I understand that I will be registered when I attain 18 years of age as required by federal law."

D. The office of motor vehicles shall not issue or renew an instruction permit, driver's license, commercial driver's license, or identification card to any person who refuses to provide personal information for registration with the Selective Service in accordance with the provisions of this Section.

RS 32:419 — Department may for cause refuse to license applicant; judicial review

said department, but the applicant for said license in such case shall have a right of action in the same manner as is provided for in R.S. 32:414 of this Chapter.

RS 32:420 — Exemptions

of the armed forces of the United States in the operation of noncommercial motor vehicles belonging to such agency when they have operators' licenses issued by such agency and are on official duty for the United States.

C. A commercial driver's license shall not be required of a member of the armed forces of the United States in the operation of a commercial motor vehicle for military purposes, regardless of the ownership of the vehicle.

D. A previously valid Louisiana commercial driver's license issued to a member of the armed forces of the United States which expires during the enlistment of the holder shall be valid for Class "E" operation only when used for nonmilitary purposes and while the holder is still a full-time member of said armed forces and for not more than sixty days thereafter.

RS 32:421 — False swearing; obtaining two licenses; unlawful

department. The giving or furnishing of false, erroneous, or incorrect information shall be deemed a violation of this Chapter. It shall be unlawful to apply for or obtain more than one valid license. In addition to the other penalties imposed by this Chapter, if the department determines, in its check of an applicant's license status and record prior to issuing a driver's license, or at any time after the driver's license is issued, that the applicant has falsified information, the department shall, and within no more than thirty days of discovering the falsification, suspend, revoke, or cancel the person's driver's license for up to sixty days or shall cancel his pending application and may prohibit his reapplication for up to sixty days.

RS 32:422 — Learner's license; driving school instruction permit; special restrictions on

er's license to drive motor vehicles or power cycles, provided such person has completed a driving course in accordance with R.S. 32:402.1. The department may, in its discretion, after the applicant has successfully passed all parts of the examination, other than the driving test, issue to the applicant a learner's license at the regular fee of a Class "E" driver's license, which shall entitle the applicant while having such license in his immediate possession to drive a motor vehicle upon public highways when accompanied by a licensed parent or guardian, by a licensed adult at least twenty-one years of age, or by a licensed sibling at least eighteen years of age. In addition to a licensed parent, sibling, guardian, or adult, there may be other members of the licensee's immediate family in the vehicle, and when accompanied by a driver's education instructor, there may be one or more fellow driver's education students in the vehicle. It shall be unlawful for any other person to accompany the beginner and licensed driver, except in the event the applicant is operating a motorcycle. Any person under the age of seventeen who has a valid learner's license and is operating a motorcycle is restricted to a distance of three miles from the applicant's residence, unless a parent, tutor, or other person having custody is temporarily staying or residing at another location, where the applicant would be restricted to within three miles of that location. Any person seventeen years of age or older being issued a learner's license may apply for a regular Class "E" license thirty days after the issuance of a learner's license, or at any time after the issuance of the learner's license provided the applicant provides proof that the applicant has completed an approved thirty-six hour driver education course, and there shall not be any additional fee for the regular license.

B. Repealed by Acts 2016, No. 317, §2.

RS 32:422.2 — The Louisiana Advisory Council on Driver Education

put, guidance, and recommendations to the

Department of Public Safety and Corrections on matters pertaining to rules, regulations, and standards for licensure of defensive driving courses and driver education providers as provided in Chapter 29 of Part I of Title 55 of the Louisiana Administrative Code.

B. The council shall be composed of seven voting members and five nonvoting members. The membership shall consist of:

- (1) Three members of the Driving School Association of Louisiana appointed by the president of the Driving School Association of Louisiana.
- (2) Two members of the Driving School Association of the Americas appointed by the president of the Driving School Association of the Americas.
- (3) Two secondary education professionals from the Department of Education appointed by the superintendent of the Department of Education.
- (4) One representative of the office of motor vehicles, licensing and certification division, appointed by the commissioner of the office of motor vehicles.
- (5) One representative of the Louisiana Highway Safety Commission appointed by the executive director of the Louisiana Highway Safety Commission.
- (6) One member of the Louisiana State Police appointed by the superintendent of the Louisiana State Police.

(7) One member of the House of Representatives appointed by the chairman of the House Committee on Transportation, Highways and Public Works.

(8) One member of the Senate appointed by the chairman of the Senate Committee on Transportation, Highways and Public Works.

C. Members listed in Paragraphs (B)(1) through (3) of this Section shall be voting members. If a voting member is unable to attend a meeting, he may designate a person to serve as a proxy for voting purposes, if such act is executed in writing, signed by the member, and filed with the secretary at or before the meeting.

D. Members shall be appointed to serve an initial two-year term on the council and may be eligible to be reappointed to serve additional terms.

E. A member shall be automatically removed from the council if he has more than two unexcused absences during any twelve-month period. An absence is excused for purposes of this Subsection when the cause is one which a reasonably prudent person would deem to take precedence over fulfillment of a solemn public duty or if the absence is known in advance by the member and he notifies the chairman of his absence not less than twenty-four hours in advance of the scheduled meeting. If a member designates a person to serve as a proxy as provided in Subsection C of this Section, he shall still notify the chairman of his absence.

F. A quorum shall consist of a simple majority of the active voting members or their proxies.

G. Whenever a vacancy occurs in a council seat, whether by death, resignation, or automatic removal, such vacant seat shall no longer be counted as an active voting member in determining a quorum until a successor has been appointed by the appropriate official as provided in Subsection B of this Section in the same manner as the original appointment to fill the unexpired term.

H. Officers of the council shall be appointed at the beginning of each new term and shall include a chairman, vice chairman, secretary, and two at-large board members.

I. All meetings shall be quarterly and conducted in accordance with the requirements of the state's Open Meetings Law. Procedural matters shall be conducted in accordance with the latest edition of Robert's Rules of Order. Meetings shall be held at any of the following venues:

- (1) The office of motor vehicles in Baton Rouge.
- (2) A legislative committee room located in the Louisiana state capitol.
- (3) Any electronic venue agreed upon by the council officers.

J. Members of the council shall serve without compensation and reimbursement of expenses other than the compensation and reimbursement provided for by their employers.

RS 32:423 — Restricted license

ing ability with respect to the type of, or special mechanical control devices required on, a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

B. The department may either issue a special restricted license, or may set forth such restrictions upon the usual license form.

- C. The department may, upon receiving satisfactory evidence of any violation of the restrictions of such license suspend or revoke the same, but the licensee shall be entitled to a hearing as upon a suspension or revocation under this Chapter.
- D. No person shall operate a motor vehicle in violation of the restrictions imposed in the license issued to him.

RS 32:424 — Department may compel examination of suspected incompetents; prohibited disclosure of information; exceptions

is incompetent or otherwise not qualified to be licensed, may upon written notice of at least ten days to the licensee require him to submit to one, any combination of, or all of the following:

- (a) Knowledge test.
- (b) Skills test.
- (c) Medical examination.

(2) Upon the conclusion of such test, or tests, or examination, or examinations, the department shall take action as may be appropriate, including permitting the licensee to retain the license or suspending, revoking, or restricting the license. Refusal or neglect of the licensee to submit to any test or examination required pursuant to this Subsection shall be grounds for suspension or revocation of his license.

B. Medical information contained on the medical examination form provided by the department shall not be disclosed to any third party without the written consent of or a written waiver from the individual whose record is being reviewed or unless pursuant to an order of a court of competent jurisdiction. The written consent shall be signed and dated by the individual whose record is being reviewed. All written waivers shall clearly identify the person whose medical information is sought to be released and to whom the medical information shall be released. A written waiver shall be valid for a single specific request for medical information and shall not be valid for multiple or ongoing requests.

C. Any person who knowingly violates a confidentiality provision of this Section, who knowingly permits or encourages the unauthorized use of a report, or who intentionally files a false report to the department regarding a driver's qualifications shall be liable for damages resulting from such action. The licensed driver or chauffeur may seek an order from a court of competent jurisdiction for the release of the name of the individual who reported the licensed driver or the chauffeur to the department for investigation.

RS 32:426 — Disposition of fees; surplus funds

the furtherance of highway safety education, except those funds payable to the board of trustees for certain police funds and the division of state police or to other specially dedicated funds.

(2) All other fees collected under this Chapter, except for specially dedicated funds, shall be used by the office of motor vehicles for the operation of said department and the furtherance of highway safety education.

(3) All civil penalties collected pursuant to this Chapter shall be used by the department for the operation of said agency except for those civil penalties payable to specially dedicated funds.

B. Any surplus in the fees and civil penalties allocated for use by the office of motor vehicles and the office of state police or the department under the provisions of this Chapter shall be paid into the general fund at the end of each biennium after July 1, 1991.

C. The general provision that dedicated funds shall be expended before appropriated funds shall not apply to expenditures made by these agencies of the fees and civil penalties collected under this Chapter.

RS 32:427 — Penalty

involving a Class "D" or "E" license or application for a Class "D" or "E" license, shall subject the person to criminal penalties of a fine of not less than ten nor more than five hundred dollars or imprisonment for up to six months, or both, and civil penalties of up to a one thousand two hundred fifty-dollar fine.

(2) Violation of a provision of this Chapter, or of a regulation promulgated thereunder, while operating a commercial motor vehicle or involving a commercial driver's license shall subject the person to criminal penalties of a fine of not less than ten nor more than five thousand dollars or imprisonment for up to six months, or both and civil penalties of up to a two thousand five hundred dollar fine.

(3) Any commercial motor vehicle driver who is convicted of a violation of an out-of-service order as provided in this Chapter shall be subject to a civil penalty of not less than one thousand one hundred dollars nor more than two thousand

seven hundred fifty dollars for each occurrence. Any employer who is convicted of violation of an out-of-service order shall be subject to a civil penalty of not less than two thousand five hundred dollars nor more than ten thousand dollars for each occurrence.

(4) Any employer convicted of knowingly requiring, permitting, or authorizing a driver to operate a commercial motor vehicle in violation of any federal, state, or local law or regulation regarding railroad grade crossings shall be subject to a civil penalty of not more than ten thousand dollars for each occurrence.

(5) Any employer convicted of knowingly requiring, permitting, or authorizing a driver to operate a commercial motor vehicle in the United States during any period in which the driver has a suspended, revoked, or canceled commercial driver's license, has lost the right to operate a commercial motor vehicle, has been disqualified from operating a commercial motor vehicle, has more than one commercial driver's license, or during a period in which the driver, the commercial motor vehicle, or the motor carrier operation is subject to an out-of-service order shall be subject to a civil penalty of not less than two thousand seven hundred fifty dollars nor more than eleven thousand dollars for each occurrence.

B.(1) For purposes of this Chapter and particularly R.S. 32:414.2, "conviction" means an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs, or a violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated. A conviction will occur even if a person is referred to a remedial program as a substitute for the imposition of a penalty, fine, or other sanction.

(2) The assistant secretary of the office of motor vehicles shall notify any person found to be in violation of a civil penalty imposed by this Chapter of the penalty or disqualification to drive levied after due process either by mail or in person.

Upon passage of thirty days without receipt of fine, the assistant secretary of the office of motor vehicles may order the removal of the offending vehicle's license tag if the registration is from Louisiana. For vehicles not registered within the state, any vehicle owned by the person or company may be seized. For offenses by the driver or operator, the driver's or operator's license shall be suspended. Upon receipt of the fine, the license tags, vehicle, or driver's license shall be returned.

(3) The amount of any civil penalty or duration of a disqualification to drive, or suspension, revocation, or cancellation imposed under this Chapter shall be determined by taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on the ability to continue to do business, and any other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

RS 32:428 — Failure to enforce requirement

ntly fails to enforce said requirements or waives same pursuant to the authority granted herein.

RS 32:429 — Office of motor vehicles field offices; authorization of fees

r each service or transaction carried out as an

operation of an office of motor vehicles field office that is not fully funded by the state.

Except as provided in Paragraph (2) of this Subsection, the fee shall not exceed four dollars

and fifty cents per service or transaction and shall be used solely to defray the cost of

operations of that local field office, including but not limited to facility rental, utilities, and

maintenance. The fee shall not be charged for the procurement or renewal of a motor vehicle registration license.

(2) The fee provided for in Paragraph (1) of this Subsection may be levied in an amount not to exceed six dollars by the local governing authority of the parishes of Orleans, Jefferson, and Calcasieu.

(3) The fee provided for in Paragraph (1) of this Subsection may be levied in an amount not to exceed eight dollars by the local governing authority of the city of West

Monroe.

B. Any fee levied under the authority of Subsection A of this Section shall be considered nonstate funds and shall be collected by the motor vehicle commissioner on behalf of the governing authority of any local governmental subdivision pursuant to an agreement to be executed by and between the motor vehicle commissioner and the governing authority of any local governmental subdivision. Any such fees collected by the motor vehicle commissioner shall be deposited in the state treasury in the Escrow Fund and held for the account of the governing authority of any local governmental subdivision levying such fee. The office of the motor vehicle commissioner shall distribute any such fees to the appropriate governing authorities of local governmental subdivisions.

C. Any fee levied under the authority of Subsection A of this Section shall not be applicable to driver's licenses or identification cards issued to a child who is in foster care as defined in Article 603 of the Louisiana Children's Code.

RS 32:429.1 — Toll-free hotline

and vehicle registration. This hotline shall be answered by a person, not an answering device, and shall operate during regular Department of Public Safety and Corrections business hours.

RS 32:429.2 — Office of Motor Vehicles Customer Service and Technology Dedicated Fund

state

treasury, the Office of Motor Vehicles Customer Service and Technology Dedicated Fund Account, hereafter referred to in this Section as the "account".

B. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and after a sufficient amount is allocated from that fund to pay all of the obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer shall pay an amount equal to the monies received by the state treasury pursuant to the provisions of R.S. 32:412.1(C), 707.2(C)(4), and 728(10) into the account. The monies in the account shall be used solely as provided in Subsection C of this Section and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in the account at the end of the fiscal year shall remain in the account. The monies in the account shall be invested by the state treasurer in the same manner as monies in the state general fund and shall be deposited into the state general fund. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

C. Subject to an annual appropriation by the legislature, the monies in the account shall be used solely for the following:

(1) For the expenses of the office of motor vehicles for the initiation and implementation of customer service programs and for the acquisition and implementation of updated and new technology.

(2) All funds remaining shall be utilized for criminal compliance and traffic enforcement by public safety services, but only after compliance with Paragraph (1) of this Subsection.

RS 32:429.3 — Collection and reporting of statistical information relating to migration of residents

n regarding the gender and age of residents moving from parish to parish and residents moving into and out of Louisiana. The office of motor vehicles shall provide a report of this information, sorted by age, by gender, by parish, and by state, to the governor, the lieutenant governor, and the secretaries of each state department annually on or before January first of each year.

RS 32:429.4 — Installment agreement; outstanding penalties, fines, and fees owed to the office of

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and fees owed to the Department of Public Safety and Corrections, office of motor vehicles, hereinafter referred to as the "office of motor vehicles", shall be paid no later than the date allowed by law. However, the office of motor vehicles shall enter into installment agreements, as authorized by this Section, with eligible persons for payment of their outstanding fines, penalties, and fees owed to the office of motor vehicles. All notices of any outstanding fines, penalties, and fees owed to the office of motor vehicles shall inform the debtor that he may qualify to pay sums due by installment agreement, if eligible, and shall include instructions on how to inquire with the office of motor vehicles to determine eligibility and terms.

(b) An installment agreement shall not be used to pay sales or use taxes or related penalties and interest, vehicle registration license taxes, or titling fees when submitting a transaction to title or register a motor vehicle. However, if the office of motor vehicles has previously sent a notice to the debtor that the payment made on a motor vehicle title or registration transaction was dishonored by a bank processing the transaction, the office of motor vehicles may accept an installment agreement to collect that dishonored payment in addition to any outstanding fees, penalties, or interest that may be added to the total due to the dishonored payment.

(2) A debtor who owes the office of motor vehicles two hundred fifty dollars or more in outstanding fines, penalties, or fees, or any combination thereof, is eligible to pay such amounts by means of an installment agreement with the office of motor vehicles, should all of the following conditions be met:

(a) All conditions of reinstatement other than payment of outstanding fines, penalties, and fees owed to the office of motor vehicles have been satisfied.

(b) A request for an installment agreement is made as required by and within the time provided for in the notice from the office of motor vehicles informing the debtor of any outstanding fines, penalties, and fees owed to the office of motor vehicles.

(3) Upon termination of an installment agreement executed pursuant to this Section, all outstanding amounts due under the installment agreement shall be final debt as defined by R.S. 32:8 or R.S. 47:1676. Any installment agreement entered into pursuant to this Section shall constitute a waiver by the debtor of any right to administrative or judicial review regarding sums due under an installment agreement. Any notices provided to a debtor who enters into an installment agreement pursuant to this Section shall constitute satisfaction of the notice requirements of R.S. 32:8 and R.S. 47:1676.

(4) Any installment agreement entered into by the office of motor vehicles and a debtor shall be in writing and signed by both parties. The office of motor vehicles shall develop an official form to be utilized for installment agreements authorized by this Section.

Installment agreements not on this form shall be invalid.

(5) A debtor shall provide a valid electronic mail address to the office of motor vehicles to receive all notices and updates. It shall be the debtor's obligation to maintain a valid electronic mail address during the entire term of any installment agreement executed pursuant to this Section. The debtor shall promptly update the installment agreement system with any new or changed electronic mail address.

B.(1) Installment agreement payment schedule. Any installment agreement shall require a debtor to provide fixed and equal monthly payments in the following amounts, with the first payment due upon the execution of the agreement.

(2) The commissioner of the office of motor vehicles may take into account factors such as the debtor's income, financial obligations, as well as any other factors that affect the debtor's ability to pay the outstanding debt when the commissioner is determining the number of payments and the amount of each payment in the debtor's installment agreement.

C. Payments. (1) All installment agreement payments shall be made through an electronic automated transaction initiated by the office of motor vehicles or a third party on behalf of the office of motor vehicles. Such installment agreement payments may be made by bank draft, electronic funds transfer, or credit or debit card, including but not limited to reloadable prepaid credit or debit cards. All debtors shall provide necessary information for installment payments to be paid by bank draft, electronic funds transfer, or credit or debit cards.

(2) The debtor shall be issued a statement or receipt indicating the amount paid and the amount outstanding under the installment agreement each time an installment agreement payment is made.

(3) Prepayment of sums due on an installment agreement may be made without the imposition of a penalty.

D. Suspension of installment agreement. The commissioner of the office of motor vehicles may suspend an installment agreement executed pursuant to this Section for up to sixty days following a request by the debtor based upon good cause. Good cause shall be determined by the commissioner. During the term of the suspension of the installment agreement, no payments shall be accepted on the installment agreement. Payments shall resume upon the day following the last day of the suspension period. Any suspension of an installment agreement pursuant to this Subsection shall extend the term of the installment agreement by the length of any suspension. A debtor's driving privileges shall remain active during the suspension period unless otherwise blocked, revoked, or suspended.

E. The failure to make a scheduled payment in accordance with the terms of the installment agreement shall result in the assessment of a late fee in the amount of twenty-five dollars, which shall be added to the total amount due. Upon the failure to receive a payment, the office of motor vehicles shall send an electronic mail notification to the debtor to update the debtor's payment information and pay the missed payment. If, after receiving the electronic mail notice, the debtor updates the payment information, pays the late fee, and submits the missed payment, the installment agreement shall remain in place and no further action will be taken. In such case, the missed payment and late fee shall be received by the

office of motor vehicles prior to the next scheduled payment date.

F. Termination of installment agreement upon failure to make payment.

(1) If any installment payment is not paid on or before the date fixed for its payment, and the debtor fails to make up the missed payment as provided in Subsection E of this Section, the entire amount unpaid pursuant to the installment agreement shall be paid by the debtor within a sixty-day period from the date of notice and demand from the commissioner of the office of motor vehicles. The notice shall further advise the debtor that his driver's license shall be suspended upon the expiration of the sixty-day period if the payments due pursuant to the installment agreement are not made current within that sixty-day period or the agreement is not reinstated by the commissioner of the office of motor vehicles within that sixty-day period. This notice shall be known as "Notice of Installment Agreement Termination and Demand".

(2) The Notice of Installment Agreement Termination and Demand shall satisfy all notice requirements of contained in R.S. 32:8 and R.S. 47:1676. In the event that an installment agreement includes payment of delinquent or final debt as defined by R.S. 32:8, such notice shall include all information required by R.S. 32:8. In the event that an installment agreement includes payment of delinquent or final debt as defined by R.S. 47:1676, such notice shall include all information required by R.S. 47:1676. The notice required by this Paragraph shall satisfy the notice requirements of R.S. 32:8 and R.S. 47:1676.

(3) Upon request of the debtor within the sixty-day period from the date of the notice and demand required in Paragraph (1) of this Subsection and approval of the commissioner of the office of motor vehicles, the office of motor vehicles may reinstate the installment agreement after payment of all missed installments and associated late fees.

(4) If a request for reinstatement of an installment agreement is not made within sixty days of the notice and demand required by Paragraph (1) of this Subsection, or if the commissioner of the office of motor vehicles rejects a request to reinstate an installment agreement, the installment agreement shall be terminated, and any remaining sums due under the installment agreement shall be delinquent and final debt as defined by R.S. 32:8 or R.S. 47:1676 for which the following shall apply:

(a) For sums due which are not considered debt as defined by R.S. 32:8, the office of motor vehicles may refer any unpaid balance due under the installment agreement for collection by the appropriate office pursuant to R.S. 47:1676 and this Section.

(b) For sums due which are debt as defined by R.S. 32:8, the office of motor vehicles may refer any unpaid balance due under the installment agreement to the Department of Revenue, office of debt recovery, for collection as provided in R.S. 32:8 and R.S. 47:1676.

G. Driving privileges and vehicle registration. A debtor's Class "E" driving privileges and motor vehicle or truck registration privileges shall be reinstated when an installment agreement is executed by the debtor and the office of motor vehicles. All blocks on the debtor's license record shall be removed at that time. The office of motor vehicles may include the applicable fee for reinstatement of driving privileges in the total to be owed pursuant to an installment agreement entered into pursuant to this Section.

H. Administration of installment agreements. (1) The Department of Public Safety and Corrections, public safety services, may authorize a third party, including but not limited to the Department of Revenue, office of debt recovery, to administer installment agreements executed pursuant to this Section. Such authorized third party may collect payments due pursuant to installment agreements executed pursuant to this Section. Any such authorized third party shall be an authorized agent of the Department of Public Safety and Corrections, public safety services, and may collect the following fees for each transaction completed pursuant to this Section:

(a) A fee not to exceed three dollars for each payment made pursuant to an installment agreement.

(b) Fees authorized by R.S. 40:1322.

(c) Fees authorized pursuant to R.S. 49:316.1.

(2) The provisions of R.S. 47:1576.2 shall not apply to services provided by the Department of Revenue, office of debt recovery, pursuant to this Subsection.

(3) For purposes of this Section, the office of motor vehicles and the office of debt recovery shall not be considered a collection agency as defined in R.S. 9:3534.1.

I. Rules. The office of motor vehicles and the Department of Revenue, office of debt recovery, may adopt rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section.

RS 32:430 — Suspension, revocation, and denial of driving privileges; hardship license; insurance

nger than thirteen years of age, is convicted of any crime, offense, violation, or infraction involving the possession, use, or abuse of alcohol or one or more controlled dangerous substances, is convicted of any provision of R.S. 40:966 through 970 of the Uniform Controlled Dangerous Substances Law, is convicted of any provision of the Louisiana Racketeering Act, or is adjudicated delinquent for the commission of such offense, the court in which the person was so convicted or adjudicated delinquent shall prepare and send to the Department of Public Safety and Corrections, within ten days of the conviction or adjudication, an order of denial of driving privileges for not less than ninety days but not more than one year for the person convicted or adjudicated delinquent, or until he has reached the age of eighteen years, whichever is longer. If the person convicted or adjudicated delinquent is older than eighteen years, the order of denial shall be for not less than ninety days nor more than one year.

(2) Whenever any person who has attained the age of nineteen is convicted of any crime, offense, violation, or infraction involving the possession, use, or abuse of one or more controlled dangerous substances, the court in which the person was convicted shall prepare and send to the Department of Public Safety and Corrections, within ten days of the conviction, an order of denial of driving privileges for not less than ninety days but not more than one year for the person convicted.

(3) Whenever a person nineteen years of age or older is convicted of any felony offense involving a possession violation of any provision of R.S. 40:966 through 970 of the Uniform Controlled Dangerous Substances Law, or a violation of the Louisiana Racketeering Act, the court in which the person is so convicted shall prepare and send to the Department

of Public Safety and Corrections, within ten days of the conviction, an order of denial of driving privileges for the person so convicted.

B. In addition to any other authority to suspend driving privileges, the department shall suspend all driving privileges or the right to apply for driving privileges of any person upon receipt of an order of denial of driving privileges under this Section.

C. The suspension of driving privileges shall be imposed without hearing. Driving privileges, or the right to apply for driving privileges, of the person shall be suspended as provided in the following Paragraphs:

(1) Upon receipt of the first order denying driving privileges to a person under Paragraph (A)(1) of this Section, the department shall suspend the driving privileges of that person for not less than ninety days nor more than one year, or until the person whose driving privileges were suspended reaches eighteen years of age, whichever is longer. If he is older than eighteen years, his driving privileges shall be suspended for not less than ninety days nor more than one year.

(2) Upon receipt of a second or subsequent order denying driving privileges to a person under Paragraph (A)(1) of this Section, the department shall suspend the driving privileges of that person for one year or until the person whose driving privileges were suspended reaches nineteen years of age, whichever is longer.

(3) Upon receipt of an order denying driving privileges to a person under Paragraph (A)(2) of this Section, the department shall suspend the driving privileges of that person for not less than ninety days nor more than one year.

D. If the department receives notice from a court that it has withdrawn an order issued under this Section, the department shall immediately reinstate any driving privileges that have been suspended under this Section because of the issuance of the order.

E. The court, in addition to any other authority granted under this Section, may issue an order which authorizes the department to issue a restricted driver's license after the first thirty days of the suspension period upon a demonstration to the court's satisfaction that a hardship would result from being unable to commute to either school or to work. The restrictions of said license shall be determined by the court.

F.(1) Notwithstanding any restrictions imposed, in any case in which the applicant for a restricted driver's license has had his driver's license suspended, revoked, or cancelled upon conviction or entry of plea of guilty and sentence thereupon, or the forfeiture of bail if the offense involved constituted operating or being in actual physical control of a motor vehicle while under the influence of intoxicating beverages, or if the offense involved possession, in violation of R.S. 40:966 through 970, of any controlled dangerous substance listed in Schedules I, II, III, IV, or V of the Uniform Controlled Dangerous Substances Law, or any drug offense as defined in R.S. 32:401, the court may, after the first thirty days of the suspension period, additionally order that the applicant's restricted license include permission to operate a motor vehicle on such streets as would enable him to go to and from meetings of Alcoholics Anonymous and to go to and from approved group therapy or special education courses for or about the disease of alcoholism, alcohol abuse, or drug abuse, in a suitable public or private institution or program approved by the appropriate state authority.

(2) The receipt of such a restricted license may be conditioned upon:

(a) A medical evaluation and a recommendation that the convicted person is pathologically addicted to alcohol and/or is a habitual alcoholic or other drug offender.

(b) On the condition that such convicted individual submit to medical treatment and/or medically approved group therapy or special education courses for or about the disease of alcoholism, alcohol abuse, or drug abuse, in a suitable public or private institution or program approved by the appropriate state authority.

G. The provisions of Subsection F of this Section shall apply only to persons never previously convicted of any offense listed in Subsection A of this Section. The provisions of Subsection F of this Section shall apply to Class "D" and Class "E" licenses.

H. A copy of an order issued under Subsections F and G of this Section shall be sent to the department along with a copy of the conviction or adjudication notice. A copy of the order containing the restrictions shall be attached to the license of the person convicted or adjudicated and shall be in the possession of the person whenever he is operating a motor vehicle. A restricted license shall be issued by the department and designated by a large red "R" printed on the face of the license. The term of the restrictions shall be the same as the term of the original suspension, cancellation, or revocation.

I. A violation of the restrictions or a subsequent conviction or adjudication of delinquency for the offenses stated in this Section during the term of the restricted license shall result in the extension of the period of suspension for one year from the date upon which the licensee would otherwise have been able to apply for a new license and shall also constitute contempt of court. A suspension which results from such a violation, conviction, or adjudication of delinquency shall not be subject to appeal as set forth in this Section. The restricted driving privileges authorized by Subsections F and G of this Section may be allowed to a person only once.

J. Any person whose license has been suspended by the department shall be notified of such suspension in writing by the department. This notice shall be sent by certified mail to the last address furnished by such person, and the person shall return his or her license to the department within five days of receiving the notice. The notice shall also advise such person that he or she may obtain a special identification card from the driver's license division of the Department of Public Safety and Corrections pursuant to R.S. 40:1321.

K. Any period of suspension under this Chapter shall begin upon receipt by the department of the operator's license or proof of its loss, upon expiration of the operator's license, or thirty days after the date the notice of suspension is mailed to the licensee by the department, whichever occurs first.

L. Upon the expiration of the period of the suspension of any license, the department shall return the license to the licensee or in its discretion may issue him a new license, but only after a reinstatement fee of sixty dollars has been paid to the department and the requirements of R.S. 32:896 relative to proof of financial responsibility have been satisfied. Monies derived from this reinstatement fee shall be disbursed as set out in R.S. 32:414(G)(1)(b).

M. No insurer issuing a policy of automobile insurance covering property damages,

personal injury, or accidental death shall increase any rate or premium charges for insurance coverage because of any suspension of a license under the provisions of this Section, unless the crime, offense, violation, or infraction is directly related to the operation of a motor vehicle. The provisions of this Subsection shall not be construed to prohibit the increase of any automobile insurance rate or premium, pursuant to a rate increase which is approved by the commissioner of insurance, for a class of insurance of which the person whose license has been suspended pursuant to this Section is or becomes a member.

N.(1) When any person's driver's license has been seized, suspended, or revoked, and the seizure, suspension, or revocation is connected to a charge or charges of violation of a criminal law, and the charge or charges do not result in a conviction, plea of guilty, or bond forfeiture, the person charged shall not be required to pay any reinstatement fee if at the time for reinstatement of driver's license, it can be shown that the criminal charges have been dismissed or that there has been a permanent refusal to charge a crime by the appropriate prosecutor or there has been an acquittal. If however, at the time for reinstatement, the licensee has pending against him criminal charges arising from the arrest which led to his suspension or revocation of driver's license, the reinstatement fee shall be collected. Upon subsequent proof of final dismissal or acquittal, other than under Code of Criminal Procedure Article 893 or 894, the licensee shall be entitled to a reimbursement of the reinstatement fee previously paid. In no event shall exemption from this reinstatement fee or reimbursement of a reinstatement fee affect the validity of the underlying suspension or revocation.

(2) If a licensee qualifies for the exemption from the reinstatement fee or for a reimbursement of the reinstatement fee as provided in Paragraph (1) of this Subsection, the licensee shall receive credit for the unexpired portion of the license which was seized, and shall be exempt from the payment of, or shall receive reimbursement for the payment of, the duplicate license fee and the handling fee with regard to the license which was seized.

RS 32:431 — Driving is a privilege; expulsion or suspension from school, cause for suspension of license

n or more consecutive school days or an assignment to an alternative educational setting for ten or more consecutive school days in accordance with any policy of the school or of the local public school board, limited to expulsions, suspensions, and assignments to alternative educational settings for infractions involving the sale or possession of drugs, alcohol, or any other illegal substance, the possession of a firearm, or an infraction involving assault or battery on a member of the school faculty or staff. The governing authority of any public elementary or secondary school shall promulgate rules and regulations to implement the provisions of this Section.

(2) As used in this Section, "license" or "driver's license" shall include a Class "E" learner's license and intermediate license as provided for in R.S. 32:407.

B.(1) In addition to any other authority to deny driving privileges, upon receipt of written notification from a principal or headmaster at a public or private school pursuant to R.S. 17:416.1(D), the Department of Public Safety and Corrections shall take the following action with respect to the student if he is an unemancipated minor between fifteen years of age and eighteen years of age:

(a) If the student has a driver's license, the department shall suspend the driver's license for a period of one year beginning as provided for in Subsection C of this Section.

(b) If the student has not obtained a driver's license, or if he applies for a different driver's license, any license which he obtains during the period of one year beginning as provided for in Subsection C of this Section shall be immediately suspended for the duration of such one-year period.

(2) The written notice from the principal or headmaster at a public or private school required in this Subsection shall include a copy of the student's disciplinary documentation and the full name, address, date of birth, social security number, and license number, if available, of the student and the name, address, and telephone number of the student's parents, guardian, or custodial parent.

C.(1)(a) Within fifteen days of receipt of written notice from the principal or headmaster, the department shall send notice of the following by certified mail to the last known address of any student who is subjected to such disciplinary action and the student's parents, guardian, or custodial parent:

(i) That any license he holds will be suspended on the thirtieth day following the date the notice was sent by the department and that the license shall be returned to the office of motor vehicles within five days of its suspension.

(ii) That if he does not hold a license, any license he may obtain during one year from the thirtieth day of the date the notice was mailed shall be immediately suspended for the remainder of such year.

(b) The notice shall also advise that a special identification card may be obtained from the office of motor vehicles pursuant to R.S. 40:1321. The notice shall also include a notice of the student's right to request a hearing or a hardship license as provided for in Subsections D and F of this Section.

(2)(a) Any period of suspension under this Section shall begin upon the occurrence of the first of the following:

(i) The receipt by the department of the driver's license.

(ii) Thirty days after the date the notice of suspension is mailed to the student by the department as provided in Paragraph (1) of this Subsection, or the receipt of a written notice of the disposition of an application for hardship driving privileges if it was applied for prior to the beginning of the suspension pursuant to Subsection D of this Section, whichever occurs last.

(b) A license suspension shall not extend beyond the student's eighteenth birthday. At the conclusion of the suspension, the department, in its discretion, may return the license to the student or issue the student a new license, once a reinstatement fee of sixty dollars has been paid to the department.

D. Prior to or after the start of the suspension period, a student may apply to the Department of Public Safety and Corrections for provisional student or family hardship driving privileges upon presentation of appropriate documentation as determined by the office of motor vehicles. Upon approval, a student may receive provisional driving privileges in order to drive to and from school, work, a drug or alcohol treatment counseling program, or a mental health treatment program, as appropriate, when no other transportation is available. Such driving privileges shall not exceed those granted by the license that was suspended.

E. Any student whose license is suspended pursuant to this Section may otherwise be eligible for reapplication or reinstatement if, after six months from the date of denial or suspension, the principal notifies the department in writing that the student has displayed exemplary student behavior at school, has not violated any school policies or been found guilty of any misconduct pursuant to R.S. 17:416 or any policy of the school or of the local public school board, and no further disciplinary measures have been taken.

F. Within fifteen days of the date of the notice required by Subsection C of this Section the student may request an administrative hearing pursuant to the Administrative Procedure Act. The hearing request shall be made in writing to the Department of Public Safety and Corrections, office of motor vehicles, and the hearing shall be held by the Division of Administrative Law pursuant to Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950. The department shall promptly forward the hearing request to the Division of Administrative Law, and the hearing shall be held within thirty days of receipt by the department of the hearing request or as soon as practicable, unless continued at the request of the student. At the request of the student, the hearing may be limited to a review of the written record. The sole issue at the hearing shall be whether the provisions of this Section have been met. The reasons for disciplinary action or the propriety of disciplinary action shall not be an issue at the hearing. The license shall not be suspended until completion of the administrative hearing. Failure of the student or his representative to make an appearance at the time and place noticed for the hearing shall constitute a withdrawal of the hearing request and result in the suspension provided for in this Section.

G. No insurer issuing a policy of automobile insurance covering property damages, personal injury, or accidental death shall increase any rate or premium charges for insurance coverage because of any suspension of a license under the provisions of this Section. The provisions of this Subsection shall not be construed to prohibit the increase of any automobile insurance rate or premium, pursuant to a rate increase which is approved by the commissioner of insurance,

for a class of insurance of which the person whose license has been suspended pursuant to this Section.

H. The Department of Public Safety and Corrections shall promulgate all necessary rules and guidelines for the implementation of this Section in accordance with the Administrative Procedure Act as are necessary.

RS 32:431.1 — School attendance as condition of driving privileges; authorized local policy

he context clearly indicates otherwise:

(1) "Appropriate authority" means any of the following persons:

(a) A school principal or headmaster or his designee.

(b) In the case of a home school program, the parent.

(c) The adult education supervisor of the adult education program or his designee.

(2) "Department" means the Department of Public Safety and Corrections.

(3)(a) "Dropout" means a person, fifteen years of age or older but less than eighteen years old, who was enrolled in a school and withdrew or who was enrolled at the end of the previous school year and is not enrolled on October first of the following school year or who has more than ten consecutive days of unexcused absences from school or fifteen days total unexcused absences during a single semester.

(b) "Dropout" does not mean a person who:

(i) Is temporarily absent due to illness, suspension, or expulsion.

(ii) Is attending or has graduated or completed another educational program approved by the State Board of Elementary and Secondary Education.

(iii) Transferred to a nonpublic school, a correctional institution, or an approved home school program or moved out of state.

(4) "Habitually absent or tardy" is when either condition continues to exist after all reasonable efforts by a principal or other appropriate authority have failed to correct the condition after the fifth unexcused absence or fifth unexcused occurrence of being tardy within any month or if a pattern of five absences a month is established or as otherwise provided in R.S. 17:233.

(5) "Minor" means an unemancipated child who is at least fifteen years of age but less than eighteen years of age.

(6) "School" means a school as defined in R.S. 17:236, or any other secondary or non-secondary level course or adult education program with a general education course leading to a Louisiana high school equivalency diploma.

(7) "School board" means a city, parish or other local public school board, the state agency operating or governing a secondary school, or the governing body of an independent public school or of a nonpublic school.

B. Required school attendance. (1) No minor may be issued a driver's license or learner's permit for the operation of a motor vehicle unless, at the time of application, documentation is presented to the department that the minor has:

(a) Received a high school diploma or a high school equivalency diploma.

(b) Enrolled and is attending a school as defined herein.

(c) Enrolled and is attending a course leading to a high school equivalency diploma.

(d) Completed the required minimum units of credit for high school graduation and all other graduation requirements as mandated by the State Board of Elementary and

Secondary Education but has failed to pass the high school graduation exit exam.

(e) Received a special education certificate of achievement certifying that the student has completed high school.

(f) Enrolled in and is participating in a home school program.

(g) Requested and received a decision by the appropriate authority that the minor is unable to attend any school or program due to circumstances beyond the control of the minor and deemed acceptable as provided in this Section.

(2) Any minor who has been determined by the appropriate authority to be a dropout or habitually absent or tardy shall be subject to a denial or suspension of a driver's license or learner's permit as provided in this Section.

C. Obligations of the department. (1)(a) In addition to any other authority to deny driving privileges, the department shall not issue a driver's license or learner's permit to any minor who fails to present appropriate documentation upon application for a driver's license or learner's permit in compliance with Subsection B of this Section, and shall deny a driver's license or learner's permit or suspend the driver's license or learner's permit of any minor as to whom the department receives written notification from a school board that the minor is a dropout or habitually absent or tardy pursuant to the policy adopted by a school board. Such denial or suspension shall remain effective until such time as the minor reaches the age of eighteen or otherwise complies with the provisions of this Section, whichever occurs first.

(b) Any license denial or suspension shall not extend beyond the minor's eighteenth birthday. At the conclusion of the suspension or upon receiving documentation of compliance with Subsection B of this Section, the department shall return the license to the minor or issue a new license.

(2) The department shall promulgate all necessary rules and guidelines for the implementation of this Section in accordance with the Administrative Procedure Act as are necessary which shall include but shall not be limited to a procedure for providing written notification of the intention to notify the department of a license suspension and the specification of the forms which may be required for the purpose of documenting and reporting as provided in this Section.

D. Authority of the school board. (1) The Recovery School District and any school board may adopt and institute a policy and procedure for providing written notification to the department of any minor who is determined by the school board to be a dropout or habitually absent or tardy for the purpose of driver's license denial or suspension. Only if the Recovery School District or a school board elects to adopt such a policy and procedure may any student who is determined to be a dropout or habitually absent or tardy be reported by the school board to the department.

(2) The Recovery School District or any school board which adopts such a policy shall promulgate rules to implement such policy which shall include provisions providing for written notification to students and their parents or legal guardians of the policy and for providing a means for students, parents, or legal guardians to dispute a determination of the student's status as a dropout or as habitually absent or tardy.

E. Documentation of school attendance. (1) Upon the request of any minor who is

enrolled and attending a school and who is eligible to apply for a license, the appropriate authority shall provide to him documentation of his compliance with Subsection B of this Section.

(2) The minor, his parents, or legal guardians shall present such documentation of his compliance to the office of motor vehicles upon application for or renewal of a driver's permit, which shall include the temporary instruction permit and learner's permit, or license to operate a motor vehicle.

(3) Documentation of the minor's compliance with Subsection B of this Section shall be provided in a signed statement to the department attesting to compliance. The documentation shall be provided by the parent or guardian of a seventeen year old first time applicant for a Class "E" license. However, if the first time applicant for a Class "E" license is seventeen years of age and emancipated, the applicant shall provide the signed attestation confirming compliance with Subsection B of this Section for himself, provided that the applicant has proof of emancipation and the necessary identifying information and documents. Such documentation of the minor's compliance with Subsection B of this Section shall be valid for a period of ninety days from the date of issuance.

F. Reinstatement. Any minor whose license is denied or suspended pursuant to this Section may otherwise be eligible for reapplication or reinstatement of driving privileges if the appropriate documentation is submitted to the department showing that the minor is in compliance with the requirements of Subsection B of this Section.

G. Notification and Appeal. (1) An appropriate authority shall provide written notification to any minor whom he has determined to be a dropout or habitually absent or tardy and his parent or legal guardian that he intends to subject the minor to license denial or suspension. The written notification shall advise the minor of his right to seek a hearing by the school board of such determination or to make a request to the school board to obtain a hardship waiver as provided in Subsection H of this Section within fifteen days of the mailing of the notification. The appropriate authority shall also send a copy of such notification to the school board.

(2) If the school board is notified of a request for a hearing or a request for a hardship license within fifteen days after the date of mailing the written notification, the board shall hold a hearing to make a determination upon such request. If no such request is received by the board, or if the board determines after a hearing that such student is a dropout or is habitually absent or tardy and is not entitled to a hardship waiver as provided for in Subsection H of this Section, then the school board shall provide written notification to the department that the minor's license should be suspended or denied.

H. Hardship waiver. (1) The school board may waive the requirements of this Section for any minor for whom a personal, family, or economic hardship requires the minor to have a driver's license for his own, or his family's, employment or medical care as provided in R.S. 17:226. The minor or his parent or legal guardian may present other evidence that indicates compliance with the requirements of this Section at the waiver hearing.

(2) The school board shall notify the department of the outcome of the minor's

hardship waiver hearing within twenty-four hours after conducting the hearing.

(3) Upon a determination by the school board that a hardship waiver is warranted, the department shall issue a hardship license for provisional driving privileges to the minor upon presentation of such documentation and proof of financial responsibility as determined by the department. Such driving privileges shall not exceed those granted by the license that was suspended.

RS 32:432 — Suspension or denial of driving privileges; failure to pay child support or individual income tax

le on the highways of this state, or suspension or revocation thereof, all drivers' licenses issued pursuant to this Chapter are also subject to the provisions of R.S. 9:315.30 et seq., suspension of license for nonpayment of child support, and the provisions of R.S. 47:296.2, suspension and denial of renewal of drivers' licenses, and any rules and regulations adopted to administer R.S. 47:296.2.

B. The Department of Public Safety and Corrections, office of motor vehicles, shall adopt rules and regulations in accordance with the provisions of the Administrative Procedure Act to effectuate the orderly and expeditious suspension and reissuance of drivers' licenses in accordance with R.S. 9:315.30 et seq.

C. The secretary of the Department of Public Safety and Corrections, office of motor vehicles, in cooperation with the secretary of the Department of Revenue, shall adopt rules and regulations as are necessary, in accordance with the provisions of the Administrative Procedure Act, to effectuate the orderly and expeditious suspension and denial of renewal and reissuance of drivers' licenses, in accordance with R.S. 47:296.2.

RS 32:441 — Declaration of purpose

obby of collecting, preserving, restoring, operating and maintaining motor vehicles of historic or special interest. Further, the legislature of Louisiana, recognizing that the current pattern of resource recycling leads to an ever shortening period of existence for vehicles of historic or special interest, enacts this Part to ensure the preservation of our American heritage as it relates to the motor vehicle manufacturing industry. The legislature further recognizes that a vehicle representative of this heritage, being held by a hobbyist, finds significance as a motor vehicle of historic or special interest through a personal relevance to the life of the collector holding it and, or, through a general relevance as an example-artifact of the transportation history of Louisiana.

RS 32:442 — Definitions

or" means the owner of one or more motor vehicles of historic or special interest who collects, purchases, acquires, trades, or disposes of such motor vehicles or the parts thereof for his own use in order to preserve, restore, and maintain such a motor vehicle for hobby purposes.

(2) "Commissioner" means the director of public safety as provided in R.S. 47:451(5).

(3) "Motor vehicle of historic or special interest" means a motor vehicle, including a motorcycle as defined in R.S. 32:1, of any age which, because of its significance, is being collected, preserved, restored, operated, or maintained by a hobbyist as a leisure pursuit.

(4) "Parts car" means a motor vehicle of historic or special interest which is generally in inoperable condition and which is owned by a collector to furnish parts that are usually not obtainable from normal sources, thus enabling a collector to preserve, restore or maintain a motor vehicle of historic or special interest.

RS 32:443 — Storage on collector's property; requirements

provided that such vehicles and parts

cars and the storage area are maintained in such a manner that they do not become a public

nuisance as provided in R.S. 33:4876.1.

B. The following requirements shall apply to a collector who stores a motor vehicle pursuant to Subsection A of this Section:

- (1) The motor vehicle shall be placed on jacks or lifts eighteen inches off of the ground for easy maintenance of the surrounding grass, which must be kept less than twelve inches high.
- (2) The motor vehicle shall be covered by a black or blue tarp or similar car covering.
- (3) The motor vehicle shall be stored close to the back property line in a parallel row, if multiple vehicles.
- (4) The motor vehicle shall be stored and covered under a carport when possible.
- (5) Any car parts shall be stored near the back property line and be properly covered with a black or blue tarp or similar covering.

RS 32:444 — Equipment requirements

In addition to the sale, to the offering for sale or to the operation of a motor vehicle on the highways of this state at the time the motor vehicle was manufactured for sale or use, the absence of equipment now or hereafter required by law from motor vehicles of historic or special interest shall not be construed as prohibiting the sale, the offering for sale or the legal operation on the highways of this state of any motor vehicle of historic or special interest. Notwithstanding the provisions of Chapter 7 of this Title, any motor vehicle of historic or special interest manufactured prior to the date on which emission control devices were standard equipment on that particular make or model of motor vehicle shall be exempt from all state and local requirements relative to the inspection and use of such emission control devices. Any safety equipment that was manufactured as part of such vehicle's original equipment shall be maintained in proper operating condition whenever the vehicle is operated on the highways of this state.

RS 32:445 — Sale or trade; not contingent upon vehicle being in operating condition

Not contingent upon any condition that would require the vehicle or parts car to be in operating condition at the time of sale or transfer of ownership.

RS 32:446 — Repealed by Acts 2024, No. 718, §4.

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RS 32:447 — Rules and regulations

1.

RS 32:451 — Declaration of purpose

ing, modifying, operating, and maintaining street rods and street cruisers and thus providing the following: preservation of modified antique motor vehicles known as street rods or of other vehicles known as street cruisers; recognition for the automobile hobbyist in Louisiana; promotion of vehicle safety through self-policing; additional revenue to the state through sales tax paid upon the purchase of such vehicles and parts therefor; and family-oriented recreation for Louisiana citizens.

RS 32:452 — Street rod; definition

rod by the National Street Rod Association, and which has undergone some type of modernizing, to include modernizing of engine, transmission, drivetrain, interior refinements, and any other modifications the builder desires, which vehicle is to be driven to events under its own power and to be used as a safe, nonracing vehicle for total family enjoyment.

RS 32:453 — Licensing requirements; exemptions

nsing requirements.

RS 32:454 — Rules and regulations

intent hereof. Oversight review of the secretary's rules and regulations shall be conducted by the Joint Legislative Committee on Transportation, Highways, and Public Works.

RS 32:455 — Street cruiser; definition

modernizing of the engine, transmission, drive train, and interior refinements, and any other modifications the builder desires, which vehicle is to be driven to events under its own power and to be used as a safe, nonracing vehicle for total family enjoyment.

RS 32:456 — Registration; licensing

ments.

RS 32:457 — Authorized rules

s 1992, No. 189, §1, eff. June 8, 1992.

RS 32:461 — Imposition of road usage fee; electric vehicles; hybrid vehicles; administration and

rs per year on

each electric vehicle which is operated upon the highways of this state and which is required to be registered in accordance with the provisions of the registration license tax.

(2) There is hereby levied a road usage fee of sixty dollars per year on each hybrid vehicle which is operated upon the highways of this state and which is required to be registered in accordance with the provisions of the registration license tax.

(3) Notwithstanding the provisions of Paragraphs (1) and (2) of this Subsection, an electric vehicle or hybrid vehicle that is a school bus primarily used to transport Louisiana students shall be exempt from the fee imposed by this Subsection.

B. For purposes of this Section, the following terms shall have the following meanings unless the context clearly indicates otherwise:

(1) "Electric vehicle" shall mean a vehicle which is powered by one or more electric motors or energy stored in rechargeable batteries for propulsion.

(2) "Hybrid vehicle" shall mean a vehicle that uses gasoline, diesel fuel, or special fuels in combination with an electric motor for propulsion.

(3) "Registration license tax" shall have the meaning provided for in Chapter 4 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as amended.

(4) Repealed by Acts 2024, No. 155, §2, eff. May 22, 2024.

C.(1) The commissioner of the office of motor vehicles or an agent authorized to collect the registration license tax pursuant to R.S. 47:532.1 shall collect the fee levied pursuant to the provisions of this Section at the same time, for the same period, and in the same manner as the registration license tax.

(2) The commissioner of the office of motor vehicles may promulgate rules in accordance with the Administrative Procedure Act to provide for collection and administrative procedures that the commissioner determines necessary to administer this Section, including procedures for the collection of the road usage fee applicable to vehicles first registered in the state during calendar year 2025.

D. The proceeds of the fees imposed by Subsection A of this Section shall be deposited as follows:

(1) Seventy percent of the proceeds shall be deposited into the Construction Subfund of the Transportation Trust Fund for use by the Department of Transportation and

Development on road and bridge preservation projects included in the Highway Priority Program in accordance with the Department of Transportation and Development's definitions of such projects.

(2) Thirty percent of the proceeds shall be deposited into the Parish Transportation Fund and distributed to local governments in accordance with the formula set forth in R.S. 48:756. Amounts distributed may be used by local governments for any purpose that is a permitted use of funds received from the Parish Transportation Fund.

RS 32:471 — Definitions

a motor vehicle that is inoperable and is left unattended on public property for more than twenty-four hours, or is inoperable and left unattended on the shoulder or right-of-way of an interstate or a four-lane highway for more than twenty-four hours, or a motor vehicle that has remained illegally on public property for a period of more than twenty-four hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than three days.

(2) "Department" means the Louisiana Department of Public Safety and Corrections.

(3) "Policing authority" or "authority" means, with respect to the city of New Orleans, the police board of the city of New Orleans and in all other municipalities and parishes means the police department, sheriff or such other authority as is vested with police authority. All costs or fees arising from seizures in said city shall be transmitted to the city treasurer, to be deposited in the general fund.

RS 32:472 — Parking motor vehicles; seizure of; payment of costs

ity for illegal parking, stationing or abandoning of such motor vehicle or for the violation of any traffic ordinance or regulation of the municipality, the owner shall be entitled to regain possession thereof upon payment of such costs as may be fixed by the policing authority of the municipality for the violation. The costs so fixed shall cover all charges for removing the vehicle to the place of holding and all other costs incurred during the period of holding.

RS 32:473 — Seized vehicles; penalties for illegal parking and for the impounding and detention of vehicles illegally parked

nalties on any person for parking, stationing, or abandoning any automobile or other vehicle on the municipal streets in violation of any municipal ordinance or other regulatory law, and such municipalities may further charge for the impounding and detention of vehicles illegally parked in loading, reserved or otherwise restricted zones, no parking areas, or public carrier stands, but the total of such charges, including the charge for its removal from the street where it may have been situated, and all other charges during the period of storage, shall not exceed thirty dollars.

B. The limitations in this Section shall not apply to the parish of Orleans.

RS 32:473.1 — Abandoned vehicle; removal

e vehicle be removed from said location within twenty-four hours. Additionally, the notice shall direct that the failure to remove the vehicle shall result in the vehicle's being removed by the municipality or parish, as the case may be, or by a tow truck operator acting on behalf of the municipality or parish.

B. If the abandoned motor vehicle is not removed within twenty-four hours from the date of the posting of the notice, the motor vehicle shall be removed and disposed of by the municipality or parish or by a tow truck operator authorized to act on behalf of the municipality or parish.

C. The parish, municipality, or tow truck operator shall store and may dispose of the vehicle pursuant to the Louisiana Towing and Storage Act. The municipality or parish shall have no civil or criminal liability pursuant to any provision of law for any act or omission of its own under the provisions of this Section or for the acts or omissions committed by the tow truck operator.

D. Removal of an abandoned motor vehicle in accordance with this Section by a tow truck operator shall not be considered a rotation call by the appropriate law enforcement agency as set forth in R.S. 32:1735(C). The tow truck operator shall not lose its place in the rotation call list for the recovery of an abandoned motor vehicle in accordance with this Section. Law enforcement agencies shall maintain records of the number of abandoned motor vehicles removed.

RS 32:474 — Authority to take possession of abandoned motor vehicles

property. The department or any municipality or parochial authority may employ its own personnel, equipment and facilities or may employ persons, equipment and facilities for the purpose of removing, preserving and storing abandoned motor vehicles.

RS 32:476 — Abandoned motor vehicles; sale by municipalities and parochial authorities; procedure

y municipality or any parochial authority for illegal parking, stationing, or abandoning of such motor vehicle on the public streets, ways, roads, and highways within the state, and the same has not been claimed for a period of three months or more, then the motor vehicle shall be considered as having been abandoned to the municipality or parochial authority and the municipality or parochial authority may dispose of such motor vehicle and collect the costs and charges of removing and storing said vehicle in the following manner:

(1) The municipality or parochial authority shall send a registered or certified letter, return receipt requested, to the owner of said vehicle, within ten days of the date the vehicle was seized. Said governing authority shall send a second letter to the vehicle owner upon the expiration of the three-month period provided for in this Section. Any such letter shall be sent to the owner of the vehicle at his last known address informing him that the municipality or parochial authority is holding said vehicle. The owner shall also be informed in such letter that the vehicle shall be sold to the highest bidder unless said owner, on or before the date of sale, claims the vehicle and pays to the municipality or parochial authority all costs and charges imposed by the municipality or parochial authority for the removal and detention of the vehicle. A copy of the letters shall also be sent to any person or firm known to be the holder of a mortgage on said vehicle.

(2) Before the sale of any such vehicles, the municipality or parochial authority shall have them appraised by a competent appraiser and shall publish a notice of the proposed sale of said vehicle or vehicles in the official journal of the municipality or parish not less than three times within a ten-day period prior to the date of said sale. The published notice shall contain a complete list of the vehicles to be sold, the date and place of said sale, and notification that said vehicles will be sold either individually or in globo to the highest bidder therefor, all in the discretion of the municipality or parochial authority.

(3) All funds received from the sale of a motor vehicle under the provisions hereof shall be set aside and placed in a separate account established therefor by the municipality or parochial authority. If, within one year following the date of the sale, the owner or lienholders of any of said vehicles shall present sufficient proof to the municipality or parochial authority of his ownership or lien, the said owner or lienholder shall be entitled to the amount received for his individual vehicle less his pro rata share of the costs and expenses of the sale, as well as all charges and costs due and owing for removal and storage of said vehicle. Any funds not claimed within one year following the date of sale shall be deposited to the general fund of the municipality or parish.

B. Parishes and municipalities are authorized to adopt local ordinances defining derelict or junk vehicles and adopting procedures for the towing away and selling of the same and shall not be required to comply with Subsection A hereof as to derelict or junk vehicles.

RS 32:481 — Comprehensive engineering comparative analysis of flood mitigation methods;

rove water drainage issues resulting from impediments to the natural water flow on the Interstate 12 corridor in Livingston Parish along existing median walls which may additionally or alternatively include potential engineering solutions as well as retrofitting the existing median walls to improve the natural water flow along the Interstate 12 corridor.

B. The comparable analysis of potential engineering solutions shall include the following:

(1) Practical and cost-effective engineering methods and potential solutions used by other states including but not limited to Texas.

(2) Projected costs associated with the potential solutions.

(3) Projected construction timelines for the potential solutions of the methods used.

C. The department shall provide a report of the comparative analysis of potential solutions including those used by other states and methods necessary for implementation to

the House Committee on Transportation, Highways and Public Works and the Senate Committee on Transportation, Highways and Public Works, not later than October 1, 2023.

RS 32:501 — Motor trucks, etc., with lugs, not to be used on hard-surfaced roads; exceptions

public road in the state which has been hard-surfaced with any kind of material, or improved, in any manner by public funds, proceeds of bond issues, or with revenues of the state highway department, or of the United States. Nothing contained in this Section shall prevent the use of trucks or trailers equipped with steel tires by persons engaged in farming or agricultural pursuits when transporting their products to and from plantations abutting any improved highway of this state, or to persons operating under certificates of permission by the police jury of the parish, or of the municipal authorities of the city or town in which they may be operating.

RS 32:502 — Repealed by Acts 1954, No. 543, §1

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RS 32:503 — Penalty

ty nor more than ninety days, or both.

RS 32:521 — REPEALED BY ACTS 1989, NO. 522, §2.

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RS 32:522 — REPEALED BY ACTS 1989, NO. 522, §2.

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RS 32:523 — Record of sales proceedings to be kept for year

one year after the sale.

RS 32:524 — Parish of Orleans, list of motor vehicles held in storage to be furnished public administrator; administration as vacant estates

ber and March of each year furnish the public administrator of the parish of Orleans with a list of all motor vehicles held by them in storage together with a description thereof and the name of the last owner and the storage and cost due. The public administrator of the parish of Orleans shall then proceed to take them into his possession and administrate them as vacant estates and as estates of unknown owners.

RS 32:525 — REPEALED BY ACTS 1989, NO. 522, §2.

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RS 32:531 — Garage or oil businesses, petition for location; consent of property owners

r state, town, parish, or municipal authorities, shall, when such business is to be located in any incorporated city, town, or village, address a petition to the city council or board of aldermen, or when it is to be located without such limits, to the police jury of the parish in which it is to be located, stating the name of the owner, its exact location, and must be accompanied with the written assent of a majority of the property owners within three hundred feet, to be measured along the street or road fronts, of the proposed location.

RS 32:532 — Restrictions as to location

y state highway, when in their discretion the conducting of such a business so located is dangerous to public safety.

RS 32:533 — Application of Part

official journal of the parish for at least thirty days.

RS 32:534 — Construction of Part; zoning

peration of filling stations in zoned areas, such municipality is prohibited from enacting any ordinance regulating the hour of their closing, and other zoning laws.

RS 32:535 — Return of parts to customer; exceptions

placed parts upon completion of the work if such parts are not required to be returned to the manufacturer or distributor pursuant to a warranty agreement. If such parts are required to be returned to the manufacturer or distributor, the repairman, at the time the work is authorized, shall offer to, or if requested by the customer, display the parts upon completion of the work. However, the repairman shall not be required to display a part when there is no charge for the replacement part. If the customer accepts the repairman's offer to either return or display replaced parts as provided in this Section, it shall be the duty of the repairman to return or display such parts. The provisions of this Section shall not apply to the replacement of parts on the exterior or interior of the vehicle the damage to which is apparent to the customer upon examination.

B. Anyone who violates this Section shall be fined not more than one hundred dollars and assessed all costs of court.

RS 32:535.1 — Required invoice

cription of all work done including any warranty work.

(2) An itemization of all parts supplied.

(3) A clear statement of what new original or nonoriginal manufacturer parts, or used, rebuilt, or reconditioned parts have been supplied or that a part of a component system that has been supplied is composed of new original or nonoriginal manufacturer parts, or used, rebuilt, or reconditioned parts.

(4) A description of the vehicle identification number, make, model, and mileage.

B. The repairman shall provide the customer with a copy of the invoice and shall retain a copy for his records.

C. Anyone who violates the provisions of this Section shall be fined not more than one hundred dollars.

RS 32:601 — Public liability, bodily injury, and property damage insurance

onsummate contracts for public liability and/or bodily injury insurance, and property damage insurance, covering the operation, use or maintenance of motor vehicles owned and operated by such boards.

RS 32:602 — Tort liability

munity of such boards or bodies from liability for torts committed by its agents or employees.

RS 32:603 — Contract provisions

ntal immunity of such school board, levee board or other public body.

RS 32:604 — Actions; parties

the suit.

RS 32:621 — Definitions

aulic brake system of a vehicle operated upon the highways.

(2) "Department" means the Department of Public Safety.

(3) "Person" includes any individual, firm, corporation, partnership or association.

(4) "Labeling" includes all written, printed, or graphic representations, in any form whatsoever, imprinted upon or affixed to any container of brake fluid or accompanying any brake fluid.

(5) "Container" means any receptacle in which brake fluid is immediately contained when sold, but does not mean a carton or wrapping in which a number of such receptacles are shipped or stored or a tank car or truck.

(6) "Permit period" means the period set by the department validating the permit.

RS 32:622 — Manufacture, sale or distribution of brake fluid; registration; permits

n registered as required by this Part. No person shall manufacture, or distribute any brake fluid for sale in this state unless he has first applied to the department for the registration of such brake fluid to be handled by applicant and has received a written permit authorizing the sale, use, manufacture, or distribution of such brake fluid for sale in this state during the period and under the conditions stated in R.S. 32:623.

RS 32:623 — Application for registration; forms; contents; issuance of permit; renewal

rm shall include space for the name and address of the applicant, the brand name of the brake fluid and for certification that the brake fluid to be sold under such brand name conforms to the specifications established by the department for brake fluids. Upon receipt and approval of the application the department shall issue to the applicant a permit authorizing the manufacture or wholesale and retail sale and distribution of the brake fluid in this state during the permit period specified in the permit. Permits shall be renewed at the discretion of the department, provided, such renewals shall not be required more frequently than once every two years.

RS 32:624 — Cancellation, refusal to issue, or refusal to renew permit; grounds; procedure; powers of department

notice and a hearing, that the brake fluid is adulterated or misbranded, or that the registrant has failed to comply with the provisions of this Part or the rules and regulations of the department. The proceedings shall be conducted in accordance with rules and regulations to be promulgated by the department.

RS 32:625 — When brake fluid adulterated; specifications; amendment of specifications

y the department as minimum standards.

The department shall establish specifications for brake fluid which shall promote the public safety in the operation of automotive vehicles and may amend such specifications by regulation, after a hearing, but in no event shall the specifications for brake fluid fall below the minimum standard specifications established by the Society of Automotive Engineers for hydraulic brake fluid, heavy duty type. Hydraulic brake fluid which meets or exceeds the standard of specifications established by the Society of Automotive Engineers for heavy duty brake fluid shall prima facie be deemed to meet the requirements of this section.

RS 32:626 — When brake fluid deemed misbranded; words and letters to be in legible type

nd place of business of the manufacturer, packer, or distributor, the words "Brake Fluid", and, if required by regulation established by the department, the type of classification.

(2) The container does not bear an accurate statement of the quantity of the contents in terms of liquid measure.

(3) The labeling on the container is false or misleading in any particular. The words and letters required by this Section shall appear on the label in legible type and the fact that same meets or exceeds SAE specifications shall be stated.

RS 32:627 — Enforcement; inspection; access to premises; authority to open boxes, cartons and other containers

ple, inspect, analyze and test any brake fluid manufactured, used, packed, sold or distributed within this state. The department, through its agents, shall have free access by all legal means during business hours to all premises, buildings, vehicles, cars, and vessels used in the manufacture, packing, storage, sale or transportation of brake fluid, and may by legal means open any box, carton, parcel or container of brake fluid and take therefrom samples for analysis or for evidence.

RS 32:628 — Promulgation and enforcement of rules and regulations

rt.

RS 32:629 — Fees

used by the department to administer the provisions of this Part.

RS 32:630 — Violations; penalties

by this Part. Violation of any provision of this Part is a misdemeanor. The first offense shall be punishable by a fine of not more than \$1,000.00 and the permanent cancellation of the offender's permit.

RS 32:641 — Parishwide schedule of fines, penalties and costs; written pleas of guilty; payment; exceptions

ict attorney, may adopt a parishwide schedule of fines, penalties and costs for violations of the traffic laws and regulations of the state of Louisiana or any parish under their jurisdiction, within the limits of such penalties as are set by law, and such schedules shall be applicable as provided hereafter.

B. Any person apprehended for or charged with the violation of a law or regulation contained in such schedule may enter a written plea of guilty to the same by signing a declaration to that effect, which declaration shall specify the issue charged and the time and place thereof, and deposit with the sheriff of the parish a sum of money corresponding to the schedule of fines and costs for the violation of the particular traffic offense charged. The said declaration shall authorize the sheriff to pay the amount of such fine, penalty and costs from money deposited in escrow for that purpose with the sheriff. Such declarations and the deposit of money in escrow shall be executed and transferred only in the courthouse, parish jail or such other place as is designated by the judges, and within such time limits as is set by the judges.

C. The judge or district attorney may refuse to accept such written plea of guilty in any case and in the event of refusal, the written plea of guilty shall not be admissible in evidence for any reason whatsoever.

D. This Section does not apply to any person charged with any offense under Title 14 of the Louisiana Revised Statutes of 1950, except reckless operation of a motor vehicle where no accident is involved.

E. For traffic offenses, the fines for which are scheduled under the provisions of this Section, clerks of the judicial district courts shall not be required to keep and transcribe minutes for proceedings involving offenders who plead guilty and pay fines before their scheduled trial, thereby waiving their court appearance. This provision may be modified by rule of court.

RS 32:651 — Emblem or name of owner to appear on equipment; penalties

s capable of transporting itself or being transported on the highways of this state shall have inscribed, painted, stenciled, or affixed by means of magnetic plastic signs, decals or other secured signs conspicuously thereon the emblem or name of such owner in letters not less than two and one-half inches in height and not less than one-quarter inch in width.

Nothing contained herein shall apply to watercraft or farming equipment.

B. Whoever violates the provisions of this section shall be punished by a fine of not more than two hundred dollars or be imprisoned for not more than six months, or both.

RS 32:661 — Operating a vehicle under the influence of alcoholic beverages or illegal substance or

A.(1) Any person, regardless of age, who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent, subject to the provisions of R.S. 32:662, to a chemical test or tests of his blood, breath, urine, or other bodily substance for the purpose of determining the alcoholic content of his blood and the presence of any drug in his blood if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while believed to be under the influence of alcoholic beverages, any drug, combination of drugs, or combination of alcohol and drugs.

(2)(a) The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person, regardless of age, to have been driving or in actual physical control of a motor vehicle upon the public highways of this state while under the influence of either alcoholic beverages, any drug, combination of drugs, or combination of alcohol and drugs. The law enforcement agency by which such officer is employed shall designate in writing and under what conditions which of the aforesaid tests shall be administered.

(b) In the case of all traffic fatalities, the coroner or his designee shall perform or cause to be performed a toxicology screen on the victim or victims of all traffic fatalities for determining evidence of any alcoholic content of the blood and the presence of any drug, or combination of drugs, which shall include the extracting of all bodily substance samples necessary for such toxicology screen. The coroner or his designee shall be responsible for ensuring that the body is not removed from his custody until such time as the bodily substance samples are extracted. The coroner's report shall be made available to the

investigating law enforcement agency and may be admissible in any court of competent jurisdiction as evidence of the alcoholic content of the blood and the presence of any drug, or combination of drugs, at the time of the fatality. The coroner or his designee shall determine, by the most current and accepted scientific method available, whether the presence of alcoholic content in the blood of the deceased is the result of pre-death ingestion of alcoholic beverages or the postmortem synthesis of ethanol. Nothing in this Subparagraph shall be construed to limit the authority of the investigating law enforcement agency from conducting an investigation of the accident scene concurrently with the coroner or his designee.

(3) If the person is under twenty-one years of age, the test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the public highways of this state after having consumed alcoholic beverages. The law enforcement agency by which the officer is employed shall designate in writing and under what conditions which of the tests shall be administered.

B. Any person who is dead, unconscious or otherwise in a condition rendering him incapable of refusal shall be deemed not to have withdrawn the consent provided by Subsection A of this section, and the test or tests may be administered subject to the provisions of R.S. 32:662.

C.(1) When a law enforcement officer requests that a person submit to a chemical test as provided for above, he shall first read to the person a standardized form approved by the Department of Public Safety and Corrections. The department is authorized to use such language in the form as it, in its sole discretion, deems proper, provided that the form does inform the person of the following:

(a) His constitutional rights under *Miranda v. Arizona*.

(b) That his driving privileges can be suspended for refusing to submit to the chemical test.

(c) That his driving privileges can be suspended if he submits to the chemical test and such test results show a blood alcohol level of 0.08 percent or above or, if he is under the age of twenty-one years, a blood alcohol level of 0.02 percent or above.

(d) That his driving privileges can be suspended if he submits to the chemical test and the test results show a positive reading indicating the presence of any controlled dangerous substance listed in R.S. 40:964. The department may exclude this warning from the form required by this Paragraph until such time as a suspension for a test result shows a positive reading indicating the presence of any controlled dangerous substance listed in R.S. 40:964 is enacted by the legislature.

(e) That refusal to submit to a chemical test after an arrest for an offense of driving while intoxicated if he has refused to submit to such test on two previous and separate occasions of any previous such violation is a crime under the provisions of R.S. 14:98.7 and the penalties for such crime are the same as the penalties for first conviction of driving while intoxicated.

(f) Repealed by Acts 2020, No. 40, §3, eff. June 4, 2020.

(2) In addition, the arresting officer shall, after reading said form, request the arrested person to sign the form. If the person is unable or unwilling to sign, the officer shall certify that the arrestee was advised of the information contained in the form and that the person was unable to sign or refused to sign.

D. The notice issued to the person tested pursuant to R.S. 32:667 shall include the name and employing agency of all law enforcement officers actively participating in the stop, detention, investigation, or arrest of the person.

E. As used in this Chapter, the term "drug" means any substance or combination of substances that, when taken into the human body, may impair the ability of the person to operate a vehicle safely.

RS 32:661.1 — Operating a watercraft under the influence of alcoholic beverages or controlled

Any person, regardless of age, who operates a motor powered watercraft upon the public navigable waterways of this state shall be deemed to have given consent, subject to the provisions of R.S. 32:662, to a chemical test or tests of his blood, breath, urine, or other bodily substance for the purpose of determining the alcoholic content of his blood and the presence of any drug in his blood if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor powered watercraft, while believed to be under the influence of alcoholic beverages, any drug, combination of drugs, or combination of alcohol and drugs.

(2) The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person, regardless of age, to have been driving or in actual physical control of a motor powered watercraft upon the public navigable waterways of this state while under the influence of either alcoholic beverages, any drug, combination of drugs, or combination of alcohol and drugs. The law enforcement agency by which such officer is employed shall designate which of the aforesaid tests shall be administered.

B. Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal or who has been involved in an accident involving bodily injury or death shall be deemed not to have withdrawn the consent provided by Subsection A of this Section, and the test or tests may be administered subject to the provisions of R.S. 32:662.

C.(1) When a law enforcement officer requests that a person submit to a chemical test as provided for in this Section, he shall first read to the person a standardized form approved by the Department of Public Safety and Corrections. The department is authorized to use such language in the form as it, in its sole discretion, deems proper, provided that the form does inform the person of the following:

(a) His constitutional rights under *Miranda v. Arizona* and subsequent applicable jurisprudence.

(b) That his driving privileges can be suspended for refusing to submit to the chemical test.

(c) That his driving privileges can be suspended if he submits to the chemical test and such test results show a blood alcohol level of 0.08 percent or above or, if he is under the age of twenty-one years, a blood alcohol level of 0.02 percent or above.

(d) The name and employing agency of all law enforcement officers involved in the stop, detention, investigation, or arrest of the person.

(2) In addition, the law enforcement officer, after reading the form, shall request the arrested person to sign the form. If the person is unable or unwilling to sign, the officer shall certify that the arrestee was advised of the information contained in the form and that the person was unable to sign or refused to sign.

D. For purposes of this Section, "public navigable waterways" means any waters within the territorial limits of this state and the marginal sea adjacent to the state and the high seas when navigated as a part of a journey or ride to or from the shore of this state but shall not include privately owned water bodies with no ingress or egress to public waters.

RS 32:661.2 — Operation of a locomotive engine under the influence of alcoholic beverages or

A.(1) Any person who operates a locomotive engine upon the railroad tracks of this state shall be deemed to have given consent, subject to the provisions of R.S. 32:662, to a chemical test or tests of his blood, breath, urine, or other bodily substance for the purpose of determining the alcoholic content of his blood and the presence of any drug in his blood if the person is involved in a collision at a railroad crossing at any roadway of this state alleged to have occurred when the person was driving or in actual physical control of the locomotive engine while believed to be under the influence of an alcoholic beverage, any drug, combination of drugs, or combination of alcohol and drugs.

(2) The test or tests shall be administered at the direction of the law enforcement officer having reasonable grounds to believe the person to have been operating or in physical control of the locomotive engine while under the influence of either an alcoholic beverage, any drug, combination of drugs, or combination of alcohol and drugs. The law enforcement agency by which such officer is employed shall designate which of the aforesaid tests shall be administered.

B. Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal or who has been involved in a railroad crossing collision involving bodily injury or death shall be deemed not to have withdrawn the consent provided by Subsection A of this Section, and the test or tests may be administered subject to the provisions of R.S. 32:662.

C.(1) When a law enforcement officer requests that a person submit to a chemical test as provided for in this Section, he shall first read to the person a standardized form approved by the Department of Public Safety and Corrections. The department is authorized to use such language in the form as it, in its sole discretion, deems proper, provided that the form does inform the person of the following:

(a) His constitutional rights under *Miranda v. Arizona* and subsequent applicable jurisprudence.

(b) The consequences of his refusal to submit to the chemical test.

(c) The name and employing agency of all law enforcement officers involved in the detention, investigation, or arrest of the person.

(2) In addition, the law enforcement officer, after reading the form, shall request the arrested person to sign the form. If the person is unable or unwilling to sign, the officer shall

certify that the arrestee was advised of the information contained in the form and that the person was unable to sign or refused to sign.

D. If a person refuses the request of the law enforcement officer to submit to a chemical test offered pursuant to the provisions of this Section, a test shall not be given without a court order. A written report shall be forwarded by the enforcement officer to the United States Department of Transportation. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime pursuant to the provisions of R.S. 14:98 and that the person had refused to submit to the test upon the request of the peace officer and had been advised of the consequences of the refusal.

RS 32:662 — Administering chemical tests; use of results as evidence

hereafter:

(1) Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of alcoholic beverages the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of the person's blood, urine, breath, or other bodily substance shall give rise to the following presumptions:

(a) Except as provided in Subparagraph (d), if the person had a blood alcohol concentration at that time 0.05 percent or less by weight, it shall be presumed that the person was not under the influence of alcoholic beverages.

(b) Except as provided in Subparagraph (d), if the person had a blood alcohol concentration at that time in excess of 0.05 percent but less than 0.08 percent by weight, such fact shall not give rise to any presumption that the person was or was not under the influence of alcoholic beverages, but such fact may be considered with other competent evidence in determining whether the person was under the influence of alcoholic beverages.

(c) If the person had a blood alcohol concentration at that time of 0.08 percent or more by weight, it shall be presumed that the person was under the influence of alcoholic beverages.

(d) If the person was under the age of twenty-one years at the time of the test and had a blood alcohol concentration at that time of 0.02 percent or more by weight, it shall be presumed that the person was under the influence of alcoholic beverages.

(2) The blood alcohol concentration or level shall be based upon grams of alcohol per one hundred cubic centimeters of blood. Individuals measured through breath shall be afforded the timely option of the administration of a blood test for alcohol content.

B. The provisions of Subsection A of this Section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of alcoholic beverages or any abused substance or controlled dangerous substance as set forth in R.S. 40:964.

C. Except as provided in Paragraph A(2) of this Section, this Section has no application to a civil action or proceeding.

RS 32:662.1 — Admissibility

ent recertification forms, and other certificates or writings made with respect to the chemical analyses of a person's blood, urine, breath, or other bodily substance, shall be admissible as evidence.

RS 32:663 — Approval of testing methods by Department of Public Safety and Corrections

lid under the provisions of this Part, shall have been performed

according to methods approved and promulgated by the Department of Public Safety and Corrections and performed by an individual or laboratory possessing a valid permit issued by said department for the purposes set forth in this Part. The Department of Public Safety and Corrections is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals or laboratories to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the

department in accordance with regulations approved and promulgated by the department pursuant to the Administrative Procedure Act.

(2) Chemical analyses of a person's blood, urine, breath, or other bodily substance may be conducted by an out-of-state individual or laboratory provided that the chemical analyses are performed in accordance with the methods approved and promulgated by the Department of Public Safety and Corrections or are performed by an individual or laboratory possessing a valid permit. Such analyses shall be considered valid under the provisions of this Part and admissible and competent evidence in the courts of this state and in administrative law hearings if performed in accordance with the methods approved and promulgated by the Department of Public Safety and Corrections or are performed by an individual or laboratory possessing a valid permit.

B. The Department of Public Safety and Corrections may use an individual's current certification to a nationally or internationally recognized certification body or a laboratory's current accreditation to an accreditation program based on the international standard, ISO/IEC 17025, with an accreditation scope that includes toxicology or blood alcohol, in its determination of the qualifications and competence of individuals or laboratories as required by Subsection A of this Section prior to the issuance of a permit.

C. Issuance of a permit to such a certified individual or laboratory makes all laboratory forensic test results conducted on a person's blood, urine, or other bodily substance by such individual or laboratory valid under the provisions of this Part, and admissible and competent evidence of intoxication in any court of law or administrative hearing.

RS 32:664 — Persons authorized to administer test

an assistant, registered nurse,

licensed practical nurse, emergency medical technician, chemist, nurse practitioner, or other qualified technician may withdraw blood for the purpose of determining the alcoholic content or presence of any drug, or combination of drugs, therein. No law enforcement officer who is not otherwise qualified as a physician, physician assistant, registered nurse, licensed practical nurse, emergency medical technician, chemist, nurse practitioner, or other qualified technician may withdraw blood for the purpose of determining, or of having determined, the alcoholic content or presence of any drug, or combination of drugs, therein. This limitation shall not apply to the taking of breath specimens. Only procedures approved and promulgated by the Department of Public Safety and Corrections may be used in the analysis of blood, urine, breath, or other bodily substance.

B. After submitting to the chemical test, the person tested may have a physician, physician assistant, chemist, registered nurse, licensed practical nurse, emergency medical technician, nurse practitioner, or other qualified technician of his own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer. The cost of any such additional test shall be at the expense of the tested person. After being advised of this right as provided in R.S. 32:661(C), he shall be given the opportunity to telephone and request a qualified person to administer such test. The failure or inability of the person to obtain an additional test shall not preclude the admission of

evidence relating to the test or tests taken at the direction of a law enforcement officer, unless the person was denied rights guaranteed to him by law.

C. No person who administers any such test upon the request of a law enforcement officer as herein defined, no hospital in or with which such person is employed or otherwise associated or in which such test is administered, and no other person, firm, or corporation by whom or which such person is employed or is in any way associated, shall be in any wise criminally liable for the administration of such test, or civilly liable in damages to the person tested.

D. Repealed by Acts 2022, No. 393, §1.

RS 32:665 — Furnishing of information to person tested

all be made available to him or his attorney.

RS 32:666 — Refusal to submit to chemical test; submission to chemical tests; exception; effects

d R.S. 14:98, 98.6, or any other law or ordinance that prohibits operating a vehicle while intoxicated, that person may not refuse to submit to a chemical test or tests if he has refused to submit to such test or tests on two previous and separate occasions of any previous such violation or in any case wherein a fatality has occurred or a person has sustained serious bodily injury in a crash involving a motor vehicle, aircraft, watercraft, vessel, or other means of conveyance. Serious bodily injury means bodily injury which involves unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death. The law enforcement officer shall direct that a chemical test or tests be conducted of a person's blood, urine, or other bodily substance, or perform a chemical test of such person's breath, for the purpose of determining the alcoholic content of his blood and the presence of any drug, or combination of drugs, in his blood in such circumstances. The officer may direct a person to submit to a breath test, and if indicated, an additional blood test for the purpose of testing for the presence of alcohol, any drug, or combination of drugs. A refusal of any such test or tests shall result in the suspension of driving privileges as provided by the provisions of this Part. A physician, physician assistant, registered nurse, licensed practical nurse, emergency medical technician, chemist, nurse practitioner, or other qualified technician shall perform a chemical test in accordance with the provisions of R.S. 32:664 when directed to do so by a law enforcement officer.

(ii) As used in this Section "law enforcement officer" shall include but not be limited to any commissioned local or state police officer, wildlife enforcement agent, sheriff, deputy sheriff, marshal, deputy marshal, or state park warden.

(b) The law enforcement officer shall inform the person who is required to submit to such testing of the consequences of a refusal to submit to any testing as required by this Paragraph.

(c) Any person who refuses to submit to a chemical test as required by the provisions of this Paragraph shall be fined not less than three hundred dollars nor more than one thousand dollars and imprisoned for not less than ten days nor more than six months. Imposition or execution of sentence shall not be suspended unless:

(i) The offender is placed on probation with a minimum condition that he serve two

days in jail and participate in a court-approved substance abuse program and participate in a court-approved driver improvement program; or

(ii) The offender is placed on probation with a minimum condition that he perform four eight-hour days of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program, participate in a court-approved substance abuse program, and participate in a court-approved driver improvement program. An offender who participates in a litter abatement or collection program pursuant to this Subparagraph shall have no cause of action for damages against the entity conducting the program or supervising his participation therein, including a municipality, parish, sheriff, or other entity, nor against any official, employee, or agent of such entity, for any injury or loss suffered by him during or arising out of his participation in the program, if such injury or loss is a direct result of the lack of supervision or act or omission of the supervisor, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the entity or its official, employee, or agent.

(2) In all cases other than those in Paragraph (1) of this Subsection, a person under arrest for a violation of R.S. 14:98, 98.1, or other law or ordinance that prohibits operating a vehicle while intoxicated may refuse to submit to such chemical test or tests, after being advised of the consequences of such refusal as provided for in R.S. 32:661(C), subject to the following:

(a) His license shall be seized under the circumstances provided in R.S. 32:667.

(b) If he is a resident without a license or permit to operate a motor vehicle in this state, the department shall deny the issuance of a license or permit to such person for a period of six months after the date of the alleged violation.

(c) Evidence of his refusal shall be admissible in any criminal action or proceeding arising out of acts alleged to have been committed while the person, regardless of age, was driving or in actual physical control of a motor vehicle upon the public highways of this state while under the influence of alcoholic beverages or any drug, or combination of drugs. Additionally, evidence of his refusal shall be admissible in any criminal action or proceeding arising out of acts alleged to have been committed while the person under twenty-one years of age was driving or in actual physical control of a motor vehicle upon the public highways of this state after having consumed alcoholic beverages. However, such evidence shall not be admissible in a civil action or proceeding other than to suspend, revoke, or cancel his driving privileges.

(3) In all cases where a person is under arrest for a violation of R.S. 14:98, 98.6, or other law or ordinance that prohibits operating a vehicle while intoxicated who refuses to submit to a chemical test or tests if he has refused to submit to a chemical test on two previous and separate occasions of any previous such violation shall be advised that the consequences of such refusal shall be subject to criminal penalties under the provisions of R.S. 14:98.7.

B. In each instance that a person submits or refuses to submit to a chemical test, after being advised of the consequences of such refusal or submission as provided for in R.S. 32:661(C), the officer shall submit a report in a form approved by the secretary. The officer

shall certify that the officer had reasonable grounds to believe that the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of alcoholic beverages, any drug, combination of drugs, or combination of alcohol and drugs; that the officer had followed the procedure in informing such person of his rights under R.S. 32:661(C); and that such person had submitted to the test or refused to submit to the test upon the request of the officer. In the case of a submission to the test, the officer shall provide complete information regarding the test as may be available at the time that the certified report is completed.

C. In cases where electronic signatures are used, the officer shall affix his electronic signature to the report in the manner approved by the Department of Public Safety and Corrections.

D. Repealed by Acts 2022, No. 393, §1.

RS 32:667 — Seizure of license; circumstances; temporary license

r municipal ordinance that prohibits operating

a vehicle while intoxicated, and the person either refuses to submit to an approved chemical test for intoxication, or submits to the test and the test results show a blood alcohol level of 0.08 percent or above by weight or, if the person is under the age of twenty-one, a blood alcohol level of 0.02 percent or above by weight, the following procedures shall apply:

(1) The officer shall seize the driver's license of the person under arrest and shall issue in its place a temporary receipt of license on a form approved by the Department of Public Safety and Corrections. Such temporary receipt shall authorize the person to whom it has been issued to operate a motor vehicle upon the public highways of this state for a period not to exceed thirty days from the date of arrest or as otherwise provided herein.

(2)(a) The temporary receipt shall also provide and serve as notice to the person that he has not more than thirty days from the date of arrest to make written request to the Department of Public Safety and Corrections for an administrative hearing in accordance with the provisions of R.S. 32:668.

(b) In the event the arrested person was unable to make a timely request for an administrative hearing during the thirty day period provided for in Subparagraph (a) of this Paragraph due to incarceration, hospitalization, or any other cause acceptable to the department, the person may submit such documentation to the department which shall establish the person's inability to timely request the administrative hearing. Any request for an administrative hearing pursuant to this Subparagraph shall be submitted no later than ninety days from the date of arrest. The department shall promulgate such rules as are necessary to implement this Subparagraph including a rule defining what is acceptable documentation to establish the person's inability to make a timely request for an administrative hearing. The denial of an administrative hearing request made pursuant to this Subparagraph may be reviewed in the same manner and under the same conditions as is provided in R.S. 32:668(C).

(3) In a case where a person submits to an approved chemical test for intoxication, but the results of the test are not immediately available, the law enforcement officer shall comply with Paragraphs (1) and (2) of this Subsection, and the person shall have thirty days

from the date of arrest to make written request for an administrative hearing. If after thirty days from the date of arrest the test results have not been received or if the person was twenty-one years of age or older on the date of arrest and the test results show a blood alcohol level of less than 0.08 percent by weight, then no hearing shall be held and the license shall be returned without the payment of a reinstatement fee. If the person was under the age of twenty-one years on the date of arrest and the test results show a blood alcohol level of less than 0.02 percent by weight, then no hearing shall be held and the license shall be returned without the payment of a reinstatement fee.

(4) If the vehicle is operable and a passenger in the vehicle who is not under the influence of alcohol has a valid driver's license, the officer shall allow the passenger to take control of the vehicle and shall not order or procure towing services for the vehicle. If the vehicle does not create a hazard or obstruction to traffic and the motoring public, and if there is no passenger in the vehicle who possesses a valid driver's license and who is not under the influence of alcohol, the officer, before ordering or procuring towing services, shall allow the arrestee a reasonable time and opportunity to contact another person to take possession or control of the vehicle on behalf of the arrestee. Reasonable time to notify and take possession of the vehicle shall be in the sole discretion of the officer. However, the law enforcement agency, the law enforcement officer, the state, and the political subdivision shall not be liable for damages, injuries, or deaths occasioned by the vehicle not being towed immediately or by another person taking possession or control of the vehicle on behalf of the arrestee. If a law enforcement officer violates the provisions of this Paragraph, his employing agency rather than the arrestee shall be responsible for the payment of any towing charges incurred.

B. If written request is not made by the end of the thirty-day period, the person's license shall be suspended as follows:

(1)(a) If the person submitted to the test and the test results show a blood alcohol level of 0.08 percent or above by weight, his driving privileges shall be suspended for one hundred eighty days from the date of suspension on first offense violation and for three hundred sixty-five days from the date of suspension on second and subsequent violations occurring within five years of the first offense. If the person was under the age of twenty-one years on the date of the test and the test results show a blood alcohol level of 0.02 percent or above by weight, his driving privileges shall be suspended for one hundred eighty days from the date of suspension.

(b) If the person submitted to the test and the test results show a blood alcohol level of 0.15 percent or above by weight, his driving privileges shall be suspended for two years from the date of suspension on first offense violation and for four years from the date of suspension for second offense violation.

(2) If the person refused to submit to the test, his driving privileges shall be suspended as follows:

(a) Except as otherwise provided in this Paragraph, one year from the date of suspension on a refusal.

(b) One year, without benefit of eligibility for a hardship license, in the event that a

fatality occurred or a person sustained serious bodily injury as a result of an accident and the person's intoxication is determined by a trier of fact to be the contributing factor of the fatality or serious bodily injury.

(c)(i) Two years from the date of suspension on the second and subsequent refusal occurring within ten years of the date of a refusal to submit to the test.

(ii) Two years from the date of suspension on the second and subsequent refusal occurring within ten years of the date of a refusal to submit to the test, without the benefit of eligibility for a hardship license in the event that a fatality occurred or a person sustained serious bodily injury as a result of an accident and the person's intoxication is determined by a trier of fact to be the contributing factor of the fatality or serious bodily injury.

(3)(a) However, any licensee who has had his license suspended for a first or second offense of operating a motor vehicle while under the influence of alcoholic beverages under the provisions of this Subsection and who either refused to submit to the test or who submitted to the test and the test showed a blood alcohol level of less than 0.15 percent shall, upon proof to the Department of Public Safety and Corrections that his motor vehicle has been equipped with a functioning ignition interlock device, be immediately eligible for and shall be granted a restricted license. In the event that the department fails or refuses to issue the restricted driver's license, the district court for the parish in which the licensee resides may issue an order directing the department to issue the restricted license either by ex parte order or after contradictory hearing.

(b) If the person submitted to the test as a result of a first violation and the test results show a blood alcohol level of 0.15 percent or above by weight, the person shall be eligible for a hardship license during the entire period of the imposed two-year suspension after the person has provided proof that his motor vehicle has been equipped with an ignition interlock device. A functioning ignition interlock device shall remain installed on his motor vehicle during the period of his driver's license suspension.

(c) If the person submitted to the test as a result of a second violation and the test results show a blood alcohol level of 0.15 percent or above by weight, the person shall be eligible for a hardship license during the entire four-year period of the suspension after the person has provided proof that his motor vehicle has been equipped with an ignition interlock device. A functioning ignition interlock device shall remain installed on his motor vehicle during the four-year period of his driver's license suspension.

(4) For the purposes of this Section, driving privileges shall include, but not be limited to, the operation or physical control of a watercraft upon the waterways of this state. Any suspension or revocation of driving privileges provided for in this Section shall also prohibit the operation or physical control of a watercraft upon the waterways of this state during the time period of the suspension or revocation.

C. The department shall develop a uniform statewide form for temporary receipt of licenses which shall be used by all state and local law enforcement officials. This form, or a separate form, shall be issued to the person arrested to provide a means for him to request an administrative hearing.

D.(1) Upon receipt of a request for an administrative hearing, the Department of

Public Safety and Corrections shall issue a document extending the temporary license, which shall remain in effect until the completion of administrative suspension, revocation, or cancellation proceedings. The Department of Public Safety and Corrections shall forward the record of the case to the division of administrative law for a hearing within sixty days of the receipt of the written request for an administrative hearing.

(2) Oversight review of rules and regulations promulgated by the secretary under the provisions of this Part shall be conducted by the House Committee on Transportation, Highways and Public Works and the Senate Committee on Transportation, Highways and Public Works.

E. The division of administrative law shall provide for a hearing to determine suspension or revocation of driving privileges. A continuance may be granted for good cause shown.

F. When a license has been suspended under the provisions of this Section and the person is also convicted of or pleads guilty to an offense arising out of the same occurrence, any suspension of license imposed for such offense shall run concurrently with the suspension provided by this Section and the total period of suspension shall not exceed the longer of the two periods.

G. Notwithstanding the provisions of any other law, any person whose license has been suspended under the provisions of this Section, shall, after completion of the period of suspension, be required to pay a reinstatement fee of fifty dollars to the department for the return of his license.

H.(1)(a) When any person's driver's license has been seized, suspended, or revoked, and the seizure, suspension, or revocation is connected to a charge or charges of violation of a criminal law, and the charge or charges do not result in a conviction, plea of guilty, or bond forfeiture, the person charged shall have his license immediately reinstated and shall not be required to pay any reinstatement fee if at the time for reinstatement of driver's license, it can be shown that the criminal charges have been dismissed or that there has been a permanent refusal to charge a crime by the appropriate prosecutor or there has been an acquittal. If, however, at the time for reinstatement, the licensee has pending against him criminal charges arising from the arrest which led to his suspension or revocation of driver's license, the reinstatement fee shall be collected. Upon subsequent proof of final dismissal or acquittal, other than under Code of Criminal Procedure Article 893 or 894, the licensee shall be entitled to a reimbursement of the reinstatement fee previously paid. In no event shall exemption from this reinstatement fee or reimbursement of a reinstatement fee affect the validity of the underlying suspension or revocation.

(b) When any person's driver's license has been suspended in connection to a first offense violation of R.S. 14:98, the office of motor vehicles shall suspend the person's driver's license consistent with the blood alcohol concentration reflected in the final case disposition and sentencing minutes. The administrative suspension for any chemical test submission shall be updated to be consistent with the blood alcohol concentration reflected in the final case disposition and sentencing minutes.

(2) If a licensee qualifies for the exemption from the reinstatement fee or for a

reimbursement of the reinstatement fee as provided in Paragraph (1) of this Subsection, the licensee shall receive credit for the unexpired portion of the license which was seized, and shall be exempt from the payment of, or shall receive reimbursement for the payment of, the duplicate license fee and the handling fee with regard to the license which was seized.

(3) Paragraph (1) of this Subsection shall not apply to a person who refuses to submit to an approved chemical test upon a second or subsequent arrest for R.S. 14:98 or 98.6, or a parish or municipal ordinance that prohibits driving a motor vehicle while intoxicated. However, this Paragraph shall not apply if the second or subsequent arrest occurs more than ten years after the prior arrest. The department's records of arrests made for operating a vehicle while intoxicated, as certified by the arresting officer pursuant to R.S. 32:666(B), shall be used to determine the application of the provisions of this Paragraph. In the event the suspension arising out of such arrest has been reversed or recalled including any reversal or recall as a result of an administrative hearing or judicial review, then that arrest related to that suspension shall not be used to determine if this Paragraph applies to a driver's license reinstatement.

I.(1) In addition to any other provision of law, an ignition interlock device shall be installed in any motor vehicle operated by any of the following persons whose driver's license has been suspended in connection with the following circumstances as a condition of the reinstatement of such person's driver's license:

(a) Any person who has refused to submit to an approved chemical test for intoxication, after being requested to do so, for a first, second, or subsequent arrest of R.S. 14:98 or 98.6 or a parish or municipal ordinance that prohibits operating a vehicle while intoxicated and whose driver's license has been suspended in accordance with law.

(b) Any person who has submitted to an approved chemical test for intoxication where the results indicate a blood alcohol level of 0.08 percent or above and whose driver's license has been suspended in accordance with the law for an arrest occurring within ten years of the first arrest.

(c) Any person who is arrested for a violation of R.S. 14:98, 98.6, or a parish or municipal ordinance that prohibits operating a vehicle while intoxicated and is involved, as a driver, in a traffic crash which involves moderate bodily injury or serious bodily injury as defined in R.S. 32:666(A).

(d) Any person who is arrested for a violation of R.S. 14:98, 98.6, or a parish or municipal ordinance that prohibits operating a vehicle while intoxicated and a minor child twelve years of age or younger was a passenger in the motor vehicle at the time of the commission of the offense.

(2) As to any person enumerated in Paragraph (1) of this Subsection, the ignition interlock device shall remain on the motor vehicle for a period of not less than six months. The ignition interlock device may be installed either prior to the reinstatement of the driver's license, if the person has lawfully obtained a restricted driver's license, or as a condition of the reinstatement of the driver's license. When the driver's license is suspended as described in this Subsection, the ignition interlock device shall remain on the motor vehicle for the same period as the suspension, with credit for time when the interlock device was installed

and functioning as part of a restricted driver's license, or with credit for time when the ignition interlock device is monitored in accordance with R.S. 32:378.2(M).

(3) The provisions of this Subsection shall not abrogate any other provision of law regarding the installation and maintenance of ignition interlock devices.

(4) When an ignition interlock device is required as a condition of reinstatement, the office of motor vehicles shall designate a restriction code and place such code on the license of a driver who is required to have an ignition interlock installed and maintained as a condition of reinstatement.

(5) The department's records of arrests made for operating a vehicle while intoxicated, as certified by the arresting officer pursuant to R.S. 32:666(B), shall be used to determine the application of the provisions of this Subsection. In the event the suspension arising out of such arrest has been reversed or recalled, then that arrest related to that suspension shall not be used to determine if this Subsection applies to a driver's license reinstatement.

J. Upon notice to the department that a driver has prematurely removed or disabled, or caused to be prematurely removed or disabled, an ignition interlock device required as condition of reinstatement pursuant to Subsection I of this Section, the department shall mail notice to the driver that his license is suspended until such time as the department receives sufficient proof that the driver has had the ignition interlock device properly reinstalled and paid all applicable reinstatement fees. Upon reinstatement, the driver shall receive credit only for the time period when the ignition interlock device was installed and functioning.

RS 32:667.1 — Seizure of license upon arrest for vehicular homicide; issuance of temporary license;

. 14:32.1 (vehicular homicide), and a certificate of arrest has not already been submitted to the office of motor vehicles pursuant to R.S. 32:666(B) for a submission or refusal to submit to the chemical test, the following procedure shall apply:

(1) The officer shall seize the driver's license of a person under arrest and shall issue in its place a temporary receipt of license on a form approved by the Department of Public Safety and Corrections. The temporary receipt shall authorize the person to whom it has been issued to operate a motor vehicle upon the public highways of this state for a period not to exceed thirty days from the date of arrest or until the hearing can be conducted as provided for in this Section, whichever occurs first.

(2) The temporary receipt shall also serve as notice to the person under arrest that he has fifteen days from the date of arrest to make a written request to the court for a contradictory hearing in accordance with the provisions of this Section.

B. If a written request is not made within the fifteen-day period, the person's license shall be suspended for one year, without benefit of eligibility for a hardship license.

C.(1) Upon receipt of a request for a contradictory hearing, the court shall issue a document extending the temporary license, which shall remain in effect until the completion of the suspension proceedings.

(2) The court shall conduct a contradictory hearing to determine whether a chemical test has been performed of the blood, urine, or other bodily substance of the person arrested and whether the test indicates the presence of alcohol, any drug, or any combination of drugs.

The scope of the hearing shall be limited to the issues provided for in this Paragraph.

(3) If the court determines that the test provided for in Paragraph (2) of this Subsection indicates the presence of alcohol, any drug, or any combination of drugs, then the court shall suspend the driver's license of any person arrested for a violation of R.S. 14:32.1 (vehicular homicide) for one year, without benefit of a hardship license.

D.(1) If the person is convicted of the crime of vehicular homicide, his license shall be suspended for a period of two years following his release from incarceration with credit for the time in which the license was suspended prior to conviction.

(2) If the charge of vehicular homicide does not result in a conviction, plea of guilty, or bond forfeiture, the person charged shall have his license immediately reinstated and shall not be required to pay any reinstatement fee if, at the time for reinstatement of driver's license, it can be shown that the criminal charges have been dismissed, there has been a permanent refusal to charge a crime by the appropriate prosecutor, or there has been an acquittal.

E. The court shall notify the Department of Public Safety and Corrections when it has suspended a license or taken any other action pursuant to the provisions of this Section.

RS 32:668 — Procedure following revocation or denial of license; hearing; court review; review of operating privilege

of any person or upon determining that the issuance of a license or permit shall be denied to the person, the Department of Public Safety and Corrections shall immediately notify the person in writing and upon his request shall afford him an opportunity for a hearing based upon the department's records or other evidence admitted at the hearing, and in the same manner and under the same conditions as is provided in R.S. 32:414 for notification and hearings in the case of suspension of licenses, except that no law enforcement officer shall be compelled by such person to appear or testify at such hearing, and there shall be a rebuttable presumption that any inconsistencies in evidence submitted by the department and admitted at the hearing shall be strictly construed in favor of the person regarding the revocation, suspension, or denial of license. The scope of such a hearing for the purposes of this Part shall be limited to the following issues:

(1) Whether a law enforcement officer had reasonable grounds to believe that the person, regardless of age, had been driving or was in actual physical control of a motor vehicle upon the public highways of this state, or had been driving or was in actual physical control of a motor-powered watercraft upon the public navigable waterways of this state, while under the influence of either alcoholic beverages or any drug, combination of drugs, or combination of alcohol and drugs.

(2) Whether the person was placed under arrest.

(3) Whether he was advised by the officer as provided in R.S. 32:661.

(4) Whether he voluntarily submitted to an approved chemical test and whether the test resulted in a blood alcohol reading of 0.08 percent or above by weight, or of 0.02 percent or above if he was under the age of twenty-one years on the date of the test.

(5) Whether he refused to submit to the test upon the request of the officer.

(6) Such additional matters as may relate to the legal rights of the person, including

compliance with regulations promulgated by the Department of Public Safety and Corrections and rights afforded to the person by law or jurisprudence.

B.(1)(a) In a case of first or second refusal, or a first or second submission to a test for intoxication, if suspension is otherwise proper, upon a showing of proof satisfactory to the department that an approved and functioning ignition interlock device has been installed in the vehicle the person shall drive, and that the suspension of driving privileges would prevent the person from earning a livelihood, the department may:

(i) Require the licensee to surrender his regular license and issue in its stead at a cost to the person of fifty dollars plus the cost of the license a special restricted operator's license designated as such by a large red R printed on the face of the license, to be effective for the remaining period of suspension.

(ii) Designate in writing, and upon application of the person to amend as necessary, the routes over which and the times during which the restricted licensee shall be permitted to operate designated motor vehicles in order to earn his livelihood, which written restrictions shall be attached to the restricted license and kept with it at all times.

(b) No person who has refused a chemical test for intoxication is eligible for a restricted license for the first ninety days of the suspension. When a person submits to a chemical test and the results show a blood alcohol level of 0.08 percent or above by weight, or of 0.02 percent or above if the person was under the age of twenty-one years on the date of the test, he is not eligible for a restricted license for the first thirty days of the suspension.

(c) However, any licensee who has had his license suspended for a first or second offense of operating a motor vehicle while under the influence of alcoholic beverages under the provisions of this Subsection, shall, upon proof of need to the Department of Public Safety and Corrections, be immediately eligible for and shall be issued an ignition interlock restricted license sufficient to maintain livelihood or allow the licensee to maintain the necessities of life. In the event that the department fails or refuses to issue the restricted driver's license, the district court for the parish in which the licensee resides may issue an order directing the department to issue the ignition interlock restricted license either by ex parte order or after contradictory hearing.

(2) However, the department shall immediately cancel and seize the restricted license upon receiving satisfactory evidence of violation of the restrictions, and no person shall have driving privileges of any kind for a period of six months from the receipt by the department of the cancelled restricted license.

C.(1) After a person has exhausted his remedies with the department, he shall have the right to file a petition in the appropriate court for a review of the final order of suspension or denial by the Department of Public Safety and Corrections in the same manner and under the same conditions as is provided in R.S. 32:414 in the cases of suspension, revocation, and cancellation of licenses. The court in its review of the final order of suspension or denial by the Department of Public Safety and Corrections may exercise any action it deems necessary under the law including ordering the department to grant the person restricted non-commercial driving privileges where appropriate as provided in Subsection B of this Section.

(2) Upon filing a petition for review, the licensee shall serve the Department of

Public Safety and Corrections with a copy of the petition and summons. Upon receipt of a copy of the petition for review, the department shall issue the licensee driving privileges, which shall be valid until the decision on the petition for review is final. The court on its own motion, or on the motion of either party, may modify or vacate such driving privileges upon a showing of good cause.

D. Any person who has his license suspended, revoked, or is subject to installation of an ignition interlock device pursuant to R.S. 32:667(I) or R.S. 14:98, 98.1, 98.2, 98.3, or 98.4 shall receive credit for the time period of which the ignition interlock device was installed.

RS 32:668.1 — Procedure following revocation or denial of license; discovery

. 32:668, shall not include depositions of law enforcement witnesses.

RS 32:669 — Suspension of nonresident's operating privilege; notification to state of residence

test as provided for in R.S. 32:661 et seq., the arresting officer or agency shall notify the department, which shall give information, in writing, to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license.

B. When it has been finally determined that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the Department of Public Safety shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license.

RS 32:670 — Test results for persons under the age of twenty-one; exclusion from official driving record

of level of at least 0.02 but less than 0.08 percent shall not be included on his official driving record. However, this provision shall not prohibit the use of those results for administrative purposes or for obtaining a conviction, or the use of a conviction obtained based on those results for any purpose allowed by law.

RS 32:671 — Responsibilities of the Department of Public Safety and Corrections, office of state police; interstate highways

its best efforts to respond to calls placed by motorists from call boxes located along Interstate 10 as it crosses the Atchafalaya River Basin between the West Atchafalaya Basin Protection Levee and the East Atchafalaya Basin Protection Levee, or to relay the calls to the appropriate law enforcement agency.

RS 32:681 — Postaccident drug testing; accidents involving fatalities; required

, including waterways, shall be deemed to have given consent

to, and shall be administered, a chemical test or tests of his blood, urine, or other bodily substances for the purpose of determining the presence of any drug, combination of drugs, or any other impairing substance, under any of the following circumstances:

- (1) A fatality occurs.
- (2) It is foreseeable that a citation for a traffic violation or an arrest is imminent and the investigating officer finds that a bodily injury occurred that is rated as "suspected serious injury" on the Uniform Motor Vehicle Traffic Crash Report.
- (3) The operator voluntarily agrees to submit to a chemical test.
- (4) A search warrant is issued, ordering the collection and testing of any bodily substance for purposes of this Section.

B. The test or tests required pursuant to Subsection A of this Section shall be

administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been operating or in actual physical control of a motor vehicle upon the public highways of this state which is involved in a collision or crash or to have been operating or in physical control of a watercraft on the waterways of this state involved in a collision, crash, or other casualty in which a suspected serious injury or a fatality occurs, in order to determine the presence of any drug, combination of drugs, or any other impairing substance. The law enforcement agency by which such officer is employed shall designate in writing under what conditions the test or tests shall be administered.

C. In the case of all traffic or boating fatalities, the coroner or his designee shall perform or cause to be performed a toxicology screen on the deceased victim or victims for determining evidence of the presence of any drug, combination of drugs, or any other impairing substance which shall include the extracting of all bodily substance samples necessary for such toxicology screen. The coroner or his designee shall be responsible for ensuring that the body is not removed from his custody until such time as the bodily substance samples are extracted. The coroner's report shall be made available to the investigating law enforcement agency and may be admissible in any court of competent jurisdiction as evidence of the presence of any drug, combination of drugs, or any other impairing substance at the time of the fatality. Nothing in this Subsection shall be construed to limit the authority of the investigating law enforcement agency from conducting an investigation of the accident scene concurrently with the coroner or his designee.

D. Any chemical test or tests of a person's blood, urine, or other bodily substance for the purpose of determining the presence of any drug, combination of drugs, or any other impairing substance shall be administered in the same manner and subject to the provisions of Part XIV of this Chapter.

E. For the purposes of this Section, "suspected serious injury", as provided for in the Fourth Edition of the Model Minimum Uniform Crash Criteria Guideline, means any injury other than fatal which results in any of the following:

- (1) Severe laceration resulting in exposure of underlying tissues, muscle, or organs, or resulting in a significant loss of blood.
- (2) Broken or distorted extremity.
- (3) Crush injuries.
- (4) Suspected skull, chest, or abdominal injury other than bruises or minor lacerations.
- (5) Significant burns.
- (6) Unconsciousness when taken from the crash scene.
- (7) Paralysis.

F. Neither the law enforcement officer nor the law enforcement agency employing the law enforcement officer shall be liable, civilly or criminally, for any action or omission taken in response to this Section.

G. This Section shall be known and may be cited as "Katie Bug's Law".

H. As used in this Section, the term "drug" means any substance or combination of substances that, when taken into the human body, may impair the ability of the person to

operate a vehicle safely.

RS 32:691 — Louisiana Trucking Research and Education Council; purpose

development, highway safety, highway planning, and public education. The purpose of the Louisiana Trucking Research and Education Council is to promote education, training, research, and development for enhanced safety and efficiency within the industry.

RS 32:692 — Creation; membership; salary

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RS 32:693 — Jurisdiction; powers

powers:

- (1) To develop programs and projects that carry out the purpose of the council, including but not limited to enhancing safety and training, providing for research and development, and educating the public.
- (2) To provide for the payment of all council costs with funds collected pursuant to this Part.
- (3) To coordinate council activities with the industry associations and others, as appropriate, to provide efficient delivery of services and avoid unnecessary duplication of efforts and activities.
- (4) To contract with any public or private person, partnership, association, or corporation to carry out the purpose of the council.
- (5) To apply for, receive, and accept grants, loans, advances, and contributions from any source of money, property, labor, or other things of value, to be held, used, and applied for the council's purposes.
- (6) To enter into cooperative endeavor agreements with the LMTA Foundation, Inc., or its successor entity, a nonprofit corporation, for the use of staff and resources to carry out the powers and duties of the council.

RS 32:694 — Surcharge assessment; collection

Class 2 registration fees

for trucks and trailers in excess of 23,999 pounds, pursuant to R.S. 47:462(B)(3)(a), and shall be paid in addition to and simultaneous with any annual registration or license tax, as provided in R.S. 462(B)(3)(a) and 511.

B. The surcharge shall be collected by the commissioner of the Department of Public Safety and Corrections, office of motor vehicles, at the issuance of any annual registration or license tax.

C. There is hereby created a statutorily dedicated fund account within the state treasury known as the "Trucking Research and Education Council Fund Account" which shall consist of those revenues derived from the surcharge collected pursuant to this Section. Monies in the fund account shall be invested in the same manner as monies in the general fund. Interest earned on the investment of monies in the fund account shall be credited to the fund account. Monies deposited into the fund account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget,

supporting documents, and general appropriation bills. Monies in the fund account shall be used as provided in Subsection D of this Section. All unexpended and unencumbered monies in this statutorily dedicated fund account at the end of the fiscal year shall remain in the account.

D. Subject to legislative appropriation, the gross amount collected shall be paid by the commissioner of the Department of Public Safety and Corrections, office of motor vehicles, to the council on a quarterly basis. The quarterly payments made to the council shall be made on or before the fifteenth day of the succeeding quarter and shall be accompanied by a complete audit of all funds collected.

RS 32:701 — Short title

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RS 32:702 — Definitions

r of a federally insured financial institution

operating in Louisiana who is designated to witness the endorsement of a seller, on behalf of a federally insured financial institution, for the purpose of executing the transfer of a titled motor vehicle or titled vehicle in accordance with the requirements of this Chapter. A federally insured financial institution may designate one or more officers to serve as authorized officers.

(3) "Auto hulk" means any material which is or may have been a motor vehicle, with or without all component parts, which is not self-propelled nor capable of carrying persons or property upon a public highway and which material is in such condition that its highest or primary value is its sale or transfer as parts or scrap metal.

(4) "Auto title company" means any person, firm, association, or corporation which is engaged primarily in the transfer and recordation of sales, leases, or mortgages of vehicles including but not limited to mobile homes, trailers, and motor vehicles. The term "auto title company" also means any person, firm, association, corporation, local governmental subdivision, political subdivision, or state agency which has entered into a contract in accordance with the provisions of R.S. 32:735 et seq. An auto title company shall not mean an insurance company transferring titles to wrecked vehicles, or a licensed motor vehicle dealer, lending institution, financial institution regulated by state or federal authorities, notary, attorney, or individual applicant unless it or he is doing business as an auto title company.

(5) "Certificate of destruction" means a type of certificate of title issued by the office of motor vehicles for a "water-damaged vehicle" other than an antique vehicle or a vehicle in excess of twenty thousand pounds gross vehicle weight rating (GVWR), whose power train, computer, or electrical system has been damaged by flooding as the result of a gubernatorially declared disaster or emergency and that is a "total loss" as defined in this Section. The certificate of destruction shall be reassignable a maximum of two times prior to dismantling or destruction of the vehicle.

(6)(a) "Commissioner" shall mean the director of public safety as provided for in R.S. 40:1301, who, in addition to all other powers granted and duties imposed by law, shall have all powers granted and perform such duties as are imposed on the commissioner by this

Chapter.

(b) Any duly authorized representative of the commissioner when acting under his authority and direction, shall have the same power as is conferred on the commissioner by this Chapter.

(7)(a) "Dealer" shall mean any person engaged in the business of buying, selling or exchanging motor vehicles which are subject to license under Chapter 4 of the Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

(b) The term dealer shall also mean any person engaged in the business of buying, selling or exchanging used parts or used accessories of motor vehicles.

(c) Any person who buys, sells, or deals in ten or more motor vehicles in any twelve month period shall be prima facie presumed to be engaged in such business.

(d) The term "Dealer" does not include: public officers while performing their official duties; receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the judgment or order of any court; banks, finance companies or other loan agencies that acquire motor vehicles as an incident to their regular business; motor vehicle rental and leasing companies that sell motor vehicles to motor vehicle dealers licensed under this Section; and bona fide fleet purchasers of motor vehicles.

(8) "Floor plan loan" shall mean any loan made to a licensed vehicle dealer and secured by a chattel mortgage entered into prior to the effective date

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of Chapter 9 of the

Louisiana Commercial Laws (R.S. 10:9-101 et seq.) which constitute a part of the dealer's stock in trade, and which may change in specifics, held for sale in the ordinary course of business.

(9) "Manufacturer" means any person regularly engaged in the business of manufacturing or assembling new motor vehicles, either within or without this state.

(10) "Manufacturer's certificate" means a certificate on a form to be prescribed by the commissioner, and furnished by the manufacturer, showing the original transfer of a new vehicle from the manufacturer to the original purchaser, and each subsequent transfer between distributor and dealer, dealer and dealer, and dealer to owner, through and including the transfer to the title applicant.

(11) "Person" shall mean any individual, firm, corporation, partnership or association.

(12) "Salesman" shall mean any person who for a compensation or valuable consideration is employed or engaged either directly or indirectly by a "dealer" to sell or offer to sell, buy or offer to buy, exchange or offer to exchange, or negotiate the purchase or sale or exchange, or assist in negotiating the purchase or sale or exchange, either as a whole or partial vocation, of motor vehicles which are subject to license under Chapter 4 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

(13) "Salvage title" shall mean a certificate used to evidence the declaration in an insurance settlement that a motor vehicle is a "total loss" motor vehicle as provided in this Chapter, to be prescribed and distributed by the office of motor vehicles, to an insurance

company, its authorized agent, or the owner of a "total loss" motor vehicle.

(14) "Total loss" means a motor vehicle which has sustained damages equivalent to seventy-five percent or more of the market value as determined by the most current National Automobile Dealers Association Handbook. However, a motor vehicle that sustains cosmetic damages caused by hail equivalent to seventy-five percent or more of its market value as a result of costs for repairs to items such as windshields, windows, and rear glass, exterior paint and paint materials, and body damage such as dents shall not be deemed a "total loss" and salvaged; however, such vehicles shall be issued a branded title indicating the vehicle has sustained hail damage.

(15) "User" shall mean any person who acquires a vehicle for purposes other than resale and is required to register same under the provisions of the Louisiana Vehicle Registration License Tax Law, Chapter 4 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

(16) "Vehicle" shall include those devices sometimes referred to as factory-built homes as defined in R.S. 9:1149.2, whether or not they may be required to be registered or licensed in accordance with other laws, and except as otherwise expressly provided herein, the provisions of this Chapter shall apply to the sale and mortgaging thereof. Neither the inclusion or exclusion of any property in or from the definition of vehicle for purposes of this Chapter, nor any other provision in this Chapter, is intended to affect in any way the status, as determined in accordance with other laws, of the property for purposes of ad valorem property taxation, or for any other taxes presently levied, or for the purposes of insurance classification.

(17) "Water-damaged vehicle" means any vehicle whose power train, computer, or electrical system has been damaged by flooding and that is a "total loss" as defined in this Section.

RS 32:703 — Offices of commissioner

the provisions of this Chapter. The custodian of the capitol building shall provide therein adequate quarters for the offices and records of the vehicle commissioner.

RS 32:703.1 — Repealed by Acts 1997, No. 1116, §2.

Monroe, Louisiana 70804-9062

RS 32:704 — Applicability

and licensed under the provisions of Chapter 4 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, and prior to the time Chapter 9 of the Louisiana Commercial Laws (R.S. 10:9-101, et seq.) becomes effective,

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to the chattel mortgaging of vehicles by dealers to secure floor plan loans, except that there is specifically excluded from the provisions of this Chapter the sale, but not the chattel mortgaging of or the granting of a security interest on a new vehicle prior to the first sale of such new vehicle to a user, as defined herein. Such exclusion, however, does not exempt from the provisions of this Chapter such first sale made to a user as defined herein. Floor plan loans entered into after Chapter 9 of the Louisiana Commercial Laws becomes effective may be secured as provided therein.

B. Repealed by Acts 2001, No. 128, §18, eff. July 1, 2001.

C. The Department of Public Safety and Corrections shall promulgate rules and regulations to govern this Chapter pursuant to R.S. 49:950 et seq.

RS 32:705 — Acceptance and delivery of certificate

title issued under this Chapter in the

name of the seller with such signed endorsement of sale and assignment thereon as may be necessary to show title in the purchaser; provided:

(1) A bonded dealer shall provide the purchaser the certificate of title within twenty days.

(2) A dealer who is reselling a vehicle that he purchased for stock purposes from an owner who, at the time of such purchase, delivered to the dealer an existing certificate of title issued under this Chapter in the name of such owner, properly endorsed, may, in lieu of applying for and obtaining a new certificate of title in his own, the dealer's, name, and delivering the same to the purchaser, instead execute a resale and reassignment of such existing certificate of title, with warranty of title.

(3) A dealer who is reselling a vehicle that he purchased for stock purposes, and for which no certificate of title exists under this Chapter shall, in lieu of applying for and obtaining a certificate of title in his own, the dealer's, name, and delivering same to the purchaser, note the fact of nonexistence and the reasons therefor, including name and address of the party, whether factory, distributor, or other person, from whom the vehicle was obtained, on a form to be prescribed and furnished by the commissioner, and deliver said form duly signed to such purchaser at the time of sale; however, as to vehicles of the model year 1957 or any later model year, the dealer shall, if the vehicle is of the model year current at the time, in lieu of furnishing said form, deliver to such purchaser at the time of sale a "manufacturer's certificate" duly endorsed to the applicant.

(4) A dealer who is selling a vehicle that was consigned to him for sale by the registered owner may, in lieu of applying for and obtaining a new certificate of title in the dealer's own name, and delivering the same to the purchaser, execute a sale and reassignment of such existing certificate of title, with warranty of title if:

(a) There is a written agreement between the dealer and the consignor, executed on a form provided or approved by the commissioner, as to the terms and conditions of the consignment.

(b) Pursuant to the consignment agreement, the consignor has assigned title to the dealer.

(c) There are no liens or encumbrances affecting the vehicle except those about which the purchaser is actually and specifically informed.

B. For purposes of this Section, an "endorsement" means one of the following:

(1) The signature of the seller in the presence of a notary who shall subscribe his name thereon.

(2) The signature of the seller in the presence of two witnesses who shall subscribe their names thereon, which signature shall be acknowledged by a subscribing witness in substantially the following manner:

ACKNOWLEDGMENT OF WITNESS

State of Louisiana

Parish of _____

Before me, personally came and appeared the undersigned, who, after being duly sworn, said that he subscribed his name to the certificate of title as a witness to the signature(s) of seller(s) and he saw seller(s) sign his name as his voluntary act and deed.

(Witness)

Notary Public

(3) The signature of the seller if the certificate of title or other document transferring ownership to an insurance company is for a motor vehicle which is subject to an insurance settlement or has been declared a total loss by that insurance company.

(4) The signature of the seller if the certificate of title or other document is transferring ownership to a dealer licensed by the Louisiana Motor Vehicle Commission or Louisiana Used Motor Vehicle Commission, or when transferring ownership from a licensed dealer to a purchaser.

(5)(a) The signature of the seller in the presence of an authorized officer, as defined in R.S. 32:702, who shall verify the identity of the seller and who shall subscribe his name as a witness thereon, when the seller is transferring ownership to a purchaser who is granting a security interest in the vehicle to the federally insured financial institution that is making a secured loan to the purchaser.

(b) The federally insured financial institution shall provide the Department of Public Safety and Corrections, office of motor vehicles, with a separate document identifying the name and job title of the authorized officer for the purpose of verifying that the person signing as a witness is an authorized officer of that particular financial institution. This document or a copy thereof shall be attached to or included with each title presented to the department that is endorsed in the manner described in this Paragraph.

C. All new certificates of title issued by the Department of Public Safety and Corrections, office of motor vehicles, shall include thereon language not inconsistent with the provisions of Subsection B hereof.

D.(1) For purposes of this Section, an "endorsement" shall also mean a written statement signed by an authorized person acting on behalf of the Louisiana Used Motor Vehicle Commission that the certificate of title was obtained by the commission from a used motor vehicle dealer, or a floor plan financier or other similar holder of a security interest relative to a used motor vehicle, pursuant to the commission's authority in R.S. 32:783(F)(8). Such written statement required by this Paragraph shall state the reason the commission was unable to obtain the endorsement defined in Subsection B of this Section. In lieu of the written statement, the office of motor vehicles and the commission may establish a system for the electronic submission of the statement directly to the office of motor vehicles.

(2) Nothing in this Paragraph shall exempt the rightful owner or bona fide retail purchaser from paying any sales or use taxes that may be due pursuant to R.S. 47:303(B).

(3) In the event the previously issued title indicates that a lien was recorded with the office of motor vehicles, the rightful owner or bona fide retail purchaser shall submit proof that demand to release the lien was made on the lienholder of record by certified mail at the

address indicated on that vehicle record, and that thirty days after receipt, the office of motor vehicles is authorized to cancel the lien unless the lienholder sends an objection in writing to both the office of motor vehicles and the owner or purchaser making the demand.

E. (1) Notwithstanding any law to the contrary, the following errors in an assignment of title shall not preclude the Department of Public Safety and Corrections, office of motor vehicles, from accepting the assignment of title when submitted with a document transferring ownership and properly endorsed pursuant to Subsection B of this Section:

- (a) Spelling of seller or purchaser's name is in error or illegible.
 - (b) The seller signed their name incorrectly.
 - (c) The seller assigned the title to himself in error.
 - (d) The seller or purchaser's name is misspelled and corrected with a strikeover.
 - (e) An error in the address.
 - (f) An error in the date of sale, provided that the error does not impact fees or penalties.
- (2) The office of motor vehicles and licensed public tag agents shall be held harmless for relying upon information on a properly endorsed agreement to sell a vehicle.
- (3) The Department of Public Safety and Corrections shall promulgate rules as necessary for the implementation of this Subsection.

RS 32:705.1 — Acts of donation; titled motor vehicles

ed certificate of title that is executed by the donor-owner may be submitted to the office of motor vehicles in connection with a motor vehicle transaction by a Louisiana Motor Vehicle Commission licensee. The office of motor vehicles shall promulgate rules and regulations for implementation of the provisions of this Section.

RS 32:706 — Marketable title

eafter shall acquire a marketable title in or to the vehicle until the purchaser shall have obtained a certificate of title to the vehicle; however, neither the foregoing nor any other provisions of this Vehicle Certificate of Title Law shall be construed to have the effect of delaying, suspending or preventing the negotiation of a note secured by a chattel mortgage or security interest on a vehicle from being complete until the purchaser shall have obtained a certificate of title to the vehicle, the actual intention and effect of this Section being that such a chattel mortgage or security interest filed before September 1, 1990, shall be complete and effective as to all persons from the time of its execution by the parties if the mortgage or security agreement or a financing statement in the form approved by the commissioner is received and such receipt is validated by the office of the commissioner within fifteen days after such date of execution.

B. In the case of an authentic act of mortgage, the time of execution shall be the date of execution before a notary public or other duly authorized officer and, if by duly acknowledged private act of mortgage, the date of signing by the parties shall be the time of execution.

C. Until September 1, 1990, if the chattel mortgage, security agreement, or financing statement is not received and such receipt is not validated by the office of the commissioner within fifteen days after such date of execution it shall be complete and effective as to all persons from the date of notation of the chattel mortgage or security interest on the face of the certificate of title for such vehicle by the commissioner.

D. Notwithstanding the foregoing provisions, any security interest affecting a titled motor vehicle under a security agreement or financing statement filed hereunder on or after September 1, 1990, shall be complete and effective as to all persons and shall take its rank and priority as provided in Chapter 9 of the Louisiana Commercial Laws, R.S. 10:9-101 et seq. A financing statement is filed when received provided the receipt is subsequently validated by the secretary of the department.

E. The transfer of ownership of vehicles shall be governed by the following provisions:

- (1) Except as otherwise provided in this Subsection, no person shall sell, exchange, donate, or otherwise transfer any ownership interest in any vehicle unless a title to that vehicle has been issued in that person's name.
- (2) The provisions of this Section shall not apply to circumstances in which the title to a vehicle has been issued in the name of a person who is deceased. The provisions of R.S. 32:707.1 shall continue to apply to those circumstances.
- (3) The provisions of this Section shall not apply to licensed new or used motor vehicle dealers, and supervised financial organizations or licensed lenders as defined in R.S. 9:3516, when they acquire or dispose of such vehicles in connection with enforcement of any security interest held therein.
- (4) Whoever violates the provisions of this Subsection shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.
- (5) Each person to whom an ownership interest in a vehicle is transferred in violation of the provisions of this Subsection shall be entitled to rescind the contract of transfer, shall be entitled to the return of any consideration paid or delivered by that person as part of the contract of transfer, and shall be entitled to reimbursement for any taxes and fees paid by that person in connection with the transfer of ownership of the vehicle. In addition, should the person to whom an ownership interest in a vehicle is transferred in violation of the provisions of this Subsection be forced to file a civil action in order to enforce the remedies provided by this Subsection, that person shall be entitled to reasonable attorney fees.

RS 32:706.1 — Disclosure by persons who transfer ownership of vehicles with salvage or reconstructed titles, assembled title, or certificate of destruction; penalties

, or otherwise transfers any interest in any vehicle for which a salvage title, certificate of destruction, assembled title, or a reconstructed title has been issued shall disclose the existence of that title to the prospective purchaser, recipient in exchange, recipient by donation, or recipient by other act of transfer. The disclosure shall be made by a conspicuous written document and shall be made prior to the completion of the sale, exchange, donation, or other act of transfer.

B. If any person sells, exchanges, donates, or otherwise transfers any interest in any vehicle for which a salvage title, certificate of destruction, assembled title, or a reconstructed title has been issued and does not make the disclosures required by this Section, the person to whom the interest in that vehicle was transferred may demand the rescission of the sale, exchange, donation, or other act of transfer and, in that event, shall be entitled to recover the price or other consideration for the transaction and any fees or taxes paid to any governmental agency in connection with that transaction.

C. Whoever knowingly violates the provisions of this Section shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment of not more than six months or by a fine not less than five hundred dollars nor more than five thousand dollars, or both. In addition, the violator shall be sentenced to not less than eighty hours of community service.

RS 32:706.2 — Requirements for vehicle identification number inspections

ards and Training (P.O.S.T.) certified law enforcement officer, who has been trained and certified by the Department of Public Safety and Corrections, office of state police, to inspect motor vehicles.

(2) No peace officer shall conduct a physical inspection of a vehicle in which he has a fiduciary interest or an ownership interest, or is in the process of acquiring an interest through a company or entity in which he has a fiduciary interest.

B. The deputy secretary of public safety services of the Department of Public Safety and Corrections shall have authority to promulgate rules and regulations regarding physical inspection certificates. The deputy secretary shall revoke the certification of any peace officer who fails to satisfy any of the requirements as promulgated.

RS 32:707 — Application for certificates of title; exception; salvage title; antique vehicles;

9:1149.2, shall file an application for a new certificate of title within five days after the delivery of a previously issued certificate of title for the vehicle, or within five days of the delivery of the vehicle, if a certificate of title has not been previously issued. Dealers need not apply for certificates of title for any vehicle acquired for stock purposes, if upon reselling the vehicle, the dealer complies with the requirements of R.S. 32:705. A purchaser of a factory-built home as defined by R.S. 9:1149.2 shall apply for a new certificate of title on or

before the twentieth day of the month following the month of delivery of the factory-built home.

B.(1) Application for a certificate of title shall be made upon a form to be prescribed by the secretary of the Department of Public Safety and Corrections and shall be filed with the secretary of the Department of Public Safety and Corrections. Such application shall include the full legal name and license number of the individual applicant as it appears on his official driver's license or identification card. Additionally, all applications shall be accompanied by the fee prescribed in this Chapter, except where the secretary of the Department of Public Safety and Corrections has received an authorization from the secretary of the Department of Revenue under the provisions of R.S. 47:303(B)(5). If a certificate of title has previously been issued for such vehicle in this state, such application shall be accompanied by said certificate of title duly endorsed with the sale and assignment or duly endorsed with sale and assignment and resale and reassignment, unless otherwise provided for in this Chapter.

(2) For the purposes of this Subsection, an applicant's full legal name shall be defined in compliance with the Real ID Act, if implemented. If and until such time as the Real ID Act is implemented, the applicant's full legal name shall be defined as the given name or names that appear on an official birth certificate together with the surname as it appears on the official birth certificate unless the surname is changed in accordance with R.S. 9:292. No other name shall be permitted to be used unless the applicant provides proof of name change granted by a district court in accordance with the law. Should the Real ID Act be implemented, the full legal name shall be defined as stated by the Real ID Act. The department shall promulgate rules and regulations as are necessary to implement the provisions of this Paragraph.

C. For the purposes of this Chapter, the commissioner or his aides and assistants, shall be qualified to take the acknowledgments herein required, for which no charge shall be made.

D.(1) If a certificate of title has not previously been issued for such vehicle in this state, said application, unless otherwise provided for in this Chapter, shall be accompanied by:

(a) A proper bill of sale, or statement of ownership, or a copy thereof, or such other evidence of ownership as the commissioner may in his discretion require.

(b) By a certificate of title, bill of sale or other evidence of ownership required by the law of another state from which such vehicle was brought into this state;

(2) As to vehicles of the model year 1957 or any later model year, if the vehicle is of the model year current at the time, and the application is not accompanied by a certificate of title issued under the law of another state, the application must, in addition to the foregoing, also be accompanied by a "manufacturer's certificate" as herein defined.

(3) Applications for a certificate of title for motor vehicles as defined in R.S.

32:1252(1), except a chassis cab purchased by truck equipment installers who are considered final stage manufacturers by the National Highway Traffic Safety Administration and the United States Department of Transportation, for the purpose of installing heavy duty

mechanized truck mounted machinery and subsequent resale only, which are required to be accompanied by a manufacturer's certificate by this Subsection, shall also be accompanied by a final and proper bill of sale to the applicant from a motor vehicle dealer licensed by the Louisiana Motor Vehicle Commission to sell that brand of motor vehicle. The provisions of this Subsection shall apply only to sellers doing business and/or domiciled in this state.

(4) Any bona fide fleet purchaser of motor vehicles with an inventory of over eight thousand vehicles shall complete the initial application for certificate of title electronically without the submission of a physical manufacturer's certificate. After completion of the initial application, the purchaser shall create an electronic image of the manufacturer's certificate. The original notarized manufacturer's certificate shall be remitted to the department within sixty days. The electronic manufacturer's certificate shall be maintained on a purchaser's database for a period of twenty-four months. The commissioner may request a copy of the electronic manufacturer's certificate for audit purposes any time during the first twenty-four months after completion of the initial application for certificate of title.

E. Upon application for certificate of title of a vehicle previously titled or registered outside of this state, the application shall show on its face such fact and the time and place of the last issuance of certificate of title, or registration, of such vehicle outside this state, and the name and address of the governmental officer, agency, or authority making such registration, together with such further information relative to its previous registration as may reasonably be required by the commissioner, including the time and place of original registration, if known, and if different from such last foreign registration. The applicant shall surrender to the commissioner all unexpired seals, certificates, registration cards, or other evidence of foreign registration pertaining to the vehicles. The certificate of title issued by the commissioner for a vehicle previously registered outside the state shall give the name of the state or country in which such vehicle was last previously registered outside this state. An application for a certificate of title, other than a certificate of destruction, of a vehicle previously titled or registered outside of this state shall be denied by the secretary of the Department of Public Safety and Corrections if the vehicle is water damaged as provided in R.S. 32:702.

F. Where in the course of interstate operation of a vehicle registered in another state it is desirable to retain registration of said vehicle, in such other state, such applicant need not surrender but shall exhibit said evidences of such foreign registration and the commissioner, upon a proper showing, shall register said vehicle in this state but shall not issue a certificate of title for such vehicle.

G. The commissioner shall retain the evidence of title presented by every applicant and on which the certificate of title is issued. The commissioner shall use reasonable diligence in ascertaining whether or not the facts in said application are true by checking the application and documents accompanying same with the records of vehicles in his office, and, if satisfied that the applicant is the owner of such vehicle and that the application is in the proper form, he shall issue a certificate of title over his signature, but not otherwise.

H. The purchaser of a used vehicle from a private individual, for a period of sixty days, shall be protected from citations for failure to have a current license tag during the

interval between the date of purchase and the receipt of title, provided proof of application can be shown.

I.(1)(a) When, as the result of an insurance settlement, a motor vehicle is declared to be a "total loss", as defined in R.S. 32:702, the insurance company, its authorized agent, or the vehicle owner shall, within thirty days from the settlement of the property damages claim, send the certificate of title, properly endorsed, to the office of motor vehicles along with an application for a salvage title in the name of the insurance company, or its authorized agent, or the vehicle owner.

(b) If an insurance company or its authorized agent is unable to obtain the certificate of title from the owner or lienholder within thirty days from the settlement of the property damages claim, the insurance company or its authorized agent may submit an application for a salvage title and signed under penalty of perjury, which application shall be accompanied by all of the following:

(i) Evidence acceptable to the office of motor vehicles that the insurance company has made at least two written attempts to the titled owner or lienholder of the motor vehicle by certified mail, return receipt requested, or by use of a delivery service with a tracking system, to obtain the endorsed certificate of title.

(ii) Evidence acceptable to the office of motor vehicles that the insurance company has made payment of a claim involving the motor vehicle.

(iii) The fee applicable to the issuance of a salvage title.

(iv) A release of lien executed by each current holder of a security interest in the motor vehicle. Alternatively, if after satisfaction of all liens, any lien that is not released after sixty days from the date of the loss, an insurance company or its authorized agent may submit proof of full payment, a copy of the most recent letter of guarantee from each holder of a lien that has not been released indicating the payoff amount, and evidence of two attempts to contact the lienholder as provided in Item (i) of this Subparagraph. If payment is made by check, proof of payment shall consist of a copy of the front and back of the paid check listing all endorsements of the named payees. If payment is made by electronic transfer, proof of payment shall consist of evidence of the payment transaction from the account of the payer, including submission of a screenshot of payment. In addition, submission shall certify that any payoff funds were not returned by the lienholder. The insurance company shall sign a hold harmless affidavit on a form approved by the department. The office of motor vehicles may charge a fee of no more than one hundred dollars for each transaction.

(c) Upon receipt of an application for a salvage title pursuant to Subparagraph

(I)(1)(a) or (b) of this Section, the office of motor vehicles shall issue a salvage title for the vehicle.

(d) The office of motor vehicles may promulgate rules and regulations for the administration of this Subsection pursuant to the Administrative Procedure Act.

(e) The insurance company or agent shall notify the office of motor vehicles within thirty days of settlement of the property damage claim and the owner retained salvage value, when the owner of the vehicle is allowed to retain the salvage after the vehicle has been declared a total loss.

(f) Upon receipt of the salvage title, the insurance company, its authorized agent, or the vehicle owner may proceed to dismantle the vehicle, sell it, or rebuild and restore it to operation. A rebuilder of a salvaged title motor vehicle may upon completion of rebuilding the vehicle demonstrate the rebuilt motor vehicle to a prospective purchaser without applying for a reconstructed vehicle title. Except for the purposes of this demonstration, no rebuilt and restored vehicle shall be operated upon any public street, roadway, or highway until it is registered with the office of motor vehicles, and a reconstructed vehicle title is issued. No such vehicle issued a reconstructed title shall be operated as a motor carrier of passengers pursuant to R.S. 45:164(A) or as a public carrier vehicle as defined in R.S. 45:200.2(2).

(2) After receiving a vehicle for dismantling, the dismantler shall notify the department within ten days upon the form provided by the Department of Public Safety and Corrections, office of motor vehicles. The dismantler shall surrender the salvage title to the office of motor vehicles and retain a copy of the salvage title for five years following dismantling. The vehicle may be sold, assigned, or donated by endorsing the permit to dismantle and delivering it along with the vehicle to the new owner; however, dealers, salvage pools, and dismantlers shall keep a register of such transfers.

J.(1) Any owner who reconstructs or restores a vehicle without salvage title to operating condition prior to being issued a reconstructed title under this Chapter or the laws of another state or who recovers a stolen motor vehicle shall make application to the Department of Public Safety and Corrections, office of motor vehicles, for a certificate of title and an inspection of the vehicle prior to the registration or sale of the vehicle. Each application for title and inspection shall be accompanied by the following:

(a) The outstanding salvage title previously issued for the salvage vehicle.

(b) Bills of sale evidencing acquisition of all major component parts used to restore the vehicle, listing the manufacturer's vehicle identification number of the vehicle from which the parts were removed, if such part contained or should contain the manufacturer's vehicle identification number.

(c) A statement in the form prescribed by the Department of Public Safety and Corrections, office of motor vehicles, which states that:

(i) The identification numbers of the restored vehicle and its parts have not been removed, destroyed, falsified, altered, or defaced.

(ii) The salvage title document attached to the application has not been forged, falsified, altered, or counterfeited.

(iii) All information contained on the application and its attachments is true and correct to the knowledge of the owner.

(2) The vehicle identification number of every vehicle for which an application is submitted shall be inspected by an inspector at a location designated by the department.

(3) In addition, some or all of the vehicles presented for the inspection may be selected for inspection of the vehicle's major component parts which have been repaired or replaced as part of the rebuilding process to determine that the vehicle information contained in the application and supporting documents is true and correct.

(4) The selection of vehicles to undergo the major component part inspection shall

be on a random basis, in accordance with criteria and procedures established by the Department of Public Safety and Corrections by regulations, which may be changed from time to time as that department deems necessary.

(5) The inspector may examine the identification number of each part that has been repaired or replaced as part of the rebuilding process in addition to the vehicle identification number, and may compare those numbers to the vehicle identification numbers and identification numbers of parts entered into any state, regional, or national computer network that records the identification numbers of stolen motor vehicles and the identification numbers of stolen parts.

(6) Nothing in this Section shall establish a presumption that a part has been removed, falsified, altered, defaced, destroyed, or tampered with by a person submitting a vehicle inspection, if the part fails to contain a required identification label. The major component inspection shall not be for the purpose of checking road worthiness or the safety condition of the vehicle. No liability shall be imposed on the Department of Public Safety and Corrections, the state of Louisiana, or its agents or employees with respect to any act or omission related to said inspection.

(7) Upon satisfactory inspection and a receipt of all required documents and applicable fees, the commissioner shall issue a new certificate of title in the name of the owner which shall contain the notation "RECONSTRUCTED" on the face of the certificate of title.

K. The office of motor vehicles, may assess civil penalties of up to one thousand dollars per violation in accordance with the Administrative Procedure Act to anyone who has sold or dismantled a total loss vehicle in violation of this Section.

L. The office of motor vehicles shall issue a certificate of title for antique, classic, or vintage vehicles as defined in this Chapter when there is no current record of ownership to base the issuance of a new title on, provided:

(1) The applicant has provided to the office of motor vehicles a statement from the state police auto theft division obtained by a local law enforcement agency confirming that based upon a check by photo or rub of a vehicle body identification plate the vehicle is not listed as stolen.

(2) The sales tax based upon purchase price is paid.

(3) The applicant has provided a statement attesting to his membership in an organized automobile club.

M.(1) Notwithstanding any provision of law to the contrary, the office of motor vehicles shall issue to a person in good faith possession of a vehicle a certificate of title for the vehicle even if there is no bill of sale and no current record of ownership upon which to base the issuance of a new title, provided:

(a) The vehicle is twenty-five years old or older.

(b) The vehicle has not had its registration renewed in this state or any other state for a period of three years immediately prior to the application for the title.

(c) The applicant has submitted the sworn affidavit or affidavits of two people who shall attest on their own personal knowledge that the vehicle has been abandoned for three

or more years.

(d) The applicant has provided to the office of motor vehicles a statement from the state police auto theft division obtained by a local law enforcement agency confirming that, based upon a check by photo or rub of a vehicle body identification plate, the vehicle is not listed as stolen.

(e) The person is not otherwise subject to the provisions of Chapter 4-A of this Title.

(2) The applicant for the title shall apply to the office of motor vehicles for registration. No title shall be issued for one year, during which time the applicant may have the vehicle in his possession, but shall not have official title to the vehicle. If, at the end of one year, no one has proven ownership of the vehicle, the applicant shall be issued a certificate of title.

N. No vehicle with a reconstructed title shall be issued a license plate to operate as a motor carrier of passengers pursuant to R.S. 45:164(A) or as a public carrier vehicle as defined in R.S. 45:200.2(2).

O. A vehicle whose power train, computer, or electrical system has sustained water damage, but does not meet the criteria for a salvaged vehicle or a certificate of destruction, shall be issued a branded title indicating the vehicle has sustained water damage. The department shall promulgate rules as are necessary to implement and enforce this Subsection.

RS 32:707.1 — Deceased persons; titles to vehicles

vehicles which is, or are, titled in the name of the deceased person.

B. The procedure established under the provisions of this Section shall contain but shall not be limited to the following provisions:

(1) Any person who has an ownership interest in a vehicle which is titled in the name of a deceased person may apply for a title to the vehicle.

(2) The applicant shall attach to the application a copy of the death certificate of the deceased person, or other proof of death acceptable to the office of motor vehicles.

(3) The applicant shall attach to the application either a copy of the will, if any, which was executed by the deceased person or a notarized statement summarizing the disposition of vehicles contained in the will.

(4) The applicant shall attach to the application the title and the registration certificate of the vehicle, if available. If the title or registration certificate is not available, the applicant shall include a declaration of that fact in the affidavit executed by the applicant under Paragraph (5) of this Subsection.

(5) The applicant and each other person who has an ownership interest in the vehicle shall execute an affidavit which shall contain:

(a) A declaration establishing the relationship of each affiant to the deceased person.

(b) A declaration of each affiant's knowledge, or lack of knowledge, of a will executed by the deceased person.

(c) A declaration by each affiant, other than the applicant, by which the affiant donates, sells, or otherwise transfers to the applicant all ownership interest which the affiant has in the vehicle.

(6) The affidavits required by Paragraph (5) above may be executed in one or more documents. The affidavits shall be attached to the application.

(7) The office of motor vehicles may require applicants and other persons who have an ownership interest in the vehicle to provide specific information, or to make specific declarations, or to submit copies of specific documents in connection with applications for titles under the provisions of this Section. The information, declarations, or documents of this Paragraph shall be limited to information, declarations, and documents which are necessary to insure the integrity of the title to the vehicle.

C. The office of motor vehicles shall adopt administrative rules to implement the provisions of this Section. The rules shall be adopted in accordance with the provisions of the Administrative Procedure Act.

RS 32:707.2 — Electronic media system for lien recordation and title information; fees; required

ement on a statewide basis no later than

January 1, 2010, a computer system which will permit the electronic recording of information concerning the perfection and release of vehicle security interests without submitting or receiving paper title documents. The department may allow the submission of vehicle title information for new, transferred, and corrected certificates of title, including the perfection and release of security interests, through electronic media in a cost-effective manner in lieu of the submission and maintenance of paper documents otherwise required by this Chapter.

B.(1) The department is hereby authorized to contract with public license tag agents for the purpose of administering a system which will provide for the recording of vehicle title information and security interest notification without issuance of a paper title.

(2) The department is hereby authorized to promulgate rules and regulations in accordance with the Administrative Procedure Act, to provide for certain limited exceptions to the electronic recordation requirements set forth by this Section, for individuals and lienholders that are not normally engaged in the business or practice of financing vehicles.

C.(1) An approved public license tag agent operating a secured host computer system interfacing with the computer system of the Department of Public Safety and Corrections, office of motor vehicles, and the computer system of a lending institution or other sales finance company shall be bonded in an amount specified by the department. The public license tag agent is hereby authorized to charge a fee to customers utilizing this electronic media system.

(2) Each federally insured depository institution that originates more than two hundred fifty motor vehicle transactions per year, and each finance company, lending institution, or other lender shall designate a public tag agent with which such bank, finance company, lending institution, or other lender shall interface its computer system for the purpose of receiving electronic confirmation from the department, of the receipt and the filing of the security interest on the subject motor vehicle. Each federally insured depository institution that originates more than two hundred fifty motor vehicle transactions per year, and each finance company, lending institution, or other lender shall also designate such public tag agent when transmitting a release or satisfaction of its lien.

(3) Any request to convert an electronic lien and title record to a paper document shall be forwarded to the department by the federally insured depository institution, finance company, lending institution, or other lender through its interface with its designated public tag agent. Upon receipt of the appropriate title and handling fees, the department shall provide the requested paper title.

(4) Any request to convert an existing paper title to an electronic title shall be forwarded to the department by the federally insured depository institution, finance company, lending institution, or other lender through its interface with its designated public tag agent. Upon receipt of such a request, the department shall convert the paper to an electronic title

at a charge to the lender not to exceed one dollar and fifty cents per title. This charge shall be forwarded to the state treasurer for deposit into the Office of Motor Vehicles Customer Service and Technology Dedicated Fund Account. The public tag agent fee shall not exceed three dollars per title conversion request. The provisions of R.S. 32:412.1 and 728 shall not apply to this Paragraph.

D. Notwithstanding any other law to the contrary, a written or printed report of an electronic media transaction or recording required under the provisions of this Section, if certified as true and correct by the department, shall serve as evidence of any signature, acknowledgment, or information which was provided to or by the department through electronic means, and the certification shall be admissible in any legal proceeding as evidence of the facts stated therein.

E. All information received by the department or a public license tag agent in connection with an electronic lien recordation or title information shall remain confidential as specified by the department.

F. The department shall promulgate rules and regulations in accordance with the Administrative Procedure Act as are necessary to implement the provisions of this Section, including but not limited to rules and regulations regarding the setting of fees in accordance with R.S. 47:532.1(C), the amount of bond required for public license tag agents operating a secured host computer system, and the confidentiality of information.

G.(1) The department is authorized to form a task force to develop and implement the system required by this Section. The members of this task force shall be appointed by the secretary and shall include representatives from the department, the commercial banking industry, sales finance companies, credit unions, savings institutions, and the vehicle dealership industry.

(2)(a) The task force shall research methods whereby the department, lending institutions and sales finance companies may exchange and maintain information concerning the perfection and release of vehicle security interests without submitting or receiving a paper title document. Further, the task force shall develop methods whereby lending institutions and sales finance companies may submit, through a variety of electronic media, updated information pertaining to the title record, including the addition, assignment or release of vehicle security interests.

(b) No later than January 1, 2009, the task force shall develop and implement a pilot program to implement the requirements set forth by this Section.

H. The procedures referred to in this Section shall be referred to as electronic lien and title services or E.L.T. services.

RS 32:707.3 — Certificates of destruction; application requirements; restrictions on sale; disassembly requirement; department rules; penalties

determined to be water damaged, as defined in this Chapter, the insurance company that acquires ownership of the vehicle shall, within thirty days from the settlement of the property damages claim, send the certificate of title to the office of motor vehicles along with an application for a certificate of destruction. This period may be extended by rule or regulation promulgated by the Department of Public Safety and Corrections pursuant to the Administrative Procedure Act. If the insurance company or its authorized agent is unable to obtain the certificate of title from the owner or lienholder within thirty days from the settlement of such property damage claim, the insurance company or its authorized agent may

submit an application for a certificate of destruction for such water damaged vehicle signed under penalty of perjury.

Such application shall be accompanied by evidence acceptable to the office of motor vehicles that the insurance company has made at least two written attempts to the titled owner or lienholder of the motor vehicle by certified mail, return receipt requested, or by use of a delivery service with a tracking system, to obtain the endorsed certificate of title; evidence that the insurance company has made payment of a property damage claim involving such motor vehicle; and a release of lien executed by each current holder of a security interest in the motor vehicle.

B.(1) Each application for a certificate of destruction shall be accompanied by the fee required for an original certificate of title.

(2) Upon receiving an application for a certificate of destruction, the office of motor vehicles shall issue a certificate of destruction that is conspicuously labeled with such designation and that contains the same information as other certificates of title issued under this Chapter.

C.(1) Notwithstanding any other law to the contrary, no motor vehicle for which a certificate of destruction has been issued shall be later issued a salvage or reconstructed title or otherwise titled or registered by the office of motor vehicles for use on the roads or highways of this state.

(2) Notwithstanding any other law to the contrary, no motor vehicle which has been issued a certificate of destruction shall be resold as a retail unit, and such vehicle shall be dismantled, sold for any usable parts, or crushed.

D.(1) Notwithstanding R.S. 32:717, 759.1(B), or any other law to the contrary, a person who purchases or acquires a vehicle for which a certificate of destruction has been issued shall not be required to apply for or acquire a permit to dismantle. The certificate of destruction itself shall be sufficient for the vehicle to be dismantled, crushed, or scrapped by a person licensed under Chapter 4-A of this Title.

(2) When the water-damaged vehicle has been crushed or scrapped as provided above, the owner shall surrender the certificate of destruction to the office of motor vehicles with the word "recycled" written or stamped across its face, and no certificate of title of any type shall be issued again for such vehicle.

E. The Department of Public Safety and Corrections may adopt rules and regulations necessary to carry out the provisions of this Section.

F. Whoever violates any provision of this Section shall be guilty of a misdemeanor and upon conviction shall for each offense be punished by imprisonment of not more than six months or by fine not less than five hundred dollars nor more than five thousand dollars, or both.

RS 32:707.4 — Alternate procedure to title trailers

n previously titled or licensed in another state, and for which no record exists with the department, shall be eligible to receive a certificate of title and register the trailer with the Department of Public Safety and Corrections if the following conditions are met:

(1) The individual applicant shall sign a Hold Harmless Affidavit, on a form approved by the department, in the presence of a commissioned notary public of this state.

(2) The individual applicant shall sign a sworn affidavit describing in full detail the act translatative of ownership by which the individual applicant claims to have acquired ownership of the trailer in question, list any individuals involved in the acquisition of the trailer, and the purchase price of the trailer. This affidavit shall include the full description of the trailer, make, model, and vehicle identification number, and the affiant shall sign the affidavit in the presence of a commissioned notary public of this state.

(3) The individual applicant shall sign a motor vehicle application issued by the Department of Public Safety and Corrections, office of motor vehicles.

(4) In the event the individual applicant cannot provide documentation proving ownership of the trailer, either a bill of sale or receipt, the individual applicant must obtain two sworn affidavits from individuals who shall have personal knowledge of the manner in which the individual applicant acquired the ownership of the trailer in question. The affiant shall sign and date the affidavit, which shall include the full description of the trailer, make, model, and vehicle identification number, in the presence of a commissioned notary public of this state.

(5) The owner of the trailer shall obtain a physical inspection of the trailer conducted by a Louisiana P.O.S.T.-certified law enforcement officer as provided for in R.S. 47:477.

(6) The owner of the trailer shall obtain a NCIC Check issued by a Louisiana P.O.S.T.-certified law enforcement officer or motor vehicle officer.

B. Upon meeting the requirements of Paragraphs (A)(1) through (6) of this Section, the individual applicant shall present to the department the documentation required in Paragraphs (A)(1) through (6) of this Section together with any fees or taxes that may be due.

C. Upon the submission of the above referenced documentation to the department, the owner of the trailer shall be eligible to receive a Louisiana registration of the trailer and vehicle license plate for the trailer in conjunction to R.S. 47:462. The department shall not issue a certificate of title for the trailer until the completion of one year from the date of registration in which a motor vehicle officer must conduct a NCIC Check. With the verification from NCIC, the motor vehicle office shall print a Louisiana motor vehicle title for the trailer and mail the title to the stated registered owner.

D. The department shall promulgate any rules and regulations as are necessary to implement the provisions of this Section.

E. The issuance of a title pursuant to this Section shall not preclude another person from judicially asserting their ownership to the trailer in question.

RS 32:707.5 — Assembled vehicles

ude new parts.

B. Major component parts are:

- (1) Engine with or without accessories.
- (2) Transmission.
- (3) Nose: that portion of the body from the front to the firewall when acquired or transferred as a complete unit.
- (4) Frame: that portion of a vehicle upon which other components are affixed, such as the engine, body, or transmission.
- (5) Body: that portion of a vehicle that determines its shape and appearance and is attached to the frame.
- (6) Door.
- (7) Rear Clip: two or more of the following, all dismantled from the same vehicle:
 - (a) Quarter panel or fender.
 - (b) Floor panel assembly.
 - (c) Trunk lid or gate.
- (8) Cowl: that portion of the vehicle housing the firewall, windshield, and instrument panel.

C.(1) An assembler shall obtain receipts for all parts used to build an assembled vehicle. In the case of used parts from a dismantled motor vehicle, in addition to a receipt, the seller of parts from a dismantled motor vehicle shall provide the assembler with a copy of the front and back of the permit to dismantle for the vehicle from which the used part was obtained or a receipt from a licensed automotive dismantler and parts recycler certifying that the vehicle from which the part was removed was reported to the office of motor vehicles in accordance with R.S. 32:718. In the case of a frame of the dismantled vehicle, the seller of the used frame shall endorse the permit to dismantle and deliver it to the assembler at the time the frame is sold.

(2) In the event the used parts come from a dismantled motor vehicle issued a salvage title prior to January 1, 2010, the seller of the used parts shall write "dismantled" across the face of the salvage title, and provide the assembler with a copy of the front and back of the title, or the original salvage title as the case may be, together with a signed statement of the seller, stating the date the motor vehicle was dismantled and the name of the dismantler, in lieu of providing a copy or original permit to dismantle required in Paragraph (1) of this Subsection.

(3) If a new component incorporated into the assembled motor vehicle was sold with a manufacturer's statement, certificate of origin, or similar document, the seller shall provide the original document with any necessary endorsements to the assembler.

D. Prior to applying for a title or registration from the Department of Public Safety and Corrections, the assembler shall:

(1) Obtain a physical inspection of the assembled vehicle by a Peace Officer Standards and Training (P.O.S.T.) certified law enforcement officer who has been trained and certified by the Department of Public Safety and Corrections, office of

state police, to inspect motor vehicles.

(2) Submit a sworn statement attesting that the assembled motor vehicle meets all National Highway Traffic Safety Administration standards for safety, bumpers, and theft prevention in effect on the date the assembly of the vehicle was completed. The provisions of this Paragraph shall not apply to an assembled vehicle built to appear as an antique vehicle, a street rod, or other specialty vehicle.

(3) Obtain a motor vehicle inspection sticker or statement from a licensed Louisiana motor vehicle inspection station indicating that the vehicle meets all safety requirements. An inspection station is expressly authorized to inspect an untitled assembled vehicle when presented for inspection by the assembler.

(4) Be assigned a vehicle identification number by the Department of Public Safety and Corrections, office of state police. The assigned number shall not be the vehicle identification number from a previously issued salvaged title or permit to dismantle and shall not be a number which would appear to have been assigned to the vehicle by a manufacturer.

E. The assembler shall submit all documentation for component parts as described in Subsection C of this Section with the application for assembled title.

F. Upon application for title and registration, and after payment of all applicable fees and taxes, the Department of Public Safety and Corrections shall issue a certificate of title with the words "ASSEMBLED VEHICLE" printed on the face of the title. The record of the title shall also indicate the vehicle is assembled. Any subsequent certificate of title issued on this vehicle shall bear the words "ASSEMBLED VEHICLE". The model year shall be the year the motor vehicle was inspected as indicated on the date of the physical inspection required by Paragraph (D)(1) of this Section. The make of the vehicle shall be "assembled".

G. The Department of Public Safety and Corrections may promulgate, in accordance with the Administrative Procedure Act, all rules necessary to implement this Section, including rules regarding the required documentation to be submitted with an application for an assembled title.

H. An assembled vehicle shall not be issued a "reconstructed" branded title. However, in a case where a motor vehicle titled as assembled was involved in a crash and was determined to be a total loss in accordance with R.S. 32:707(I), the title for the motor vehicle shall be branded "ASSEMBLED-SALVAGE". If the vehicle is subsequently rebuilt in accordance with R.S. 32:707(J), the title for motor vehicle shall be branded "ASSEMBLED-RECONSTRUCTED".

I. If the only major component changed on a pickup truck is the cab the titling shall be governed by R.S. 32:707(J).

RS 32:707.6 — Expedited title procedure; rules and regulations

Applications and the issuance of certificates of titles for motor vehicles. Any designated agent, lienholder, or owner requesting the issuance of such document, at his option, shall receive such expedited processing upon payment of the fee authorized by R.S. 32:728(10).

B. When expedited title processing is requested through the expedited title procedure or by application, the applicable fees are paid, and all documents and information necessary for the certificate of title applied for are received, the title shall be issued and directed to the public tag agent for pick-up by an authorized party within twenty-four hours of the time of receipt of the initial request, excluding weekends and holidays.

C. The Department of Public Safety and Corrections, office of motor vehicles, shall promulgate rules and regulations in accordance with the Administrative Procedure Act as are necessary to implement the provisions of this Section, including but not limited to rules and regulations setting fees in accordance with R.S. 47:532.1.

RS 32:708 — Issuance of certificates; satisfaction of lien or security interest; security measures

records and information in his possession to produce a duplicate copy of the certificate of title or the corrected certificate of title. Where there are no liens shown on the title certificate, such certificate shall be signed by the motor vehicle commissioner and forwarded to the applicant. When a lien is shown in the certificate, the certificate of title, which shall be signed by the motor vehicle commissioner, shall be forwarded to the lien holder of first rank who shall retain it until the full amount of such mortgage is liquidated. The first lien holder shall then deliver the title with proper release of the lien executed in the title to the registered owner if no other lien exists, or to the next ranking lien holder as shown in the files of the commissioner.

B.(1) Upon the final discharge of any chattel mortgage or security interest, the owner or any lien holder may present the certificate of title with the fee prescribed by law, if not prepaid, to the commissioner and request that the commissioner

note on the face of the certificate of title and his records a cancellation of notation of said lien so endorsed as satisfied by the holder thereof on the face of the certificate of title. The commissioner shall comply with such request, if the satisfaction appears genuine.

(2) When the certificate of title endorsed to evidence satisfaction of a lien noted thereon has been lost or stolen, the commissioner may issue a duplicate certificate of title noted on its face to show cancellation of notice of lien so endorsed, only when all the following conditions have been satisfied:

(a) The owner establishes to the satisfaction of the commissioner on a form satisfactory to him, that he is unable to obtain a duplicate certificate of title endorsed by the lien holder as provided in Paragraph (1) of this Subsection, due to the fact that the lien holder is no longer in existence.

(b) The secured party of record has filed a termination statement as provided by R.S. 10:9-513.

C. The commissioner, when issuing a certificate of title, or a duplicate certificate, for a motor vehicle shall use security procedures, processes, and materials in the preparation and issuance of each certificate of title to prevent, to the greatest extent possible, the ability of a person to alter, counterfeit, duplicate, or modify the certificate of title. The commissioner shall charge an additional fee of fifty cents per certificate of title or duplicate certificate to cover the cost of security measures.

RS 32:708.1 — Issuance of certificates; satisfaction of child support privilege or security interest; security measures

t of past due child support which has remained unpaid at least sixty days after it has become final may file the judgment with the office of motor vehicles to create a privilege over any motor vehicle titled in the name of the judgment debtor at the time the judgment is filed with the office of motor vehicles.

B. The privilege on the titled motor vehicle shall be created by filing with the office of motor vehicles the appropriate documentation as required by this Section, together with the appropriate fees charged for titles and security interests, so long as such receipt subsequently is validated by the commissioner of the office of motor vehicles. Any filing which fails to comply with this Section shall be rejected by the office of motor vehicles and shall not result in the creation of a privilege.

C. The following documents shall be required to be filed to create a privilege over a titled motor vehicle:

(1) A completed application signed by the judgment creditor or the judgment creditor's attorney on a form approved by the office of motor vehicles. The form shall contain information that the office of motor vehicles may deem necessary to process the transaction.

(2) A certified copy of the final, nonappealable judgment ordering the payment of past due child support.

(3) A statement verified and signed by the creditor or the creditor's attorney attesting to the following facts:

(a) That the judgment is final, that no appeal was taken, or if an appeal was taken, the judgment was affirmed on appeal and all delays for review of the judgment have expired.

(b) That more than sixty days have elapsed since the judgment became final and it remains unpaid.

(4) The previously issued certificate of title of the motor vehicle on which the lien is to be recorded.

D. The court, as part of its judgment of awarding past due child support, may order the judgment debtor to surrender the certificate of title to the judgment creditor. The failure to surrender the certificate of title shall be enforced by the court. If the certificate of title is held by an existing lienholder, the court shall order the lienholder to submit the certificate of title to the commissioner of the office of motor vehicles in order that the privilege shall be added to the certificate of title. The certificate of title shall then be returned to the ranking lienholder in accordance with R.S. 32:708.

RS 32:709 — Numbers assigned; indices; files

not be required to retain on file any bill of sale or duplicate thereof covering any vehicle for a period longer than seven years after the date of the filing thereof and thereafter the same may be destroyed.

RS 32:710 — Security interests; priority; notation on certificate

tatement is received by the Department of Public

Safety and Corrections, so long as such receipt subsequently is validated by the secretary of

the Department of Public Safety and Corrections.

B. The secretary shall, upon the request of any person, issue a certification whenever the financing statement is delivered to his office. Such certification receipt may include one or more security agreement applications.

C. Security interests affecting titled motor vehicles, perfected by filing with the Department of Public Safety and Corrections, office of motor vehicles shall take priority in accordance with Chapter 9 of the Louisiana Commercial Laws.

D. The holders of a security interest on motor vehicles who expressly or impliedly consent to such vehicles being placed on sale by the owners thereof in the state of Louisiana in the ordinary course of business shall be precluded from asserting the said security interest created by it against bona fide retail purchasers in actual good faith of said vehicles. Holders of such security interest shall be deemed to have impliedly consented to sales of the property free and clear of such security interest to bona fide retail purchasers in actual good faith whenever the debtor is a dealer duly licensed to sell the type of vehicles covered by the floor plan mortgage. Such consent may not be negated or withheld by any express provision in the security agreement when the debtor holds such an occupational license. For purposes of this Section, a bona fide retail purchaser in actual good faith shall be deemed to be any person, firm, partnership or corporation purchasing a vehicle, for individual or business use and not for resale from a licensed dealer, who does not in fact know of a security interest existing on the property purchased; however, the holders of security interests on vehicles who expressly or impliedly consent to such vehicles being placed on sale by the owner thereof in the ordinary course of business shall not be precluded from asserting said security interests created by it against group or bulk purchases whether said purchase is in good faith or not.

E. The holder of a security interest covering a vehicle, upon presentation of a multiple original or certified copy of a multiple original, or photographic copy of the debtor's security agreement or financing statement, together with any respective certificate of title issued in this state or, if no certificate of title exists on such vehicle in this state, together with a proper application for certificate of title pursuant to the provisions of this Chapter, and the fee prescribed by law, may have a notation of such security interest made on the face of such certificate of title in the order in which it was filed. The commissioner shall enter said notation over his signature and seal of office, and he also shall note such security interest and the date receipt thereof was validated, on the duplicate of said certificate in his file. The commissioner also shall indicate by appropriate notation on the instrument itself the fact that such security interest has been noted on the certificate of title.

F. When such security interest is discharged, the requirements of R.S. 32:708 shall be complied with.

RS 32:711 — Sale subject to mortgage or security interest; act of sale and assignment of certificate; corrected certificate

lated subject to the existing chattel mortgage or security interest and it is impractical for the owner to produce and deliver the certificate of title at the time possession is delivered to the purchaser, then the owner shall make and deliver to the purchaser at the time of delivery of the vehicle an act of sale of such vehicle and assignment of the certificate of title, subject to all existing chattel mortgages and security interests, on a form to be prescribed and furnished by the

commissioner. The purchaser shall within five days of the transaction forward the act of sale and assignment to the commissioner accompanied by the fee prescribed by this Chapter and also accompanied by an application for a certificate of title as hereafter set forth.

B. Upon receipt of the act of sale and assignment and the application, the commissioner shall notify all lien holders in writing of the sale and request the holder of the certificate of title to surrender it, and shall issue in lieu thereof a corrected certificate of title in the name of the new owner and deliver it to the first ranking mortgage holder or owner. The corrected certificate of title shall show on its face all existing chattel mortgages or security interests. It shall be the duty of any holder of a certificate of title, on request of the commissioner, to return same, within five days, in order that correction might be made thereon; provided however, the provisions of this Section shall not be construed as impairing any rights which a mortgage or lien holder may have by virtue of a chattel which existed prior to December 15, 1950.

RS 32:712 — Ownership of vehicle passing otherwise than by voluntary transfer

He shall obtain a certificate of title therefor upon presentation of an application for certificate of title and payment of the fee prescribed by this Chapter, accompanied by the prior certificate, if possible, and accompanied by such instruments or documents of authority, or certified copies thereof, as may be required by law to evidence or effect a transfer of title in movables in such case. If the applicant obtains possession of a vehicle in accordance with the provisions of R.S. 6:965 et seq., he must present a certified copy of the order entitling him to take possession of the vehicle and an affidavit of possession verifying that he has, in fact, obtained possession of the vehicle in accordance with the terms of the judgment.

The commissioner, when satisfied of the genuineness of regularity of such transfer, shall issue a certificate of title to the person entitled thereto. Such certificate of title shall contain a statement of any chattel mortgages of record in the office of the commissioner, unless such application is accompanied by proper evidence of their satisfaction or extinction.

RS 32:713 — Lost or destroyed certificate

It shall be the duty of the perfected lienholder holding said title for collateral for a certified copy of same upon a prescribed form duly sworn to by the owner or perfected lienholder and accompanied by a fee prescribed by this Chapter. Thereupon the commissioner shall issue a certified copy of said certificate of title to the person or perfected lienholder entitled to receive the certificate of title under the provisions of this Chapter. Said certified copy and all subsequent certificates of title issued in the chain of title originated by said certified copy shall be plainly marked across their face "duplicate copy", and any subsequent purchaser of said vehicle in the chain of title originating through such certified copy shall acquire only such rights in such vehicle as the original holder of said certified copy himself had. Any purchaser of such vehicle may at the time of such purchase require the seller of same to indemnify him and all subsequent purchasers of said vehicle against any loss which he or they may suffer by reason of any claim or claims presented upon the original certificate. In the event of the recovery of the original certificate of title by said owner or perfected lienholder, the party, shall forthwith surrender same to the commissioner for cancellation or a statement of destruction from the perfected lienholder stating the original title has been destroyed.

RS 32:714 — Repealed by Acts 1976, No. 572, §1

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RS 32:715 — Change of engine in vehicle

another in any vehicle as may be deemed necessary and consistent with the purposes of this Chapter.

RS 32:716 — Dismantling registered vehicle

and the registration plate or plates last issued for such vehicle, whether such plates and documents were issued by the vehicle commissioner of this state or of any other state.

RS 32:717 — Sale of motor vehicle as scrap

ate was issued by the vehicle

commissioner of this state or any other state, and the purchaser shall deliver the certificate

of title to the commissioner with an application for a permit to dismantle the vehicle. The

commissioner shall thereupon issue to the purchaser a permit to dismantle the vehicle, which

shall authorize the purchaser to possess or transport the motor vehicle or to transfer

ownership thereto by an endorsement upon the permit. A certificate of title shall not again be issued for the motor vehicle in the event it is scrapped, dismantled, or destroyed.

B. Notwithstanding Subsection A of this Section, the commissioner may issue, without the delivery of the certificate of title, a permit to dismantle any vehicle which is more than fifteen years old and has not had its registration renewed in this state or any other state for a period of three years immediately prior to the application for a permit to dismantle the vehicle.

C. For purposes of this Section, "motor vehicle" or "vehicle" means a "motor vehicle" as defined in R.S. 32:401.

RS 32:718 — Sale of an auto hulk as scrap to a scrap metal processor or a licensed automotive er who sells

an auto hulk as scrap to be dismantled or processed for recycling shall provide the secondary metal processor or licensed automotive dismantler and parts recycler with a signed and dated affidavit stating that he is the owner of the vehicle or part or has the right to sell or transfer the vehicle or part.

B. Every secondary metal processor or licensed automotive dismantler and parts recycler shall maintain the signed and dated affidavit, along with the name and address of the person delivering, selling, or transferring the auto hulk, photographic or electronic copy of the seller's valid driver's license or a valid identification card issued by the seller's current state of residence, the tag number and state of issue of the vehicle delivering the auto hulk, and the vehicle identification number of the auto hulk. This information shall be kept in a registry or book or in electronic format for a period of two years at the secondary metal processor's or the licensed automotive dismantler and parts recycler's place of business and shall be made available for inspection by any peace officer, law enforcement official, or office of motor vehicles official at any time during customary business hours.

C. Every secondary metal processor or licensed automotive dismantler and parts recycler shall report the vehicle identification number of each auto hulk received from a seller to the office of motor vehicles' auto hulk database located at www.expresslane.org. The report shall be in a form approved by the office of motor vehicles and shall be submitted prior to the dismantling, crushing, or other destruction of the auto hulk. The office of motor vehicles shall send a return message that the report was successfully entered. If the office's return message indicates the auto hulk has been reported as stolen, such auto hulk shall not be dismantled or destroyed, and the secondary metal processor or licensed automotive dismantler and parts recycler in possession of the auto hulk shall notify local law enforcement of its location.

D. The provisions of this Section are applicable to auto hulks in lieu of the provisions of R.S. 32:717 and 807.

E. For the purposes of this Chapter and Chapter 4-C of this Title, "auto hulk" shall not mean a motor vehicle as defined in R.S. 32:781.

RS 32:721 — Stolen vehicles; report of theft and recovery

under has been stolen shall immediately or not later than one week after receiving such information report such theft to the commissioner, unless prior thereto information has been received of the recovery of such vehicle. Any said officer

upon receiving information that any vehicle, which he has previously reported as stolen, has been recovered, shall immediately report the fact of such recovery to the local sheriff's office or police department and to the commissioner.

RS 32:722 — Stolen or embezzled vehicles; liens and encumbrances

ch theft or embezzlement, but, in the event of an embezzlement, may make such report only after having procured the issuance of a warrant for the arrest of the person charged with such embezzlement. Every owner or other person who has given such notice must notify the commissioner of a recovery of such vehicle.

RS 32:723 — Stolen or embezzled vehicles; suspension of registration; lists

dex the same and shall immediately suspend the registration of the vehicle so reported and shall not transfer the registration of the same until such time as it is notified in writing that such vehicle has been recovered.

B. The commissioner shall at least once each week compile and maintain at his headquarters office a list of all vehicles which have been stolen or embezzled or recovered as reported to it during the preceding week and such lists shall be open to inspection by any peace officer or other person interested in any such vehicle.

RS 32:724 — Transfer and possession of stolen vehicles

transfers possession of the same from one to another, or who has in his possession any vehicle which he knows or has reason to believe has been stolen or unlawfully taken, and who is not an officer of the law engaged at the time in the performance of his duty as such officer, is guilty of a felony.

RS 32:725 — Concealing or misrepresenting identity of motor vehicle or engine

removed from a motor vehicle, from which the manufacturer's serial or engine number or other distinguishing number or identification mark or number placed thereon under assignment from the commissioner has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of said motor vehicle or engine is guilty of a misdemeanor.

RS 32:726 — Destruction or alteration of distinguishing number or mark

er or identification mark of a motor vehicle nor shall any person place or stamp any serial, engine, or other number or mark upon a motor vehicle, except one assigned thereto by the commissioner. Any violation of this provision is a misdemeanor.

B. This section shall not prohibit the restoration by an owner of an original serial, engine, or other number or mark when such restoration is made under permit issued by the commissioner, nor prevent any manufacturer from placing in the ordinary course of business numbers or marks upon motor vehicles or parts thereof.

RS 32:726.1 — Tampering with or altering odometers prohibited; penalties

, or cause any of the foregoing to occur to an odometer of a motor vehicle, so as to reflect a lower mileage than the true mileage driven by the motor vehicle.

B. No person shall with intent to defraud operate a motor vehicle on any street or highway knowing that the odometer of the motor vehicle is disconnected or nonfunctional.

C. No person shall advertise for sale, sell, use or install on any part of a motor vehicle or on any odometer in a motor vehicle any device which causes the odometer to register any mileage other than the true mileage.

D. In the event any odometer is repaired or replaced, the reading of the repaired or replaced odometer shall be set at the reading of the odometer repaired or replaced immediately prior to repair or replacement, and the adjustment shall not be deemed a violation of any provision of this section. If the odometer cannot be repaired or replaced a written notice shall be posted on the vehicle that the odometer has been reset at zero, the date of the repair and the mileage indicated at the time of repair.

E. No certificate of title shall be issued for a motor vehicle which was equipped with an odometer by the manufacturer unless the statement required in Subsection F of this section has been furnished by the transferor. However, a certificate of title may be issued for a motor vehicle to a person who moves into this state if such person acquired ownership of the motor vehicle prior to moving to this state.

F. Except where a transfer is made by operation of law the transferor of any motor vehicle which was equipped with an odometer by the manufacturer, shall provide to the buyer a statement signed by the transferor which shall set forth the

mileage on the odometer at the time of transfer and which shall state that to the transferor's best knowledge and belief it is the true mileage. If the transferor has knowledge that the mileage shown on the odometer is not the true mileage traveled by the motor vehicle, he shall so indicate on the statement and he shall state the true mileage to his best knowledge and belief. The mileage disclosed on such statement shall be included in the application for certificate of title and the new certificate issued in the name of the buyer shall have the mileage recorded on the face thereof.

G. A transferee of a motor vehicle reassigning the certificate of title to such motor vehicle pursuant to the provisions of the Certificate of Title Law shall not be guilty of a violation of this section if such transferee has in his possession the statement signed by his transferor as required by Subsection F of this section and if he has no knowledge that the odometer does not reflect the true mileage of such motor vehicle.

H.(1) Any person, except a new or used car dealer, who violates the provisions of this Section shall be guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars or by imprisonment not to exceed ninety days or both. On each subsequent conviction, the offender shall be fined not more than fifty thousand dollars, or imprisoned for not more than one year, or both.

(2) A new or used car dealer who violates the provisions of this Section shall be fined not more than fifty thousand dollars, or imprisoned for not more than one year, or both.

(3) A new or used car dealer who violates the provisions of this Section shall be subject to a civil penalty of not more than one thousand dollars.

RS 32:727 — Rules and regulations; forms; cancellation of certificates; copies of and reports as to records

e uniform and orderly operation of this Chapter.

B. The commissioner shall provide and furnish the forms required by this Chapter. The commissioner shall keep on hand a sufficient supply of blank forms, which, except certificate of title and memorandum certificate forms, shall be furnished and distributed without charge to all persons residing within the state.

C. If it appears that a certificate of title has been improperly issued, the commissioner shall have the power, and it shall be his duty, to cancel same. Upon cancellation of any certificate of title, the commissioner shall notify the person to whom such certificate of title was issued as well as any chattel mortgage holders appearing thereon of said cancellation and shall demand the surrender of such certificate of title, but said cancellation shall not affect the validity of any chattel mortgage noted thereon. The holder of such certificate of title shall return same to the commissioner forthwith.

D. The commissioner is authorized upon application of any person and payment of the proper fees, to search the records of the bureau and make reports thereof, and to make photographic copies of the bureau records and attestations thereof.

E. The commissioner shall charge two dollars a page for photographic copies of records and attestations thereof, under the signature and seal of the commissioner. Such copy or copies shall be taken as prima facie evidence of the facts therein stated, in any court of the state of Louisiana. The commissioner shall furnish without charge to the Department of Public Safety, sheriffs, or chiefs of police, information on any title.

RS 32:728 — Fees

dollars and fifty cents.

(2) Each certified copy of a certificate of title--fifteen dollars.

(3) Each memorandum certificate--one dollar; provided, that if the application for a memorandum certificate is made at the time of application for a certificate of title, the commissioner shall charge only the three dollar and fifty cent fee for the certificate of title and no fee shall be required for the memorandum certificate.

(4) Each certified copy of memorandum certificate--one dollar.

(5) Each notation of a security interest, whether a chattel mortgage, other security agreement, or other financing statement evidencing such security interest is filed, on a vehicle certificate of title--five dollars.

(6) Each cancellation of a notation of any chattel mortgage or security interest on a

certificate of title or a cancellation of a floor plan mortgage--five dollars.

(7) Each permit to sell or duplicate permit to sell a motor vehicle--fifteen dollars.

(8) Each salvage title-- sixty-eight dollars and fifty cents.

(9) The fees authorized under R.S. 10:9-525 et seq.

(10) Each certificate of title issued pursuant to a procedure established by R.S.

32:707.6 – ten dollars in addition to the eighteen dollars and fifty cents charged for each

certificate of title as authorized pursuant to Paragraph (1) of this Section. The additional ten

dollars shall be forwarded to the state treasurer for deposit into the Office of Motor Vehicles

Customer Service and Technology Dedicated Fund Account.

(11) The fees authorized by R.S. 32:707.2(C)(4).

RS 32:729 — Necessity for certificate

Louisiana Revised Statutes of 1950 shall operate any such vehicle upon any public road, highway or bridge in this state, without first applying for a certificate of title therefor, nor shall he so operate any such vehicle upon which the certificate of title has been cancelled; nor shall any other person operate such vehicle upon any public road, highway or bridge in this state, knowing or having reason to believe that the owner has failed to obtain a certificate of title therefor, or that same has been cancelled.

Provided, however, that the commissioner is hereby vested with discretion to grant extension of such general compliance date, upon reasonable grounds, for a reasonable period not exceeding three months, and may thereafter grant a further extension, upon reasonable grounds, not exceeding two months.

RS 32:730 — Alteration and forgery; false name, address, or statement; other fraud

reassignment thereof, or any cancellation of any chattel mortgage on a vehicle is guilty of forgery and punishable as provided by law. Whoever holds or uses such certificate or endorsement of sale and assignment or cancellation knowing the same to have been altered or forged; or whoever uses a false or fictitious name or gives a false or fictitious address or makes any false statement in any application or affidavit required under the provisions of this Chapter, or in a bill of sale or sworn statement of ownership or otherwise commits a fraud in any application, shall, upon conviction thereof be punished by imprisonment not exceeding four years, or by fine not exceeding five thousand dollars, or both, in the discretion of the court.

RS 32:731 — Violations; penalty

title thereto duly endorsed and assigned to such purchaser as provided in this Chapter; or, being the owner thereof, shall operate on any public road, highway or bridge in this state a vehicle for which a certificate of title is required by the provisions of this Chapter without such certificate having been applied for in accordance with the provisions of this Chapter, or upon which the certificate of title has been cancelled; or any person other than the owner thereof who shall operate on any public road, highway or bridge in this state a vehicle for which a certificate of title is required by the provisions of this Chapter, knowing or having reason to believe that the owner has failed to obtain a certificate of title therefor, or that same has been cancelled; or whoever shall fail to surrender any certificate of title or memorandum certificate upon cancellation of the same by the commissioner and notice thereof as prescribed in this Chapter; or whoever fails to surrender the certificate of title to the commissioner as provided in this Chapter in case of the destruction or dismantling or change of a vehicle in such respect that it is not the vehicle described in the certificate of title; or whoever shall violate any of the other provisions of this Chapter, or any lawful rule or regulation promulgated pursuant to the provisions of this Chapter shall be guilty of a misdemeanor, and upon conviction, shall for each offense be punished by imprisonment for not more than ninety days, or by fine not exceeding five hundred dollars, or both, in the discretion of the court.

RS 32:732 — Additional penalties

shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

B. Any person who is convicted of a violation of any of the provisions of this Chapter herein or by the laws of this state declared to constitute a felony shall be punished by imprisonment for not less than one year nor more than five years, or by a fine of not less than five hundred dollars nor more than five thousand dollars, or by both such fine and imprisonment.

RS 32:733 — REPEALED BY ACTS 1992, NO. 984, §18.

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RS 32:734 — Signature to documents

may use or cause to be used a signature machine for the purpose of affixing his signature to such documents.

RS 32:735 — Auto title companies; licensing; regulation; fees, suspension, and revocation;

itle companies, as defined by

R.S. 32:702, who have confected a contract with the Department of Public Safety and Corrections, office of motor vehicles, shall be allowed to issue temporary registrations as provided in R.S. 47:519.2. Eligibility to contract under the provisions of this Section shall be limited to those persons of good moral character, who maintain an office within the state, have executed a good and sufficient surety bond that meets the requirements of R.S. 32:736, and have paid the annual fee required by Subsection C of this Section.

B. The department shall promulgate such rules as are necessary to implement this Section. Such rules may include guidelines for eligibility to contract with the department, criteria for the suspension, revocation, or cancellation of a contract, or any other matter the department deems necessary for the proper oversight of auto title companies.

C. A biennial fee of four hundred dollars shall be collected from a person seeking to contract with the department prior to the person commencing to act as an auto title company as provided in this Section. The contract and bond shall be valid for additional locations when such locations are under the same ownership, management, and control as that of the authorized auto title company. However, for the initial contract request and for each subsequent contract request, the auto title company shall pay an additional one hundred dollars for each additional location.

D. Every contract between the department and an authorized auto title company authorized by this Section shall expire as of the first day of June two years following the year in which such license was issued and may be automatically renewed by the Department of Public Safety and Corrections, office of motor vehicles.

E. Each contract perfected pursuant to this Section shall be renewed biennially at least sixty days in advance of the expiration date of the contract by submitting to the office of motor vehicles an application for renewal upon a form supplied by that office, together with the renewal fee and the surety bond for the renewal period.

RS 32:736 — Surety bond required; amount and conditions of surety bond; filing of bond

to do business in Louisiana as surety, in the sum of one hundred thousand dollars should the auto title company have only one location in this state and in a sum of one hundred twenty-five thousand dollars should the auto title company have more than one location in this state, if such surety bond is available for purchase. Such bond shall name the Department of Public Safety and Corrections, office of motor vehicles as obligee and shall be subject to the condition that, if the auto title company shall, throughout the entire

term of the bond, timely file with the office of motor vehicles all applications delivered to the auto title company for filing, and timely remit all fees and taxes collected, the obligation shall be void. If the company fails to meet the conditions of the bond, the obligation of the surety shall remain in full force and effect.

B. The surety bond furnished as required in this Section shall be delivered to and filed with the office of motor vehicles.

RS 32:737 — Causes for suspension, revocation, cancellation, or restrictions; reinstatement

Under this Chapter for the following causes:

- (1) Failure to remit taxes and fees collected from applicants for title transfers.
- (2) Operating as an auto title company without a contract for each location, with an expired contract, or without a valid surety bond on file with the office of motor vehicles.
- (3) Issuance of more than one temporary registration (T-Marker) to a title applicant, or issuing a T-Marker without first collecting all taxes and fees.
- (4) Operating from an unapproved location.
- (5) Changing the ownership of the auto title company and not reporting in writing to the office of motor vehicles within thirty days from the date of such change.
- (6) Changing the officers or directors of the auto title company and not reporting in writing to the office of motor vehicles within thirty days from the date of such change.
- (7) Being a principal or accessory to the alteration of documents relevant to a registration or titling transaction that results in a material injury to the public records or a shortfall in the collection of taxes owed.
- (8) The forwarding to the office of motor vehicles by an auto title company of a document relevant to a registration or titling transaction that results in a material injury to the public records, or a shortfall in the collection of taxes owed when the auto title company had knowledge of facts causing such injury or shortfall, and failed to disclose same to the office of motor vehicles.
- (9) Conviction of, or entry of a plea of guilty or nolo contendere to, any felony or conviction of, or entry of a plea of guilty or nolo contendere to, any criminal charge an element of which is fraud.
- (10) Fraud, deceit, or perjury in obtaining any contract perfected under this Chapter.
- (11) Failure to maintain at all times during the term of the contract all qualifications required by this Chapter or by rule adopted by the department.
- (12) Any other cause the department may establish through the adoption of a rule.

B. Any person whose contract has been suspended, canceled, or revoked during the effective term of the contract may request an administrative hearing to review the department's action. A request for administrative review shall stay the action of the department.

C. Any contract suspended, revoked, canceled, or otherwise restricted by the office of motor vehicles may be reinstated by the office of motor vehicles.

RS 32:738 — Cease and desist order; injunctive relief

motor vehicles is empowered to issue an order to any person engaged in any activity, conduct, or practice constituting a violation of any provision of this Chapter, directing such person to cease and desist from such activity, conduct, or practice. Such order shall be issued in the name of the state of Louisiana under the official seal of the Department of Public Safety and Corrections, office of motor vehicles.

B. If the person to whom the office of motor vehicles directs a cease and desist order does not cease and desist the proscribed activity, conduct, or practice within ten days from service of such cease and desist order by certified mail, the office of motor vehicles may cause to issue a writ of injunction enjoining such person from engaging in any activity, conduct, or practice proscribed by this Chapter. Such proceeding shall be brought in the district court having civil jurisdiction in any parish in which such person resides, or is domiciled or has his principal place of business. If the person whose license is to be suspended, revoked, canceled, or otherwise restricted is a nonresident and is not domiciled within

the state, such proceeding may be brought in the Nineteenth Judicial District Court for the parish of East Baton Rouge.

C. Upon a proper showing by the office of motor vehicles that such person has engaged or is engaged in any activity, conduct, or practice proscribed by this Chapter, the court shall issue a temporary restraining order restraining the person from engaging in unlawful activity, conduct, or practices pending the hearing on a preliminary injunction, and in due course a permanent injunction shall issue after hearing, commanding the cessation of the unlawful activity, conduct, or practice complained of, all without the necessity of the office of motor vehicles having to give bond as usually required in such cases.

D. The trial of the proceeding by injunction shall be a summary proceeding, and shall be by the judge alone without a jury.

RS 32:751 — Repealed by Acts 2006, No. 440, §2.

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RS 32:752 — Repealed by Acts 2006, No. 440, §2.

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RS 32:753 — Repealed by Acts 2006, No. 440, §2.

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RS 32:754 — Repealed by Acts 2006, No. 440, §2.

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RS 32:755 — Repealed by Acts 1997, No. 1388, §2.

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RS 32:756 — Repealed by Acts 2006, No. 440, §2.

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RS 32:757 — Repealed by Acts 2006, No. 440, §2.

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RS 32:758 — Repealed by Acts 2006, No. 440, §2.

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RS 32:759 — Repealed by Acts 2006, No. 440, §2.

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RS 32:759.1 — Repealed by Acts 2006, No. 440, §2.

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RS 32:760 — Repealed by Acts 2006, No. 440, §2.

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RS 32:761 — Repealed by Acts 2006, No. 440, §2.

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RS 32:762 — Repealed by Acts 2006, No. 440, §2.

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RS 32:763 — Repealed by Acts 2006, No. 440, §2.

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RS 32:764 — Repealed by Acts 2006, No. 440, §2.

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RS 32:765 — Repealed by Acts 2006, No. 440, §2.

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RS 32:766 — Repealed by Acts 2006, No. 440, §2.

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RS 32:771 — Repealed by Acts 2006, No. 440, §2.

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RS 32:772 — Repealed by Acts 2006, No. 440, §2.

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RS 32:773 — Repealed by Acts 2006, No. 440, §2.

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RS 32:773.1 — Repealed by Acts 2006, No. 440, §2.

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RS 32:773.2 — Repealed by Acts 2006, No. 440, §2.

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RS 32:774 — Repealed by Acts 2006, No. 440, §2.

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RS 32:774.1 — Repealed by Acts 2006, No. 440, §2.

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RS 32:774.2 — Repealed by Acts 2006, No. 440, §2.

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RS 32:774.3 — Repealed by Acts 2006, No. 440, §2.

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RS 32:775 — Repealed by Acts 2006, No. 440, §2.

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RS 32:776 — Repealed by Acts 2006, No. 440, §2.

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RS 32:777 — Repealed by Acts 2006, No. 440, §2.

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RS 32:778 — Repealed by Acts 2006, No. 440, §2.

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RS 32:779 — Repealed by Acts 2006, No. 440, §2.

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RS 32:780 — Repealed by Acts 2006, No. 440, §2.

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RS 32:781 — Definitions

esignee.

(3) "Dismantler and parts recycler" means a person, firm, or corporation engaged in whole or in part in the business of acquiring and dismantling, disassembling, or repairing

wrecked, abandoned, or repairable motor vehicles or selling the usable parts thereof, or selling such wrecked, abandoned, or repairable motor vehicles as a unit of wholesale, or selling such repaired motor vehicles as a unit at wholesale. For purposes of this Chapter, a person, firm, or corporation shall be presumed to be engaging in the business of a dismantler and parts recycler if such person, firm, or corporation possesses ten or more inoperable motor vehicles for more than thirty days, except when such inoperable motor vehicles are being held:

- (a) By a licensed tow truck owner or operator.
- (b) By a scrap metal processor to recycle the scrap metal.
- (c) By a bona fide repair business awaiting repairs.
- (4) "Dismantler and parts recycler sales representative" shall include anyone who, for compensation of any kind, sells or brokers any used motor vehicle or any usable part of a used motor vehicle.
- (5) "Motor vehicle" means any motor-driven vehicle required to be registered that was used, is used, or is designed to be used for the transporting of passengers or goods for public, private, commercial, or for-hire purposes.
- (6) "Motor vehicle crusher" means any person, firm, limited liability corporation, or corporation engaged in whole or in part in the business of purchasing and crushing or compacting motor vehicles and selling the crushed or compacted vehicle for scrap.
- (7) "Place of business" means the place owned or leased and regularly occupied by a person, partnership, corporation, limited liability company, or other entity licensed under the provisions of this Chapter for the principal purpose of auctioning, renting, or selling used motor vehicles, crushing or compacting used motor vehicles and selling the crushed or compacted vehicle for scrap, or engaging in the business of a dismantler and parts recycler, where the products for sale are displayed and offered for sale, and where the books and records required for the conduct of the business are maintained and kept.
- (7.1) "Public or retail motor vehicle auction" means the act of any person, partnership, corporation, limited liability company, or other entity engaging in, for a commission, compensation, or other consideration, the business of providing vehicle auction services at an established place of business which is not open exclusively to motor vehicle dealers, dismantlers, and parts recyclers.
- (8) "Salvage pool or salvage disposal sale" means a scheduled sale at auction or by private bid of wrecked or repairable motor vehicles by insurance companies, or by used motor vehicle dealers, or automotive dismantlers and parts recyclers licensed by the commission.
- (9) "Scrap metal processor" means any person or entity engaged in the business of obtaining and storing scrap metal, as defined by R.S. 37:1962, whose origin included abandoned, wrecked, or junked motor vehicles for recycling.
- (10) "Ultimate purchaser" means the first person or corporate entity, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a new motor vehicle for purposes other than resale. "Ultimate purchaser" shall not include a person who purchases a vehicle for purposes of altering or remanufacturing the motor vehicle for future

resale.

(11) "Used fire truck" means any motorized vehicle, the legal title of which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser, utilized by a fire department in transporting firefighters or equipment to fires and emergency calls and supports extinguishing operations such as water, pumps, ladders, special service apparatus, hoses, foam, air, lights, rescue equipment, and utility equipment.

(12) "Used motor vehicle" means a motor vehicle, which has been previously titled to an ultimate purchaser as defined in R.S. 32:1252.

(13)(a)(i) "Used motor vehicle dealer" means any person, partnership, corporation, limited liability company, or other entity who, for a commission or with intent to make a profit or gain of money or other thing of value, buys, sells, brokers, exchanges, rents with option to purchase, auctions at retail or public, offers, or attempts to negotiate a sale or exchange of an interest in used motor vehicles and who is engaged wholly or in part in the business of buying and selling used motor vehicles, whether such motor vehicles are owned by such person and whether the motor vehicles are sold from a dealership location or via any form of advertising, including but not limited to the Internet. A person shall be presumed to be engaged in the business of selling used motor vehicles if he sells five or more used motor vehicles in any twelve-month period which vehicles are not registered to and insured by members of the individual's household, immediate family members, or legal entities in which the individual has an ownership interest or which employ the individual. An entity shall be presumed to be engaged in the business of selling used motor vehicles if the entity sells five or more used motor vehicles which are not registered to and insured by the entity or by an entity affiliated with the entity receiving anything of value.

(ii) The term shall also include anyone not licensed under Chapter 6 of Title 32 of the Louisiana Revised Statutes of 1950 who sells used motor vehicles and who rents on a daily basis used motor vehicles.

(b) "Used motor vehicle dealer" shall not include any of the following:

(i) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.

(ii) Public officers while performing their official duties.

(iii) Employees of persons enumerated in the definition of "used motor vehicle dealer" when engaged in the specific performance of their duties as such employees.

(iv) Mortgagees or secured parties as to sales of motor vehicles constituting collateral on a mortgage or security agreement.

(v) Insurance companies.

(vi) Auctioneers or auction houses who are not engaged in the auction of used motor vehicles as the principal part of their business, including but not limited to the following auctions: estate auctions, bankruptcy auctions, farm equipment auctions, or government auctions.

(14) "Used motor vehicle salesperson" shall include anyone who is actively engaged in the sale, offering for sale, or negotiations to sell a used motor vehicle, including those engaged in management or finance and insurance, and who for compensation of any kind

operates as a broker or is compensated for any referral of a prospective buyer to a used motor vehicle dealer. "Compensation" for purposes of this Chapter means any thing of value including money, merchandise, rebates on purchases, trading stamps, or any other thing of value.

(15) "Used wrecker" means a truck, the legal title of which has been transferred, by a manufacturer, distributor, or dealer to an ultimate purchaser, with a hoist and towing apparatus used in towing wrecked or disabled vehicles.

(16) "Water-damaged vehicle" means any motor vehicle whose power train, computer, or electrical system has been damaged by flooding.

(17) "Wholesale motor vehicle auction" means the act of any person, partnership, corporation, limited liability company, or other entity engaging in, for a commission, compensation, or other consideration, the business of providing wholesale vehicle auction services at an established place of business which is open exclusively to licensed motor vehicle dealers, dismantlers, and parts recyclers.

RS 32:782 — Purpose; jurisdiction and authority of the commission

vehicle industry, promoting and

stimulating its businesses, and encouraging fair business practices to strive for fair competition. Further, the commission understands its role in representing the consumers of used motor vehicles and seeks to protect their interests by strengthening the relationship between dealers and consumers, assisting in dispute resolution, maintaining education programs to promote industry standards, and assisting the office of motor vehicles in enforcement of its laws related to used motor vehicle transactions.

B. The provisions of this Chapter shall not apply to any person, partnership, corporation, limited liability company, or other entity that is licensed or regulated by the Louisiana Motor Vehicle Commission. If any provision of this Chapter conflicts with any provision of Chapter 6 of this Title, the provisions of Chapter 6 of this Title shall prevail.

RS 32:783 — Used Motor Vehicle Commission; appointment and qualification; terms of office;

ice of the governor to be composed of ten members all appointed by the governor with the confirmation of the Senate. Five members shall be licensed used motor vehicle dealers, one selected from each public service commission district. One member shall be a licensed automotive dismantler or parts recycler, three members shall be consumers selected from the state at large, and one member shall be a person licensed to conduct used motor vehicle auctions or salvage pool auctions. The chairman shall be designated by the governor.

B.(1) The terms of the chairman and commissioners shall be coterminous with that of the governor making the appointment and until his successor is appointed and is qualified. The term of office of any member shall automatically expire if the member moves out of the public service commission district from which he was appointed. In the event of death, resignation, removal, or automatic expiration of term of any person serving on the commission, the vacancy shall be filled for the unexpired portion of the term in the manner of original appointment.

(2) The commission shall meet at Baton Rouge and complete its organization immediately after the entire membership has been appointed and qualified.

(3) The chairman and each member of the commission shall take and subscribe to the oath of office required of public officers.

C.(1) The chairman and members of the commission shall receive seventy-five dollars for each and every day actually and necessarily spent in attending the meetings of the commission, including any commission committee meetings, and shall be reimbursed for subsistence and traveling expenses incurred in the performance of their duties hereunder as provided by the commissioner of the division of administration.

(2) Such meeting payments shall not exceed the sum of eighteen hundred dollars per annum to any one person.

D.(1) The commission shall appoint a qualified person to serve as executive director who shall have had sufficient management and organizational experience in the automotive industry to direct the functions of the commission. The commission shall fix his salary and shall define and prescribe his duties.

(2) The executive director shall be in charge of the commission's office and shall devote such time as necessary to fulfill the duties thereof, and before entering upon his duties he shall take and subscribe to the oath of office.

(3) The commission may employ such clerical, technical, legal, and other help and incur such expenses as may be necessary for the proper discharge of its duties under this Chapter.

(4) The commission shall maintain its office and transact its business in Baton Rouge and is authorized to adopt and use a seal.

E.(1) The commission is hereby vested with the powers and duties necessary and proper to enable it to fully and effectively carry out and enforce the provisions and objectives of this Chapter and is hereby authorized and empowered to make and enforce all reasonable rules and regulations and to adopt and prescribe all forms necessary to accomplish said purpose. The enumeration of any power or authority herein shall not be construed to deny, impair, disparage, or limit any others necessary to the attainment thereof. All rules and regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act. Oversight review shall be conducted by the House Committee on Commerce and the Senate Committee on Transportation, Highways and Public Works.

(2) The commission shall have the full power and authority to purchase, acquire, develop, expand, sell, lease, maintain, mortgage, borrow funds, or otherwise contract with respect to immovable property and improvements thereon as it may deem necessary or appropriate to accomplish the provisions of this Chapter. Additionally, the commission shall have the authority to borrow funds with the approval of the State Bond Commission and to expend funds of the commission for the acquisition of immovable property and improvements thereon. In the event that the commission sells immovable property and improvements thereon, the revenue derived from the sale shall be retained by the commission and shall not be subject to reversion to the state general fund.

F. The commission's powers and duties shall include but are not limited to the following:

(1) Licensing used motor vehicle dealers and salespersons, motor vehicle crushers,

dealers of used parts and accessories, and dismantlers and parts recyclers.

(2) Inspecting used motor vehicle dealers, motor vehicle crushers, dealers of used parts and accessories locations, and dismantlers and parts recyclers locations to ensure that they are in an approved location, meet local zoning or other municipal requirements, and have sufficient facilities which shall include but not be limited to a business sign, a listed and usable telephone number, and a sales office.

(3) Repealed by Acts 2018, No. 435, §2.

(4) Working with consumers and dealers to hear complaints on used vehicles and parts and to establish a Used Car Consumer Action Panel to hear complaints on a condition of sale, implied and written warranties, and service complaints.

(5) Requiring all dismantlers, motor vehicle crushers, dealers of used parts and accessories, recyclers, and dealers to maintain their records for a period of three years and to keep their records, vehicles, and places of business open to inspection by any peace officer or agent of the Department of Public Safety and Corrections or of the commission during reasonable hours. Such records shall include bills of sale, financing or mortgage records, and monthly sales reports.

(6) Holding and conducting hearings on violations of this Chapter, mandatory repurchase disputes, imposing civil penalties, cease and desist orders, and revocation or suspension of licenses.

(7) Repealed by Acts 2009, No. 403, §2, effective July 7, 2009.

(8)(a) Taking possession of certificates of title and further distributing those titles to the rightful owners pursuant to R.S. 32:705 from:

(i) A used motor vehicle dealer who has failed or refused to provide a certificate of title to his customer or to the rightful owners pursuant to R.S. 32:705.

(ii) A floor plan financier or other similar holder of a security interest relative to a used motor vehicle who has failed or refused to provide a certificate of title to a bona fide retail purchaser in actual good faith in accordance with R.S. 32:710(D).

(b)(i) The executive director of the commission is empowered to take any and all actions necessary to obtain and deliver a certificate of title to a retail purchaser in actual good faith including instituting or participating in any legal action to obtain a certificate of title and endorsing a certificate of title on behalf of any used motor vehicle dealer who either refuses or is unavailable to sign or endorse the certificate of title.

(ii) If the commission institutes or participates in legal action to obtain a certificate of title for delivery to a retail purchaser in actual good faith, the commission is entitled to an award of reasonable attorney fees and court costs to be paid by the individual or entity responsible for delivery of the certificate of title.

(9) Issuing, serving, and enforcing a subpoena or subpoena duces tecum pursuant to any hearing or lawful investigation into the suspected misconduct of any licensee.

(10) Having the sole and exclusive authority to administer all claims made against the bond required by R.S. 32:791(G), including the denial or rejection of any claim.

(a) The executive director of the commission is authorized to take any action necessary to administer claims against any bond, including instituting or intervening in a

legal action to obtain payment of a claim or to prevent payment of an unauthorized claim.

(b) If the commission institutes or intervenes in any legal action as authorized by Subparagraph (a) of this Paragraph and prevails, the court shall award the commission reasonable attorney fees and court costs to be paid by the licensee, surety, or both.

G. All fees and charges under the provisions of this Chapter shall be collected and received by the executive director of the commission and shall be disbursed by him at the direction of the commission in administering and enforcing the provisions of this Chapter.

H. Repealed by Acts 2012, No. 834, §13, eff. July 1, 2012.

I. The commission shall, in addition to the powers herein conferred, be constituted a body politic or political corporation, invested with the powers inherent in corporations. It may sue and be sued under the style of the Louisiana Used Motor Vehicle Commission, and all process against the corporation shall be served on the chairman or executive director, and all suits on behalf of the commission shall be brought by the chairman or his designee. The domicile for the purpose of being sued shall be in East Baton Rouge Parish. Service of process shall be made upon the chairman or upon the executive director of the commission in person. No member of the board shall be held liable as an individual in any suit against the board.

RS 32:784 — Dealers, dismantlers, and auctions to be licensed; exception

or conduct the business of any of the following:

- (1) A used motor vehicle dealer.
- (2) A dealer in used parts or used accessories of motor vehicles.
- (3) A dismantler and parts recycler.
- (4) Public or retail motor vehicle auctions, wholesale motor vehicle auctions, or salvage pools that deal in used motor vehicles.
- (5) A rent-to-own dealer as defined in R.S. 32:793(A).
- (6) A used motor vehicle salesperson for any dealer licensed pursuant to this Chapter.
- (7) A used motor vehicle dealer who provides daily rentals of used motor vehicles as defined in R.S. 32:781.
- (8) A motor vehicle crusher as defined in R.S. 32:781.

B. Repealed by Acts 2018, No. 435, §2.

C. No person, partnership, corporation, limited liability company, or other entity, unless licensed by the commission as a used car dealer, shall engage in the business as a "broker", "purchasing company", "sales agent", or similar title for the procurement of prospective purchasers for used motor vehicles.

D. No person, partnership, corporation, limited liability company, or other entity licensed by the Louisiana Used Motor Vehicle Commission shall display any used motor vehicle at any place other than at a facility licensed by the commission, unless an off-premises permit authorizing the display of such used motor vehicle at the location has been issued by the commission. The commission may issue one off-premises permit to a dealer in any ninety-day period in accordance with rules and regulations authorizing the display of up to five vehicles at an event within thirty-five miles of the dealer's place of business for a

period of up to three days.

E. A public or retail motor vehicle auction shall not be required to obtain an off-premises permit to auction, via an Internet site, a used motor vehicle for a third party which is in the possession of the third party.

RS 32:785 — Procedures for denial, suspension, or revocation of license; notice; hearings; appeals; abandonment of business

the action taken by the commission on the application.

(2) Any applicant who has been denied a license shall be notified of the grounds for denial as set forth in R.S. 32:792(A).

(3) Within thirty days from receipt of the denial, an applicant whose application has been denied may request in writing a review of the denial by the commission.

(4) The commission shall hear all denials with reasonable promptness upon reasonable notice to the applicant.

(5) Any applicant who requests a review of the denial of his application shall provide either written or oral support for his application. Without such support, the request for review shall be denied.

(6) Following the review, the commission shall either affirm or reverse the denial.

(7) The commission's decision to affirm the denial shall be final when rendered. The applicant may appeal the decision as provided in Subsection C of this Section.

B.(1) Any licensee charged with violating the provisions of this Chapter shall be entitled to a hearing on the alleged violation.

(2)(a) The commission shall serve the licensee with written notice of the hearing at least twenty calendar days prior to conducting the hearing on the alleged violation.

(b) The commission shall serve the notice of the hearing on the licensee by certified or registered mail to the address for the licensee as provided on the licensee's application, by personal physical service on the licensee, or if a dealer, by service on any one of its employees or by posting notice at the entrance of the licensed premises where the alleged violation occurred.

(c) The notice shall contain the time and place of the hearing, the alleged violations, the facts in support of the alleged violations, the possible penalty, and the licensee's rights at the hearing.

(d) A copy of the notice shall be mailed by certified or registered mail to the surety on the licensee's bond at the address of the surety as written on the bond.

(e) If the licensee is a salesperson, a copy of the notice shall be mailed by certified or registered mail to the licensed dealer.

(f) If the issues alleging a possible violation were first presented to the commission by a complaint filed with the commission, a copy of the notice shall be mailed to the complainant by United States mail.

(3) Any party to a hearing shall have the right to compel the attendance of witnesses by requesting the issuance of subpoenas. The commission shall issue any subpoena requested in writing no later than ten days prior to the hearing.

The party requesting a subpoena be issued shall pay all witness fees in accordance with R.S. 13:3661, as well as the estimated cost to be incurred in the delivery of the subpoenas. The commission may compel the attendance of its own witnesses by the issuance of subpoenas.

(4) The commission shall consider any pleading filed by the licensee no later than five days prior to the hearing.

(5) The commission shall determine whether the licensee has violated any of the provisions of this Chapter, any statutes related to the registration of motor vehicles, including the use of temporary license plates and the collection of sales and use tax, and any rules and regulations promulgated by the commission.

(6)(a) The commission may impose sanctions including the imposition of restrictions on any license, the revocation or suspension of any license, the imposition of civil fines, the imposition of restitution or injunction, the assessment of all costs of the hearing including commission attorney fees, witness fees and travel expenses and per diem of commissioners, and the requirement that the licensee attend a four-hour educational seminar within three months of the hearing decision. The commission may also enter into stipulations.

(b) The commission findings and orders shall be reduced to writing and served on the licensee in any manner consistent with the service provided for in Subparagraph (B)(2)(b) of this Section.

(c) The commission decisions revoking or suspending a license or enjoining a licensee shall be final and enforceable when rendered.

(d) The commission decisions imposing a civil penalty shall become payable thirty days from the date the order is served on the licensee.

C.(1) Appeals of any decision denying a license or revoking or suspending a license shall not constitute a stay of the decision of the commission.

(2) Appeals of any decision of the commission shall be heard in accordance with the Administrative Procedure Act.

D.(1) When the licensed premises of a used motor vehicle dealer are abandoned, the license of the dealer and any salespersons shall be revoked without a hearing if a request or application for a hearing on the revocation is not made within five business days following the posting of a notice on the front door of the business that the license will be revoked for abandonment.

(2) Licensed premises shall be considered abandoned if any one of the following exists:

(a) There are no salespersons or dealer on the premises during the posted business hours for a period of more than one week without notice to the commission.

(b) The business telephone, as provided on the dealer's license application, is disconnected or no longer in service.

(c) The business sign has been removed.

RS 32:786 — Injunctions; cease and desist orders

te on the relation of the commission to enforce the provisions of this Chapter.

B. Any licensee or other person who violates or threatens to violate any provision of this Chapter or rule or regulation promulgated thereunder may be enjoined from committing or continuing the violation or engaging in any business for which a license has been issued under this Chapter. In addition to any other proper venue, the parish of East Baton Rouge shall constitute a proper venue for the institution by the commission of judicial actions authorized under this Chapter.

C. All costs, including reasonable attorney fees set by the court incurred by the commission, shall be borne by the person or licensee who has been so enjoined.

D.(1) If it appears to the commission at any time that a person is violating the provisions of this Chapter or any rule or order of the commission issued pursuant to this Chapter, it shall notify the person engaged in such conduct to appear and show cause why a cease and desist order should not be issued prohibiting the proscribed conduct. An interlocutory cease and desist order may be granted with or without bond or other undertaking if one or all of the following conditions exist:

(a) Such an order is necessary to the performance of the duties delegated to the commission by this Chapter or is otherwise necessary or convenient to maintaining the status quo between two or more adverse parties before the commission.

(b) A party before the commission is entitled to relief demanded of the commission, and all or part of the relief requires the restraint of some act prejudicial to the party.

(c) A person is performing or is about to perform or is procuring or allowing the performance of an act relating to the subject of a contested case pending before the commission, and the act would tend to render the commission's order in that case ineffectual.

(d) Substantial injury to the rights of a person subject to the commission's jurisdiction is threatened irrespective of any remedy at law.

(2) Interlocutory cease and desist orders shall remain in effect until vacated or until incorporated into a final commission order. Permanent cease and desist orders may be issued without regard to the enumerations in Paragraph (1) of this Subsection, but only in accordance with the provisions of this Chapter pertaining to the issuance of final commission orders.

(3) Appeal of any interlocutory cease and desist order shall be made to the commission prior to seeking judicial review under the provisions of this Chapter. Appeal of a permanent cease and desist order shall be conducted pursuant to the provisions of this Chapter pertaining to judicial review of final orders.

RS 32:787 — Criminal penalties

is Chapter shall, upon conviction, be fined not less than five hundred dollars nor more than one thousand dollars, and each day that a person, firm, association, corporation, or trust violates this Chapter shall constitute a separate offense.

RS 32:788 — Civil penalties

e that any licensee is guilty of a violation of any of the provisions of this Chapter or the rules and regulations of the commission, his or its license may be suspended or revoked or a civil penalty may be imposed by the commission. The commission may also impose a civil penalty against any person, firm, association, corporation, limited liability company, or trust which is determined by the commission to have violated any of the provisions of this Chapter or the rules and regulations of the commission.

B.(1) No civil penalty imposed for the violation of the provisions of this Chapter or the rules and regulations of the commission shall exceed two thousand dollars for each day such violation continues.

(2) On a second or subsequent violation, no civil penalty imposed shall exceed three thousand dollars for each day such second or subsequent violation continues. In order to constitute a second or subsequent violation there must occur a lapse of at least one day following the first or previous violation.

C. Any civil penalty imposed by the commission may, in the discretion of the commission, be suspended in whole or in part.

D. Upon the failure of any person, firm, association, corporation, limited liability company, or trust to timely pay any civil penalty imposed by the commission when due, the commission shall be entitled to recover by suit or otherwise, from such party all costs of collection, including court costs, deposition, and other discovery costs, and reasonable attorney fees incurred by the commission in collecting such civil penalty.

RS 32:789 — Sale of used water-damaged vehicles

ceiver of the vehicle in writing of the extent of any water damage from flooding which occurred to the vehicle prior to the transaction.

B. If a sale, transfer, or conveyance of a used motor vehicle occurs in violation of Subsection A of this Section, the person receiving ownership and title to the vehicle who is not otherwise aware of the damage at the time of the transaction may bring an action to set aside the transaction within one year from the date of the transaction and receive all monies or other property given as consideration for the vehicle less a reasonable assessment for miles driven.

RS 32:790 — Black market sales; prohibition

pe the licensing requirements and the payment of license fees provided for in Parts II and IV of this Chapter and to escape the payment of state and local sales and use tax.

B. Any person who violates this Section shall be liable for a fine of up to three thousand dollars.

C. The Used Motor Vehicle Commission shall have the responsibility to enforce the provisions of this Section.

RS 32:791 — Application for license; renewal; fees; educational seminar; bond requirements;

onstitute a misdemeanor for any person, firm,

association, corporation, limited liability company, or trust to engage in business as, or serve in the capacity of, or act as a used motor vehicle dealer, rental dealer, or used motor vehicle salesperson in this state without first obtaining a license therefor as provided in this Section.

(2) Any person, firm, association, corporation, limited liability company, or trust

engaging, acting, or serving in more than one of the foregoing capacities or having more than one place where the business is carried on or conducted shall be required to obtain and hold a current license for each capacity or location in which he, it, or they shall engage in such business provided that all used motor vehicle dealers shall have at least one licensed

salesperson per location.

(3) Any person, firm, association, corporation, limited liability company, or trust which violates Paragraph (1) of this Subsection or Subparagraph (B)(4)(e) of this Section shall be fined not less than three hundred dollars nor more than one thousand dollars or imprisoned for not more than ninety days, or both.

B.(1) Applications for licensure as a used motor vehicle dealer shall be signed by the applicant, shall be on forms prescribed by the commission and furnished to such applicants, and shall contain such information as the commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the license or licenses.

(2) The commission shall require in such application, or otherwise, information relating to:

(a) The applicant's financial standing.

(b) The applicant's business integrity.

(c) Whether the applicant has an established place of business and is engaged in the pursuit, avocation, or business for which each license is applied for.

(d) Whether the applicant is able to properly conduct the business for which each license is applied for.

(e) Such other pertinent information consistent with the safeguarding of the public interest and the public welfare.

(f) The name of the applicant.

(g) The street address of applicant's principal place of business and each additional place of business.

(h) The type of business organization of applicant.

(3)(a) All applications for license or licenses shall be accompanied by the appropriate fee or fees in accordance with the schedule provided in this Section. In the event any application is denied and the license applied for is not issued, the entire license fee shall be returned to the applicant.

(b) Every application for the issuance of a used motor vehicle dealer's license shall be accompanied by a certificate, as required by the commission pursuant to the provisions of R.S. 32:795, showing that the applicant has completed an approved educational seminar.

(4)(a) All bonds shall be for the license period and shall be nontransferable.

(b) Any dealer who submits a renewal application after the expiration date of an existing license shall be subject to a late penalty of one hundred dollars in addition to any penalty, fine, or cost assessed for operating without a license which shall be paid to the commission.

(c) Any dealer having a previous annual license shall be presumed to be a renewal applicant.

(d) Any dealer changing the name of the dealership, the dealership's address, the ownership of the dealership, or opening any additional place of business shall notify the commission within ten days of such change or be in violation of this Part.

(e) Any dealership ceasing to maintain its business shall surrender the dealership

license to the commission within ten days and any failure to do so shall constitute a misdemeanor. Violations of this Subparagraph shall be punished as provided in Paragraph (A)(3) of this Section.

(f) The commission is authorized to adopt rules to implement the provisions of this Section.

(5) The office of motor vehicles of the Department of Public Safety and Corrections shall be notified not to accept dealers' titles until such time as licenses have been issued.

C. A used motor vehicle salesperson's license shall permit the licensee to engage in the activities of a used motor vehicle salesperson. Salespersons shall not be allowed to sell vehicles unless applications and fees are on file with the commission and the motor vehicle salesperson's or temporary salesperson's license has been issued. No person shall hold more than one salesperson's license at a time.

D. The schedule of license fees to be charged and received by the commission for the licenses issued hereunder shall be as follows:

(1) For each used motor vehicle dealer's license, a maximum of two hundred dollars.

(2) For a used motor vehicle dealer's license and for each place of business in addition to the principal place of business, one hundred dollars.

(3) For each used motor vehicle salesperson's license, no more than twenty-five dollars.

E. The license issued to each used motor vehicle dealer shall specify the location of the place of business. If the business location is changed, the commission shall be notified immediately of the change and the commission may endorse the change of location on the license without charge. The license of each dealer shall be posted in a conspicuous place in the dealer's place or places of business.

F. Every used motor vehicle salesperson shall have his license upon his person when engaged in his business and shall display same upon request. The name of the employer of the salesperson shall be stated on the license.

G.(1) Every applicant for licensure or renewal of a license as a used motor vehicle dealer shall show proof of responsibility by depositing with the commission a continuing bond in the amount of fifty thousand dollars. All bonds shall be with a commercial surety authorized to do business in the state and approved by the commission.

(2) The bond shall be for the license period and a new bond or a proper continuation certificate shall be delivered to the commission at the beginning of each license period; however, the aggregate liability of the surety in any calendar year shall in no event exceed fifty thousand dollars.

(3) The bond shall be made payable to the state of Louisiana through the commission for the following purposes:

(a) The proper disposition of taxes, license fees, tags, or certificates of title.

(b) Indemnification to any purchaser of a used motor vehicle who suffers any loss, damage, or expense due to the failure of the dealer to comply with any law relating to the registration of a used motor vehicle, the payment of sales tax, and obtaining a license tag or certificate of registration, including but not limited to the failure of the licensee to deliver a

certificate of title or remit any tax, license, or registration fee.

(c) Restitution imposed by the commission in accordance with R.S. 32:785(B)(6).

(d) Unpaid penalties, fines, and hearing costs imposed by the commission not to exceed twenty-five thousand dollars.

(e) Attorney fees or court costs assessed pursuant to R.S. 32:783.

H. The bond required by this Section shall be maintained throughout the period of licensure. Should the bond be canceled for any reason, the dealer's license shall be revoked as of the date of cancellation unless a new bond is furnished prior to such date.

I. All used motor vehicle dealers are required to furnish and keep in force a garage liability policy which would provide coverage for all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of this state. Should the garage liability insurance coverage be allowed to lapse or be canceled for any reason, the dealer license shall be revoked as of the date of cancellation unless proof of a new policy of insurance is furnished prior to such date.

J. Applicants for licensure pursuant to this Part, other than a used motor vehicle dealer's license shall submit such evidence as the commission shall prescribe, documenting that either the applicant or his general manager, office manager, title clerk, or other responsible representative of the applicant has attended a four-hour educational seminar or has registered to attend such seminar within sixty days after issuance of the license.

RS 32:792 — Denial, revocation, or suspension of license; grounds; unauthorized acts

ursuant to the provisions of this Chapter for any of the following reasons:

(1) On satisfactory proof of unfitness of the applicant under the standards established by this Part or in rules or regulations adopted and promulgated by the commission.

(2) Being convicted of a felony crime.

(3) Any material false statement made by the applicant on any application for licensure under the provisions of this Part.

(4) Where the applicant has, under a previous license, committed a violation of any law or rule or regulation adopted and promulgated by the commission.

(5) Where the applicant is an immediate family member of, the former employee of, or a former business associate of a dealer whose license was previously revoked or suspended by the commission, and the applicant intends to operate the same or substantially the same business as operated by the revoked licensee, or the revoked licensee will be participating in the business with the applicant. As used in this Paragraph, "immediate family" shall have the meaning ascribed in R.S. 42:1102(13).

B. The commission may revoke or suspend a license, issue a fine or penalty, or enjoin a used motor vehicle dealer, dealer in used parts or used accessories of motor vehicles, used motor vehicle auctioneer, or salesperson for any of the following conduct:

(1) A change of condition after the license has been granted resulting in failure to maintain the qualifications for licensure, including but not limited to:

(a) Failure to keep an established place of business.

(b) Failure to furnish or keep in force garage liability insurance on any vehicle,

except for trailers, offered for sale and otherwise required under the financial responsibility laws of this state.

(c) Failure to furnish or keep in force any bond required under this Part.

(d) Repealed by Acts 2014, No. 423, §2.

(2) Committing a fraudulent act in selling, purchasing, or dealing in used motor vehicles or misrepresenting the terms and conditions of a sale, purchase, or contract for sale or purchase of a used motor vehicle or any interest including an option to purchase.

(3) Engaging in his business in such a manner as to cause injury to the public or those with whom he is dealing.

(4) Knowingly engaging in tampering with, adjusting, altering, changing, setting back, disconnecting, or failing to connect the odometer of any motor vehicle, or causing any of the foregoing to occur to an odometer of a used motor vehicle, so as to reflect a lower mileage than the true mileage driven by the used motor vehicle. The foregoing shall be applicable to any motor vehicle whether sold wholesale or retail or whether or not the foregoing occurred within or outside the state of Louisiana.

(5) Employing unlicensed salespersons or other unlicensed persons in connection with the sale of used motor vehicles.

(6) Not operating from the address shown on his license if this change has not been reported to the commission in either an application for an additional location, or not restricting the location of the display of motor vehicles exclusively to the address shown on his license, except pursuant to a permit for an approved off-site display.

(7) Parking vehicles on any public roadway or right-of-way for the purpose of displaying vehicles for sale.

(8) Failing to deliver any certificate of title to a consumer within the time limitations prescribed in R.S. 32:705.

(9) Failing to submit any monthly sales report to Motor Vehicle Audit by the twentieth day of the following month.

(10) Failing to remit sales tax where the tax has been collected by the dealer.

(11) Leaving the certificate of title open or unassigned to the dealer.

(12) Issuing temporary license plates or temporary dealer's plates in violation of the law.

(13) Failing to maintain records for a period of up to three years.

(14) Repossessing a vehicle in any manner other than what is allowed by law.

(15) Requiring a consumer to sign and execute a voluntary surrender or other similar document at the time of the sale of a used motor vehicle.

(16) Violating any provision of this Chapter, any rule or regulation adopted by the commission, or any provision of law not administered by the Louisiana Motor Vehicle Commission, relating to a used motor vehicle transaction between a used motor vehicle dealer and a consumer.

(17) Use of false, misleading, or unsubstantiated advertising in connection with his business. For the purpose of this Paragraph, false, misleading, or unsubstantiated advertising in connection with the sale of a used motor vehicle shall include but not be limited to the

following:

- (a) Making any unsubstantiated claim regarding the dealership, such as being the "largest" or "biggest" dealer, or being the "number one dealer" in an area.
- (b) Advertising that notes will not have to be paid by the customer for a certain period of time, unless the dealer can substantiate the delay in payment and unless the delay is offered to all customers without restriction or limitation.
- (c) Advertising a loan interest rate without including all restrictions or limitations in the same size lettering.
- (d) Advertising guaranteed credit approval without including all restrictions or limitations and any required credit rating in the same size lettering.
- (e) Advertising a monthly note without restriction or limitation and without reference to an approved credit rating in the same size lettering.
- (f) Advertising a guaranteed amount for trade-ins.
- (g) Advertising a price other than the full cash price for which the vehicle will be sold, except for tax, title, and license, which must be referenced.
- (h) Advertising a price without providing a complete and accurate description of the vehicle, including make, model, year, and any identification and serial number of the vehicle.
- (i) Performing a "bait and switch" in which the dealer does not have the vehicle advertised for sale and has not had the vehicle within a reasonable time from the advertisement.
- (j) Use of the words "certified", "certification", or other similar terms without having proof of a certification process approved by the commission.
- (k) Advertising a down payment without including all restrictions or limitations in the same size lettering.
- (18) Failing to comply with R.S. 32:705.
- (19) Selling a used motor vehicle either with a waiver of warranties or "as is" without completing and providing to the purchaser a buyers guide if required by the Federal Trade Commission.

C. Repealed by Acts 2015, No. 119, §2.

D. The commission shall not deny an application for a used motor vehicle dealership based upon consideration of an existing or anticipated economic or competitive effect on other licenses in the surrounding community or territory.

E. In the performance of its duties under this Section, the commission shall have the authority to obtain from the Department of Public Safety and Corrections and other governmental agencies information relating to the criminal records of applicants for licenses under this Part.

RS 32:793 — Rent with option-to-purchase program

"t" means the failure of a rental consumer to bring the rental account current within five days after the rental payment is due or the failure of the rental consumer to maintain minimum insurance required pursuant to a rental purchase agreement.

(3) "Processing fee" means those administrative fees that a rental dealer may charge to a rental consumer to initiate a rental purchase agreement, however designated.

(4) "Rental consumer" means a natural person who rents with an option-to-purchase a used motor vehicle under a vehicle rent with option-to-purchase agreement.

(5) "Rental purchase agreement" means a vehicle rent with option-to-purchase agreement for the rent of a used motor vehicle by a rental dealer in favor of a rental consumer, for personal, family, or household purposes for a period of not less than twelve months.

(6) "Rent-to-own dealer" means a used motor vehicle dealer who rents used motor vehicles under a rental purchase agreement.

B. All rental purchase agreements are required:

(1) To be made in clear and conspicuous language.

(2) To be in writing, a copy of which shall be delivered to the rental consumer.

(3) To have a condition report which sets forth in detail the physical condition and appearance of the vehicle prior to rental which shall be completed and signed by both the rental consumer and an authorized representative of the rental dealer and promptly delivered to the rental consumer.

(4) To have provisions substantially equivalent to the following:

(a) A provision indicating the description of the vehicle rented, particularly to the year, make, model, vehicle identification number, color, and odometer reading.

(b) A provision itemizing all costs relative to detail, delivery, or destination of the vehicle, which shall not exceed the sum of one hundred fifty dollars.

(c) An itemization of the processing fee charged by the rental dealer, if any, which shall not exceed the sum of one hundred fifty dollars.

(d) A provision indicating the amount of the security deposit required by the rental dealer and the conditions under which the said security deposit shall be refundable or nonrefundable; however, no security deposit shall exceed the rental dealer's documented cost of the vehicle.

(e) A provision that the rental dealer cannot add repair costs to the rental purchase agreement. Further, that the rental dealer shall warrant the power train of the motor vehicle for any defects which existed at the time of sale for a period of thirty days or one thousand miles, whichever is the lesser.

(f) A provision offering to the rental consumer the right to secure a warranty, if one is available, for the used motor vehicle and the price of such warranty, and the cost of any deductible under the warranty.

(g) A provision setting the total amount of payments due, the number of total periodic payments, and the amount of each such periodic payment.

(h) A provision indicating whether the title transfer and licensing fees are included in the payments charged at consummation by the rental dealer or are to be considered additional charges.

(i) A provision indicating whether a late payment is due from the rental consumer after a certain date selected for periodic payment, the amount of which payment shall not exceed the sum of fifty dollars or ten percent of the monthly payment price, whichever is less.

(j) A provision indicating whether a reinstatement fee shall be required in the event that the rental consumer fails to make timely rental payments and desires to reinstate the rental purchase agreement, which reinstatement fee shall not exceed the sum of fifty dollars plus any legitimate recovery fees or expenses.

(k) A provision indicating whether the rental consumer is liable for loss or damage to the rental property and, if so, the maximum amount for which the rental consumer may be liable.

(l) A provision containing the rights of the rental consumer to terminate the rental purchase agreement and the consequences of such termination, if any.

(m) A provision regarding the maintenance and repair of the rental during the rental term and whether the rental consumer is responsible for such repairs absent the purchase of a warranty.

(n) A provision indicating whether the rental consumer is required to secure automobile liability insurance from a licensed insurance agent in the state of Louisiana, and the minimum limits required by the rental dealer for both bodily injury and property damage, which in any event shall not be less than minimum limits required by state law.

(o) A provision that when a rental consumer is in default on his rental purchase agreement, the rental dealer will mail a notice of default to the rental consumer, provided there is proof of mailing giving the consumer five days to bring the account current.

(p) A provision that when the rental consumer returns the vehicle that the dealer shall do a condition report at the time of the vehicle's return which sets forth the physical condition and appearance of the vehicle and which shall be completed and signed by an authorized representative of the rental dealer and the rental consumer and promptly delivered to the rental consumer.

C. A rental purchase agreement may not contain a provision:

(1) Requiring a confession of judgment.

(2) Authorizing a rental dealer or an agent of the rental dealer to commit a breach of the peace in the repossession of rental property or to take repossession of the rental property in any manner other than what is permitted in R.S. 14:220.

D. Every rental dealer shall maintain a contingent automobile liability policy of insurance with minimum limits of one hundred thousand dollars per occurrence, three hundred thousand dollars aggregate, and fifty thousand dollars in property damage. It shall not be sufficient for any rental dealer to share in a policy of insurance, which could, under any circumstance, create a limit of less than that set forth herein. Such policy may be surplus lines insurance as defined in R.S. 22:46.

E. A used motor vehicle dealer shall not rent with an option to purchase a used motor vehicle that has a recorded lien on file. The lien shall be removed through the office of motor vehicles prior to placing the used motor vehicle in the rental program. A used motor vehicle dealer shall only rent with an option-to-purchase vehicle which shall be properly titled in the name of the used motor vehicle dealer.

RS 32:794 — Wholesale motor vehicle auctions; unlawful acts

ng requirements of this Chapter.

(2) Fail to comply with any provision of this Chapter, any provision relating to the proper disposition of license tags or registrations, transfers of title, or payment of sales taxes in connection with the purchase or sale of any new or used motor vehicle, or with any rule or regulation adopted and promulgated by the commission pursuant to the authority vested in it by this Chapter.

(3) Permit any person other than a licensed dealer or a person who holds a current authorization to bid for a licensed dealer, to bid, offer to bid, participate in the bid process, purchase, or offer to purchase a used motor vehicle placed up for bid at the auction.

(4) Accept cash for a sale from anyone other than a licensed dealer or his agent.

(5) Permit any person other than a mechanic or technical expert to accompany a licensed dealer to inspect used motor vehicles prior to the vehicle being placed up for bid at the auction.

(6) Fail to disclose that a sale took place off the block or out of the auction ring by providing red-stamped verification on the auction bill of sale or invoice, with the lettering on the stamp to be no less than half-inch print size.

(7) Fail to implement, within six months, following the effective date of this Section, an audio video recording system which will properly verify sales occurring in the lanes at the auction and fail to maintain those video recordings for at least thirty days following the sale.

(8) Fail to use an industry-recognized damage classification system for all vehicles sold at auction.

(9) Engage in fraudulent activity in the auction process.

B. Any violation of this Section shall constitute grounds for suspension, revocation, or refusal to issue or renew any license or permit issued by the commission.

C. Any licensee who violates any of the provisions of this Section may be subject to an injunction under R.S. 32:786 and fines and penalties provided in R.S. 32:788.

RS 32:795 — Educational seminars; authority; initial license application seminar; renewal

(1) Require both initial applicants and licensees seeking a renewal of their licenses, pursuant to R.S. 32:791, to attend educational seminars.

(2) Promulgate and adopt any rule for establishing educational seminar curriculum, requiring certain materials to be used, employing any person, and incurring any expense necessary to administer the seminars.

(3) Require seminar attendees to complete a test comprised of ten questions approved by the commission and to obtain a minimum score of seventy percent in order to receive credit for satisfactory completion of the seminar.

(4) Require that an initial license application seminar shall not exceed six hours in length and require that a renewal application seminar shall not exceed four hours in length.

(5) Approve and create a uniform certificate to be issued upon satisfactory completion of an educational seminar.

B. Each initial license application shall be accompanied by a certificate issued by the commission, as described in Subsection D of this Section, documenting that a minimum of one owner, partner, officer, or local dealership manager of the dealer applicant has completed an educational seminar. For each initial license application seminar, the seminar shall include materials from the Department of Public Safety and Corrections, office of motor vehicles, the Department of Revenue, and any other information the commission deems necessary to educate attendees and their employees regarding compliance with the law.

C. Each licensee seeking to renew his license shall certify that the owner, partner, officer, or local dealership manager of the dealer has completed an educational seminar prior to filing the renewal application with the commission. Any renewal application and seminar certification shall be completed during the license period.

D.(1) The commission may approve any educational institution, private vocational school, correspondence school, or trade association that meets its requirements to conduct educational seminars as required by this Section.

(2) Any educational institution, private vocational school, correspondence school, or trade association approved pursuant to Paragraph (1) of this Subsection shall be reapproved by the commission every two years.

(3) Any educational institution, private vocational school, correspondence school, or trade association administering an educational seminar shall issue the uniform certificate of completion approved by the commission as required by Subsection A of this Section upon an attendee's satisfactory completion of the seminar.

E. Failure to satisfactorily complete an educational seminar as required by this Section is considered a violation of this Part.

F. Notwithstanding any other provision of this Section, this Section shall not apply to any licensee who does not sell or rent used motor vehicles to consumers.

RS 32:796 — Deposit and down payment disclosure and delivery of vehicle pending the sale

a deposit on a used motor vehicle, the used motor vehicle dealer is required to provide a statement that the deposit given is on an agreement to purchase, and not an actual sale. The agreement shall clearly state that no transaction has actually occurred, that no sales documents have been completed, and that the deposit is merely intended as a hold on a vehicle.

B. In every transaction between a used motor vehicle dealer and a customer in which

the customer provides a down payment for the purchase of a used motor vehicle, the used motor vehicle dealer is required to provide, either on the bill of sale, or by separate agreement, a statement that the sale is conditioned upon certain identifiable events, such as financing or obtaining state-mandated compulsory automobile insurance.

C. In every transaction between a used motor vehicle dealer and a customer in which the customer provides either a down payment or a deposit for the purchase of a used motor vehicle, the used motor vehicle dealer shall complete a disclosure statement containing the terms and conditions of the transaction, including but not limited to the following:

- (1) The amount of the deposit or down payment.
- (2) Whether the money given is either a deposit or down payment.
- (3) Terms and conditions for return or forfeiture of the customer's deposit or down payment.
- (4) A time limit in which to complete the transaction not to exceed twenty days.
- (5) A complete description of the motor vehicle to be sold including the make, model, year, and any identification and serial numbers.
- (6) The price of the vehicle and a description of the vehicle including the make, model, year, identification, and serial number and its condition.
- (7) The amount of the trade-in allowance and a description of the trade-in vehicle including the make, model, year, identification, and serial number and its condition.

D. If the dealer allows the customer to take delivery on a vehicle which is the subject of either a deposit or a down payment, a pre-delivery sale disclosure statement from the dealer and the customer shall include the following:

- (1) A condition report which clearly identifies any noticeable damage to the vehicle before it is released to the customer.
- (2) A statement that if the dealer withdraws from the agreement to purchase, the customer will be responsible only for damages beyond normal wear and tear occurring during the customer's use of the vehicle, the amount of which may be deducted from the deposit or down payment.
- (3) A statement that if the customer withdraws from the agreement to purchase, the customer shall be responsible not only for damages occurring during the customer's use of the vehicle but also for usage of the vehicle at a day rate not to exceed twenty-five dollars per day and thirty-five cents per mile, which may be deducted from the deposit or down payment. A customer shall be considered as having withdrawn from the agreement if the customer intentionally provided false or fraudulent information to the dealer in connection with the transaction.
- (4) A statement that if the customer either withdraws from the agreement to purchase or fails to return the vehicle at the expiration of the term of the agreement, the dealer may seek repossession of the vehicle by any lawful means.
- (5) A statement that if the dealer withdraws from the agreement to purchase that the dealer must give written notice, by certified or registered mail, to the customer at least five days prior to taking repossession of the vehicle which may be done by any lawful means, and only upon return of the deposit in accordance with this Section.

E. It shall be unlawful and constitute a violation of this Chapter for any used motor vehicle dealer to fail to follow any of the provisions of this Section.

RS 32:801 — Definition

of passengers or goods for public,
private, commercial, or for-hire purposes.

RS 32:802 — License required; application; fee; duration

part as, or serve in the capacity of, or act as an automotive dismantler and parts recycler, automotive dismantler and parts recycler salesperson, or motor vehicle crusher in this state without first obtaining a license therefor from the Louisiana Used Motor Vehicle Commission.

B. Any person, firm, association, corporation, or trust engaging, acting, or serving in more than one of the capacities or having more than one place where the business is carried on or conducted shall be required to obtain and hold a current license for each thereof in which he, it, or they shall engage.

C. Every person, firm, or corporation desiring to engage in the business of a dismantler and parts recycler, dismantler and parts recycler salesperson, or motor vehicle crusher shall apply in writing, on a form to be prescribed by the commission, which form shall contain:

- (1) The name of the applicant.
- (2) The street address of applicant's principal place of business.
- (3) The type of business organization of applicant.
- (4) The applicant's financial standing.
- (5) The applicant's business integrity.
- (6) Whether the applicant has an established place of business and is engaged in the pursuit, avocation, or business for which a license or licenses are applied.
- (7) Whether the applicant is able to properly conduct the business for which a license or licenses are applied.
- (8) Such additional information as may be required by the commission.

D. In addition to the items required to be submitted by applicants for licensure pursuant to this Section, applicants shall also submit such evidence as the commission shall prescribe, documenting that either the applicant or his general manager, office manager, title clerk, or other responsible representative of the applicant has attended a four-hour educational seminar or has registered to attend such seminar within sixty days after issuance of the license.

E. Every application for license as a dismantler and parts recycler, dismantler and parts recycler salesperson, or motor vehicle crusher shall be accompanied by the following fee:

- (1) A maximum of two hundred dollars for an applicant's established place of business.
- (2) One hundred dollars for each place of business in addition to the principal place of business.

F. All licenses issued under the provisions of this Part shall expire on the date indicated on the license and shall be nontransferable.

G. All applications for renewal of licenses hereunder shall be submitted on or before sixty days prior to the expiration date indicated on the license. If application has not been made for renewal of licenses, such licenses shall expire on the expiration date indicated on the license, and it shall be a violation of this Part for any person to represent himself and act thereafter in the capacity and business for which he was formerly licensed hereunder.

H. Any licensee who submits a renewal application after the expiration date of an existing license shall be subject to a late penalty of one hundred dollars and shall be presumed to be a renewal applicant.

I. Any licensee changing the name of the business, the business address, the ownership of the business, or opening any additional place of business shall notify the commission within ten days of such change or be in violation of this Part.

J. Any licensee ceasing to maintain its business shall surrender the license to the commission within ten days and any failure to do so shall constitute a misdemeanor criminal violation and also subject the licensee to civil penalties as defined in this Chapter.

K. The commission is authorized to adopt rules to implement the provisions of this Section.

RS 32:803 — Other licenses not required

garage or shop, or a storage garage or yard to engage in the business of a dismantler and parts recycler as set forth herein.

RS 32:804 — Denial, revocation, or suspension of license; grounds; violations

cel a license after it has been granted for any of the following reasons:

- (1) On satisfactory proof of unfitness of the applicant or the licensee, as the case may be, under the standards established by this Part.
- (2) For fraudulent practices or any material misstatement made by an applicant in any application for license under the provisions of this Part.
- (3) For any willful failure to comply with any provisions of this Part, any provision relating to the proper disposition of certificates of title or permits to dismantle in connection with the purchase or sale of any motor vehicle, or with any rule or regulation adopted and promulgated by the commission under authority vested in it by this Part.
- (4) Change of condition after license is granted resulting in failure to maintain the qualifications for licensure.
- (5) Continued or flagrant violation of any of the rules or regulations of the commission.
- (6) Being a dismantler and parts recycler, dismantler and parts recycler salesperson, or motor vehicle crusher who:
 - (a) Resorts to or uses any false or misleading advertising in connection with his business.
 - (b) Has committed any unlawful act which resulted in the revocation of any similar license in another state.
 - (c) Has been convicted of a crime involving moral turpitude.
 - (d) Has committed a fraudulent act in selling, purchasing, or otherwise dealing in motor vehicles or motor vehicle parts, or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of used motor vehicle parts, motor vehicles, or any interest therein including an option to purchase such motor vehicles.
 - (e) Has engaged in his business under a past or present license issued pursuant to this Part or in any other course of conduct in such a manner as to cause injury to the public or to those with whom he is dealing.
 - (f) Has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license.
 - (g) Has failed or refused to furnish and keep in force any bond required under this Part.
 - (h) Has knowingly engaged in tampering with, adjusting, altering, changing, setting back, disconnecting, or failing to connect the odometer of any motor vehicle, or causing any of the foregoing to occur in an odometer of a motor vehicle, so as to reflect a lower mileage than the true mileage driven by the motor vehicle. The foregoing shall be applicable to any motor vehicle whether sold wholesale or retail or whether or not the foregoing occurred within or outside of the state of Louisiana.
- (7) Being a dismantler and parts recycler or crusher who:
 - (a) Does not have an established place of business.
 - (b) Is not operating from the address shown on his license if this change has not been reported to the commission.
 - (c) Employs unlicensed salespersons or other unlicensed persons in connection with the sales of used motor vehicle parts.

B. The commission shall not deny an application for a license or revoke or suspend a license based upon consideration of an existing or anticipated economic or competitive effect on other licensees in the surrounding community or territory.

C. Each of the aforementioned grounds for suspension, revocation, cancellation, or denial of issuance or renewal of license shall also constitute a violation of this Part, unless the person involved has been tried and acquitted of the offense constituting such grounds.

D. The suspension, revocation, cancellation, or refusal to issue or renew a license or the imposition of any other penalty by the commission shall be in addition to any penalty which might be imposed upon any licensee upon a conviction at law for any violation of this Part.

E. In the performance of its duties under this Section the commission shall have the authority to obtain from the Department of Public Safety and Corrections and other governmental agencies information relating to the criminal records of applicants for licensure under this Part.

RS 32:805 — Requirement to keep records

otor vehicles for three years from the date of purchase or sale indicating the make, model, year, body style, vehicle identification number, odometer reading, and name and address of the purchaser and sellers, provided that any person, firm, or corporation purchasing a motor vehicle from a licensee of this commission is exempted from the requirement of keeping records on such purchases as are required in this Section. Scrap metal processors shall provide the information concerning the vehicle purchased, as required in this Section, only to the extent the information is readily available or ascertainable from the motor vehicle itself, as determined by the scrap metal processor.

B. Such registers and any vehicles or parts of vehicles still in the possession of the used motor vehicle dealer or dismantler and parts recycler, motor vehicle crusher, and scrap metal processor shall be made available for inspection to identified representatives of the commission and to identified law enforcement officers of the state, parish, and municipality during reasonable business hours on business days.

RS 32:806 — Transfer of motor vehicle certificate of title to or from a dismantler and parts recycler

licensed hereunder, shall have the authority to transfer the certificates of title to such motor vehicles as a dealer under the Louisiana Certificate of Title Law.

RS 32:807 — Transfers of scrapped motor vehicles

ied by the delivery of possession of the certificate of title, a permit to sell, or the permit to dismantle the motor vehicle, as required under R.S. 32:716 or 717, whichever is applicable, by the transferor to the transferee thereof.

B. No motor vehicle crusher or scrap metal processor acquiring a motor vehicle from any person, firm, or corporation who is not licensed under the provisions of this Part as a dismantler and parts recycler or as a motor vehicle crusher shall crush, compact, demolish, shred, or otherwise recycle for scrap such motor vehicle until after applying with the Department of Public Safety and Corrections, office of motor vehicles, for a permit to dismantle the motor vehicle for scrap in accordance with the applicable provisions and procedures set forth in R.S. 32:716 or 717, unless a permit to dismantle or a permit to sell such motor vehicle has previously been issued to the seller and transferred to the purchaser of the motor vehicle.

C. A scrap metal processor, upon receiving a copy of the license from a used motor vehicle dealer, dismantler and parts recycler, or motor vehicle crusher, shall be authorized to rely on the validity of said license for the term of said license unless and until the scrap metal processor receives actual written notice from the commission that said license has been revoked, suspended, or canceled.

RS 32:808 — Salvage pools; record keepers

or three years from

the date of sale, showing the make, model, year, body style, vehicle identification number, odometer reading, and the name and address of the seller and buyer. The register shall be made available when requested by the commission within a reasonable period of time.

(2) The register shall be made available for inspection by identified law enforcement officers of the state, parish, or municipality or agents of the commission at the salvage pool or salvage disposal sale business location during regular business hours on business days.

B. In the event a bid card is not required in order to purchase a vehicle, a transaction fee of five dollars shall be collected and remitted monthly, electronically or otherwise, and transmitted to the commission by the owner or operator of the salvage pool in connection with the sale of each vehicle.

RS 32:809 — Repealed by Acts 2007, No. 257, §2.

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RS 32:851 — Definitions

in

those instances where the context clearly indicates a different meaning:

- (1) "Commissioner" means the Department of Public Safety and Corrections.
- (2) "Judgment" means any judgment which shall have become final by expiration without appeal of the time within which a suspensive appeal might have been perfected or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.
- (3) "License" means any license, temporary instruction permit, or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles.
- (4) "Mobile electronic device" means any small handheld computing or communications device that has a display screen with touch input or a miniature keyboard.
- (5) "Motor vehicle" means every self-propelled vehicle (except traction engines, road rollers, farm tractors, electric-assisted bicycles, tractor cranes, power shovels, and well drillers) and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.
- (6) "Nonresident" means every person who is not a resident of this state but does not include persons dwelling outside of this state whose occupation or business requires them to spend one-half or more of their working hours in this state in pursuance of their business or employment.
- (7) "Nonresident's operating privileges" means the privileges conferred upon a nonresident by the laws of this state pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in this state.
- (8) "Operator" means every person who is in actual physical control of a motor vehicle.
- (9) "Owner" means every person who holds the legal title to a motor vehicle or in the event a motor vehicle is the subject of an agreement for the conditional sale, lease, or transfer of the possession, however, thereof, with the right of purchase upon performance of the condition stated in the agreement and with an immediate right of possession vested in the conditional vendee, lessee, possessor, or in the event such or similar transaction is had by means of a mortgage, and the mortgagor of a vehicle is entitled to possession, then such conditional vendee, lessee, possessor, or mortgagor shall be deemed the owner for the purpose of this Chapter.
- (10) "Person" means every natural person, firm, co-partnership, association, or corporation.
- (11) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof,

arising out of the ownership, maintenance, or use of a motor vehicle in the amounts specified in R.S. 32:872 in reference to the acceptable limits of a policy or bond.

(12) "Registration" includes a registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.

(13) "State" means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

RS 32:852 — Commissioner to administer law; hearings; notice to injured parties; appeal to court

ns necessary for its administration and shall provide for hearings upon request of persons aggrieved by orders or acts of the commissioner under the provisions of this Chapter.

B. Any other provision of law to the contrary notwithstanding, whenever a person is involved in an accident and as a result thereof, whether directly or indirectly, the director of public safety is requested or required to hold an administrative hearing to determine whether or not that person's driver's license or driving privilege is to be suspended, cancelled, or revoked, the director shall, in addition, notify each party who suffered personal injury or property damage in such accident of the hearing. Such notification shall be made by regular or first class mail to the last known address of the party. The notification shall state therein that the hearing will be held, for what purpose the hearing will be held, that the party to whom the notification is made may attend the hearing, and that the hearing shall in addition be held for the purpose of determining whether or not compensation has been made for damages.

C. Any order or act of the commissioner, under the provisions of this Chapter, shall be subject to review by appeal to the district court of the parish of East Baton Rouge or by appeal to the district court of the domicile of appellant, provided an appeal is filed in the district court within thirty days from the effective dates of the order or act of the commissioner, at the instance of any party in interest. The court shall determine whether the filing of the appeal shall operate as a stay of any such order or decision of the commissioner. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the commissioner in whole or in part.

D. The deputy secretary for the office of public safety services shall annually include in his budget a provision for the expenditure of funds to improve the enforcement of the Motor Vehicle Safety Responsibility Law. Ten days prior to the beginning of each regular session of the legislature, he shall submit a written report to each house of the legislature on the effectiveness of the law and his enforcement efforts, for amending the law, and for additional authority or financial assistance he requires to enforce the law effectively.

E. Notwithstanding any other provision of the law to the contrary, no fine, fee, or other monetary sanction shall be imposed for failure to respond to any notice required as provided in this Chapter as it provides for notices of suspension or revocation of driving privileges or motor vehicle registration privileges unless the notice was transmitted by certified or registered mail, return receipt requested.

RS 32:853 — Commissioner to furnish operating records; other information; fees; withdrawal of

bstract of the operating record of any person subject to the provisions of this Chapter. The operating record of an individual driver shall include only those offenses where an individual has pled guilty and been sentenced thereupon, forfeited bond resulting in a final judgment of forfeiture, or been found guilty by a court of competent jurisdiction of violating a law in the operation of a motor vehicle, or civil actions in which an individual has been adjudged at fault, and any accident in which the driving privileges of the person are suspended for failure to provide liability security or proof of financial security.

(b) On accidents occurring after December 31, 1984, it shall be noted on the record whether or not such person was issued a citation, or whether an individual has pled guilty, forfeited bond, or been found guilty by a court of competent jurisdiction of violating a law in the operation of a motor vehicle, or civil actions in which an individual has been adjudged at fault.

(c) The operating record of a person shall not include those arrests for a first or

second violation of any state, local, parish, city, municipal, or other government ordinance, statute, or legal provision making criminal the operating of a motor vehicle while intoxicated or under the influence of alcoholic beverages, including but not limited to R.S. 14:98, nor shall it include any record of any civil sanction imposed, including the suspension of a license, as a result of such an arrest when any of the following occurs:

(i) The person submitted to an approved chemical test and the test resulted in a blood alcohol reading of less than 0.08 percent by weight, or of less than 0.02 percent by weight, if the person was under the age of twenty-one years on the date of the test, and the person is found not guilty.

(ii) The person was found not guilty whether or not he submitted to a test.

(iii) The person was convicted or entered a plea, and the court, clerk, or district attorney subsequently reports that the person achieved a final dismissal under the provisions of Code of Criminal Procedure Article 894. Unless and until such notice is received, the department shall add a conviction entered under Article 894 to the person's operating record and suspend or revoke the license in accordance with law after issuance of proper notice to the person.

(d) The operating record shall not include those arrests or convictions for a first or second violation of R.S. 14:98.1, if at least two years have elapsed since the date of conviction and the offender has not been convicted of an additional offense for violation of R.S. 14:98 or 98.1. If he has been convicted of one or more of these additional offenses during the two-year period, then the earlier offense shall remain on his record for a period of four years from the date of that conviction.

(e) The operating record of an individual shall not include citations for violation of any statute or ordinance requiring use of a seatbelt or wearing a motorcycle helmet.

(2) The commissioner shall also, upon request, advise as to whether any person subject to the provisions of this Chapter has complied with the requirements concerning the deposit of security, and, if so, shall designate the manner of compliance, the nature and amount of security deposited, or the name and address of the liability insurance company insuring such person.

(3)(a) No insurance company shall use the certified abstract of the operating record to increase an insured's premium without complying with the following conditions:

(i) Furnish a copy of the abstract to the insured.

(ii) Determine that the insured is over fifty percent at fault in any accident shown on the abstract.

(iii) Provide to the insured a notice in writing that the insured has a right to appeal the determination of fault by requesting a hearing before the Department of Public Safety and Corrections. The notice shall contain the procedure for requesting the hearing and the address to which the request is to be transmitted.

(b) Should the insured not agree that the insured is over fifty percent at fault, the insured may appeal the matter to the Department of Public Safety and Corrections for determination. The department shall provide notice of the hearing to the insured, to the insurance company of the insured, and to each person who suffered personal injury or

property damage as a result of the accident. The notice shall be transmitted by first class mail to the last known address of the person.

(c) The Department of Public Safety and Corrections shall notify the insured and insurance company of their findings. If the Department of Public Safety and Corrections finds the insured not over fifty percent at fault in the accident, the insurance company shall remove any additional premium charged to the insured for that accident.

(4) Whenever it is determined that the person is not over 50% at fault, the department shall note such finding on the person's operating record.

(5) No insurance company shall increase an insured's premium for an accident in which he was not over 50% at fault.

(6)(a) The provisions of this Subsection shall not apply to accidents involving publicly owned emergency vehicles operated by any public safety or law enforcement officer, whether fulltime, parttime, or volunteer, including but not limited to firefighters in the employ of any municipality, parish or fire protection district; deputy sheriffs; municipal police officers; officers of the Louisiana State Police; officers of the enforcement division of the Department of Wildlife and Fisheries; and emergency medical vehicle operators with respect to accidents in which these persons are involved while engaged in the operation of a publicly owned emergency vehicle in the course and scope of their employment.

(b) No accident involving the operation of a publicly owned emergency vehicle by any of the persons described in this Paragraph shall be included on the individual officer's operating record nor shall any insurance company increase the premium on that person's privately owned vehicle because of that accident.

B. The commissioner shall be entitled to charge and collect a fee of sixteen dollars for each copy of a certified abstract and for each copy of any information furnished upon request of any person from the files of the financial responsibility division of the Department of Public Safety and Corrections. Notwithstanding any other fees as stipulated herein, the fee for furnishing motor vehicle reports that are derived from computer generated requests shall not exceed sixteen dollars for records from all sources.

C. When any person files a form, or furnishes information, which is provided for under this Chapter, and the person was not at that time required by law to file the form or furnish the information, that person may request that the form, and all of the information contained in the form, and any other information furnished by him be withdrawn from the files maintained by the commissioner. If the commissioner determines that the law as it existed at that time did not require the form to be filed, or the information to be submitted, he shall return the form to the person who filed it and shall delete from the files of the commissioner any information concerning the form and any other information furnished by that person.

RS 32:854 — Chapter supplemental to motor vehicle laws

. 52, §36.

RS 32:855 — Past application of Chapter

ective date of this Chapter.

RS 32:857 — Uniformity of interpretation

9.

RS 32:858 — Short title

s website,

RS 32:861 — Security required

t used on the

highway, those used primarily for exhibit or kept primarily for use in parades, exhibits, or shows, and lease-bound mobile rig haulers as defined in Subsection D of this Section, shall be covered by an automobile liability policy with liability limits as defined by R.S.

32:900(B)(2) or 900(M), or a binder for same, or by a motor vehicle liability bond as defined by Subsection B of this Section, or by a certificate of the state treasurer stating that cash or securities have been deposited or securitized with said treasurer as provided by Subsection C of this Section, or by a certificate of self-insurance as provided by R.S. 32:1042.

(2)(a) It shall be the duty of the registered owner of a motor vehicle to maintain the security hereinabove required. Failure to maintain said security shall subject the registered owner to the sanctions provided in R.S. 32:863, 864, and 865.

(b) For the period August 15, 2006, through August 14, 2007, the provisions of this Part shall not apply to water-damaged vehicles as defined by R.S. 32:702, regardless of whether the vehicle is a total loss, if and only if, the registered owner of the water-damaged vehicle applies for a certificate of destruction in accordance with procedures established by the secretary. Such applications shall be processed in a manner similar to that outlined in R.S. 32:707.3.

(3) If the owner or lessee wishes to discontinue the use of a vehicle registered in his name, he shall surrender the vehicle's license plate to the secretary within ten calendar days of cancellation or, prior to the cancellation, he shall notify the secretary by written statement containing the date of cancellation of liability security on the vehicle, that the vehicle is no longer in use and the intended period of nonuse, and shall have the agent who previously issued the policy of insurance on the vehicle submit an affidavit that the insurance on the vehicle will be cancelled during the period of time that the vehicle will not be in use.

B. "Motor vehicle liability bond" means a bond conditioned:

(1) That the obligor shall, within thirty days after the rendition thereof, satisfy:

(a)(i) All judgments rendered against him or against any person responsible for the operation of the obligor's motor vehicle with his express or implied consent in actions to recover damages for property damage or for bodily injuries, including death at any time resulting therefrom, and

(ii) Judgments rendered as aforesaid for consequential damages consisting of expenses incurred by a husband, wife, parent, or tutor for medical, nursing, hospital, or surgical services in connection with or on account of such bodily injuries or death sustained during the term of the bond by any person, and

(b) Arising out of the ownership, operation, maintenance, control, or use upon the highways and roads of the state of such motor vehicle,

(2) To the amount or limit of:

- (a) Not less than twenty-five thousand dollars for damages to the property of others, and
- (b) Not less than fifteen thousand dollars on account of injury to or death of any one person, and
- (c) Subject to such limits as respects injury to or death of one person, of not less than thirty thousand dollars on account of any one accident resulting in injury to or death of more than one person.

C.(1)(a) The applicant for registration may, in lieu of procuring a motor vehicle liability bond or policy, deposit with the state treasurer cash in the amount of fifty-five thousand dollars, or otherwise pledge, assign, or securitize, to the satisfaction of the state treasurer on such forms and documents as he shall require, which shall constitute a lien thereon in favor of the treasurer for the liabilities set forth in this Section and authorize him to sell same pursuant to Subparagraph (c) of this Paragraph, bonds, stocks, securities, or other evidences of indebtedness satisfactory to said treasurer of a market value of not less than fifty-five thousand dollars as security for the payment by such applicant or by any person responsible for the operation of such applicant's motor vehicle with his express or implied consent of all judgments rendered against such applicant or against such person in actions to recover damages to property or for bodily injuries, including death at any time resulting therefrom, and judgments rendered as aforesaid for consequential damages consisting of expenses incurred by a husband, wife, parent, or tutor for medical, nursing, hospital, or surgical services in connection with or on account of such bodily injuries or death sustained during the term of registration by any person and arising out of the ownership, operation, maintenance, control, or use upon the highways and roads of the state of such motor vehicle to the amount or limit of at least twenty-five thousand dollars on account of any such judgment for damages to property or to the amount of fifteen thousand dollars for bodily injury or death to any one person or to the amount of thirty thousand dollars for bodily injury or death to more than one person.

(b) Upon presentation to the state treasurer by an officer qualified to serve civil process of an execution issued on any such judgment against the registrant or other person responsible as aforesaid, the treasurer shall pay, out of the cash deposited by the registrant as herein provided, the amount of the execution, including costs and interest, up to but not in excess of twenty-five thousand dollars for damages to property or fifteen thousand dollars to any one person for damages for bodily injury or death or thirty thousand dollars for bodily injury or death to more than one person.

(c) If the registrant has deposited, or otherwise pledged, assigned, or securitized pursuant to Subparagraph (a) of this Paragraph, bonds, stocks, securities, or other evidences of indebtedness, the state treasurer shall, on presentation of an execution as aforesaid, cause the securities, or such part thereof as may be necessary to satisfy the judgment, to be sold at public auction giving the registrant three days' notice in writing of the time and place of the sale. From the proceeds of the sale the state treasurer shall, after paying the expenses thereof, satisfy the execution as hereinbefore provided when a cash deposit has been made.

(d) Any sale by or payment upon an execution by the state treasurer in accordance

with the provisions of this Section shall discharge him from all official and personal liability whatever to the registrant to the extent of such payment.

(e) The state treasurer shall deposit any cash received under the provisions of this Section in a savings bank or savings department of a trust company or of a national bank within the state.

(f) The depositor shall be entitled to the interest accruing on his deposit and to the income payable on the securities deposited. He may from time to time change such securities with the approval of the state treasurer.

(g) The state treasurer, whenever for any reason the amount of such deposit falls below the amount required by this Section, shall require, at the option of the registrant, the deposit of additional cash or securities up to the amount required by this Section or a motor vehicle liability bond or policy as provided in this Chapter.

(h) Money or securities deposited with the state treasurer under the provisions of this Section shall not be subject to attachment or execution except as provided in this Section.

(2) The state treasurer shall give to the applicant for registration a receipt on a form prescribed by the treasurer for the amount of cash or securities deposited, or pledged, assigned, or securitized by him with the treasurer under this Chapter. The state treasurer shall retain such cash or securities deposited or securitized as aforesaid and shall not deliver or release the lien on the same or the balance thereof to the registrant on his order until the expiration of the time within which actions, the payment of judgments in which are secured by such deposit, may be brought against the registrant or the person responsible for the operation of the registrant's motor vehicle with his express or implied consent, nor in any case if a written notice is filed with the state treasurer stating that such an action has been brought against the registrant or other person responsible as aforesaid, until payment is made as provided in this Subsection or satisfactory evidence is presented to the treasurer that final disposition of the action has been made.

D. "Lease-bound mobile rig hauler" as used in this Chapter means a winch or crew truck in excess of twenty-six thousand pounds which meets the following description:

(1) The hauler is operated on the highways of Louisiana only for the purpose of hauling mobile workover rigs or any accessories for a mobile workover rig within a ten-mile radius of the operator's oil and gas lease.

(2) The haulers are covered under a general liability policy, issued by an insurance company authorized to do business in the state, with liability coverage and limits equal to or greater than those defined in R.S. 32:900(B)(2), and such proof of the coverage is provided to the secretary as he may, by rule, require.

E.(1) The owners of motor vehicles registered in other states or jurisdictions that require liability security shall maintain the security and proof thereof as required by their respective state or jurisdiction while the vehicle is operated in this state. A personal injury protection card issued from an insurer in another state or jurisdiction without a bodily injury endorsement shall not be sufficient proof of liability security.

(2) Failure to comply with the requirements of this Subsection shall subject the owner and the operator to the sanctions which are provided in R.S. 32:57 and limitations on

recovery of damages provided for in this Part. Owners and operators of any motor vehicle in violation of this Subsection shall be subject to limitation of recovery as provided for in R.S. 32:866.

(3) The commissioner may adopt regulations to provide for the implementation of the provisions of this Subsection.

RS 32:861.1 — Security required; exemption for out-of-state service in the uniformed services

than thirty days in the uniformed services is exempt from the provisions of this Chapter, while on active duty if, prior to such service, the owner notifies the commissioner in writing of the intent to discontinue the use of a vehicle. Such notice shall set forth the date upon which the vehicle will no longer be in use, the intended period of nonuse, and the storage address of the vehicle. The owner shall attach a copy of any orders or other documentation that substantiates nonuse of the vehicle due to service out-of-state in the uniformed services.

B. An exemption pursuant to Subsection A of this Section terminates on the final date of nonuse as set forth in the notice or upon a subsequent report of liability security on the vehicle to the office of motor vehicles, whichever occurs first.

RS 32:861.2 — Waive penalty, procedure, or requirement; authority

assessment of a penalty, procedure, or requirement to the contrary for a registered owner's failure to maintain compulsory motor vehicle liability security, the commissioner of the Department of Public Safety and Corrections, public safety services, office of motor vehicles, may waive any penalty, procedure, or requirement if the motor vehicle liability security expired or cancelled when the motor vehicle's principal driver was the registered owner or owner's spouse or child who was in the hospital or has died, and the registered owner presents proof of such exceptional circumstance to the commissioner.

RS 32:862 — Proof of compliance

and the rules adopted under that law.

B.(1) The commissioner shall adopt rules to implement the provisions of this Section. The rules shall provide that documentation of insurance or other security shall be required for proof of compliance. The rules shall require that the original, a photocopy, or an image displayed on a mobile electronic device, of one of the following documents be produced as documentation of insurance: an insurance card; an insurance policy; or the declarations page of the insurance policy showing coverages. The rules shall require insurance and security companies to issue cards or similar documents, or an image of the card or similar documents capable of being displayed on a mobile electronic device, which indicate the existence of insurance or security coverage, may establish the form for the cards or similar documents, and may establish the form for the written declarations required by this Section.

(2) The provisions of this Subsection with regard to the documentation of insurance requirements shall not apply to new and used automobile dealers as defined by law. However, the rules shall provide for the use of affidavits to prove compliance when registration is sought by a licensed new or used motor vehicle dealer on behalf of a customer.

(3) The provisions of this Subsection shall not apply to renewals of registration by mail.

C. Each person who applies for the registration of a motor vehicle, or who applies for the renewal of a registration of a motor vehicle, or who applies for a motor vehicle inspection certificate shall provide proof of compliance and shall declare in writing that the applicant will remain in compliance during the time for which the registration, the renewal of registration, or the certificate is issued.

D. Each adult person who applies for a driver's license shall:

(1) Provide proof of compliance and declare in writing that the applicant will remain in compliance during the time for which the license is issued; or

(2) Declare in writing that the applicant does not own a motor vehicle which is currently registered or licensed in this state or any other state or in any territory.

E. When a minor person applies for a driver's license, the parent or guardian who has custody of the minor applicant shall:

(1) Provide proof of compliance for both the minor applicant and the parent or guardian, and declare in writing that the minor applicant and the parent or guardian will remain in compliance during the time for which the license is issued; or

(2) Declare in writing that the parent or guardian does not own a motor vehicle which is currently registered or licensed in this state or in any other state or in any territory.

F. As used in Subsections D and E of this Section, an application for a driver's license includes an initial application, an application for renewal, and an application for reissue to change the address of the applicant, to change any other information concerning the applicant, or to change the endorsements held by the applicant.

G. The prohibited actions and penalties for violations thereof are as follows:

(1) No person shall provide false or fraudulent information, documentation, or images or make false or fraudulent representations in connection with any application for the registration of a motor vehicle, or for a renewal of a registration of a motor vehicle, or for a motor vehicle inspection certificate, or for a driver's license.

(2) No person shall make a false declaration or execute a false affidavit in response to the requirements of this Section.

(3) No person shall alter or counterfeit any card or similar document, or produce or use a false or fraudulent image on a mobile electronic device, to show proof of compliance.

(4) Whoever violates the provisions of this Subsection shall be fined not less than seventy-five dollars, nor more than one thousand dollars, and shall be required to perform not less than forty hours nor more than two hundred hours of community service.

(5) When the commissioner finds that any person has violated the provisions of this Subsection, the commissioner may suspend, revoke, or cancel the driver's license held by the offender and may suspend, revoke, or cancel the registration of each motor vehicle owned by the offender.

H. No action taken by any person, whether private citizen or public officer or employee, with regard to any license, registration, or inspection certificate, or with regard to any document or electronic image which indicates compliance with this Part, shall create a presumption of the existence of insurance coverage, or be construed by any court as a warranty of the reliability or accuracy of the document or electronic image, or create any liability on the part of the state, or on the part of any department, office, or agency of the state, or on the part of any officer, employee, or agent of the state.

I. The display of an image of the insurance card on a mobile electronic device shall not serve as consent for a law enforcement officer, or any other person, to access other contents of the mobile electronic device in any manner other than to verify the image of the insurance card.

J.(1) A court of competent jurisdiction may require a person to produce a paper copy of the insurance identification card in any hearing or trial or in connection with discovery.

(2) The commissioner may require a person to produce a paper copy of the insurance identification card in connection with any inquiry or transaction conducted by, or on behalf of, the commissioner.

RS 32:863 — Sanctions for false declaration; reinstatement fees; revocation of registration; review

covered by security as required by this Chapter or that the owner or lessee has allowed the required security to lapse, he shall revoke the registration of the vehicle, impound the vehicle, and cancel the vehicle's license plate.

(2) Should the secretary determine that any person, whether in his application for registration of a motor vehicle or in his application for a motor vehicle inspection or otherwise, has submitted false information that the motor vehicle was covered by the security required by Section 861 of this Part, the secretary shall impose upon the owner or owner's

lessee the sanctions set forth in Subsection (A)(1), but for a longer minimum period, as set forth hereinafter.

(3)(a) Sanctions for a violation of Paragraph (1) of this Subsection shall be imposed until proof of required liability security is provided to the secretary and all reinstatement fees are paid. Sanctions for a violation of Paragraph (2) of this Subsection shall be imposed for a period of not less than twelve months nor more than eighteen months. However, in no event shall these sanctions be removed until such time as proof of the required security is provided to the secretary along with all appropriate fees required by law, including a reinstatement fee of one hundred dollars per violation of Paragraph (1) of this Subsection if the vehicle was not covered by the required security for a period of one to thirty days, two hundred fifty dollars if the vehicle was not covered by required security for a period of thirty-one to ninety days, and five hundred dollars if the vehicle was not covered by required security for a period in excess of ninety days. No reinstatement fee shall be imposed by the secretary if the vehicle was not covered by required security for a period of ten days or less and the insured surrenders the vehicle's license plate to the secretary within ten days or if the violation is the insured's first violation pursuant to Paragraph (1) of this Subsection and the lapse of insurance coverage was for ten days or less, provided that immediate notice of the cancellation is given within one to five days before issuing the violation. In addition, notice shall be transmitted to the insured through any digitized credentials established pursuant to R.S. 39:17.2(D) within one to five days before issuing the violation. The reinstatement fees for violations of Paragraph (2) of this Subsection shall be as follows: two hundred fifty dollars for a first violation, five hundred dollars for a second violation, and one thousand dollars for a third or subsequent violation. The reinstatement fee shall not be owed for an alleged violation of Paragraph (2) of this Subsection when proof of the required security is provided to the secretary within sixty days of the date of the notice. If at the time of reinstatement, a person has multiple violations and is within sixty days of the notice, the total amount of fees to be paid shall not exceed eight hundred fifty dollars for violations of Paragraph (1) of this Subsection and one thousand seventy-five dollars for violations of Paragraph (2) of this Subsection. At no time shall the total amount of fees, including administrative fees, exceed two hundred fifty dollars for persons sixty-five years or older. After sixty days of the date of the notice, all fees shall be considered final delinquent debt and therefore owed, and the eight-hundred-fifty-dollar limit for persons under sixty-five years shall no longer apply.

(b) Revenues from the reinstatement fees imposed by this Paragraph shall be used as follows:

(i) Notwithstanding any other provision of this Chapter to the contrary, except for R.S. 32:868, and after satisfying the requirements of the Bond Security and Redemption Fund, thirty-six percent of the revenues from the reinstatement fees shall be used as provided by law for the construction, maintenance, and operating expenses of new capital immovables and related movables.

(ii) In addition, fourteen percent of the revenues from the reinstatement fees shall be dedicated for obtaining equipment and related supplies to be used in connection with the

issuance of validation stickers.

(iii) In addition, twenty-six percent of the revenues from reinstatement fees shall be dedicated to increase the salaries of all full-time employees of the Department of Public Safety and Corrections, office of motor vehicles. Specifically, such monies derived from the reinstatement fees shall be used exclusively to fund the salary increases associated with the job reclassification and pay study submitted by the office of motor vehicles to the State Civil Service Commission on October 19, 1998, and approved by the Department of Civil Service effective December 31, 1998. Any use of the fees allocated by this Item for salary purposes other than those specified herein, including the use for annual merit increases, is expressly prohibited.

(c) Upon completion of the construction of the new capital immovables and related movables described in this Paragraph, forty percent of the revenue from reinstatement fees imposed by this Paragraph shall be deposited in the state general fund. However, fifteen percent of such revenues shall be reserved for maintenance and operating expenses of the complex.

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

B. The sanctions of Paragraph (A)(1) of this Section shall not be imposed, and any fine, fee, or other monetary sanction which has been remitted to the secretary pursuant to the sanctions of this Section, specifically including any reinstatement fee paid pursuant to Paragraph (A)(3) of this Section and any fee paid pursuant to Paragraph (D)(5) of this Section, shall be promptly refunded by the secretary to the person who paid it, if the owner or lessee furnishes any of the following within sixty days of the notice:

(1) An original, a photocopy, or an image of the card that is displayed on a mobile electronic device of a Louisiana auto insurance identification card showing that the required security is in effect on the vehicle and has been continuous without lapse or an original or photocopy of any written communication from an insurer either to the insured or to the secretary stating that the required security is in effect on the vehicle and has been continuous without lapse, any one of which shall constitute sufficient evidence that the required security on the vehicle has not lapsed.

(2) If such evidence is not furnished by the owner or lessee, any other evidence satisfactory to the secretary, that each of the following conditions are met:

(a) The vehicle was at the time in question in fact covered by the required security.

(b) The vehicle is currently covered by security as required by R.S. 32:861 and that the required security has been continuous without lapse.

(c) The vehicle was not involved in an accident during the period when it was not covered by security as required by R.S. 32:861.

(3) Documentation satisfactory to the department that the vehicle was damaged as a result of a natural disaster which is the subject of a state of emergency declared by the governor and was treated as debris and removed, provided such natural disaster occurred prior to the reported cancellation of liability insurance.

C. If the person applies for a registration during the same period for which the

surrendered plate would have been valid, credit shall be applied toward the purchase of a new plate. The credit shall be equal to the amount paid for the most recent registration of the motor vehicle multiplied by a fraction, the numerator of which is the unused months of said registration and the denominator of which is the number of months for which said registration was issued.

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

(2) At the hearing, the commissioner shall consider the correctness of his initial determination with regard to petitioner's violation of any provision of Subsection A or B of this Section. Should the commissioner find that his initial determination with regard to such a violation was correct, the revocation ordered by him shall be maintained and given effect. The commissioner shall rescind an ordered revocation only if he finds that petitioner violated no provision of Subsection A or B of this Section, and that the initial determination made by the commissioner was incorrect.

(3) Repealed by Acts 2001, No. 883, §2.

(4) Within ten days after a person has exhausted his remedies with the commissioner, he shall have the right to file a petition in the district court in the parish of his domicile for a review of the final order of revocation. The court may exercise any action it deems appropriate.

(5) The department may promulgate rules and regulations necessary to offset the administrative cost of this Section not to exceed twenty-five dollars.

E. When a person's motor vehicle registration is suspended or revoked according to the provisions of this Section, it shall remain suspended or revoked and the person shall be prohibited from renewing his driver's license, obtaining a duplicate driver's license, renewing his motor vehicle registration, or obtaining reissuance of his motor vehicle registration until the reinstatement requirements of this Section are satisfied.

RS 32:863.1 — Evidence of compulsory motor vehicle liability security contained in vehicle; ed

motor vehicle registered in this state, except a motor vehicle used primarily for exhibit or kept primarily for use in parades, exhibits, or shows, or agricultural or forest use vehicles during seasons when they are not used on the highways, shall operate or allow the operation of such vehicle upon any public road, street, or highway in this state unless there is contained within the vehicle one of the following documents evidencing that the motor vehicle is in compliance with R.S. 32:861 relative to compulsory motor vehicle liability security:

(1) A certificate of insurance. "Certificate" means the written evidence of motor vehicle liability insurance as defined in R.S. 32:900 that is in the form of one of the

following:

(a) An insurance identification card, a photocopy of the card, or an image of the card displayed on a mobile electronic device, issued by an insurer to its insured which shall contain the following information:

- (i) The name and address of the insurance company.
- (ii) The insurance policy number.
- (iii) A description of the motor vehicle insured under the policy.
- (iv) The effective date and the expiration date of the policy.
- (v) The name of any person who is excluded from coverage as authorized by R.S. 32:900(L).

(b) A motor vehicle liability insurance policy or a duplicate original thereof.

(c) A motor vehicle liability insurance policy binder or a duplicate original thereof.

(2) A duplicate original of a motor vehicle liability bond which complies with the requirements for a motor vehicle liability bond set forth in R.S. 32:861(B).

(3) A certificate of the state treasurer stating that cash or securities have been deposited with said treasurer as provided for under the provisions of R.S. 32:861(C).

(4) A certificate of self-insurance issued by the secretary under the provisions of R.S. 32:1042 qualifying the owner of the vehicle as a self-insurer.

B.(1) When a law enforcement officer stops a vehicle at an administrative violations checkpoint, or in connection with an alleged violation of the law, or for any other reason, or when a law enforcement officer investigates an accident, the law enforcement officer shall determine if the owner or lessee of each vehicle is in compliance with the provisions of this Section which require evidence of liability insurance or other security to be contained in the vehicle.

(2) When a law enforcement officer makes a compliance determination as required by Paragraph (1) of this Subsection, the officer shall also determine if the owner or lessee of each vehicle is compliant with the requirements of R.S. 32:861 by electronically verifying, as applicable by means within his capacity, that the documents evidencing compliance are current.

(3) If the owner or lessee is not in compliance with the provisions of this Part, the law enforcement officer shall take the actions specified in this Section.

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

officer, or to a person in that agency designated to receive confiscated license plates. In those cases in which a motor vehicle is not impounded, a copy of the notice of noncompliance shall be attached to the vehicle license plate and both shall be delivered to the nearest office of motor vehicles within three calendar days after the notice of noncompliance was served.

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

(c) For a first offense there shall be a reinstatement fee of one hundred dollars, for a second offense there shall be a reinstatement fee of two hundred fifty dollars, and for any subsequent offense there shall be a reinstatement fee of five hundred dollars. The reinstatement fee contained herein shall be in addition to other appropriate registration fees allowed by law and reinstatement shall depend upon proof of compliance with the compulsory liability law.

(2) In those cases in which the motor vehicle is not impounded, any law enforcement officer who removes and takes a license plate pursuant to the provisions of this Section shall issue for attachment to the rear end of the vehicle, a temporary sticker denoting its use in lieu of an official license plate. The sticker shall bear the date upon which it was issued in written or stamped numerals or letters not less than three inches in height. This temporary sticker shall only be effective for a period of three calendar days beginning from the day on which the license plate is taken.

(3) The temporary stickers required by Paragraph (2) of this Subsection shall be designed and produced by the Department of Public Safety and Corrections, and the department shall supply such stickers, at no cost, to all law enforcement agencies authorized by law to enforce traffic laws.

(4) The Department of Public Safety and Corrections shall formulate and promulgate rules and regulations for the implementation of the provisions of this Section. To this end, no license shall be taken or destroyed pursuant to the authority granted in Paragraph (1) of this Subsection until such rules are properly promulgated in accordance with law. However, this limitation shall not be construed so as to otherwise limit the enforcement of laws relative

to operating a vehicle without proper insurance or security.

(5)(a) The administrative hearing shall be limited to a review of the issue of whether the vehicle was covered by a valid policy of insurance at the time of the alleged violation. The records of the department on the particular violation shall be prima facie proof of the violation, and the owner or operator shall have the burden of proving that the vehicle was covered by a valid policy of insurance or was self-insured pursuant to this Chapter at the time of the violation. The owner or operator may subpoena any witness to appear at the hearing, including the officer issuing the violation, to establish that the owner or operator was in compliance with the law at the time of the alleged violation. A request for a hearing shall not stay the sanctions required by this Part. If it is determined at the administrative hearing that the vehicle was covered by a valid policy of insurance or was self-insured pursuant to this Chapter at the time of the violation, but that such proof was not presented to the law enforcement officer at the time the vehicle was impounded, then the vehicle owner shall be required to pay the storage and wrecker fees of the person or company who impounded and towed the subject vehicle.

(b) The department or other agency that conducts the hearings shall promulgate such rules and regulations as are necessary to implement the requirements of this Section. Any action for judicial review of the decision from the administrative hearing shall be in the same manner and under the same conditions as provided in R.S. 32:414. No court shall issue an injunction, stay or other process preventing the enforcement of the sanctions required by this Part pending the hearing provided for in this Part, except as provided by R.S. 49:978.1.

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

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

D. Prior to reinstatement of registration and license plate privileges to any individual who cannot prove the required insurance coverage or security in effect at the time of the offense within three calendar days after the offense, the Department of Public Safety and Corrections shall collect a reinstatement fee of ten dollars to offset the costs of administering this Section. This ten-dollar fee shall be in addition to any other fines, fees, or penalties

owed prior to reinstatement of privileges.

E. The legislature hereby declares that the presence of a current license plate on a motor vehicle has become one indication that the motor vehicle is covered by liability security. The legislature further declares that the provisions of R.S. 47:505(B) which require owners of motor vehicles to surrender the license plates of motor vehicles when the lawful use of the motor vehicle by the owner has terminated has become an integral part of the enforcement of the laws requiring all motor vehicles to be covered by liability security. In order to inform the public of the requirements of R.S. 47:505(B) and to facilitate the enforcement of the laws requiring motor vehicle liability security, the office of motor vehicles shall provide notice of the requirements of R.S. 47:505(B) to each person to whom a motor vehicle registration is delivered or transmitted.

F. In the case where the driver is a minor child, the owner of the vehicle shall be responsible under this Section. If the owner of the vehicle is the minor child, the parents of the minor child shall be jointly subject to the provisions of this Section along with the minor child, unless the minor has been adjudicated emancipated, or is in the sole custody of another or only one parent under the law. If the minor is in the sole custody of another or only one parent under the law, the person or parent in whose sole custody the child has been placed will be jointly responsible with the minor child under this Section.

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

- (1) The insurance identification card, a photocopy of the card, or an image of the card that is displayed on a mobile electronic device, declaration page, or policy issued by the insurer.
- (2) In the case of a self-insured vehicle as provided in R.S. 32:851 et seq., the certificate of self-insurance issued by the Department of Public Safety and Corrections.
- (3) The records of the Department of Public Safety and Corrections, if such records reflect that the motor vehicle is covered by a valid and current policy of liability insurance.
- (4) The law enforcement officer making the stop has a reasonable belief that the motor vehicle is covered by a valid and current policy of liability insurance.

H. Repealed by Acts 1999, No. 330, §1.

I.(1) Every owner or lessee of a self-propelled motor vehicle registered in another state which is involved in a traffic accident or collision in Louisiana shall provide one of the documents comparable to those listed in Subsection A evidencing that the motor vehicle is covered by a valid policy of automobile insurance. If the operator of the motor vehicle is unable to show such proof, a notice of noncompliance shall be issued.

(2) If the operator of the motor vehicle is issued a notice of noncompliance, the owner of the vehicle shall have thirty working days from the date that the notice of noncompliance was issued to present to the office of motor vehicles proof that insurance coverage was in effect at the time of the issuance of the notice of noncompliance or proof that insurance coverage was not required by the state in which the vehicle was registered.

(3) If the owner fails to provide the proof required in Paragraph (2) of this Subsection, there shall be a fine of one hundred dollars for a first offense, a fine of two

hundred fifty dollars for a second offense, and a fine of five hundred dollars for any subsequent offense.

RS 32:863.1.1 — Evidence of compulsory motor vehicle liability security not contained in a motor

of law to the contrary, at the time any law

enforcement officer stops a vehicle at an administrative violations checkpoint, or in connection with an alleged violation of the law, or for any other reason, or when a law enforcement officer investigates an accident, the law enforcement officer shall use electronic means immediately available to verify compulsory motor vehicle liability security, including the name or names of the insured, the effective date and the expiration date of the policy, a description of the motor vehicle or vehicles insured under the policy, and the current policy status.

B. If the law enforcement officer is unable to verify electronically that the owner or operator has active motor vehicle liability security covering the vehicle at the time of the traffic stop, the owner or operator of the motor vehicle shall provide evidence of compulsory motor vehicle liability security as required in R.S. 32:863.1.

C. Notwithstanding any other provision of law to the contrary, at the time any law enforcement officer stops a vehicle at an administrative violations checkpoint, or in connection with an alleged violation of the law, or for any other reason, or when a law enforcement officer investigates an accident and the owner or operator fails to have a document that evidences compulsory motor vehicle liability security contained in the motor vehicle, and the law enforcement officer is able to verify electronically that the owner or operator has current motor vehicle liability security covering the vehicle at the time of the traffic stop, the law enforcement officer shall be prohibited from issuing a citation resulting in a penalty, fine, or fee for failure to have a document that evidences proof of compulsory motor vehicle liability security contained in the motor vehicle.

D. The commissioner shall promulgate rules and regulations as necessary to implement the provisions of this Section.

RS 32:863.1.2 — Reinstatement Relief Program

ed pursuant to

R.S. 32:863 for having a lapse in insurance coverage.

B. The commissioner shall determine the amount of reinstatement fees that the person owes. The person shall promptly pay the amount determined to be owed no later than ten calendar days from the date that the commissioner sets the amount that is owed. If the person needs to make payment arrangements, the person shall execute an installment agreement with the office of motor vehicles. Such an installment agreement shall only be for the amount determined to be owed by the commissioner together with all fees associated with the installment agreement as provided in R.S. 32:429.4. If a person executes an installment contract, that person shall maintain eligibility to remain in the Reinstatement Relief Program only if they make all payments required in the installment agreement. If a person fails to make a timely payment and fails to pay the missed payment with the associated late fee before the next scheduled payment, the person shall be removed from the Reinstatement Relief Program and shall not be eligible to reenter the Reinstatement Relief

Program.

C. The commissioner may request such documentation and information from the person as is necessary to determine the amount of any payment and the number of any payment, including but not limited to income tax returns and prior bankruptcy filings.

D. If the person successfully completes the Reinstatement Relief Program, the office of motor vehicles shall issue documentation to the person indicating the amount of debt that was paid and the amount of debt that was forgiven.

RS 32:863.2 — Notification of the cancellation or issuance of security; penalties; database development

security providers", whether admitted or nonadmitted (surplus line underwriter) insurance companies providing automobile liability policies, or sales representatives or agents of surety companies issuing motor vehicle liability bonds, or the state treasurer holding deposits, shall notify the secretary of the effective dates of each liability policy, liability bond, deposit, or other security within fifteen business days from the date that notice of such policy, bond, deposit, or other security was issued by the security provider.

(2) Except as otherwise provided for motor carriers in R.S. 32:900(M), in addition, all such security providers shall notify the secretary when any policy, bond, deposit, or other item of security is terminated, withdrawn, canceled, lapsed, or otherwise made ineffective within fifteen business days from the date that notice of the security becoming ineffective was issued by the security provider.

(3) Beginning January 1, 1990, the information required by this Section shall be in the form required by the secretary, who may require by regulation such information as the driver's license number of the owner or lessee of the vehicle and of the named insureds, together with the complete vehicle identification number and a description of each vehicle.

(4) The information required by this Section shall be in the form required by the secretary, who may require by regulation such information as the driver's license number of the owner or lessee of the vehicle and of the named insureds, together with the complete vehicle identification number and description of each vehicle.

(5) If any cancellation of a motor vehicle liability policy occurs at the request of the insured, the insurer is not obligated to cancel such policy earlier than ten days prior to actual receipt by the insurer of such request.

(6) If any cancellation of a motor vehicle liability insurance policy occurs as a result of the rescission or other cancellation of the sale of the motor vehicle on which the policy is issued, the insurer shall notify the secretary of the cancellation and the circumstances of the cancellation, and the insured shall not be liable for any penalty or fee imposed for failure to maintain the security required by law.

B. When a security provider does not provide the deputy secretary of public safety services of the Department of Public Safety and Corrections with the information required by this Section within the time limits set forth in this Section, the insurance company, sales representative or agent, state treasurer, or other provider shall pay a late fee of not more than fifty dollars per policy, bond, or deposit, or other security item concerning which information is not supplied. If the security provider has reported this information for a policy, bond, deposit, or other security item for a commercial motor vehicle in an untimely manner, the deputy secretary shall impose the late fee unless the deputy secretary determines that the security provider made a good faith effort to comply with these requirements but the delay was caused by circumstances outside the security provider's control. All fees collected under this Subsection shall be deposited in the Bond Security and Redemption Fund as provided in R.S. 32:853(B)(2).

C. The secretary shall keep a record of the information received from security providers concerning coverage of vehicles and persons by security required by R.S. 32:861, which information may be stored through automated electronic data processing means. After the department has complete vehicle liability security records, upon written request including the driver's license number for each person, the vehicle identification number for each vehicle, and the payment of a fee of fifteen dollars for each vehicle owned by a person about which inquiry is made, the secretary shall forward to the inquiring party such vehicle and driver liability security information as is contained in the records of the department. If the department's search of its records fails to show the existence of any liability insurance or other security as of the date about which inquiry is made, an official of the department will issue a sworn, notarized affidavit to that effect. Such an affidavit shall be prima facie evidence that on the date in question, the person or vehicle about which inquiry was made

did not have in effect a policy of liability insurance or other security as required by law. The fee collected pursuant to this Section shall be remitted by the secretary to the state treasurer to be credited to the Bond Security and Redemption Fund as provided in R.S. 32:853(B)(2).

D. Notwithstanding any provision of law to the contrary, when there is a question of fact as to the existence of liability insurance coverage on a motor vehicle, and the owner of that motor vehicle has in fact maintained that coverage without lapse, and the question results from a mistake made by an insurance company or agent, or by any other entity, the owner of the motor vehicle shall not be required to pay any reinstatement fee in connection with any actions taken based on that question of coverage. If a reinstatement fee is imposed by the state, the reinstatement fee shall be paid by the agent, company, or other entity which made the mistake.

E.(1) Prior to taking any administrative action based on the receipt of a notice of cancellation of insurance or other security, the secretary shall notify the person who is the subject of the notice at his last known driver's license address, of cancellation of the receipt of that notice. The notice of receipt of a notice of cancellation shall be in writing. The notice shall inform the subject that he has ten calendar days from the date of the notice in which he may surrender the license plates of the vehicle in order to avoid the fees prescribed by R.S. 32:863(A)(3)(a). The person to whom the notice is addressed shall have thirty days to respond to the notice. The response may be made by mail.

(2) If the person to whom the notice is addressed is able to show that the insurance or other security was canceled for a legitimate reason, the secretary shall take no administrative action against that person. Legitimate reasons for cancellation of insurance or other security shall include but shall not be limited to the transfer of ownership of the vehicle or the surrender of the license plate of the formerly insured vehicle. If the vehicle is sold within ten calendar days after the date liability security on the vehicle was cancelled or its license plate is surrendered within ten calendar days of the date of notice sent pursuant to Paragraph (1) of this Subsection, no administrative action shall be taken. The transfer of ownership of the vehicle may be established by presenting to the secretary a copy of the title transfer or a copy of the act of sale, donation, exchange, surrender to a salvage yard, or other transaction.

(3) If the original of the document presented as proof of transfer of ownership has not been notarized, the authenticity of the document may be established by an affidavit executed by the person to whom the notice is addressed in which that person recites the circumstances of the transfer of ownership of the vehicle and attests to the truthfulness and accuracy of the document presented as proof of transfer of ownership.

F.(1) The secretary shall formulate criteria to develop and initiate a request for proposals to procure and implement a real-time system to quickly and accurately identify and verify the existence of motor vehicle insurance or other security required in compliance with the Motor Vehicle Safety Responsibility Law using advanced telecommunications and computer technology.

(2) The criteria established by the secretary shall be developed only after consulting with an advisory group consisting of the commissioner of insurance or his designee, the superintendent of state police or his designee, the executive director of the Louisiana Highway Safety Commission or his designee, and five additional members, one representing the American Insurance Association, one representing the Property Casualty Insurance Association of America, one selected from a list of names submitted by the three insurers with the largest market share of automobile insurance in Louisiana, one from the Louisiana Association of Fire and Casualty Companies, and one from the Louisiana Independent Agents Association.

(3) The request for proposal shall require participants to develop a system that allows real-time access to state and local law enforcement officials allowing them to obtain the status of the existence of motor vehicle insurance or other security required in this state as provided in the Motor Vehicle Safety Responsibility Law.

(4) The system developed pursuant to this Subsection may initially be implemented by the secretary as a six-month pilot program to be developed and implemented statewide upon expiration of the six-month period.

(5) The secretary shall require such information as may be necessary from automobile insurers or their representatives and the state treasurer as is needed to assist the contractor in developing the system as such relates to the cancellation or issuance of motor vehicle liability security or deposit of sufficient security with the state treasurer in order to operate a motor vehicle in this state.

(6) The secretary shall promulgate rules and regulations to implement the provisions of this Subsection.

RS 32:864 — Criminal sanctions for false declaration

ed dollars, nor more than one thousand dollars, or imprisoned for a period of not more than thirty days.

RS 32:865 — Criminal sanctions for operating motor vehicle not covered by security

le is not covered by the security required under R.S. 32:861 shall, upon conviction, be fined not less than five hundred dollars, nor more than one thousand dollars.

B.(1) If the vehicle is in any manner involved in an accident within this state, when such motor vehicle is not covered by the security required under R.S. 32:861, the owner thereof shall, upon conviction, be fined not less than five hundred dollars, nor more than one thousand dollars, shall have the registration of the vehicle revoked for a period of one hundred eighty days, and shall have his driving privileges suspended for a period of one hundred eighty days.

(2) Notwithstanding Paragraph (1) of this Subsection and except as provided in Paragraph (3) of this Subsection, any person operating a motor vehicle when that person knows the vehicle is not covered by the security required under R.S. 32:861, and any owner allowing a motor vehicle to be operated which is in any way involved in an accident within this state in which any person is killed or injured or in which damage to the property of any one person in excess of five hundred dollars is sustained, when such motor vehicle is not covered by the security required under R.S. 32:861, the owner thereof knows or has been notified by the department of the absence of the required security, and at least thirty days has elapsed after such knowledge has been acquired or notification received by the owner, shall, upon conviction, be fined not less than one thousand dollars, nor more than ten thousand dollars, shall have the registration of his vehicle revoked for a period of twelve months, shall have his driving privileges suspended for a period of twelve months, and shall be required to perform not less than forty hours nor more than two hundred hours of community service. After deposit in the Bond Security and Redemption Fund, an amount equal to all fines collected under the provisions of this Paragraph shall be credited to the Crime Victims Reparations Fund, R.S. 46:1816.

(3) The criminal sanction provisions of Paragraph (2) of this Subsection shall not apply:

(a) To the operator or the owner of a motor vehicle involved in an accident wherein no injury or damage was caused to the person or property of any one other than such operator or owner or the immediate family members of such operator or owner.

(b) To the owner of a motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating such motor vehicle without such permission.

(c) To the operator or the owner of a motor vehicle involved in a collision with another vehicle, in which the operator of the other vehicle is found guilty of or pleads guilty to a charge of operating a vehicle while intoxicated, negligent injuring, vehicular negligent injuring, vehicular homicide, or negligent homicide.

(4) Any such owner or operator described in Paragraph (1) or (2) of this Subsection shall be able to use the procedures described in R.S. 32:415.1 to obtain a temporary driver's license, registration, and plate, upon showing undue economic or personal hardship that would result from the suspension of his driving privileges.

RS 32:865.1 — Criminal sanctions for operating school bus not covered by security

ol bus is not covered by the security required by R.S. 32:861 shall, upon conviction, be fined not less than five hundred dollars nor more than one thousand dollars.

B. If a school bus is involved in an accident within this state, and it is not covered by the security required by R.S. 32:861, the owner thereof shall, upon conviction, be fined not less than five hundred dollars nor more than one thousand dollars and shall have the registration of the vehicle revoked for a period of sixty days. The school bus driver who was operating the vehicle with the knowledge that it was not insured shall have his commercial driver's license privileges disqualified for a period of one year.

C. The provisions of this Section shall apply only to a school bus that is privately owned.

RS 32:866 — Compulsory motor vehicle liability security; failure to comply; limitation of damages

no recovery for the first one hundred thousand dollars of property damage based on any cause or right of action arising out of a motor vehicle accident, for such injury or damages occasioned by an owner or operator of a motor vehicle involved in such accident who fails to own or maintain compulsory motor vehicle liability security.

(2) For purposes of this Section, the meaning of "bodily injury" and "property

damage" is governed by the applicable motor vehicle liability insurance policy or, in the event of security other than an insurance policy, the meaning of such terms is that which is commonly ascribed thereto.

(3)(a) The limitation of recovery provisions of this Subsection do not apply if the driver of the other vehicle:

(i) Is cited for a violation of R.S. 14:98 as a result of the accident and is subsequently convicted of or pleads nolo contendere to such offense.

(ii) Intentionally causes the accident.

(iii) Flees from the scene of the accident.

(iv) At the time of the accident, is in furtherance of the commission of a felony offense under the law.

(b) The limitation of recovery provisions of this Subsection do not apply if at the time of the accident, the other vehicle is not being operated and the vehicle is not in violation of the provisions of Chapter 1 of this Title.

B. Each person who is involved in an accident in which the other motor vehicle was not covered by compulsory motor vehicle liability security and who is found to be liable for damages to the owner or operator of the other motor vehicle may assert as an affirmative defense the limitation of recovery provisions of Subsection A of this Section.

C. If the owner of a motor vehicle, who fails to own or maintain compulsory motor vehicle liability security, institutes an action to recover damages in any amount, regardless of whether such owner or operator is at fault, and is awarded an amount equal to or less than one hundred thousand dollars of bodily injury, then such owner or operator shall be assessed and held liable for all court costs incurred by all parties to the action.

D. Each person who applies for a driver's license, registers a motor vehicle, or operates or owns a motor vehicle in this state is deemed to have given his consent to be subject to and governed by the provisions of this Section. All persons who apply for the issuance or renewal of a driver's license, motor vehicle title, or motor vehicle registration shall sign a declaration on a form developed by the Department of Public Safety and Corrections pursuant to rule and regulation that the person acknowledges and gives consent to the requirements and provisions of this Section and that the person will comply with all provisions of this Section and the Motor Vehicle Safety Responsibility Law. Proof of whether the person obtained or signed such declaration is irrelevant to the application of this Section.

E. Nothing in this Section shall preclude a passenger in a vehicle from asserting a claim to recover damages for injury, death, or loss which he occasioned, in whole or in part, by the negligence of another person arising out of the operation or use of a motor vehicle. This Subsection shall not apply to a passenger who is also the owner of the uninsured motor vehicle involved in the accident.

F.(1) Notwithstanding any provision of law to the contrary, no insurer shall lose any rights of subrogation for claims paid under the applicable insurance policy for the recovery of any sum in excess of the first one hundred thousand dollars of bodily injury and the first one hundred thousand dollars of property damages.

(2) In claims where no suit is filed, the claimant's insurer shall have all rights to recover any amount paid by the claimant's insurer on behalf of the insured for the recovery of any sum in excess of the first one hundred thousand dollars of bodily injury and the first one hundred thousand dollars of property damages.

G.(1) Except for newly acquired vehicles added to a policy subject to the policy terms, the issuance, change, or adjustment of any motor vehicle liability security or insurance policy subsequent to a motor vehicle accident, without proof of coverage having been bound prior to such motor vehicle accident, shall not effectuate any of the following:

(a) The recovery for injury or damages that are otherwise prohibited under this Section.

(b) The defeat of any affirmative defense otherwise allowed under this Section.

(c) The avoidance of liability for court costs otherwise required under this Section.

(2) Reinstatement provisions of a policy during the premium payment grace period specified in the policy shall not be invalidated by the provisions of this Section.

H. The provisions of this Part shall not apply to any vehicle which is legally parked at the time of the accident.

RS 32:867 — Private parking lots

e provisions of this Part shall not apply to the operation of a motor vehicle on private land on which activities related to agriculture, as is defined in R.S. 3:263(2), are performed provided that the motor vehicle used in the activity is not operated on a public road or highway of the state of Louisiana.

C. The provisions of this Part shall not apply to any legally parked vehicle.

RS 32:868 — Funding of real-time system to verify motor vehicle insurance; Insurance Verification

(a), an amount of

seventy-five dollars from each reinstatement fee levied for lack of required security up to thirty days, one hundred fifty dollars from each reinstatement fee levied for lack of required security between thirty-one days and ninety days, and three hundred dollars from each reinstatement fee levied for lack of security for in excess of ninety days, and of the reinstatement fees assessed in R.S. 32:863.1(C)(1)(c) and (I)(3) an amount of fifty dollars from each first offense and one hundred dollars from each second offense, shall be, after first having been credited to the Bond Security and Redemption Fund as required by Article VII, Section 9(B) of the Constitution of Louisiana, deposited into the Insurance Verification System Dedicated Fund Account.

B. There is hereby created in the state treasury a special statutorily dedicated fund account designated as the Insurance Verification System Dedicated Fund Account, hereinafter referred to as the "account". Monies in the account shall be invested in the same manner as monies in the state general fund. Interest earned on investment of monies in the account shall be deposited in and credited to the account. The monies in this account shall be used solely as provided for in this Section and only in the amounts appropriated by the legislature. Unexpended and unencumbered monies in the account shall remain in the account. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation

by the legislature. Monies in the account shall be used in amounts appropriated by the legislature as follows:

(1) For Fiscal Year 2015-2016 and each fiscal year thereafter, monies in the account shall be used as follows:

(a) First, to fully fund the annual maintenance of the real-time system to verify motor vehicle insurance authorized by R.S. 32:863.2(F).

(b) Next, the amount needed to fund the increase in the costs of salaries and related benefits associated with the pay plan adopted by the State Police Commission, not to exceed forty-two million dollars per year, shall be dedicated to the Department of Public Safety and Corrections, office of state police.

(c) In the event House Bill No. 562 of the 2014 Regular Session of the Legislature is enacted into law, the next seven million dollars per year shall be used to fund the housing of parolees who are detained in sheriffs' jails pending their revocation hearing as provided in R.S. 15:824(B)(1)(e)(ii).

(d) The next one million dollars per year shall be used to provide additional funding to district attorneys and assistant district attorneys, specifically to fund additional assistant district attorneys beginning in 2015.

(e) The remainder of monies in the account shall be used for public safety and law enforcement purposes.

(2) Funds from the account shall not be used to pay any costs associated with the implementation of a system for the issuance of REAL ID compliant drivers' licenses and special identification cards.

RS 32:871 — Report required following accident; availability

in which damage to the property of any one person, including himself, may report, in writing, to the commissioner a claim for property damages and damages for physical injury sustained as a result of such accident. Such report, the form of which shall be prescribed by the commissioner, shall declare in writing that the motor vehicle is covered by security as required by this Chapter, including the name of the insurance company, policy number, effective dates of the policy, and the amount of said security, listing the liability limits as well as bodily injury and property damage limits if also maintained, and such other information as the commissioner may require to enable him to determine whether the requirements for the deposit of security under R.S. 32:872 are applicable by reason of the existence of insurance or other exceptions specified in this Chapter. The commissioner may rely upon the accuracy of the information unless and until he has reason to believe that the information is erroneous. If such operator is physically incapable of making such report, the owner of the motor vehicle involved in such accident, may make such report. The operator or the owner shall furnish such additional relevant information as the commissioner shall require.

B. The Department of Public Safety and Corrections shall keep a record of information concerning insurance coverage or security declared pursuant to Subsection A. Upon the written request of and the payment of a fifteen dollar fee by any interested person, the Department of Public Safety and Corrections shall forward this information as to insurance coverage or security as required by this Chapter.

C. In such case that the Department of Public Safety does not have a record of the requested information, the department shall direct a written inquiry as to insurance coverage or security as required by this Chapter by registered or certified mail to the owner or operator, or both, of a motor vehicle involved in any accident in this state. After the lapse of fifteen days, the department shall provide an affidavit to said interested person as to the response or lack thereof received from said owner or operator, or both.

D. In the event that the damage described in Subsection A of this Section is to property owned by the state, then the report authorized by Subsection A shall be submitted if the amount of damage exceeds fifty dollars.

RS 32:872 — Security and proof of financial responsibility required unless evidence of insurance;

of a motor vehicle accident within this

state which has resulted in bodily injury or death, or damage to property of any one person the secretary does not have on file evidence satisfactory to him that the person who would otherwise be required to file security and give proof of financial responsibility under Subsection B of this Section has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the secretary shall determine the amount of security which shall be sufficient in his judgment to satisfy any judgment or judgments for damages resulting from such accidents as may be recovered against each operator or owner.

B. The commissioner shall suspend the license and all registrations of each operator and owner of a motor vehicle in any manner involved in such accident, and if such operator is a nonresident, the privilege of operating a motor vehicle within this state, and, if such owner is a nonresident, the privilege of the use within this state of any motor vehicle owned by him, unless such operator or owner, or both, shall deposit security in the sum determined by the commissioner. Notice of such a suspension shall be sent by the commissioner to such operator and owner not less than ten days prior to the effective date of such suspension and shall state the amount required as security. The notice shall also advise such owner or operator that he or she may obtain a special identification card from the drivers license division of the Department of Public Safety pursuant to R.S. 40:1321. Where erroneous information is given the commissioner with respect to the matter set forth in Paragraphs (1), (2), or (3) of Subsection C of this Section, he shall take appropriate action as hereinbefore provided within sixty days after receipt by him of correct information with respect to said matters.

C. This Section shall not apply under the conditions stated in R.S. 32:873, nor:

- (1) To such operator or owner if such owner had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident.
- (2) To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy with respect to his operation of motor vehicles not owned by him.
- (3) To such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the commissioner, covered by any other form of liability insurance policy.
- (4) To any person qualifying as a self-insurer under R.S. 32:1042 or to any person operating a motor vehicle for such self-insurer.
- (5) To any operator of a "lease-bound mobile rig hauler" as provided for in R.S. 32:861(D).

D.(1) No policy shall be effective under this Section unless issued by an insurance company authorized to do business in the state of Louisiana, except that if the motor vehicle was not registered in this state or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy, or the most recent renewal thereof, the policy

shall not be effective under this Section unless the insurance company issuing the policy, if not authorized to do business in this state, executes a power of attorney authorizing the commissioner to accept service on its behalf of notice of process in any action upon the policy arising out of the accident.

(2) However, every policy effective under this Section is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than fifteen thousand dollars because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of not less than thirty thousand dollars because of bodily injury to or death of two or more persons in any one accident and, if the accident has resulted in injury to or destruction of property, to a limit of not less than twenty-five thousand dollars because of injury to or destruction of property of others in any one accident. A personal injury protection card issued from an insurer in another state or jurisdiction shall not be acceptable as proof of liability policy limits.

RS 32:873 — Further exceptions to requirements of security

cident wherein no injury or damage was caused to the person or property of any one other than such operator or owner;

- (2) To the operator or the owner of a motor vehicle legally parked at the time of the accident;
- (3) To the owner of a motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating such motor vehicle without such permission;
- (4) To the operator or the owner of a motor vehicle involved in a collision with another vehicle, the operator of which other vehicle is found guilty of or pleads guilty to a charge of drunk driving, negligent injury or negligent homicide;
- (5) To any person who would otherwise be required to file security, when the adverse party has been charged with negligent homicide; provided however, that this exemption shall not apply if and when the adverse party so charged has been tried and found not guilty; nor
- (6) If, prior to the date that the commissioner would otherwise suspend license and registration or non-resident's operating privilege under R.S. 32:872, there is filed with the commissioner evidence satisfactory to him that the person who would otherwise have to file security has been released from liability or been finally adjudicated not to be liable or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments, with respect to all claims for injuries or damages resulting from the accident.

However, notwithstanding any of the provisions of this Chapter, the commissioner shall never suspend any registration of any owner of a motor vehicle involved in any accident where under the law of this state such owner is not legally liable for damages arising from such accident.

RS 32:874 — Duration of suspension, revocation, or withdrawal; reinstatement fees

ended and shall not be renewed nor shall any such license or registration be issued to such person until:

- (1) Such person shall deposit or there shall be deposited on his behalf, the security required under R.S. 32:872; or
- (2) One year shall have elapsed following the date of the accident and evidence satisfactory to the commissioner has been filed with him that during such period no action for damages arising out of the accident has been instituted; or
- (3) Evidence satisfactory to the commissioner has been filed with him of a release from liability, or a final adjudication of nonliability, or a duly acknowledged written agreement, in accordance with Paragraph (6) of R.S. 32:873, provided however, in the event that there shall be any default in the payment of any installment under any duly acknowledged written agreement, then, upon written notice of such default, the commissioner shall forthwith suspend the license and registration or nonresident's operating privilege of such person defaulting which shall not be restored unless and until:
 - (a) Such person deposits and thereafter maintains security as required under R.S. 32:872 in such amount as the commissioner may then determine, or
 - (b) One year shall have elapsed following the date when such security was required and during such period no action upon such agreement has been instituted in a court in this state.

B.(1)(a) Any person whose license has been suspended, revoked, or withdrawn under any provision of this Chapter shall, after complying with the requirements of this Chapter, be required to pay a reinstatement fee or to show proof, in the instance in which the loss of license was predicated on failure to file the necessary reports that adequate insurance coverage existed, that in fact such coverage did timely exist, before such license may be reinstated and the license shall remain withdrawn and shall not be renewed, nor shall any such license be issued to such person, until payment of this reinstatement fee has been made or the proof shown. Upon receipt of said fee or proof, such license shall be reinstated provided all other requirements have been met.

(b) For a first offense there shall be a reinstatement fee of twenty-five dollars, for a second offense there shall be a reinstatement fee of one hundred dollars, and for any subsequent offense there shall be a reinstatement fee of two hundred dollars, provided the offenses occurred within a five-year period. The first offense occurring after five years from the prior first offense shall be deemed to be a first offense. The reinstatement fee contained herein shall be in addition to other appropriate registration fees allowed by law and reinstatement shall depend upon proof of compliance with the compulsory liability law.

(2) Proof of coverage in this Section shall include an original or photocopy of a Louisiana auto insurance identification card, or an image of the card that is displayed on a mobile electronic device, showing that the required security is in effect on the vehicle and has been continuous without lapse or an original or photocopy of any written communication from an insurer either to the insured or to the secretary stating that the required security is in effect on the vehicle and has been continuous without lapse. The original or photocopy of the insurance card, or an image of the card that is displayed on a mobile electronic device, or the written communication specified above shall constitute sufficient proof of coverage in this Section and, upon receipt of any of these documents, the license shall be reinstated provided all other requirements have been met. No reinstatement fee shall be charged when proof of coverage is provided, and any reinstatement fee which has been paid shall be refunded.

C. The commissioner may require a person to produce a paper copy of the insurance identification card in connection with any inquiry or transaction conducted by, or on behalf of, the commissioner.

D. Repealed by Acts 2001, No. 456, §2.

RS 32:875 — Application to unlicensed drivers and unregistered motor vehicles

a nonresident, he shall not be allowed a license or registration until he has complied with the requirements of this Chapter to the same extent that would be necessary if, at the time of the accident, he had held a license and registration.

RS 32:876 — Form and amount of security

. 32:872 in reference to the acceptable limits of a policy. The person depositing security shall specify in writing the person or persons on whose behalf the deposit is made, and at any time while such deposit is in the custody of the commissioner or state treasurer, the person depositing it may in writing amend the specification of the person or persons on whose behalf the deposit is made to include an additional person or persons; however, any single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident.

B. The commissioner may reduce the amount of security ordered in any case if, in his judgment, the amount ordered is excessive. In case the security originally ordered has been deposited, the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative forthwith, notwithstanding the provisions of R.S. 32:877.

RS 32:877 — Custody, distribution and return of security

Public Safety and Corrections. Such deposits shall be applicable to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit was made, for damages arising out of the accident in question in an action at law, begun not later than one year after the date of such accident, or within one year after the date of deposit of any security under R.S. 32:874(A)(3). Deposits of security in cash or negotiable securities shall be applicable also to the payment in settlement, agreed to by the depositor, of a claim or claims arising out of such accident. Such deposit of cash or negotiable securities or any balance thereof shall be returned to the depositor or his personal representative when evidence satisfactory to the commissioner has been filed with him that there has been a full release from liability, or a final adjudication of nonliability, or a duly acknowledged agreement in accordance with R.S. 32:873(6), or whenever, after the expiration of one year from the date of the accident, or from the date of deposit of any security under R.S. 32:874(A)(3), the commissioner shall be given reasonable evidence that there is no such action pending and

no judgment rendered in such action left unpaid.

RS 32:878 — Matters not to be evidence in civil suits

such action is based, nor the security filed as provided in this Part shall be referred to in any way, nor be any evidence of the negligence of due care of either party, at the trial of any action at law to recover damages.

RS 32:879 — Registration after suspension of inoperable vehicle

provision of this Chapter because of the accident, after complying with the requirements of this Chapter, shall be allowed to apply to register another vehicle when he furnishes to the commissioner one of the following:

- (1) A copy of any sale, transfer, or assignment of the vehicle that is no longer in use or operable.
- (2) The registration plate and registration certificate for the vehicle that is no longer in use or operable.

B. In the event the owner has no copy of the sale, transfer, or assignment or a registration plate and registration certificate for the vehicle, the owner may furnish the commissioner a written statement indicating the vehicle with the suspended registration is no longer in use. The affidavit shall be in the form required by the commissioner.

RS 32:880 — Nonresident drivers; accidents

all comply with one of the following items:

- (1) Show proof of liability insurance coverage as required by law.
- (2) Show proof of coverage as a self-insurer or under a self-insurance plan from the state in which he is a resident.
- (3) Post a bond in an amount sufficient to cover the damage caused in the accident.
- (4) Deposit his driver's license with the law enforcement agency that investigates the accident.

B. As used in this Section, the phrase "nonresident driver" means a person who operates a motor vehicle in this state and who has a foreign driver's license, or a foreign registration for the motor vehicle, or both.

C.(1) No proof of coverage as a self-insurer or under a self-insurance plan from the state in which the nonresident driver is a resident shall be valid or in compliance with the provisions of this Section unless the self-insurer or plan agrees to be subject to the following provisions regarding settlement of a claim for damages:

(a) The self-insurer or plan shall pay the amount of any claim due a claimant within thirty days after receipt of satisfactory proof of loss from the claimant or any party in interest.

(b) The self-insurer or plan shall pay the amount of any third-party property damage claim and any reasonable medical expense claim due any bona fide third-party claimant within thirty days after written agreement of settlement of the claim from the third-party claimant.

(2) Failure to make a payment within thirty days after receipt of satisfactory proof of loss as provided in Subparagraph (1)(a) of this Subsection or within thirty days after written agreement of settlement as provided in Subparagraph (1)(b) of this Subsection when the failure is found to be arbitrary, capricious, or without probable cause, shall subject the self-insurer or self-insurance plan to a penalty, in addition to the amount of the loss or settlement agreement, of fifty percent damages on the amount due or one thousand dollars, whichever is greater, payable to the respective claimant or, if a partial payment or tender has been made, fifty percent damages on the difference between the amount paid or tendered and the amount found to be due, as well as reasonable attorney fees and costs.

(3)(a) The self-insurer or self-insurance plan owes a duty of good faith and fair dealing to the injured claimant and has an affirmative duty to adjust any claim fairly and promptly and to make a reasonable effort to settle any claim with a claimant.

(b) Any self-insurer or self-insurance plan that breaches these duties shall be liable for any damages sustained as a result of the breach.

(c) Any one of the following acts, if knowingly committed or performed by a self-insurer or self-insurance plan, constitutes a breach of the insurer's duties imposed in Subparagraph (a) of this Paragraph:

- (i) Misrepresenting pertinent facts or insurance policy provisions relating to any coverages at issue.
- (ii) Failing to pay a settlement within thirty days after an agreement is reduced to writing.
- (iii) Denying coverage or attempting to settle a claim on the basis of an application that the self-insurer or self-insurance plan knows was altered without notice to, or knowledge or consent of, the claimant.

(iv) Misleading a claimant as to the applicable prescriptive period.

(v) Failing to pay the amount of any claim due a claimant within sixty days after receipt of satisfactory proof of loss from the claimant when the failure is arbitrary, capricious, or without probable cause.

(4) In addition to any general or special damages to which a claimant is entitled for breach of the imposed duty pursuant to Subparagraph (3)(a) of this Subsection, the claimant may be awarded penalties assessed against the self-insurer or self-insurance plan in an amount not to exceed two times the damages sustained or five thousand dollars, whichever is greater.

RS 32:891 — Courts to report non-payment of judgments and convictions

, it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this state, to forward to the commissioner immediately after the expiration of said sixty days, a certified copy of such judgment.

If the defendant named in any certified copy of a judgment reported to the commissioner is a non-resident, the commissioner shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident.

RS 32:892 — Suspension for non-payment of judgment; exceptions

ident's operating privilege of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this Section and in R.S. 32:895.

B. If the judgment creditor consents in writing, in such form as the commissioner may prescribe, that the judgment debtor be allowed license and registration or non-resident's operating privilege, the same may be allowed by the commissioner, in his discretion, for six months from the date of such consent and thereafter until such consent is revoked in writing, notwithstanding default in the payment of such judgment, or of any installments thereof prescribed in R.S. 32:895 provided the judgment debtor furnished proof of financial responsibility.

C. However, notwithstanding any provisions of this Part, satisfaction of any judgment or the giving of future proof shall not be required of a judgment debtor whose insurance company became insolvent subsequent to the accident from which the judgment arose. Furnishing of acceptable written proof of such insolvency shall rest with such judgment debtor.

RS 32:893 — Suspension to continue until judgments paid and proof given

icense or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is stayed, satisfied in full or to the extent hereinafter provided and until the said person gives proof of financial responsibility subject to the exemption stated in R.S. 32:892 and 32:895.

A discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment debtor from any of the requirements of this Part.

RS 32:894 — Payments sufficient to satisfy requirements

dollars has been credited upon any judgment or judgments

rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident.

(2) When, subject to such limit of fifteen thousand dollars because of bodily injury to or death of one person, the sum of thirty thousand dollars has been credited upon any judgment, or judgments, rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident.

(3) When twenty-five thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident.

B. Payments made in settlement of any claims because of bodily injury, death, or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this Section.

RS 32:895 — Installment payment of judgments; default

paying such judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.

B. The commissioner shall not suspend a license, registration or a nonresident's operating privilege, and shall restore any license, registration or nonresident's operating privilege suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains such an order permitting the payment of such judgment in installments, and while the payment of any said installment is not a default.

C. In the event the judgment debtor fails to pay any installment as specified by such order, then upon notice of such default, the commissioner shall forthwith suspend the license, registration or nonresident's operating privilege of the judgment debtor until such judgment is satisfied, as provided in this Chapter.

RS 32:896 — Proof required upon certain convictions

idence of conviction, entry of guilty plea, or forfeiture of bond of any person charged with operating a motor vehicle while under the influence of intoxicating beverages or narcotic drugs or stimulants of the central nervous system, or under Section 667 of this Title for refusal to submit to chemical tests of blood, breath, urine, or other bodily substance for determining the alcoholic content of his blood, no license shall be reinstated or reissued to the person unless such person previously has given or immediately gives and thereafter maintains proof of financial responsibility with respect to all motor vehicles registered by him and shall show financial responsibility individually as a non-owner for a period of three years.

B. If a person is not licensed, but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the suspension or revocation of license, or for operating a motor vehicle upon the highways without being licensed to do so, or for operating an unregistered motor vehicle upon the highways, no license shall be thereafter issued to such person until he shall give and thereafter maintain proof of financial responsibility, when required.

C. Repealed by Acts 1982, No. 822, §3.

RS 32:897 — Alternate methods of giving proof

le may be given by filing:

- (1) A certificate of insurance as provided in R.S. 32:898 or 32:899, or
- (2) A bond as provided in R.S. 32:903 or
- (3) A certificate of deposit of money or securities as provided in R.S. 32:904 or
- (4) A certificate of self-insurance, as provided in R.S. 32:1042, supplemented by an agreement by the self-insurer that, with respect to accidents occurring while the certificate is in force, he will pay the same judgments and in the same amounts that an insurer would have been obligated to pay under an owner's motor vehicle liability policy if it had been issued such a policy to said self-insurer.

No motor vehicle shall be or continue to be registered in the name of any person required to file proof of financial responsibility unless such proof shall be furnished for such motor vehicle.

RS 32:898 — Certificate of insurance as proof

usiness in this state certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such electronic certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit

description or by appropriate reference all motor vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle.

B. No motor vehicle shall be or continue to be registered in the name of any person required to file proof of financial responsibility unless such motor vehicle is so designated in such a certificate.

RS 32:899 — Certificate furnished by non-resident as proof

written certificate or certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in such certificates is registered, or if such non-resident does not own a motor vehicle, then in the state in which the insured resides, provided such certificate otherwise conforms to the provisions of this Chapter, and the commissioner shall accept the same upon condition that said insurance carrier complies with the following provisions with respect to the policies so certified:

- (1) Said insurance carrier shall execute a power of attorney authorizing the commissioner to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state; and
- (2) Said insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of this state relating to the terms of motor vehicle liability policies issued herein.

B. If any insurance carrier not authorized to transact business in this state, which has qualified to furnish proof of financial responsibility, defaults in any said undertakings or agreements, the commissioner shall not thereafter accept as proof any certificate of said carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues.

RS 32:900 — "Motor Vehicle Liability Policy" defined

ce, certified as provided in R.S.

32:898 or 899 as proof of financial responsibility, and issued except as otherwise provided in R.S. 32:899, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

B. Such owner's policy of liability insurance:

- (1) Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and
- (2) Shall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs with respect to each such motor vehicle as follows:
 - (a) Fifteen thousand dollars because of bodily injury to or death of one person in any one accident, and
 - (b) Subject to said limit for one person, thirty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and
 - (c) Twenty-five thousand dollars because of damage to or destruction of property of others in any one accident.
- (d) An owner may exclude a named person as an insured under a commercial policy if the owner obtains and maintains in force another policy of motor vehicle insurance which provides coverage for the person so excluded which is equal to that coverage provided in the policy for which the person was excluded. The alternative coverage is required for both primary and excess insurance.

C. Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising

out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

D. Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this Chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this Chapter.

E. Such motor vehicle liability policy need not insure any liability under any worker's compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

F. Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

(1) The liability of the insurance carrier with respect to the insurance required by this Chapter shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be cancelled or annulled as to such liability by an agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy;

(2) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage;

(3) The insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in Paragraph (B)(2) of this Section:

(4) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of the Chapter shall constitute the entire contract between the parties.

G. Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage shall not be subject to the provisions of this Chapter. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this Section.

H. Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this Chapter.

I. Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

J. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

K. Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

L.(1) Notwithstanding the provisions of Paragraph (B)(2) of this Section, an insurer and an insured may by written agreement exclude from coverage the named insured and the spouse of the named insured. The insurer and an insured may also exclude from coverage any other named person who is a resident of the same household as the named insured at the time that the written agreement is entered into, and the exclusion shall be effective, regardless of whether the excluded person continues to remain a resident of the same household subsequent to the execution of the written agreement. It shall not be necessary for the person being excluded from coverage to execute or be a party to the written agreement. For the purposes of this Subsection, the term "named insured" means the applicant for the policy of insurance issued by the insurer.

(2) The form signed by the insured or his legal representative which excludes a named person from coverage shall remain valid for the life of the policy and shall not require the completion of a new driver exclusion form when a renewal, reinstatement, substitute, or amended policy is issued to the same named insured by the same insurer or any of its affiliates. Any changes to an existing policy, including but not limited to the addition of vehicles or insured drivers to said policy, regardless of whether these changes create new coverage, do not create a new policy and do not require the completion of a new agreement excluding a named person from coverage. For the purpose of this Subsection, a new policy shall mean an original contract of insurance which an insured enters into through the completion of an application on the form required by the insurer.

M.(1) Except for those tow trucks carrying liability coverage under the provisions of R.S. 32:1717, for those motor vehicles owned or operated by persons engaged in the business of actual farming and used primarily, but not exclusively, in carrying farm produce from farm to market or returning therefrom carrying goods and merchandise back to the farms, individually or cooperatively, where such carrying is not primarily for hire, or for motor vehicles being used for the transportation of forest products in their natural state, every motor carrier as defined in R.S. 32:1 shall be covered by a liability policy. Public liability and property damage insurance on motor carriers operating a vehicle that has a gross vehicle weight or gross combined weight rating in excess of twenty thousand pounds shall have the following liability limits:

(a) Those vehicles with a gross vehicle weight of more than twenty thousand pounds, but not more than fifty thousand pounds shall have:

(i) Twenty-five thousand dollars because of bodily injury or death of one person in any one accident, and

(ii) Subject to said limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and

(iii) Twenty-five thousand dollars because of damage to or destruction of property of others in any one accident.

(b) Those vehicles with a gross vehicle weight of more than fifty thousand pounds shall provide a combined minimum single coverage limit of three hundred thousand dollars or the equivalent coverage of one hundred thousand dollars for injury or death to any one person, with a required minimum of not less than three hundred thousand dollars per occurrence, and twenty-five thousand dollars property damage.

(2) If, however, the motor carrier has qualified with the United States Department of Transportation (Interstate Commerce Commission) as a self-insurer, as authorized by 49 U.S.C. 10927, or has qualified for self-insurance under the provisions of R.S. 32:1042, the carrier shall be authorized as a self-insurer in Louisiana.

(3) The department may impose a fee not to exceed one dollar per vehicle to cover the expenses resulting from the administration of the provisions of this Subsection.

(4) In addition, all security providers for motor carriers, beginning June 15, 1995, shall notify the secretary, on a form required by the secretary, within forty-five calendar days from the date when any policy, bond, deposit, or other item of security is terminated, withdrawn, canceled, lapsed, or otherwise made ineffective.

RS 32:900.1 — Proof of financial responsibility; carriers of railroad workers

portation services on the highways of this state for railroad workers in the course of their employment.

B. It shall be unlawful for any for-hire person, firm, corporation, or contract carrier to operate any motor vehicle along or upon any public street or highway in any parish, incorporated city, town, or village in this state for the carriage of passengers employed by or contracting as workers for a railroad company in the course of their employment unless such for-hire person, firm, corporation, or contract carrier has given, and there is in full force and effect and on file with the office of motor vehicles of the Department of Public Safety and Corrections, proof of financial responsibility pursuant to Subsection C of this Section.

C. When a vehicle that is designed to carry fifteen or fewer passengers is used by a for-hire person, firm, corporation, or contract carrier to transport passengers who are employed by or who are contracting as workers for a railroad company in the course of their employment, that for-hire person, firm, corporation, or contract carrier shall, as proof of financial responsibility, maintain and be able to show verification of hit and run, uninsured, and underinsured motor vehicle coverage in a total amount of not less than five hundred thousand dollars per passenger.

D.(1) Whenever the owner of a for-hire carrier used to transport railroad workers is found in violation of this Section, the Department of Public Safety and Corrections, office of motor vehicles, shall send the owner a "Notice of Violation" within thirty days of the violation. The notice shall inform the owner that noncompliance with the provisions of this Section shall subject the registration of the carrier vehicle to suspension.

(2) The office of motor vehicles shall adopt rules and regulations in accordance with the Administrative Procedure Act, subject to oversight by the House and Senate committees on transportation, highways and public works as are necessary regarding the regulation and enforcement of this Section. This authority shall include the assessment of fees and fines in accordance with this Section.

(3) In the event that the driver and the owner are not the same person, the driver shall not be responsible for violations of this Section.

E. The provisions of this Section shall not apply to any railroad company using vehicles owned by the railroad company and operated by railroad employees to transport railroad employees in the course of their employment.

RS 32:900.2 — Proof of financial responsibility; policy issued in another state

is state has a valid motor vehicle liability policy issued in another state, his motor vehicle liability policy shall be deemed to be valid proof of financial responsibility.

RS 32:901 — Notice of cancellation or termination of certified policy

ertified shall not be cancelled or terminated until at least ten days after a notice of cancellation or termination of the insurance so certified shall be filed electronically by the insurance carrier in the office of the commissioner, except that such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

RS 32:902 — Chapter not to affect other policies

aw of this state, and such policies, if they contain an agreement or are endorsed to conform to the requirements of this Chapter, may be certified as proof of financial responsibility under this Chapter.

B. This Chapter shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on his behalf of motor vehicle not owned by the insured.

RS 32:903 — Bond as proof

least two individual sureties each owning real estate within this state, and together having equities equal in value to at least twice the amount of such bond, which real estate shall be scheduled in the bond approved by a judge of a court of record. Such bond shall be conditioned for payments in amounts and under the same circumstances as would be required in a motor vehicle liability policy, and shall not be cancelable except after ten days' written notice to the commissioner. Upon the filing of notice to such effect by the commissioner in the office of the proper clerk or court of the county or city where such real estate shall be located, such bond shall constitute a lien in favor of the state upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a judgment against the person who has filed such bond.

B. If such a judgment, rendered against the principal on such bond shall not be satisfied within sixty days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action or actions in the name of the state against the company or persons executing such bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond.

RS 32:904 — Money or securities as proof

dollars in cash or securities such as may legally be purchased by savings banks or for trust funds of a market value of thirty thousand dollars.

(2) The state treasurer shall not accept any such deposit and issue a certificate therefor and the commissioner shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the parish where the depositor resides.

B. Such deposit shall be held by the State Treasurer to satisfy, in accordance with the provisions of this Chapter, any execution on a judgment issued against such person making the deposit, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after such deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid.

RS 32:905 — Owner may give proof for others

member of the immediate family or household of the owner, the commissioner shall accept proof given by such owner in lieu of proof by such other person to permit such other person to operate a motor vehicle for which the owner has given proof as herein provided. The commissioner shall designate the restrictions imposed by this Section on the face of such person's license.

RS 32:906 — Substitution of proof

curities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this Chapter.

RS 32:907 — Other proof may be required

he purpose of this Chapter, require other proof as required by this Chapter, and shall suspend the license and registration or the non-resident's operating privilege pending the filing of such other proof.

RS 32:908 — Duration of proof; when proof may be cancelled or returned

r shall direct and the state treasurer shall return to the person entitled thereto, any money or securities deposited pursuant to this Chapter as proof of financial responsibility, or the commissioner shall waive the requirement of filing proof, in any of the following events:

- (1) At any time after three years from the date such proof was required when during the three year period preceding the request, the commissioner has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration or non-resident's operating privilege of the person by or for whom such proof was furnished; or
- (2) In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or
- (3) In the event that the person who has given proof surrenders his license and registration to the commissioner;

B. However, the commissioner shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon such liability is then unsatisfied, or in the event the person who has filed such bond or deposited such money or securities, has, within one year immediately preceding such request been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the non-existence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the commissioner.

C. Whenever any person whose proof has been cancelled or returned under paragraph (3) of this Section applies for a license or registration within a period of three years from the date proof was originally required, any such application shall be refused unless the applicant shall reestablish such proof for the remainder of such three year period.

RS 32:909 — Proof to be maintained for three years

ears.

RS 32:910 — Driver's license; immediate reinstatement, reissuance, or issuance of restricted license

of a restricted license due to economic hardship, upon presentation of proof of financial responsibility under the provisions of this Chapter, presents a certified copy of the judgment ordering the reinstatement, reissuance, or issuance at the driver's license office for the parish in which he resides, the Department of Public Safety shall immediately reinstate, reissue, or issue the license to which the person is entitled without any additional administrative delays. If at a later date the Department of Public Safety determines that the proof given was false or fraudulent, the license previously reinstated, reissued, or issued shall immediately be suspended for a period of time in accordance with the original order of suspension and the person shall be prosecuted as otherwise provided by law.

RS 32:1021 — Transfer of registration to defeat purpose of chapter prohibited

of which such registration was issued registered in any other name until the commissioner is satisfied that such transfer of registration is proposed in good faith and not for the purpose or with the effect of defeating the purposes of this Chapter.

Nothing in this Section shall in any way affect the rights of any conditional vendor, chattel mortgagee or lessor of a motor vehicle registered in the name of another as owner who becomes subject to the provisions of this Section.

RS 32:1022 — Surrender of license and registration

hall have been cancelled or terminated, or who shall neglect to furnish other proof upon request of the commissioner, shall immediately return his license and registration to the commissioner. If any person shall fail to return to the commissioner the license or registration as provided herein, the commissioner shall forthwith direct any peace officer to secure possession thereof and to return the same to the commissioner.

RS 32:1023 — Other violations; penalties

person or property of another in such accident, the commissioner shall suspend the license of the person failing to make such report, or the non-resident's operating privilege of such person, until such report has been filed and for such further period not to exceed thirty days as the commissioner may fix.

B. Any person who gives information in a report provided for in R.S. 32:398 or 871 knowing or having reason to believe that such information is false, or who shall forge or, without authority, sign any evidence of proof of financial responsibility, or who files or offers for filing any such evidence of proof knowing or having reason to believe that it is forged or signed without authority, shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

C. Any person whose license or registration or non-resident's operating privilege has been suspended or revoked under this Chapter, and who, during such suspension or revocation drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this Chapter, shall be fined not more than five hundred dollars or imprisoned not exceeding six months, or both.

D. Any person willfully failing to return license or registration as required in R.S. 32:1022 shall be fined not more than five hundred dollars or imprisoned not to exceed thirty days, or both.

E. Any person who shall violate any provision of this Chapter for which no penalty is otherwise provided shall be fined not more than five hundred dollars or imprisoned not more than ninety days, or both.

RS 32:1041 — Exceptions

ide organized public volunteer fire department which owns and operates those specially equipped motor vehicles for fire fighting purposes, nor, except for R.S. 32:871 and 905, with respect to any motor vehicle which is subject to the jurisdiction of the Louisiana Public Service Commission, or to any motor vehicle subject to registration under the single state registration for motor carriers authorized by 49 U.S.C. 11506, or as otherwise permitted by federal law, or to carriers of persons operating over specified routes with fixed termini and predominantly under franchises or indeterminate permits granted by an incorporated municipality and who are subject to the regulatory jurisdiction of such municipality.

B. Any person, firm, association, or corporation licensed and engaged in the business of renting or leasing motor vehicles to be operated on the public highways shall only be required to furnish proof of financial ability to satisfy any judgment or judgments rendered against said person, firm, association, or corporation in his or its capacity as owner of the said motor vehicles, and shall not be required to furnish proof of its financial ability to satisfy any judgment or judgments rendered against the person to whom the motor vehicle was rented or leased at the time of the accident.

RS 32:1042 — Self-insurers

r more after deducting any encumbrances thereon from its assessed valuation may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the assistant secretary of the office of motor vehicles as provided in Subsection B of this Section.

B.(1) The assistant secretary may, at his discretion, upon the application of such a person, issue a certificate of self-insurance when he is satisfied that such person is possessed and will continue to be possessed of ability to pay judgments obtained against such person.

(2) The assistant secretary shall assess a fee of one hundred dollars for each certificate.

C. Upon not less than five days notice and a hearing pursuant to such notice, the commissioner may cancel upon reasonable grounds a certificate of self-insurance. Failure to pay any judgment within sixty days after such judgment has become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance. The commissioner, upon receipt of certified copy of a final judgment, shall forthwith suspend the license and registration, or any nonresident's operating privileges, of any person, or any legal entity, against whom such judgment was rendered, except as otherwise provided in R.S. 32:892 and R.S. 32:895.

D. Any person or any legal entity whose certificate of self-insurance has been cancelled for his failure to pay a final judgment shall not be eligible for the renewal or reissuance of a certificate of self-insurance for a period of five years from the date of cancellation.

RS 32:1251 — Declaration of public policy

my of the state, the public interest, and the public welfare, and that in order to promote the public interest, and the public welfare, and in the exercise of its police power, it is necessary to regulate and to license those persons enumerated in R.S. 32:1254 and doing business in Louisiana, in order to prevent frauds, impositions, and other abuses upon its citizens, and avoid undue control of the independent motor vehicle dealer and recreational products by their motor vehicle manufacturing and distributive organizations and foster and keep alive vigorous and healthy competition, by prohibiting unfair practices by which fair and honest competition is destroyed or prevented, and to protect the public against the

creation or perpetuation of monopolies and practices detrimental to the public welfare, to prevent the practice of requiring the buying, leasing, or renting of special features, appliances, and equipment not desired or requested by the purchaser, lessee, or renter, to prevent false and misleading advertising, to prevent unfair practices by said licensees, to promote the public safety and prevent disruption of the system of distribution of motor vehicles and recreational products to the public and prevent deterioration of facilities for servicing motor vehicles and keeping same safe and properly functioning, and prevent bankrupting of motor vehicle and recreational products dealers and lessors, who might otherwise be caused to fail because of such unfair practices and competition, thereby resulting in unemployment, disruption of leases, and nonpayment of taxes and loans, and contribute to an inevitable train of undesirable consequences, including economic depression.

RS 32:1252 — Definitions

indicates a different meaning:

- (1) "All-terrain vehicle" shall mean any vehicle manufactured for off-road use and issued a manufacturer's statement or certificate of origin, as required by the commission, that cannot be issued a registration certificate and license to operate on the public roads of this state because, at the time of manufacture, the vehicle does not meet the safety requirements prescribed by R.S. 32:1301 through 1310. This includes vehicles that are issued a title by the Department of Public Safety and Corrections, public safety services, such as recreational and sports vehicles, but it shall not include off-road vehicles used for farm purposes, farm equipment, electric-assisted bicycles, or heavy construction equipment.
- (2) "Ambulance" means a vehicle used exclusively for providing emergency and nonemergency medical care to an injured or ill person or transporting an injured or ill person, if the vehicle provides all of the following:
 - (a) A driver's compartment.
 - (b) A compartment to accommodate an emergency medical care technician or paramedic and two injured or ill persons so positioned that one of the injured or ill persons can be given intensive life-support during transit.
 - (c) Equipment and supplies for emergency care of an injured or ill person where the ill person is located or at the scene of an injury-producing incident as well as in transit.
 - (d) Two-way radio communication capability.
 - (e) Equipment for light rescue or extrication procedures.
- (3) "Boat" means a component of a marine product that is not equipped with an outboard or inboard/outboard motor attached thereto.
- (4) "Boat package" means a boat that is equipped from its manufacturer or distributor with an inboard, outboard, or inboard/outboard motor or engine attached thereto, installed thereon, or shipped or invoiced together as a package. The boat package may include a trailer invoiced from the manufacturer of the boat. For the purposes of this Chapter, the boat package brand shall be determined by the brand of the boat.
- (5) "Broker" means a person who, for a fee or commission, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new motor vehicle or recreational product, and who is not:
 - (a) A motor vehicle dealer or recreational products dealer, or bona fide employee of a motor vehicle dealer, when acting on behalf of a motor vehicle or recreational products dealer.

(b) A manufacturer, distributor, convertor, or bona fide employee of a manufacturer, distributor, or convertor, when acting on behalf of a manufacturer, distributor, or convertor.

(c) At any point in the transaction, the bona fide owner of the motor vehicle or recreational product involved in the transaction.

(6) "Commission" means the Louisiana Motor Vehicle Commission created by this Chapter or its designee.

(7)(a) "Community or territory" or "area of responsibility" shall mean the licensee's area of principal sales and service responsibility as specified by the franchise in effect with any licensee of the commission.

(b) The area of responsibility of a licensee shall not be comprised of an area less than the applicable area provided for in Subparagraph (b) of this Paragraph, unless approved by the commission pursuant to the provisions of this Chapter, or if, on August 15, 2001, such dealer had an effective contractual agreement for a smaller area of responsibility.

(c) A marine dealer's area of responsibility shall mean the marine dealer's area of principal sales and service responsibility as specified by the contract, franchise, or selling agreement in effect with the manufacturer or distributor. The marine manufacturer or distributor shall designate and provide to the commission in writing the marine dealer's area of responsibility when the contract is granted or, should there be contracts in existence on August 15, 2004, without such designation, the commission shall require the manufacturer or distributor to designate the area of responsibility. The manufacturer or distributor shall adopt uniform procedures to establish the area of responsibility that is assigned to a marine dealer. The uniform procedures shall include market research information from identified credible industry sources that project product sales of the brand of marine product for which the contract or franchise agreement is granted. In the absence of such designation by the manufacturer or distributor, or in the event that the area of responsibility designated by the manufacturer or distributor is rejected by the commission and such decision by the commission is affirmed on appeal, the marine dealer's area of responsibility shall mean either of the following:

(i) The area within a fifteen-mile radius of the dealership if the dealership is located in a parish containing a population of three hundred thousand persons or more.

(ii) The area within a thirty-mile radius of the dealership if the dealership is located in a parish containing a population of less than three hundred thousand persons.

(8) "Converter" or "secondary manufacturer" means a person who prior to the retail sale of motor vehicles or trailers, assembles, installs, or affixes a body, cab, or special equipment to a chassis, or who substantially adds, subtracts from, or modifies a previously assembled or manufactured motor vehicle or trailer, but does not include towable equipment as defined in this Chapter.

(9) "Dealer" means any person licensed to sell a motor vehicle, specialty vehicle, or recreational product subject to regulation by this Chapter.

(10) "Dealer-operator" shall mean the natural person designated in the franchise as the operator of a motor vehicle dealership.

(11) "Designated successor" means the spouse, child, grandchild, parent, brother, or

sister, of a dealer who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; the spouse, or other person who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership, such designation having been furnished to the manufacturer; or the spouse, or other person who, under the laws of intestate succession of this state is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court in a proceeding interdicting the dealer as the legal representative of the dealer's property. The terms shall also include the appointed and qualified personal representative and testamentary trustee of a deceased dealer.

(12) "Distributor" or "wholesaler" means any person, resident or nonresident, who in whole or in part sells or distributes vehicles or new, remanufactured, reconditioned, or rebuilt motor vehicle motors to dealers, or who maintains distributor representatives.

(13) "Distributor branch" means a branch office maintained by a person, resident or nonresident, who in whole or in part sells or distributes motor vehicles or recreational products to motor vehicle or recreational products dealers, or for directing or supervising, in whole or in part, its representatives.

(14) "Distributor representative" means any officer, agent, or employee employed by a distributor, distributor branch, or wholesaler.

(15) "Established place or established place of business" shall mean a permanently enclosed building or structure either owned, leased, or rented, which meets local zoning or municipal requirements, and regularly occupied by a person, easily accessible to the public at which the regular business of a licensee will be carried on in good faith, and, at which place of business shall be kept and maintained the books, records, and files necessary to conduct the business; and shall not mean residences, tents, temporary stands, lots, or any temporary quarters.

(16) "Factory branch" means a branch office maintained by a person who fabricates, manufactures, or assembles motor vehicles or recreational products, for the sale of motor vehicles or recreational products to distributors, or for the sale of motor vehicles or recreational products to motor vehicle or recreational products dealers, or for directing or supervising, in whole or in part, its representatives.

(17) "Factory representative" means any officer, agent, or employee employed by a person who fabricates, manufactures, or assembles motor vehicles or recreational products, or by a factory branch, for the purpose of making or promoting the sale of his, its, or their motor vehicles or recreational products, or for supervising or contacting his, its, or their dealers or prospective dealers.

(18) "Financial institution" means any person organized to engage in the business of banking pursuant to the laws of the United States or Title 6 of the Louisiana Revised Statutes of 1950.

(19) "Fire truck" means any one of the following:

(a) A pumper fire apparatus, which is a vehicle equipped with a permanently mounted fire pump of 750 gpm (2850 L/min) rated capacity or greater, a water tank of at least 500 gal (1900 L), and hose body. The primary purpose of this type of apparatus is to

combat structural and associated fires.

(b) An initial attack fire apparatus, which is a vehicle equipped with an attack pump of 250 through 700 gpm (950 through 2650 L/min), a water tank, and minimum hose and equipment, that is designed primarily for rapid response and initiating a fire attack on structural, vehicular, or vegetation fires and supporting associated fire department operations.

(c) A mobile water supply fire apparatus, which is a vehicle equipped with a water tank of at least 1000 gal (3800 L) and designed primarily for transporting water to fire emergency scenes to be applied by other vehicles or pumping equipment.

(d) An aerial ladder and elevating platform fire apparatus, which is a vehicle equipped with a permanently mounted, power-operated aerial ladder or with a passenger carrying platform attached to the uppermost boom of a series of telescoping, articulating, or telescoping and articulating booms and designed to provide rescue capability from elevated positions and the positioning of firefighters and elevated master streams for fire suppression tasks.

(20) "Franchise" means any written contract or selling agreement between a motor vehicle or recreational products dealer, a motor vehicle lessor, or a specialty vehicle dealer and a manufacturer, motor vehicle lessor franchisor, or converter of a new motor vehicle or specialty vehicle or its distributor or factory branch by which the motor vehicle or recreational products dealer, motor vehicle lessor, or specialty vehicle dealer is authorized to engage in the business of selling or leasing the specific makes, models, or classifications of new motor vehicles, recreational products, or specialty vehicles marketed or leased by the manufacturer, motor vehicle lessor franchisor, or converter and designated in the franchise agreement or any addendum thereto. For purposes of this Chapter, any written modification, amendment, or addendum to the original franchise agreement, which changes the rights and obligations of the parties to the original franchise agreement, shall constitute a new franchise agreement, effective as of the date of the modification, amendment, or addendum.

(21) "Lease facilitator" means a person, other than a motor vehicle or recreational products dealer or a bona fide employee of a motor vehicle or recreational products dealer, or a motor vehicle lessor or a bona fide employee of a motor vehicle lessor, who engages in one or both of the following activities:

(a) Holds himself out to any person as a "motor vehicle leasing company" or "motor vehicle leasing agent" or uses a similar title, for the purpose of soliciting or procuring a person to enter into a contract or agreement to become the lessee of a motor vehicle or recreational product that is not, and will not be, titled in the name of and registered to the lease facilitator.

(b) Otherwise solicits a person to enter into a contract or agreement to become a lessee of a vehicle that is not, and will not be, titled in the name of and registered to the lease facilitator, or who is otherwise engaged in the business of securing lessees or prospective lessees of motor vehicles or recreational products that are not, and will not be, titled in the name of and registered to the facilitator.

(22) "Licensee" means any person who is required to be licensed by the commission pursuant to the provisions of this Chapter.

(23) "Low-speed vehicle" means a four-wheeled vehicle with a maximum speed of not less than twenty miles per hour but not more than twenty-five miles per hour that possesses the minimum motor vehicle equipment appropriate for vehicle safety as required by 49 CFR 571.500.

(24) "Manufacturer" means any person, resident or nonresident, who fabricates, manufactures, or assembles motor vehicles, recreational products, or new, remanufactured, reconditioned, or rebuilt motor vehicle or marine motors.

(25) "Marine dealer" means any person who holds a bona fide contract or franchise with a manufacturer or distributor of marine products, except for either of the following:

(a) A person engaged in the business of renting or selling new or used watercraft or boats adapted to be powered only by an occupant's energy and who holds a license as a recreational products dealer pursuant to the provisions of this Chapter.

(b) A person engaged in the business of renting or selling new or used trolling motors who otherwise would not be required to be licensed as any classification of dealer in accordance with the provisions of this Chapter.

(26) "Marine motor" or "marine engine" means a motor that is a component of a marine product that is sold separately from a boat when delivered to the marine dealer by the distributor or manufacturer. The term shall not include a trolling motor.

(27) "Marine product" means a new or used watercraft, boat, marine motor, and a boat or watercraft trailer. The term also includes an outboard motor or a boat with an inboard/outboard motor attached to it. The term shall not include any of the following:

(a) A watercraft or marine motor if the watercraft or marine motor is used primarily for commercial or government purposes.

(b) A new or used watercraft or boat adapted to be powered only by the occupant's energy.

(c) A trolling motor.

(28) "Marine product line" means a particular model of a marine product designed for recreational or commercial use on water.

(29) "Marine product salesman" means any natural person employed by a licensee of the commission whose duties include the selling, leasing, or offering for sale or lease, financing or insuring marine products on behalf of the licensee and who holds a motor vehicle salesman license under the provisions of this Chapter.

(30) "Motorcycle" means a motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor, electric-assisted bicycle, and electric-powered scooters not required to be registered.

(31)(a) "Motorcycle or all-terrain vehicle dealer" means any person who, for a commission or with intent to make a profit or gain of money or other thing of value, buys, sells, brokers, exchanges, auctions, offers, or attempts to negotiate a sale or exchange of an interest in motorcycles or all-terrain vehicles and who is engaged wholly or in part in the business of buying and selling motorcycles or all-terrain vehicles in the state of Louisiana and who holds a license as a recreational products dealer under the provisions of this

Chapter.

(b) The term shall also include anyone not licensed under this Chapter, who sells motorcycles or all-terrain vehicles and who rents on a daily basis motorcycles or all-terrain vehicles, not of the current year or immediate prior year models, that have been titled previously to an ultimate purchaser.

(c) "Motorcycle or all-terrain vehicle dealer" shall not include any of the following:

(i) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.

(ii) Public officers while performing their official duties.

(iii) Employees of motorcycle or all-terrain vehicle dealers when engaged in the specific performance of their duties as such employees.

(iv) Mortgagees or secured parties as to sales of motorcycles or all-terrain vehicles constituting collateral on a mortgage or security agreement.

(v) Insurance companies.

(vi) Auctioneers or auction houses who are not engaged in the auction of motorcycles or all-terrain vehicles as the principal part of their business, including but not limited to the following auctions: estate auctions, bankruptcy auctions, farm equipment auctions, or government auctions.

(32) "Motorcycle or all-terrain vehicle salesman" means any natural person employed by a licensee of the commission whose duties include the selling, leasing, or offering for sale or lease, financing or insuring motorcycle or all-terrain vehicles on behalf of said licensee and who holds a motor vehicle salesman license under the provisions of this Chapter.

(33) "Motor home" means a motor vehicle designed as an integral unit to be used as a conveyance upon the public streets and highways and for use as a temporary or recreational dwelling and having at least four of the following permanently installed systems which meet American National Standards Institute and National Fire Protection Association standards in effect as of the date of manufacture, two of which shall be systems specified below in Subparagraph (a), (d), or (e) of this Paragraph:

(a) Cooking facilities.

(b) Ice box or mechanical refrigerator.

(c) Potable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both.

(d) Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both.

(e) Heating or air conditioning system, or both, separate from the vehicle engine or the vehicle engine electrical system.

(f) A one hundred ten/one hundred fifteen volt alternating current electrical system either with its own power supply or with a connection for an external source, or both, or a liquefied petroleum system and supply.

(34) "Motor vehicle" means any motor driven car, van, or truck required to be registered which is used, or is designed to be used, for the transporting of passengers or goods for public, private, commercial, or for hire purposes.

(35)(a) "Motor vehicle dealer" means any person, not excluded by Subparagraph (b) of this Paragraph who holds a bona fide franchise in effect with a manufacturer or distributor of new motor vehicles, and a license under the provisions of this Chapter or a subsidiary of any such entity. Such duly franchised and licensed motor vehicle dealers shall be the sole and only persons entitled to sell, publicly solicit, and advertise the sale of new motor vehicles as such.

(b) The term "motor vehicle dealer" does not include any of the following:

(i) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under judgment or order of any court.

(ii) Public officers while performing or in operation of their duties.

(iii) Employees of persons enumerated in Item (i) of this Subparagraph when engaged in the specific performance of their duties as such employees.

(iv) Financial institutions engaged in the sale of motor vehicles for the collection of debts secured thereby.

(36)(a) "Motor vehicle lessor" shall mean any person, not excluded by Subparagraph (b) of this Paragraph, engaged in the motor vehicle, recreational products, or specialty vehicle leasing or rental business. It shall also include a subsidiary of any such entity.

(b) The term "motor vehicle lessor" does not include any of the following:

(i) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under judgment or order of any court.

(ii) Public officers while performing or in the operation of their duties.

(iii) Employees of persons, corporations, or associations enumerated in Item (i) of this Subparagraph when engaged in the specific performance of their duties as such employees.

(iv) Financial institutions engaged in the leasing of motor vehicles, recreational products, or specialty vehicles.

(c) Any motor vehicle lessor who rents on a daily basis motor vehicles, recreational products, or specialty vehicles not of the current year or immediate prior year models that have been titled previously to an ultimate purchaser, and who is otherwise not required to obtain a license under this Chapter, shall be subject to the regulation of the Louisiana Used Motor Vehicle Commission.

(37) "Motor vehicle lessor agent" means any natural person, other than a daily rental person, employed by a motor vehicle lessor licensed by the commission whose duties include the leasing, renting or offering for lease or rent motor vehicles, recreational products, or specialty vehicles on behalf of said motor vehicle lessor.

(38) "Motor vehicle lessor franchisor" means any person who grants a franchise to any person granting the right to lease or rent a motor vehicle, recreational product, or specialty vehicle under its trade name, trademark, or service mark or to sell used motor vehicles, recreational products, or specialty vehicles formerly a part of its rental fleet.

(39) "Motor vehicle salesman" means any natural person employed by a licensee of the commission whose duties include the selling, leasing, or offering for sale or lease, financing or insuring motor vehicles, recreational products, or specialty vehicles on behalf

of said licensee.

(40) "New marine product" means a marine product, the legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

(41) "New motorcycle or all-terrain vehicle" means a motorcycle or all-terrain vehicle, the legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

(42) "New motor vehicle", "new recreational product", or "new specialty vehicle" means a motor vehicle, recreational product, or specialty vehicle, the legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

(43) "New recreational vehicle" means a recreational vehicle, the legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

(44) "Person" shall mean any natural or juridical person, firm, association, corporation, trust, partnership, limited liability partnership, professional liability corporation, or limited liability company or any other legal entity.

(45) "Recreational products" means new and unused motorcycles, all-terrain vehicles, marine products, recreational vehicles, and trailers as defined in this Chapter. The term shall not include trolling motors.

(46)(a) "Recreational products dealer" means any person who, for a commission or with intent to make a profit or gain of money or other thing of value, buys, sells, brokers, exchanges, auctions, offers, or attempts to negotiate a sale or exchange of an interest in recreational products and who is engaged wholly or in part in the business of buying and selling recreational products in the state of Louisiana. Duly franchised and licensed recreational products dealers shall be the only persons entitled to sell, publicly solicit, and advertise the sale of new recreational products.

(b) The term shall also include anyone not licensed under this Chapter, who sells recreational products and who rents on a daily basis recreational products, not of the current year or immediate prior year models, that have been titled previously to an ultimate purchaser.

(c) "Recreational products dealer" shall not include any of the following:

(i) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.

(ii) Public officers while performing their official duties.

(iii) Employees of recreational products dealers when engaged in the specific performance of their duties as such employees.

(iv) Mortgagees or secured parties as to sales of recreational products constituting collateral on a mortgage or security agreement.

(v) Insurance companies.

(vi) Auctioneers or auction houses who are not engaged in the auction of recreational products as the principal part of their business, including but not limited to the following auctions: estate auctions, bankruptcy auctions, farm equipment auctions, or government auctions.

(vii) Any person engaged in the business of renting or selling new or used trolling

motors who otherwise would not be required to be licensed as any classification of dealer pursuant to the provisions of this Title.

(47) "Recreational vehicle" means a motorized or towable vehicle that combines transportation and temporary living quarters for travel, recreation, and camping. For purposes of this Chapter, a "recreational vehicle" includes new and used motor homes, new and used travel trailers, new and used fifth-wheel travel trailers, new and used folding camper trailers, and slide-in truck campers.

(48)(a) "Recreational vehicle dealer" means any person who, for a commission or with intent to make a profit or gain of money or other thing of value, buys, sells, brokers, exchanges, auctions, offers, or attempts to negotiate a sale or exchange of an interest in recreational vehicles and who is engaged wholly or in part in the business of buying and selling recreational vehicles in the state of Louisiana and who holds a license as a recreational products dealer under the provisions of this Chapter.

(b) The term shall also include anyone not licensed under this Chapter, who sells recreational vehicles and who rents on a daily basis recreational vehicles, not of the current year or immediate prior year models, that have been titled previously to an ultimate purchaser.

(c) "Recreational vehicle dealer" shall not include any of the following:

(i) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.

(ii) Public officers while performing their official duties.

(iii) Employees of recreational vehicle dealers when engaged in the specific performance of their duties as such employees.

(iv) Mortgagees or secured parties as to sales of recreational vehicles constituting collateral on a mortgage or security agreement.

(v) Insurance companies.

(vi) Auctioneers or auction houses who are not engaged in the auction of recreational vehicles as the principal part of their business, including but not limited to the following auctions: estate auctions, bankruptcy auctions, farm equipment auctions, or government auctions.

(49) "Recreational vehicle salesman" means any natural person employed by a licensee of the commission whose duties include the selling, leasing, or offering for sale or lease, financing or insuring recreational vehicles on behalf of said licensee and who holds a motor vehicle salesman license under the provisions of this Chapter.

(50) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle, recreational product, or specialty vehicle to an ultimate purchaser for use as a consumer.

(51) "Satellite warranty and repair center" means a motor vehicle repair facility, other than at a motor vehicle dealer franchised location, approved by a manufacturer or distributor and authorized to perform warranty and other repairs on motor vehicles, or a motor vehicle repair facility of a manufacturer or distributor who, as of January 1, 2024, was licensed by the Louisiana Motor Vehicle Commission, either directly or through a subsidiary, to lease

motor vehicles, if neither it, nor any common entity, has any franchised motor vehicle dealers within this state, or has ever had franchised motor vehicle dealers licensed in this state as set forth in R.S. 32:1261.

(52) "Selling agreement" means any written contract or agreement between a marine dealer and a manufacturer, or its distributor or factory branch, by which the marine dealer is authorized to engage in the business of selling or leasing the specific makes, models, or classifications of marine products marketed or leased by the manufacturer, and designated in the selling agreement or any addendum thereto. For the purposes of this Paragraph, any written modification, amendment, or addendum to the original selling agreement that changes the rights and obligations of the parties to the original selling agreement shall constitute a new selling agreement, effective as of the date of the modification, amendment, or addendum.

(53) "Specialty vehicle" means a motor vehicle manufactured by a second stage manufacturer by purchasing motor vehicle components, including frames and drive trains, and completing the manufacture of finished motor vehicles for the purpose of resale, with the primary manufacturer warranty unimpaired, to a limited commercial market rather than the consuming public. Specialty vehicle includes ambulances, fire trucks, garbage trucks, hearses, limousines, school buses, street sweepers, vacuum trucks, wreckers, and other similar limited purpose vehicles. Specialty vehicle does not include motor homes as defined in this Section.

(54) "Specialty vehicle dealer" means any person who holds a bona fide franchise in effect with a converter or second stage manufacturer of specialty vehicles and a license under the provisions of this Chapter or a subsidiary of any such entity. Such duly franchised and licensed specialty vehicle dealer shall be the sole person entitled to sell, publicly solicit, and advertise the sale of specialty vehicles.

(55) "Subsidiary" shall mean any person engaged in the selling or leasing of motor vehicles, recreational products, or specialty vehicles, in which a majority of the ownership interests of such entity is owned by a holder of a license issued by the commission.

(56) "Tow dolly" means a trailer equipped with one or more axles designed to connect to a tow bar on the rear of a motor vehicle that is used to tow another vehicle and is not a type of towable equipment as defined in this Chapter. The front or rear wheels of the towed vehicle are secured to and rest upon the tow dolly.

(57) "Towable equipment" means equipment that is permanently affixed to or integrated upon a trailer intended for use when the trailer is not traveling on a road and where its capability for road travel or transport of other property is incidental or secondary to the primary operational purpose of the equipment including but not limited to towable signage, message boards, generators, lighting tower masts, speed monitoring and traffic cameras, air compressors, water pumps, crash attenuators, or road maintenance equipment such as a pothole patcher or a chipper brush. "Towable equipment" does not include portable facilities primarily intended for human or animal occupancy, hygiene, or similar accommodations, including but not limited to portable toilets, livestock trailers, and enclosed facilities for food service preparation and distribution.

(58) "Trailer" means every single vehicle without motive power designed for carrying property or passengers wholly on its own structure, drawn by a motor vehicle which carries no part of the weight and load of the trailer on its own wheels and having one or more load carrying axles including but not limited to utility trailers, boat trailers, recreational trailers, semitrailers, livestock trailers, tow dollies and dump trailers, and excluding towable equipment as defined in this Chapter.

(59) "Trolling motor" means any self-contained unit composed of an electric motor, propeller, and controls that may be affixed to a boat and that acts as a source, but not typically the primary source, of propulsion for the boat.

(60) "Ultimate purchaser" means, with respect to any new motor vehicle, recreational product, or specialty vehicle, the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases such new motor vehicles, recreational products, or specialty vehicles for purposes other than resale. "Ultimate purchaser" shall not include a person who purchases a motor vehicle or recreational product for purposes of altering or remanufacturing the motor vehicle or recreational product for future resale.

(61)(a) "Used marine dealer" means any person whose business is to sell, or offer for sale, display, or advertise used marine products, or any person who holds a license from the commission and is not excluded by Subparagraph (b) of this Paragraph.

(b) "Used marine dealer" shall not include any of the following:

(i) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.

(ii) Public officers while performing their official duties.

(iii) Employees of persons, corporations, or associations defined as "used marine dealers" when engaged in the specific performance of their duties as such employees.

(iv) Mortgagees or secured parties as to sales of marine products constituting collateral on a mortgage or security agreement and who do not maintain a used car lot or building with one or more employed marine product salesman.

(v) Insurance companies who sell motor vehicles to which they have taken title as an incident of payments made under policies of insurance and who do not maintain a used car lot or building with one or more employed marine product salesman.

(vi) Used motor vehicle dealers licensed pursuant to R.S. 32:781 et seq.

(62) "Used marine product" means a marine product, the legal title of which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

(63) "Used marine product facility" means any facility which is owned and operated by a licensee of the commission and offers for sale used marine products.

(64) "Used motorcycle or all-terrain vehicle" means a motorcycle or all-terrain vehicle, the legal title of which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

(65)(a) "Used motorcycle or all-terrain vehicle dealer" means any person whose business is to sell, or offer for sale, display, or advertise used motorcycles or all-terrain vehicles, or any person who holds a license from the commission and is not excluded by Subparagraph (b) of this Paragraph.

(b) "Used motorcycle or all-terrain vehicle dealer" shall not include any of the following:

(i) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.

(ii) Public officers while performing their official duties.

(iii) Employees of persons, corporations, or associations enumerated in the definition of "used motorcycle or all-terrain vehicle dealer" when engaged in the specific performance of their duties as such employees.

(iv) Mortgagees or secured parties as to sales of motorcycles or all-terrain vehicles constituting collateral on a mortgage or security agreement and who do not maintain a used car lot or building with one or more employed motorcycle or all-terrain vehicle salesman.

(v) Insurance companies who sell motorcycles or all-terrain vehicles to which they have taken title as an incident of payments made under policies of insurance and who do not maintain a used car lot or building with one or more employed motorcycle or all-terrain vehicle salesman.

(vi) Used motorcycle or all-terrain vehicle dealers licensed pursuant to R.S. 32:781 et seq.

(66) "Used motorcycle or all-terrain vehicle facility" means any facility which is owned and operated by a licensee of the commission and offers for sale used motorcycles or all-terrain vehicles.

(67) "Used motor vehicle" means a motor vehicle, recreational product, or specialty vehicle, the legal title of which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

(68)(a) "Used motor vehicle dealer" means any person whose business is to sell, or offer for sale, display, or advertise used motor vehicles, recreational products, or specialty vehicles, or any person who holds a license from the commission and is not excluded by Subparagraph (b) of this Paragraph.

(b) "Used motor vehicle dealer" shall not include any of the following:

(i) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.

(ii) Public officers while performing their official duties.

(iii) Employees of persons, corporations, or associations enumerated in the definition of "used motor vehicle dealer" when engaged in the specific performance of their duties as such employees.

(iv) Mortgagees or secured parties as to sales of motor vehicles constituting collateral on a mortgage or security agreement and who do not maintain a used car lot or building with one or more employed motor vehicle salesman.

(v) Insurance companies who sell motor vehicles to which they have taken title as an incident of payments made under policies of insurance and who do not maintain a used car lot or building with one or more employed motor vehicle salesman.

(vi) Used motor vehicle dealers licensed pursuant to R.S. 32:781 et seq.

(69) "Used motor vehicle facility" means any facility which is owned and operated

by a licensee of the commission and offers for sale used motor vehicles, recreational products, or specialty vehicles.

(70) "Used recreational vehicle" means a recreational vehicle, the legal title of which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

(71)(a) "Used recreational vehicle dealer" means any person whose business is to sell, or offer for sale, display, or advertise used recreational vehicles, or any person who holds a license from the commission and is not excluded by Subparagraph (b) of this Paragraph.

(b) "Used recreational vehicle dealer" shall not include any of the following:

(i) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.

(ii) Public officers while performing their official duties.

(iii) Employees of persons, corporations, or associations enumerated in the definition of "used recreational vehicle dealer" when engaged in the specific performance of their duties as such employees.

(iv) Mortgagees or secured parties as to sales of recreational vehicles constituting collateral on a mortgage or security agreement and who do not maintain a used car lot or building with one or more employed recreational vehicle salesman.

(v) Insurance companies who sell recreational vehicles to which they have taken title as an incident of payments made under policies of insurance and who do not maintain a used car lot or building with one or more employed recreational vehicle salesman.

(vi) Used recreational vehicle dealers licensed pursuant to R.S. 32:781 et seq.

(72) "Used recreational vehicle facility" means any facility which is owned and operated by a licensee of the commission and offers for sale used recreational vehicles.

(73) "Vehicle" means any motor vehicle, specialty vehicle, or recreational product subject to regulation by this Chapter.

(74) "Watercraft" means any contrivance used or designated for navigation on water, including but not limited to a personal watercraft as defined in R.S. 34:855.2.

(75) "Wrecker" means any motor vehicle equipped with a boom or booms, winches, slings, tilt beds, or similar equipment designed for towing or recovery of vehicles and other objects which cannot operate under their own power or for some reason must be transported by means of towing.

RS 32:1253 — Motor Vehicle Commission; appointment and qualifications of members; terms of

he Louisiana Motor Vehicle Commission is hereby created within the office of the governor and shall be composed of eighteen members appointed by the governor, as follows:

(1) A chairman of the commission shall be appointed from the state at large. Fourteen members shall be appointed in such manner that at least one shall be from each of the commission districts as listed below:

(a) Commission District 1 shall consist of the following parishes: Orleans, Plaquemines, St. Bernard, St. Tammany, and Washington.

(b) Commission District 2 shall consist of the following parishes: Jefferson, St.

Charles, St. John, St. James, and Tangipahoa.

(c) Commission District 3 shall consist of the following parishes: East Baton Rouge, West Baton Rouge, Iberville, Ascension, East Feliciana, West Feliciana, St. Helena, Livingston, Assumption, and Pointe Coupee.

(d) Commission District 4 shall consist of the following parishes: Richland, Franklin, Union, Lincoln, Jackson, Winn, Caldwell, Ouachita, Morehouse, West Carroll, East Carroll, and Madison.

(e) Commission District 5 shall consist of the following parishes: Caddo, Bossier, Webster, DeSoto, Red River, Bienville, Claiborne, and Sabine.

(f) Commission District 6 shall consist of the following parishes: Rapides, Grant, LaSalle, Catahoula, Concordia, Avoyelles, Vernon, Tensas, and Natchitoches.

(g) Commission District 7 shall consist of the following parishes: Beauregard, Allen, Calcasieu, Cameron, Jefferson Davis, Acadia, and Evangeline.

(h) Commission District 8 shall consist of the following parishes: Lafayette, St. Landry, St. Martin, St. Mary, Iberia, Terrebonne, Lafourche, and Vermilion.

(2)(a) Of the eighteen members appointed pursuant to this Subsection, fifteen members shall meet all of the following qualifications:

(i) Has held an active license issued by the commission for at least five consecutive years immediately prior to the appointment.

(ii) Maintains an active license throughout his term of service on the commission.

(iii) Is a resident of this state and is of good moral character at the time of appointment.

(b) Among the fifteen members, there shall be representation from the following:

(i) At least one member shall be primarily engaged in vehicle leasing or rental.

(ii) At least one member shall be primarily engaged in heavy truck sales.

(iii) At least one member shall be primarily engaged in marine product sales.

(iv) At least one member shall be primarily engaged in motorcycle sales.

(v) At least one member shall be primarily engaged in recreational vehicle sales.

(vi) At least one member shall be primarily engaged in sales financing.

(3)(a) The remaining three members shall be members of the public, each of whom shall meet all of the following qualifications:

(i) Is either a retired judge or a licensed attorney in the state of Louisiana with not less than ten years of legal experience.

(ii) Is not, and has never been, licensed by the commission as provided in this Chapter.

(b) The three members of the public shall form the dispute resolution panel provided for in Paragraph (4) of this Subsection.

(4)(a) All persons or parties involved in a dispute shall have the right to have the dispute, protest, complaint, or other contested matter heard and adjudicated by the dispute resolution panel. Nothing in this Paragraph shall be construed to prohibit the commission from offering informal dispute resolution procedures prior to the commencement of a formal adjudicatory hearing. However, no party shall be required to participate in any informal

dispute resolution process in lieu of exercising their right to a formal hearing before the dispute resolution panel.

(b) The dispute resolution panel shall exclusively exercise the adjudicatory authority of the commission, including the power to issue subpoenas, compel the attendance of witnesses, administer oaths, receive evidence in connection with any hearing or other proceeding within its jurisdiction, and render final decisions. This authority includes the power to order remedies and impose fines as authorized by this Chapter and Chapter 6-A of this Title and Chapter 10-B of Title 6 of the Louisiana Revised Statutes of 1950.

(c) The jurisdiction of the dispute resolution panel shall include all disputes, protests, complaints, or other contested matters involving licensees of the commission and also matters involving any person or entity operating without a required license, including those subject to licensure pursuant to this Chapter and Chapter 6-A of this Title, and Chapter 10-B of Title 6 of the Louisiana Revised Statutes of 1950.

(d) The dispute resolution panel shall elect a chair to serve as the presiding officer for each proceeding.

(e) The members of the dispute resolution panel shall not participate in or vote on any of the other business of the commission.

(f) The commission staff shall exercise the investigatory authority of the commission as delegated and subject to oversight by the commission. In the exercise of its investigatory authority, the executive director of the commission may issue subpoenas, compel the attendance of witnesses, administer oaths, receive evidence, and carry out any other investigatory functions as authorized by law.

(g) The attorney general shall supervise the legal services provided to the commission, including the appointment of separate legal counsel for the dispute resolution panel, who may be an attorney from the office of the attorney general or a private attorney retained through the attorney general.

(h) Final decisions of the dispute resolution panel shall be in writing, state specific findings of fact and conclusions of law, and be based solely on the record and any matters officially noticed. The decision shall constitute the final action of the commission.

(i)(i) Any party aggrieved by a final decision shall have the right to seek judicial review pursuant to the Administrative Procedure Act, R.S. 49:950 et seq., by filing a petition in the Twenty-Fourth Judicial District Court within thirty days of the date the decision is transmitted to the parties by certified mail or served as otherwise provided by law.

(ii) For purposes of this Section, "aggrieved party" means any person whose legal rights, duties, or privileges were adversely affected by the final decision.

(j) Each member of the dispute resolution panel shall be entitled to reasonable compensation for his service in connection with any hearing conducted pursuant to this Paragraph in lieu of the per diem paid to members of the commission. The amount and manner of compensation shall be established by the commission and paid from the commission's administrative funds but shall not be less than the daily amount of compensation paid to retired judges or lawyers sitting pro tempore or ad hoc by appointment of the Louisiana Supreme Court, together with any expenses in an amount fixed by the

commission and authorized by law.

(5) Engagement in more than one category of business regulated under this Chapter shall not disqualify an otherwise qualified licensee from appointment to the commission.

(6) Each appointment by the governor shall be submitted to the Senate for confirmation.

B.(1) The members shall serve at the pleasure of the governor. In the event of the death, resignation, or removal of any person serving on the commission, the vacancy shall be filled in the manner of the original appointment.

(2) The commission shall meet in Jefferson Parish and complete its organization immediately after the entire membership thereof has been appointed and has qualified.

(3) The chairman and each member of the commission shall take and subscribe to the oath of office required of public officers.

C. The chairman and members of said commission shall receive fifty dollars per diem for each and every day necessarily spent in conducting the business of the commission, and shall be reimbursed for actual expenses incurred in the performance of their duties under this Chapter.

D. The commission shall appoint a qualified person to serve as executive director thereof, to serve at the pleasure of the commission and shall fix his salary and shall define and prescribe his duties. The executive director shall be in charge of the commission's office and shall devote such time to the duties thereof, as may be necessary. Said commission may employ such clerical and professional help and incur such expenses as may be necessary for the proper discharge of its duties under this Chapter. The commission shall maintain its office and transact its business in Jefferson Parish, and it is authorized to adopt and use a seal.

E. The commission is hereby vested with the powers and duties necessary and proper to enable it to fully and effectively carry out the provisions and objects of this Chapter, and is hereby authorized and empowered to make and enforce all reasonable rules and regulations and to adopt and prescribe all forms necessary to accomplish said purpose, and the enumeration of any power or authority herein shall not be construed to deny, impair, disparage, or limit any others necessary to the attainment thereof, provided no rule or regulation of the commission, including but not limited to Chapter 7 (Advertising) of Subpart 1 of Part V of Title 46, comprised of LAC 46:V:701 through 741, of the Louisiana Administrative Code, shall prohibit a dealer from making a monetary donation or contribution that does not directly involve the sale or lease of a motor vehicle in connection with an advertising campaign. A copy of all rules and regulations adopted by the commission shall be published in the Louisiana Administrative Code, as they may be amended, modified, or repealed from time to time.

F. All fees and charges under the provisions of this Chapter shall be collected and received by the executive director of the commission and shall be disbursed by him at the direction of the commission in administering and enforcing the provisions of this Chapter.

G. All expenses incurred by the commission in carrying out the provisions of this Chapter, including but not limited to per diem, wages, salaries, rent, postage, supplies, bond

premiums, travel and subsistence, and printing and utilities, shall be a proper charge against said fund.

H. The commission shall, in addition to the powers herein conferred, be constituted a body politic or political corporation, invested with the powers inherent in corporations, including but not limited to the power and authority to own immovable property. It may sue and be sued under the style of the commission, and all process against the commission shall be served on the chairman or executive director in person, and all suits on behalf of the commission shall be brought by the chairman. The domicile for the purpose of being sued shall be Jefferson Parish. No member of the commission, or the executive director, shall be subject to suit or be held liable as an individual in any suit against the commission.

RS 32:1254 — Application for license; requirements for licensure; contents; licenses; franchise
in

business in the state of Louisiana, regardless of whether or not said person maintains or has a place or places of business in this state, and it is a violation of this Chapter to operate without first obtaining a license:

- (1) Manufacturers.
- (2) Motor vehicle dealers.
- (3) Factory branches.
- (4) Distributors or wholesalers.
- (5) Distributor branches.
- (6) Used motor vehicle facilities operated by new motor vehicles dealers, motor vehicle lessors, specialty vehicles dealers, or recreational products dealers.
- (7) Satellite warranty and repair centers.
- (8) Brokers.
- (9) Motor vehicle lessor franchisors.
- (10) Motor vehicle lessors.
- (11) Motor vehicle lease facilitators.
- (12) Converters or secondary manufacturers.
- (13) Specialty vehicle dealers.
- (14) Factory representatives.
- (15) Distributor representatives.
- (16) Motor vehicle salesmen.
- (17) Motor vehicle lessor agents.
- (18) Recreational products dealers.
- (19) Auto shows, trade shows, and exhibitions, including promoters.

B.(1)(a) All applications for license or licenses shall be accompanied by the appropriate fee or fees in accordance with the schedule set out in R.S. 32:1255. All such fees shall be nonrefundable. Except as provided in Subparagraph (b) of this Paragraph and Paragraph (2) of this Subsection, all licenses issued under the provisions of this Chapter in accordance with the geographical location of the licensee will be for the year beginning and ending as follows:

- (i) 1st Commission District--April 1 through March 31.

- (ii) 2nd Commission District--May 1 through April 30.
 - (iii) 3rd Commission District--June 1 through May 31.
 - (iv) 4th Commission District--July 1 through June 30.
 - (v) 5th Commission District--August 1 through July 31.
 - (vi) 6th Commission District--September 1 through August 31.
 - (vii) 7th Commission District--October 1 through September 30.
 - (viii) 8th Commission District--November 1 through October 31.
- (b) Commencing January 1, 2011, licenses shall be issued for a term of two years initially staggering the two-year license so Commission Districts 1, 3, 5, and 7 will be issued a one-year license in 2011 and a two-year license thereafter. Recreational product license fees shall be prorated to cover the period from December 31, 2010, until license renewal.
- (2) The license of any recreational products dealer shall expire December 31, 2010, and the license of any licensee who does not maintain a place of business in this state shall expire on December thirty-first of each year.

C. General licensing and compliance requirements for all license applicants and holders:

- (1) All applications for licenses required to be obtained under provisions of this Chapter shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the commission and furnished to such applicants, and shall contain such information as the commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the license or licenses applied for.
- (2) The commission shall require, in such application or otherwise, information relating to the applicant's business integrity, whether the applicant is primarily engaged in the pursuit, avocation, or business for which a license or licenses is applied, the particular qualifications and requirements pertaining to the license or licenses sought, and whether the applicant is able to properly conduct the business for which a license or licenses is applied, and such other pertinent information consistent with the safeguarding of the public interest and public welfare.
- (3) In the performance of its duties under this Section, the commission shall have the authority to obtain from the Department of Public Safety and Corrections and other governmental agencies information relating to the criminal records of applicants for licenses under this Chapter. The information in such records shall be kept confidential by the commission.
- (4) All licensees must operate from an established place of business properly zoned in the municipality in which the licensee operates.
- (5) All licenses and renewals are issued subject to all provisions of this Chapter and rules of the commission in effect upon date of issuance, as well as any subsequent amendments to, enactments of, or repeals of any provisions in this Chapter and rules which may become effective during the term of the license.
- (6) Any person serving in more than one capacity or having more than one place where such business is carried on or conducted shall be required to obtain and hold a current

license for each capacity and place of business.

(7) The license issued to any licensee shall specify the location of the licensee's established place of business.

(8) In determining whether or not to issue a license to any applicant, the commission shall consider the information provided above, the declaration of public policy set forth in R.S. 32:1251, as well as all of the following:

(a) Business integrity of the applicant.

(b) Ability of the applicant to conduct properly the business for which the license is sought.

(c) Effect on the business for which the license is sought and the effect on the consuming public in the community or territory and the state of Louisiana.

(9) All applications for license pursuant to this Chapter shall include evidence the applicant has insurance covering its place of business and its operation that complies with the financial responsibility laws of this state and as determined by the applicant and its insurance agent, that is necessary to provide coverage to the place and nature of the business sought to be licensed to protect the applicant and the consumers of this state. Failure to maintain such insurance shall result in the immediate suspension of license, which suspension shall be effective as of the date of the failure to maintain insurance coverage or until proof of the required insurance is furnished to the commission. If no proof is furnished to the commission within thirty days, the license of such licensee shall be revoked.

(10) All foreign persons seeking or maintaining a license under this Chapter must be registered to do business in this state with the secretary of state. Evidence showing such registration shall be furnished by such applicant or licensee.

(11) No license issued under this Chapter shall be transferable.

(12) At least sixty days prior to the receipt by the commission of an application by a licensee for the establishment of new location required to be licensed under the provisions of this Chapter, for a change of location, change in corporate ownership or majority ownership, change in the name of licensee, change in the makes, models, or classifications of vehicles designated in the franchise or any addendum thereto and manufactured, distributed, or sold, the addition of makes, models, or classifications of vehicles designated in the franchise or any addendum thereto and manufactured, converted, distributed, or sold, or a change in the identity of the designated dealer-operator of a licensee the commission must receive a written notice from the person seeking to effect such change. This sixty-day notice shall provide such information as the commission in its discretion may require. The sixty-day notice may be waived by the commission, when, in its discretion, the commission feels that such waiver would be in the best interest of the public welfare.

D. Additional licensing and compliance requirements for manufacturers, distributors, wholesalers, converters or secondary manufacturers, distributors or wholesalers, factory branches and distributor branches:

(1) The commission shall require, in all manufacturer, converter or secondary manufacturer, distributor or wholesaler, factory branch and distributor branch applications or otherwise, information relating to the applicant's financial standing and whether the

applicant has an established place of business.

(2) All manufacturers, converters or secondary manufacturers, distributors or wholesalers, factory branches and distributor branches must provide a suitable office and have a permanently affixed sign in front of the establishment.

(3) All manufacturers, converters or secondary manufacturers, distributors or wholesalers, factory branches and distributor branches must have a usable telephone at the place of business, the number of which should be listed on the application for license, and also listed in a local directory accessible to the public, where applicable. The commission must be notified of any change in the telephone number.

(4)(a) The license issued to each manufacturer, converter or secondary manufacturer, distributor or wholesaler, factory branch or distributor branch shall specify the location of the office or factory, or branch thereof, and the makes, models, or classifications of motor vehicles, recreational products, or specialty vehicles to be manufactured, distributed, or converted. The license issued to any manufacturer, converter or secondary manufacturer, distributor, or wholesaler, factory branch or distributor branch shall specify the location of such manufacturer's established place of business.

(b) A change of location, or a change in corporate ownership or majority ownership, or a change in the name of a licensee, or a change by a licensee in the makes, models, or classifications, requiring an addendum to a franchise agreement, of motor vehicles, recreational products, or specialty vehicles manufactured, distributed, or converted, or the addition of a make of motor vehicle or recreational product manufactured, distributed, or converted shall require a new license and application therefor.

(5) In determining whether or not to issue a license to a manufacturer, converter or secondary manufacturer, distributor or wholesaler, factory branch and distributor branch, the commission shall also consider the financial standing of the applicant and the adequacy of the applicant's established place of business for the purpose for which a license is sought.

(6) Repealed by Acts 2013, No. 61, §2.

(7) Upon execution of a franchise, or addendum thereto, with a motor vehicle dealer, recreational products dealer, or specialty vehicle dealer, the manufacturer, distributor, wholesaler, or a convertor or secondary manufacturer shall immediately file with the commission a copy of the franchise or addendum.

E. Additional licensing and compliance requirements for motor vehicle and recreational products dealers.

(1) The commission shall also require, in all motor vehicle and recreational products dealer applications or otherwise, information relating to the applicant's financial standing and established place of business.

(2) All motor vehicle and recreational products dealers must provide a suitable office and have a permanently affixed sign in front of the establishment of offices which denotes that vehicles are offered for sale, lease or rent at the location to which the sign is affixed.

(3) All motor vehicle and recreational products dealers must have a usable telephone at the place of business, the number of which should be listed on the application for license and in a local directory accessible to the public. The commission must be notified of any

change in the telephone number.

(4)(a) Applications for license as motor vehicle and recreational products dealer must, in addition to the foregoing, also be accompanied by the filing with the commission of a bona fide contract or franchise in effect between the applicant and a manufacturer or distributor of the new motor vehicle or vehicles or recreational product or products proposed to be dealt in for a specific location in the state of Louisiana.

(b) However, if such contract or franchise has already been filed with the commission in connection with a previous application made by such applicant, in which event the applicant shall, in lieu of again filing the contract or franchise, identify same by appropriate reference and file all revisions and additions, if any, which have been made to said contract or franchise.

(5)(a) The applicant must also furnish satisfactory evidence that the applicant maintains adequate space in the building or structure wherein the applicant's established business is conducted for the display of new motor vehicles or recreational products, together with adequate facilities for the repair and servicing of motor vehicles or recreational products and the storage of new parts and accessories for the repair and servicing.

(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph and subject to written approval by the franchisor, adequate facilities for the repair and servicing of motor vehicles may be physically located in a building directly across a dedicated municipal street, but not more than one thousand feet from the applicant's established place of business.

(6) The application shall also identify the individual named as dealer-operator, and shall contain such information as the commission deems necessary to enable it to fully determine his qualifications and eligibility to serve in that capacity.

(7) All motor vehicle or recreational products dealer applications for license pursuant to this Chapter shall include evidence the applicant has insurance covering its place of business and its operation that complies with the financial responsibility laws of this state and as determined by the applicant and its insurance agent, that is necessary to provide coverage to the place and nature of the business sought to be licensed to protect the applicant and the consumers of this state. Such insurance shall be maintained throughout the period of licensure. Failure to maintain such insurance shall result in the immediate suspension of license, which suspension shall be effective as of the date of the failure to maintain such insurance coverage until proof of the required insurance is furnished to the commission. Should no proof of insurance be furnished to the commission within thirty days, the license of such licensee shall be revoked.

(8) In determining whether or not to issue a license to a motor vehicle or recreational products dealer, the commission shall also consider the financial standing of the motor vehicle or recreational products dealer, the adequacy of the motor vehicle or recreational products dealer's established place of business for the purpose for which a license is sought, and the effect on the motor vehicle or recreational products sale or leasing/rental business and the consuming public in the state of Louisiana.

(9)(a) The license issued to each motor vehicle or recreational products dealer shall specify the location of the office and the makes, models, or classifications of motor vehicles

or recreational products to be sold, and the name of the dealer-operator. The license issued to a motor vehicle dealer shall specify the licensee's established place of business.

(b) A change of location, or a change in corporate ownership or majority ownership, or a change in the name of a licensee, or a change by a licensee in the makes, models, or classifications, requiring an addendum to a franchise agreement, of motor vehicles or recreational products sold, or the addition of a make of motor vehicles or recreational products sold or a change in the designation of the dealer-operator shall require a new license and application therefor.

(c) Notwithstanding the provisions of Subparagraph (b) of this Paragraph, a licensed motor vehicle or recreational products dealer shall not be required to submit an application for and obtain a new license if ownership interests in the dealership changes among existing family member owners, as long as the identity of the majority owner does not change, no additional persons are added as owners, and all changes in ownership interest are declared in the renewal application. For the purposes of this Subparagraph, "family member owners" shall include the majority owner's children, the spouses of his children, his brothers and their spouses, his sisters and their spouses, parents, his spouse, the parents of his spouse, and his grandchildren.

(d) Notwithstanding any other provisions of law to the contrary, any motor vehicle or recreational products dealer holding a license hereunder shall not be required to obtain a license as a motor vehicle lessor, used motor vehicle dealer, or specialty vehicle dealer or converter, when modifying or selling those vehicles or products he is duly franchised and licensed to sell, provided such operations are conducted from the location from which such motor vehicle or recreational products dealer is licensed to do business.

(10)(a) Before any motor vehicle or recreational products dealer license is issued to an applicant under the provisions of this Chapter, a good and sufficient surety bond, executed by the applicant as principal and by a surety company qualified to do business in Louisiana as surety, in the sum of twenty thousand dollars, shall be delivered to the commission.

(b) Such bond shall be in a form to be approved by the commission and shall be conditioned so that the licensee shall comply with the conditions of any written contract made by such licensee and shall not violate any of the provisions of this Chapter or any other law of Louisiana in the conduct of the business for which he is licensed. Such bond shall be made payable to the secretary of the Department of Public Safety and Corrections or to his successor in office, for the use, benefit, and indemnity of any persons who shall suffer any loss as a result of any violation of the conditions hereinabove contained. Such bond shall be for the license period and a new bond or a proper continuation certificate shall be delivered to the commission at the beginning of each license period. However, the aggregate liability of the surety in any one year shall in no event exceed the sum of such bond. Failure to maintain such bond shall result in the immediate suspension of the license, which suspension shall be effective as of the date of the failure to maintain the bond until proof of the required bond is furnished to the commission. Should no proof of a bond be furnished to the commission within thirty days, the license shall be revoked.

(11) Upon execution of a franchise, or addendum thereto, the motor vehicle or

recreational product dealer shall immediately file with the commission a copy of the franchise or addendum.

F. Additional licensing and compliance requirements for used motor vehicle facilities operated by new motor vehicle dealers, motor vehicle lessors and specialty vehicle dealers:

(1) The commission shall also require, in all used motor vehicle facility applications or otherwise, information relating to the applicant's financial standing and whether the applicant has an established place of business.

(2) All used motor vehicle facilities licensed by the commission must provide a suitable office and have a permanently affixed sign in front of the establishment, which denotes that vehicles are offered for sale at the location to which the sign is affixed.

(3) All used motor vehicle facilities licensed by the commission must have a useable telephone at the place of business, the number of which should be listed on the application for license and in a local directory accessible to the public. The commission must be notified of any change in the telephone number.

(4) All used motor vehicle facilities licensed by the commission shall furnish, in their application for license pursuant to this Chapter, evidence the applicant has insurance covering its place of business and its operation that complies with the financial responsibility laws of this state and as determined by the applicant and its insurance agent, that is necessary to provide coverage to the place and nature of the business sought to be licensed to protect the applicant and the consumers of this state. Such insurance shall be maintained throughout the period of licensure. Failure to maintain such insurance shall result in the immediate suspension of license, which suspension shall be effective as of the date of the failure to maintain such insurance coverage until proof of the required insurance is furnished to the commission. Should no proof of insurance be furnished to the commission within thirty days, the license of such licensee shall be revoked.

(5) In determining whether or not to issue a license to a used motor vehicle facility licensed by the commission, the commission shall also consider the financial standing of the used motor vehicle facility and the adequacy of the used motor vehicle facility's established place of business for the purpose for which a license is sought, the effect on the used motor vehicle sales business and the consuming public in the state of Louisiana.

(6)(a) The license issued to any used motor vehicle facility licensed by the commission shall specify the location of such licensee's established place of business.

(b) A change of location, or a change in corporate ownership or majority ownership, or a change in the name of a used motor vehicle facility licensed by the commission shall require a new license and application therefor.

(7) Applicants for and holders of used motor vehicle dealer licenses shall obtain and maintain bonds in accordance with the following provisions:

(a) Before any used motor vehicle dealer license is issued to an applicant under the provisions of this Chapter, a good and sufficient surety bond, executed by the applicant as principal and by a surety company qualified to do business in Louisiana as surety, in the sum of ten thousand dollars, shall be delivered to the commission. If a used motor vehicle dealer operates from more than one location, a bond in the amount of ten thousand dollars shall be

required for each location.

(b) Such bond shall be in a form to be approved by the commission and shall be conditioned so that the licensee shall comply with the conditions of any written contract made by such licensee and shall not violate any of the provisions of this Chapter or any other law of Louisiana in the conduct of the business for which he is licensed. Such bond shall be made payable to the secretary of the Department of Public Safety and Corrections or to his successor in office, for the use, benefit, and indemnity of any persons who shall suffer any loss as a result of any violation of the conditions hereinabove contained. Such bond shall be for the license period and a new bond or a proper continuation certificate shall be delivered to the commission at the beginning of each license period. However, the aggregate liability of the surety in any one year shall in no event exceed the sum of such bond. Failure to maintain such bond shall result in the immediate suspension of the license, which suspension shall be effective as of the date of the failure to maintain the bond until proof of the required bond is furnished to the commission. Should no proof of a bond be furnished to the commission within thirty days, the license shall be revoked.

G. Additional licensing and compliance requirements for satellite warranty and repair centers.

(1) The commission shall require, in all satellite warranty and repair center applications or otherwise, information relating to the applicant's financial standing and whether the applicant has an established place of business.

(2) All satellite warranty and repair centers must provide a suitable office and have a permanently affixed sign in front of the establishment.

(3) All satellite warranty and repair centers must have a usable telephone at the place of business, the number of which should be listed on the application for license and in a local directory accessible to the public. The commission must be notified of any change in the telephone number.

(4)(a) All satellite warranty and repair centers shall, within the contents of their application for a license pursuant to this Chapter, furnish evidence that the applicant maintains an insurance policy, which complies with the financial responsibility laws of Louisiana, that covers both its place of business and its operation and that the applicant maintains any additional insurance policy determined to be necessary, either relative to the place of business or relative to the nature of the operation sought to be licensed, to protect both the applicant and relevant consumers.

(b) The insurance required pursuant to this Paragraph shall be maintained throughout the period of licensure.

(c) Any failure to maintain the insurance required pursuant to this Paragraph shall result in the immediate suspension of license. The suspension shall be effective as of the date of the failure to maintain the insurance coverage and remains effective until proof of the required insurance is furnished to the commission. If no proof of insurance is furnished to the commission within thirty days, the license of the licensee shall be revoked.

(5)(a) The license issued to any satellite warranty and repair center shall specify the location of such satellite warranty and repair center's established place of business.

(b) A change of location, or a change in corporate ownership or majority ownership, or a change in the name of a satellite warranty and repair center shall require a new license and application therefor.

(6) In determining whether or not to issue a license to a satellite warranty and repair center, the commission shall also consider the adequacy of the satellite warranty and repair center's established place of business for the purpose for which a license is sought.

(7) Applicants for and holders of satellite warranty and repair center licenses shall obtain and maintain bonds in accordance with the following provisions:

(a) Before any satellite warranty and repair center license is issued to an applicant under the provisions of this Chapter, a good and sufficient surety bond, executed by the applicant as principal and by a surety company qualified to do business in Louisiana as surety, in the sum of twenty thousand dollars, shall be delivered to the commission.

(b) Such bond shall be in a form to be approved by the commission and shall be conditioned so that the licensee shall comply with the conditions of any written contract made by such licensee and shall not violate any of the provisions of this Chapter or any other law of Louisiana in the conduct of the business for which he is licensed. Such bond shall be made payable to the secretary of the Department of Public Safety and Corrections or to his successor in office, for the use, benefit, and indemnity of any persons who shall suffer any loss as a result of any violation of the conditions hereinabove contained. Such bond shall be for the license period and a new bond or a proper continuation certificate shall be delivered to the commission at the beginning of each license period. However, the aggregate liability of the surety in any one year shall in no event exceed the sum of such bond. Failure to maintain such bond shall result in the immediate suspension of the license, which suspension shall be effective as of the date of the failure to maintain the bond until proof of the required bond is furnished to the commission. Should no proof of a bond be furnished to the commission within thirty days, the license shall be revoked.

H. Additional licensing and compliance requirements for brokers.

(1) The commission shall require, in all broker applications or otherwise, information relating to the applicant's financial standing and whether the applicant has an established place of business.

(2) All brokers must provide a suitable office and have a permanently affixed sign in front of the establishment.

(3) All brokers must have a usable telephone at the place of business, the number of which should be listed on the application for license, and also in a local directory accessible to the public, where applicable. The commission must be notified of any change in the telephone number.

(4)(a) The license issued to any broker shall specify the location of such broker's established place of business.

(b) A change of location, or a change in corporate ownership or majority ownership, or a change in the name of a broker shall require a new license and application therefor.

(5) In determining whether or not to issue a license to a broker, the commission shall also consider the financial standing of the broker and the adequacy of the broker's established

place of business for the purpose for which a license is sought, the effect on the motor vehicle brokerage business and the consuming public in the state of Louisiana.

(6) Applicants for and holders of broker licenses shall obtain and maintain bonds in accordance with the following provisions:

(a) Before any broker license is issued to an applicant under the provisions of this Chapter, a good and sufficient surety bond, executed by the applicant as principal and by a surety company qualified to do business in Louisiana as surety, in the sum of twenty thousand dollars, shall be delivered to the commission.

(b) Such bond shall be in a form to be approved by the commission and shall be conditioned so that the licensee shall comply with the conditions of any written contract made by such licensee and shall not violate any of the provisions of this Chapter or any other law of Louisiana in the conduct of the business for which he is licensed. Such bond shall be made payable to the secretary of the Department of Public Safety and Corrections or to his successor in office, for the use, benefit, and indemnity of any persons who shall suffer any loss as a result of any violation of the conditions hereinabove contained. Such bond shall be for the license period and a new bond or a proper continuation certificate shall be delivered to the commission at the beginning of each license period; however, the aggregate liability of the surety in any one year shall in no event exceed the sum of such bond. Failure to maintain such bond shall result in the immediate suspension of the license, which suspension shall be effective as of the date of the failure to maintain the bond until proof of the required bond is furnished to the commission. Should no proof of a bond be furnished to the commission within thirty days, the license shall be revoked.

(7) A person acting as a broker in a transaction involving the sale for purposes other than resale, of a used motor vehicle must be licensed and regulated under the provisions of Chapter 4-B of Title 32 of the Louisiana Revised Statutes of 1950.

I. Additional licensing and compliance requirements for motor vehicle lessor franchisors.

(1) The commission shall require, in all motor vehicle lessor franchisor applications or otherwise, information relating to the applicant's financial standing and whether the applicant has an established place of business.

(2) All motor vehicle lessor franchisors must provide a suitable office and have a permanently affixed sign in front of the establishment.

(3) All motor vehicle lessor franchisors must have a usable telephone at the place of business, the number of which should be listed on the application for license, and listed in a local directory accessible to the public, where applicable. The commission must be notified of any change in the telephone number.

(4)(a) The license issued to any motor vehicle lessor franchisor shall specify the location of such motor vehicle lessor franchisor's established place of business.

(b) A change of location, or a change in corporate ownership or majority ownership, or a change in the name of a motor vehicle lessor franchisor shall require a new license and application therefor.

(5) In determining whether or not to issue a license to a motor vehicle lessor

franchisor, the commission shall also consider the financial standing of the motor vehicle lessor franchisor and the adequacy of the motor vehicle lessor franchisor's established place of business for the purpose for which a license is sought.

(6) Upon execution of a franchise, or addendum thereto, with a motor vehicle lessor, the motor vehicle lessor franchisor shall immediately file with the commission a copy of the franchise or addendum.

J. Additional licensing and compliance requirements for motor vehicle lessors:

(1) The commission shall also require, in all motor vehicle lessor applications or otherwise, information relating to the applicant's financial standing and whether the applicant has an established place of business.

(2) All motor vehicle lessors must provide a suitable office and have a permanently affixed sign in front of the establishment of offices which denotes that vehicles are offered for lease or rent at the location to which the sign is affixed.

(3) All motor vehicle lessors must have a usable telephone at the place of business, the number of which should be listed on the application for license, and listed in a local directory accessible to the public, where applicable. The commission must be notified of any change in the telephone number.

(4)(a) Applications for license as motor vehicle lessor must, in addition to the foregoing, also be accompanied by the filing with the commission of any bona fide contract or franchise in effect between the applicant and a motor vehicle lessor franchisor of the new motor vehicle or vehicles proposed to be dealt in for a specific location in the state of Louisiana.

(b) However, if such contract or franchise has already been filed with the commission in connection with a previous application made by such applicant, in which event the applicant shall, in lieu of again filing the contract or franchise, identify same by appropriate reference and file all revisions and additions, if any, which have been made to said contract or franchise.

(5) All motor vehicle lessors, in their application for license pursuant to this Chapter, shall include evidence the applicant has insurance covering its place of business and its operation that complies with the financial responsibility laws of this state and as determined by the applicant and its insurance agent, that is necessary to provide coverage to the place and nature of the business sought to be licensed to protect the applicant and the consumers of this state. Such insurance must be maintained throughout the period of licensure. Failure to maintain such insurance shall result in the immediate suspension of license, which suspension shall be effective as of the date of the failure to maintain such insurance coverage until proof of the required insurance is furnished to the commission. Should no proof of insurance be furnished to the commission within thirty days, the license of such licensee shall be revoked.

(6)(a) The license issued to a motor vehicle lessor shall specify the licensee's established place of business.

(b) A change of location, or a change in corporate ownership or majority ownership, or a change in the name of a motor vehicle lessor shall require a new license and application

therefor.

(7) In determining whether or not to issue a license to a motor vehicle lessor, the commission shall also consider the financial standing of the motor vehicle lessor, the adequacy of the motor vehicle lessor's established place of business for the purpose for which a license is sought, and the effect on the motor vehicle leasing/rental business and the consuming public in the state of Louisiana.

K. Additional licensing and compliance requirements for motor vehicle lease facilitators.

(1) The commission shall also require, in all motor vehicle lease facilitator applications or otherwise, information relating to the applicant's financial standing and whether the applicant has an established place of business.

(2) All motor vehicle lease facilitators must provide a suitable office and have a permanently affixed sign in front of the establishment.

(3) All motor vehicle lease facilitators must have a useable telephone at the place of business, the number of which should be listed on the application for license, and also in a local directory accessible to the public, where applicable. The commission must be notified of any change in the telephone number.

(4) In determining whether or not to issue a license to a motor vehicle lease facilitator, the commission shall also consider the financial standing of the motor vehicle lease facilitator and the adequacy of the motor vehicle lease facilitator's established place of business for the purpose for which a license is sought.

(5)(a) The motor vehicle lease facilitators shall specify the location of such motor vehicle lease facilitator's established place of business.

(b) A change of location, or a change in corporate ownership or majority ownership, or a change in the name of a motor vehicle lease facilitator, shall require a new license and application therefor.

L. Additional licensing and compliance requirements for specialty vehicle dealers:

(1) The commission shall also require, in all specialty vehicle dealer applications or otherwise, information relating to the applicant's financial standing and whether the applicant has an established place of business.

(2) All specialty vehicle dealers must provide a suitable office and have a permanently affixed sign in front of the establishment of offices which denotes that vehicles are offered for sale at the location to which the sign is affixed.

(3) All specialty vehicle dealers must have a usable telephone at the place of business, the number of which should be listed on the application for license, and also in a local directory accessible to the public, where applicable. The commission must be notified of any change in the telephone number.

(4)(a) Applications for license as a specialty vehicle dealer must, in addition to the foregoing, also be accompanied by the filing with the commission of a bona fide contract or franchise in effect between the applicant and a converter or secondary manufacturer of the specialty vehicle or vehicles proposed to be dealt in for a specific location.

(b) However, if such contract or franchise has already been filed with the

commission in connection with a previous application made by such applicant, in which event the applicant shall, in lieu of again filing the contract or franchise, identify same by appropriate reference and file all revisions and additions, if any, which have been made to said contract or franchise.

(5) All specialty vehicle dealers, in their application for license pursuant to this Chapter, shall include evidence the applicant has insurance covering its place of business and its operation that complies with the financial responsibility laws of this state and as determined by the applicant and its insurance agent, that is necessary to provide coverage to the place and nature of the business sought to be licensed to protect the applicant and the consumers of this state. Such insurance must be maintained throughout the period of licensure. Failure to maintain such insurance shall result in the immediate suspension of license, which suspension shall be effective as of the date of the failure to maintain such insurance coverage until proof of the required insurance is furnished to the commission. If no proof of insurance is furnished to the commission within thirty days, the license of such licensee shall be revoked.

(6)(a) The license issued to each specialty vehicle dealer shall specify the location of the office and the makes, models, or classifications of specialty vehicles to be sold. The license issued to a specialty vehicle dealer shall specify the licensee's established place of business.

(b) A change of location, or a change in corporate ownership or majority ownership, or a change in the name of a licensee, or a change by a licensee in the makes, models or classifications, requiring an addendum to a franchise agreement of specialty vehicles sold, or the addition of a make of motor vehicle sold shall require a new license and application therefor.

(7) In determining whether or not to issue a license to a specialty vehicle dealer, the commission shall also consider the financial standing of the specialty vehicle dealer and the adequacy of the specialty vehicle dealer's established place of business for the purpose for which a license is sought.

(8) Applicants for and holders of specialty vehicle dealer licenses shall obtain and maintain bonds in accordance with the following provisions:

(a) Before any specialty vehicle dealer license is issued to an applicant under the provisions of this Chapter, a good and sufficient surety bond, executed by the applicant as principal and by a surety company qualified to do business in Louisiana as surety, in the sum of twenty thousand dollars, shall be delivered to the commission.

(b) Such bond shall be in a form to be approved by the commission and shall be conditioned so that the licensee shall comply with the conditions of any written contract made by such licensee and shall not violate any of the provisions of this Chapter or any other law of Louisiana in the conduct of the business for which he is licensed. Such bond shall be made payable to the secretary of the Department of Public Safety and Corrections or to his successor in office, for the use, benefit, and indemnity of any persons who shall suffer any loss as a result of any violation of the conditions hereinabove contained. Such bond shall be for the license period and a new bond or a proper continuation certificate shall be delivered

to the commission at the beginning of each license period. However, the aggregate liability of the surety in any one year shall in no event exceed the sum of such bond. Failure to maintain such bond shall result in the immediate suspension of the license, which suspension shall be effective as of the date of the failure to maintain the bond until proof of the required bond is furnished to the commission. Should no proof of a bond be furnished to the commission within thirty days, the license shall be revoked.

M. Additional licensing and compliance requirements for motor vehicle salesmen, motor vehicle lessor agents, factory representatives, and distributor representatives.

(1) Every motor vehicle salesman, factory representative, distributor representative, and motor vehicle lessor agent shall have his license upon his person when engaged in his business and shall display same upon request. The name of said licensee's employer shall be stated in said license.

(2) In determining whether or not to issue a license to any motor vehicle salesman or motor vehicle lessor agent, the commission shall also consider the effect of such licensure on the motor vehicle leasing/rental business and the consuming public.

N. Any person who sells or offers to sell new motor vehicles, recreational products, or specialty vehicles, or leases, rents, or offers to lease or rent new motor vehicles, recreational products, or specialty vehicles, or conducts and designs advertising or participates in special sales events on behalf of licensees, and which is not a licensee of the commission shall, nonetheless, be subject to the provisions of Chapter 6 of Title 32 and the rules and regulations of the commission.

O. Notwithstanding the provisions of this Chapter and the provisions of Subsection N of this Section to the contrary, this Chapter shall not apply to specialty vehicle dealers who manufacture wheeled, armored personnel carriers for sale to law enforcement agencies and who do not maintain or have a place of business in this state. The provisions of this Subsection shall expire on July 1, 2018.

P. Notwithstanding any provision of law to the contrary and the provisions of Subsection N of this Section, this Chapter shall not apply to the procurement or sale of towable equipment as defined in this Chapter.

RS 32:1255 — Fees; penalties

or each manufacturer, distributor, converter, motor vehicle lessor franchisor, or wholesaler, and factory branch or distributor branch, shall not exceed one thousand dollars for each year covered by the license.

(2) The license for each motor vehicle dealer, specialty vehicle dealer, recreational products dealer, motor vehicle lessor, used motor vehicle dealer, factory representative, broker, distributor representative, or lease facilitator shall not exceed three hundred dollars for each year covered by the license.

(3) The license fee for each motor vehicle salesman and motor vehicle lessor agent shall not exceed thirty dollars for each year covered by the license.

(4) The fee for auto shows, trade shows, and expositions shall not exceed five hundred dollars.

(5) The fee for satellite warranty and repair centers shall not exceed three hundred dollars for each year covered by the license.

B. Any person, firm, or corporation required to be licensed hereunder, who fails to make application for such license at the time required herein, or required by the rules and regulations of the commission shall, in addition to the aforesaid fees, pay a penalty of fifty percent of the amount of the license fee. The penalty, however, may be waived in whole or in part

within the discretion of the commission.

RS 32:1256 — Auto shows

s and regulations adopted by the commission in accordance with the Administrative Procedure Act.

RS 32:1256.1 — Regional recreational products or specialty vehicle shows

provided for in this Section, except that no final

sale and delivery of a recreational product or specialty vehicle shall occur at these shows except by dealers licensed pursuant to this Chapter.

(2) When used in this Section, the following words and phrases have the meanings ascribed to them in this Paragraph:

(a) "Nonresident" or "non-Louisiana" means a dealer, distributor, or manufacturer who holds a current license in another state.

(b) "Producer" means a person who alone or with others assumes the financial responsibility of a recreational product or specialty vehicle show at which recreational products or specialty vehicles are displayed by dealers, manufacturers, distributors, or converters. A producer shall be licensed as a promoter pursuant to R.S. 32:1254.

(c) "Product line" means a specific series of recreational vehicle products or specialty vehicles that are identified by a common series trade name or trademark and for which the manufacturer, converter, or dealer agreement authorizes a dealer to sell.

(d) "Rally" means an event not opened to the general public held and organized by recreational product clubs of specific products owners or manufacturers of specific products where owners of the products are members of the club and are invited to participate in the event.

(e) "Regional recreational product or specialty vehicle show" or "show" means a controlled event at which a producer charges or barter for booth space or charges spectator entrance, or both, and where three or more recreational product dealers, specialty vehicle dealers, distributors, manufacturers, or converters exhibit recreational products or specialty vehicles. It does not include a rally or a national recreational product show as defined in R.S. 32:1256.2.

B. Participation in regional recreational product or specialty vehicle shows is limited to recreational products dealers, specialty vehicle dealers, distributors, manufacturers, or converters who are licensed in Louisiana pursuant to this Chapter, except as provided in Subsections C and D of this Section.

C. Nonresident recreational products dealers, specialty vehicle dealers, distributors, manufacturers, or converters who hold a current equivalent license in another state may participate in a regional recreational products or specialty vehicle show in Louisiana, if all of the following criteria are satisfied:

(1) Louisiana recreational products or specialty vehicle dealers, whose area of responsibility for the brands they represent includes the location of the show, have been given first option on space at the show.

(2) Louisiana recreational products or specialty vehicle dealers, whose area of responsibility does not include the location of the show, have been given second option on space at the show, provided that the dealers shall not show the same brand of recreational

product or specialty vehicle as shown by a participating Louisiana recreational products or specialty vehicle dealer whose area of responsibility includes the location of the show.

(3) Non-Louisiana recreational products or specialty vehicle dealers, distributors, and manufacturers shall not show the same brand of recreational products or specialty vehicles as shown by participating Louisiana recreational products or specialty vehicle dealers.

(4) Non-Louisiana recreational products or specialty vehicle dealers, distributors, manufacturers, and converters shall register their participation with the commission not later than ten business days prior to the date of the show. To register, each non-Louisiana recreational products dealer, specialty vehicle dealer, distributor, manufacturer, and converter shall submit its name, address, a copy of its current equivalent license from the state of its domicile, and a fee of two hundred fifty dollars to the commission.

(5) Non-Louisiana recreational products dealers, specialty vehicle dealers, distributors, manufacturers, and converters shall disclose to show attendees the location of where warranty repairs would be made for products it has on display at the show.

D. Notwithstanding any provision of law to the contrary, no recreational vehicle dealer, specialty vehicle dealer, distributor, manufacturer, or converter shall participate in any regional recreational product or specialty vehicle show where its product line of recreational vehicles or specialty vehicles is represented by a dealer whose area of responsibility includes the location of the show, whether or not that dealer participates in the show.

E. The provisions of this Section shall not apply to a rally held in this state.

F. The commission may adopt rules and regulations consistent with the provisions of this Section in accordance with the Administrative Procedure Act.

RS 32:1256.2 — National recreational product shows

ve the meaning ascribed to them in this Paragraph:

(1) "National recreational product show" or "show" means a controlled event promoted by an organizer who seeks sponsorships from distributors or manufacturers of recreational products where their products are shown. A national recreational product show requires all of the following:

(a) The participation of at least three or more sponsors.

(b) A duration of no longer than ten days.

(c) A non-selling show with no execution of sales contracts, credit applications, taking of security deposits, or delivery of any recreational product.

(2) "Non-Louisiana" means a distributor or manufacturer who holds a current license as a distributor or manufacturer in another state.

(3) "Organizer" means any person, alone or with others, whose principal business activity is the promotion of shows. An organizer shall be licensed as a promoter pursuant to R.S. 32:1254.

(4) "Product specialist" means any person selected by the sponsor to assist in the sponsor's participation in a show.

(5) "Sponsor" means a distributor or manufacturer who pays cash or an in-kind fee to an organizer in return for access to the commercial potential associated with a show.

C. The presence of product specialists, business cards, brochures, pricing sheets and other points of sales devices to answer consumer questions are not prohibited at a national recreational product show.

D.(1) An organizer shall obtain a license from the commission on an application prescribed by and with the information required by the commission.

(2) The application shall be submitted to the commission not less than sixty days prior to the opening of the show.

(3) A license fee of five hundred dollars shall be included with the application.

E. Participation in a national recreational product show is limited to distributors or manufacturers who are licensed in Louisiana pursuant to this Chapter, except as provided in Subsection F of this Section.

F. In order to participate in a national recreational product show in Louisiana, non-Louisiana recreational products distributors and manufacturers shall register their participation with the commission not later than ten business days prior to the date of the show. To register, each non-Louisiana recreational product distributor or manufacturer shall submit its name, address, a copy of its current equivalent license from the state of its domicile, and a fee of two hundred fifty dollars to the commission.

G. The commission may adopt rules and regulations consistent with the provisions of this Section in accordance with the Administrative Procedure Act.

RS 32:1257 — Establishment of new motor vehicle dealerships or relocations; protests; procedure

Id add a new motor vehicle dealership or authorize an existing motor

vehicle dealership to deal in a new or additional make of motor vehicle which would establish an additional franchise in that area, or which would authorize an existing motor vehicle dealership to deal in additional makes, models, or classifications of motor vehicles designated in the franchise or any addendum thereto, it shall first notify the existing licensed motor vehicle dealership or dealerships selling the same line makes, models, or classifications within the community or territory in which the applicant proposes to conduct business. Any same line makes, models, or classifications dealership whose assigned community or territory includes the location of the proposed new motor vehicle dealership may object to the granting of the license.

(2) The reopening or replacement of a dealership in a location where the same line makes, models, or classifications has been sold by a licensed motor vehicle dealer within the previous two years shall not be considered an additional motor vehicle dealer under Paragraph (1) of this Subsection.

B.(1) Whenever the commission receives an application for a motor vehicle dealer's license which would relocate an existing motor vehicle dealership, including the transfer of a franchise and relocation to an existing motor vehicle dealership, it shall first notify the existing licensed motor vehicle dealership or dealerships selling the same line makes, models, or classifications within the community or territory in which the applicant proposes to conduct business. The existing same line makes, models, or classifications dealership or dealerships shall have the right to object to the granting of the license only if the proposed relocation is within a radius of five miles of its facility. However, without regard to distance, whenever the commission receives an application for the relocation of a motor vehicle dealership which would add an additional franchise to an existing same line makes, models, or classifications in dealership's community or territory, the affected dealership shall have the right to object.

(2) Whenever the commission receives a protest pursuant to the provisions of Paragraph (1) of this Subsection, the applicant and the manufacturer or distributor shall show, by a preponderance of the evidence, that the existing same line makes, models, or classifications motor vehicle dealership or dealerships will not be substantially harmed by locating the dealership within the five-mile area. Notwithstanding the provisions of R.S. 32:1251 to the contrary, the commission shall consider the financial impact on both the

applicant and the existing dealership or dealerships.

C. The objection shall be in writing, and shall be received by the commission within a fifteen-day period after receipt of the notice. The fifteen-day objection period shall be waived upon written notification to the commission from all licensees, who are entitled to object, that the licensees have no objections to the proposed change or addition for which the notice of intent was issued. If timely objection is lodged, and prior to the issuance of the license, the commission shall hold a hearing within thirty days after receipt of the objection, or forty-five days after the request is made for the three-member panel, and issue its decision within ninety days after date of the hearing. Notice of hearing, and an opportunity to participate therein, shall be given to the manufacturer or distributor, to the applicant for the license as a motor vehicle dealer, and to the protesting dealership or dealerships. The absence of a timely protest shall not prevent the commission from considering the effect of the issuance of a license on other motor vehicle dealerships, located either within or outside the community or territory as part of its determination of whether or not the license sought should be issued.

D.(1) Whenever the commission receives a protest pursuant to the provisions of this Section, the commission shall consider the following in determining whether there is good cause to issue a license:

- (a) Whether the community or territory can support an additional dealership.
- (b) Notwithstanding the provisions of R.S. 32:1251 to the contrary, the financial impact on both the applicant and the existing dealership or dealerships.
- (c) Whether the existing motor vehicle dealerships of the same line makes, models, or classifications in the dealership's community or territory are providing adequate representation and convenient consumer care for the motor vehicles of the same line makes, models, or classifications located within that area.
- (d) Whether the issuance of the license would increase competition or be in the public interest, or both.

(2) The applicant and manufacturer or distributor shall have the burden of proof in demonstrating good cause by a preponderance of the evidence.

RS 32:1257.1 — Repealed by Acts 2012, No. 326, §2.

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RS 32:1258 — Denial, revocation, grounds, imposition of a civil penalty, or suspension of license;
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provisions of this Chapter, deny an application for a license or revoke or suspend a license after it has been granted for any of the following reasons:

- (1) On satisfactory proof of unfitness of the applicant or the licensee, as the case may be, under the standards established and set out in this Chapter.
- (2) For fraud practiced or any material misstatement made by an applicant in any application for license under the provisions of this Chapter.
- (3) For any failure to comply with any provision of this Chapter or with any rule or regulation adopted and promulgated by the commission under authority vested in it by this Chapter.

- (4) Change of condition after license is granted or failure to maintain the qualifications for license.
- (5) Continued or flagrant violation of any of the rules or regulations of the commission.
- (6) For any violation of any law relating to the sale, lease, rental, distribution, or financing of vehicles.
- (7) Should the applicant have been convicted of a felony or entered a plea of guilty or nolo contendere to a felony charge under the law of the United States or of this or any other state.
- (8) Upon a finding that, considering the matters set forth in the applicable paragraphs of R.S. 32:1254, the public interest is not served by the issuance of the license sought or continuance of the license previously granted.
- (9) Failure to provide any bond or insurance required by this Chapter.
- (10) Whenever a marine dealer intentionally removes marine engines from a boat package for the purpose of selling those engines separately in violation of a full-line marine engine dealer's area of responsibility, except that which may be done by a full-line dealer of that particular engine as it may be permitted under his full-line franchise agreement.
- B. The commission may without prior notice deny the application for a license within thirty days after receipt thereof by written notice to the applicant stating the grounds for such denial. Upon request by the applicant whose license has been so denied, the commission shall set the time and place of hearing a review of such denial, the same to be heard with reasonable promptness.
- C. The commission may suspend or revoke a license issued or impose a civil penalty only after a hearing of which the licensee affected shall be given at least ten days written notice specifying the grounds or reasons for suspension, revocation, or penalty. Such notice may be served as provided by law for the service of notices or by mailing a copy by registered or certified mail to the last known residence or business address of such licensee.
- D.(1) The hearing on denial of a license, suspension or revocation of a license, or imposition of a civil penalty shall be at such time and place as the commission may prescribe and the affected applicant or licensee shall be notified of such time and place at least ten days prior to the date of hearing. The hearing shall be scheduled to be held within sixty days of notification to the licensee or applicant of the violation. The commission shall in like manner also notify the person, firm, association, corporation, or trust with whom the applicant or licensee is associated, or in whose association he is about to enter. The commission shall have the power to compel the production of records and papers bearing upon the application or complaints. The commission shall have the power to subpoena and bring before it any person in this state, or take testimony of any such person by deposition in the same manner as prescribed by law in judicial procedure before courts of the state in civil cases. Any party to such hearing shall have the right to procure the attendance of witnesses in his behalf upon designating to the commission the person or persons sought to be subpoenaed.
- (2) If the commissioner shall determine that any applicant is not qualified to receive

a license, a license shall not be granted to said applicant, and if the commission shall determine that any licensee is guilty of a violation of any of the provisions of this Chapter or the rules and regulations of the commission his or its license may be suspended or revoked, or a civil penalty may be imposed, or both.

E. All licenses shall be granted or refused within thirty days after application therefor, and shall expire as provided in this Chapter, unless sooner revoked or suspended, except that where a complaint of unfair cancellation of a dealer franchise is in process of being heard, no replacement application for such franchise shall be considered until a decision is rendered by the commission.

RS 32:1259 — Injunctions; cease and desist orders

the commission office is located or the district court for the parish in which the alleged offender is domiciled to enforce the provisions of this Chapter and any other law, rule, or regulation relating to the business for which a license is granted under this Chapter.

B.(1) If it appears to the commission at any time that a person is violating the provisions of this Chapter or any rule or order of the commission issued pursuant to this Chapter, it shall notify the person engaged in such conduct to appear and show cause why a cease and desist order should not be issued prohibiting the proscribed conduct. An interlocutory cease and desist order may be granted with or without bond or other undertaking if one of the following occurs:

(a) Such an order is necessary to the performance of the duties delegated to the commission by this Chapter or is otherwise necessary or convenient to maintaining the status quo between two or more adverse parties before the commission.

(b) A party before the commission is entitled to relief demanded of the commission and all or part of the relief requires the restraint of some act prejudicial to the party.

(c) A person is performing or is about to perform or is procuring or allowing the performance of an act relating to the subject of a contested case pending before the commission, in violation of the rights of a party before the commission, and the act would tend to render the commission's order in that case ineffectual.

(d) Substantial injury to the rights of a person subject to the commission's jurisdiction is threatened irrespective of any remedy at law.

(2) Interlocutory cease and desist orders shall remain in effect until vacated or until incorporated into a final commission order. Permanent cease and desist orders may issue without regard to the enumerations in Paragraph (1) of this Subsection, but only in accordance with the provisions of this Chapter pertaining to the issuance of final commission orders. Appeal of any interlocutory cease and desist order shall be made to the commission prior to seeking judicial review under the provisions of this Chapter. Appeal of a permanent cease and desist order shall be conducted pursuant to the provisions of this Chapter pertaining to judicial review of final orders.

RS 32:1260 — Penalties; other relief

day such violation continues.

(2) On a second or subsequent violation, no civil penalty imposed shall exceed ten thousand dollars for each day such second or subsequent violation continues.

(3) In order to constitute a second or subsequent violation there must occur a lapse of at least one day following the first or previous violation.

(4) Any civil penalty imposed by the commission may, in the discretion of the commission, be suspended in whole or in part.

(5) No civil penalty imposed for the negligent filing or the untimely updating of information as required under the provisions of this Chapter or under the rules and regulations of the commission shall exceed one hundred dollars per day.

B.(1) In addition to the penalties provided under this Chapter, the commission is expressly empowered and authorized to order the renewal or reinstatement, as the case may be, of any franchise of a licensee which, after following the procedures under this Chapter, is found by the commission to have been unfairly cancelled or not renewed due to lack of

just provocation or cause.

(2) The commission's authority to order a renewal or reinstatement, as the case may be, shall be consistent with the terms of the unfairly canceled franchise agreement.

(3) The commission shall order the renewal for an additional full franchise term or reinstatement for the remaining term of the franchise, as the case may be, under the franchise agreement.

(4) In addition to the penalties provided under this Chapter, the commission is expressly empowered and authorized, after following the procedures of this Chapter, to order the issuance of a franchise to a qualified transferee, whose application for transfer, sale, or exchange has been unreasonably withheld by a manufacturer, distributor, or converter and who meets the criteria generally applied by the manufacturer in approving new motor vehicle or specialty vehicle dealers and who agrees to be bound by all the terms and conditions of the standard franchise.

C. The commission may render judgment for costs, or any part thereof, against any party to proceedings held or court reporter fees, commission attorney fees, the mileage and per diem of the commissioners, and other applicable and reasonable costs.

D. If the commission finds that it is necessary and appropriate for the protection of prospective motor vehicle or specialty vehicle dealers, because a distributor has failed to demonstrate that adequate arrangements have been made to fulfill the distributor obligations under the franchise to provide motor vehicles, equipment, signage, or other items included in the franchise, the commission may by order require the escrow of all fees, deposits, and other funds paid by the motor vehicle or specialty vehicle dealer until such obligations have been satisfied.

E. In addition to the penalties provided pursuant to this Chapter, the commission is expressly empowered and authorized, after following the procedures of this Chapter, to order the repurchase of all vehicles, signs, special tools, and automotive equipment and pay the costs to the licensee for the cost of transporting, handling, packing, and loading of vehicles, parts, signs, tools, and equipment subject to the repurchase requirements of R.S. 32:1268.

F. Upon the failure of any person to comply with any order of the commission issued as a result of a violation of this Chapter, or a rule or regulation adopted by the commission, the commission is authorized to file civil proceedings to enforce its order in the Twenty-Fourth Judicial District Court for the parish of Jefferson by rule to show cause conducted pursuant to the relevant provisions of the Louisiana Code of Civil Procedure. The commission shall be entitled to recover from such party all costs of the proceeding, including but not limited to court costs, discovery costs, and reasonable attorney fees incurred by the commission in enforcing its order.

RS 32:1261 — Unauthorized acts

icer, agent, or other representative thereof:

(a) To induce or coerce, or attempt to induce or coerce, any licensee:

(i) To order or accept delivery of any recreational product, motor vehicle or vehicles, appliances, equipment, parts or accessories therefor, or any other commodity or commodities which shall not have been voluntarily ordered.

(ii) To order or accept delivery of any vehicle with special features, appliances, accessories, or equipment not included in the list price of said vehicles as publicly advertised.

(iii) To order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever.

(iv) To assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by law, unless done in connection with a settlement agreement to resolve a matter pending a commission hearing or pending litigation between a manufacturer, distributor, wholesaler, distributor branch or factory branch, or officer, agent, or other representative thereof.

(v) To enter into a franchise with a licensee or during the franchise term, use any written instrument, agreement, release, assignment, novation, estoppel, or waiver, to attempt to nullify or modify any provision of this Chapter, or to require any controversy between a

dealer and a manufacturer to be referred to any person or entity other than the commission, or duly constituted courts of this state or the United States, if such referral would be binding upon the dealer. Such instruments are null and void, unless done in connection with a settlement agreement to resolve a matter pending a commission hearing or pending litigation.

(vi) To waive the right to a jury trial.

(vii) To participate in an advertising group or to participate monetarily in an advertising campaign or contest or to purchase any promotional materials, showroom, or other display decorations or materials at the expense of such motor vehicle dealer or specialty dealer.

(viii) To adhere to performance standards that are not applied uniformly to other similarly situated motor vehicle dealers or specialty dealers. Any such performance standards shall be fair, reasonable, equitable, and based on accurate information. If dealership performance standards are based on a survey, the manufacturer, converter, distributor, wholesaler, distributor branch, or factory branch shall establish the objectivity of the survey process and provide this information to any motor vehicle dealer or specialty vehicle dealer of the same line make covered by the survey request. Each response to a survey used by a manufacturer in preparing an evaluation or performance-rating of a motor vehicle dealer shall be made available to that motor vehicle dealer, or it cannot be used by the manufacturer. However, if a customer requests that the manufacturer or distributor not disclose the consumer's identity to the dealer, the manufacturer may withhold the consumer's identity in providing the survey response to the dealer, and the manufacturer may use the response. Any survey used must have the following characteristics:

(aa) It was designed by experts.

(bb) The proper universe was examined.

(cc) A representative sample was chosen.

(dd) The data was accurately reported.

(ix) To release, convey, or otherwise provide customer information, if to do so is unlawful or if the customer objects in writing. This does not include information that is necessary for the manufacturer to meet its obligations to the dealer or consumers in regard to contractual responsibilities, vehicle recalls, or other requirements imposed by state or federal law. The manufacturer is further prohibited from providing any consumer information received from the dealer to any unaffiliated third party.

(x) To pay the attorney fees of the manufacturer or distributor related to hearings and appeals brought under this Chapter.

(b) To refuse to deliver to any licensee having a franchise or contractual arrangement for the retail sale of vehicles sold or distributed by such manufacturer, distributor, wholesaler, distributor branch or factory branch, any motor vehicle, publicly advertised for immediate delivery, within sixty days after such dealer's order shall have been received.

(c) To threaten to cancel any franchise or any contractual agreement existing between such manufacturer, distributor, wholesaler, distributor branch or factory branch and said dealer for any reason including but not limited to failure to meet performance standards.

(d) To unfairly, without just cause and due regard to the equities of such dealer,

cancel the franchise of any licensee. Failure to meet performance standards based on a survey of sales penetration in a regional, national, territorial, or other geographic area shall not be the sole cause for cancellation of a franchise. The nonrenewal of a franchise or selling agreement with such dealer or his successor without just provocation or cause, or the refusal to approve a qualified transferee or qualified successor to the dealer-operator as provided for in the franchise or selling agreement, or solely for failure to meet performance standards based on a survey of sales penetration in a regional, national, territorial, or other geographic area, shall be deemed an evasion of this Paragraph and shall constitute an unfair cancellation, regardless of the terms or provisions of such franchise or selling agreement. However, at least ninety-days notice shall be given to the dealer of any cancellation or nonrenewal of a franchise except for a cancellation arising out of the financial default of the motor vehicle dealer or fraudulent activity of the dealer principal which results in the conviction of a crime punishable by imprisonment. The provisions of this Subsection relating to performance standards shall not apply to recreational products dealers.

(e) To refuse to extend to a licensee the privilege of determining the mode or manner of available transportation facility that such dealer desires to be used or employed in making deliveries of vehicles to him or it.

(f) To resort to or use any false or misleading advertisement in connection with his business as such manufacturer of motor vehicles, distributor, wholesaler, distributor branch or factory branch, or officer, agent, or other representative thereof.

(g) To delay, refuse, or fail to deliver motor vehicles in reasonable quantities relative to the licensee's facilities and sales potential in the relevant market area. This Subparagraph shall not be valid, however, if such failure is caused by acts or causes beyond the control of the manufacturer, distributor, or other such party.

(h) To ship or sell motor vehicles or recreational products to a licensee prior to the licensee having been granted a license by the commission to sell such vehicles.

(i) To unreasonably withhold consent to the sale, transfer, or exchange of the franchise to a qualified transferee capable of being licensed as a dealer in this state, provided the transferee meets the criteria generally applied by the manufacturer in approving new dealers and agrees to be bound by all the terms and conditions of the standard franchises.

(j) To fail to respond in writing to a written request for consent as specified in Subparagraph (i) of this Paragraph within sixty days of receipt of a written request on the forms, if any, generally utilized by the manufacturer or distributor for such purposes and containing the information required therein. Failure to respond shall be deemed to be consent to the request.

(k)(i) To sell or offer to sell a new or unused motor vehicle directly to a consumer except when any one of the following conditions is met:

(aa) Operating an existing, licensed, and franchised motor vehicle dealership for a reasonable period, not to exceed two years.

(bb) Operating an existing, licensed, and franchised motor vehicle dealership which is for sale to any qualified independent person at a fair and reasonable price, not to exceed two years.

(cc) Operating in a bona fide relationship in which a person independent of a manufacturer has made a significant investment subject to loss in the dealership, and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions.

(ii) After any of the conditions have been met under Subitems (aa) and (bb) of Item (i) of this Subparagraph, the commission may allow the manufacturer to continue operating an existing, licensed, and franchised motor vehicle dealership for longer than two years when, in the discretion of the commission, the best interest of the manufacturer, consuming public, and licensees are best served.

(l)(i) To condition the renewal or extension of a franchise on a dealer's substantial renovation of a facility or premises, if the renovation would be unreasonable under the circumstances.

(ii) To require, coerce, or attempt to coerce a dealer or successor dealer to construct or substantially alter a facility or premises, if the construction or alteration would be unreasonable under the circumstances.

(iii) To require, coerce, or attempt to coerce a dealer or successor dealer to construct or substantially alter a facility or premises, if the same area of the facility or premises has been constructed or substantially altered within the last ten years and the construction or alteration was required and approved by the manufacturer as a part of a facility upgrade program, standard, or policy. The provisions of this Subparagraph shall not apply to any construction, alteration, or improvement made to comply with any state or federal health or safety law, a manufacturer's or distributor's health or safety requirement, or to accommodate the technology requirements necessary to sell or to service a motor vehicle. For the purposes of this Subparagraph, "substantially alter" means to perform an alteration that substantially impacts the architectural features, characteristics, or integrity of a structure or lot. The term shall not include routine maintenance reasonably necessary to maintain a dealership in attractive condition or any item directly protected by federal intellectual property rights of the manufacturer.

(aa) If a facility upgrade program, standard, or policy under which the dealer completed a facility construction or substantial alteration does not contain a specific time period during which the manufacturer or distributor shall provide payments or benefits to a participating dealer, the manufacturer or distributor shall not deny the participating dealer any payment or benefit under the terms of the program, standard, or policy as it existed when the dealer began to perform under the program, standard, or policy for the balance of the ten-year period, regardless of whether the manufacturer's or distributor's program, standard, or policy has been changed or canceled, unless the manufacturer and dealer agree, in writing, to the change in payment or benefit.

(bb) As part of any facility upgrade program, standard, or policy, the manufacturer or distributor shall agree, in writing, to supply the dealer with an adequate supply and marketable model mix of motor vehicles to meet the sales levels necessary to support the increased overhead incurred by the dealer by reason of the facility construction or substantial alteration.

(iv) To require, coerce, or attempt to coerce a dealer to purchase facility construction or maintenance goods or services for items not trademarked or otherwise directly protected by federal intellectual property rights of the manufacturer from a vendor that is selected, identified, or designated by a manufacturer, distributor, affiliate, or captive finance source when the dealer may obtain facility construction or maintenance goods or services for items not trademarked or otherwise directly protected by federal intellectual property rights of the manufacturer of the same quality, material, and design from a vendor selected by the dealer, provided the dealer obtains prior approval from the manufacturer, distributor, or affiliate, for the use of the dealer's selected vendor. The approval by the manufacturer, distributor, or affiliate shall not be unreasonably withheld.

(aa) If the manufacturer, distributor, or affiliate does not approve the vendor chosen by the dealer and claims the vendor cannot supply facility construction or maintenance goods or services for items not trademarked or otherwise directly protected by federal intellectual property rights of the manufacturer that are the same quality, material, and design, the dealer may file a protest with the commission.

(bb) If a protest is filed, the commission shall promptly inform the manufacturer, distributor, affiliate, or captive finance source that a protest has been filed. The commission shall conduct a hearing on the merits of the protest within ninety days following the filing of a response to the protest. The manufacturer, distributor, or affiliate shall bear the burden of proving that the facility construction or maintenance goods or services for items not trademarked or otherwise directly protected by federal intellectual property rights of the manufacturer chosen by the dealer are not of the same quality, material, or design to those required by the manufacturer, distributor, or affiliate.

(cc) For the purposes of this Subparagraph, "goods" shall include signs or sign components to be purchased or leased by the dealer that are not trademarked or otherwise directly protected by the federal intellectual property rights of the manufacturer or distributor. The term shall not include moveable displays, brochures, and promotional materials containing material subject to the intellectual property rights of a manufacturer or distributor, special tools as reasonably required by the manufacturer, or parts to be used in repairs under warranty or recall obligations of a manufacturer or distributor.

(m) To fail to compensate its dealers for the work and services they are required to perform in connection with the dealer's delivery and preparation obligations according to the terms of compensation. The commission shall find the compensation to be reasonable or the manufacturer shall remedy any deficiencies.

(n) To fail to designate and provide to the commission in writing either the community or territory assigned to a licensee. The provisions of this Subparagraph shall not apply to trailers.

(o) To fail or refuse to sell or offer to sell to all motor vehicle franchisees in a line make, every motor vehicle sold or offered for sale under a franchise to any motor vehicle franchisee of the same-line make, or to unreasonably require a motor vehicle dealer to pay an extra fee, purchase unreasonable advertising displays or any other materials, or to remodel, renovate, or recondition its existing facilities as a prerequisite to receiving a certain

model or series of vehicles. However, the failure to deliver any such motor vehicle shall not be considered a violation of this Section if the failure is due to a lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo or other cause of which the franchisor has no control. This Subparagraph shall not apply to recreational product manufacturers.

(p) To unreasonably discriminate among competing, similarly situated, same-line make dealers in the sales of vehicles, in the availability of such vehicles, in the terms of incentive programs or sales promotion plans, or in other similar programs.

(q) To terminate, cancel, or refuse to continue any franchise agreement based upon the fact that the motor vehicle dealer owns, has an investment in, participates in the management, or holds a franchise agreement for the sale or service of another make or line of new motor vehicles at a different dealership location, or intends to or has established another make or line of new motor vehicles in the same dealership facilities of the manufacturer or distributor.

(r) To demand compliance with facilities requirements that include any requirements that a motor vehicle dealer establish or maintain exclusive office, parts, service or body shop facilities, unless the requirements would be reasonable and justified by business considerations. The burden of proving that the requirements are reasonable and justified by business considerations is on the manufacturer. If the franchise agreement of the manufacturer or distributor requires the approval of the manufacturer or distributor for facility uses or modifications, the manufacturer or distributor shall approve or disapprove such a request in writing within sixty days of receipt of such request.

(s) To use any subsidiary, affiliate, or any other controlled person or entity, or to employ the services of a third party, to accomplish what would otherwise be illegal conduct under this Chapter on the part of the manufacturer or distributor.

(t)(i) To operate a satellite warranty and repair center, to authorize a person to perform warranty repairs, including emergency repairs, who is not a motor vehicle dealer, fleet owner, or an emergency services company or emergency services related company, or to authorize a motor vehicle dealer to operate a satellite warranty and repair center within the community or territory of a same-line or make motor vehicle dealer. This Subparagraph shall not apply to recreational product manufacturers. For the purposes of this Subparagraph, "fleet owner" means a person, including a governmental entity, who is approved and authorized by a manufacturer to perform warranty repairs and owns or leases vehicles for its own use or a renting or leasing company that rents, maintains, or leases vehicles to a third party. For the purposes of this Subparagraph, "emergency services company or emergency services related company" means a person who operates any vehicle designated and authorized to respond to an emergency. An emergency vehicle includes but is not limited to police and security vehicles, fire and rescue vehicles, medical vehicles, and civil emergency vehicles, including public utility crews dealing with gas, electricity, or water, or the repair of defective equipment on a scene. However, notwithstanding the provisions of this Subparagraph, a manufacturer or distributor who, as of January 1, 2024, was licensed by the Louisiana Motor Vehicle Commission, either directly or through a subsidiary, to lease motor vehicles, may

operate one or more licensed satellite warranty and repair centers in the state, if neither it, nor any common entity, has any franchised motor vehicle dealers within this state, or has ever had franchised motor vehicle dealers licensed in this state. This exception does not apply if the manufacturer or distributor acquires a controlling interest in a franchisor or a subsidiary or other entity controlled by the franchisor, or sold or transferred a controlling interest in the manufacturer or distributor to a franchisor or subsidiary or other entity controlled by the franchisor. "Common entity" means a person who is either directly or indirectly controlled by or has more than thirty percent of its equity interest directly or indirectly owned, beneficially or of record, through any form of ownership structure, by a manufacturer, a distributor, or a licensee, or an affiliate thereof or a person who has more than thirty percent of its equity interest directly or indirectly controlled or owned beneficially or of record, through any form of ownership or structure, by one or more persons who also directly or indirectly control or own, beneficially or of record, more than thirty percent of the equity interests of a manufacturer, a distributor, or any affiliate thereof.

(ii) The manufacturer may authorize a fleet owner to perform warranty repairs if the manufacturer determines that the fleet owner has the same basic level of requirements for special tools, technician certification, and training that are required of a franchise dealer but only those as determined by the manufacturer, in its sole discretion, that are necessary to perform the specified limited type of warranty repairs on the makes and models of motor vehicles for which the fleet owner is authorized to perform warranty repairs.

(iii) A manufacturer who has or has ever had franchised motor vehicle dealers in the state and authorizes a fleet owner to perform warranty repairs shall give notification of the authorization to the dealer located in the same area of responsibility where the fleet owner intends to perform the authorized warranty repairs.

(iv) The provisions of Items (ii) and (iii) of this Subparagraph shall not apply to manufacturers who authorize fleet owners whose commercial vehicles are used for the movement of property, freight, or goods in intrastate or interstate commerce.

(v) The commission has no authority over a fleet owner or an emergency services company or emergency services related company with respect to the requirements of this Subparagraph.

(vi) A repair facility of a fleet owner authorized pursuant to this Subparagraph to perform warranty repairs shall not be deemed a satellite warranty and repair center as defined in R.S. 32:1252 and shall not be required to be licensed by the commission pursuant to R.S. 32:1254.

(u) To make a change in the area of responsibility described in the franchise agreement or sales and service agreement of a dealer, without the franchisor, converter, or manufacturer giving said dealer and the commission no less than sixty days prior written notice by certified or registered mail.

(v) To attempt to induce or coerce, or to induce or coerce, any motor vehicle dealer to enter into any agreement with such manufacturer, distributor, wholesaler, distributor branch or factory branch or representative thereof, or to do any other act unfair to said dealer.

(w)(i) To coerce or attempt to coerce any retail motor vehicle dealer or prospective

retail motor vehicle dealer to offer to sell or sell any extended service contract or extended maintenance plan or gap product offered, sold, backed by, or sponsored by the manufacturer or distributor or affiliate or sell, assign, or transfer any retail installment sales contract or lease obtained by the dealer in connection with the sale or lease by him of motor vehicles manufactured or sold by the manufacturer or distributor, to a specified finance company or class of finance companies, leasing company or class of leasing companies, or to any other specified persons by any of the following:

(aa) By any statement, promise, or threat that the manufacturer or distributor will in any manner benefit or injure the dealer, whether the statement, suggestion, threat, or promise is express or implied or made directly or indirectly.

(bb) By any act that will benefit or injure the dealer.

(cc) By any contract, or any express or implied offer of contract, made directly or indirectly to the dealer, for handling the motor vehicle on the condition that the dealer shall offer to sell or sell any extended service contract or extended maintenance plan offered, sold, backed by, or sponsored by the manufacturer or distributor or that the dealer sell, assign, or transfer his retail installment sales contract on or lease of the vehicle, to a specified finance company or class of finance companies, leasing company or class of leasing companies, or to any other specified person.

(dd) Any such statements, threats, promises, acts, contracts, or offers of contracts, when their effect may be to lessen or eliminate competition.

(ii) Nothing contained in this Subparagraph shall prohibit a manufacturer or distributor from offering or providing incentive benefits or bonus programs to a retail motor vehicle dealer or prospective retail motor vehicle dealer who makes the voluntary decision to offer to sell or sell any extended service contract or extended maintenance plan offered, sold, backed, or sponsored by the manufacturer or distributor or to sell, assign, or transfer any retail installment sale or lease by him of motor vehicles manufactured or sold by the manufacturer or distributor to a specified finance company or leasing company.

(x) To charge back, deny vehicle allocation, withhold payments, or take any other adverse actions against a motor vehicle dealer because of a sale of a new motor vehicle that is exported from the United States, unless it is shown that the dealer knew or reasonably should have known on the date of the sale that the new motor vehicle was to be exported. A motor vehicle dealer shall be rebuttably presumed to have no knowledge of the export if the motor vehicle is sold by the dealer to a resident of the United States who titles and registers the motor vehicle in any state within the United States.

(y) To disqualify a manufacturer's sales or service satisfaction survey that pertains to a dealership employee's personal motor vehicle or specialty vehicle solely because it was mailed or communicated electronically from a dealership.

(2) For a motor vehicle dealer, specialty vehicle dealer, recreational product dealer, used motor vehicle dealer, or a motor vehicle salesman:

(a) To require a purchaser of a vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser; however, this prohibition shall not apply as to special features,

appliances, accessories, or equipment which are permanently affixed to the vehicle.

(b) To represent and sell as a new vehicle any vehicle, the legal title of which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

(c) To resort to or use any false or misleading advertisement in connection with his business as such vehicle dealer or motor vehicle salesman.

(d) To sell or offer to sell makes, models, or classifications of new vehicles for which no franchise and license to sell is held.

(e) Except as otherwise approved by the commission, to sell or offer to sell a vehicle from an unlicensed location.

(f) To deliver to a prospective purchaser a new or a used vehicle on a sale conditioned on financing, i.e., a spot delivery, except on the following terms and conditions which shall be in writing and shall be a part of the conditional sales contract or other written notification signed by the purchaser:

(i) That if the sale is not concluded by the financing of the sale to the purchaser within twenty-five days of the delivery, the sale contract shall be null and void.

(ii) That the vehicle being offered for trade-in by the purchaser shall not be sold by the dealer until the conditional sale is complete.

(iii) That there shall be no charge to the purchaser should the conditional sale not be completed, including but not limited to mileage charges or charges to refurbish the vehicle offered for trade-in. However, the purchaser shall be responsible for any and all damages to the vehicle or other vehicles damaged by the fault of the purchaser and any and all liability incurred by the purchaser during the purchaser's custody of the vehicle to the extent provided for in R.S. 22:1296.

(iv) That if the conditional sale is not completed, the dealer shall immediately refund to the purchaser upon return of the vehicle all sums placed with the dealership as a deposit or any other purpose associated with the attempted sale of the vehicle.

(v) That the prospective purchaser shall return the vehicle to the dealership within forty-eight hours of notification by the dealer that the conditional sale will not be completed.

If the prospective purchaser does not return the vehicle to the dealership within forty-eight hours of notification by the dealer, an authorized agent of the dealer shall have the right to recover the vehicle without the necessity of judicial process, provided that such recovery can be accomplished without unauthorized entry into a closed dwelling, whether locked or unlocked and without a breach of peace.

(g) To pay a fee to any person in return for the solicitation, procurement, or production by that person of prospective purchasers for new and used vehicles, except to a salesman licensed under the provisions of this Chapter.

(h) To fail to fully and completely explain each charge listed on a retail buyer's order or vehicle invoice prior to the purchase of a vehicle.

(i) When selling a vehicle to a consumer, to assess any consumer services fees, which shall include fees for treating the interior upholstery of the vehicle, oil changes, roadside assistance, dealer inspections, or any other service offered by the dealer, without allowing the buyer to refuse such services and be exempt from payment for such services.

The provisions of this Subparagraph shall not apply to dealer-added options or accessories which are permanently affixed to the vehicle.

(j) To fail to disclose to a purchaser, in writing, which components of a specialty vehicle are subject to a manufacturer's or distributor's warranty agreement and which components are subject to a specialty vehicle dealer's or other warranty agreement. The specialty vehicle dealer shall identify in writing the location of the two nearest authorized manufacturer or distributor warranty service providers. School bus warranty repair work, except for engine and transmission repair work, may also be performed by repair facilities, authorized by the manufacturer or distributor, which are not school bus dealers. Further, nothing in this Chapter shall prohibit a manufacturer of school buses licensed by the Louisiana Motor Vehicle Commission from authorizing warranty and other repair or maintenance services to be performed at any location of a motor vehicle dealer licensed under this Chapter which holds a franchise from any affiliate or subsidiary of the school bus manufacturer.

(k)(i) To fail to disclose to a purchaser in writing on the sales contract, buyer's order, or any other document that the dealer may be participating in finance charges associated with the sale.

(ii) To participate in a finance charge that would result in a difference between the buy rate and the contract rate of more than three percentage points.

(iii) The provisions of this Subparagraph shall apply only to transactions subject to the Louisiana Motor Vehicle Sales Finance Act.

(3) For a motor vehicle or recreational product lessor or motor vehicle lessor agent:

(a) To represent and sell as a new vehicle any vehicle which has been used or intended to be used and operated for leasing and rental purposes.

(b) To resort to or use any false or misleading advertising in connection with the business of leasing or renting vehicles.

(c) To lease, rent, sell, or offer to sell a vehicle from a location not licensed for such activity.

(d) To rent or lease any vehicle which has been located within this state for a period of thirty days or more, unless such vehicle has been issued a Louisiana license plate by, and all license fees and taxes have been paid to, this state.

(e) To pay a fee to any person in return for the solicitation, procurement, or production by that person of prospective lessees of vehicles, unless the person receiving the fee is a lease facilitator who holds a valid license as provided by this Chapter and a valid appointment from the motor vehicle lessor as provided by R.S. 32:1266(B)(1). The fees prohibited by this Subparagraph shall not include amounts paid to a dealer as part of the consideration for the sale or assignment of a lease or leased vehicle or other amounts paid to the dealer who transfers the title on the vehicle or assigns the lease contract to the motor vehicle lessor.

(f) To fail to fully and completely explain each charge listed on a retail buyer's or lessee's order or vehicle invoice or leasing agreement prior to the lease of a vehicle.

(g) When leasing a vehicle to a consumer, to assess any consumer services fees,

which shall include fees for treating the interior upholstery of the vehicle, oil changes, roadside assistance, dealer inspections, or any other service offered by the motor vehicle lessor, without allowing the consumer to refuse such services and be exempt from payment for such services. The provisions of this Subparagraph shall not apply to motor vehicle lessor-added options or accessories which are permanently affixed to the vehicle.

(4) For a lease facilitator:

(a) To hold himself out to any person as a "leasing company", "leasing agent", "lease facilitator", or similar title, directly or indirectly engaged in the business of a lease facilitator, or otherwise engaged in the solicitation or procurement of prospective lessees for vehicles not titled in the name of and registered to the lease facilitator, without holding a valid lease facilitator license and being in compliance with the terms of this Chapter.

(b) To sell or offer to sell a new vehicle.

(c) To accept a fee from a dealer or consumer.

(d) To sign a vehicle manufacturer's statement of origin to a vehicle, accept an assignment of a manufacturer's statement of origin to a vehicle, or otherwise assume any element of title to a new vehicle.

(e) To procure or solicit prospective lessees for or on behalf of any person other than a motor vehicle lessor.

(f) To act in the capacity of or engage in the business of a lease facilitator without a valid appointment from a motor vehicle lessor to act on behalf of the motor vehicle lessor in soliciting prospective lease clients or customers as provided by this Chapter.

(5) For a broker:

(a) To hold himself out to any person as a "broker", "purchasing company", "sales agent", or similar title, engaged in the business of broker, or otherwise engaged in the solicitation or procurement of prospective purchasers for vehicles not titled in the name of and registered to the broker, unless the broker holds a valid broker license and is in compliance with the terms of this Chapter.

(b) To sell, or offer to sell, or display a new vehicle.

(c) To be paid a fee by a dealer.

(d) To sign a vehicle manufacturer's statement of origin to a vehicle, accept an assignment of a manufacturer's statement of origin to a vehicle, or otherwise assume any element of title to a new vehicle.

(e) To act in the capacity of or engage in the business of a broker without a valid license issued as provided by this Chapter and a valid appointment from a motor vehicle lessor to act on behalf of the motor vehicle lessor in soliciting prospective lease clients or customers as provided by this Chapter.

(f) To fail to execute a written brokering agreement and provide a completed copy to both of the following:

(i) Any consumer entering into the brokering agreement. The completed copy shall be provided prior to the consumer's signing an agreement for the purchase of the vehicle described in the brokering agreement, or, prior to accepting one hundred dollars or more from that consumer, whichever comes first.

- (ii) The selling dealer. The completed copy shall be provided prior to the selling dealer's entering into a purchase agreement with the consumer at the time of delivery.
- (g) To accept a purchase deposit from any consumer that exceeds two point five percent of the selling price of the vehicle described in the brokering agreement.
- (h) To fail to refund any purchase money, including purchase deposits, upon demand by a consumer at any time prior to the consumer's signing a vehicle purchase agreement with a selling dealer of the vehicle described in the brokering agreement.
- (i) To fail to cancel a brokering agreement and refund, upon demand, any money paid by a consumer, including any brokerage fee, under any of the following circumstances:
 - (i) When the final price of the brokered vehicle exceeds the purchase price listed in the brokering agreement.
 - (ii) When the vehicle delivered is not as described in the brokering agreement.
 - (iii) When the brokering agreement expires prior to the customer's being presented with a purchase agreement from a selling dealer arranged through the brokering dealer that contains a purchase price at or below the price listed in the brokering agreement.
- (j) To act as a seller and provide brokering services, both in the same transaction.
- (k) To fail to disclose to the consumer the dollar amount of any fee that the consumer is obligated to pay to the broker. This arrangement shall be confirmed in a brokering agreement.
- (l) To fail to maintain, for a minimum of three years, a copy of the executed brokering agreement and other notices and documents related to each brokered transaction.
- (m) To fail to advise the consumer, prior to accepting any money, that a full refund will be given if the motor vehicle ordered through the broker is not obtained for the consumer.
- (6) For any person or other licensee:
 - (a) To modify a franchise during the term of the agreement or upon its renewal if the modification substantially and adversely affects the franchisee's rights, obligations, investment, or return on investment without giving sixty days written notice of the proposed modification to the licensee and the commission which includes the grounds upon which the modification is based, unless the modification is required by law, court order, or the commission. Within the sixty day notice period the licensee may file with the commission a complaint for a determination whether there is good cause for permitting the proposed modification. The party seeking to modify or replace an agreement shall demonstrate by a preponderance of the evidence that there is good cause for the modification or replacement. The commission shall schedule a hearing within sixty days to decide the matter. Multiple complaints pertaining to the same proposed modifications shall be consolidated for hearing. The proposed modification may not take effect pending the determination of the matter.
 - (b) In making a determination of whether there is good cause for permitting a proposed modification, the commission may consider any relevant factor including:
 - (i) The reasons for the proposed modification.
 - (ii) Whether the proposed modification is applied to or affects all licensees in a nondiscriminating manner.

- (iii) The degree to which the proposed modification will have a substantial and adverse effect upon the licensee's investment or return on investment.
 - (iv) Whether the proposed modification is in the public interest.
 - (v) The degree to which the proposed modification is necessary to the orderly and profitable distribution of vehicles and other services by the licensee.
 - (vi) Whether the proposed modification is offset by other modifications beneficial to the licensee.
- (c) The decision of the commission shall be in writing and shall contain findings of fact and a determination of whether there is good cause for permitting the proposed modification. The commission shall deliver copies of the decision to the parties personally or by registered mail.
- (7) For any employee of a licensee while acting in the scope of his employment, to accept any payment, commission, fee, or compensation of any kind from any person other than the employing licensee, unless such payment is fully disclosed to and approved by the employing licensee.

B. The provisions of this Section shall not apply to a dealer, manufacturer, distributor, wholesaler, distributor branch, factory branch, or convertor of marine products, motorcycles or all-terrain vehicles, or recreational vehicles, or any officer, agent, or other representative thereof.

RS 32:1261.1 — Indemnification of franchised dealers

dgment for damages, including but not limited to court costs and reasonable attorney fees of the dealer, arising out of complaints, claims, or lawsuits including but not limited to strict liability, negligence, misrepresentation, express or implied warranty, or rescission of sale to the extent that the judgment arises out of alleged defective or negligent manufacture, assembly, or design of motor vehicles, speciality vehicle, recreational product, parts, or accessories, or other functions by the manufacturer of converter, which are beyond the control of the dealer.

B. The provisions of this Section shall not apply to a franchised recreational vehicle dealer, marine dealer, or motorcycle or all-terrain vehicle dealer.

RS 32:1261.2 — Payment to dealers; penalties

ative thereof, to fail to pay a dealer all monies due the dealer, except manufacturer hold-back amounts, within thirty days of the date of completion of the transactions or submissions of the claims giving rise to the payments to the dealers.

Failure to make payments shall subject the manufacturer, distributor, wholesaler, distribution branch, factory branch, officer, agent, or other representative thereof, to a penalty of the one and one-half percent interest per month, or fraction thereof, until sums due the dealer are fully paid.

RS 32:1262 — Warranty; compensation; audits of dealer records

ributor, wholesaler, factory branch, or distributor branch's

warranty" means and includes a new motor vehicle warranty, a recall, or a certified pre-owned warranty of a manufacturer, distributor, wholesaler, factory branch, or distributor

branch to repair or replace a defect in a vehicle or part.

(b) "Parts" means parts and components of a motor vehicle, including engine, transmission, other parts assemblies, and manufacturer replacement parts.

(c) "Qualifying repair" means a repair to a vehicle included within the manufacturer, distributor, wholesaler, factory branch, or distributor branch's original new motor vehicle warranty, except that the vehicle on which the repair was performed exceeds the

chronological or mileage limit of the warranty, and the repair does not otherwise constitute warranty work and does not include any of the work described in Paragraph (8) of this Subsection.

(d) "Qualifying repair order" means a repair order that encompasses, in whole or in part, a qualifying repair or repairs.

(e) "Repair order" means an invoice paid by a retail customer and closed at the time of submission, which encompasses one or more repairs to or other work on a vehicle, and reflecting, in the case of a parts mark-up submission, the cost of each part and its sale price, and in the case of a labor rate submission, the labor hours charged to each job and the sale price of such labor.

(f) "Warranty work" means work, including diagnostic labor, performed by a dealer in order to fulfill the obligations of a manufacturer, distributor, wholesaler, factory branch, or distributor branch warranty. "Warranty work" shall also include work arranged to be performed by a dealer if such work is authorized by the manufacturer, distributor, wholesaler, factory branch, or distributor branch in order to fulfill the obligations of a manufacturer, distributor, wholesaler, factory branch, or distributor branch warranty.

(2) It shall be a violation of this Chapter for a manufacturer, a distributor, a wholesaler, distributor branch, or factory branch to fail to adequately and fairly compensate its dealers for labor, parts, and other expenses incurred by such dealer to perform warranty work and the delivery and preparation obligations imposed on the dealer by a manufacturer, distributor, wholesaler, factory branch, or distributor branch.

(3) In no event shall any manufacturer, distributor, wholesaler, factory branch, or distributor branch pay a dealer for warranty work less than the rates charged by the dealer to the retail customer of the dealer for non-warranty qualifying repairs. Time allowances for the performance of warranty work shall be reasonable and adequate in relation to the nature and scope of the work for a qualified technician of ordinary skill to perform the work.

(4)(a) Subject to the provisions of Subparagraph (b) of this Paragraph, the parts mark-up or labor rate customarily charged by the dealer may be established or modified at the election of the dealer by formally submitting in writing, to the representative or pre-designated representative of the manufacturer, distributor, wholesaler, factory branch, or distributor branch, by electronic transmission or tangible delivery, either of the following:

(i) All consecutive repair orders that include one hundred sequential qualifying repair orders.

(ii) All repair orders closed during any period of ninety consecutive days.

(b) A dealer submitting repair orders pursuant to Subparagraph (a) of this Paragraph shall submit the option that produces the fewer number of repair orders, which includes repairs made no more than one hundred eighty days before the submission.

(5) The dealer shall calculate the labor rate by determining the total charges for labor from the qualifying repairs submitted and dividing that amount by the total number of hours that produced the total charges. The dealer shall calculate the parts mark-up by determining the total charges for parts from the qualifying repairs submitted, dividing that amount by the total cost of the purchase of such parts, subtracting one from that amount, and multiplying

by one hundred to produce a percentage.

(6) A dealer seeking to establish or modify the warranty labor rate or parts mark-up shall submit to the manufacturer, distributor, wholesaler, factory branch, or distributor branch either of the following:

(a) A single set of repair orders for the purpose of calculating both the labor rate and parts mark-up.

(b) A single set of repair orders for the purpose of calculating only the labor rate or parts mark-up.

(7) A dealer may not submit to establish or modify its parts mark-up, labor rate, or both, more than once in a twelve-month period.

(8) In calculating the labor rate or parts mark-up, the following shall not be included:

(a) Repairs subject to manufacturer, distributor, wholesaler, factory branch, or distributor branch's discounts, such as special events, special promotions, coupons, or service campaigns.

(b) Parts sold at wholesale.

(c) Repairs of vehicles owned by the dealer or an employee.

(d) Routine maintenance, including but not limited to replacements of fluids, filters, batteries, bulbs, belts, nuts, bolts, or fasteners.

(e) Installations of accessories.

(f) Replacement of or work on tires or wheels, including alignments, wheel or tire rotations, or replacements of brake drums, rotors, shoes, or pads.

(g) Vehicle reconditioning.

(h) Safety or emission inspections required by law.

(i) Repairs for which volume discounts have been negotiated with government agencies, insurers, or service contract providers.

(j) Parts that do not have individual part numbers.

(k) Manufacturer, distributor, wholesaler, factory branch, or distributor branch's approved and reimbursed goodwill repairs or reimbursements.

(l) Windshield replacements, window etchings, window tints, protective films, or other masking products.

(m) Body shop repairs of conditions caused by collision, road hazard, the force of the elements, vandalism, theft, or owner, operator, or third-party negligence or deliberate act.

(9)(a) The submitted parts mark-up or labor rate shall be presumed accurate, and shall go into effect forty-five days after the manufacturer, distributor, wholesaler, factory branch, or distributor branch receives the submission unless, within the forty-five-day period, the manufacturer, distributor, wholesaler, factory branch, or distributor branch rebuts the presumption.

(b) If the manufacturer, distributor, wholesaler, factory branch, or distributor branch determines from any set of qualifying repair orders submitted by the dealer that the parts mark-up, labor rate, or both, calculated in accordance with the provisions of this Subsection, is substantially higher or lower than the rate currently on record with the manufacturer, distributor, wholesaler, factory branch, or distributor branch for labor, parts, or if applicable,

both, the manufacturer, distributor, wholesaler, factory branch, or distributor branch may request in writing, within forty-five days of receipt of the submitted parts mark-up or labor rate, additional repair orders for a period of either thirty days prior to or thirty days subsequent to the time for which the repair orders were submitted for purposes of establishing or modifying a rate. The manufacturer, distributor, wholesaler, factory branch, or distributor branch shall have forty-five days from receiving the additional repair orders to rebut the presumption in accordance with the provisions of this Paragraph, provided that any rebuttal utilizing the additional repair orders shall conform to the requirements of Paragraphs (4), (5), and (8) of this Subsection.

(c) The manufacturer, distributor, wholesaler, factory branch, or distributor branch may rebut the presumption by doing all of the following:

(i) Reasonably substantiating that the submission is materially inaccurate and by providing a full explanation of any and all reasons.

(ii) Producing evidence validating each reason.

(iii) Producing a copy of all calculations used to demonstrate any material inaccuracies.

(iv) Producing a proposed adjusted parts mark-up, labor rate, or if applicable, both, based upon the qualified repair orders submitted by the dealer.

(10) Subject to the provisions of Paragraph (9) of this Subsection, the manufacturer, distributor, wholesaler, factory branch, or distributor branch shall not submit more than one rebuttal to the dealer and shall not add to, expand, supplement, or otherwise modify any element, including but not limited to any grounds for contesting the parts mark-up or labor rate, except upon the discovery of relevant information that was not known or could not have been known at the time of issuing the rebuttal.

(11) If the dealer and the manufacturer, distributor, wholesaler, factory branch, or distributor branch do not agree on the parts mark-up or labor rate, the dealer may file a protest with the Louisiana Motor Vehicle Commission within sixty days of receiving the manufacturer's rejection and proposal. The commission shall notify the manufacturer, distributor, wholesaler, factory branch, or distributor branch and schedule a hearing. The manufacturer, distributor, wholesaler, factory branch, or distributor branch shall have the burden of proving by a preponderance of the evidence that the dealer's submitted parts mark-up or labor rate was materially inaccurate as described in Paragraph (9) of this Subsection.

If the Louisiana Motor Vehicle Commission decides in favor of the dealer, any increase in the dealer's parts mark-up or labor rate shall be effective, retroactively, forty-five days following the manufacturer, distributor, wholesaler, factory branch, or distributor branch's receipt of the original submission.

(12) If a manufacturer, distributor, wholesaler, factory branch, or distributor branch furnishes a part to a dealer, at either no cost or a reduced cost, to use in performing warranty work, the manufacturer, distributor, wholesaler, factory branch, or distributor branch shall compensate the dealer for the part in the same manner as warranty parts compensation under this Section by compensating the dealer on the basis of the dealer's mark-up on the cost for the part as listed in the manufacturer, distributor, wholesaler, factory branch, or distributor

branch's price schedule, minus the cost for the part.

(13) A manufacturer, distributor, wholesaler, factory branch, or distributor branch may not require a dealer to establish the parts mark-up or labor rate customarily charged by the dealer for parts or labor by an unduly burdensome or time-consuming method or by requiring information that is unduly burdensome or time-consuming to provide, including but not limited to part-by-part or transaction-by-transaction calculations.

(14) All claims made by the dealer for compensation under this Subsection shall be paid within thirty days after approval and shall be approved or disapproved within thirty days after receipt. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval.

(15) The obligations in this Subsection as they relate to recreational products may be modified by contract.

B.(1) Notwithstanding the terms of any franchise agreement, warranty, and sales incentive, audits of dealer records may be conducted by the manufacturer, distributor, distributor branch, or factory branch. Any audit for warranty parts or service compensation shall be for the twelve-month period immediately following the date of the payment of the claim by the manufacturer or distributor. However, a dealer shall not be held liable by virtue of an audit for failure to retain parts for a period in excess of six months. Any audit for sales incentives, service incentives, rebates, or other forms of incentive compensation shall only be for the twelve-month period immediately following the date of the final payment to the dealer under a promotion, event, program, or activity. In no event shall the manufacturer, distributor, distributor branch, or factory branch fail to allow the dealer to make corrections to the sales data in less than one hundred twenty days from the program period. Additionally, no penalty other than amounts advanced on a vehicle reported incorrectly shall be due in connection with the audit. With respect to vehicles sold during the time period subject to the audit, but submitted incorrectly to the manufacturer, distributor, or wholesale distributor branch or factory branch, the dealer shall be charged back for the amount reported incorrectly and credited with the amount due, if anything, on the actual sale date.

(2) No claim which has been approved and paid may be charged back to the dealer unless it can be shown that one or all of the following applies:

(a) The claim was false or fraudulent.

(b) The repairs were not properly made.

(c) The repairs were unnecessary to correct the defective condition under generally accepted standards of workmanship.

(d) The dealer failed to reasonably substantiate the repair in accordance with reasonable written requirements of the manufacturer or distributor, if the dealer was notified of the requirements prior to the time the claim arose and if the requirements were in effect at the time the claim arose.

(3) A manufacturer or distributor shall not deny a claim solely based on a dealer's incidental failure to comply with a specific claim processing requirement, or a clerical error, or other administrative technicality.

(4)(a) A dealer shall not be charged back on a claim when a dealer performs a repair

covered by the manufacturer's or distributor's warranty, and the dealer reasonably demonstrates that the repair resolved the condition which the customer presented for resolution, and the dealer documents what has been repaired and the process utilized to accomplish the repair.

(b) The provisions of Subparagraph (a) of this Paragraph shall not apply to recreational products dealers.

(5) Limitations on warranty parts or service compensation, sales incentive audits, rebates, or other forms of incentive compensation, chargebacks for warranty parts or service compensation, and service incentives and chargebacks for sales compensation only shall not be effective in the case of intentionally false or fraudulent claims.

(6) It shall be deemed an unfair act pursuant to this Chapter to audit a dealer more frequently than two sales-related and two service-related audits in a twelve-month period. Nothing in this Subsection shall limit a manufacturer's or distributor's ability to perform routine claim reviews in the normal course of business.

(7) No claim may be rejected as late if it has been submitted within sixty days of the date the repair order was written.

(8) The dealer shall not be charged back for any rebate paid to a consumer pursuant to a manufacturer's rebate program, provided the dealer acted in good faith when relying on the consumer's qualifying information and otherwise complied with the program guidelines and documentation requirements. A manufacturer's rebate program shall include but not be limited to a rebate program that targets college graduates, military personnel, first-time buyers, owner loyalty, family relationships, and any other similar program.

C. The provisions of this Section shall not apply to a dealer, manufacturer, distributor, wholesaler, distributor branch, or factory branch of marine products, motorcycles or all-terrain vehicles, or recreational vehicles, or any officer, agent, or other representative thereof.

RS 32:1263 — Motor vehicle repairs

indicating repairs

and services performed, parts replaced, materials used, the total labor charge, and the identity of the mechanic, repairman, or supplier who performed the work. Nothing in this Section shall prohibit a supplier of mechanical repairs and services from charging a service fee for the use of shop supplies such as rags, fender covers, small amounts of fluid, or other items which are not itemized, provided that the fee does not exceed ten percent of the total invoice for mechanical repairs or fifty dollars, whichever is less.

B. The provisions of this Section shall not apply to suppliers of mechanical repairs and services for any recreational vehicle subject to regulation of this Chapter.

RS 32:1264 — Damage disclosure

hanical

damage which the vehicle has sustained that exceeds six percent of the manufacturer's suggested retail price. The notice shall be in writing and a copy thereof shall be delivered to the purchaser prior to or simultaneous with transfer of the vehicle title.

B. This Section shall apply to all instances of vehicular body or mechanical damage

to vehicles and to all actions involving such damage, notwithstanding the application of other codal, statutory, or regulatory provisions, including but not limited to Civil Code Articles 2520 et seq.

RS 32:1264.1 — Notice regarding recalls

motor vehicle may have been subject to a National Highway Traffic Safety Administration required recall which would be repaired in accordance with manufacturer standards approved by the National Highway Traffic Safety Administration. If such a repair is a concern before you purchase, please ask for a copy of the recall notice, if applicable, to the vehicle being sold." This notice shall be included on the buyer's order in a box and in bold print which is signed by the buyer and the seller or his representative next to the box. If the buyer requests the recall notice, the recall notice shall be included in the sales transaction. If the selling dealer performed the repair, the documents supporting the repair shall also be included in the sales transaction.

RS 32:1264.2 — Recall repairs; compensation

butor branch stating that certain used vehicles shall not be driven due to a federal safety recall for a defect or a noncompliance, or a federal emissions recall. Such notification shall include an unconditional instruction to the recipient not to drive the vehicle until the remedy for the recall is complete.

(2) "Stop sale order" means a notification issued by a manufacturer, distributor, factory branch, or distributor branch to its franchised new motor vehicle dealers stating that certain used vehicles in inventory shall not be sold or leased, at either retail or wholesale, due to a federal safety recall for a defect or a noncompliance, or a federal emissions recall.

B.(1)(a) A manufacturer shall compensate its new motor vehicle dealers for all labor and parts required by the manufacturer to perform recall repairs. Compensation for recall repairs shall be reasonable.

(b) If parts or a remedy are not reasonably available to perform a recall service or repair on an affected used vehicle held for sale by a dealer authorized to sell and service new vehicles of the same line-make or authorized to perform recall work on an affected vehicle within forty-five days of the manufacturer issuing the initial notice of recall, and the manufacturer has issued a stop sale order or do not drive order on the vehicle, the manufacturer shall compensate the dealer at a prorated rate of at least one and one-quarter percent of the value of the vehicle per month.

(i) When a stop sale order or do not drive order has been issued and repair parts or remedy remain unavailable on an affected used vehicle, compensation shall begin forty-five days after either of the following occurrences:

(aa) The date on which the stop sale order or do not drive order was provided to the dealer, if the affected used vehicle is in the dealer's inventory at the time the stop sale or do not drive order was issued to the dealer.

(bb) The date on which the dealer takes the affected used vehicle into the dealer's inventory as a trade-in incident to the customer's purchase of a new vehicle.

(ii) Compensation shall cease when one of the following events occurs:

(aa) The date the recall remedy or parts are made available.

(bb) The date the stop sale order or do not drive order is withdrawn.

(cc) The date the dealer disposes of the affected used vehicle.

(2) For the purposes of this Section, the value of a used vehicle shall be the average

trade-in value for used vehicles as indicated in an independent third-party guide for the year, make, and model of the recalled vehicle.

C.(1) Subject to the audit provisions of R.S. 32:1262, it shall be a violation of this Section for a manufacturer to reduce the amount of compensation otherwise owed to an individual new motor vehicle dealer solely because the new motor vehicle dealer has submitted a claim for reimbursement under this Section. This prohibition shall include reduction through a chargeback, surcharge, removal of the individual dealer from an incentive program, or reduction in amount owed under an incentive program.

(2) This Subsection shall not apply to an action by a manufacturer to any prospective change, modification, cancellation, or elimination of any incentive program that is applied uniformly among all dealers of the same line-make in the state.

D. Pursuant to the provisions of this Section, all reimbursement claims made by new motor vehicle dealers for recall remedies or repairs, or for compensation where no part or repair is reasonably available and the vehicle is subject to a stop sale order or do not drive order shall be subject to the same limitations and requirements as a warranty reimbursement claim made under R.S. 32:1262. However, a manufacturer may compensate its franchised dealers under a national recall compensation program provided the compensation under the program is equal to or greater than the compensation provided in Paragraph (B)(1) of this Section or as the manufacturer and dealer otherwise agree.

E. A manufacturer may direct the manner and method in which a dealer shall demonstrate the inventory status of an affected used motor vehicle to determine eligibility under this Section, provided such manner and method may not be unduly burdensome and may not require information that is unduly burdensome to provide.

F. Nothing in this Section shall require a manufacturer to provide total compensation to a dealer that would exceed the total average trade-in value of an affected used motor vehicle as originally determined in Paragraph (B)(2) of this Section.

G. Any remedy provided to a dealer under this Section is exclusive and shall not be combined with any other state or federal recall compensation remedy or other federal law.

RS 32:1265 — Sale of water-damaged vehicles

vehicle or recreational product in writing of the extent of any water damage from flooding which occurred to the motor vehicle or recreational product prior to the transaction.

B. If a sale, transfer, or conveyance of a new or used motor vehicle or recreational product occurs in violation of Subsection A of this Section, the person receiving ownership and title to the motor vehicle or recreational product who is not otherwise aware of the damage at the time of the transaction may bring an action to set aside the transaction within one year from the date of the transaction and receive all monies or other property given as consideration for the vehicle less a reasonable assessment for miles driven.

C. For the purposes of this Section, a "water-damaged vehicle" means any motor vehicle or recreational product whose power train, computer, or electrical system has been damaged by flooding.

RS 32:1266 — Motor vehicle lessors; appointment of motor vehicle lease facilitators

he expiration of its term, except for good cause. Good cause shall include but not be limited to the failure of the franchisee to comply with any lawful requirement of the franchise, after being given notice thereof, and a reasonable opportunity, which in no event need be more than thirty days, to cure the failure. Nothing herein shall permit the cancellation of a franchise solely for failure to meet performance standards based on a survey of sales penetration in a regional, national, territorial, or other geographic area.

(2) If during the period in which the franchise granted by a motor vehicle lessor franchisor is in effect, there occurs any of the following events, which is relevant to the franchise, immediate notice of termination without opportunity to cure shall be reasonable:

(a) The franchisee abandons the franchise by failing to operate the business for five consecutive days during which the franchisee is required to operate the business under the terms of the franchise, unless such failure to operate is due to fire, flood, or storms beyond the franchisee's control.

(b) The motor vehicle lessor franchisor and the franchisee agree in writing to terminate the franchise.

(c) The franchisee fails, for a period of ten days following notification of noncompliance, to comply with any federal, state, or local law or regulation applicable to the operation of the franchise.

(d) The franchised business or business premises of the franchise is seized, taken over, or foreclosed on by a creditor, lienholder, or lessor, provided that a final judgment against the franchisee remains unsatisfied for thirty days, unless an appeal bond has been filed.

(e) The franchisee fails to pay any franchise fees or other amounts due to the franchisor within ten days of receiving written notice that such fees are overdue.

(3)(a) No motor vehicle lessor franchisor shall fail to renew a franchise unless the franchisor provides the following:

(i) Written notice to the franchisee at least one hundred eighty days prior to his intention not to renew.

(ii) The franchisee with an opportunity to sell his business, during the one hundred eighty days prior to the expiration of the franchise, to a purchaser meeting the franchisor's then current requirements for granting new franchises, or if not granting a significant number of new franchises, then the current requirements for granting renewal franchises.

(iii) That the refusal not to renew is not for the purpose of converting the franchisee's business premises to operation by employees or agents of the franchisor for such franchisor's own account, provided that nothing in this Section shall prohibit a franchisor from exercising a right of first refusal to purchase a franchisee's business.

(iv) That upon expiration of the franchise, the franchisor agrees not to seek to enforce any covenant of the unrenewed franchisee not to compete with the franchisor or franchisees of the franchisor.

(b) Termination of a franchise shall be permitted pursuant to Paragraphs (1) and (2) of this Subsection, or if the franchisee and the franchisor agree not to renew the franchise.

B.(1) A motor vehicle lessor may appoint one or more lease facilitators licensed pursuant to the terms of this Chapter to represent the motor vehicle lessor in obtaining prospective lease customers. An appointment complies with the requirements of this Subsection if it is in writing, discloses its terms, and otherwise complies with the rules of the commission.

(2) In a lease contract or agreement between a motor vehicle lessor and a lessee solicited, procured, or produced by a lease facilitator, the motor vehicle lessor shall disclose to the lessee that a fee was paid, or will be paid to the lease facilitator for the solicitation, procurement, or production of the lessee or the lease. The motor vehicle lessor shall include the disclosure required by this Paragraph in a prominent position in one or both of the following manners:

(a) On the face of the written memorandum of the lease, contract, or agreement.

(b) On a separate instrument signed by the lessee at the same time as the signing of the lease contract or agreement.

C.(1) Except as otherwise provided by this Section, a lease facilitator may accept a fee for procuring a vehicle lessee or prospective vehicle lessee for or on behalf of a lessor.

(2) Nothing in this Section shall limit the ability of a lease facilitator to accept an appointment from more than one lessor.

(3) Nothing in this Section shall prohibit a lease facilitator from representing a lessor or lessee in the acquisition of a motor vehicle for the purpose of leasing the vehicle to another person.

RS 32:1267 — Succession; right of first refusal

interest of the dealer in the dealership upon the death or incapacity of the dealer.

(2) Unless good cause exists for refusal to honor the succession on the part of the manufacturer or distributor, any designated successor of a deceased or incapacitated dealer of a dealership may succeed to the ownership of the dealership under the existing franchise if:

- (i) The designated successor gives the manufacturer or distributor written notice of his or her intention to succeed to the ownership of the dealer within sixty days of the dealer's death or incapacity.
 - (ii) The designated successor agrees to be bound by all the terms and conditions of the franchise.
 - (3) The manufacturer or distributor may request, and the designated successor shall provide, promptly upon such request, personal and financial data reasonably necessary to determine whether the succession should be honored.
 - (4) If a manufacturer or distributor believes that good cause exists for refusing to honor the succession of a deceased or incapacitated dealer, the manufacturer or distributor may, not more than sixty days following receipt of notice of the designated successor's intent to succeed and receipt of such personal or financial data, serve upon the designated successor notice of its refusal to honor the succession and of its intent to discontinue the existing franchise with the dealer not earlier than six months from the date such notice is served.
 - (5) The notice must state the specific grounds for the refusal to honor the succession.
 - (6) If notice of refusal and discontinuance is not timely served upon the designated successor, the franchise shall continue in effect subject to termination only as otherwise permitted by this Chapter.
 - (7) In determining whether good cause for the refusal to honor the succession exists, the manufacturer or distributor has the burden of proving that the designated successor is not of good moral character or does not otherwise meet the manufacturer's or distributor's reasonable standards as a franchisee.
 - (8) If a manufacturer or distributor refuses to honor the succession to the ownership interest of a deceased or incapacitated owner for good cause, then and in such event:
 - (i) The manufacturer or distributor shall allow the designated successor a reasonable period of time which shall not be less than six months in which to consummate a sale of the dealership. Any such sale shall be subject to R.S. 32:1261(A)(1)(d).
 - (ii) Upon termination of the franchise pursuant to such refusal, the provisions of R.S. 32:1268 shall apply.
- B. In the event of a proposed sale or transfer of a dealership and if the franchise agreement has a right of first refusal in favor of the manufacturer or distributor, then, notwithstanding the terms of the franchise agreement, the manufacturer or distributor shall be permitted to exercise a right of first refusal to acquire the motor vehicle dealer's assets or ownership if all of the following requirements are met:
- (1) In order to exercise its right of first refusal, the manufacturer or distributor shall notify the motor vehicle dealer in writing within sixty days of his receipt of the completed proposal for the proposed sale or transfer and all related agreements.
 - (2) The applicability of R.S. 32:1261(A)(1)(I) shall not be expanded or changed.
 - (3) The exercise of the right of first refusal will result in the dealer receiving the same or greater consideration as he has contracted to receive in connection with the proposed change of ownership or transfer.
 - (4) The proposed sale or transfer of the dealership's assets does not involve the transfer or sale to a member or members of the family of one or more dealers, or to a qualified manager with at least two years management experience at the dealership of one or more of these dealers, or to a partnership or corporation controlled by such persons.
 - (5)(a) The manufacturer or distributor agrees to pay the reasonable expenses, including attorney fees which do not exceed the usual, customary, and reasonable fees charged for similar work done for other clients, incurred by the proposed owner or transferee prior to the manufacturer's or distributor's exercise of its right of first refusal in negotiating and implementing the contract for the proposed sale or transfer of the dealership or dealership assets. Such expenses and attorney fees shall be paid to the proposed new owner or transferee at the time of closing of the sale or transfer for which the manufacturer or distributor exercised its right of first refusal.
 - (b) No payment of such expenses and attorney fees shall be required if the new owner or transferee has not submitted or caused to be submitted an accounting of those expenses within thirty days of the dealer's receipt of the manufacturer's or distributor's written request for such an accounting. A manufacturer or distributor may request such accounting before exercising his right of first refusal.
 - (6) The dealer shall not have any liability to any person as a result of a manufacturer's exercising its right of first refusal and the manufacturer or distributor shall assume the defense of the selling dealer for any claim by the proposed owner or transferee arising from the exercise of the right of first refusal.

C. The provisions of this Section shall not apply to the succession of any marine dealer, motorcycle or all-terrain vehicle, or recreational vehicle.

RS 32:1268 — Requirements upon termination; penalty; indemnity

eases to sell a particular make of motor vehicle, recreational product, or specialty vehicle and after notice to the manufacturer, converter, distributor, or representative by certified mail or commercial delivery service with verification of receipt, within thirty days of the receipt of the notice by the manufacturer, converter, distributor, or representative, the manufacturer, converter, distributor, or representative shall repurchase:

(a) All new motor vehicles, recreational products, and specialty vehicles of the current and last prior model year delivered to the licensee and parts on hand purchased in the ordinary course of business that have not been damaged or substantially altered to the prejudice of the manufacturer while in the possession of the licensee. As to recreational products dealers, the repurchase of parts shall be limited to those listed in the manufacturer's price book. The motor vehicles, recreational products, and specialty vehicles and parts shall be repurchased at the cost to the licensee which shall include without limitation freight and advertising costs, less all allowances paid to the dealer, except that new automobiles shall be purchased on the schedule as follows:

(i) Vehicles with 0 - 1,000 miles at the cost to the licensee.

(ii) Vehicles with 1,001 - 6,000 miles at the cost to the licensee reduced by the net discount value of each mile in excess of 1,000 miles, where "net discount value" is determined according to the following formula: cost to the licensee multiplied by total mileage in excess of 1,000 miles divided by 100,000, and where "net cost" equals the dealer cost plus any charges by the manufacturer, distributor, or representative for distribution, delivery, advertising, and taxes, less all allowances paid to the dealer by the manufacturer, distributor, or representative for new, unsold, undamaged, and complete motor vehicles.

(iii) Vehicles with 6,001 miles or over - no obligation to repurchase.

(iv) Any mileage recorded by a manufacturer in distributing a motor vehicle to a motor vehicle dealer shall not be included in the calculation as provided in this Subparagraph.

(b) At fair market value, each undamaged sign owned by the dealer which bears a trademark or trade name used or claimed by the manufacturer, converter, distributor, or representative if the sign was purchased from or purchased at the request of the manufacturer, distributor, or representative. Fair market value shall be no less than cost of acquisition of the sign by the dealer.

(c) At fair market value, all special tools and automotive service equipment owned by the dealer which were recommended in writing and designated as special tools and equipment and purchased in the ordinary course of business from or at the request of the manufacturer, converter, distributor, or representative, if the tools and equipment are in usable and good condition except for reasonable wear and tear. Fair market value shall be no less than cost of acquisition of special tools and automotive service equipment by the dealer.

(d) The manufacturer, converter, distributor, or representative shall pay to the dealer the costs of transporting, handling, packing, and loading of recreational product, motor and specialty vehicles, or parts, signs, tools, and equipment subject to repurchase.

(2)(a) After a motor vehicle dealer terminates his franchise, the manufacturer or converter shall make required repurchases within thirty days after such dealer has satisfied all of the following conditions:

(i) The motor vehicle dealer submits to the manufacturer, by certified mail, return receipt requested, or commercial delivery service with verification of receipt, a final inventory of motor vehicles and parts, special tools, and automotive services on hand.

(ii) The motor vehicle dealer tenders the parts, special tools, and automotive service equipment to the manufacturer.

(b) After a specialty vehicle dealer terminates his franchise, the manufacturer or converter shall make required repurchases within thirty days after such dealer has submitted to the manufacturer by certified mail, return receipt requested, or commercial delivery service with verification of receipt, a final inventory of vehicles and parts on hand.

(c) After a recreational products dealer terminates his franchise, the manufacturer or converter shall make required repurchases within sixty days after such dealer has submitted to the manufacturer by certified mail, return receipt requested, or commercial delivery service with verification of receipt, a final inventory of vehicles and parts on hand. This

Subparagraph shall not apply to the repurchase of marine products and related items.

B. Failure to make such repurchase without just cause shall subject the manufacturer or converter to a penalty of one and one-half percent per month, or fraction thereof, of the inventory value or returnable recreational product, specialty and motor vehicles, and parts, signs, special tools, and automotive service equipment, payable to the dealer, as long as the repurchase is not made.

C.(1) Upon the involuntary termination, nonrenewal, or cancellation of any franchise by the manufacturer or converter, except for termination, nonrenewal, or cancellation resulting from a felony conviction, notwithstanding the terms of any franchise, whether entered into before or after the enactment of this Chapter or any of its provisions, the new motor vehicle or specialty vehicle dealer shall be allowed fair and reasonable compensation by the manufacturer or converter as agreed by the parties, or lacking agreement, as determined by the commission, for the dealership facilities if the facilities were required to be purchased or constructed as a precondition to obtaining the franchise or to its renewal; provided that if such facilities were leased and the lease were required as a precondition to obtaining the franchise or to its renewal, then the manufacturer or converter shall be liable for one year's payment of the rent or the remainder of the term of the lease, whichever is less.

(2) Payment under this Section shall entitle the manufacturers, converters, or distributors to possession and use of the facility.

(3) As used in this Section, "manufacturer" shall include a manufacturer, a converter, a distributor, a factory branch, distributor branch, or other subsidiary thereof.

(4) The obligation of the manufacturer or converter to purchase a dealership facility, pursuant to this Section, is equally applicable if an entity or person affiliated with the dealer is the owner or lessor of the facility.

D. Notwithstanding any provision of law to the contrary, the provisions of this Section shall not apply to a marine dealer, motorcycle or all-terrain vehicle dealer, or recreational vehicle dealer.

RS 32:1268.1 — Repealed by Acts 2012, No. 326, §2.

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RS 32:1268.2 — Manufacturer termination of line-make; manufacturer bankruptcy; license

ensee's franchise is the result of the termination, elimination, or cessation of a line-make by the manufacturer, distributor, or factory branch, whether by bankruptcy or otherwise, the license issued by the commission may remain in effect at the discretion of the commission pursuant to its rules.

RS 32:1269 — Venue and choice of law for litigation or arbitration

s to apply any law other than Louisiana law to disputes between the parties to a franchise agreement, is void and unenforceable.

RS 32:1270 — Establishment of new marine dealerships or relocations; protests; procedure

ne dealership, it shall first notify the existing licensed marine dealership or dealerships selling the same-line makes, models, or classifications if the new dealership's proposed location is within the existing dealer's area of responsibility.

Any same-line makes, models, or classifications dealership whose area of responsibility includes the location of the proposed new marine dealership may object to the granting of the license.

B. Whenever the commission receives an application for a recreational products dealer's license which would relocate an existing marine dealership, it shall first notify the existing licensed marine dealership or dealerships selling the same-line makes, models, or classifications if the dealership's proposed new location is within the existing dealer's area of responsibility. The existing same-line makes, models, or classifications dealership or dealerships shall have the right to object to the granting of the license only if the proposed relocation is within a radius of seven miles of its facility.

However, without regard to distance, whenever the commission receives an application for the relocation of a marine dealership which would add an additional marine dealership to an existing same-line makes, models, or classifications dealership's area of responsibility, the affected dealership shall have the right to object.

C. The objection shall be in writing and shall be received by the commission within a fifteen-day period after receipt of the notice. The fifteen-day objection period shall be waived upon written notification to the commission from all licensees entitled to object that the licensees have no objections to the proposed change or addition for which the notice of intent

was issued. If a timely objection is lodged, and prior to the issuance of the license, the commission shall hold a hearing within thirty days after receipt of the objection and issue its decision within ninety days after date of the hearing. Notice of hearing and an opportunity to participate therein shall be given to the manufacturer or distributor, the applicant for the license as a marine dealer, and to the protesting dealership or dealerships.

D. Whenever the commission receives an objection pursuant to the provisions of Subsection A of this Section, or whenever the commission receives an objection pursuant to the assignment of the marine dealer's area of principal sales and service responsibility, the commission shall consider the following and may consider any other relevant factors in determining whether there is good cause to approve or reject the assignment of the marine dealer's area of principal sales and service responsibility, or to issue a license:

- (1) Whether the community or territory can support an additional marine dealership.
- (2) The financial impact on both the applicant and the existing marine dealership or dealerships.
- (3) Whether the existing marine dealerships of the same-line makes, models, or classifications in the dealership's area of responsibility are providing adequate representation, competition, and convenient consumer care for the marine products of the same-line makes, models, or classifications located within that area.
- (4) Whether the issuance of the license would increase competition, be in the public interest, or both.

E. In disputes between the marine dealers and manufacturers and distributors regarding the execution of an agreement that would add a new same-line make marine dealership or would add the same product line regardless of brand name within the area of responsibility of an existing marine dealer, the name brand of the boat determines whether a dealer may enter into a franchise for a particular boat package or boat package line. The marine motor, marine engine, boat trailer, or any accessory made a part of a boat package shall not be the subject of, or a consideration in, an area of responsibility dispute for violation involving the boat package.

F. A manufacturer or distributor of a marine motor or marine engine may, in its discretion, enter into a warranty service agreement with a marine dealer of a boat package that is packaged with its particular brand marine motor or engine without violating the area of responsibility of any other marine dealer that has a franchise of that brand marine motor or engine. However, the warranty service agreement shall not be construed to permit the marine dealer to sell the marine motor or engine separate from the boat package, and the marine dealer shall not hold itself out to be a full-line or loose marine motor or engine dealership.

G. The provisions of this Section shall not apply when the marine products consist of a trolling motor, boat trailer, or watercraft trailer.

RS 32:1270.1 — Unauthorized acts; marine products

marine products or any officer, agent, or other representative thereof:

(a) To induce or coerce, or attempt to induce or coerce, any licensee:

(i) To order or accept delivery of any marine product, appliances, equipment, parts or accessories therefor, or any other commodity or commodities which shall not have been voluntarily ordered.

(ii) To order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever.

(iii) To assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by law, unless done in connection with a settlement agreement to resolve a matter pending a commission hearing or pending litigation involving a manufacturer, distributor, wholesaler, distributor branch or factory branch, or officer, agent, or other representative thereof.

(iv) To enter into a franchise with a licensee or during the franchise term, use any written instrument, agreement, release, assignment, novation, estoppel, or waiver, to attempt to nullify or modify any provision of this Chapter, or to require any controversy between a marine dealer and a manufacturer to be referred to any person or entity other than the

commission, or duly constituted courts of this state or the United States, if such referral would be binding upon the dealer. Such instruments are null and void, unless done in connection with a settlement agreement to resolve a matter pending a commission hearing or pending litigation.

(v) To waive the right to a jury trial.

(vi) To participate in an advertising group or to participate monetarily in an advertising campaign or contest or to purchase any promotional materials, showroom, or other display decorations or materials at the expense of such marine dealer.

(vii) To adhere to performance standards that are not applied uniformly to other similarly situated marine dealers. Any such performance standards shall be fair, reasonable, equitable, and based on accurate information. If marine dealership performance standards are based on a survey, the manufacturer, distributor, wholesaler, distributor branch, or factory branch shall establish the objectivity of the survey process and provide this information to any marine dealer of the same-line make covered by the survey request. Each response to a survey used by a manufacturer in preparing an evaluation or performance-rating of a marine dealer shall be made available to that marine dealer, or it cannot be used by the manufacturer. However, if a customer requests that the manufacturer or distributor not disclose the consumer's identity to the dealer, the manufacturer may withhold the consumer's identity in providing the survey response to the dealer, and the manufacturer may use the response. Any survey used must have the following characteristics:

(aa) It was designed by experts.

(bb) The proper universe was examined.

(cc) A representative sample was chosen.

(dd) The data was accurately reported.

(viii) To release, convey, or otherwise provide customer information, if to do so is unlawful or if the customer objects in writing. This does not include information that is necessary for the manufacturer to meet its obligations to the marine dealer or consumers in regard to contractual responsibilities, marine product recalls, or other requirements imposed by state or federal law. The manufacturer is further prohibited from providing any consumer information received from the marine dealer to any unaffiliated third party.

(ix) To pay the attorney fees of the manufacturer or distributor related to hearings and appeals brought under this Chapter.

(x) To order or accept delivery of any vehicle with special features, appliances, accessories, or equipment not included in the list price of the vehicle as publicly advertised.

(b) To refuse to deliver to any licensee having a franchise or contractual arrangement for the retail sale of marine products sold or distributed by such manufacturer, distributor, wholesaler, distributor branch or factory branch, any marine product, publicly advertised for immediate delivery, within sixty days after such marine dealer's order shall have been received.

(c) To threaten to cancel any franchise existing between such manufacturer, distributor, wholesaler, distributor branch or factory branch and the marine dealer for any reason.

- (d) To unfairly, without just cause and due regard to the equities of the marine dealer, cancel the franchise of the licensee. The nonrenewal of a franchise with a marine dealer or his successor without just provocation or cause, or the refusal to approve a qualified transferee or qualified successor to the dealer-operator as provided for in the selling agreement, shall be deemed a violation of this Subparagraph and shall constitute an unfair cancellation, regardless of the terms or provisions of such franchise. However, at least ninety days notice shall be given to the dealer of a cancellation or nonrenewal of a franchise except for a cancellation arising out of fraudulent activity of the dealer principal which results in the conviction of a crime punishable by imprisonment.
- (e) To refuse to extend to a licensee the privilege of determining the mode or manner of available transportation facility that such marine dealer desires to be used or employed in making deliveries of marine products to him or it.
- (f) To ship or sell marine products to a licensee prior to the licensee having been granted a license by the commission to sell such products.
- (g) To unreasonably withhold consent to the sale, transfer, or exchange of the dealership to a qualified transferee capable of being licensed as a marine dealer in this state, provided the transferee meets the criteria generally applied by the manufacturer in approving new marine dealers and agrees to be bound by all the terms and conditions of the standard franchises.
- (h) To fail to respond in writing to a written request for consent as specified in Subparagraph (g) of this Paragraph within sixty days of receipt of a written request on the forms, if any, generally utilized by the manufacturer or distributor for such purposes and containing the information required therein. Failure to respond shall be deemed to be consent to the request.
- (i) To sell or offer to sell a new or unused marine product directly to a consumer except as provided in this Chapter.
- (j) Repealed by Acts 2014, No. 770, §2.
- (k) To fail to designate and provide to the commission in writing the community or territory assigned to a licensee. The provisions of this Subparagraph shall not apply when the marine products consist of a trolling motor, boat trailer, or watercraft trailer.
- (l) To unreasonably discriminate among competing, similarly situated, same-line make dealers in the sales of the marine products, in the availability of such marine products, in the terms of incentive programs or sales promotion plans, or in other similar programs.
- (m) To use any subsidiary, affiliate, or any other controlled person or entity, or to employ the services of a third party, to accomplish what would otherwise be illegal conduct under this Chapter on the part of the manufacturer or distributor.
- (n) To make a change in the area of responsibility described in the franchise or sales and service agreement of a dealer, without the manufacturer or distributor giving the marine dealer and the commission no less than sixty days prior written notice by certified or registered mail.
- (2) For a marine dealer, used marine product dealer, marine product salesman:
- (a) To require a purchaser of a marine product, as a condition of sale and delivery

thereof, to also purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser; however, this prohibition shall not apply as to special features, appliances, accessories, or equipment which are permanently affixed to the marine product.

(b) To represent and sell as a new marine product any marine product, the legal title of which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

(c) To use any false or misleading advertisement in connection with his business as such marine dealer or marine product salesman.

(d) To sell or offer to sell makes, models, or classifications of new marine products for which no franchise and license to sell is held.

(e) Except as otherwise approved by the commission, to sell or offer to sell a marine product from an unlicensed location.

(f) To deliver to a prospective purchaser a new or a used marine product on a sale conditioned on financing, i.e., a spot delivery, except on the following terms and conditions which shall be in writing and shall be a part of the conditional sales contract or other written notification signed by the purchaser:

(i) That if the sale is not concluded by the financing of the sale to the purchaser within twenty-five days of the delivery, the sale contract shall be null and void.

(ii) That the marine product being offered for trade-in by the purchaser shall not be sold by the marine dealer until the conditional sale is complete.

(iii) That there shall be no charge to the purchaser should the conditional sale not be completed, including but not limited to mileage charges or charges to refurbish the marine product offered for trade-in. However, the purchaser shall be responsible for any and all damages to the marine product or other marine products damaged by the fault of the purchaser and any and all liability incurred by the purchaser during the purchaser's custody of the marine product to the extent provided for in R.S. 22:1296.

(iv) That if the conditional sale is not completed, the marine dealer shall immediately refund to the purchaser upon return of the marine product all sums placed with the dealership as a deposit or any other purpose associated with the attempted sale of the marine product.

(v) That the prospective purchaser shall return the marine product to the dealership within forty-eight hours of notification by the marine dealer that the conditional sale will not be completed. If the prospective purchaser does not return the marine product to the dealership within forty-eight hours of notification by the marine dealer, an authorized agent of the marine dealer shall have the right to recover the marine product without the necessity of judicial process, provided that such recovery can be accomplished without unauthorized entry into a closed dwelling, whether locked or unlocked and without a breach of peace.

(g) To pay a fee to any person in return for the solicitation, procurement, or production by that person of prospective purchasers for new and used marine products, except to a salesman licensed under the provisions of this Chapter.

(h) To fail to fully and completely explain each charge listed on a retail buyer's order or marine product invoice prior to the purchase of a marine product.

(i) When selling a marine product to a consumer, to assess any consumer services

fees, which shall include fees for treating the interior upholstery of the marine product, oil changes, roadside assistance, dealer inspections, or any other service offered by the dealer, without allowing the buyer to refuse such services and be exempt from payment for such services. The provisions of this Subparagraph shall not apply to dealer-added options or accessories which are permanently affixed to the marine product.

(3)(a) For any person or other licensee to modify a franchise during the term of the agreement or upon its renewal if the modification substantially and adversely affects the dealer's rights, obligations, investment, or return on investment without giving a sixty-day written notice of the proposed modification to the licensee and the commission unless the modifications are required by law, court order, or the commission. Within the sixty-day notice period, the licensee may file with the commission a complaint for a determination whether there is good cause for permitting the proposed modification. The party seeking to modify or replace an agreement shall demonstrate by a preponderance of the evidence that there is good cause for the modification or replacement. The commission shall schedule a hearing within sixty days to decide the matter. Multiple complaints pertaining to the same proposed modifications shall be consolidated for hearing. The proposed modification may not take effect pending the determination of the matter.

(b) In making a determination of whether there is good cause for permitting a proposed modification, the commission may consider any relevant factor including:

- (i) The reasons for the proposed modification.
- (ii) Whether the proposed modification is applied to or affects all licensees in a nondiscriminating manner.
- (iii) The degree to which the proposed modification will have a substantial and adverse effect upon the licensee's investment or return on investment.
- (iv) Whether the proposed modification is in the public interest.
- (v) The degree to which the proposed modification is necessary to the orderly and profitable distribution of marine products and other services by the licensee.
- (vi) Whether the proposed modification is offset by other modifications beneficial to the licensee.

(c) The decision of the commission shall be in writing and shall contain findings of fact and a determination of whether there is good cause for permitting the proposed modification. The commission shall deliver copies of the decision to the parties personally or by registered mail.

(4) For any employee of a licensee while acting in the scope of his employment, to accept any payment, commission, fee, or compensation of any kind from any person other than the employing licensee, unless such payment is fully disclosed to and approved by the employing licensee.

RS 32:1270.2 — Warranty; compensation; audits of marine dealer records

ducts or any officer, agent or other representative thereof to fail to adequately and fairly compensate its marine dealer for labor, parts, and other expenses incurred by such dealer to perform under and comply with a manufacturer's or a distributor's warranty agreement.

(2) In no event shall any manufacturer or distributor pay its marine dealer at a price or rate for warranty work that is less than that charged by the marine dealer to the retail customers of the marine dealer for nonwarranty work of like kind.

(3) Warranty work includes parts and labor performed.

(4) All claims made by the marine dealer for compensation under this Subsection shall be paid within thirty days after approval and shall be approved or denied within thirty days after receipt. When any claim is denied, the marine dealer shall be notified in writing of the grounds for denial.

(5) The obligations set forth in this Subsection may be modified by contract.

B.(1) Notwithstanding the terms of any franchise, warranty and sales, incentive, audits of marine dealer records may be conducted by the manufacturer, distributor, distributor branch, or factory branch. Any audit for warranty parts or service compensation shall be for the twelve-month period immediately following the date of the payment of the claim by the manufacturer or distributor. However, a marine dealer shall not be held liable by virtue of an audit for failure to retain parts for a period in excess of six months. Any audit for sales incentives, service incentives, rebates, or other forms of incentive compensation shall be only for the twelve-month period immediately following the date of the final payment to the marine dealer under a promotion, event, program, or activity. In no event shall the manufacturer, distributor, distributor branch, or factory branch fail to allow the marine dealer to make corrections to the sales data in less than one hundred twenty days from the program period. Additionally, no penalty other than amounts advanced on a marine product reported incorrectly shall be due in connection with the audit. With respect to marine products sold during the time period subject to the audit, but submitted incorrectly to the manufacturer, distributor, or wholesale distributor branch or factory branch, the marine dealer shall be charged back for the amount reported incorrectly and credited with the amount due, if anything, on the actual sale date.

(2) No claim which has been approved and paid may be charged back to the marine dealer unless it can be shown that one of the following applies:

(a) The claim was false or fraudulent.

(b) The repairs were not properly made.

(c) The repairs were unnecessary to correct the defective condition under generally accepted standards of workmanship.

(d) The marine dealer failed to reasonably substantiate the repair in accordance with reasonable written requirements of the manufacturer or distributor, if the marine dealer was notified of the requirements prior to the time the claim arose and if the requirements were in effect at the time the claim arose.

(3) A manufacturer or distributor shall not deny a claim solely based on a marine dealer's incidental failure to comply with a specific claim processing requirement, or a clerical error, or other administrative technicality.

(4) Limitations on warranty parts or service compensation, sales incentive audits, rebates, or other forms of incentive compensation, chargebacks for warranty parts or service compensation, and service incentives and chargebacks for sales compensation only shall not be effective in the case of intentionally false or fraudulent claims.

(5) It shall be deemed an unfair act pursuant to this Chapter to audit a marine dealer more frequently than two sales-related and two service-related audits in a twelve-month period. Nothing in this Subsection shall limit a manufacturer's or distributor's ability to perform routine claim reviews in the normal course of business.

(6) No claim may be rejected as late if it has been submitted within sixty days of the date the repair order was written.

RS 32:1270.3 — Sale of water-damaged marine products

ing of the extent of any water damage from flooding which occurred to the marine product prior to the transaction.

B. If a sale, transfer, or conveyance of a new or used marine product occurs in violation of Subsection A of this Section, the person receiving ownership and title to the marine product who is not otherwise aware of the damage at the time of the transaction may bring an action to set aside the transaction within one year from the date of the transaction and receive all monies or other property given as consideration for the marine product less a reasonable assessment for wear and tear.

C. For the purposes of this Section, a "water-damaged marine product" means any marine product whose power train, computer, or electrical system has been damaged by flooding.

RS 32:1270.4 — Succession; right of first refusal; marine dealers

ed in the ownership interest of the marine dealer in the marine dealership upon the death or incapacity of the marine dealer.

B. Unless good cause exists for refusal to honor the succession on the part of the manufacturer or distributor, any designated successor of a deceased or incapacitated marine dealer of a marine dealership may succeed to the ownership of the marine dealership under the existing franchise if:

(1) The designated successor gives the manufacturer or distributor written notice of his intention to succeed to the ownership of the marine dealer within sixty days of the marine dealer's death or incapacity.

(2) The designated successor agrees to be bound by all the terms and conditions of the franchise.

C. The manufacturer or distributor may request, and the designated successor shall provide, promptly upon such request, personal and financial data reasonably necessary to determine whether the succession should be honored.

D. If a manufacturer or distributor believes that good cause exists for refusing to honor the succession of a deceased or incapacitated marine dealer, the manufacturer or distributor may, not more than sixty days following receipt of notice of the designated successor's intent to succeed and receipt of such personal or financial data, serve upon the designated successor notice of its refusal to honor the succession and of its intent to discontinue the existing franchise with the marine dealer not earlier than six months from the date such notice is served.

E. The notice must state the specific grounds for the refusal to honor the succession.

F. If notice of refusal and discontinuance is not timely served upon the designated successor, the franchise shall continue in effect subject to termination only as otherwise permitted by this Part.

G. In determining whether good cause for the refusal to honor the succession exists, the manufacturer or distributor has the burden of proving that the designated successor is not of good moral character or does not otherwise meet the manufacturer's or distributor's reasonable standards as a marine dealer.

H. If a manufacturer or distributor refuses to honor the succession to the ownership interest of a deceased or incapacitated owner for good cause, then and in such event the manufacturer or distributor shall allow the designated successor a reasonable period of time which shall not be less than six months in which to consummate a sale of the marine dealership. Any such sale shall be subject to R.S. 32:1270.1(2)(d).

RS 32:1270.5 — Manufacturer, distributor, or wholesaler repurchase; marine dealer; products

e marine dealer agrees to maintain an inventory of marine products or

repair parts, the manufacturer, distributor, or wholesaler shall not terminate or fail to renew the franchise unless there is a breach of the franchise by the marine dealer and until ninety days after notice of the intention to terminate, including the breach of the franchise, has been sent by certified mail, return receipt requested, or commercial delivery service with verification of receipt, to the marine dealer and the commission and the marine dealer has failed to correct the breach within such period.

B. If the franchise is terminated as a result of any action by the marine dealer and the manufacturer, distributor, or wholesaler has not given due cause, as provided in this Section, for termination of such franchise, the manufacturer, distributor, or wholesaler shall not be required to repurchase the inventory as provided in this Section; however, if the franchise is terminated as a result of any action by the marine dealer and the manufacturer, distributor, or wholesaler has given the marine dealer due cause, as provided in this Section, to terminate the franchise, the manufacturer, distributor, or wholesaler shall be required to repurchase that inventory previously purchased from them, including any new and unused marine products of the current and immediate prior model or program year and new and unused parts inventory as provided in this Section.

C.(1) It shall be unlawful for the manufacturer, wholesaler, or distributor, without due cause and pursuant to its own initiating action, to terminate or fail to renew a franchise,

unless the manufacturer, wholesaler, or distributor repurchases the new and unused inventory as provided for in this Section.

(2) In the event the marine dealer has new and unused inventory not eligible for repurchase, the license issued by the commission may remain in effect pursuant to the provisions of R.S. 32:1268.2.

D. It shall not be unlawful for the marine dealer with due cause and pursuant to the marine dealer's own initiating action to terminate or fail to renew a franchise with a manufacturer, wholesaler, or distributor, and the manufacturer, wholesaler, or distributor shall repurchase inventory as provided pursuant to this Section. To determine what constitutes due cause for a marine dealer to terminate or fail to renew a franchise, the following factors regarding the manufacturer, wholesaler, distributor or representative of one of the so named shall include whether the manufacturer, wholesaler, distributor, or representative of one of the so named:

- (1) Has made a material misrepresentation in accepting or acting under the franchise.
- (2) Has engaged in an unfair business practice.
- (3) Has engaged in conduct which is injurious or detrimental to public welfare.
- (4) Has failed to comply with any applicable Section of this Chapter.
- (5) Has been convicted of a crime, the effect of which would be detrimental to the marine dealership or dealer.
- (6) Has violated the Louisiana marine dealers area of responsibility.
- (7) Has failed to operate in the normal course of business for thirty consecutive days.
- (8) Has failed to comply with the terms of the franchise with the marine dealer.
- (9) Has materially misrepresented the performance or fitness for sale or use of a product line or products covered by the franchise.

E. If a manufacturer, distributor, or wholesaler does not intend to renew a franchise, the manufacturer, distributor, or wholesaler shall give the marine dealer and the commission ninety days written notice prior to the effective date by certified mail, return receipt requested, or commercial delivery service with verification of receipt.

F. As required by this Section, the manufacturer, distributor, or wholesaler shall repurchase the inventory which can be verified as previously purchased from them, including all new and unused marine products of the current and immediate prior model or program year and new and unused parts on hand and held by the marine dealer on the date of termination of the contract. The manufacturer, distributor, or wholesaler shall pay an amount equivalent to the cost actually paid by the marine dealer, including discounts given and rebates paid per unit for any new, unused, undamaged, and unaltered from original invoice and delivery, and complete marine product. The manufacturer, distributor, or wholesaler shall also pay an amount equal to the price paid by the marine dealer for any new, unused, and undamaged repair parts and accessories which are listed in the manufacturer's, distributor's, or wholesaler's prevailing parts list or were delivered in the past forty-eight months and are in their original packaging.

G. The provisions of this Section shall not require the repurchase from a marine dealer of:

- (1) Any repair part which has a limited storage life or is otherwise subject to deterioration.
 - (2) Any single repair part which is priced and packaged as a set of two or more items.
 - (3) Any repair part which, because of its condition, is not resalable as a new part without repackaging or reconditioning.
 - (4) Any inventory for which the marine dealer cannot provide good title, free and clear of all claims, liens, and encumbrances.
 - (5) Any inventory which the marine dealer desires to keep, provided that the marine dealer has a contractual right to do so.
 - (6) Any marine product which is not in new, unused, undamaged, and complete condition.
 - (7) Any repair parts which are not in new, unused, and undamaged condition.
 - (8) Any inventory which was ordered by the marine dealer on or after the date of receipt of the notification of termination of the franchise.
 - (9) Any inventory which was acquired by the marine dealer from any source other than the manufacturer, distributor, or wholesaler, or its immediate predecessor.
 - (10) Any marine product that has been altered substantially from original delivery.
- H. Upon termination of the franchise, the marine dealer shall submit a final inventory of marine products and parts on hand to the manufacturer, distributor, or wholesaler by certified mail, return receipt requested, or commercial delivery service with verification of receipt. If a manufacturer, distributor, or wholesaler fails or refuses to repurchase as required by this Section within thirty days of the receipt of the inventory, without just cause, the manufacturer, distributor, or wholesaler shall be subjected to a penalty of the marine dealer's reasonable attorney fees, court costs, and interest on the inventory value of returnable marine products and parts required to be purchased computed at the rate of one and one-half percent per month from the thirty-first day, as long as such repurchase is not made.
- I. Notwithstanding any other provision of law to the contrary, it shall be unlawful for a manufacturer, distributor, or wholesaler, either by contract or practice, to assess repurchase or restocking charges, freight charges except for return charges, reimbursement of interest charges paid, and any similar charges to the marine dealer.
- J. If a marine dealer completes a bona fide, orderly, and permanent closure of the marine dealership, which does not involve a sale of the dealership, and provides at least ninety days notice to the manufacturer, wholesaler, distributor, and the commission, the marine products and parts inventory shall be repurchased by the manufacturer, wholesaler, or distributor in the manner provided pursuant to this Section.
- K. In the event of the death or incapacity of the marine dealer or the majority owner of a person operating as a marine dealer, the manufacturer, distributor, or wholesaler shall, at the option of the heirs, if the marine dealer died intestate, or the legatees or transferees under the terms of the deceased marine dealer's last will and testament if the marine dealer died testate, repurchase the inventory from the heirs, legatees, or transferees as if the manufacturer, distributor, or wholesaler had terminated the contract, and the inventory repurchase provisions of this Section shall apply. The heirs or legatees shall have until the

end of the contract term or one year from the date of the death of the marine dealer or majority owner of a person, whichever comes first, to exercise their option pursuant to this Section. However, nothing in this Section shall require the repurchase of inventory if the heirs, legatees, or transferees and the manufacturer, distributor, or wholesaler enter into a new franchise to operate the marine dealership.

RS 32:1270.6 — Manufacturer termination of line-make; manufacturer bankruptcy; license

s selling agreement is the result of the termination, elimination, or cessation of a line-make by the manufacturer, distributor, or factory branch, whether by bankruptcy or otherwise, the license issued by the commission may remain in effect at the discretion of the commission pursuant to its rules.

RS 32:1270.7 — Indemnification of marine dealers

gment for damages, including but not limited to court costs and reasonable attorney fees of the marine dealer, arising out of complaints, claims, or lawsuits including but not limited to strict liability, negligence, misrepresentation, express or implied warranty, or rescission of sale to the extent that the judgment arises out of alleged defective or negligent manufacture, assembly, or design of marine products, parts, or accessories, or other functions by the manufacturer or converter, which are beyond the control of the marine dealer.

RS 32:1270.8 — Marine products repairs

epairs and services performed, parts replaced, or materials used, the total labor charge, and the identity of the mechanic, repairman, or supplier who performed the work. However, nothing in this Section shall prohibit a supplier of mechanical repairs and services from charging a service fee for the use of shop supplies such as rags, fender covers, small amounts of fluid, or other items which are not itemized, provided that such fee does not exceed five percent of the total invoice for mechanical repairs or thirty-five dollars, whichever is less.

RS 32:1270.9 — Damage disclosure

e which the marine product has sustained that exceeds six percent of the manufacturer's suggested retail price. Such notice shall be in writing and a copy thereof shall be delivered to the purchaser prior to or simultaneous with transfer of the vehicle title.

B. This Section shall apply to all instances of vehicular body or mechanical damage to marine products and to all actions involving such damage, notwithstanding the application of other codal, statutory, or regulatory provisions, including but not limited to Civil Code Articles 2520 et seq.

RS 32:1270.10 — Establishment of new motorcycle or all-terrain vehicle dealerships or relocations; protests; procedure

e which would add a new motorcycle or all-terrain vehicle dealership, it shall first notify the existing licensed motorcycle or all-terrain vehicle dealership or dealerships selling the same-line makes, models, or classifications within a thirty-mile radius of the proposed dealership, and such dealer or dealers may object to the granting of the license.

B. Whenever the commission receives an application for a recreation products dealer's license which would relocate an existing motorcycle or all-terrain vehicle dealership, it shall first notify any existing licensed motorcycle or all-terrain vehicle dealership selling the same-line makes, models, or classifications within a thirty-mile radius of the proposed relocation address of a dealership. Any existing same-line makes, models, or classifications dealership shall have the right to object to the granting of the license only if the proposed relocation is within a radius of seven miles of its facility. However, without regard to distance, whenever the commission receives an application for the relocation of a motorcycle or all-terrain vehicle dealership which would add an additional franchise to an existing same-line makes, models, or classifications dealership's area of responsibility, the affected motorcycle or all-terrain vehicle dealership shall have the right to object.

C. The objection shall be in writing and shall be received by the commission within a fifteen-day period after receipt of the notice. The fifteen-day objection period shall be waived upon written notification to the commission from all licensees entitled to object that the licensees have no objections to the proposed change or addition for which the notice of intent was issued. If timely objection is lodged, and prior to the issuance of the license, the commission shall hold a hearing within thirty days after receipt of the objection and issue its decision within ninety days after date of the hearing. Notice of

hearing and an opportunity to participate therein shall be given to the manufacturer or distributor, the applicant for the license as a motorcycle or all-terrain vehicle dealer, and to the protesting motorcycle or all-terrain vehicle dealership or dealerships.

D. Whenever the commission receives an objection pursuant to the provisions of Subsection A of this Section, the commission shall consider the following and may consider any other relevant factors in determining whether there is good cause to issue a license:

- (1) Whether the community or territory can support an additional motorcycle or all-terrain vehicle dealership.
- (2) The financial impact on both the applicant and the existing motorcycle or all-terrain vehicle dealership or dealerships.
- (3) Whether the existing motorcycle or all-terrain vehicle dealerships of the same-line makes, models, or classifications in the dealership's area of responsibility are providing adequate representation, competition, and convenient consumer care for the motorcycle or all-terrain vehicles of the same-line makes, models, or classifications located within that area.
- (4) Whether the issuance of the license would increase competition, or be in the public interest, or both.

RS 32:1270.11 — Unauthorized acts

hereof:

(a) To induce or coerce, or attempt to induce or coerce, any licensee:

(i) To order or accept delivery of any motorcycle or all-terrain vehicle, appliances, equipment, parts or accessories therefor, or any other commodity or commodities which shall not have been voluntarily ordered.

(ii) To order or accept delivery of any motorcycle or all-terrain vehicle with special features, appliances, accessories, or equipment not included in the list price of the vehicle as publicly advertised.

(iii) To order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever.

(iv) To assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by law, unless done in connection with a settlement agreement to resolve a matter pending a commission hearing or pending litigation between a manufacturer, distributor, wholesaler, distributor branch or factory branch, or officer, agent, or other representative thereof.

(v) To enter into a franchise with a licensee or during the franchise term, use any written instrument, agreement, release, assignment, novation, estoppel, or waiver, to attempt to nullify or modify any provision of this Chapter, or to require any controversy between a dealer and a manufacturer to be referred to any person or entity other than the commission, or duly constituted courts of this state or the United States, if such referral would be binding upon the motorcycle or all-terrain vehicle dealer. Such instruments are null and void, unless done in connection with a settlement agreement to resolve a matter pending a commission hearing or pending litigation.

(vi) To waive the right to a jury trial.

(vii) To release, convey, or otherwise provide customer information, if to do so is unlawful or if the customer objects in writing. This does not include information that is necessary for the manufacturer to meet its obligations to the motorcycle or all-terrain vehicle dealer or consumers in regard to contractual responsibilities, motorcycle or all-terrain vehicle recalls, or other requirements imposed by state or federal law. The manufacturer is further prohibited from providing any consumer information received from the motorcycle or all-terrain vehicle dealer to any unaffiliated third party.

(viii) To pay the attorney fees of the manufacturer or distributor related to hearings and appeals brought under this Chapter.

(b) To threaten to cancel any franchise or any contractual agreement existing between such manufacturer, distributor, wholesaler, distributor branch or factory branch and the motorcycle or all-terrain vehicle dealer for any reason.

(c) To unfairly, without just cause and due regard to the equities of the motorcycle or all-terrain vehicle dealer, cancel the franchise of the licensee. The nonrenewal of a franchise with such dealer or his successor without just provocation or cause, or the refusal to approve a qualified transferee or qualified successor to the dealer-operator as provided for in the franchise shall be deemed a violation of this Subparagraph and shall constitute an unfair cancellation, regardless of the terms or provisions of such franchise. However, at least ninety days notice shall be given to the dealer of a cancellation or nonrenewal of franchise except for a cancellation arising out of fraudulent activity of the dealer principal which results in the conviction of a crime punishable by imprisonment.

- (d) To refuse to extend to a licensee the privilege of determining the mode or manner of available transportation facility that the motorcycle or all-terrain vehicle dealer desires to be used or employed in making deliveries of motorcycles or all-terrain vehicles to him or it.
- (e) To ship or sell motorcycles or all-terrain vehicles to a licensee prior to the licensee having been granted a license by the commission to sell motorcycles or all-terrain vehicles.
- (f) To unreasonably withhold consent to the sale, transfer, or exchange of the franchise to a qualified transferee capable of being licensed as a motorcycle or all-terrain vehicle dealer in this state, provided the transferee meets the criteria generally applied by the manufacturer in approving new motorcycle or all-terrain vehicle dealers and agrees to be bound by all the terms and conditions of the standard franchises.
- (g) To fail to respond in writing to a written request for consent as specified in Subparagraph (f) of this Paragraph within sixty days of receipt of a written request on the forms, if any, generally utilized by the manufacturer or distributor for such purposes and containing the information required therein. Failure to respond shall be deemed to be consent to the request.
- (h)(i) To sell or offer to sell a new or unused motorcycle or all-terrain vehicle directly to a consumer except as provided in this Chapter, or to compete with a licensee in the same-line makes, models, or classifications operating under an agreement or franchise from the aforementioned manufacturer. A manufacturer shall not, however, be deemed to be competing when any one of the following conditions are met:
 - (aa) Operating a motorcycle or all-terrain vehicle dealership temporarily for a reasonable period, not to exceed two years.
 - (bb) Operating a bona fide retail dealership which is for sale to any qualified independent person at a fair and reasonable price, not to exceed two years.
 - (cc) Operating in a bona fide relationship in which a person independent of a manufacturer has made a significant investment subject to loss in the dealership, and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions.
- (ii) After any of the conditions have been met under Subitems (i)(aa) and (bb) of this Subparagraph, the commission shall allow the manufacturer to compete with licensees of the same-line makes, models, or classifications under an agreement or franchise from the manufacturer for longer than two years when, in the discretion of the commission, the best interest of the manufacturer, consuming public, and licensees are best served.
- (i) Repealed by Acts 2014, No. 770, §2.
- (j) To fail to designate and provide to the commission in writing the community or territory assigned to a licensee.
- (k) To unreasonably discriminate among competing, similarly situated, same-line make dealers in the sales of motorcycles or all-terrain vehicles, in the availability of motorcycles or all-terrain vehicles, in the terms of incentive programs or sales promotion plans, or in other similar programs.
- (l) To use any subsidiary, affiliate, or any other controlled person or entity, or to employ the services of a third party, to accomplish what would otherwise be illegal conduct under this Chapter on the part of the manufacturer or distributor.
- (m) To make a change in the area of responsibility described in the franchise agreement or sales and service agreement of a motorcycle or all-terrain vehicle dealer, without the franchisor, converter, or manufacturer giving the motorcycle or all-terrain vehicle dealer and the commission no less than sixty days prior written notice by certified or registered mail.
- (n) To refuse to deliver to any licensee having a franchise or contractual arrangement for the retail sale of motorcycles or all-terrain vehicles sold or distributed by such manufacturer, distributor, wholesaler, distributor branch or factory branch, any motorcycle or all-terrain vehicle, publicly advertised for immediate delivery, within sixty days after such dealer's order shall have been received.
- (2) For a motorcycle or all-terrain vehicle dealer, used motorcycle or all-terrain vehicle dealer, or a motorcycle or all-terrain vehicle salesman:
 - (a) To require a purchaser of a motorcycle or all-terrain vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser; however, this prohibition shall not apply as to special features, appliances, accessories, or equipment which are permanently affixed to the motorcycle or all-terrain vehicle.

- (b) To represent and sell as a new motorcycle or all-terrain vehicle any motorcycle or all-terrain vehicle, the legal title of which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.
 - (c) To use any false or misleading advertisement in connection with his business as a motorcycle or all-terrain vehicle dealer or motorcycle or all-terrain vehicle salesman.
 - (d) To sell or offer to sell makes, models, or classifications of new motorcycles or all-terrain vehicles for which no franchise and license to sell is held.
 - (e) Except as otherwise approved by the commission, to sell or offer to sell a motorcycle or all-terrain vehicle from an unlicensed location.
 - (f) To deliver to a prospective purchaser a new or a used motorcycle or all-terrain vehicle on a sale conditioned on financing, i.e., a spot delivery, except on the following terms and conditions which shall be in writing and shall be a part of the conditional sales contract or other written notification signed by the purchaser:
 - (i) That if the sale is not concluded by the financing of the sale to the purchaser within twenty-five days of the delivery, the sale contract shall be null and void.
 - (ii) That the motorcycle or all-terrain vehicle being offered for trade-in by the purchaser shall not be sold by the motorcycle or all-terrain vehicle dealer until the conditional sale is complete.
 - (iii) That there shall be no charge to the purchaser should the conditional sale not be completed, including but not limited to mileage charges or charges to refurbish the motorcycle or all-terrain vehicle offered for trade-in. However, the purchaser shall be responsible for any and all damages to the motorcycle or all-terrain vehicle or other motorcycles or all-terrain vehicles damaged by the fault of the purchaser and any and all liability incurred by the purchaser during the purchaser's custody of the vehicle to the extent provided for in R.S. 22:1296.
 - (iv) That if the conditional sale is not completed, the motorcycle or all-terrain vehicle dealer shall immediately refund to the purchaser upon return of the motorcycle or all-terrain vehicle all sums placed with the dealership as a deposit or any other purpose associated with the attempted sale of the motorcycle or all-terrain vehicle.
 - (v) That the prospective purchaser shall return the motorcycle or all-terrain vehicle to the dealership within forty-eight hours of notification by the dealer that the conditional sale will not be completed. If the prospective purchaser does not return the motorcycle or all-terrain vehicle to the dealership within forty-eight hours of notification by the motorcycle or all-terrain vehicle dealer, an authorized agent of the motorcycle or all-terrain vehicle dealer shall have the right to recover the motorcycle or all-terrain vehicle without the necessity of judicial process, provided that such recovery can be accomplished without unauthorized entry into a closed dwelling, whether locked or unlocked and without a breach of peace.
 - (g) To pay a fee to any person in return for the solicitation, procurement, or production by that person of prospective purchasers for new and used motorcycles or all-terrain vehicles, except to a motorcycle or all-terrain vehicle salesman licensed under the provisions of this Chapter.
 - (h) To fail to fully and completely explain each charge listed on a retail buyer's order or motorcycle or all-terrain vehicle invoice prior to the purchase of a motorcycle or all-terrain vehicle.
 - (i) When selling a motorcycle or all-terrain vehicle to a consumer, to assess any consumer services fees, which shall include fees for treating the interior upholstery of the vehicle, oil changes, roadside assistance, dealer inspections, or any other service offered by the dealer, without allowing the buyer to refuse such services and be exempt from payment for such services. The provisions of this Subparagraph shall not apply to dealer-added options or accessories which are permanently affixed to the motorcycle or all-terrain vehicle.
 - (j)(i) To fail to disclose to a purchaser in writing on the sales contract, buyer's order, or any other document that the motorcycle or all-terrain vehicle dealer may be participating in finance charges associated with the sale.
 - (ii) To participate in a finance charge that would result in a difference between the buy rate and the contract rate of more than three percentage points.
 - (iii) The provisions of this Subparagraph shall apply only to transactions subject to the Louisiana Motor Vehicle Sales Finance Act.
- (3)(a) For any person or other licensee to modify a franchise during the term of the agreement or upon its renewal if the modification substantially and adversely affects the franchisee's rights, obligations, investment, or return on investment without giving a sixty-day written notice of the proposed modification to the licensee and the commission unless the

modifications are required by law, court order, or the commission. Within the sixty-day notice period, the licensee may file with the commission a complaint for a determination whether there is good cause for permitting the proposed modification. The party seeking to modify or replace an agreement shall demonstrate by a preponderance of the evidence that there is good cause for the modification or replacement. The commission shall schedule a hearing within sixty days to decide the matter. Multiple complaints pertaining to the same proposed modifications shall be consolidated for hearing. The proposed modification may not take effect pending the determination of the matter.

(b) In making a determination of whether there is good cause for permitting a proposed modification, the commission may consider any relevant factor including:

(i) The reasons for the proposed modification.

(ii) Whether the proposed modification is applied to or affects all licensees in a nondiscriminating manner.

(iii) The degree to which the proposed modification will have a substantial and adverse effect upon the licensee's investment or return on investment.

(iv) Whether the proposed modification is in the public interest.

(v) The degree to which the proposed modification is necessary to the orderly and profitable distribution of vehicles and other services by the licensee.

(vi) Whether the proposed modification is offset by other modifications beneficial to the licensee.

(c) The decision of the commission shall be in writing and shall contain findings of fact and a determination of whether there is good cause for permitting the proposed modification. The commission shall deliver copies of the decision to the parties personally or by registered mail.

(4) For any employee of a licensee while acting in the scope of his employment, to accept any payment, commission, fee, or compensation of any kind from any person other than the employing licensee, unless such payment is fully disclosed to and approved by the employing licensee.

RS 32:1270.12 — Indemnification of motorcycle and all-terrain vehicle franchised dealers

anchised motorcycle or all-terrain vehicle dealers against any judgment for damages, including but not limited to court costs and reasonable attorney fees of the motorcycle or all-terrain vehicle dealer, arising out of complaints, claims, or lawsuits including but not limited to strict liability, negligence, misrepresentation, express or implied warranty, or rescission of sale to the extent that the judgment arises out of alleged defective or negligent manufacture, assembly, or design of motorcycles or all-terrain vehicles, parts, or accessories, or other functions by the manufacturer or converter, which are beyond the control of the motorcycle or all-terrain vehicle dealer.

RS 32:1270.13 — Warranty; compensation; audits of motorcycle or all-terrain vehicle dealer records

or factory branch of motorcycles or all-terrain vehicles, or officer, agent, or other representative thereof to fail to adequately and fairly compensate its motorcycle or all-terrain vehicle dealers for labor, parts, and other expenses incurred by such motorcycle or all-terrain vehicle dealer to perform under and comply with a manufacturer's or a distributor's warranty agreement.

(2) In no event shall any manufacturer or distributor pay its motorcycle or all-terrain vehicle dealers at a price or rate for warranty work that is less than that charged by the motorcycle or all-terrain vehicle dealer to the retail customers of the motorcycle or all-terrain vehicle dealer for nonwarranty work of like kind.

(3) Warranty work includes parts and labor performed.

(4) All claims made by the motorcycle or all-terrain vehicle dealer for compensation under this Subsection shall be paid within thirty days after approval and shall be approved or denied within thirty days after receipt. When any claim is denied, the motorcycle or all-terrain vehicle dealer shall be notified in writing of the grounds for denial.

(5) The obligations in this Subsection as they relate to motorcycles or all-terrain vehicles may be modified by contract.

B.(1) Notwithstanding the terms of any franchise, warranty, and sales incentive, audits of motorcycle or all-terrain vehicle dealer records may be conducted by the manufacturer, distributor, distributor branch, or factory branch. Any audit for warranty parts or service compensation shall be for the twelve-month period immediately following the date of the payment of the claim by the manufacturer or distributor. However, a motorcycle or all-terrain vehicle dealer shall not be held liable by virtue of an audit for failure to retain parts for a period in excess of six months. Any audit for sales

incentives, service incentives, rebates, or other forms of incentive compensation shall be only for the twelve-month period immediately following the date of the final payment to the motorcycle or all-terrain vehicle dealer under a promotion, event, program, or activity. In no event shall the manufacturer, distributor, distributor branch, or factory branch fail to allow the motorcycle or all-terrain vehicle dealer to make corrections to the sales data in less than one hundred twenty days from the program period. Additionally, no penalty other than amounts advanced on a motorcycle or all-terrain vehicle reported incorrectly shall be due in connection with the audit. With respect to motorcycles or all-terrain vehicles sold during the time period subject to the audit, but submitted incorrectly to the manufacturer, distributor, or wholesale distributor branch or factory branch, the motorcycle or all-terrain vehicle dealer shall be charged back for the amount reported incorrectly and credited with the amount due, if anything, on the actual sale date.

(2) No claim which has been approved and paid may be charged back to the motorcycle or all-terrain vehicle dealer unless it can be shown that one of the following applies:

- (a) The claim was false or fraudulent.
 - (b) The repairs were not properly made.
 - (c) The repairs were unnecessary to correct the defective condition under generally accepted standards of workmanship.
 - (d) The motorcycle or all-terrain vehicle dealer failed to reasonably substantiate the repair in accordance with reasonable written requirements of the manufacturer or distributor, if the motorcycle or all-terrain vehicle dealer was notified of the requirements prior to the time the claim arose and if the requirements were in effect at the time the claim arose.
- (3) A manufacturer or distributor shall not deny a claim solely based on a motorcycle or all-terrain vehicle dealer's incidental failure to comply with a specific claim processing requirement, or a clerical error, or other administrative technicality.
- (4) Limitations on warranty parts or service compensation, sales incentive audits, rebates, or other forms of incentive compensation, chargebacks for warranty parts or service compensation, and service incentives and chargebacks for sales compensation only shall not be effective in the case of intentionally false or fraudulent claims.
- (5) It shall be deemed an unfair act pursuant to this Chapter to audit a motorcycle or all-terrain vehicle dealer more frequently than two sales-related and two service-related audits in a twelve-month period. Nothing in this Subsection shall limit a manufacturer's or distributor's ability to perform routine claim reviews in the normal course of business.
- (6) No claim may be rejected as late if it has been submitted within sixty days of the date the repair order was written.

RS 32:1270.14 — Damage disclosure

or mechanical damage which the motorcycle or all-terrain vehicle has sustained that exceeds six percent of the manufacturer's suggested retail price or, in the case of recreational vehicles, six percent of the manufacturer's wholesale price. Such notice shall be in writing and a copy thereof shall be delivered to the purchaser prior to or simultaneous with transfer of the motorcycle or all-terrain vehicle title.

B. This Section shall apply to all instances of vehicular body or mechanical damage to motorcycles or all-terrain vehicles and to all actions involving such damage, notwithstanding the application of other codal, statutory, or regulatory provisions, including but not limited to Civil Code Articles 2520 et seq.

RS 32:1270.15 — Sale of water-damaged motorcycles or all-terrain vehicles

receiver of the motorcycle or all-terrain vehicle in writing of the extent of any water damage from flooding which occurred to the motorcycle or all-terrain vehicle prior to the transaction.

B. If a sale, transfer, or conveyance of a new or used motorcycle or all-terrain vehicle occurs in violation of Subsection A of this Section, the person receiving ownership and title to the motorcycle or all-terrain vehicle who is not otherwise aware of the damage at the time of the transaction may bring an action to set aside the transaction within one year from the date of the transaction and receive all monies or other property given as consideration for the motorcycle or all-terrain vehicle less a reasonable assessment for miles driven.

C. For the purposes of this Section, a "water-damaged motorcycle or all-terrain vehicle" means any motorcycle or all-terrain vehicle whose power train, computer, or electrical system has been damaged by flooding.

RS 32:1270.16 — Succession; right of first refusal

or to succeed in the ownership interest of the motorcycle or all-terrain vehicle dealer in the dealership upon the death or incapacity of the motorcycle or all-terrain vehicle dealer.

B. Unless good cause exists for refusal to honor the succession on the part of the manufacturer or distributor, any designated successor of a deceased or incapacitated motorcycle or all-terrain vehicle dealer of a dealership may succeed to the ownership of the dealership under the existing franchise if:

(1) The designated successor gives the manufacturer or distributor written notice of his intention to succeed to the ownership of the motorcycle or all-terrain vehicle dealer within sixty days of the motorcycle or all-terrain vehicle dealer's death or incapacity.

(2) The designated successor agrees to be bound by all the terms and conditions of the franchise.

C. The manufacturer or distributor may request, and the designated successor shall provide, promptly upon such request, personal and financial data reasonably necessary to determine whether the succession should be honored.

D. If a manufacturer or distributor believes that good cause exists for refusing to honor the succession of a deceased or incapacitated motorcycle or all-terrain vehicle dealer, the manufacturer or distributor may, not more than sixty days following receipt of notice of the designated successor's intent to succeed and receipt of such personal or financial data, serve upon the designated successor notice of its refusal to honor the succession and of its intent to discontinue the existing franchise with the motorcycle or all-terrain vehicle dealer not earlier than six months from the date such notice is served.

E. The notice must state the specific grounds for the refusal to honor the succession.

F. If notice of refusal and discontinuance is not timely served upon the designated successor, the franchise shall continue in effect subject to termination only as otherwise permitted by this Chapter.

G. In determining whether good cause for the refusal to honor the succession exists, the manufacturer or distributor has the burden of proving that the designated successor is not of good moral character or does not otherwise meet the manufacturer's or distributor's reasonable standards as a franchisee.

H. If a manufacturer or distributor refuses to honor the succession to the ownership interest of a deceased or incapacitated owner for good cause, then and in such event:

(1) The manufacturer or distributor shall allow the designated successor a reasonable period of time which shall not be less than six months in which to consummate a sale of the dealership. Any such sale shall be subject to R.S. 32:1270.11(1)(c).

(2) Upon termination of the franchise pursuant to such refusal, the provisions of R.S. 32:1270.17 shall apply.

RS 32:1270.17 — Requirements upon termination; penalty; indemnity; motorcycle or all-terrain

aler or all-terrain vehicle dealer, or ceases to sell a particular make of motorcycle or all-terrain vehicle and after notice to the manufacturer, converter, distributor, or representative

by certified mail or commercial delivery service with verification of receipt, within thirty days of the receipt of the notice by the manufacturer, converter, distributor, or representative, the manufacturer, converter, distributor, or representative shall repurchase:

(a) All new motorcycles or all-terrain vehicles of the current and last prior model year delivered to the licensee and parts on hand that have not been damaged or substantially altered to the prejudice of the manufacturer while in the possession of the licensee. As to motorcycle or all-terrain vehicle dealers, the repurchase of parts shall be limited to those listed in the manufacturer's price book. The motorcycle or all-terrain vehicles and parts shall be repurchased at the cost to the licensee which shall include without limitation freight and advertising costs, less all allowances paid to the motorcycle or all-terrain vehicle dealer.

(b) At fair market value, each undamaged sign owned by the motorcycle or all-terrain vehicle dealer which bears a trademark or trade name used or claimed by the manufacturer, converter, distributor, or representative if the sign was purchased from or purchased at the

request of the manufacturer, distributor, or representative. Fair market value shall be no less than cost of acquisition of the sign by the motorcycle or all-terrain vehicle dealer.

(c) At fair market value, all special tools and service equipment owned by the motorcycle dealer or all-terrain vehicle dealer which were recommended in writing and designated as special tools and equipment and purchased from or purchased at the request of the manufacturer, converter, distributor, or representative, if the tools and equipment are in usable and good condition except for reasonable wear and tear. Fair market value shall be no less than cost of acquisition of special tools and service equipment by the motorcycle dealer or all-terrain vehicle dealer.

(2) The manufacturer, converter, distributor, or representative shall pay to the motorcycle or all-terrain vehicle dealer the costs of transporting, handling, packing, and loading of motorcycles or all-terrain vehicles, or parts, signs, tools, and equipment subject to repurchase.

(3) The manufacturer or converter shall make the required repurchase after the dealer terminates his franchise and within sixty days of the submission to it, by certified mail, return receipt requested, or commercial delivery service with verification of receipt, of a final inventory of motorcycles, all-terrain vehicles, and parts on hand.

B. Failure to make the repurchase without just cause shall subject the manufacturer or converter to a penalty of one and one-half percent per month, or fraction thereof, of the inventory value or returnable motorcycles or all-terrain vehicles, and parts, signs, special tools, and service equipment, payable to the dealer, as long as the repurchase is not made.

RS 32:1270.18 — Manufacturer termination of line-make; manufacturer bankruptcy; license; motorcycle or all-terrain vehicle franchise

n, cancellation, or nonrenewal of a licensee's franchise is the result of the termination, elimination, or cessation of a line-make by the manufacturer, distributor, or factory branch, whether by bankruptcy or otherwise, the license issued by the commission may remain in effect at the discretion of the commission pursuant to its rules.

RS 32:1270.19 — Motorcycle or all-terrain vehicle repairs

sumer with an itemized bill indicating repairs and services performed, parts replaced, or materials used, the total labor charge, and the identity of the mechanic, repairman, or supplier who performed the work. However, nothing in this Section shall prohibit a supplier of mechanical repairs and services from charging a service fee for the use of shop supplies such as rags, fender covers, small amounts of fluid, or other items which are not itemized, provided that such fee does not exceed five percent of the total invoice for mechanical repairs or thirty-five dollars, whichever is less.

RS 32:1270.20 — Unauthorized acts; recreational vehicles

hereof:

(a) To induce or coerce, or attempt to induce or coerce, any licensee:

(i) To order or accept delivery of any recreational vehicles, appliances, equipment, parts or accessories therefor, or any other commodity or commodities which shall not have been voluntarily ordered.

(ii) To order or accept delivery of any recreational vehicle with special features, appliances, accessories, or equipment not included in the list price of the recreational vehicle as publicly advertised.

(iii) To order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever.

(iv) To assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by law, unless done in connection with a settlement agreement to resolve a matter pending a commission hearing or pending litigation between a manufacturer, distributor, wholesaler, or factory branch, or officer, agent, or other

representative thereof.

(v) To enter into a franchise with a licensee or during the franchise term, use any written instrument, agreement, release, assignment, novation, estoppel, or waiver, to attempt to nullify or modify any provision of this Chapter, or to require any controversy between a recreational vehicle dealer and a manufacturer to be referred to any person or entity other than the commission, or duly constituted courts of this state or the United States, if such referral would be binding upon the recreational dealer. Such instruments are null and void, unless done in connection with a settlement agreement to resolve a matter pending a commission hearing or pending litigation.

(vi) To waive the right to a jury trial.

(vii) To participate in an advertising group or to participate monetarily in an advertising campaign or contest or to purchase any promotional materials, showroom, or other display decorations or materials at the expense of such recreational vehicle dealer.

(viii) To release, convey, or otherwise provide customer information, if to do so is unlawful or if the customer objects in writing. This does not include information that is necessary for the manufacturer to meet its obligations to the recreational vehicle dealer or consumers in regard to contractual responsibilities, recreational vehicle recalls, or other requirements imposed by state or federal law. The manufacturer is further prohibited from providing any consumer information received from the recreational vehicle dealer to any unaffiliated third party.

(ix) To pay the attorney fees of the manufacturer or distributor related to hearings and appeals brought under this Chapter.

(b) To refuse to deliver to any licensee having a franchise or contractual arrangement for the retail sale of recreational vehicles sold or distributed by such manufacturer, distributor, wholesaler, or factory branch, any recreational vehicle, publicly advertised for immediate delivery, within sixty days after such recreational vehicle dealer's order shall have been received.

(c) To threaten to cancel any franchise or any contractual agreement existing between such manufacturer, distributor, wholesaler, or factory branch and the recreational vehicle dealer for any reason.

(d) To unfairly, without just cause and due regard to the equities of such recreational vehicle dealer, cancel the franchise of any licensee. The nonrenewal of a franchise with such recreational vehicle dealer or his successor without just provocation or cause, or the refusal to approve a qualified transferee or qualified successor to the dealer-operator as provided for in the franchise agreement, shall be deemed a violation of this Paragraph and shall constitute an unfair cancellation, regardless of the terms or provisions of such franchise. However, at least ninety-days notice shall be given to the recreational vehicle dealer of any cancellation or nonrenewal of a franchise except for a cancellation arising out of the financial default of the recreational vehicle dealer or fraudulent activity of the recreational vehicle dealer principal which results in the conviction of a crime punishable by imprisonment.

(e) To refuse to extend to a licensee the privilege of determining the mode or manner of available transportation facility that such recreational vehicle dealer desires to be used or employed in making deliveries of recreational vehicles to him or it.

(f) To use any false or misleading advertisement in connection with his business as such manufacturer of recreational vehicles, distributor, wholesaler, or factory branch, or officer, agent, or other representative thereof.

(g) To delay, refuse, or fail to deliver recreational vehicles in reasonable quantities relative to the licensee's facilities and sales potential in the relevant market area. This Subparagraph shall not be valid, however, if such failure is caused by acts or causes beyond the control of the manufacturer, distributor, or other such party.

(h) To ship or sell recreational vehicles to a licensee prior to the licensee having been granted a license by the commission to sell such recreational vehicles.

(i) To unreasonably withhold consent to the sale, transfer, or exchange of the franchise to a qualified transferee capable of being licensed as a recreational vehicle dealer in this state, provided the transferee meets the criteria generally applied by the manufacturer in approving new recreational vehicle dealers and agrees to be bound by all the terms and conditions of the standard franchises.

(j) To fail to respond in writing to a written request for consent as specified in Subparagraph (i) of this Paragraph within sixty days of receipt of a written request on the forms, if any, generally utilized by the manufacturer or distributor for such purposes and containing the information required therein. Failure to respond shall be deemed to be consent to the

request.

(k)(i) To sell or offer to sell a new or unused recreational vehicle directly to a consumer except as provided in this Chapter, or to compete with a licensee in the same-line makes, models, or classifications operating under an agreement or franchise from the aforementioned manufacturer. A manufacturer shall not, however, be deemed to be competing when any one of the following conditions are met:

(aa) Operating a dealership temporarily for a reasonable period, not to exceed two years.

(bb) Operating a bona fide retail dealership which is for sale to any qualified independent person at a fair and reasonable price, not to exceed two years.

(cc) Operating in a bona fide relationship in which a person independent of a manufacturer has made a significant investment subject to loss in the dealership, and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions.

(ii) After any of the conditions have been met under Subitems (i)(aa) and (bb) of this Subparagraph, the commission shall allow the manufacturer to compete with licensees of the same-line makes, models, or classifications under an agreement or franchise from the manufacturer for longer than two years when, in the discretion of the commission, the best interest of the manufacturer, consuming public, and licensees are best served.

(l) To condition the renewal or extension of a franchise on a new recreational vehicle dealer's substantial renovation of the recreational vehicle dealer's place of business or on the construction, purchase, acquisition, or rental of a new place of business by the new recreational vehicle dealer, unless the manufacturer has advised the new recreational vehicle dealer in writing of its intent to impose such a condition within a reasonable time prior to the effective date of the proposed date of renewal or extension, but in no case less than one hundred eighty days, and provided the manufacturer demonstrates the need for such demand in view of the need to service the public and the economic conditions existing in the recreational vehicle industry at the time such action would be required of the new recreational vehicle dealer. As part of any such condition, the manufacturer shall agree, in writing, to supply the recreational vehicle dealer with an adequate supply and marketable model mix of recreational vehicles to meet the sales levels necessary to support the increased overhead incurred by the recreational vehicle dealer by reason of such renovation, construction, purchase, or rental of a new place of business.

(m) To fail to compensate its recreational vehicle dealers for the work and services they are required to perform in connection with the recreational vehicle dealer's delivery and preparation obligations according to the terms of compensation. The commission shall find the compensation to be reasonable or the manufacturer shall remedy any deficiencies.

(n) To fail to designate and provide to the commission in writing the community or territory assigned to a licensee.

(o) To unreasonably discriminate among competing, similarly situated, same-line make dealers in the sales of recreational vehicles, in the availability of such recreational vehicles, in the terms of incentive programs or sales promotion plans, or in other similar programs.

(p) To terminate, cancel, or refuse to continue any franchise agreement based upon the fact that the recreational vehicle dealer owns, has an investment in, participates in the management of, or holds a franchise agreement for the sale or service of another make or line of new recreational vehicles at a different dealership location, or intends to or has established another make or line of new recreational vehicles in the same dealership facilities of the manufacturer or distributor.

(q) To demand compliance with facilities requirements that include any requirements that a recreational vehicle dealer establish or maintain exclusive office, parts, service or body shop facilities, unless such requirements would be reasonable and justified by business considerations. The burden of proving that such requirements are reasonable and justified by business considerations is on the manufacturer. If the franchise agreement of the manufacturer or distributor requires the approval of the manufacturer or distributor for facility uses or modifications, the manufacturer or distributor shall approve or deny the request in writing within sixty days of receipt of such request.

(r) To use any subsidiary, affiliate, or any other controlled person or entity, or to employ the services of a third party, to accomplish what would otherwise be illegal conduct under this Chapter on the part of the manufacturer or distributor.

(s) To make a change in the area of responsibility described in the franchise agreement or sales and service agreement of a recreational vehicle dealer, without the franchisor or manufacturer giving the recreational vehicle dealer and the

commission no less than sixty days prior written notice by certified or registered mail.

(t) To induce or coerce, or attempt to induce or coerce, any recreational vehicle dealer to enter into any agreement with such manufacturer, distributor, wholesaler, distributor branch or factory branch or representative thereof, or to do any other act unfair to the recreational vehicle dealer.

(u)(i) To coerce or attempt to coerce any retail recreational vehicle dealer or prospective retail recreational vehicle dealer to offer to sell or sell any extended service contract or extended maintenance plan or gap product offered, sold, backed by, or sponsored by the manufacturer or distributor or affiliate or sell, assign, or transfer any retail installment sales contract or lease obtained by the dealer in connection with the sale or lease by him of recreational vehicles manufactured or sold by the manufacturer or distributor, to a specified finance company or class of finance companies, leasing company or class of leasing companies, or to any other specified persons by any of the following:

(aa) By any statement, promise, or threat that the manufacturer or distributor will in any manner benefit or injure the dealer, whether the statement, suggestion, threat, or promise is express or implied or made directly or indirectly.

(bb) By any act that will benefit or injure the dealer.

(cc) By any contract, or any express or implied offer of contract, made directly or indirectly to the dealer, for handling the recreational vehicle on the condition that the recreational vehicle dealer shall offer to sell or sell any extended service contract or extended maintenance plan offered, sold, backed by, or sponsored by the manufacturer or distributor or that the dealer sell, assign, or transfer his retail installment sales contract on or lease of the recreational vehicle, to a specified finance company or class of finance companies, leasing company or class of leasing companies, or to any other specified person.

(dd) Any such statements, threats, promises, acts, contracts, or offers of contracts, when their effect may be to lessen or eliminate competition.

(ii) Nothing contained in this Subparagraph shall prohibit a manufacturer or distributor from offering or providing incentive benefits or bonus programs to a retail recreational vehicle dealer or prospective retail recreational vehicle dealer who makes the voluntary decision to offer to sell or sell any extended service contract or extended maintenance plan offered, sold, backed, or sponsored by the manufacturer or distributor or to sell, assign, or transfer any retail installment sale or lease by him of recreational vehicles manufactured or sold by the manufacturer or distributor to a specified finance company or leasing company.

(2) For a recreational vehicle dealer or a recreational vehicle salesman:

(a) To require a purchaser of a recreational vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser; however, this prohibition shall not apply as to special features, appliances, accessories, or equipment which are permanently affixed to the recreational vehicle.

(b) To represent and sell as a new recreational vehicle any vehicle, the legal title of which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

(c) To use any false or misleading advertisement in connection with his business as such recreational vehicle dealer or recreational vehicle salesman.

(d) To sell or offer to sell makes, models, or classifications of new recreational vehicles for which no franchise and license to sell is held.

(e) Except as otherwise approved by the commission, to sell or offer to sell a recreational vehicle from an unlicensed location.

(f) To deliver to a prospective purchaser a new recreational vehicle on a sale conditioned on financing, i.e., a spot delivery, except on the following terms and conditions which shall be in writing and shall be a part of the conditional sales contract or other written notification signed by the purchaser:

(i) That if the sale is not concluded by the financing of the sale to the purchaser within twenty-five days of the delivery, the sale contract shall be null and void.

(ii) That the recreational vehicle being offered for trade-in by the purchaser shall not be sold by the recreational vehicle dealer until the conditional sale is complete.

(iii) That there shall be no charge to the purchaser should the conditional sale not be completed, including but not limited to mileage charges or charges to refurbish the recreational vehicle offered for trade-in. However, the purchaser shall be responsible for any and all damages to the recreational vehicle or other vehicles damaged by the fault of the purchaser and any and all liability incurred by the purchaser during the purchaser's custody of the recreational vehicle to the extent provided for in R.S. 22:1296.

(iv) That if the conditional sale is not completed, the recreational vehicle dealer shall immediately refund to the purchaser upon return of the recreational vehicle all sums placed with the dealership as a deposit or any other purpose associated with the attempted sale of the vehicle.

(v) That the prospective purchaser shall return the recreational vehicle to the dealership within forty-eight hours of notification by the recreational vehicle dealer that the conditional sale will not be completed. If the prospective purchaser does not return the recreational vehicle to the dealership within forty-eight hours of notification by the recreational vehicle dealer, an authorized agent of the recreational vehicle dealer shall have the right to recover the recreational vehicle without the necessity of judicial process, provided that such recovery can be accomplished without unauthorized entry into a closed dwelling, whether locked or unlocked, and without a breach of peace.

(g) To pay a fee to any person in return for the solicitation, procurement, or production by that person of prospective purchasers for new and used recreational vehicles, except to a recreational vehicle salesman licensed under the provisions of this Chapter.

(h) To fail to fully and completely explain each charge listed on a retail buyer's order or recreational vehicle invoice prior to the purchase of a recreational vehicle.

(i) When selling a recreational vehicle to a consumer, to assess any consumer services fees, which shall include fees for treating the interior upholstery of the recreational vehicle, oil changes, roadside assistance, dealer inspections, or any other service offered by the recreational vehicle dealer, without allowing the buyer to refuse such services and be exempt from payment for such services. The provisions of this Subparagraph shall not apply to dealer-added options or accessories which are permanently affixed to the recreational vehicle.

(j)(i) To fail to disclose to a purchaser in writing on the sales contract, buyer's order, or any other document that the recreational vehicle dealer may be participating in finance charges associated with the sale.

(ii) To participate in a finance charge that would result in a difference between the buy rate and the contract rate of more than three percentage points.

(iii) The provisions of this Subparagraph shall apply only to transactions subject to the Louisiana Motor Vehicle Sales Finance Act.

(3)(a) For any person or other licensee to modify a franchise during the term of the agreement or upon its renewal if the modification substantially and adversely affects the franchisee's rights, obligations, investment, or return on investment without giving a sixty-day written notice of the proposed modification to the licensee and the commission unless the modifications are required by law, court order, or the commission. Within the sixty-day notice period, the licensee may file with the commission a complaint for a determination whether there is good cause for permitting the proposed modification. The party seeking to modify or replace an agreement shall demonstrate by a preponderance of the evidence that there is good cause for the modification or replacement. The commission shall schedule a hearing within sixty days to decide the matter. Multiple complaints pertaining to the same proposed modifications shall be consolidated for hearing. The proposed modification may not take effect pending the determination of the matter.

(b) In making a determination of whether there is good cause for permitting a proposed modification, the commission may consider any relevant factor including:

(i) The reasons for the proposed modification.

(ii) Whether the proposed modification is applied to or affects all licensees in a nondiscriminating manner.

(iii) The degree to which the proposed modification will have a substantial and adverse effect upon the licensee's investment or return on investment.

(iv) Whether the proposed modification is in the public interest.

(v) The degree to which the proposed modification is necessary to the orderly and profitable distribution of recreational vehicles and other services by the licensee.

(vi) Whether the proposed modification is offset by other modifications beneficial to the licensee.

(c) The decision of the commission shall be in writing and shall contain findings of fact and a determination of whether there is good cause for permitting the proposed modification. The commission shall deliver copies of the decision to the parties personally or by registered mail.

(4) For any employee of a licensee while acting in the scope of his employment, to accept any payment, commission, fee, or compensation of any kind from any person other than the employing licensee, unless such payment is fully disclosed to and approved by the employing licensee.

RS 32:1270.21 — Indemnification of franchised recreational vehicle dealers

recreational vehicle dealers against any judgment for damages, including but not limited to court costs and reasonable attorney fees of the recreational vehicle dealer, arising out of complaints, claims, or lawsuits including but not limited to strict liability, negligence, misrepresentation, express or implied warranty, or rescission of sale to the extent that the judgment arises out of alleged defective or negligent manufacture, assembly, or design of recreational vehicles, parts, or accessories, or other functions by the manufacturer of converter, which are beyond the control of the recreational vehicle dealer.

RS 32:1270.22 — Payment to recreational vehicles dealers; penalties

representative thereof, to fail to pay a recreational vehicle dealer all monies due the recreational vehicle dealer, except manufacturer hold-back amounts, within thirty days of the date of completion of the transactions or submissions of the claims giving rise to the payments to the recreational vehicle dealers. Failure to make payments shall subject the manufacturer, distributor, wholesaler, factory branch, officer, agent, or other representative thereof, to a penalty of the one and one-half percent interest per month, or fraction thereof, until sums due the recreational vehicle dealer are fully paid.

RS 32:1270.23 — Warranty; compensation; audits of recreational vehicle dealer records

or officer, agent or other representative thereof, to fail to

adequately and fairly compensate its recreational vehicle dealers for labor, parts, and other expenses incurred by such dealer to perform under and comply with a manufacturer's or a distributor's warranty agreement.

(2) In no event shall any manufacturer or distributor pay its recreational vehicle dealers at a price or rate for warranty work that is less than that charged by the recreational vehicle dealer to the retail customers of the recreational vehicle dealer for nonwarranty work of like kind.

(3) Warranty work includes parts and labor performed.

(4) All claims made by the recreational vehicle dealer for compensation under this Subsection shall be paid within thirty days after approval and shall be approved or denied within thirty days after receipt. When any claim is denied, the recreational vehicle dealer shall be notified in writing of the grounds for denial.

(5) Notwithstanding any other laws to the contrary, the obligations in this Subsection may not be modified by contract.

B.(1) Notwithstanding the terms of any franchise agreement, warranty, and sales incentive, audits of recreational vehicle dealer records may be conducted by the manufacturer, distributor, or factory branch. Any audit for warranty parts or service compensation shall be for the twelve-month period immediately following the date of the payment of the claim by the manufacturer or distributor. However, a recreational vehicle dealer shall not be held liable by virtue of an audit for failure to retain parts for a period in excess of six months. Any audit for sales incentives, service incentives, rebates, or other forms of incentive compensation shall be only for the twelve-month period immediately following the date of the final payment to the recreational vehicle dealer under a promotion,

event, program, or activity. In no event shall the manufacturer, distributor, or factory branch fail to allow the recreational vehicle dealer to make corrections to the sales data in less than one hundred twenty days from the program period. Additionally, no penalty other than amounts advanced on a recreational vehicle reported incorrectly shall be due in connection with the audit. With respect to recreational vehicles sold during the time period subject to the audit, but submitted incorrectly to the manufacturer, distributor, or wholesale distributor branch or factory branch, the recreational vehicle dealer shall be charged back for the amount reported incorrectly and credited with the amount due, if anything, on the actual sale date.

(2) No claim which has been approved and paid may be charged back to the recreational vehicle dealer unless it can be shown that one of the following applies:

(a) The claim was false or fraudulent.

(b) The repairs were not properly made.

(c) The repairs were unnecessary to correct the defective condition under generally accepted standards of workmanship.

(d) The recreational vehicle dealer failed to reasonably substantiate the repair in accordance with reasonable written requirements of the manufacturer or distributor, if the recreational vehicle dealer was notified of the requirements prior to the time the claim arose and if the requirements were in effect at the time the claim arose.

(3) A manufacturer or distributor shall not deny a claim solely based on a recreational vehicle dealer's incidental failure to comply with a specific claim processing requirement, or a clerical error, or other administrative technicality.

(4) Limitations on warranty parts or service compensation, sales incentive audits, rebates, or other forms of incentive compensation, chargebacks for warranty parts or service compensation, and service incentives and chargebacks for sales compensation only shall not be effective in the case of intentionally false or fraudulent claims.

(5) It shall be deemed an unfair act pursuant to this Chapter to audit a recreational vehicle dealer more frequently than two sales-related and two service-related audits in a twelve-month period. Nothing in this Subsection shall limit a manufacturer's or distributor's ability to perform routine claim reviews in the normal course of business.

(6) No claim may be rejected as late if it has been submitted within sixty days of the date the repair order was completed.

RS 32:1270.24 — Recreational vehicle repairs

Indicating repairs and services performed, parts replaced, or materials used, the total labor charge, and the identity of the mechanic, repairman, or supplier who performed the work. However, nothing in this Section shall prohibit a supplier of mechanical repairs and services from charging a service fee for the use of shop supplies such as rags, fender covers, small amounts of fluid, or other items which are not itemized, provided that such fee does not exceed five percent of the total invoice for mechanical repairs or thirty-five dollars, whichever is less.

RS 32:1270.25 — Damage disclosure; recreational vehicles

damage or mechanical damage which the recreational vehicle has sustained that exceeds six percent of the manufacturer's wholesale price. Such notice shall be in writing and a copy thereof shall be delivered to the purchaser prior to or simultaneous with transfer of the recreational vehicle title.

B. Replacement of a new recreational vehicle's instrument panels, appliances, furniture, cabinetry, televisions, audio equipment, or similar residential components shall not be deemed "damage" pursuant to this Section if such items are

replaced with original manufacturers' parts and materials.

C. This Section shall apply to all instances of vehicular body or mechanical damage to recreational vehicles and to all actions involving such damage, notwithstanding the application of other codal, statutory, or regulatory provisions, including but not limited to Civil Code Articles 2520 et seq.

RS 32:1270.26 — Notice regarding recalls; recreational vehicles

with the following notice: "A new recreational vehicle may have been subject to a National Highway Traffic Safety Administration required recall which would be repaired in accordance with manufacturer standards approved by the National Highway Traffic Safety Administration. If such a repair is a concern before you purchase, please ask for a copy of the recall notice, if applicable, to the recreational vehicle being sold." This notice shall be included on the buyer's order in a box and in bold print which is signed by the buyer and the seller or his representative next to the box. If the buyer requests the recall notice, the recall notice shall be included in the sales transaction. If the selling recreational vehicle dealer performed the repair, the documents supporting the repair shall also be included in the sales transaction.

RS 32:1270.27 — Sale of water-damaged recreational vehicles

al vehicle in writing of the extent of any water damage from flooding which occurred to the recreational vehicle prior to the transaction.

B. If a sale, transfer, or conveyance of a new or used recreational vehicle occurs in violation of Subsection A of this Section, the person receiving ownership and title to the recreational vehicle who is not otherwise aware of the damage at the time of the transaction may bring an action to set aside the transaction within one year from the date of the transaction and receive all monies or other property given as consideration for the vehicle less a reasonable assessment for miles driven.

C. For the purposes of this Section, a "water-damaged vehicle" means any recreational vehicle whose power train, computer, or electrical system has been damaged by flooding.

RS 32:1270.28 — Succession; right of first refusal; recreational vehicle dealer

designated successor to succeed in the ownership interest of the recreational vehicle dealer in the dealership upon the death or incapacity of the recreational vehicle dealer.

(2) Unless good cause exists for refusal to honor the succession on the part of the manufacturer or distributor, any designated successor of a deceased or incapacitated recreational vehicle dealer of a dealership may succeed to the ownership of the dealership under the existing franchise if:

(a) The designated successor gives the manufacturer or distributor written notice of his intention to succeed to the ownership of the recreational vehicle dealer within sixty days of the recreational vehicle dealer's death or incapacity.

(b) The designated successor agrees to be bound by all the terms and conditions of the franchise.

(3) The manufacturer or distributor may request, and the designated successor shall provide, promptly upon such request, personal and financial data reasonably necessary to determine whether the succession should be honored.

(4) If a manufacturer or distributor believes that good cause exists for refusing to honor the succession of a deceased or incapacitated recreational vehicle dealer, the manufacturer or distributor may, not more than sixty days following receipt of notice of the designated successor's intent to succeed and receipt of such personal or financial data, serve upon the designated successor notice of its refusal to honor the succession and of its intent to discontinue the existing franchise with the dealer not earlier than six months from the date such notice is served.

(5) The notice must state the specific grounds for the refusal to honor the succession.

(6) If notice of refusal and discontinuance is not timely served upon the designated successor, the franchise shall continue in effect subject to termination only as otherwise permitted by this Chapter.

(7) In determining whether good cause for the refusal to honor the succession exists, the manufacturer or distributor has the burden of proving that the designated successor is not of good moral character or does not otherwise meet the manufacturer's or distributor's reasonable standards as a franchisee.

(8) If a manufacturer or distributor refuses to honor the succession to the ownership interest of a deceased or incapacitated owner for good cause, then and in such event:

(a) The manufacturer or distributor shall allow the designated successor a reasonable period of time which shall not be less than six months in which to consummate a sale of the dealership. Any such sale shall be subject to R.S. 32:1270.20(1)(d).

(b) Upon termination of the franchise pursuant to such refusal, the provisions of R.S. 32:1270.29 shall apply.

B. In the event of a proposed sale or transfer of a recreational vehicle dealership and if the franchise agreement has a right of first refusal in favor of the manufacturer or distributor, then, notwithstanding the terms of the franchise agreement, the manufacturer or distributor shall be permitted to exercise a right of first refusal to acquire the recreational vehicle dealer's assets or ownership if all of the following requirements are met:

(1) In order to exercise its right of first refusal, the manufacturer or distributor shall notify the recreational vehicle dealer in writing within sixty days of his receipt of the completed proposal for the proposed sale or transfer and all related agreements.

(2) The applicability of R.S. 32:1270.20(1)(l) shall not be expanded or changed.

(3) The exercise of the right of first refusal will result in the recreational vehicle dealer receiving the same or greater consideration as he has contracted to receive in connection with the proposed change of ownership or transfer.

(4) The proposed sale or transfer of the dealership's assets does not involve the transfer or sale to a member or members of the family of one or more recreational vehicle dealers, or to a qualified manager with at least two years management experience at the dealership of one or more of these recreational vehicle dealers, or to a partnership or corporation controlled by such persons.

(5)(a) The manufacturer or distributor agrees to pay the reasonable expenses, including attorney fees which do not exceed the usual, customary, and reasonable fees charged for similar work done for other clients, incurred by the proposed owner or transferee prior to the manufacturer's or distributor's exercise of its right of first refusal in negotiating and implementing the contract for the proposed sale or transfer of the dealership or dealership assets. Such expenses and attorney fees shall be paid to the proposed new owner or transferee at the time of closing of the sale or transfer for which the manufacturer or distributor exercised its right of first refusal.

(b) No payment of such expenses and attorney fees shall be required if the new owner or transferee has not submitted or caused to be submitted an accounting of those expenses within thirty days of the recreational vehicle dealer's receipt of the manufacturer's or distributor's written request for such an accounting. A manufacturer or distributor may request such accounting before exercising his right of first refusal.

(6) The recreational vehicle dealer shall not have any liability to any person as a result of a manufacturer's exercising its right of first refusal and the manufacturer or distributor shall assume the defense of the selling dealer for any claim by the proposed owner or transferee arising from the exercise of the right of first refusal.

RS 32:1270.29 — Requirements upon termination; penalty; indemnity; recreational vehicles

ases to sell a particular recreational vehicle, and after notice

to the manufacturer, converter, distributor, or representative by certified mail or commercial delivery service with verification of receipt, within thirty days of the receipt of the notice by the manufacturer, converter, distributor, or representative, the manufacturer, converter, distributor, or representative shall repurchase:

(a) All new recreational vehicles of the current and last prior model year delivered to the licensee and parts limited to those listed in the manufacturer's price book. The recreational vehicles and parts shall be repurchased at the cost to the licensee which shall include without limitation freight and advertising costs, less all allowances paid to the recreational vehicle dealer.

(b) At fair market value, each undamaged sign owned by the recreational vehicle dealer which bears a trademark or trade name used or claimed by the manufacturer, distributor, or representative if the sign was purchased from or purchased at the request of the manufacturer, distributor, or representative. Fair market value shall be no less than cost

of acquisition of the sign by the recreational vehicle dealer.

(c) At fair market value, all special tools and service equipment owned by the recreational vehicle dealer, which were recommended in writing and designated as special tools and equipment and purchased from or purchased at the request of the manufacturer, converter, distributor, or representative, if the tools and equipment are in usable and good condition except for reasonable wear and tear. Fair market value shall be no less than the cost of acquisition of special tools and automotive service equipment by the recreational vehicle dealer.

(2) The manufacturer, converter, distributor, or representative shall pay to the recreational vehicle dealer the costs of transporting, handling, packing, and loading of recreational vehicles, or parts, signs, tools, and equipment subject to repurchase.

(3) The manufacturer or converter shall make the required repurchase after the recreational vehicle dealer terminates his franchise and within sixty days of the submission to it, by certified mail, return receipt requested, or commercial delivery service with verification of receipt, of a final inventory of recreational vehicles and parts on hand.

B. Failure to make the repurchase without just cause shall subject the manufacturer or converter to a penalty of one and one-half percent per month, or fraction thereof, of the inventory value or returnable recreational vehicles, and parts, signs, special tools, and service equipment, payable to the dealer, as long as the repurchase is not made.

C.(1) Upon the involuntary termination, nonrenewal, or cancellation of any franchise by the manufacturer or converter, except for termination, nonrenewal, or cancellation resulting from a felony conviction, notwithstanding the terms of any franchise, whether entered into before or after the enactment of this Chapter or any of its provisions, the new recreational vehicle dealer shall be allowed fair and reasonable compensation by the manufacturer or converter as agreed by the parties, or lacking agreement, as determined by the commission, for the dealership facilities if the facilities were required to be purchased or constructed as a precondition to obtaining the franchise or to its renewal; provided that if such facilities were leased and the lease was required as a precondition to obtaining the franchise or to its renewal, then the manufacturer shall be liable for one year's payment of the rent or the remainder of the term of the lease, whichever is less.

(2) Payment under this Section shall entitle the manufacturers, converters, or distributors to possession and use of the facility.

(3) As used in this Section, "manufacturer" shall include a manufacturer, a converter, a distributor, a factory branch, distributor branch, or other subsidiary thereof.

(4) The obligation of the manufacturer or converter to purchase a dealership facility, pursuant to this Section, is equally applicable if an entity or person affiliated with the dealer is the owner or lessor of the facility.

RS 32:1270.30 — Recreational vehicle manufacturer termination of line-make; manufacturer
cancellation, or nonrenewal of a licensee's franchise is the result of the termination, elimination, or cessation of a line-make by the manufacturer, distributor, or factory branch, whether by bankruptcy or otherwise, the license issued by the commission may remain in effect at the discretion of the commission pursuant to its rules.

RS 32:1270.30.1 — Establishment of new recreational vehicle dealerships or relocations; protests;

ense which would add a new recreational vehicle dealership or authorize an existing recreational vehicle dealership to deal in a new or additional make of a recreational vehicle, which would establish an additional franchise in that area, or which would authorize an existing recreational vehicle dealership to deal in additional makes, models, or classifications of recreational vehicles designated in the franchise or any addendum thereto, it shall first notify the existing licensed recreational vehicle dealership or dealerships selling the same line makes, models, or classifications within the community or territory in which the applicant proposes to conduct business. Any same line makes, models, or classifications dealership whose assigned community or territory includes the location of the proposed new recreational vehicle dealership may object to the granting of the license.

(2) The reopening or replacement of a dealership in a location where the same line makes, models, or classifications has been sold by a licensed recreational vehicle dealer within the previous two years shall not be considered an additional recreational vehicle dealer under Paragraph (1) of this Subsection.

B.(1) Whenever the commission receives an application for a recreational vehicle dealer's license which would relocate an existing recreational vehicle dealership, including the transfer of a franchise and relocation to an existing recreational vehicle dealership, it shall first notify the existing licensed recreational vehicle dealership or dealerships selling the same line makes, models, or classifications within the community or territory in which the applicant proposes to conduct business. The existing same line makes, models, or classifications dealership or dealerships shall have the right to object to the granting of the license only if the proposed relocation is within a certain radius of its facility. The radius shall be two hundred miles for a dealership selling motor homes and one hundred miles for a dealership selling towable recreational vehicles. However, without regard to distance, whenever the commission receives an application for the relocation of a recreational vehicle dealership which would add an additional franchise to an existing same line makes, models, or classifications in a dealership's community or territory, the affected dealership shall have the right to object.

(2) Whenever the commission receives a protest pursuant to the provisions of Paragraph (1) of this Subsection, the applicant and the manufacturer or distributor shall show, by a preponderance of the evidence, that the existing same line makes, models, or classifications recreational vehicle dealership or dealerships will not be substantially harmed by locating the dealership within the area. Notwithstanding the provisions of R.S. 32:1251 to the contrary, the commission shall consider the financial impact on both the applicant and the existing dealership or dealerships.

C. The objection shall be in writing and shall be received by the commission within a thirty-day period after receipt of the notice. The thirty-day objection period shall be waived upon written notification to the commission from all licensees, who are entitled to object, that the licensees have no objections to the proposed change or addition for which the notice of intent was issued. If timely objection is lodged, and prior to the issuance of the license, the commission shall hold a hearing within thirty days after receipt of the objection, or

forty-five days after the request is made for the three-member panel, and issue its decision within ninety days after date of the hearing. Notice of hearing, and an opportunity to participate therein, shall be given to the manufacturer or distributor, to the applicant for the license as a recreational vehicle dealer, and to the protesting dealership or dealerships. The absence of a timely protest shall not prevent the commission from considering the effect of the issuance of a license on other recreational vehicle dealerships, located either within or outside the community or territory as part of its determination of whether or not the license sought should be issued.

D.(1) Whenever the commission receives a protest pursuant to the provisions of this Section, the commission shall consider the following in determining whether there is good cause to issue a license:

- (a) Whether the community or territory can support an additional dealership.
- (b) Notwithstanding the provisions of R.S. 32:1251 to the contrary, the financial impact on both the applicant and the existing dealership or dealerships.
- (c) Whether the existing recreational vehicle dealerships of the same line makes, models, or classifications in the dealership's community or territory are providing adequate representation and convenient consumer care for the recreational vehicles of the same line makes, models, or classifications located within that area.
- (d) Whether the issuance of the license would increase competition or be in the public interest, or both.

(2) The applicant and manufacturer or distributor shall have the burden of proof in demonstrating good cause by a preponderance of the evidence.

E. The provisions of this Section shall not apply to any dealership which has a validly binding dealer agreement with a manufacturer or distributor as of August 1, 2025, including any future, uninterrupted renewals thereof, that authorizes the sale of the same line makes, models, or classifications of recreational vehicles within a specified territory that would otherwise violate these provisions.

F. The provisions of this Section shall apply only to recreational vehicles as defined in R.S. 32:1252 and shall not apply to any other recreational products.

RS 32:1270.31 — Short title

ence any technical difficulties navigating this website,

RS 32:1270.32 — Definitions

icates a different meaning:

- (1) "Collateral costs" means sales tax, license fees, registration fees, and any similar government charges.
- (2) "Commission" means the Louisiana Motor Vehicle Commission.
- (3) "Consumer" means:
 - (a) The purchaser, other than for purposes of a resale, of a new recreational vehicle normally used for personal, family, or household purposes and subject to a manufacturer's express warranty.
 - (b) A person, other than for purposes of a resale, to whom a recreational vehicle is transferred during the term of an express warranty applicable to the recreational vehicle.

- (c) Any other person entitled to enforce the recreational vehicle warranty.
- (4) "Dealer" means a person who holds a license from the commission authorized by the manufacturer to service the items in a recreational vehicle warranted by the manufacturer, who is actively engaged in the business of buying, selling, or exchanging new recreational vehicles at retail, and who has an established place of business.
- (5) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles recreational vehicles or the chassis for recreational vehicles.
- (6) "Manufacturer's express warranty" and "warranty" mean the written warranty issued by the manufacturer.
- (7) "Nonconformity" means any specific or generic defect or condition which substantially impairs the use, market value, or both of a new recreational vehicle.
- (8) "Out of service" means the days a recreational vehicle is not able to be used but does not include routine maintenance days.
- (9) "Recreational vehicle" means a motorized or towable vehicle, sold in this state, that provides temporary living quarters for travel, recreation, and camping. For purposes of this Part, a "recreational vehicle" includes a motor home, a travel trailer, a fifth-wheel travel trailer, a folding camper trailer, a slide-in truck camper, and a park model trailer.

RS 32:1270.33 — Commission; powers and duties; nonconformity notices; hearings; records

arry out the provisions and objectives of this Part and to adopt rules, regulations, and forms in accordance with the Administrative Procedure Act to accomplish the purposes of this Part. The enumeration of any power or authority in this Section shall not be construed to deny, impair, disparage, or limit any other power or authority of the commission.

B. The powers and duties of the commission shall include but are not limited to the following:

- (1) Receive complaints of a recreational vehicle nonconformity to warranty from consumers.
- (2) Keep records of consumer complaints of a nonconformity related to recreational vehicle warranty defects.
- (3) Notwithstanding the provisions of R.S. 32:1253(A)(3)(b), schedule hearings on consumer complaints of a nonconformity before the commission's three appointed members pursuant to R.S. 32:1253(A)(3)(a).

C. The commission may collect costs to defray the expense of administering the requirements of this Part as authorized by R.S. 32:1260.

RS 32:1270.34 — Manufacturer's duty to repair; nonconformity

nufacturer, or any of its

authorized recreational vehicle dealers, and makes the recreational vehicle available for repair before the expiration of the warranty, or not later than one year after the date of original delivery of the recreational vehicle to the consumer, the manufacturer, its agent, or its authorized dealer shall make repairs that are necessary to conform the vehicle to the manufacturer's express warranty, notwithstanding the fact that the repairs are made after the

expiration of the warranty term or the one-year period.

RS 32:1270.35 — Express warranties; time limit to conform

ess warranty if the vehicle

is out of service by reason of repair for a cumulative total of ninety or more calendar days, or the same nonconformity has been subject to repair four or more times by the manufacturer, its agent, or its authorized dealer, within the warranty term, or not later than one year from the date of original delivery of the new recreational vehicle to the consumer.

(2)(a) Notwithstanding the provisions of Paragraph (1) of this Subsection, the consumer shall provide written notification of the need to repair the nonconformity to the manufacturer and the commission, and either of the following:

(i) Evidence of a cumulative total of at least ninety days of the recreational vehicle being out of service within the warranty term.

(ii) Evidence that the same nonconformity has been subject to repair four or more times by the manufacturer, its agent, or its authorized dealer, within the warranty term, or not later than a period of one year from the date of original delivery of the new recreational vehicle to the consumer.

(b) The manufacturer shall respond to the consumer not later than ten business days after receipt of the consumer's written notification of a nonconformity as to when and where the recreational vehicle may be delivered for a final repair attempt. The repair facility shall be one that is authorized by the manufacturer to perform the necessary warranty work.

(c) The repair facility shall have ten business days from the date of delivery of the recreational vehicle to the facility to complete repairs using replacement parts and thirty calendar days from the date of delivery of the recreational vehicle to the facility to complete structural repairs to conform the recreational vehicle to the applicable warranty. The time periods provided in this Paragraph may be extended only if the consumer authorizes the extension in writing.

(3) If a manufacturer fails to respond to the consumer or to perform the repairs within the time periods provided in Paragraph (2) of this Subsection, the manufacturer shall be considered to have waived his rights to a final attempt to cure the nonconformity.

B. The duration of an express warranty shall be extended by any period of time during which repair services are not available to the consumer because of war, pandemic, invasion, strike, fire, flood, or natural disaster.

C. The provisions of Subsection A of this Section shall be suspended for any period of time during which repair services cannot be performed by the manufacturer, its agents, or authorized dealer, because of war, pandemic, invasion, strike, fire, flood, or natural disaster.

RS 32:1270.36 — Recreational vehicle replacement or refund

1270.35, the manufacturer shall

either:

(1) Replace the recreational vehicle with a comparable new recreational vehicle.

(2) At the manufacturer's option, accept return of the recreational vehicle and refund the full purchase price, and any amounts paid by the consumer at the point of sale, and all collateral costs, less a reasonable allowance for use by the consumer, or any holder of a

perfected security interest in the recreational vehicle, as their interest may appear, if the transaction was a sale. Refunds shall be made to the consumer and lienholder of record, if any, as their interests may appear.

B. A reasonable allowance for use by the consumer shall be determined by the commission and shall be that amount directly attributable to use by the consumer prior to his first written notice of a nonconformity to the manufacturer, agent, or dealer, and during any subsequent period when the vehicle was not out of service by reason of repair.

C. The consumer shall have no more than one hundred eighty days after the end of the express warranty term to file a complaint with the manufacturer and the commission to force compliance with the provisions of this Section.

RS 32:1270.38 — Transfer of title; time limitation

subject to the

nonconformity to the manufacturer together with the certificate of title with all endorsements necessary to transfer title to the manufacturer. The manufacturer shall provide the consumer with a comparable new recreational vehicle or refund no later than thirty days after receipt of an offer to transfer title in compliance with this Section by the consumer, or no later than thirty days after a decision by the commission.

RS 32:1270.39 — Mandatory disclosure of a nonconformity to warranty by sellers

cle, previously returned to a manufacturer for

nonconformity to its warranty pursuant to the requirements of this Part, the manufacturer shall execute an instrument in writing on a form prescribed by the commission setting forth the following information in ten point, all capital type, and deliver to the buyer:

"IMPORTANT: THIS RECREATIONAL VEHICLE WAS RETURNED TO THE MANUFACTURER OR DEALER BECAUSE IT DID NOT CONFORM TO ITS WARRANTY AND THE DEFECT OR CONDITION WAS NOT FIXED WITHIN THE TIME PROVIDED BY LOUISIANA LAW."

(2) Notice that a recreational vehicle was returned to the manufacturer because it did not conform to its warranty shall also be conspicuously printed on the recreational vehicle's certificate of title.

B. The failure of a manufacturer to deliver the instrument required by this Section shall constitute a violation of this Part and is punishable by a fine of not less than five hundred dollars nor more than one thousand dollars for each violation.

RS 32:1270.40 — Notification of nonconformity remedy; dealer responsibility

of the remedy for a nonconformity defect as provided

in this Part.

RS 32:1271 — Short title

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RS 32:1272 — Definitions

d by the warrantor to be responsible for the administration of vehicle protection product warranties.

(2) "Commission" means the Louisiana Motor Vehicle Commission.

(3) "Executive director" means the executive director of the Louisiana Motor Vehicle Commission.

(4) "Incidental costs" means expenses specified in the warranty incurred by the warranty holder related to the failure of the vehicle protection product to perform as provided in the warranty. Incidental costs may include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees.

(5) "Vehicle mechanical breakdown insurance policy" means a contract or agreement as defined pursuant to R.S. 22:361(7).

(6) "Vehicle protection product" means a vehicle protection device, system, or service that is:

- (i) Installed on or applied to a vehicle.
- (ii) Designed to prevent loss or damage to a vehicle from a specific cause.
- (iii) Includes a written warranty.

For purposes of this Chapter vehicle protection product shall include, without limitation, alarm systems, body part marking products, steering locks, window etch products, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio, and satellite tracking devices.

(7) "Vehicle protection product warrantor" or "warrantor" means a person who is contractually obligated to the warranty holder under the terms of the vehicle protection product warranty agreement. Warrantor does not include an authorized insurer providing a warranty reimbursement insurance policy.

(8) "Vehicle protection product warranty" or "warranty" means a written agreement by a warrantor that provides if the vehicle protection product fails to prevent loss or damage to a vehicle from a specific cause, that the warrantor will pay to or on behalf of the warranty holder specified incidental costs as a result of the failure of the vehicle protection product to perform pursuant to the terms of the warranty.

(9) "Warranty holder" means a person who purchases a vehicle protection product or who is a permitted transferee.

(10) "Warranty reimbursement insurance policy" means a policy of insurance that is issued to the vehicle protection product warrantor to provide reimbursement to the warrantor or to pay on behalf of the warrantor all covered contractual obligations incurred by the warrantor under the terms and conditions of the insured vehicle protection product warranties issued by the warrantor.

RS 32:1273 — Scope and exemptions

Vehicle protection product warrantors and related vehicle protection product sellers and warranty administrators complying with this Chapter are not required to comply with and are not subject to any other provision of the Louisiana Insurance Code.

C.(1) Vehicle mechanical breakdown insurance policy providers who do not sell vehicle protection products are not subject to the requirements of this Chapter.

(2) Sales of vehicle protection products are exempt from the requirements of the Louisiana Insurance Code.

D. Warranties, indemnity agreements, and guarantees that are not provided as a part of a vehicle protection product are not subject to the provisions of this Chapter.

RS 32:1274 — License and filing requirements; licensing fees

on a form prescribed by the executive director.

B. Warrantor registration records shall be filed annually and shall be updated within thirty days of any change. The registration records shall contain the following information:

- (1) The warrantor's name, any fictitious names under which the warrantor does business in the state, principal office address, and telephone number.
- (2) The name and address of the warrantor's agent for service of process in the state if other than the warrantor.
- (3) The names of the warrantor's executive officer or officers directly responsible for the warrantor's vehicle protection product business.
- (4) The name, address, and telephone number of any administrators designated by the warrantor to be responsible for the administration of vehicle protection product warranties in this state.

(5) A copy of the warranty reimbursement insurance policy or policies or other financial information required by R.S. 32:1275.

(6) A copy of each warranty the warrantor proposes to use in this state.

(7) A statement indicating under which provision of R.S. 32:1275 the warrantor qualifies to do business in this state as a warrantor.

C. If a registrant fails to register by the renewal deadline, the executive director shall give him written notice of the failure and the registrant will have thirty days from mailing of the notice to complete the renewal of his registration before he is suspended from being registered in this state.

D. An administrator or person who sells or solicits a sale of a vehicle protection product but who is not a warrantor shall not be required to register as a warrantor or be licensed under the insurance laws of this state to sell vehicle protection products.

E.(1) The licensing fee for a warrantor for each calendar year or part thereof shall not exceed five hundred dollars as fixed by the commission.

(2) All licensing fees collected under the provisions of this Section shall be paid to the commission, shall be nonrefundable, and shall be used for the administration of this Chapter by the commission.

(3) Upon approval of an application and the payment of a fee, the commission shall issue a license to the applicant to engage in business as a warrantor under and in accordance with the provisions of Chapter 6 of this Title and this Chapter for a period which shall expire the last day of December following the date of issuance. Such license shall not be transferable or assignable.

RS 32:1275 — Financial responsibility

ance under the warranty. No other financial security requirements or financial standards for warrantors shall be required.

(1) The vehicle protection product warrantor is insured under a warranty reimbursement insurance policy issued by an insurer authorized to do business in this state which provides that:

(a) The insurer will pay to, or on behalf of, the warrantor one hundred percent of all sums that the warrantor is legally obligated to pay according to the warrantor's contractual obligations under the warrantor's vehicle protection product warranty.

(b) A true and correct copy of the warranty reimbursement insurance policy has been filed with the executive director by the warrantor.

(c) The policy contains the provision required in R.S. 32:1276.

(2)(a) The vehicle protection product warrantor, or its parent company in accordance with this Paragraph, maintains a net worth or stockholders' equity of fifty million dollars.

(b) The warrantor provides the executive director with a copy of the warrantor's or the warrantor's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission within the last calendar year or, if the warrantor does not file with the Securities and Exchange Commission, a copy of the warrantor's or the warrantor's parent company's audited financial statements that shows a net worth of the warrantor or its parent company of at least fifty million dollars. If the warrantor's parent company's Form 10-K, Form 20-F, or audited financial statements are filed to meet the warrantor's financial stability requirement, then the parent company shall agree to guarantee the obligations of the warrantor relating to warranties issued by the warrantor in this state. The private financial information filed under this Paragraph shall be confidential as a trade secret of the entity filing the information and not subject to public disclosure.

RS 32:1276 — Warranty reimbursement policy requirements

The policy states that the issuer of the policy will reimburse or pay on behalf of the vehicle protection product warrantor all covered sums which the warrantor is legally obligated to pay or will provide all the services that the warrantor is legally obligated to perform according to the warrantor's contractual obligations under the provisions of the insured warranties issued by the warrantor.

(2) The policy states that in the event payment is due under the terms of the warranty, and such payment is not provided by the warrantor within sixty days after proof of loss has been filed according to the terms of the warranty by the warranty holder, the warranty holder may file directly with the warranty reimbursement insurance company for reimbursement.

(3) The policy provides that a warranty reimbursement insurance company that insures a warranty shall be deemed to have received payment of the premium if the warranty holder paid for the vehicle protection product and the insurer's liability under the policy shall not be reduced or relieved by a failure of the warrantor, for any reason, to report the issuance of a warranty to the insurer.

(4) The policy has the following provisions regarding cancellation of the policy:

(a) The issuer of a reimbursement insurance policy shall not cancel such policy until a notice of cancellation in writing has been mailed or delivered to the executive director and each insured warrantor.

(b) The cancellation of a reimbursement insurance policy shall not reduce the issuer's responsibility for vehicle protection products sold prior to the date of cancellation.

(c) In the event an insurer cancels a policy that a warrantor has filed with the executive director, the warrantor shall do either of the following:

(i) File a copy of a new policy with the executive director, before the termination of the prior policy, providing no lapse in coverage following the termination of the prior policy.

(ii) Discontinue offering warranties as of the termination date of the policy until a new policy becomes effective and is accepted by the executive director.

(5) Other provisions and conditions the commission may adopt and promulgate by rule.

RS 32:1277 — Disclosure to warranty holder

warrantor to the warranty holder are guaranteed under a warranty reimbursement insurance policy" if the warrantor elects to meet its financial responsibility obligations under R.S. 32:1275(1), or states "The obligations of the warrantor under this warranty are backed by the full faith and credit of the warrantor" if the warrantor elects to meet its financial responsibility obligations under R.S. 32:1275(2).

(2) States that in the event a warranty holder must make a claim against a party other than the warranty reimbursement insurance policy issuer, the warranty holder is entitled to make a direct claim against the insurer upon the failure of the warrantor to pay any claim or meet any obligation under the terms of the warranty within sixty days after proof of loss has been filed with the warrantor, if the warrantor elects to meet its financial responsibility obligations under R.S. 32:1275(1).

(3) States the name and address of the issuer of the warranty reimbursement insurance policy, and this information need not be preprinted on the warranty form, but may be added to or stamped on the warranty, if the warrantor elects to meet its financial responsibility obligations under R.S. 32:1275(1).

(4) Identifies the warrantor, the seller, and the warranty holder.

(5) Sets forth the total purchase price and the terms under which it is to be paid, however, the purchase price is not required to be preprinted on the vehicle protection product warranty and may be negotiated with the consumer at the time of sale.

(6) Sets forth the procedure for making a claim, including a telephone number.

(7) Specifies the payments or performance to be provided under the warranty including payments for incidental costs, the manner of calculation or determination of payments or performance, and any limitations, exceptions or exclusions.

(8) Sets forth all of the obligations and duties of the warranty holder such as the duty to protect against any further damage to the vehicle, the obligation to notify the warrantor in advance of any repair, or other similar requirements, if any.

(9) Sets forth any terms, restrictions, or conditions governing transferability and cancellation of the warranty, if any.

(10) Contains a disclosure that reads substantially as follows: "This agreement is a product warranty and is not insurance."

B. Incidental costs may be reimbursed under the provisions of the warranty in either a fixed amount specified in the warranty or sales agreement or by the use of a formula itemizing specific incidental costs incurred by the warranty holder.

RS 32:1278 — Prohibited acts

rety", "mutual", or any other words descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of any insurance or surety corporation, or any other vehicle protection product warrantor. A warrantor may use the term "guaranty" or similar word in the warrantor's name.

B. A vehicle protection product seller or warrantor may not require as a condition of financing that a retail purchaser of a motor vehicle purchase a vehicle protection product.

RS 32:1279 — Record keeping

warrantor's accounts, books, and records shall include:

- (1) Copies of all vehicle protection product warranties.
- (2) The name and address of each warranty holder.
- (3) The dates, amounts, and descriptions of all receipts, claims, and expenditures.

C. A vehicle protection product warrantor shall retain all required accounts, books, and records pertaining to each warranty holder for at least two years after the specified period of coverage has expired. A warrantor discontinuing business in this state shall maintain its records until it furnishes the executive director satisfactory proof that it has discharged all obligations to warranty holders in this state.

D. Vehicle protection product warrantors shall make all accounts, books, and records concerning transactions regulated under this Chapter available to the executive director for examination.

RS 32:1280 — Enforcement; examination

request of the executive director, a warrantor shall make available to the executive director all accounts, books, and records concerning vehicle protection products sold by the warrantor that are necessary to enable the executive director to reasonably determine compliance or noncompliance with this Chapter.

B. The executive director may take action that is necessary or appropriate to enforce the provisions of this Chapter and the executive director's rules and orders and to protect warranty holders in this state. If a warrantor engages in a pattern or practice of conduct that violates this Chapter and that the executive director reasonably believes threatens to render the warrantor insolvent or cause irreparable loss or injury to the property or business of any person or company located in this state, the executive director may take such enforcement action, including without limitation, such orders and fines as are authorized in Chapter 6 of this Title.

RS 32:1281 — Rulemaking power

ude disclosures for the benefit of the warranty holder, record keeping, and procedures for public complaints. Such rules and regulations shall also include the conditions under which surplus lines insurers may be rejected for the purpose of underwriting vehicle protection product warranty agreements.

RS 32:1282 — Applicability

1, 2008, shall not be admissible in any court proceeding, administrative proceeding, arbitration, or alternative dispute resolution proceeding and may not otherwise be used to prove that the action of any person or the affected vehicle protection product was unlawful or otherwise improper.

RS 32:1301 — Vehicles without required equipment or in unsafe condition

e trailer, or any combination thereof, unless the equipment upon any such vehicle is in good working order and adjustment as required in this Chapter and the vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon the highway. Every motor vehicle, low-speed vehicle, trailer, semitrailer, and pole trailer registered in this state shall bear a valid safety inspection certificate issued in the state of Louisiana, except as otherwise provided by this Chapter.

RS 32:1302 — Inspection by officers of the department

any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, or that its equipment is not in proper adjustment or repair, require the driver of such vehicle to stop and submit such vehicle to an inspection and such test with reference thereto as may be appropriate.

B. In the event such vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment the officer shall give a written notice to the driver and shall send a copy to the department. Said notice shall require that such vehicle be placed in safe condition and its equipment in proper repair and adjustment specifying the particulars with reference thereto and that a certificate of inspection and approval be obtained within 5 days.

RS 32:1303 — Owners and drivers to comply with inspection laws

d officer or employee of the department.

B. Every owner or driver, upon receiving a notice as provided in R.S. 32:1302 shall comply therewith and shall within 5 days secure an official certificate of inspection and approval which shall be issued in duplicate, one copy to be retained by the owner or driver and the other copy to be forwarded to the department. In lieu of compliance with this Sub-section the vehicle shall not be operated, except as provided in Sub-section C of this Section.

C. No person shall operate any vehicle after receiving a notice with reference thereto as above provided, except as may be necessary to return such vehicle to the residence or place of business of the owner or driver, if within a distance of 20 miles, or to a garage, until said vehicle and its equipment has been placed in proper repair and adjustment and otherwise made to conform to the requirements of this act and a certificate of inspection and approval shall be obtained as promptly as possible thereafter.

D. In the event repair or adjustment of any vehicle or its equipment is found necessary upon inspection, the owner of said vehicle may obtain such repair or adjustment at any place he may choose, but in every event an official certificate of inspection and approval must be obtained, otherwise such vehicle shall not be operated upon the highways of this State.

RS 32:1304 — Secretary to require periodical inspection

e, trailer, semitrailer, and pole trailer registered in this state be inspected and that an official certificate of inspection and approval be obtained for such vehicle. However, overweight and oversize mobile homes requiring a state permit shall not be required to bear a certificate of approved inspection when being moved by a bonded carrier as defined by law nor shall used motor vehicles in transit by a dealer be required to have a certificate of inspection and approval.

(2) Such inspection should be made and such certificates obtained with respect to the mechanism, brakes, and equipment of every vehicle as shall be designated by the secretary. The secretary shall require the inspection of all approved automotive emission control devices installed on motor vehicles produced after model year 1980 to insure that such devices are operative and have not been tampered with. However, low-speed vehicles shall not be subject to regular emissions inspections.

(3)(a) The secretary shall formulate and promulgate a set of standards for the control and regulation of emission control devices on all automobiles and other motor vehicles which standards shall be consistent with other federal and state regulations for the installation and operation of approved emission control devices.

(b) The secretary is hereby authorized to make necessary rules and regulations for the administration and enforcement of this Section and to designate any periods of time during which owners of vehicles, subject to this Section, shall display upon such vehicles certificates of inspection and approval and shall produce them on demand of any officer or employee of the department designated by the secretary or any police or peace officer when authorized by the secretary. However, an owner or operator of a light trailer, utility trailer, boat trailer, or farm trailer need only provide a valid inspection sticker on demand of an inspecting officer to be in compliance with the inspection requirements of this Chapter.

(4) The rules and regulations adopted for the administration and enforcement of this Section shall include standards for windshields as follows:

(a) In the eight and one-half inch by eleven inch "acute area" directly in the driver's line of vision there shall be no cracks and there shall be no more than two stars, nicks, chips, bullseyes, or half-moons in excess of one-half inch.

(b) In the "critical area" cleaned by the normal sweep of the windshield wiper blade on the driver's side of the windshield there shall be no star which is larger than two inches in diameter; there shall be no more than two stars larger than one and one-half inches in diameter; and there shall be no more than two cracks longer than eight inches; or any combination thereof.

(c) In the remaining areas of the windshield, only those cracks which jeopardize the integrity of the windshield shall be cause for rejection.

B. The secretary is hereby authorized to make necessary rules and regulations for the administration and enforcement of this Section and to designate any periods of time during which owners of vehicles, subject to this Section, shall display upon such vehicles certificates of inspection and approval or shall produce the same on demand of any officer or employee of the department designated by the secretary or any police or peace officer when authorized by the secretary.

Owners and operators of all motor vehicles required to be equipped with windshields shall display on the lower left hand corner of the windshield a certificate of inspection affixed thereto by a duly authorized motor vehicle inspection station.

The secretary shall accept the certificate of inspection and approval issued by any municipality pursuant to any municipal ordinance adopted prior to July 27, 1960. However, each person who applies for a motor vehicle inspection tag in the city of New Orleans shall produce written proof of insurance from an insurer that the motor vehicle is covered by security and shall declare in writing that he or she intends to maintain said security at all times while said vehicle is used upon the highways of Louisiana.

C. The director may authorize the acceptance in this state of a certificate of inspection and approval issued in another state having an inspection law similar to this Chapter and may extend the time within which a certificate shall be obtained by the resident owner of a vehicle which was not in this state during the time an inspection was required.

D.(1) The secretary may suspend the registration of any vehicle which he determines is in such unsafe condition as to constitute a menace to safety, or which after notice and demand is not equipped as required in this Chapter, or for which a required certificate has not been obtained.

(2) Repealed by Acts 1999, No. 576, §3, eff. June 30, 1999.

(3) Repealed by Acts 1999, No. 576, §3, eff. June 30, 1999.

E.(1) The mere failure of the owner or operator of a motor vehicle required by this Section to be inspected to obtain a current and valid inspection certificate shall not be in violation, provided that the certificate has been expired less than one calendar month; nor shall an owner or operator be in violation if he shall produce on demand, under Subsection B of this Section, a certificate of inspection for the vehicle valid and effective for not more than six months and not in current display on the windshield by reason of replacement of the windshield glass.

(2) However, when a certificate of inspection is removed from a windshield by reason of replacement of windshield glass, the owner of the vehicle may be issued, for a fee of five dollars and twenty-five cents and return of the original certificate to an inspection certificate station, a certificate which shall be valid for the time remaining on the original certificate.

F. The purchaser of a used vehicle from a private individual shall be protected from citations for failure to have an inspection tag during the interval between the date of purchase and the receipt of title, provided proof of application can be shown.

G. In order to enforce the provisions of this Section as applicable to motor vehicles which are propelled by an internal combustion engine or motor capable of using liquefied petroleum gas or compressed natural gas, no such vehicle shall be issued a motor vehicle inspection certificate without a current decal as evidence of tax payment, as required by R.S. 47:802.3.

H. No motor vehicle registered in a parish that approves the fee or charge authorized by R.S. 32:1306.1 shall be inspected in a parish other than the parish of registration.

RS 32:1305 — Appointment of official inspection stations

Department of Public Safety and

Corrections, public safety services, referred to as "department" in this Subsection, shall issue permits for and furnish instructions and all necessary forms to official inspection stations for the inspection of vehicles as required in this Chapter and the issuance of official certificates of inspection and approval.

(2) Subject to an appropriation of funds for this purpose, the Department of Public Safety and Corrections, public safety services, may develop a system of electronic filing of inspection information and print on-demand motor vehicle inspection certificates.

(3) The system authorized by Paragraph (2) of this Subsection shall meet the following requirements:

(a) Such system shall interface with the Department of Public Safety and Corrections, public safety services, vehicle registration system and shall update all vehicle records with each inspection. The department shall provide requirements for the inspection information which shall be added to a vehicle record.

(b) The print on-demand feature shall print a new inspection certificate after the

station has verified through an electronic interface that the vehicle complies with all inspection requirements for the class and type of vehicle and after the station has verified that the appropriate fee has been collected. The print on-demand inspection certificate shall contain such information and security features as necessary to deter unofficial or fraudulent stickers and to prevent the placement of the certificate on a vehicle other than the vehicle inspected.

(c) A mechanism for the submission of the state's portion of the inspection fee; such as, electronic funds transfer, making the state's payment processing system available to the station, or other such methods as the department may deem appropriate.

(4) Any request for proposal issued for the system authorized by Paragraph (2) of this Subsection shall require the following:

(a) That each station shall contract with the department's vendor for the acquisition of any hardware, software, or supplies necessary to implement the system of electronic filing of inspection information and print on-demand motor vehicle inspection stickers and connect to the system. The department shall approve the form of the contract. Such contract shall be subject to the vendor's contract with the state and shall be governed by the laws of Louisiana.

(b) That the vendor's system shall not retain or capture personal identifying information either from the department's system or from data entered at the inspection station.

(5) The department shall establish specifications or minimum requirements for any station supplied hardware or software used to connect to the system authorized by Paragraph (2) of this Subsection including but not limited to the minimal level of acceptable internet connection.

(6) After the system authorized by Paragraph (2) of this Subsection is implemented, but no sooner than two years after implementation, the department may establish a system of administrative fines to be assessed against the registered owner of any vehicle if the vehicle record shows a lapse of a valid inspection sticker for a period of more than sixty days. Defenses to such fines shall include that the vehicle was sold or otherwise transferred, the vehicle is registered in another state, or the owner submitted an affidavit of non-operation within sixty days of the expiration of the last valid inspection and approval issued for the vehicle. Any fines established shall not exceed twice the amount of the fee for the inspection certificate for a particular vehicle.

(7) The department shall promulgate rules and regulations as are necessary and in accordance with the Administrative Procedure Act to implement this Paragraph.

B. Application for permit shall be made upon an official form and shall be granted only when the director is satisfied that the station is properly equipped and has competent personnel to make such inspections and adjustments and that inspection will be properly conducted. The director before issuing a permit may require the applicant to file a bond conditioned that it will make compensation for any damage to a vehicle during an inspection or adjustment due to negligence on the part of such applicant or its employees. The aggregate liability of the surety for all such damages shall in no event exceed the amount of

such bond.

C. The director shall properly supervise and cause inspections to be made of such stations and shall revoke and require the surrender of the permit issued to a station which he finds is not properly equipped or conducted. The director shall also revoke and require the surrender of the permit when such station issues an inspection certificate in violation of R.S. 32:1304(H). The director shall maintain and post at the office of the department lists of all stations holding permits and of those whose permits have been revoked.

D. Permits for inspecting and issuing official certificates of inspection and approval shall be issued for a period of one year upon payment to the director of an annual fee of twenty-five dollars, plus an annual fee of five dollars for each mechanic inspector named in the permit application.

E. Any motor vehicle repair or maintenance shop operated or maintained by a person, firm or corporation in whose name there is licensed under the provisions of R.S. 47:462, ten or more vehicles, shall be, at his or its request, designated as an official inspection station, for the purpose of inspecting and certifying vehicles operated by such person.

F. Any motor vehicle repair shop or maintenance shop operated by a school board of any city or parish in whose name there are licensed under the provisions of R.S. 47:462 ten or more vehicles, or which has ten or more vehicles under contract, or which has a combination of owned and contract vehicles totalling ten or more, shall be, at their request, designated as an official inspection station for the purpose of inspecting and certifying vehicles operated or contracted for such board.

G.(1) Any person, corporation, partnership, or other business entity owning more than forty motor vehicles registered in Louisiana pursuant to the International Registration Plan, and operating at least one vehicle repair and maintenance shop, shall, upon request in writing to the Department of Public Safety and Corrections, have one or more of his vehicle repair and maintenance shops designated as official inspection stations for the purpose of inspecting and certifying those motor vehicles which are owned by him. Such duly designated vehicle repair and maintenance shops may be located within or without the state of Louisiana.

(2) The secretary shall adopt and promulgate rules and regulations in accordance with the Administrative Procedure Act necessary to implement the provisions of this Subsection. These rules shall include provisions for total reimbursement by the business entity of any costs incurred by the state for the administration of this Subsection. Reimbursement shall be made by the business entity availing itself of this program within thirty days after submission by the state of the total costs incurred.

(3) The venue for any civil action arising out of this Subsection shall be East Baton Rouge Parish.

H. The department shall provide for a safety inspection program for the purpose of inspecting and certifying vehicles which transport forest products in their natural state in compliance with the Federal Motor Carrier Safety Regulations. The program shall include a mobile unit which will function as an official inspection station and which will conduct

safety inspections, on a voluntary basis, at or near sawmills, chip mills, and paper mills in the state. The secretary shall adopt and promulgate rules and regulations in accordance with the Administrative Procedure Act necessary to implement the provisions of this Subsection.

I. The department shall provide for a safety inspection program for the purpose of inspecting and certifying vehicles that transport general freight and commodities in compliance with the Federal Motor Carrier Safety Regulations. The program shall include a mobile unit that will function as an official inspection station and which will conduct motor carrier safety inspections, on a voluntary basis. Freight and commodity carrying vehicles and their drivers participating in this program shall, upon request, be inspected on a date and at a time and place convenient for both the department and the company. The secretary shall adopt and promulgate rules and regulations in accordance with the Administrative Procedure Act necessary to implement the provisions of this Subsection.

RS 32:1306 — Operation of official inspection stations

Sign shall be posted in a conspicuous place at the location designated.

B. The person operating an official inspection station shall issue a certificate of inspection and approval upon an official form to the owner of a vehicle upon inspecting such vehicle and determining that its equipment required under the provisions of this act is in good condition and proper adjustment, otherwise no certificate shall be issued. When required by the director a record and report shall be made of every inspection and every certificate so issued.

C.(1)(a) A charge or fee shall be charged for each certificate of inspection and approval issued, as provided in this Subsection.

(b) Persons operating an official inspection station shall offer certificates of inspection that are valid for both one year and two year periods. The owner of the vehicle shall have the option of purchasing a one year or a two year certificate. A charge or fee shall be charged for each year of validity of the certificate of inspection and approval issued, as provided in this Subsection.

(c) The provisions of Subparagraph (b) of this Paragraph shall not apply to the inspection programs provided for in Paragraphs (3) and (5) of this Subsection and to student transportation vehicles.

(2) Except as otherwise provided in this Subsection, for each year of validity of the certificate issued, a charge or fee of ten dollars shall be charged, four dollars and seventy-five cents of which shall be retained by the operator of the motor vehicle inspection station conducting the inspection, four dollars of which shall be transferred to the office of state police for use in traffic law enforcement, and one dollar and twenty-five cents shall be

RS 32:1306.1 — Inspection and maintenance program fees; nonattainment area; local election

seven dollars shall be charged for each inspection that includes the performance of the inspection and maintenance (I/M) program pursuant to the provisions of R.S. 30:2054(B)(8) for 1980 or newer model year motor vehicles. This charge shall be in addition to the charge or fee provided for in R.S. 32:1306(C)(3)(a).

B. As the legislature finds that the use of mass transit by its citizens would result in reduced ozone formation, the Department of Public Safety and Corrections shall transfer the charge authorized by this Section to local entities for the

improvement and development of mass transit systems. However, fifty percent of the charge authorized by this Section and collected for motor vehicle inspections in East Baton Rouge Parish shall be transferred directly to the Capital Area Transit System, R.S. 48:1451, et. seq. and shall be operating revenue or income, as defined by R.S. 48:756(C)(3), used in calculating the Capital Area Transit System's distribution as described in R.S. 48:756(B)(2). The remaining fifty percent of the charge authorized by this Section and collected for motor vehicle inspections in East Baton Rouge Parish shall be transferred to the governing authority of East Baton Rouge Parish to improve and develop mass transit systems. The money so transferred to the governing authority of East Baton Rouge Parish or to the Capital Area Transit System, R.S. 48:1451, et. seq., shall not displace, replace, or supplant funding currently expended for the Capital Area Transit System, R.S. 48:1451, et. seq. The charge authorized by this Section and collected for motor vehicle inspections in other nonattainment area parishes shall be transferred to the parish governing authority of that parish to develop mass transit systems.

C.(1) The parish governing authority may, by ordinance or resolution, call an election for the purpose of submitting to the qualified electors of the parish the question of whether the charge authorized by this Section will be assessed in that parish. Such election shall be held at the same time as the statewide election scheduled for either October 2, 2010, or November 2, 2010. Any resolution calling the election authorized in this Section shall state whether the election will be held on October 2, 2010, or November 2, 2010.

(2) The ballot for the election shall state as follows:

"Local Option Election

Within _____ (name of parish within the nonattainment area), shall an additional seven dollars be charged for each motor vehicle inspection that includes the performance of the inspection and maintenance (I/M) program with the additional seven dollar charge being used for mass transit purposes? YES () NO ()"

(3) If the question of such charge is approved by a majority of the qualified electors voting on the proposition in the parish, then the charge authorized by this Section shall be implemented in that parish.

(4) The secretary of state shall prepare the ballot for the election.

(5) Except as otherwise provided, the election required shall be conducted in accordance with the Louisiana Election Code.

(6) Notwithstanding Chapter 8-A of the Louisiana Election Code, the costs of the election required in this Section shall be borne by the state.

D. The provisions of this Section shall not apply in the parishes of Livingston and Ascension.

RS 32:1307 — Improper representation as official station

e department.

B. No person other than a duly authorized officer or employee of inspection station shall issue a certificate of inspection and approval.

RS 32:1308 — False certificates

cle or issued without an inspection having been made.

RS 32:1309 — Fee for inspection certificates

Security and Redemption Fund as required by Article VII, Section 9 of the Constitution of Louisiana.

RS 32:1310 — Penalty for violation

, be punished by a fine of not more than five hundred dollars or by imprisonment of not more than six months or by both such fine and imprisonment.

RS 32:1311 — Exemptions

arily for field use and which are operated or moved only incidentally on the highways of this state, and which are used for farm purposes only, are exempt from the inspection requirements of this Chapter.

B. Single axle two-wheel trailers are exempt from the inspection requirements of this

Chapter.

C. Motor vehicles which are twenty-five years old or older and which are used primarily for exhibition in shows, parades, tours, and other special uses and not for general transportation and which are registered and licensed as antique as provided in R.S. 32:707(L) shall be exempt from the inspection requirements of this Chapter.

D. Motor vehicles which display a current safety inspection sticker as certified by the Department of Public Safety and Corrections shall be exempt from the inspection requirements of this Chapter.

E.(1) Commercial motor vehicle truck tractors, trailers, and semitrailers in interstate commerce which are subject to the Federal Motor Carrier Safety Regulations shall be exempt from the inspection requirements of this Chapter provided that these commercial motor vehicles shall comply with the requirements of the Code of Federal Regulations, 49 CFR 396.17, requiring periodic and annual inspections of commercial motor vehicles.

(2) As an alternate means of compliance with the requirements of 49 CFR, the owner or operator of a commercial motor vehicle truck tractor may opt to obtain a Louisiana commercial motor vehicle inspection certificate which satisfies the requirements of 49 CFR 396.17. A trailer or semitrailer being used in combination with a truck tractor meeting such exemption may opt to obtain a Louisiana commercial motor vehicle inspection certificate which satisfies the requirements of 49 CFR 396.17.

(3) As used in this Subsection, "commercial motor vehicle" means any self-propelled truck tractor or towed vehicle which is used on public highways to transport property in interstate commerce, has been issued an apportioned plate through the International Registration Plan; and

(a) Has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 10,001 pounds or more; or

(b) Is used in the transportation of hazardous materials in a quantity placarding under regulations issued by the secretary under the Hazardous Materials Transportation Act, 49 USC 5101 et seq.

F. Boat trailers shall be exempt from the inspection requirements of this Chapter.

G. Tandem axle trailers shall be exempt from the inspection requirements of this Chapter unless used in commerce and subject to Federal Motor Carrier Safety Administration regulations.

RS 32:1312 — Civil penalties

tary to have committed an act that is in violation of the provisions of this Chapter relative to the operation of an official inspection station or the actual conduct of a motor vehicle safety inspection, or any rule adopted under the provisions of this Chapter for such activities, is subject to a civil penalty of not more than one thousand dollars.

B. The secretary shall determine and assess the amount of any civil penalty. In determining the amount of the penalty, the secretary shall take into account the nature, circumstances, extent, and gravity of the violation; the degree of culpability of the person charged; the person's history of previous offenses and ability to pay; the effect of the penalty on the person's ability to continue to operate his business or maintain his employment; and any other matter that justice requires.

RS 32:1313 — Recovery of civil penalties

operation of an official inspection station or the actual conduct of a motor vehicle safety inspection, or in violation of any rules adopted under the provisions of this Chapter for such activities, of the penalty assessed. If the penalty assessed has not been received by the secretary within thirty calendar days after notification of the assessment, the secretary may order the suspension of the motor vehicle inspection station license. For offenses involving the mechanic inspector rather than the station, the secretary may order the suspension of the certificate authorizing the mechanic to inspect motor vehicles. Upon receipt by the secretary of the penalty assessed, the license or certificate shall be reinstated.

B. All civil penalties collected pursuant to the provisions of this Chapter shall be deposited into the state treasury and, after compliance with Article VII, Section 9 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, shall be deposited into the state general fund.

C. The secretary shall adopt and promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the assessment of the civil penalty.

RS 32:1314 — Intermodal vehicle inspections

ins, as defined in the United States Department of Transportation Federal Motor Carrier Safety Regulations (FMCSR), are performed before such equipment is transported over the roadways of the state by a motor carrier.

B. For purposes of enforcing this Section, "vehicle" means intermodal trailer, chassis, or container not owned by the motor carrier.

C.(1) The owner of any vehicle shall not permit the tender or the interchange of a vehicle for use on any highway which is in violation of the requirements contained in the FMCSR. A motor carrier shall not certify or guarantee to a person tendering or interchanging a vehicle to a motor carrier that the vehicle complies with the FMCSR. When the tenderer has knowledge that the vehicle does not meet such requirements, the tenderer shall not put such vehicle into commerce until all necessary repairs have been completed.

(2) Before an operator may accept a vehicle, the tenderer must allow the motor carrier operator adequate equipment, time, and facilities to perform the United States Department of Transportation required inspection of the vehicle. If the vehicle fails to meet federal safety requirements, the owner or tenderer must make any necessary repairs to the vehicle so that it complies with applicable safety standards or make available a replacement vehicle which meets the safety requirements.

D. The department, if requested, may as a public safety service, enter upon vehicle tender facilities, and perform courtesy inspections of vehicles for purposes of identifying and tagging vehicles which may require mechanical work before being tendered for use on public highways.

E. If a vehicle that is not owned by the motor carrier is placed out of service as a result of a roadside inspection conducted within five days of initial placement of the vehicle in service from a tenderer by a motor carrier in this state or prior to the next interchange, whichever occurs first, then the owner of the vehicle shall reimburse the operator for all fines, penalties, expenses, and reasonable attorney fees incurred pursuant to the out-of-service order, including all equipment repair expenses necessary to bring the vehicle into compliance with the FMCSR, unless the fines, penalties, or repair expenses are

due to actions or omissions of the motor carrier operator after the vehicle was tendered. Reimbursement must be made to the operator no later than sixty days from receipt of notice from the motor carrier.

F. The department shall develop and maintain a database on roadside vehicle inspection reports for defects on any vehicle tendered to the motor carrier. The database shall be used to identify violations discovered on intermodal equipment during a roadside inspection.

G. Nothing in this Section is intended to eliminate the responsibility and obligation of a motor carrier and operator to maintain and operate vehicles in accordance with the FMCSR and applicable state and local laws and regulations.

H. Any provision contained in an intermodal interchange contract providing for a hold harmless or indemnity agreement, or both, between the motor carrier and the tenderer or owner of a vehicle, contrary to any provisions of this Section shall be considered contrary to public policy and shall be null and void.

RS 32:1420 — Enactment; text

PACT

ARTICLE I

Findings and declaration of policy

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degree of compliance with state and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

ARTICLE II

Definitions

As used in this compact:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or

forfeiture is required to be reported to the licensing authority.

ARTICLE III

Reports of conviction

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith.

ARTICLE IV

Effect of conviction

(a) The licensing authority in the home state, for the purposes of suspension, revocation or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for:

- (1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;
- (2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;
- (3) Any felony in the commission of which a motor vehicle is used;
- (4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

(b) As to other convictions, reported pursuant to Article III, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.

(c) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subdivision (a) of this Article, such party state shall construe the denominations and descriptions appearing in subdivision (a) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this Article.

ARTICLE V

Applications for new licenses

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

- (1) The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.
- (2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.
- (3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license.

ARTICLE VI

Applicability of other laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

ARTICLE VII

Compact administrator and interchange of information

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

ARTICLE VIII

Entry into force and withdrawal

(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

ARTICLE IX

Construction and severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

RS 32:1421 — "Licensing authority" defined

appropriate authorities of any other party state any information or documents reasonably necessary to facilitate the administration of Articles III, IV and V of the compact.

RS 32:1422 — Administrator; compensation

ation on account of his service as such administrator, but shall be entitled to expenses incurred in connection with his duties and responsibilities as such administrator, in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment.

RS 32:1424 — "Intoxicating liquor" defined

296, §1.

RS 32:1425 — "Narcotic drug" defined

rugs.

RS 32:1441 — Enactment and text of the Nonresident Violator Compact

ations Compact of which Louisiana has been a member since 1970. Louisiana hereby adopts the correct name of the compact as the Nonresident Violator Compact and ratifies continuous past, present, and future membership in the compact in the form substantially as follows:

NONRESIDENT VIOLATOR COMPACT

ARTICLE I

FINDINGS AND DECLARATION OF POLICY AND PURPOSE

A. The party jurisdictions find that:

(1) In most instances, a motorist who is cited for a traffic violation in a jurisdiction other than his home jurisdiction:

(a) Must post collateral or bond to secure appearance for trial at a later date;

(b) If unable to post collateral or bond, is taken into custody until the collateral bond is posted; or

(c) Is taken directly to court for trial.

(2) In some instances, the motorist's driver's license may be deposited as collateral to be returned after he has complied with the terms of the citation.

(3) The purpose of the practices described in Subparagraphs (1) and (2) above is to ensure compliance with the terms of a traffic citation by the motorist who, if permitted to continue on his way after receiving the traffic citation, could return to his or her home jurisdiction and disregard his or her duty under the terms of the traffic citation.

(4) A motorist receiving a traffic citation in his or her home jurisdiction is permitted, except for certain violations, to accept the citation from the officer at the scene of the violation and to immediately continue on his way after promising or being instructed to comply with the terms of the citation.

(5) The practice described in Subparagraph (1) above causes unnecessary inconvenience and, at times, a hardship for the motorist who at the time is unable to post collateral, furnish a bond, stand trial, or pay the fine and is thus compelled to remain in custody until some arrangement can be made.

(6) The deposit of a driver's license as a bail bond as directed in Subparagraph (2) above is viewed with disfavor.

(7) The practices described consume an undue amount of law enforcement time.

B. It is the policy of the party jurisdictions to:

(1) Seek compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles in each of the jurisdictions.

(2) Allow motorists to accept a traffic citation for certain violations and proceed on their way without delay whether or not the motorist is a resident of the jurisdiction in which the citation is issued.

(3) Extend cooperation to its fullest extent among the jurisdictions for obtaining compliance with the terms of a traffic citation issued in one jurisdiction to a resident of another jurisdiction.

(4) Maximize effective utilization of law enforcement personnel and assist court systems in the efficient disposition of traffic violations.

C. The purpose of the compact is to:

(1) Provide a means through which the party jurisdictions may participate in a reciprocal program to effectuate the policies enumerated in Paragraph B above in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of traffic violators operating within party jurisdictions and recognition of the motorist's right of due process and the sovereign status of a party jurisdiction.

ARTICLE II

DEFINITIONS

A. In the Nonresident Violator Compact, the following words have the meaning indicated unless the context requires otherwise:

(1) "Citation" means any summons, ticket, or other official document issued by a police officer for a traffic violation containing an order which requires the motorist to respond.

(2) "Collateral" means any cash or other security deposited to secure an appearance for trial following the issuance by a police officer of a citation for a traffic violation.

(3) "Compliance" means the act of answering a citation, summons, or subpoena through appearance at court or payment of fines and costs. This includes the recall or dismissal of a citation, summons, or subpoena.

(4) "Court" means a court of law or equity with jurisdiction over traffic violations.

(5) "Driver's license" means any license or privilege to operate a motor vehicle issued under the laws of the home jurisdiction.

(6) "Home jurisdiction" means the jurisdiction which issued the driver's license of the traffic violator.

(7) "Issuing jurisdiction" means the jurisdiction in which the traffic citation was issued to the motorist.

(8) "Jurisdiction" or "party jurisdiction" means a state, territory, possession, district, or commonwealth of the United States, province of Canada, or other nation which is or becomes a member of this compact.

(9) "Motorist" means a driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction.

(10) "Personal recognizance" means an agreement by a motorist at the time of issuance of a traffic citation that he or she will comply with the terms of that traffic citation. Physical receipt of the citation by the motorist implies the agreement.

(11) "Police officer" means any individual authorized by the party jurisdiction to issue a citation for a traffic violation.

(12) "Terms of the citation" means those options expressly stated upon the citation.

ARTICLE III

PROCEDURE FOR ISSUING JURISDICTION

A. Unless prohibited by law, a police officer when issuing a citation to a motorist licensed by a party jurisdiction shall not require the motorist to post collateral or a driver's license to secure appearance if the officer receives the motorist's personal recognizance.

B. Upon failure of a motorist to comply with the terms of a traffic citation, the appropriate official shall report the failure to comply to the driver's license authority of the jurisdiction in which the traffic citation was issued. The report must, at a minimum, contain the name, address, driver's license number, date of birth, sex, type and/or citation of violation, date of violation, and court address and telephone number.

C. Upon receipt of the report as provided in Paragraph B above, the licensing authority of the issuing jurisdiction shall transmit a report containing the information to the licensing authority of the home jurisdiction containing at least the minimum information received in the report.

D. The licensing authority of the issuing jurisdiction shall not transmit a report on any violation if the date of transmission would be more than six months after the date on which the traffic citation was issued.

ARTICLE IV

PROCEDURE FOR HOME JURISDICTION

A. Upon receipt of a report of a failure to comply, from the licensing authority of the issuing jurisdiction, the home jurisdiction shall notify the motorist and initiate a suspension action as hereinafter provided.

B. The notice referred to in Paragraph A above shall be sent, as soon as possible after receipt by the home jurisdiction, to the motorist at his last known address by regular mail. The notice shall inform the motorist of his right to a presuspension hearing upon request within thirty days of the date of notice.

C. If the motorist furnishes satisfactory evidence of compliance or that he is not the person who gave personal recognizance or presents another valid defense at the administrative hearing, no driver's license suspension shall occur.

D. If after thirty days from the date of notice, the motorist has not responded to the office of motor vehicles, the Louisiana driver's license of the motorist shall be immediately suspended until proof of compliance is furnished or for one year, whichever is the lesser period.

E. Nothing in this Article shall be construed to require application of the financial responsibility laws of any jurisdiction if those laws would otherwise be inapplicable.

ARTICLE V

APPLICABILITY OF OTHER LAWS

Except as expressly required by provisions of the compact, nothing contained herein shall be construed to affect the right of any party jurisdiction to apply any of its other laws relating to licenses to operate motor vehicles or to invalidate or prevent any driver-license agreement or cooperative agreement between a party jurisdiction and a nonparty jurisdiction.

ARTICLE VI

COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION

A. The head of the licensing authority for Louisiana is the administrator of this compact for this jurisdiction.

B. The administrators of this compact for each party jurisdiction, acting jointly may formulate all necessary and proper procedures for the exchange of information under this compact.

C. The administrator of each party jurisdiction shall furnish to the administrator of each other party jurisdiction any information or documents necessary to facilitate the administration of this compact.

ARTICLE VII

ENTRY INTO AND WITHDRAWAL FROM COMPACT

- A. The head of the licensing authority for Louisiana is the administrator of this compact for this jurisdiction.
- B. The administrator of this compact for each party jurisdiction acting jointly may formulate all necessary and proper procedures for the exchange of information under this compact.
- C. The administrator of each party jurisdiction shall furnish to the administrator of each other party jurisdiction any information or documents necessary to facilitate the administration of this compact.

ARTICLE VIII

EXCEPTIONS TO JURISDICTION

The provisions of this compact shall not apply to parking or other nonmoving violations, highway weight limit violations, or violations of law governing transportation of hazardous materials.

ARTICLE IX

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared contrary to the constitution, laws, ordinances, rules, or regulations of any party jurisdiction or of the United States, the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be declared in any part or way invalid in any party jurisdiction, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the objecting jurisdiction as to all severable matters.

RS 32:1442 — "Licensing authority" defined

498, §1.

RS 32:1443 — Administrator; no compensation

duties as administrator, in the same manner as for expenses incurred in connection with other duties of his office.

RS 32:1471 — Declaration of policy

To deny the privilege of operating motor vehicles on such highways to persons who by their conduct and record have demonstrated their indifference to the safety and welfare of others and their disrespect for the laws of this state, the orders of its courts, and the statutorily required acts of its administrative agencies; and

(3) To discourage repetition of criminal acts by individuals against the peace and dignity of this state and her political subdivisions and to impose increased and added deprivation of the privilege to operate motor vehicles upon habitual offenders who have been convicted repeatedly of violations of the traffic laws.

RS 32:1472 — Habitual offender defined

that such person has accumulated ten or more convictions of separate and distinct offenses, committed within three years of the date on which the last offense is committed, involving moving violations, singularly or in combination, in the operation of a motor vehicle which are required to be reported to the department. However, when more than one included offense is committed within a twelve-hour period, such multiple offenses shall be treated for the purposes of this Chapter as one offense.

B. The offenses included in Subsection A shall be deemed to include offenses under any federal law, any law of another state or any valid town, city or county ordinance of another state substantially conforming to the aforesaid state statutory provision.

C. For the purpose of this Chapter, the term "conviction" means a final conviction. Also for the purpose of this Section, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated or a plea of nolo contendere shall be equivalent to a conviction.

RS 32:1473 — Department of Public Safety to certify record to court

e definition of a habitual offender, as defined above, and such abstract shall be competent evidence that the person named therein was duly convicted by the court wherein such conviction or holding was made by each offense shown by such abstract.

RS 32:1474 — Time limitation

serves the notice required in R.S. 32:1475 on such person within one year of the date of last conviction which brings that person within the definition of a habitual offender.

RS 32:1475 — Service of petition; order to show cause

not be declared a habitual offender. The notice shall state the time, place, and cause of the hearing which shall be not less than ten nor more than thirty calendar days from the date of the notice. All notices shall be served on the person named in the abstract in accordance with the provisions of R.S. 32:6.

RS 32:1476 — Hearing; procedure

the abstract and necessary for a holding that he is a habitual offender, and if the department cannot, on the evidence available to it, determine the issue, the department may request the decision of such issue from the court in which such conviction was reportedly made. The court to which such request is made shall send to the department certified copies of its records determining such issue. The department in its discretion, may rely on certified copies of convictions adjudged by courts outside of this state, or federal courts, or may request such a court to make a determination.

RS 32:1477 — Department's findings; order

ding shall be dismissed, but if the department finds that such person is the same person named in the abstract and that such person is a habitual offender, the department shall so find, and by appropriate order, shall direct that such person not operate a motor vehicle on the highways of this state and shall surrender to the department all licenses or permits to operate a motor vehicle upon the highways of this state.

B.(1) Upon revocation of a driver's license for the first time as provided for under this Section the person whose license has been revoked, upon administrative determination that he is a habitual offender, shall have the right to file a petition in the district court of the parish in which the applicant is domiciled alleging that revocation of his driving privileges will deprive him or his family of the necessities of life or will prevent him from earning a livelihood.

(2) The district court is vested with jurisdiction to set the matter for contradictory hearing in open court upon ten days written notice to the department, and thereupon to determine whether the allegations of hardship have merit.

(3) Upon determination by the court that the lack of a license would deprive the person or his family of the necessities of life, the court may order that the person be granted a restricted license to enable the person to continue to support his family. The restrictions on the license shall be determined by the court and shall include the following:

(a) Licensee shall only be permitted to operate a motor vehicle on such streets as would enable him to earn his livelihood.

(b) Such operation is restricted to times during which he is involved in earning a livelihood.

(c) During the period of revocation, licensee shall be responsible for applying to the court in the event earning his livelihood necessitates a change in the original restrictions imposed by the court.

(d) Any other restrictions that the court determines are necessary and proper.

C.(1) A violation of the restrictions or a subsequent conviction of any offense involving the operation of a motor vehicle during the terms of the restricted license shall result in the forfeiture of the restricted license and the reimposition of the full three-year term of revocation and shall also constitute contempt of court.

(2) Suspension, revocation, or cancellation that results from such a violation shall not be subject to appeal.

(3) The restricted driving privileges for this Section shall be allowed to a person only once.

RS 32:1478 — Appeals

ppeal from the decision of the district court may be taken to any court of competent appellate jurisdiction.

RS 32:1479 — Prohibition

e following requirements have been complied with:

(1) A period of three years has elapsed since the date of the order finding such person to be a habitual offender.

(2) Financial responsibility requirements are met.

(3) If after the lapse of the three-year period provided above, the department determines that the person has faithfully complied with the order declaring him to be a habitual offender, the department shall restore to such person the privilege to operate a motor vehicle in this state, upon the payment of a one hundred dollar reinstatement fee.

RS 32:1480 — Repealed by Acts 1990, No. 933, §2.

ton Rouge, Louisiana 70804-9062

RS 32:1481 — Repealed by Acts 1990, No. 933, §2.

ton Rouge, Louisiana 70804-9062

RS 32:1501 — Declaration of policy

ation is a necessary incident to their use, and that the transportation is required for the economic prosperity of the people of the state of Louisiana.

(2) That the offering or accepting for transportation, loading or unloading, or transporting, handling, and movement of hazardous materials, because of their capacity for injury to human health, the environment, or property, poses a substantial danger to the health and safety of the citizens of this state unless such materials are loaded and transported in a safe and prudent manner.

(3) That all carrier transportation, including offering and accepting for transportation, loading or unloading, or transportation of hazardous materials, freight, or passengers, should comply with minimum state standards of safe operation, manufacture, and maintenance due to the size and momentum of the transport vehicles involved, the adverse impact on economic welfare posed to the citizens of this state when these transport vehicles are involved in accidents, the threat to public safety caused by these accidents, and the huge volume of shipments in which carriers are involved.

(4) That the offering or accepting for transportation, loading or unloading, or transporting of hazardous materials, freight, and passengers in accordance with minimum state standards of safety is the responsibility of the state.

RS 32:1502 — Definitions

ndicates otherwise:

(1) "Carrier" means any person who transports in a transport vehicle hazardous materials, freight or passengers subject to this Chapter and includes a common, contract, or private carrier.

(2) "Common carrier" means any carrier other than a contract carrier or private carrier.

(3) "Contract carrier" means a for-hire carrier who transports hazardous materials, freight, or passengers tendered exclusively by shippers under special contract and whose services are not available to the public.

(4) "Department" means the Department of Public Safety and Corrections.

(5) "Freight" means anything that is loaded for transportation.

(6)(a) "Hazardous materials" means any gaseous, liquid, or solid material which because of its quantity, concentration, or physical, chemical, or biological composition poses a substantial present or potential hazard to human health, the environment, or property when transported in commerce, or which material is identified or designated as being hazardous by rules and regulations adopted and promulgated by the secretary of the Department of Public Safety and Corrections pursuant to the Louisiana Administrative Procedure Act. The secretary, in finding that a material is hazardous, shall consider the following factors with respect to each material:

- (i) Actual or relative potential for harm to human health, the environment, or property when transported in commerce.
 - (ii) Scientific evidence of its potential for harm based upon quantity, concentration, or chemical or biological composition.
 - (iii) State of current scientific knowledge regarding the material.
 - (iv) Its history and current pattern of harm.
 - (v) Actual or potential volatility when combined with other common substances likely to be encountered during transportation in commerce.
 - (vi) Actual or relative potential for harm to human health if allowed to escape its containment.
- (b) The rules and regulations adopted by the secretary of the Department of Public Safety and Corrections shall be consistent with the Code of Federal Regulations Title 49. "Explosives" as defined and regulated by R.S. 40:1472.1 et seq. shall be considered to be hazardous material subject to regulation by this Chapter.
- (7) "Hazardous waste" shall be defined as provided in R.S. 30:2173.
- (8) "Person" means a natural person, firm, association, partnership, copartnership, joint venture, corporation, or other legal entity.
- (9) "Private carrier" means a carrier who transports hazardous materials, freight, or passengers for its use or for other purpose without reward or compensation.
- (10) "Secretary" means the secretary of the Department of Public Safety and Corrections or his designee.
- (11) "Transport vehicle" means a motor vehicle, rail freight car, freight container, cargo tank, portable tank, aircraft, or vessel used to transport hazardous materials, freight, or passengers.

RS 32:1503 — General provisions; carrier liability insurance; carrier placards

issued pursuant thereto a reference is made to another law or regulation, the reference also applies to any amendment of the referenced law or regulation.

C. Each carrier, other than a rail carrier, which transports hazardous materials or hazardous waste in any vehicle, and each carrier, other than a rail carrier, which transports freight in a vehicle with a gross vehicle weight rating of twenty-four thousand pounds or more shall acquire a minimum continuous coverage of three hundred thousand dollars public liability and two hundred thousand dollars property damage insurance for each unit regulated by this Chapter. The financial responsibility required may be established by any one or a combination of the following:

- (1) Evidence of liability insurance.
- (2) Self-insurance, but the level of self-insurance may not be less than twenty percent of equity.
- (3) Other evidence of financial responsibility acceptable to the secretary.

D. Each carrier transporting hazardous materials shall indicate the proper hazard class by placing a placard stating such class on all four sides of each vehicle as required by the rules and regulations promulgated by the secretary.

RS 32:1504 — Powers of the secretary

romulgate all such rules and regulations in accordance with the Administrative Procedure Act, Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950. Oversight review shall be conducted by the Joint Legislative Committee on Transportation, Highways, and Public Works. All rules and regulations adopted by the secretary shall be compatible with

this Chapter and the regulations of the United States Department of Transportation contained in Title 49 and Title 46 of the Code of Federal Regulations relative to the transportation of hazardous materials, freight, or passengers.

B. The secretary may conduct investigations; make reports; issue subpoenas; conduct hearings; require the production of relevant documents, records, and property; take depositions; and conduct, directly or indirectly, research, development, demonstration, or training activities.

C. The secretary shall provide for the periodic inspection of rail cars transporting hazardous material prior to the departure of those rail cars from a railroad switching yard located outside of the property boundaries of chemical manufacturing or processing plants.

RS 32:1505 — Authority of officers, employees, and agents

sonable manner the property or records of any person or carrier, to the extent those records or properties relate to this Chapter and the transportation of hazardous materials, freight, or passengers; and

(2) Stop and inspect any transport vehicle or part thereof for any violation of this Chapter or any regulation issued pursuant thereto.

B. Upon request of the owner or operator, the officer, employee, or agent shall display proper credentials issued under this Chapter.

RS 32:1506 — Alternate means of compliance

equal to or greater than that which would be derived from compliance with the Chapter or regulation, the secretary may authorize in writing the use of that alternate method.

B. The carrier shall carry a copy of the authorization in or on each transport vehicle to which it applies.

C. The secretary shall not issue an authorization for any interstate transportation or for any transportation for which a special permit has been issued by the United States Department of Transportation.

RS 32:1507 — Special permits and exemptions

r special permit issued by the United States Department of Transportation. However, the secretary shall enforce the exemption or special permit if it pertains to transportation subject to this Chapter.

B. The number of each exemption granted shall be conspicuously marked on the vehicle to which it applied.

RS 32:1508 — Declaration and marking of unsafe vehicles and containers

ion, filling, equipment, or protective devices would be hazardous to life or property during the transportation of hazardous material, freight or passengers.

B. No person shall operate, authorize, or require the operation of any vehicle or container that has been marked out-of-service until all required corrections have been made.

C. No person shall remove an out-of-service marking from a transport vehicle or container unless all required corrections have been made and the vehicle or container has been inspected and approved by an officer, employee, or agent of the department.

RS 32:1509 — Shipping documents

e carried in the vehicle or combination of vehicles.

(2) The description of lading shall include at least the shipping name, classification, and weight or volume of the material.

(3) The carrier shall make each shipping document available for inspection whenever requested by an officer, employee, or agent of the department.

B. If the tractor of a tractor-trailer combination is detached from the trailer, a copy of the shipping documents must be placed in a holder by the left front of the trailer.

RS 32:1510 — Reporting of incidents, accidents, and cleanups

storage in any place of a hazardous material subject to this Chapter shall report immediately by electronic or telephonic notification to the department if that incident, accident, or cleanup of an incident or accident involves:

(1) A fatality due to fire, explosion, or exposure to any hazardous material.

- (2) The hospitalization of any person due to fire, explosion, or exposure to any hazardous material.
 - (3)(a) A continuing danger to life, health, or property at the place of the incident or accident under any of the following circumstances:
 - (i) The incident or accident results in the release of a hazardous material, as defined in Title 49 of the Code of Federal Regulations.
 - (ii) As a result of the incident or accident, a bulk package of a regulated hazardous material as defined in Title 49 of the Code of Federal Regulations, comes to rest at an angle forty-five degrees or more from the upright position.
 - (iii) It is deemed necessary to transfer a hazardous material, as defined in Title 49 of the Code of Federal Regulations, from one bulk package to another bulk package on a public highway or within five hundred feet of an inhabited building.
 - (b) Vehicles suffering mechanical failures completely unrelated to the transportation container or the material contained therein, shall not be required to notify under this Paragraph.
 - (4) An estimated property damage of more than ten thousand dollars.
- B. A written report shall be submitted to the department on an approved form. Each report submitted shall contain the time and date of the incident or accident, a description of any injuries to persons or property, any continuing danger to life at the place of the accident or incident, the identity and classification of the material, and any other pertinent details.
- C. In the case of an incident or accident involving hazardous materials which is not subject to this Chapter but which is subject to Title 49 and Title 46 of the Code of Federal Regulations, the carrier shall send a copy of the report filed with the United States Department of Transportation to the department.
- D. The secretary shall adopt and promulgate rules and regulations in accordance with the Administrative Procedure Act to coordinate the implementation of a transportation emergency response system.
- E.(1) Notwithstanding any other provision of law to the contrary, the provisions of this Section shall not apply to any incidents, accidents, or cleanup of incidents or accidents that occur within a facility that is subject to the release reporting requirements of R.S. 30:2373(B) and is engaged in activities defined or classified under one or more of the following subsectors, industry groups, or industries of the 1997 North American Industry Classification System (NAICS):
- (a) 211 (oil and gas extraction).
 - (b) 22111 (electric power generation).
 - (c) 3221 (pulp, paper, and paperboard mills).
 - (d) 324 (petroleum and coal products manufacturing).
 - (e) 325 (chemical manufacturing).
 - (f) 326 (plastics and rubber products manufacturing).
 - (g) 331 (primary metal manufacturing).
 - (h) 4953 (refuse systems).
 - (i) 4212 (local trucking without storage).
 - (j) 4789 (trucking without storage).
- (2) Notwithstanding the provisions of Paragraph (1) of this Subsection, this Section shall apply to any carrier involved in any incident, accident, or cleanup of an incident or accident which occurs outside the perimeter of any facility exempted from this Section pursuant to Paragraph (1) of this Subsection.
- (3) The secretary may develop rules and regulations to implement and clarify the reporting requirements of this Subsection and to address any changes in federal law, rules, or regulations.

RS 32:1511 — Illegal discharge of hazardous materials

he points of origin and the points

of billed destination, except as authorized by representatives of the Department of Public Safety and Corrections or the Department of Conservation and Energy.

RS 32:1512 — Civil penalties; assessment

nistrative

Procedure Act, to have committed an act that is a violation of this Chapter or any regulation issued thereunder, is subject to a civil penalty of not more than twenty-five thousand dollars.

If the violation is a continuing one, each day of violation shall constitute a separate offense.

B. In determining the amount of the penalty, the secretary shall take into account the nature, circumstances, extent, and gravity of the violation; the degree of culpability of the person charged; the person's history of previous offenses and ability to pay; the effect of the penalty on the person's ability to continue to operate; and any other matters that justice requires.

C. The secretary shall assess the amount of any civil penalty by a written notice to the violator.

D. Before referral under Section 1513, the secretary may compromise any civil penalty.

E. The secretary shall not subject a person to a civil penalty for a careless handling violation as defined in R.S. 32:1520(A) when that person or his representative reports an incident involving hazardous material that does not meet the reporting criteria as set forth in R.S. 32:1510.

RS 32:1513 — Civil penalties; recovery

ed to the state by the person charged.

C. All civil penalties collected pursuant to this Chapter shall be paid into the state treasury and, in accordance with Article VII, Section 9 of the Constitution of Louisiana, shall be credited to the Bond Security and Redemption Fund.

RS 32:1513.1 — Immunity from civil liability; limitations

advice in the area of these qualifications

if responding to an emergency dealing with the prevention or management of an incident resulting from the storage or transportation of hazardous materials at the request of the local civil defense director or his designee, the chief local law enforcement officer in the jurisdiction where the incident occurs or his designee, the state police, or the hazardous waste division's emergency response section within the Department of Conservation and Energy.

B. The immunity provided for in Subsections A or D or both of this Section shall not apply to any person who is under a legal duty to respond to the emergency incident, or anyone who receives compensation for responding to the emergency incident other than reimbursement for actual out-of-pocket expenses while rendering assistance or advice.

C. Nothing herein shall be construed to limit or otherwise affect the liability of any person for damages resulting from such person's gross negligence, or from his reckless, wanton, or intentional misconduct.

D. The immunity provided for in Subsection A of this Section shall also apply to the employer of such person when no compensation except reimbursement of out-of-pocket expenses is received, but nothing herein shall provide immunity from workers' compensation liability.

E. The immunity provided for in Subsections A or D or both of this Section shall apply only to a situation that occurs outside the physical boundaries of a manufacturing establishment whose primary business is the utilization, handling, and processing of hazardous materials.

F. The immunity provided for in Subsections A or D or both of this Section shall not apply so as to afford any immunity to any common carrier relative to its handling or transporting of hazardous materials or hazardous waste.

G. Any act or omission of any person granted immunity under Subsections A or D or both of this Section shall not be available as a defense to liability by any other person responsible for causing damages in connection with the emergency incident.

RS 32:1514 — Criminal penalties

housand dollars per day of violation or imprisoned for not more than one year, or both.

B. Any person who willfully violates any provision of this Chapter shall, upon conviction, be guilty of a felony and be fined not less than five thousand dollars nor more than ten thousand dollars per day of violation, or be imprisoned with or without hard labor for not less than five years nor more than ten years, or both.

RS 32:1515 — Injunctions

person sought to be enjoined resides or in the parish in which the danger exists for a restraining order to restrain that person from performing any act creating the hazard, or for any other order necessary to eliminate or ameliorate the hazard. Such actions may be taken without the necessity of posting bond, and actions taken by the secretary in good faith shall make him exempt from suit for civil damage.

B. For the purposes of this Section, an "imminent hazard" exists with respect to the transportation of hazardous materials, when the transportation may present an imminent and substantial endangerment to health or the environment.

RS 32:1516 — Driver qualifications

of any transport vehicle transporting hazardous material, freight or passengers or any material designated as hazardous waste under regulations issued in this state. Oversight review shall be conducted by the Joint Legislative Committee on Transportation, Highways, and Public Works. The regulations shall cover physical ability, a written examination, and an examination of the skill necessary for the operation or supervision of the transport vehicle.

B. No person having any disorder characterized by a lapse of consciousness or other mental or physical disability affecting the ability to drive or pilot safely shall be granted a license under this Section. The secretary of the Louisiana Department of Health shall provide a medical evaluation and recommendation as to which disorders are characterized by a lapse of consciousness and which types of mental or physical disability will affect the ability of a person to drive or pilot safely. Based upon these recommendations the secretary shall adopt and promulgate a listing of disorders and disabilities which make a person ineligible to receive a license pursuant to this Section.

C.(1) No person shall operate or take part in operating, or be in physical control of a transport vehicle if he possesses, is under the influence of, or is using, any substance controlled under the Uniform Controlled Dangerous Substance Law (R.S. 40:963), nor may that person do so with any substance which renders him incapable of performing his duties.

(2) No carrier shall knowingly require or permit a person to violate this Section.

(3) The provisions of this Paragraph do not apply to the possession or use of a substance administered to a person by a physician or under the care of a physician when the physician has advised the person that the substance will not affect his ability to operate a transport vehicle.

(4) As used in this Section, "possession" does not include possession of a substance which is manifested and transported as part of a shipment.

D.(1) No person shall:

(a) Consume an intoxicating beverage, regardless of its alcoholic content, or be under the influence of an intoxicating beverage, within four hours of going on duty or operating, or participating in the operation of or having physical control of, a transport vehicle; or

(b) Consume an intoxicating beverage regardless of its alcoholic content, or be under the influence of an intoxicating beverage, while on duty, or operating, or participating in the operation of or in physical control of, a transport vehicle; or

(c) Be on duty or operate a transport vehicle while having in his possession an intoxicating beverage regardless of its alcoholic content. The provisions of this Paragraph do not apply to possession of an intoxicating beverage which is manifested and transported as part of a shipment.

(d) Be on duty, operate, or participate in the operation of a transport vehicle under the influence of alcohol.

(2) No carrier shall require or permit a person to:

(a) Violate any provision of Paragraph (a) of this Subsection; or

(b) Be on duty or operate a transport vehicle if, by the person's general appearance or conduct or by other substantiating evidence, the person appears to have consumed an intoxicating beverage within the preceding four hours or have alcohol in his system.

E.(1) With a reasonable suspicion, any officer of the office of state police may require anyone operating or participating in the operation of a transport vehicle to take a chemical test or tests of his blood, breath, or urine to determine the alcohol content and/or content in his system of any Schedule I, II, III, IV, and V drugs, as defined in R.S. 40:964.

(2) Pursuant to rules and regulations promulgated by the Deputy Secretary of Public Safety refusal to submit to the chemical test may result in the loss for one year of the individual's privileges to operate a transport vehicle.

RS 32:1517 — Personnel and expenses

The secretary may incur such expenses as may be required to carry out the provisions of this Chapter.

RS 32:1518 — Reckless handling of hazardous materials

32:1502, in a criminally negligent

or reckless manner that could endanger human life or health.

B. Any person who willfully violates this Section shall, upon conviction, be guilty

of a felony and be fined or imprisoned in accordance with R.S. 32:1514(B) or may be subject to a civil penalty in accordance with R.S. 32:1512(A).

C.(1) The department may revoke the "H"- hazardous materials endorsement issued pursuant to the provisions of R.S. 32:408(B)(3)(d) or the "X"- combination tank vehicle and hazardous materials endorsement issued pursuant to the provisions of R.S. 32:408(B)(3)(e), or both, on the commercial driver's license of any person upon a final judgment of conviction or assessment of a civil penalty for a second or subsequent violation of this Section, if the material transported when the violation occurred met the definition of a hazardous material, as defined by R.S. 30:2363.

(2) The department may consider any prior final judgment of conviction or assessment of a civil penalty under this Section to determine whether or not to revoke an "H" or "X" endorsement on a commercial driver's license.

RS 32:1519 — Reimbursement of remedial costs

as defined in R.S.

30:2173, or a transporter who has worked a hazardous material accident shall be liable to the state for undertaking remedial action or for all costs of remedial actions taken in cleaning up any discharge or disposal at a pollution source or facility if it can be shown that the hazardous material, hazardous substance, or hazardous waste was discharged or disposed of directly by the transporter and the transporter directly caused the discharge or disposal for which remedial action must be undertaken.

B.(1) The secretary may order any transporter causing a discharge or disposal of a hazardous material, hazardous substance, or hazardous waste at a pollution source or facility to take any remedial actions necessary to contain, abate, cleanup, restore, or remove the discharge or disposal.

(2) When the secretary must file suit against a transporter to recover remedial costs or to obtain remedial action, the court shall also award to the state a penalty of twenty-five percent of the amount determined to be remedial costs.

C.(1) When the secretary orders one transporter to undertake remedial action and other transporters or persons have caused or contributed to the discharge or disposal, the transporter or wrecker service company undertaking remedial action may sue for reimbursement from any other transporter or person responsible for the costs of remedial actions attributable to that transporter or person.

(2) When the remedial action is undertaken voluntarily, in accordance with an agreement entered into with the secretary, the person undertaking such remedial action may sue other responsible parties and may recover twice their share of the remedial costs.

(3) Prior to the filing of any suit by a person undertaking remedial action, a written demand must be made on the person from whom remedial costs are being demanded.

D. As used in this Section, the following terms shall have the following meanings:

(1) "Discharge" means:

(a) The placing, releasing, spilling, percolating, draining, pumping, leaking, seeping, emitting or other escaping of pollutants into the air, waters, subsurface water, or the ground as the result of a prior act or omission; or

(b) The placing of pollutants into pits, drums, barrels, or similar containers under conditions and circumstances that leaking, seeping, draining, or escaping of the pollutants can be reasonably anticipated.

(2) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such waste, or any constituent thereof, may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(3) "Facility" means a pollution source or any public or private property or facility where an activity is conducted which is required to be regulated under this Chapter and which does or has the potential to do any of the following:

(a) Emit air contaminants into the atmosphere.

(b) Discharge pollutant into waters of the state.

(c) Use or control radioactive materials and waste.

(d) Transport, process, or dispose of solid wastes.

(e) Generate, transport, treat, store or dispose of hazardous wastes.

(4) "Pollution source" means the immediate site or location of a discharge or potential discharge, including such surrounding property necessary to secure or quarantine the area from access by the general public.

(5) "Remedial cost" means, after the discharge or disposal of a hazardous substance, the cost of:

(a) Removing, confining, or storing any hazardous substance;

(b) Constructing barriers, securing the site, encapsulating in clay or other impermeable material;

(c) Cleaning up a contamination, recycling, or reuse of a hazardous substance;

(d) Diversion, destruction, or segregation of reactive or other wastes;

(e) Dredging or excavating a site;

(f) Repairing or replacing leaking containers;

(g) Collection of leachate and runoff;

(h) Onsite treatment or incineration of a substance;

(i) Provision of alternative water supplies;

(j) Monitoring, testing, or analyzing;

(k) Employing legal, engineering, chemical, biological, architectural, or other professional consultants or personnel;

(l) Investigation, initiation, or prosecution of lawsuits to final judgment;

(m) Transporting and disposing of waste from the site;

(n) Or any other action the secretary deems necessary to restore the site or remove the hazardous substance.

(o) Wrecker service companies undertaking remedial action involving hazardous material accidents.

RS 32:1520 — Careless handling of hazardous material

or imprudent manner

without regard for the hazards of the material or the circumstances of such actions shall be

guilty of careless handling.

B. Any person who violates this Section shall, upon conviction, be guilty of a misdemeanor and be fined or imprisoned in accordance with R.S. 32:1514(A) or may be civilly penalized in accordance with R.S. 32:1512(A).

C. A person shall not be cited with a violation of this Section when that person or his representative reports an incident involving a hazardous material that does not meet the reporting criteria as set forth in R.S. 32:1510.

RS 32:1521 — Restrictions on transportation of hazardous materials

ndred yards or less of any building used as a public or private elementary or secondary school, except for carriers making local deliveries on this portion of Louisiana Highway 73.

(2) No carrier shall transport hazardous materials on that portion of Louisiana Highway 48 designated as Apple Street in Norco, except for carriers making local pickups or deliveries, carriers using the route to reach a local pickup or delivery point, or carriers using the route to reach maintenance or service facilities.

B. No carrier shall transport hazardous materials on Louisiana Highway 1 between its intersection with Louisiana Highway 3132 and its intersection with Interstate 220 and within three hundred yards or less of any building used as a public or private elementary or secondary school, except for carriers making local pickups or deliveries, carriers using the route to reach a local pickup or delivery point, or carriers using the route to reach maintenance or service facilities.

C. No carrier shall transport hazardous materials on U.S. Highway 171 between its intersection with Louisiana Highway 3132 and its intersection with U.S. Highway 80 and within three hundred yards or less of any building used as a public or private elementary or secondary school, except for carriers making local pickups or deliveries, carriers using the route to reach a local pickup or delivery point, or carriers using the route to reach maintenance or service facilities.

D. No carrier shall transport hazardous materials on U.S. Highway 71 between its intersection with Interstate 220 and its intersection with Interstate 20 and within three hundred yards or less of any building used as a public or private elementary or secondary school, except for carriers making local pickups or deliveries, carriers using the route to reach a local pickup or delivery point, or carriers using the route to reach maintenance or service facilities.

E. Except for carriers making local pickups or deliveries, carriers using the route to reach a local pickup or delivery point, or carriers traveling to or from their terminal facilities, or carriers using the route to reach maintenance or service facilities within the boundaries of the parish, no carrier shall transport hazardous materials in the parishes of Caddo or Bossier, except on the following routes:

- (1) Interstate 20 between the Texas-Louisiana state boundary and the Caddo-Bossier parish boundary.
- (2) Interstate 220 between its intersection with Interstate 20 and the Caddo-Bossier parish boundary.
- (3) Interstate 49 between the Caddo-DeSoto parish boundary and its intersection with the Louisiana-Arkansas boundary.
- (4) Louisiana Highway 1 between the Caddo-Red River parish boundary and its intersection with Louisiana Highway 3132.
- (5) Louisiana Highway 1 between its intersection with Interstate 220 and the Louisiana-Arkansas state boundary.
- (6) U.S. Highway 171 between the Caddo-DeSoto parish boundary and its intersection with Louisiana Highway 3132.
- (7) Louisiana Highway 2 between its intersection with Louisiana Highway 1 and the Caddo-Bossier parish boundary.
- (8) U.S. Highway 79 between the Louisiana-Texas state boundary and its intersection with Interstate 20.
- (9) U.S. Highway 71 between its intersection with Interstate 220 and the Louisiana-Arkansas state boundary.
- (10) U.S. Highway 80 from the Louisiana-Texas state boundary to Greenwood, Louisiana.
- (11) Louisiana Highway 3132.
- (12) Louisiana Highway 526.

F. No carrier shall transport hazardous materials on any route in the parishes of Caddo or Bossier within three hundred yards or less of any building used as a public or private elementary or secondary school, except for carriers making local pickups or deliveries, carriers using the route to reach a local pickup or delivery point, or carriers using the route to reach maintenance or service facilities within the boundaries of the parishes.

G. Except for carriers making local pickups and deliveries, carriers using the route to reach a local pickup or delivery point, or carriers using the route to reach maintenance or service facilities, no carriers shall transport hazardous materials in the parishes of Caddo and Bossier, except on the following routes:

- (1) Interstate 20 between the Bossier-Caddo parish boundary and the Bossier-Webster parish boundary.
- (2) Interstate 220 between the Bossier-Caddo parish boundary and its intersection with Interstate 20.
- (3) U.S. Highway 71 between the Bossier-Red River parish boundary and its intersection with Interstate 20.
- (4) Louisiana Highway 3105 (Airline Drive) between the Louisiana-Arkansas state boundary and its intersection with U.S. Highway 71.
- (5) Louisiana Highway 3 (Benton Road) between the Louisiana-Arkansas state boundary and its intersection with Interstate 20.
- (6) Louisiana Highway 2 between the Bossier-Caddo parish boundary and the Bossier-Webster parish boundary.
- (7) Louisiana Highway 511 (Jimmie Davis Highway) between its intersection with U.S. Highway 71 and its intersection with Louisiana Highway 3132.

H.(1) Whoever violates the provisions of Subsection A of this Section shall be fined not more than two hundred dollars, or imprisoned for not more than ninety days, or both.

(2) On a second or subsequent violation, the offender shall be fined not less than twenty-five nor more than five hundred dollars, or imprisoned for not less than ten days nor more than six months, or both.

I.(1) Whoever violates the provisions of Subsection B, C, D, E, F, or G of this Section shall be fined not more than one thousand dollars, or imprisoned for not more than ninety days, or both.

(2) On a second or subsequent violation, the offender shall be fined not less than five hundred dollars nor more than three thousand dollars, or imprisoned for not less than thirty days nor more than six months, or both.

RS 32:1522 — Hazardous Materials Emergency Response Fund

nd 1520 shall be paid into the state treasury and shall be credited to the Bond Security and Redemption Fund. Out of the funds remaining in the Bond Security and Redemption Fund, after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within a fiscal year, the treasurer shall, prior to placing such remaining funds in the state general fund, pay into a special fund, which is hereby created in the state treasury and designated as the "Hazardous Materials Emergency Response Fund", hereinafter referred to as the fund, an amount equal to all monies collected under R.S. 32:1512, 1518, 1519, and 1520. The amount of money deposited out of the money collected pursuant to R.S. 32:1512, 1518, 1519, and 1520 shall not exceed three hundred fifty thousand dollars annually. Any monies in excess of that amount shall revert to the general fund.

B. Monies in the fund shall be used only to develop those resources within the Department of Public Safety and Corrections, office of state police, transportation and environmental safety section, hazardous materials unit necessary for training, equipment, and support

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state police hazardous materials response unit.

RS 32:1523 — For-hire carriers of passengers; definitions; driving time; rules and regulations

clearly indicates a different meaning:

- (1) "Driving time" means all time spent at the driving controls of a commercial for-hire vehicle designed to transport passengers.
- (2) "Eight consecutive days" means the period of eight consecutive days beginning on any day at the time designated by the for-hire carrier for a twenty-four-hour period.
- (3) "On duty time" means all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work.
- (4) "Twenty-four-hour period" means any twenty-four-consecutive-hour period beginning at the time designated by the for-hire carrier for the terminal from which the driver is normally dispatched.

B. The provisions of this Section shall apply only to for-hire carriers designed to transport more than eight passengers, including the driver, on any public highway or road in this state.

C. Drivers of for-hire carriers shall be prohibited from:

- (1) Driving a vehicle designed to transport more than eight passengers for more than ten hours without eight consecutive hours off duty.
- (2) Driving a for-hire vehicle after the driver has been on duty for fifteen hours without eight consecutive hours off duty.
- (3) Driving a for-hire vehicle after the driver has been on duty for a total of seventy consecutive hours within eight consecutive days.

D. For-hire carrier companies shall keep time records, for six months, indicating the time all for-hire drivers report for duty, the time of relief from duty, hours driven, hours on duty, and hours off duty. These records shall be made available to the Department of Public Safety and Corrections, office of state police, for inspection and shall be subject to the provisions of R.S. 32:1505.

E. The Department of Public Safety and Corrections, office of state police, shall adopt rules and regulations in accordance with the Administrative Procedure Act, as are necessary, to implement the provisions of this Section.

RS 32:1524 — Contract carriers transporting railroad employees; definitions; driving time; rules and regulations

unless the context clearly indicates a different meaning:

- (1) "Contract carrier" means a transportation company operating in intrastate commerce by motor vehicle or bus under contract to transport railroad employees for compensation.
- (2) "Drive time" means the length of time a driver spends behind the wheel of a motor vehicle performing intrastate commerce as employed by a contract carrier to transport railroad employees.
- (3) "On-duty time" means the length of time a driver spends at work as an employee of a contract carrier. On-duty time shall include:
 - (a) All time at a plant, terminal, facility, or other property of a contract carrier or shipper, or on any other property waiting to be dispatched, unless the driver has been relieved from duty by the contract carrier.
 - (b) All time inspecting, servicing, or conditioning any contract carrier motor vehicle used for transport assignments.
 - (c) All drive time as defined in the term "drive time".
 - (d) All time, other than driving, in or upon any contract carrier motor vehicle used for transport assignments.
 - (e) All time supervising, attending, or assisting the loading or unloading of a contract carrier transport vehicle, all time spent giving or receiving receipts for shipments loaded or unloaded, or remaining in readiness to operate the contract carrier transport vehicle.
 - (f) All time repairing, obtaining assistance, or remaining in attendance upon a disabled contract carrier transport vehicle.
 - (g) All time spent providing a breath sample or urine specimen, including travel time to and from the testing site, in order to comply with any federal, state, or employer regulation or rule.
 - (h) All time performing any other work in the capacity, employment, or service of a contract carrier.
- (4) "Seven consecutive days" means the period of seven consecutive days beginning on any day and time designated by the contract carrier for the terminal from which the driver is normally dispatched.
- (5) "Transport vehicle driver" means a driver employed by a contract carrier to fulfill transport assignments in accordance with the intrastate transportation of railroad employees.
- (6) "Twenty-four-hour period" means any twenty-four consecutive hour period beginning at the time designated by the contract carrier for the terminal from which the driver is normally dispatched. The times designated for the beginning of a twenty-four-hour period and seven consecutive days shall be the same.
- (7) "Uninterrupted rest", commonly referred to as "off-duty", means a period of time in which a contract carrier shall not communicate with a driver by telephone, pager, or any manner that could disrupt the driver's rest.

B. The provisions of this Section shall apply only to transport vehicle drivers employed by contract carriers designed to transport railroad employees on any public highway or road in this state.

C.(1) A contract carrier shall not require or allow a transport vehicle driver to be on-duty for more than:

- (a) Twelve hours following eight consecutive hours of uninterrupted rest.
 - (b) Fifteen hours of combined on-duty and drive time after the driver completes eight consecutive hours of off-duty time.
 - (c) Seventy hours of combined on-duty and drive time in any period of seven consecutive days.
- (2) After an off-duty period of at least twenty-four hours, a driver shall begin a new consecutive day work period and the driver's off-duty time shall reset to zero.
- (3) A transport vehicle driver who cannot safely complete a transportation assignment within the twelve-hour maximum driving time permitted due to an emergency shall be permitted to drive a motor vehicle for not more than two additional hours to complete the transport assignment or to reach a destination offering safety and security for the transport motor vehicle and its passengers.

D. A contract carrier shall maintain time records for a period of six months indicating the time all transport vehicle drivers report for duty, the time of relief from duty, hours driven, hours on duty, and hours off duty. The records shall be made available to the Department of Public Safety and Corrections, office of state police, for inspection and shall be subject to the provisions of R.S. 32:1505. The Department of Public Safety and Corrections, office of state police, shall adopt rules and regulations, in accordance with the Administrative Procedure Act, as are necessary to implement the provisions of this Section.

E. A contract carrier shall maintain a transport vehicle driver qualification and personnel file for each driver it employs. The driver qualification file shall include:

- (1) The driver's employment application as required by 49 CFR 391.21.
- (2) Requests for information from the driver's previous employer as required by 49 CFR 391.23(a)(2) and (c).
- (3) Documentation related to the annual inquiry and review of the driver's motor vehicle operation record as provided by the Department of Public Safety and Corrections, office of motor vehicles. Such documentation shall confirm the driver's qualifications and ability to operate a motor vehicle in this state and shall include a record of all motor vehicle laws or ordinance violations committed by the driver.
- (4) Medical examination reports and certificates to be completed every two years which confirm the physical ability of the driver to operate a motor vehicle.
- (5) A copy of the driver's current Class E driver's license.

F. The provisions of this Section shall not limit the right of a railroad company to contract with an employee of a contract carrier, transportation company, or entity that certifies to the railroad company that it is in compliance with the provisions of this Section or any applicable federal requirements.

RS 32:1524.1 — Contract carriers transporting railroad employees; transport vehicle driver disqualification

ted two or more traffic violations within a three-year period, resulting in the suspension or revocation of the driver's license or privilege to operate a motor vehicle by the Department of Public Safety and Corrections, office of motor vehicles, or other administrative agency for conviction of any of the following:

- (1) Any intoxication-related offense.
- (2) Any commercial motor vehicle violation.
- (3) Driving fifteen or more miles per hour over the posted speed limit of the roadway.
- (4) Negligent homicide with a vehicle or vehicular homicide.
- (5) Using a motor vehicle to commit a felony.
- (6) Failure to maintain proof of financial responsibility as required by law.
- (7) Fleeing the scene of an accident on foot or by use of a motor vehicle.
- (8) Evading arrest.
- (9) Careless and imprudent driving.
- (10) Prohibited passing of another motor vehicle.
- (11) Passing a stopped school bus.

(12) Failure to obey a posted traffic signal or device.

(13) Failure to obey a railroad crossing barrier.

(14) Driving with a suspended, revoked, or cancelled driver's license.

(15) Driving the wrong way down a one-way street.

B. All transport vehicle drivers performing transport assignment duties for contract carriers shall undergo testing for alcohol and controlled substances as provided by 49 CFR Parts 40 and 382. A driver shall be qualified to operate a transport motor vehicle for a contract carrier if the following conditions are met:

(1) The alcohol test results indicate a blood alcohol concentration of zero.

(2) The controlled substance test results from a medical review officer as defined by 49 CFR 40.3 indicate a verified negative test result.

C. A transport vehicle driver shall be disqualified from operating a motor vehicle for a contract carrier if:

(1) The driver refuses to provide a specimen for an alcohol or controlled substance test.

(2) The driver submits an adulterated, dilute positive, or substituted specimen on an alcohol or controlled substance test.

D. In the event a motor vehicle accident occurs during a transport assignment involving a motor vehicle owned or operated by a transport vehicle driver, the contract carrier shall test each surviving transport vehicle driver for alcohol or controlled substances, if:

(1) The accident involved the loss of human life.

(2) The transport vehicle driver received a moving traffic violation citation as a result of the motor vehicle accident and the accident involved:

(a) Bodily injury to a person who received immediate medical attention.

(b) Disabling damage to one or more motor vehicles involved in the accident.

E. Alcohol and controlled substance testing shall be completed immediately following a motor vehicle accident. In the event alcohol testing cannot be completed immediately, testing shall be performed within eight hours following the motor vehicle accident. In the event controlled substance testing cannot be completed immediately following the motor vehicle accident, testing shall be performed within thirty-two hours following the motor vehicle accident. The results of such testing shall be submitted to the Department of Public Safety and Corrections, office of motor vehicles.

F. The contract carrier shall maintain all records of alcohol and controlled substance testing for each driver it employs for a period of five years from the date the test is administered. The records shall be maintained in a secure location on the premises of the contract carrier.

RS 32:1524.2 — Contract carriers transporting railroad employees; motor vehicle inspections; records

d employees at least once in each twelve-month period in compliance with 49 CFR 396.17 and Appendix G. Such inspection shall be performed by an individual qualified to perform such inspections in accordance with 49 CFR 396.19.

B. A contract carrier shall require each transport vehicle driver it employs to complete a written motor vehicle report upon completion of operation of the motor vehicle in accordance with 49 CFR 396.11.

C. A contract carrier shall establish a maintenance and repair program to include weekly inspections of the motor vehicles operated in the transportation of railroad employees. The program shall include checking parts and accessories for safety and proper operation at all times including overall cleanliness of the motor vehicle. A contract carrier and its officers, drivers, agents, and employees concerned with the inspection and maintenance of motor vehicles shall comply with and be knowledgeable of the contract carrier's maintenance and repair program. A contract carrier shall maintain records for its maintenance and repair program for each motor vehicle for a time period of one year. In the event a motor vehicle changes ownership, records shall be maintained by the contract carrier for a period of six months. The records shall include:

(1) Identifying information of the motor vehicle to include vehicle identification number, make, model, year of manufacture, and company identification number if so provided.

(2) Owner information if the motor vehicle is not owned by the contract carrier.

(3) Inspection history to include documentation of all repairs and maintenance activity.

D. All motor vehicles operated by contract carriers shall have the following:

- (1) Tires with sufficient tread in accordance with 49 CFR 393.75.
- (2) A fully inflated spare tire.
- (3) A secure location for personal baggage, including proper restraints.
- (4) Fully operational seatbelts for all passenger seats.
- (5) Traction devices, studs, or chains in the event of inclement weather.
- (6) An operational heater and air conditioner with fans.
- (7) An emergency road kit containing a tire inflation aerosol, flares or reflective triangles, battery cables, a fire extinguisher, and a readily available first aid kit complying with the standards set forth in 29 CFR 1910.151, Appendix A, and the American National Standards Institute Z308.1 minimum requirements.

E. All motor vehicles operated by contract carriers shall be equipped with an operable amber light or strobe light which shall be mounted to the roof of the motor vehicle in the rear one-third portion in order to provide warning to motorists that the vehicle has slowed or stopped on a roadway.

F. All motor vehicles operated by contract carriers shall not be operated in a condition that is likely to cause a motor vehicle accident or mechanical breakdown.

G. A contract carrier shall allow an employee of the Department of Public Safety and Corrections or its designee access to:

- (1) A facility to determine compliance with this Section.
- (2) Records or information related to a motor vehicle accident investigation.

RS 32:1524.3 — Contract carriers; penalties

tion which imposes stricter standards or regulations upon the operation of contract carriers which transport railroad employees.

B. Any person, corporation, or entity that violates the provisions of R.S. 32:1524, 1524.1, and 1524.2 or any rule promulgated thereto, shall be subject to a civil penalty in an amount not more than two thousand dollars for each offense or violation. Each violation shall constitute a separate and distinct offense. In the event of continuing violations, each such violation shall constitute a distinct and separate offense.

RS 32:1525 — Motor carrier violations; enforcement procedure; payment and collection of penalties; administrative review; driver's license suspensions

r, private carrier, transport vehicle, or driver is found in violation of any provision of this Chapter or any provision of the Federal Motor Carrier Safety Regulations, the Department of Public Safety and Corrections, office of state police, shall send the responsible party a "Notice of Violation, Proposed Finding and Proposed Civil Penalty", hereafter referred to as a "notice of violation", within thirty calendar days of the violation; however, whenever an incident involves hazardous materials and includes evacuations, fatalities, or serious injuries, the office of state police shall send the responsible party a "notice of violation" within sixty calendar days of the violation.

(2)(a) Each notice of violation shall clearly indicate if a monetary penalty is assessed for the violation or if the notice of violation is only a warning. In cases of the assessment of a monetary penalty, each notice of violation shall be sent to the responsible party by certificate of mailing. Such notice of violation shall also contain notice that the responsible party shall have forty-five calendar days from the date of issuance of the notice of violation to either pay the monetary penalty for the violation or to request, in writing, an administrative hearing to review the notice of violation. In cases where the amount of the civil penalty is negotiated between the office of state police and the responsible party, the office of state police shall send written notification to the responsible party of the amount of the negotiated civil penalty within thirty calendar days of the date of the final negotiation.

(b) The office of state police shall adopt rules and regulations in accordance with the Administrative Procedure Act, subject to oversight by the House and Senate Committees on Transportation, Highways and Public Works as are necessary regarding the administrative hearing, including but not limited to rules and regulations regarding notification and procedure for requesting a hearing.

(3) If the Department of Public Safety and Corrections, office of state police, fails to issue the notice of violation to the responsible party in accordance with the provisions of Subsection A of this Section, the violation shall be dismissed.

However, the office of state police shall be granted an additional sixty calendar days to send the responsible party a notice of violation in accordance with the provisions of Subsection A of this Section if the office of state police experiences a data system failure caused by either an act of God or an intentional act of sabotage.

(4) Any appeal of the findings of the administrative law judge shall be filed in a state district court with proper venue over the matter.

B.(1) If a motor carrier is determined to be the responsible party for a notice of violation by the office of state police, and if such party fails to pay the assessed penalty within forty-five calendar days of issuance of the notice of violation, or in the case of an administrative hearing, the responsible party fails to pay the assessed penalty within thirty calendar days of receiving a notice of final judgment from the administrative law judge, the outstanding penalty amount shall be posted on the office of state police's official web site. The outstanding penalty amount for such responsible party shall continue to appear on the web site until all fines and fees are paid in full. The office of state police shall transmit the vehicle identification number of the offending vehicle for which the notice of violation was written to the office of motor vehicles.

The office of motor vehicles shall not renew the registration of the offending vehicle until all fines and fees associated with the notice of violation have been paid in full. Within seven calendar days of receiving documentation from the responsible party that all fines and fees have been paid in full, the office of state police shall remove the posting of the notice of violation from its web site. Additionally, upon payment of all fines and fees associated with the notice of violation, the office of motor vehicles shall immediately authorize renewal of the vehicle's registration.

(2) If the driver of a motor vehicle is found to be the responsible party for a notice of violation by the office of state police, the driver shall be responsible for the payment of all fines and fees associated with issuance of the notice of violation. If the office of state police fails to receive payment within forty-five calendar days of issuance of the notice of violation, or in the case of an administrative hearing, the responsible party fails to pay the assessed penalty within thirty calendar days of receiving a notice of final judgment from the administrative law judge, the office of state police shall transmit the driver's license number to the office of motor vehicles. Upon receipt of the driver's license number, the office of motor vehicles shall immediately notify the driver, by first class mail, that his driver's license shall be suspended thirty calendar days after the date of mailing the notice unless all fines and fees associated with the notice of violation or final judgment from the administrative law judge are paid in full together with notice of the imposition of a fifty-dollar fee by the office of motor vehicles to cover its administrative costs. The driver's license shall remain suspended until all fines and fees associated with the notice of violation or final judgment from the administrative law judge and the fifty-dollar fee for the office of motor vehicles are paid in full. Upon payment of all fines and fees, the office of motor vehicles shall immediately authorize the reinstatement of the driver's license.

(3) Motor carriers shall not be responsible for driver violations.

C.(1) The office of state police and any law enforcement officer working for such office shall be prohibited from seizing a motor vehicle or the registration license plate of a motor vehicle for failing to pay a fine for a notice of violation.

(2) In the event a motor vehicle for which a notice of violation has been issued is subsequently sold, the new owner of such vehicle shall not be responsible for any outstanding fines or fees associated with a notice of violation. The new owner of the motor vehicle shall present proper documentation to the office of state police evidencing the lawful transfer of ownership.

D. During a gubernatorially declared state of emergency, the office of state police shall be granted an additional sixty calendar days to send the responsible party a notice of violation in accordance with the provisions of Subsection A of this Section. The extension of time granted in this Subsection shall terminate once the state of emergency ends.

RS 32:1526 — Unified Carrier Registration Agreement; enforcement; disposition of money

the contrary, the Department of Public Safety

and Corrections shall be the state agency which shall administer and enforce the Unified

Carrier Registration Agreement through its office of motor vehicles, office of state police,

and such other offices, sections, or divisions as the secretary deems necessary, in accordance

with the rules and regulations promulgated by the board of directors of the Unified Carrier

Registration Plan, all as provided for in the Unified Carrier Registration Act of 2005, 49

U.S.C. 14504a et seq. The department shall be identified to the secretary of the United States Department of Transportation as the state agency that has the legal authority, resources, and qualified personnel necessary to administer and enforce such act and such rules and regulations as provided for in 49 U.S.C. 14504a(e)(1)(A). The secretary, subject to the oversight of the House and Senate committees on transportation, highways and public works, shall adopt and promulgate rules and regulations in accordance with the Administrative Procedure Act necessary to implement the provisions of this Section.

B.(1) All revenue collected by or distributed to the department under the Unified Carrier Registration Agreement shall be deposited upon receipt into the state treasury. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state that become due and payable during a fiscal year as provided for in Article VII, Section 9(B) of the Constitution of Louisiana, the treasurer shall each fiscal year deposit into a special statutorily dedicated fund account hereby created in the state treasury, to be known as the Unified Carrier Registration Agreement Dedicated Fund Account, hereafter referred to in this Section as the "account", an amount equal to the total amount received by the treasurer pursuant to this Subsection. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

(2) All unexpended and unencumbered money in the account at the end of a fiscal year shall remain in the account and shall be available for use in the next fiscal year as provided for in this Subsection. Money in the account shall be invested as provided by law, and any interest earned on such investments shall be credited to the account after compliance with the provisions of Article VII, Section 9(B) of the Constitution of Louisiana.

(3) The money in the account shall be used each fiscal year solely and exclusively by the department, except as provided for in Paragraph (2) of this Subsection, for motor carrier safety programs, enforcement, or the administration of the Unified Carrier Registration Plan and the Unified Carrier Registration Agreement as required by the Unified Carrier Registration Act of 2005.

RS 32:1550 — Repealed by Acts 1997, No. 1334, §2.

ton Rouge, Louisiana 70804-9062

RS 32:1551 — Repealed by Acts 1997, No. 1334, §2.

ton Rouge, Louisiana 70804-9062

RS 32:1552 — Repealed by Acts 1997, No. 1334, §2.

ton Rouge, Louisiana 70804-9062

RS 32:1553 — Repealed by Acts 1997, No. 1334, §2.

ton Rouge, Louisiana 70804-9062

RS 32:1601 — Definitions

on gas" means a combustible organic gas containing only one carbon and hydrogen. Hydrocarbon gas includes, but is not limited to, propane, compressed natural gas, liquified petroleum gas, methane, or any chemically similar gas, but does

not include gasoline or diesel fuel.

(2) "Motor vehicle" means every vehicle which is self-propelled, excluding a motorized bicycle.

RS 32:1602 — Hydrocarbon gas powered motor vehicles, placard required

any public highway or street in this state, which does not have conspicuously displayed, a placard stating that the motor vehicle is powered by hydrocarbon gas.

RS 32:1603 — Placard, rules and regulations

d promulgate all rules and regulations in accordance with the Administrative Procedure Act.

RS 32:1604 — Penalty

eff. Jan. 1, 1984.

RS 32:1700 — Secretary of Department of Public Safety and Corrections to notify

les as provided in R.S. 47:462 except those also classified as farm trucks, farm tractors, and other farm vehicles of all changes in the provisions of R.S. 32:311.11 through 398.5, R.S. 32:1501 through 1520, R.S. 47:711 through 727, R.S. 47:771 through 789, and R.S. 47:801 through 815, which affect the operation on state highways and public roads of those vehicles.

B. Notices of any changes described in Subsection A above shall be in writing in a form to be determined by the secretary of the Department of Public Safety and Corrections, or his designee, and shall be mailed to the owner of such vehicles at the address listed on the registration certificate for that vehicle. The secretary shall determine the cost of providing a notice of change, and, in accordance with rules and regulations promulgated by the secretary, such costs shall be paid by the recipients of the notice.

C. Oversight review of all rules and regulations promulgated by the secretary under the provisions of this Chapter shall be conducted by the House Committee on Transportation, Highways and Public Works and the Senate Committee on Transportation, Highways and Public Works.

RS 32:1711 — Declaration of public policy

nterest, and the public welfare, and that in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate and to license those who conduct towing and storage businesses in Louisiana, in order to prevent frauds, impositions, and other abuses upon its citizens, and to provide maximum safety for all persons who travel or otherwise use the public highways of this state.

RS 32:1712 — Short title

navigating this website,

RS 32:1713 — Definitions

sation" means any benefit derived by the tow truck owner or operator as a result of barter, payment, or fees charged for repair work performed on the towed vehicle.

(3) "Non-consensual storage" means the storage or possession of a vehicle by an individual or storage facility operator without prior consent or authorization of the vehicle's owner or operator for the purpose of charging fees or obtaining ownership. Prior consent or authorization shall be documented by the storage facility by providing a written storage contract as outlined in R.S. 32:1722(C).

(4) "Non-consensual towing" means the movement or transportation of a vehicle by a tow truck without the prior consent or authorization of the owner or operator of the vehicle. This includes private property tows conducted in accordance with the provisions of R.S. 32:1736 and tows by law enforcement or other public agencies. Whenever an owner or operator of a vehicle requests a law enforcement officer or other public agency to initiate a tow, such tow shall be considered non-consensual and subject to Louisiana Public Service Commission tow rates.

(5) "Owner" means the last registered owner of a vehicle, the holder of any lien on a vehicle, and any other person with documented proof of ownership of a vehicle. Documented proof of ownership shall include a title, current registration, or a notarized bill of sale.

(6) "Tow" means pull, winch, carry, or otherwise move a vehicle or equipment other than under its own power with the use of a tow truck.

(7) "Tow truck" means any motor vehicle equipped with a boom or booms, winches, slings, tilt beds, semi-trailers, and/or similar equipment designed for the towing and/or recovery of vehicles and other objects which cannot operate under their own power or for some reason must be transported by means of towing.

(8) "Tow truck owner or operator" means any person or entity owning or operating a tow truck service.

RS 32:1714 — Powers and duties of the office of state police

shall:

(1) Adopt rules and regulations to govern the towing and storage industry in Louisiana.

(2) Adopt rules and regulations to ensure that no person shall operate a towing business when they arrive at the scene of a vehicle accident without being called by the police or by the owner of the vehicle or his representative.

(3) Adopt and levy fines for violation of this Chapter or any rule or regulation adopted pursuant to this Chapter. The administrative fine for each violation of this Chapter, or of the regulations adopted pursuant thereto, shall not exceed the sum of five hundred dollars.

(4) Make recommendations to the office of motor vehicles in reference to the examination, issuance, suspension, or revocation of licenses for tow trucks and operators.

(5) Adopt a schedule of maximum fees which may be charged for the notifications required by this Chapter.

(6) Repealed by Acts 2012, No. 806, §2.

(7) Insure compliance of every tow truck, towing facility, storage facility, and every employee subject to or licensed in accordance with this Chapter with the laws of this state, regulations of the Federal Motor Carrier Administration, and regulations promulgated pursuant to this Chapter.

RS 32:1715 — Towing of motor vehicles in the state of Louisiana

he towing vehicle or carrier having displayed a towing license plate and complying with the rules and regulations adopted pursuant to this Chapter.

B. This Section shall apply to every commercial entity that receives direct or indirect compensation for the towing of a vehicle.

C. This Section shall not apply to:

(1) Car carriers that are capable of carrying five or more vehicles and have Interstate Commerce Commission authority.

(2) Tow trucks that are registered in another state with Interstate Commerce Commission authority.

(3) Tow trucks that are owned by a governmental entity and that are not used for commercial purposes.

(4) Tow trucks that are owned by an owner of a garage, automotive mechanic shop, or other place where motor vehicles are repaired, are operated by an employee or an owner of such a shop, and are operated solely to transport motor vehicles to such shop for maintenance or repair work, but only when such owners or operators:

(a) Have insurance coverage as required by this Chapter.

(b) Obtain the license plate as required by this Chapter.

(c) Shall not respond to accident scenes or participate in a police rotation system or conduct private property tows.

(d) Shall not offer towing services for hire or store any motor vehicles.

RS 32:1716 — Licensing; special license plates

ucks owned by public agencies.

B. The assistant secretary for the office of motor vehicles shall establish and issue a special tow truck license plate for vehicles which are designed to tow or carry any other vehicle.

C. The assistant secretary for the office of motor vehicles shall establish by rules promulgated under the Administrative Procedure Act the implementation of this Section.

RS 32:1717 — Qualifications of licensee; proof of financial responsibility in lieu of insurance

ho operate tow trucks have never been convicted of a felony relating to vehicle thefts.

(2) The applicant and all drivers who operate the tow truck possess the proper driver's license as required.

(3) The vehicle is properly equipped as required by this Title and any rules promulgated by the Department of Public Safety and Corrections.

(4) The applicant and employees that operate tow trucks are not required to be registered as a sex offender or child predator as required in R.S. 15:542.

B. Proof of financial responsibility satisfactory to the office of motor vehicles or certificates of insurance issued by an insurer licensed to do business in the state of Louisiana or a federally authorized insurance group licensed in their state of domicile and attesting to carriage with coverage in the amounts hereinbelow listed shall be submitted with the application:

(1) Automobile liability coverage in an amount of not less than three hundred thousand dollars combined single limits coverage.

(2) Garage keeper's legal liability insurance in an amount of not less than fifty thousand dollars which shall include on-hook coverage in an amount of not less than twenty-five thousand dollars.

(3) Garage liability insurance in an amount of not less than fifty thousand dollars.

(4) Self-insurance as contemplated under the provisions of R.S. 32:1042, when property owned in Louisiana in the tow truck owner's name has a value of three hundred thousand dollars or more after deducting encumbrances thereon from its assessed valuation.

C. All certificates shall contain the initial and the expiration dates of carriage and coverage and the serial number of the vehicle that the license is being applied for and the following statement:

"The insurance covered by this certificate shall not be cancelled or materially altered except after twenty days prior written notice of such cancellation or alteration has been sent to the Department of Public Safety and Corrections, office of state police, by certified letter, return receipt requested."

D. Car carrier companies which transport less than five motor vehicles and do not store or hold motor vehicles shall be licensed as tow trucks upon application and submission of an affidavit to the Department of Public Safety and Corrections, stating that the company does not store or hold motor vehicles and does not carry garage keeper's legal liability or garage liability insurance. These companies shall receive a "car carrier" endorsement on their required motor vehicle registration. This does not exclude the car carrier company from any other regulations as set by the Louisiana Towing and Storage Act.

RS 32:1717.1 — Licensing; storage facility inspection; fee

visions of this Chapter shall pay

an annual fee of one hundred dollars for a storage inspection license to the Department of Public Safety and Corrections, office of state police.

B. The Department of Public Safety and Corrections, office of state police, subject to oversight of the House and Senate Transportation, Highways and Public Works Committees, shall promulgate rules and regulations in accordance with the Administrative Procedure Act, as are necessary, for the implementation of this Section.

C.(1) The Department of Public Safety and Corrections, office of state police, may initiate an administrative action to suspend the storage license pursuant to the provisions of this Chapter for either of the following:

- (a) Repeat violations of any provision of this Chapter.
- (b) The failure to meet requirements for the issuance of a storage license.
- (2) Except as otherwise provided for in R.S. 49:977.3(C), no suspension imposed pursuant to the provisions of this Chapter shall exceed thirty days.
- (3) Revocation may be issued for three or more suspensions.
- (4) Prior to the suspension or revocation of any license, the licensee shall have the opportunity for an impartial hearing held in accordance with the Administrative Procedure Act.
- (5) For purposes of this Subsection, "repeat violations" means three or more violations of the same administrative rule or regulation within a two-year period.

RS 32:1718 — Law enforcement notification of a vehicle towed to a storage facility; outdoor storage facility

om private property, the owner or operator of the storage facility shall, within twenty-four hours of the time such vehicle is towed to a storage facility, notify the office of the sheriff or the municipal police or their assigned designees from whose jurisdiction the vehicle is towed that the vehicle has been towed for storage. Except when the vehicle is stored by or upon request from a law enforcement agency, the storage operator shall provide to the law enforcement authorities or their designees:

- (1) The name and address of the location from which the vehicle was towed.
- (2) The year, make, model, and manufacturer's vehicle identification number.
- (3) The license plate number and state of issuance of the vehicle.
- (4) The name and address of the location to which the vehicle was towed.

B. Each law enforcement authority or designee receiving information pursuant to the provisions of this Section shall accept, record, and file the information in order to be reasonably obtainable for responding to requests from the public.

C. If the storage facility is an outdoor facility, it shall provide a reasonable security barrier or safety apparatus suitable to the premises of the facility which will assure security to the property contained therein.

RS 32:1719 — Notification to Department of Public Safety and Corrections

or parking lot, where fees are charged for storage or parking or when a vehicle has been towed or stored as a result of a non-consensual tow or non-consensual storage, the owner of the storage or parking facility shall, within three business days of the date the vehicle has been towed, stored, or parked, report to the department, or the department's authorized agent, the make, model, vehicle identification number, license plate number, state of issuance, and expiration date, if known, and the date of storage of such vehicle in a manner provided by the department or its authorized agent. The department, or the department's authorized agent, shall provide the owner of the towing, storage, or parking facility with the most current owner and lienholder information available on the stored vehicle. If the department reports that a stored vehicle is or has been registered in another state, that report shall indicate that the department has used due diligence in obtaining information from nationwide databases available to the department.

B. No tow truck owner or operator shall be liable, civilly or criminally, when the department or its authorized agent fails to provide the information requested in Subsection A of this Section in a timely manner, if the tow truck owner or operator sends notification to the stored vehicle's owner in accordance with the provisions of R.S. 32:1720.

RS 32:1720 — Owner notification of a stored vehicle; right to request administrative hearing

ation of the stored vehicle, which includes information regarding the holder of any lien on the vehicle, to the owner of the towing, storage, or parking facility, the owner of the towing, storage, or parking facility shall send notice with a certificate of mailing to the owner of the vehicle at the owner's last known address and to the holder of any lien on the vehicle. If the department or its authorized agent sends the owner information electronically, the owner of the towing, storage, or parking facility shall send notice within

five business days.

B. The notice required in Subsection A of this Section shall include the following information:

- (1) The name, location, and physical and mailing addresses of the storage or parking facility.
- (2) A description of the vehicle including the year, make, model, and vehicle identification number.
- (3) The vehicle license plate number, state of issuance, and expiration date, if known.
- (4) The name of the person or agency that had the vehicle towed or placed in storage.
- (5) The date the vehicle was placed in storage and any applicable adjusted storage dates.
- (6) The condition of the vehicle.
- (7) All outstanding charges against the stored vehicle.
- (8) Notice of the right of the owner and holder of any lien on the vehicle to an administrative hearing as required in R.S. 32:1727. The notice shall contain the deadline for requesting an administrative hearing and shall contain information regarding the date by which the request for an administrative hearing shall be mailed by certified mail, return receipt requested.

RS 32:1720.1 — Surrender of stored vehicle to lienholder

the storage or repair or body shop operator mails the notification required by R.S. 32:1720, the storage or repair or body shop operator shall surrender possession of the vehicle to the holder of any lien on the vehicle on behalf of the registered owner. The holder of any lien on the vehicle is the holder shown on the records of the office of motor vehicles. No such surrender shall occur until the secured party makes a complete payment of the towing and storage charges and executes a hold harmless agreement, agreeing to indemnify the storage or repair or body shop operator for surrender of the vehicle to the secured party.

RS 32:1721 — Self-park storage facility notification procedure

led manually or mechanically similar to parking facilities usually found at airports and railway stations, the garage or parking lot shall operate under some system whereby the length of time the vehicle has been in storage can readily be determined within one week of the time the vehicle was left, and should a vehicle be brought to such a garage or parking facility with the intent to remain there over twenty days, arrangements must be made in writing with the operator of the parking facility.

B. Any vehicle left at such a garage or parking facility for more than twenty days which has no written arrangements recorded must be reported to the Department of Public Safety and Corrections as outlined in R.S. 32:1719 and must be reported to the owner as outlined in R.S. 32:1720.

RS 32:1722 — Exemption from provisions of R.S. 32:1718 through 1721

18 through 1721 shall not apply where the

verified owner of the vehicle or the verified legal representative of the owner has entered into a contract, in writing on a form herein described, for the continuous storage or parking of the vehicle.

- (2) The storage facility shall verify the registered owner and any lienholder in accordance with R.S. 32:1718.
- (3) The storage facility shall verify and keep a copy of any legal documents declaring the status of any person claiming to be a legal representative of a vehicle owner.

B. For the purposes of this Section, when a vehicle is stored as a result of a court

order, the court shall act as a representative of the owner, thus the notifications of R.S. 32:1718 through 1721 are not required.

C. The written storage contract shall contain the following:

- (1) The name, address, and driver's license number of the verified owner or verified legal representative of the owner that is making the storage arrangements.
- (2) The name and address of the owner if different from the above person.
- (3) The name and address of any lienholder on the vehicle title.
- (4) The cost of storage and any other costs that will be accrued to the vehicle. Any costs not set forth within the storage agreement may not be charged.
- (5) A description of the vehicle.
- (6) The vehicle identification number.
- (7) The vehicle license plate number.
- (8) The condition of the vehicle.
- (9) The date that the vehicle is placed in storage.
- (10) The date after which time the vehicle will be considered abandoned, not to exceed six months from the date of storage.
- (11) Notice that when the vehicle is considered abandoned, it will be subject to sale by the storage facility owner.
- (12) The signature of the owner or legal representative of the owner that is making the storage arrangements.

D. The storage facility owner shall give notice in writing to the verified lienholder at least fifteen business days prior to the expiration of the storage contract in Subsection C of this Section.

RS 32:1723 — Maintenance of records

n and/or department authorizing such storage. These records and any vehicle remaining in storage shall be open to inspection by any peace officer any time the business is open. All records of storage shall be maintained for a period of at least three years.

RS 32:1724 — Administrative penalties

shall be subject

to an administrative fine. Each day's failure to make such a report as required hereunder shall constitute a separate offense.

- (2) The administrative fine for each violation of this Chapter, or of the regulations adopted pursuant thereto, shall not exceed the sum of five hundred dollars.

B. In accordance with the rules and regulations adopted pursuant to the Administrative Procedure Act, administrative fines shall be assessed by the deputy secretary of the Department of Public Safety and Corrections and payable to the Louisiana Towing and Storage Dedicated Fund Account.

RS 32:1725 — Criminal penalties

§1.

RS 32:1726 — Abandoned automobiles; stored or in possession of dealer or repairman; right to sell; procedure

ssession of a motor vehicle dealer or repairman for repair or otherwise and the same has not been claimed after a vehicle has been placed in storage as a result of nonpayment, the repair shop shall make the notifications required in R.S. 32:1719 and R.S. 32:1720.

B. After a period of forty-five days from the notice required in R.S. 32:1720 and no payment of the cost of storage or repair has been made for that period, the motor vehicle dealer or repairman with whom the vehicle has been left for storage or repair may dispose of it and collect the charges and cost of storage and cost of repair in the manner set forth in R.S. 32:1728. The charges and cost for storage shall not exceed any maximum charge set by the Public Service Commission for storage services pursuant to its legal authority under R.S. 45:180.1, or as otherwise provided by law.

RS 32:1727 — Hearings

f the vehicle must make a request for a hearing within ten days of the date that the owner notification is mailed as described in R.S. 32:1720 to the agency that had the vehicle towed.

B. The hearing shall be conducted by the public agency authorizing the tow or other body authorized to do so within three business days after receipt of the request for a hearing.

RS 32:1728 — Disposal of a stored motor vehicle

end a final notice by certified mail,

electronic return receipt, which shall comply with the notice requirements of R.S. 32:1720 to the stored vehicle's owner and to the holder of any lien on the stored vehicle. This notice shall apply to any vehicle that is five years old or newer and shall apply only to a vehicle that was a non-consensual tow or non-consensual storage as defined in R.S. 32:1713. Any notice relating to a consensual tow or consensual storage shall require a certificate of mailing as evidence the notice was sent.

(2) After forty-five days from the original date of storage or adjusted storage date, if applicable, the storage or parking facility owner shall send a final notice by mail with a certificate of mailing which shall comply with the notice requirements of R.S. 32:1720 to the stored vehicle's owner and to the holder of any lien on the stored vehicle. This notice shall apply to any vehicle that is over five years old.

(3) The final notice shall inform the stored vehicle's owner that unless he pays all outstanding charges and claims the vehicle or makes arrangements with the storage or parking facility owner for the continued storage of the vehicle, the storage or parking facility owner may apply for a permit to sell or permit to dismantle from the department after fifteen days from the date the final notice is mailed to the stored vehicle's owner. The notice shall also inform the stored vehicle's owner of the provisions in R.S. 32:1730 and that they may be turned over to collections for failure to pay outstanding charges and claims. The towing, storage, or parking facility shall not charge for storage past the ninetieth day from the original date of storage, or the adjusted storage date, if applicable. The storage or parking facility owner may continue to charge storage up to the ninetieth day, or until the permit to sell has been issued, if the application for the permit to sell was submitted prior to the ninetieth day from the original date of storage or the adjusted storage date, if applicable.

B, C. Repealed by Acts 2001, No. 1097, §2.

D. Prior to issuance of the permit to sell or permit to dismantle, the storage or parking facility owner shall provide the department with the following evidence:

(1) A copy of the original report of the stored vehicle including owner and lienholder information furnished by the department or its authorized agent.

(2) A copy of the first and final notices sent to the owner of the stored vehicle and to the holder of any lien on the stored vehicle.

(3) The original certificate of mailing for the first notice and the certified mail, electronic return receipt, if applicable, for the final notice sent to the stored vehicle's owner and to the holder of any lien on the stored vehicle and the returned unopened envelope, if applicable, for the first and final notices with postal markings indicating the post office's attempt to deliver the notices. If these items cannot be furnished, other documented proof that the storage or parking facility owner sent notice to the stored vehicle's owner shall be submitted to the department.

(4) An appraisal based on the most recent National Automobile Dealers Association Guide. An original appraisal prepared by an independent appraiser, which shall contain the year, make, model, and vehicle identification number, shall be acceptable for vehicles not valued by the National Automobile Dealers Association Guide.

(5) A photograph of the vehicle in its current condition.

(6) If the department requires an affidavit of physical inspection of the stored vehicle, it shall be completed by a Peace Officer Standards and Training (P.O.S.T.) certified law enforcement officer, who has been trained and certified by the Department of Public Safety and Corrections, office of state police, to inspect vehicles to be crushed or dismantled.

E. Repealed by Acts 2001, No. 1097, §2.

F. Repealed by Acts 1993, No. 412, §2.

RS 32:1728.1 — Repealed by Acts 2001, No. 1097, §2.

ton Rouge, Louisiana 70804-9062

RS 32:1728.2 — Procedure for disposal of junk vehicles

, No. 1097, §2.

C. As used in this Section:

(1) "Crush or dismantle" means to render the vehicle in such a state that it cannot be used or rebuilt for use as a motor vehicle.

(2) "Junk vehicle" means a vehicle in such a state of deterioration that it cannot be profitably restored and has a fair market value of five hundred dollars or less by using the rough trade-in value shown in the most recent National Automobile Dealers Association Guide.

(3) "Owner-operator" means a person or legal entity who owns or operates a business engaged in the towing or storage of vehicles, and has a vehicle licensed as a towing vehicle under R.S. 32:1716.

D. Each owner-operator who possesses a vehicle which meets the criteria set forth in Paragraph (C)(2) of this Section may make application for crushing of the vehicle at the expiration of thirty days or make application for dismantling of the vehicle at the expiration of thirty days from mailing of the notice. The application shall be made in a format authorized by the department upon satisfaction and submission of each of the following requirements:

(1) The owner-operator has complied with the provisions of R.S. 32:1719 and 1720.

(2) The owner-operator obtains an appraisal showing the vehicle has a fair market

value of five hundred dollars or less. The appraisal shall be based on the rough trade-in value of the vehicle as determined by the most recent National Automobile Dealers Association Guide. An original appraisal prepared by an independent appraiser, which shall contain the year, make, model, and vehicle identification number, shall be acceptable for vehicles not valued by the National Automobile Dealers Association Guide.

(3) The owner-operator shall take photographs of all four sides of the vehicle prior to making application for permission to crush or dismantle.

E. Upon approval from the department or ten business days from the mailing of the application, the owner-operator may release the vehicle to a licensed crusher or licensed dismantler. Receipt of sale to a licensed crusher or licensed dismantler shall be submitted electronically to the office of motor vehicles on a form provided by the Department of Public Safety and Corrections.

F. Within seven business days following the crushing or dismantling of the vehicle, the licensed crusher or licensed dismantler shall execute a certification for each vehicle, in a format authorized by the Department of Public Safety and Corrections, office of motor vehicles, providing the following information:

(1) That a vehicle has been crushed or dismantled.

(2) A description of the vehicle to be crushed or dismantled and each part to be dismantled for salvage.

(3) The vehicle identification number.

(4) A photograph of all four sides of the vehicle prior to crushing or dismantling.

G.(1) The owner-operator shall maintain copies of the following records on all vehicles crushed or dismantled pursuant to the provisions of this Section:

(a) One appraisal showing the vehicle has a fair market value of five hundred dollars or less. The appraisal shall be based on the rough trade-in value of the vehicle as determined by the most recent National Automobile Dealers Association Guide. An original appraisal prepared by an independent appraiser, which shall contain the year, make, model, and vehicle identification number, shall be acceptable for vehicles not valued by the National Automobile Dealers Association Guide.

(b) A photograph of all four sides of the vehicle prior to crushing or dismantling.

(c) A copy of the original report of a stored vehicle as required in R.S. 32:1719.

(d) A copy of the notice required by R.S. 32:1720 which was sent to the registered owner of the vehicle, the holder of any lien on the vehicle, and any other person with an ownership interest in the vehicle.

(e) The original certificate of mailing for the notice sent to the stored vehicle's owner and the returned unopened envelope, if applicable, with the postal marking indicating attempt to deliver the notice required by R.S. 32:1720. If these items could not be furnished, other documented proof that the storage or parking facility owner sent notice to the stored vehicle owner shall be retained by the owner-operator.

(2) These records shall be open to inspection by any peace officer any time the business is open. All records required by this Section shall be maintained for a period of at least three years.

H. Neither the state of Louisiana nor the office of motor vehicles shall incur any liability as a result of the disposal of a vehicle under these provisions.

RS 32:1728.3 — Procedure for disposal of certain vehicles deemed abandoned by municipality or or in this Section shall be an alternative to the procedures set forth in

R.S. 32:1728, 1728.2, and 1728.4. When a vehicle is eligible for disposal pursuant to the provisions of this Section, the provisions of R.S. 32:1728, 1728.2, and 1728.4 shall not apply to the disposal of that vehicle.

B. As used in this Section, "owner-operator" means a person or legal entity who owns or operates a business engaged in the towing or storage of vehicles, and has a vehicle licensed as a towing vehicle pursuant to R.S. 32:1716.

C. In order to utilize the provisions of this Section, the owner-operator shall take possession of the vehicle at the request of a municipality or parish acting pursuant to R.S. 32:473.1 and the vehicle shall have an appraisal with a fair market value of five hundred dollars or less. The appraisal shall be based on the rough trade-in value of the vehicle as determined by the most recent National Automobile Dealers Association Guide.

D.(1) Each owner-operator who possesses a vehicle that meets the criteria set forth in Subsection C of this Section may crush or dismantle the vehicle provided the owner-operator satisfies each of the following requirements:

- (a) The owner-operator has complied with the provisions of R.S. 32:1719 and 1720.
- (b) The owner-operator has the vehicle physically inspected by a Peace Officer Standards and Training (P.O.S.T.) certified law enforcement officer who has been trained and certified by the Department of Public Safety and Corrections, office of state police, to inspect vehicles to be crushed or dismantled.
- (c) The owner-operator obtains an appraisal showing the vehicle has a fair market value of five hundred dollars or less. The appraisal shall be based on the rough trade-in value of the vehicle as determined by the most recent National Automobile Dealers Association Guide.
- (d) The owner-operator takes a photograph of all four sides of the vehicle prior to crushing or dismantling.

(2) At the expiration of thirty days after mailing the notice, by certificate of mailing, required by R.S. 32:1720, the owner-operator may crush or dismantle the vehicle.

E. Within seven business days following the crushing or dismantling of the vehicle, the owner-operator shall execute an affidavit, on the form provided by the Department of Public Safety and Corrections, office of motor vehicles, and forward it to the office of motor vehicles, by certificate of mailing, providing the following information:

- (1) That a vehicle has been crushed or dismantled.
- (2) A description of the vehicle to be crushed and each part to be dismantled for salvage.
- (3) The vehicle identification number.
- (4) The findings of the physical inspection required by Subparagraph (D)(1)(b) of this Section.
- (5) A photograph of all four sides of the vehicle prior to crushing or dismantling.

F.(1) The owner-operator shall maintain the following records on all vehicles crushed or dismantled pursuant to the provisions of this Section:

(a) A completed physical inspection form as prepared by a Peace Officer Standards and Training (P.O.S.T.) certified law enforcement officer who has been trained and certified by the Department of Public Safety and Corrections, office of state police, to inspect vehicles to be crushed or dismantled.

(b) One appraisal showing the vehicle has a fair market value of five hundred dollars or less. The appraisal shall be based on the rough trade-in value of the vehicle as determined by the most recent National Automobile Dealers Association Guide.

(c) A photograph of all four sides of the vehicle prior to crushing or dismantling.

(d) A copy of the original report of a stored vehicle as required in R.S. 32:1719.

(e) Some manner of documentation of the request of the municipality or parish directing that the vehicle be removed.

(f) A copy of the notice required by R.S. 32:1720 that was sent to the registered owner of the vehicle, the holder of any lien on the vehicle, and any other person with an ownership interest in the vehicle.

(g) The original signed post office receipt of delivery if the notice required to be sent by this Section has been delivered; or the returned unopened envelope with the postal marking indicating attempt to deliver the notice required by R.S. 32:1720. If either of these items could not be furnished, other documented proof that the storage or parking facility owner sent notice to the stored vehicle owner shall be retained by the owner-operator.

(2) These records shall be open to inspection by any peace officer any time the business is open. All records required by this Section shall be maintained for a period of at least three years.

G. The municipality or parish shall not incur any liability as a result of the disposal of a vehicle pursuant to these provisions.

RS 32:1728.4 — Procedure for disposal of vehicles with no record of ownership; out-of-country vehicles

Obtain owner information on a stored vehicle, the department or its authorized agent shall furnish the storage or parking facility owner a copy of the original request for a stored vehicle card which was filed for the stored vehicle with a letter indicating that no ownership information could be found.

B. Within ten business days of the date the department or its authorized agent sends the information required in Subsection A of this Section to the storage or parking facility owner, the storage or parking facility owner shall publish an advertisement in the official journal of the locality where the stored vehicle is located on two separate occasions. The advertisement shall contain the following information:

(1) The make and identification number of the stored vehicle.

(2) The name and physical address of the storage or parking facility where the stored vehicle is located.

(3) Notice that if all current outstanding charges against the stored vehicle are not paid and the stored vehicle is not claimed by the owner within fifteen calendar days from the last date of publication of the advertisement, the storage or parking facility owner may apply for a permit to sell or permit to dismantle the stored motor vehicle.

C. Prior to issuance of the permit to sell or permit to dismantle the stored vehicle, the storage or parking facility owner shall provide the department with the following information:

(1) A copy of the original request for stored vehicle information sent to the department or its authorized agent and a copy of the letter returned from the department or its authorized agent indicating no ownership information could be found on

the stored vehicle.

(2) Original proof of publication from the newspaper with a copy of the advertisement which contains all of the information required in Subsection B of this Section.

(3) One appraisal on the stored vehicle which contains the make, model, vehicle identification number, and the printed name, address, and full signature of the appraiser. A photograph of the vehicle shall be affixed to the appraisal.

(4) A completed and notarized hold harmless affidavit stating no ownership information could be found.

(5) An affidavit of physical inspection completed by a Peace Officer Standards and Training (P.O.S.T.) certified law enforcement officer, who has been trained and certified by the Department of Public Safety and Corrections, office of state police, to inspect motor vehicles.

RS 32:1729 — Waiver of fee; disposal of law enforcement storage

wise required by R.S. 32:728, a permit to sell or permit to dismantle in order to dispose of a vehicle, which he removed, pursuant to a request from a law enforcement agency, as an abandoned vehicle or from the scene of an accident.

RS 32:1730 — Proceeds of sale; disposition of

m the full amount due and owing him for the storage and other charges, which shall be at the customary rates charged for such service, together with the costs of appraisal and advertisement, the balance, if any, to be credited on the books of such person to the credit of the owner for six months from the date of the sale; provided, however, that if the funds so credited are not claimed by the owner within the time specified herein they shall be deemed forfeited to the person making the sale, who may credit such funds to his own account free and clear of all claims.

RS 32:1731 — Louisiana Towing and Storage Dedicated Fund Account

y-fifth day of the month following their

collection and, in accordance with Article VII, Section 9 of the Constitution of Louisiana, shall be credited to the Bond Security and Redemption Fund. Out of the funds remaining in the Bond Security and Redemption Fund, after a sufficient amount is allocated therefrom to pay all obligations secured by the full faith and credit of the state which become due and payable within each fiscal year, the treasurer shall pay an amount equal to the total amount of funds paid into the treasury into a special statutorily dedicated fund account, which is hereby created in the state treasury and designated as the "Louisiana Towing and Storage Dedicated Fund Account", hereafter referred to as the "account". All funds collected or received pursuant to this Chapter and deposited in the account shall be administered by the deputy secretary of public safety services. The account shall be used solely to fund personnel positions and the activities and enforcement of this Chapter by the office of state police and only in the amount appropriated by the legislature with all remaining funds to be deposited in the state general fund. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

RS 32:1732 — Third party surcharges

e shall not exceed twenty-five percent of the amount charged for the initial tow of the vehicle, including other related towing charges such as storage and administration fees.

RS 32:1733 — Fees charged for towing; certain parishes

property requests a towing company to remove and store the parked vehicle, the fee charged by the towing company shall not exceed the towing fee which the local governing authority would have charged had the vehicle been towed for a violation while parked on public property.

B. If the towing company charges an excessive fee, the owner of the vehicle shall have a right and cause of action to recover the amount of the excess fee, plus reasonable attorney fees, and all costs of court.

RS 32:1734 — Gate fees; other fees; excessive charges; prohibitions; cause of action

Public Service Commission.

B. If the towing or storage company charges a gate fee in excess of the amount fixed by the Public Service Commission, the owner of the vehicle shall have a right and cause of action to recover the amount of the excess fee, plus reasonable attorney fees, and all costs of court.

C. For the purposes of this Section, a "gate fee" shall mean a charge assessed by a towing or storage company for releasing a towed vehicle before or after normal business hours.

D. No towing or storage company shall charge a fee for the retrieval of contents from a stored or towed vehicle during normal business hours. However, a towing or storage company may charge a fee in an amount determined by the Public Service Commission for the retrieval of contents from a stored or towed vehicle at a time other than during normal business hours. If the towing or storage company charges a fee in violation of this Subsection, the owner of the vehicle shall have a right and cause of action to recover the amount of the excess fee, plus reasonable attorney fees and all costs of court.

E. For purposes of this Section, "normal business hours" of any towing or storage company shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, exclusive of legal holidays.

F. The administrative and mailing fees for filing the Official Report of Stored Vehicles for in-state and out-of-state notifications shall be determined by the Public Service Commission.

RS 32:1735 — Driver's selection of licensed tow company; law enforcement rotation list; minimum requirements; removal from rotation list

towed, the law enforcement officer shall give the owner or operator of the motor vehicle the option to select a licensed towing company to tow his vehicle. If the owner or operator of the motor vehicle is unable to select a licensed towing company, chooses not to select a particular licensed towing company, or an emergency situation requires the immediate removal of the vehicle, the next available licensed towing company on the approved law enforcement rotation list shall be called by the law enforcement officer to tow the vehicle.

B. The towing company selected by the owner or operator of a motor vehicle or the law enforcement officer shall be allowed to respond to the call within forty-five minutes. If the towing company fails to respond within forty-five minutes, the law enforcement officer may select the next available towing company from the approved rotation list.

C. Law enforcement agencies may establish a rotation list of towing companies with tow trucks licensed in accordance with the provisions of R.S. 32:1716. However, prior to a tow truck company's participation on a law enforcement agency's rotation list, the tow truck company shall comply with the provisions of R.S. 45:164 and 180.1. The Department of Public Safety and Corrections, office of state police, shall establish minimum standards, rules, and procedures for participation in a rotation list which shall be approved by the House and Senate transportation, highways, and public works committees prior to their adoption. Any local law enforcement agency may adopt minimum standards consistent with the office of state police rules or comply with the standards established by the office of state police.

D. No law enforcement officer shall recommend to the vehicle owner or operator a specific tow company to conduct a tow. All tows shall be referred to the law enforcement rotation list or the authorized contractor for the law enforcement agency. When the owner or operator exercises their option to select the tow company, such selection shall be duly noted on the tow invoice or the law enforcement record of the incident.

RS 32:1735.1 — Motor vehicle holds; storage requirements; notification; payment of storage costs

n calendar days.

B. A law enforcement agency may request extension of a hold placed pursuant to Subsection A of this Section. In order to extend a hold, the law enforcement agency shall notify the storage facility in writing prior to expiration of the initial hold.

If the law enforcement agency does not request extension of such hold, the storage facility shall release the vehicle to its owner upon payment by such owner of all towing and storage charges to the storage facility, provided that the storage facility has complied with the provisions of R.S. 32:1719 and 1720.

C. When a law enforcement agency extends its hold pursuant to Subsection B of this Section, the law enforcement agency may remove the vehicle to a designated impound lot.

D. When a law enforcement agency extends its hold pursuant to Subsection B of this Section and elects to continue storage of the motor vehicle at the storage facility, the law enforcement agency shall be responsible for payment of the storage facility's charges during the requested hold extension period; however, the owner of the motor vehicle shall be responsible for payment of the storage facility's towing and storage charges during the initial law enforcement hold period.

E. Upon judicial determination of no probable cause, a law enforcement agency shall release its hold on the impounded vehicle.

F. Upon judicial determination of guilt of an offense pursuant to Titles 14, 32, or 40 of the Louisiana Revised Statutes of 1950, for which law enforcement placed a hold on his vehicle, the owner of an impounded vehicle shall be liable for payment of all towing and storage costs.

RS 32:1736 — Towing of motor vehicles from private property; definitions; billing invoices; uniform fees; penalties

he context clearly indicates otherwise:

(1) "Authorized representative" shall mean an individual a property owner has delegated or inferred managerial responsibilities to regarding a particular property or premise. An authorized representative shall not be a tow truck owner or operator.

(2) "Parking space" shall mean the designated location in a parking area for the parking of a single vehicle.

(3) "Parking areas" shall mean areas used by the public as a means of access to and egress from, and for the parking of motor vehicles by patrons of a shopping center, business, factory, hospital, or institution. "Parking areas" shall also include housing and apartment complexes, private or public institutions of learning, and other similar locations.

(4) "Tagged for removal" shall mean the placement of a highly visible sticker or other similar tag, which contains the date, time, name of the tow company authorized to remove the vehicle, and the printed name and signature of the property owner or his authorized representative, in a conspicuous place on the motor vehicle by the property owner or his authorized representative. Such stickers or tags shall be clearly visible to drivers of passing vehicles and shall not damage, harm, or otherwise alter the appearance of the motor vehicle.

B. No tow truck operator engaged in the nonconsensual tow of a motor vehicle from any parking area shall tow the motor vehicle unless the tow has been authorized by a law enforcement agency of competent jurisdiction or the motor vehicle has been tagged for removal. However, if the billing invoice has been signed by the property owner or his authorized representative prior to the unauthorized vehicle being towed or if the provisions of Subsection C of this Section are applicable, the vehicle shall not be required to be tagged for removal. Any tow truck operator towing a vehicle from a parking area or private property shall provide a billing invoice to the owner or redeemer of the motor vehicle which invoice complies with applicable law and shall include the following information:

(1) Date and time of service.

(2) The tow truck operator's name and the time of departure.

(3) The name of the law enforcement agency requesting the tow, if applicable.

(4) Itemization of all fees charged for service.

(5) Any additional information required by the Louisiana Public Service Commission.

C. Property owners who tow unauthorized vehicles from their property or parking areas shall place signage in clearly visible locations at the entrances and exits to such property warning motorists that unauthorized vehicles may be towed.

If the property has specific parking areas or parking spaces where vehicles are subject to be towed, the specific parking

area or parking space that a vehicle is subject to be towed from must also be clearly marked warning the motorist their vehicle may be towed. Such warning shall include signage in each designated parking area or the marking of the individual parking spaces in these specific parking areas. A property owner or his authorized representative who enters into contracts or agreements with a tow truck company to engage in tow-related services and activities shall place signage in clearly visible locations at the entrances and exits to such property or parking areas warning motorists that unauthorized vehicles may be towed. The signage shall include the name, address, and phone number of the towing company in lettering no less than two inches in height. Tow truck company owners and drivers shall ensure that the property, parking areas, and spaces are clearly marked prior to the removal of any vehicle. Additionally, a copy of the written contract or agreement entered into between the property owner or his authorized representative and the tow truck company shall be maintained at the business office of the property owner and the business office of the tow truck company and in the tow truck. The written contract or agreement shall define the parking rules and reasons for towing.

The written contract or agreement shall be dated and signed by all parties and include telephone contact numbers for the property owner or their authorized agent and the tow truck company owner, or their authorized agent. The written contract or agreements shall indicate the starting date of the towing service, and the specific date of termination of such agreement. Property owners meeting the requirements of this Subsection shall not be required to tag a motor vehicle for removal or sign the billing invoice prior to towing.

D. All fees charged by a tow truck operator for the nonconsensual towing of a vehicle from private property or parking areas shall be uniform and shall be set in accordance with rules and regulations promulgated by the Louisiana Public Service Commission. If the tow truck operator charges any fee in excess of the uniform fee, the owner of the motor vehicle shall have a right and cause of action to recover the amount of the excess fee, storage costs, if applicable, reasonable attorney fees, and all court costs. The provisions of this Section shall be enforced by all state and local law enforcement officers and duly appointed officers of the Louisiana Public Service Commission. Tow truck operators shall make billing invoices available for inspection upon request by any law enforcement officer or duly appointed officer of the Louisiana Public Service Commission and shall provide such officers with a copy of any billing invoice, any contract for services, or the name, address, and phone number of any property owner or authorized representative.

E. Any tow truck operator who fails to comply with the provisions of this Section, who fails to provide a billing invoice which contains the information required by this Section to the redeemer of the motor vehicle, or who tows a vehicle in violation of this Section shall be in violation of the provisions of R.S. 14:68.4 and shall be subject to any applicable penalty prescribed by law, including but not limited to the revocation of the towing license. Lack of knowledge of the conduct of a tow truck company employee shall not be a defense for the tow truck company owner.

RS 32:1741 — Immobilization of motor vehicles by booting; private property; legislative findings

the state of Louisiana vitally affects the public interest and the public welfare, and that in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate those who operate motor vehicle booting businesses in Louisiana, in order to prevent frauds, impositions, and other abuses upon its citizens.

(2) The legislature also finds that as the practice of immobilizing motor vehicles by booting on private property has become more common, complaints have surfaced regarding the conduct of some of the persons engaged in this business, including complaints of employees engaging in strong-arm tactics to intimidate motorists. The legislature finds it necessary to establish minimum consumer protection standards as well as remedies for motorists who suffer property damage as a result of having their motor vehicles booted or claim to have been wrongfully booted.

B. As used in this Chapter, the following words and phrases shall have the meaning ascribed to them in this Section, except as otherwise may be provided or unless a different meaning is plainly required by the context:

(1) "Boot" or "booting" means the act of placing on a parked motor vehicle a

mechanical device that is designed to be attached to the wheel or tire or other part of such vehicle so as to prohibit its usual manner of movement.

(2) "Persons" means any individual, partnership, corporation, association, firm, or other business entity.

(3) "Private property" means any privately owned parking facility at any location or any parking lot or street which is privately owned and is located near or contiguous to premises having one or more stores or business establishments which is used for the parking of motor vehicles or for vehicular travel by the owner or customers of such establishments and those having express or implied permission of the owner. Private property does not mean any parking facility, parking lot, or street which is owned by the state or any of its political subdivisions or by any postsecondary education institution.

C.(1) Any person engaged in the business of booting motor vehicles parked on private property in any parish or municipality in the state of Louisiana shall comply with all the requirements of this Chapter and all the licensing and other requirements of any ordinance regulating such business of the parish or municipality in which the person engages in such business.

(2) Any parish or municipality may levy an annual fee for licensing persons to engage in the business of booting motor vehicles parked on private property in the parish or municipality.

(3) No person shall engage in the business of booting motor vehicles unless such person shall do both of the following:

(a) Maintain minimum insurance coverage in the amount of one million dollars in general liability, one million dollars in commercial auto, one million dollars in garage liability, fifty thousand dollars in garage keepers, one million dollars in errors and omissions, one million dollars in umbrella coverage, and shall have workers' compensation coverage on all employees.

(b) Show proof of financial responsibility by depositing with the parish or municipality a continuing bond with a commercial surety authorized to do business in the state and approved by the parish or municipality in the amount of ten thousand dollars payable to the parish or municipality, which bond shall be conditioned upon faithful observance of all the provisions of this Chapter and any ordinances of the parish or municipality with respect to the business of booting motor vehicles on private property, and shall also indemnify any person who suffers any loss by reason of a failure to observe such provisions of this Chapter or such parish or municipal ordinance, or any person who suffers any loss, damages, and expenses by reason of a failure to properly boot a vehicle.

D.(1) No person shall boot a motor vehicle parked on private property unless such person has a written contract with the owner of the private property, or his authorized representative, to boot motor vehicles parked on any such property.

(2) No person shall boot a motor vehicle parked on private property unless a sign is posted at each lot entrance. In addition, each sign shall contain the information which may be prescribed by the parish or municipality and shall include all of the following:

(a) The signs shall be at least eighteen inches wide and twenty-four inches tall and

shall be made of weather resistant material.

(b) In lettering at least two inches tall in height and in a solid color that contrasts with the background the sign shall read "Towing and Booting Enforced" or "Booting Enforced" as is applicable to the property.

(c) In lettering at least one inch in height and in a solid color that contrasts with the background the sign shall clearly state the following:

(i) The name and phone number of the booting company including the area code and the amount of the boot removal fee and, in the case of a pay-to-park lot, a statement that unpaid parking fees will also be collected.

(ii) Statement that "Unauthorized vehicles will be towed or booted at owner's or operator's expense."

(iii) A statement describing who may park in the parking facility or the private property, such as "Paid Customer Parking Only", "Permit Parking Only", "Resident Parking Only", or similar statement.

(iv) In the case of pay-to-park lots, the sign shall state how to pay.

(3) No charge in excess of the amount contained on the signs required by this Subsection shall be imposed to release a booted motor vehicle. In addition, no boot removal fee or any other amount shall be charged therefor if personnel responsible for removing the boot do not arrive within ninety minutes of the call or other notification that the owner or operator of the vehicle requests removal of the boot.

(4) The phone number required to be stated on the signs required by Paragraph (2)(c)(i) of this Subsection shall be in operation twenty-four hours a day and shall be manned by a live operator.

(5) No person shall boot a motor vehicle parked on private property or a pay-to-park lot because the motor vehicle is improperly parked in a marked space on such private property or a pay-to-park lot unless the person booting the vehicle obtains photographic proof sufficient to clearly show the improper parking, whether by cell phone photograph or otherwise.

E.(1) It shall be unlawful for any person, either as principal, agent, or employee, to operate any vehicle to engage in or operate, or assist in the engagement or operation of, a business engaged in booting motor vehicles on private property unless the vehicle shall have displayed on each side in plain view the name of the business, the address from which the business is operating, and a phone number with area code of the business. The lettering shall be at least two inches in height and shall be in a contrasting color to the vehicle. Information may be on a removable magnet, so it can be removed when the vehicle is not in service.

(2) Business identification shall be visibly worn by vehicle booting agents at all times while booting and accepting payment.

F.(1) Any person who has booted a vehicle shall immediately affix at the rear-most portion of the window adjacent to the driver's seat of such vehicle a sticker containing a warning that any attempt to move the vehicle may result in damage to the vehicle, the fee to remove the boot, and the time the vehicle was booted.

(2) The sticker shall also contain the name, address, and Parish or Municipal

Occupational License Number of the motor vehicle booting business as well as the same twenty-four hour business telephone number required by Paragraph (D)(2)(c)(i) and (4) which shall facilitate the dispatch of personnel responsible for removing the boot and a statement that no fee shall be due if personnel responsible for removing the boot do not arrive within ninety minutes of the call or other notification that the driver requests removal of the boot.

G.(1) Upon payment of all fees to remove a boot, the person who booted the motor vehicle, or his authorized representative, shall remove the boot and the window sticker immediately at no additional charge. The personnel responsible for removing the boot shall be capable of accepting payment by credit or debit card as well as cash. However, no boot removal fee or other charge therefor shall be due if personnel responsible for removing the boot do not arrive within ninety minutes of the call or other notification that the driver requests removal of the boot. No release or waiver of any kind purporting to limit or avoid liability for damages to a motor vehicle that has been booted shall be valid.

(2) Any person who boots a motor vehicle, or any other person authorized to accept payment of any booting fees, shall provide a signed receipt to the person paying the booting fees at the time such fees are paid. The receipt shall contain the name, business address, Parish or Municipal Occupational License Number, and business telephone number of the person who booted the motor vehicle, as such information appears on the Parish or Municipal Occupational License granted to the person by the parish or municipality.

(3) The receipt shall also include any telephone number which has been designated by the parish or municipality as the office within the parish or municipality responsible for receiving complaints with respect to booting, if any.

H. The owner of a motor vehicle that has been booted shall have such right to an administrative hearing in the parish or municipality in which the motor vehicle was booted as may be granted by ordinance of the parish or municipality. The purpose of the hearing is to determine the validity of the booting and the fees imposed. The owner shall make a written request for a hearing within ten calendar days from the date the motor vehicle was booted. The receipt provided for in Paragraphs (2) and (3) of Subsection G shall advise the owner or operator of a booted vehicle of his right under parish or municipal ordinance to ask for and receive such hearing.

I. The ownership entity of the parking facility shall not receive any compensation, including any rebate or other valuable consideration, in connection with the immobilization of motor vehicles by booting on private property, other than unpaid parking fees. Any unpaid parking fees assessed pursuant to this Section shall not be in any amount greater than the amount actually incurred for parking in the parking facility.

J. A first violation of this Chapter by a person engaged in the business of booting motor vehicles parked on private property shall subject such person to a warning, a subsequent violation shall subject such person to a suspension of the violator's right to engage in the business of booting motor vehicles on private property.

K. Nothing in this Chapter shall be construed to prohibit any parish or municipality from enacting ordinances that impose more restrictive requirements or regulations than those

provided in this Chapter.

RS 32:1751 — Repealed by Acts 2014, No. 832, §10.

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Title 40 — Public Health and Safety

RS 40:2 — State health officer

e, or regulation

issued by the state health officer. Any order, rule, or regulation issued by the state health officer shall be effective upon signature.

RS 40:3 — State health officer; powers

regulations as contained

in the state sanitary code. He may issue warrants only to arrest or prevent epidemics or to abate any imminent menace to the public health.

RS 40:3.1 — Confidentiality of public health investigations; prohibited disclosure and discovery;

moranda procured by and prepared by employees or agents of the office of public health or by any other person, agency, or organization acting jointly with that office, including public or private colleges and universities, in connection with special morbidity and mortality studies and research investigations to determine any cause or condition of health, and any documents, records, or other information produced or given to the state health officer in response to a court order issued pursuant to R.S. 40:8, hereinafter referred to as "confidential data", are confidential and shall be used solely for statistical, scientific, and medical research purposes relating to the cause or condition of health, or for the purposes of furthering an investigation pursuant to R.S. 40:8, except as otherwise provided in this Section.

B. All confidential data shall be made available to the state health officer when necessary for the purpose of controlling nuisances dangerous to the public health, including but not limited to communicable, contagious, and infectious diseases, as well as illnesses, diseases, and genetic disorders or abnormalities.

C. The office of public health shall promulgate rules and regulations in accordance with the Administrative Procedure Act to specify the extent to which confidential data may be disclosed to other local, state, or federal public health or environmental agencies, or to corroborating medical researchers, when the confidential information is necessary to carry out the duties of the agency or researcher in the investigation, control, or surveillance of disease, as determined by the office of public health.

D. Any disclosure authorized by Subsection C of this Section shall include only the information necessary for the stated purpose of the requested disclosure, and shall be made only upon written agreement that the information will be kept confidential and will not be further disclosed without written authorization of the office of public health.

E. The furnishing of confidential data in accordance with this Section, including the furnishing or production of documents, records, or other information in good faith in compliance with a court order issued pursuant to R.S. 40:8, shall not expose any person, agency, or entity furnishing data to liability and shall not be considered to be the violation of any privileged or confidential relationship.

F. No part of the confidential data in the possession of the office of public health or the state health officer shall be available for subpoena nor shall it be disclosed, discoverable,

or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

G. Any person who intentionally discloses the content of any confidential data to any third party, except as authorized in this Section, shall be subject to a civil penalty in an amount not less than one thousand dollars and not more than five thousand dollars plus court costs, which shall be paid to the person whose record was unlawfully disclosed. Nothing in this Section shall prevent a person damaged by an unauthorized intentional disclosure from collecting civil damages to the extent of any actual damages suffered because of such a disclosure.

H. Nothing in this Section shall prohibit the publishing by the office of public health of statistical compilations relating to morbidity and mortality studies which do not identify individual cases and sources of information or religious affiliations.

RS 40:4 — Sanitary Code

embodied

within the state's Sanitary Code covering all matters within his jurisdiction as defined and set forth in R.S. 40:5. The promulgation of this Sanitary Code shall be accomplished in strict accordance with the provisions of the Administrative Procedure Act and, further, in conformity with the following guidelines and directives:

(1)(a) In order to protect the consuming public against foodborne disease, the rules and regulations contained in the Sanitary Code shall be designed so as to provide and require that all food products, including milk and milk products, ice, bottled water, marine and freshwater seafood, animal products, frozen desserts and toppings, and related similar foods, are produced from a safe and sanitary source, and are prepared, processed, packaged, handled, stored, and transported in a sanitary manner which will prevent contamination, spoilage, or adulteration. These food product rules and regulations shall be further designed so as to provide that all facilities, material, and equipment that may come into direct contact with any food or food product must be of nontoxic content to ensure a sanitary, wholesome, and nutritious product.

(b) Repealed by Acts 2024, No. 148, §4, eff. Jan. 1, 2025.

(c)(i) In order to protect the public health, the state health officer shall promulgate rules and regulations relative to retail food establishments.

(ii) The rules and regulations required by this Subparagraph shall not require a retail food establishment which serves alcoholic beverages and consists of five hundred square feet or less of usable floor area which is accessible to customers to have more than one restroom facility consisting of one water closet and one lavatory. Such limit of the required number of restroom facilities and fixtures shall not apply to retail food establishments which contain wet bars. For the purposes of this Subparagraph, "wet bar" shall be defined as a bar within a food service establishment at which patrons may walk up to, order, and receive an alcoholic beverage directly from a bartender.

(iii) The requirements of the sanitary code found in LAC 51:XII shall not apply to a water supply that services a retail food establishment that does not meet the definition of

a "public water system" as set forth in R.S. 40:5.8.

(2) In order to prevent the occurrence or spread of communicable diseases, the rules and regulations of the Sanitary Code shall provide for an immunization program and provide for and require the reporting, including but not limited to the reporting of cases of Respiratory Syncytial Virus (RSV) when such a test is conducted by a laboratory or hospital, investigation, and application and implementation of appropriate control measures to expressly include isolation and quarantine proceedings and measures, for all communicable diseases of public health significance. However, no rule or regulation of the Sanitary Code shall impose or create any general duty to warn third parties upon any healthcare provider who has complied with the applicable reporting requirements for communicable diseases as set forth in the Sanitary Code. These rules and regulations shall also be designed to:

(a) Control rabies in dogs and to prevent rabies from occurring in humans. However, nothing in the immunization programs shall authorize the state health officer or the department to overrule the limitations in either R.S. 40:5.2, or in R.S. 17:170(E).

(b)(i) Regulate the packaging, storage, treatment, and transportation of infectious waste generated by healthcare providers and noncommercial generators including but not limited to private households. "Infectious waste" means waste which contains pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in an infectious disease. In addition, the rules and regulations shall provide for the certification and testing of all equipment used to treat infectious waste to assure safety, effectiveness of the equipment, and compliance with regulatory and statutory health regulations. At a minimum the rules shall provide that the testing shall be conducted annually.

(ii) Regulate the packaging, storage, treatment, disposal, and transportation of home-generated sharps waste. "Home-generated sharps waste" means needles, syringes, and other medical instruments that are capable of puncturing the skin for the delivery of medications derived from a household, including a multifamily residence or household. Rules and regulations pertaining to the packaging, storage, treatment, disposal, and transportation of home-generated sharps waste shall be promulgated prior to January 1, 2009. Such rules and regulations shall provide for public education programs and community outreach programs which shall ensure the proper handling and disposal of such sharps waste.

(iii) Regulate the issuance of permits for the commercial transportation, packaging, storage, and treatment of infectious waste. The state health officer shall establish a reasonable fee schedule for issuance of permits to entities in the business of transporting, packaging, storing, or treating infectious waste for commercial purposes. In addition, the rules and regulations shall provide for the certification and testing of all equipment used to treat infectious waste to assure safety, effectiveness of the equipment, and compliance with regulatory and statutory health regulations. At a minimum the rules shall provide that the testing shall be conducted annually. The provisions of Items (i) and (iii) of this Subparagraph, relative to the certification and testing of all equipment used to treat infectious waste, shall not apply to an office of a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners, a veterinarian, or a dentist.

(iv) Require that any generator of infectious medical wastes shall only transport such waste with a transporter permitted by the department.

(v) Facilitate the filing and removal of required notices by landowners, lessees, and occupants, pursuant to R.S. 40:4.10.

(vi) Require the state health officer to establish a reasonable fee for the certification and testing of all equipment used to treat infectious waste. Such fee shall be established by rule, in accordance with the Administrative Procedure Act.

(c) Control the spread of tuberculosis by:

(i) Requiring that persons who are students in healthcare professions, or volunteers helping in the caring of patients in healthcare institutions, be free of tuberculosis in a communicable state as evidenced by a negative tuberculin skin test, a normal chest X-ray if the skin test is positive, or a statement from a Louisiana licensed physician that the person is noninfectious to others if the chest X-ray is other than normal. If the student or volunteer has a positive tuberculin skin test, or a chest X-ray other than normal, the student or volunteer shall complete a course of chemotherapy for tuberculosis prescribed by a Louisiana licensed physician, or present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated. If the student or volunteer is known to be infected with the human immunodeficiency virus (HIV) or has acquired immunodeficiency syndrome (AIDS), he or she shall be required to have a chest X-ray in addition to a skin test for tuberculosis. If the chest X-ray is interpreted as showing any disease, then the student or volunteer will complete a course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician or present a signed statement from a Louisiana licensed physician that a course of chemotherapy for tuberculosis is not indicated. In any case, the student or volunteer shall not be denied access to an institutional learning experience or work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

(ii) Requiring the use of isolation rooms for persons with tuberculosis in a communicable state who are cared for in hospitals or nursing homes, proper air handling in those rooms, and the use of proper masks for all applicable persons, patients, and staff to prevent the spread of infectious respiratory droplets.

(iii) Requiring proper air handling and the use of proper masks to prevent the spread of infectious respiratory droplets in and from aerosol therapy rooms in any institution.

(iv) Requiring any person entering any Louisiana prison as an inmate for forty-eight hours or more to be screened for tuberculosis in a communicable state.

(v) Requiring any person entering any Louisiana jail as an inmate for fourteen days or more to be screened for tuberculosis in a communicable state, where funding is available.

(vi) Requiring all persons with acquired immunodeficiency syndrome (AIDS) or known to be infected with human immunodeficiency virus (HIV), in the process of receiving medical treatment related to such condition, be screened for tuberculosis in a communicable state.

(vii)(aa) Requiring isolation, quarantine, or both for directly observed therapy (medication taken in the presence of a healthcare provider) of any person with tuberculosis

in a communicable state who has failed to comply with a daily self-administered course of chemotherapy for tuberculosis prescribed by a Louisiana licensed physician.

(bb) Requiring a more restrictive isolation or quarantine environment specified by the state health officer or by court order for any person who fails to comply with directly observed therapy under isolation or quarantine as provided in Subitem (aa) of this Item.

(cc) Requiring that any person who fails to comply with the more restrictive isolation or quarantine environment as provided in Subitem (bb) of this Item shall be considered to have violated the provisions of the state Sanitary Code and be subject to the provisions of R.S. 40:6(B).

(3)(a) The sanitary code shall provide rules and regulations governing burial, transportation, disinterment, or other permitted disposition of dead human remains, to include regulations defining approved methodology that will ensure sanitary and dignified disposal.

(b) In order to protect the public from disease associated with the handling of dead human remains, the state health officer, acting through the office of public health, shall prepare and promulgate all rules necessary to ensure that all hospitals will identify corpses that are infected with a contagious disease, when there is actual knowledge of such infection, and report such to embalmers and funeral directors who handle the corpses for interment or cremation. The state health officer shall prepare a list of contagious diseases, and such list shall be added to or deleted from as circumstances warrant.

(4) The state's sanitary code shall include rules governing the construction, operation, and maintenance of camps and campsites or parks used for house courts, tent camps, trailer camps, and similar premises used for living and recreational purposes.

(5) The state's sanitary code shall contain rules and regulations governing facilities and premises used for lodging for hire such as hotels, motels, lodging, and boarding houses.

(6) In order to protect the public against disease and nuisance resulting from the improper disposal of sanitary sewage, the state health officer shall prepare and promulgate all rules and regulations necessary to ensure that adequate conveyance and disposal facilities are provided for all sanitary sewage, private or public, and in such a manner that will prevent the contamination of surroundings which would have an adverse impact on drinking water supplies, recreational waters, aquatic life, and other mechanisms of human exposure to disease. Standards for the quality of sanitary sewage discharged to the ground surface (ditches, streams, water pools, or other drainage courses), construction of sewerage works, operation of sanitary sewage conveyance, and treatment and disposal facilities shall be included. Such rules and regulations shall not include the licensing of persons engaged in the business or practice of hauling the contents of septic tanks, cesspools, vaults, or similar facilities. Plans and specifications for sewerage works shall be submitted for review and approval to the state health officer or his designee.

(7) Repealed by Acts 2014, No. 836, §4, eff. Jan. 1, 2016.

(8)(a) In order to protect the public against disease from water supplied for drinking, culinary, and ablutionary purposes, the state health officer shall prepare and promulgate all rules and regulations necessary to ensure that water supplied to the public by public water

supplies is obtained from safe and sanitary sources and that such sources are properly protected; is treated, stored, and conveyed in a safe and sanitary manner; and is safe and potable for human use. Standards for drinking water quality (chemical, radiological, and microbiological); water works construction; and water works operations shall be included. In order to assure compliance with promulgated regulations, plans and specifications for public water works facilities shall be submitted to the state health officer or his designee for review and approval.

(b) The state health officer shall additionally prepare and promulgate rules and regulations necessary to develop and implement a capacity development strategy to assist public water systems to acquire and maintain technical, managerial, and financial capacity to comply with state drinking water regulations which are no less stringent than the national primary drinking water regulations. Such rules and regulations shall include a requirement that all new community water systems and new nontransient noncommunity water systems commencing operation after January 1, 1999, demonstrate technical, managerial, and financial capacity, as defined in such rules and regulations, to comply with state drinking water regulations which are no less stringent than the national primary drinking water regulations in effect on the date of commencement of operations.

(9) In order to protect the public against vector-borne diseases, the state health officer shall prepare and promulgate rules and regulations necessary to ensure that disease vectors, including but not limited to mosquitoes and other biting and nonbiting flies, ticks, mites, lice, fleas, true bugs, and rodents are monitored and controlled at levels sufficient to prevent or abate outbreaks of diseases.

(10) In order to protect the public health and safety, the state health officer shall prepare and promulgate rules and regulations relative to public and private schools, jails and lockups, public and private buildings, including public and private hospitals and nursing homes, and similar buildings where people congregate. In order to assure compliance with promulgated regulations, plans and specifications for such public and private building structures and facilities shall be submitted to the state health officer or his designee for review and approval. These rules and regulations shall apply to new buildings, structures, and facilities, as well as modifications to existing ones, and shall include space requirements, ventilation, heating and air conditioning, lighting, waste storage and disposal, and other similar factors affecting public health.

(11) In order to protect the public from disease and injuries associated with water contact recreation (swimming), the state health officer shall prepare and promulgate rules and regulations necessary to ensure that public swimming pools and recreational bathing places (natural and artificial) are constructed, operated, and maintained in a safe and sanitary manner. These rules may require the submittal of appropriate plans and specifications for review and approval. These rules and regulations shall ensure that the design, construction, and operation of these facilities is such that the public is protected against the transmission of disease or injury by the establishment of water quality standards (chemical, physical, and bacterial); by proper arrangement of the physical features of the site or facility; and by proper procedures for supervision and maintenance of such premises.

(12) In order to protect the public health, the state health officer shall prepare and promulgate rules and regulations relative to new rendering facilities and modifications to existing facilities. These rules and regulations shall relate to, but not be limited to, procedures for the review and approval of plans, requirements for approval by the state health officer or his designee prior to contracting for the construction of rendering plants, requirements for obtaining a permit to operate a rendering plant before operation begins, and requirements for closing down a rendering plant already in operation if any condition occurs which might adversely affect the health of the community. Factors that shall be regulated include operation, containment of solid, liquid, or gaseous animal materials and byproducts during processing, storage, or transportation, odors, cleanliness, utilization of products and byproducts, and identification marking of products and byproducts.

(13) The state health officer, through the office of public health, shall be expressly empowered and authorized to issue emergency rules and orders when necessary and for the purposes of controlling nuisances dangerous to the public health and communicable, contagious, and infectious diseases, and any other danger to the public life, health, and safety.

(14) In order to better track opioid-related overdoses and to provide timely interventions, the rules and regulations of the sanitary code shall provide for reporting by emergency departments of chief complaints, admit reasons, and discharge diagnosis data relating to suspected opioid-related overdoses.

B.(1) All sanitary and food and drug inspections to monitor compliance with the provisions of the state sanitary code shall be conducted by licensed sanitarians in the employ of the Louisiana Department of Health, or by similarly licensed sanitarians in the employ of a local parish or municipal governing authority.

(2) In instances where such an inspection discloses a violation of the state Sanitary Code, the business entity or person deemed to be responsible shall be given an opportunity to correct the noted deficiency, and, if upon reinspection the premises are found to be still in need of correction of the previously cited violation, the district attorney or, in cases involving pollution of streams, rivers, lakes, bayous, or ditches located in public rights of way, the attorney general, at the request of the Louisiana Department of Health, may, in his sole discretion, seek an injunction from the district court to enforce the provisions of the state Sanitary Code. The district attorney or the attorney general shall have the power to appoint an attorney of the Louisiana Department of Health as a special assistant district attorney or a special assistant attorney general to prosecute the case. The proceeding before the district court shall be an adversary proceeding and each party shall have the power to call witnesses and subpoena documents and records. In any such proceeding, no district court shall issue an injunction to enforce any provision which it determines to be physically beyond the control of the person or business entity to comply with, or in conflict with, other provisions of state or federal law or regulations.

(3) In instances where such an inspection discloses a violation of the state Sanitary Code involving pollution of streams, rivers, lakes, bayous, or ditches located in public rights of way, the business entity or person deemed to be responsible shall be given an opportunity to correct the noted deficiency, and, if upon reinspection the previously cited violation is

found to still exist, the state health officer is hereby authorized, after due process in accordance with the Administrative Procedure Act, to impose sanctions as follows:

(a) In the case of establishments which operate under license or permit issued by the office of public health of the Louisiana Department of Health, the state health officer may suspend or revoke the existing license or permit.

(b) In the case of establishments which operate without a license or permit issued by the office of public health or where establishments continue to operate after the license or permit has been suspended or revoked, the state health officer may issue a civil compliance order directing the business entity or person deemed responsible for the establishment to correct the violation noted and impose a fine of one hundred dollars per day for each day the violation has not been corrected up to a maximum of ten thousand dollars. The fine shall commence on the day following the date of permit revocation or suspension, or the day following the date specified for compliance in the civil compliance order issued by the state health officer.

(c) All fines imposed pursuant to this Section shall be payable to the office of public health of the Louisiana Department of Health and shall be deposited into the state general fund.

(d) If civil action is necessary to recover fines imposed under this Section, the offender shall be liable for the amount of the fine, legal interest from the date of assessment, and all costs of recovery, including legal fees and court costs.

(e) The state health officer with the approval of the secretary of the Louisiana Department of Health may settle or resolve out of court any suit for recovery of fines if deemed in the best interest of the state.

(4) Nothing in this Section shall prohibit the state health officer acting through the office of public health, with the concurrence of the secretary of the Louisiana Department of Health, from seeking civil injunctive relief from a district court to assist in enforcing emergency orders when there exists serious and imminent danger to the public health. The proceeding before the district court shall be an adversary proceeding, and each party shall have the power to call witnesses and subpoena documents and records. In any such proceeding, no district court shall issue an injunction to enforce any provision which it determines to be physically beyond the control of the person or business entity to comply with, or in conflict with other provisions of state or federal law or regulations.

(5) Paragraphs (2) and (3) of this Subsection shall not apply to waste waters and wastes in discharges from industrial facilities which are subject to permitting under the Louisiana Water Control Law (R.S. 30:2071 et seq.) or the federal Clean Water Act (33 U.S.C. 1251 et seq., as amended), nor to waste waters from industrial facilities in ditches upstream of state or federal waste water discharge points.

C. In all cases of conflict between rules and regulations promulgated pursuant to this Section and the International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, or the International Residential Code, Part VII-Plumbing, as adopted and promulgated by the Louisiana State Uniform Construction Code Council, the provisions of the International Plumbing Code, International Building Code, Chapter 29-Plumbing

Systems, or the International Residential Code, Part VII-Plumbing shall be used.

D. Nothing in this Section shall permit the state health officer acting through the office of public health of the Louisiana Department of Health to establish rules, regulations, policies, or interpretations that supercede or circumvent, or seek to supercede or circumvent the International Plumbing Code, the International Building Code, Chapter 29-Plumbing Systems, or the International Residential Code, Part VII-Plumbing, as adopted and promulgated by the Louisiana State Uniform Construction Code Council. The building official for the parish, municipality, or regional planning commission, as authorized in R.S. 40:1730.24 and appointed pursuant to R.S. 40:1730.25, or a qualified building code enforcement officer designated by the building official, shall have the authority to enforce the plumbing provisions adopted pursuant to Part IV-A, State Uniform Construction Code, Chapter 8 of this Title.

E. The Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code] as amended by the state health officer acting through the office of public health of the Louisiana Department of Health shall be null, void, and unenforceable on and after January 1, 2016.

RS 40:4.1 — Cochon de lait; preparation in traditional manner

e lait in the traditional manner for public consumption. This Section shall not be construed to allow the sale or distribution of any unwholesome food.

RS 40:4.2 — Jambalaya; preparation in traditional manner

re jambalaya in the traditional manner for public consumption, including the use of iron pots, wood fires, and preparation in the open for service to the public at public gatherings. This Section shall not be construed to allow the sale or distribution of any unwholesome food.

RS 40:4.3 — Hard- and soft-shell crabs; preparation in traditional manner for public consumption

other law or regulation, it shall be lawful to prepare hard- and soft-shell crabs in the traditional manner for public consumption at recognized outdoor Louisiana festivals, including preparation in the open for service to the public at such public gatherings. This Section shall not be construed to allow the sale or distribution of any unwholesome food.

RS 40:4.4 — Italian food; preparation in traditional manner for public consumption

t shall be lawful to prepare Italian food in the traditional manner for public consumption at recognized outdoor Louisiana festivals, including preparation and display in the open for service to the public at such public gatherings. This Section shall not be construed to allow the sale or distribution of any unwholesome food.

RS 40:4.5 — Exemptions

pplies, preparation, or services of any organization directing or operating a celebration of any recognized Louisiana festival or fair or any participant who prepares, serves, or sells any food or beverage at the celebration.

RS 40:4.6 — Exemption; benefits for zoos

on, utensils, supplies, preparation, or services shall not apply to any organization or corporation directing or operating an event for the benefit of a publicly owned zoo nor to any participant who prepares, serves, or sells any food or beverage at such an event. This Section shall not be construed to allow the sale or distribution of any unwholesome food.

RS 40:4.7 — New Orleans Jazz and Heritage Festival

of the state sanitary code and

especially the special event food and beverage preparation regulations that pertain to equipment, design, construction, utensils, supplies, preparation, and services. The festival shall not be subject to exemptions granted in R.S. 40:4.5. The Louisiana Department of Health shall charge a permit fee of twenty-five dollars to each food and beverage vendor at the festival.

RS 40:4.8 — Voluntary sanitary inspections of food booths

nce

with the special event food and beverage preparation regulations upon written request and signed agreement from the officials or organizations operating or directing such fairs or festivals. Such inspections shall be voluntary on the part of the officials or organizers of the fairs and festivals. The department shall exercise the enforcement powers authorized by the state's sanitary code when complying with a request and agreement executed in accordance with this Section.

(2) The department may establish and charge reasonable fees for such inspections consistent with current administrative regulations. Such fee shall not exceed twenty-five dollars per fair or festival.

B. Neither the department nor the state shall be liable for a failure to inspect any fair or festival when the officials or organizations operating or directing such fair or festival fail to make a written request and execute a signed agreement for such inspection pursuant to this Section.

RS 40:4.9 — Low-risk foods; preparation in home for public consumption

, design, construction, utensils, supplies,

preparation, or services shall apply to the preparation of low-risk foods, as defined in Subsection E of this Section, in the home for sale. For purposes of this Section, with respect to preparation of cane syrup, "the home" shall mean, in addition to a dwelling, an open-sided structure on private property that shelters a cast iron kettle, evaporator, or other equipment for preparing cane syrup in the traditional manner. This Section shall not be construed to allow the sale or distribution of any unwholesome food.

(b) The provisions of Subparagraph (a) of this Paragraph shall not apply to any preparer of breads, cakes, cookies, or pies who employs any individual to assist in the preparation of such food for sale.

(2) Notwithstanding any provision of law to the contrary, all of the following restrictions, conditions, and requirements shall apply to the preparation of breads, cakes, cookies, and pies in the home for sale:

(a) All outside openings shall be protected against flies and other vermin.

(b) The building shall be constructed so as to exclude rats, mice, roaches or other vermin. Domestic pets shall be excluded in any part of the establishment where preparation and baking of such bakery products takes place.

(c) All equipment used or connected in any way with the manufacture, baking,

cooking or other processing, handling, packing, or storing of any bakery product shall comply with the following:

(i) Be maintained in a clean and sanitary manner, be free from cracks and, wherever possible, be composed of non-corroding, metal or other smooth, impervious material giving an easily cleanable surface. Stationary or not readily movable equipment shall be so installed as to provide for easy cleaning.

(ii) Refrigeration shall be provided so that all perishable food products used in the manufacturer processing of any kind connected with the production, distribution, or sale of bakery products shall be maintained at a temperature not to exceed forty-five degrees Fahrenheit.

(iii) Equipment too large to permit washing in the sinks shall be cleaned in a manner approved by the state health officer.

(iv) All barrels, boxes, tubs, pails, kneading troughs, machines, racks, pans, or other receptacles used for holding materials from which bakery products are manufactured shall be kept clean and sanitary and shall be so constructed as to be easily cleanable.

(v) All food contact surfaces shall be cleaned and sanitized after each day's production.

(d) Only pasteurized milk or milk products shall be used in the preparation of custard and cream-filled bakery products.

(e) All custard or cream-filled mixtures shall be cooked, the temperature and time of heating of the mix, to be at a minimum, the equivalent of a temperature of one hundred forty-five degrees Fahrenheit for a period of not less than thirty minutes.

(f) Upon completion of the cooking of the mix, it shall be immediately transferred into previously sanitized containers, properly covered and chilled as rapidly as possible to forty-five degrees Fahrenheit or below and maintained at such a temperature until used.

(g) The apparatus and food contact surfaces used in adding any custard or cream filling to a bakery product shall be of impervious material and shall be thoroughly cleaned and sanitized after each use, in a manner approved by the state health officer. No cloth filled bags shall be used.

(h) Preparers engaged in the preparation of custard or cream-filled bakery products shall not touch the custard or cream filling with their hands after it has been cooked.

B. This Section shall not apply to any preparer of low-risk foods made at a home for sale, whose gross annual sales equal thirty thousand dollars or more.

C. No individual who prepares breads, cakes, cookies, or pies in the home for sale to the public pursuant to this Section shall sell such foods to any retail business or individual for resale.

D.(1)(a) Except as provided in Subparagraph (b) of this Paragraph, any individual who prepares low-risk foods in the home for sale, as authorized by this Section, shall affix to any such food offered for sale a label which clearly indicates that the food was not produced in a licensed or regulated facility.

(b) The food labeling requirement in Subparagraph (a) of this Paragraph shall not apply to raw honey offered for sale if the honey is not pasteurized, filtered, or otherwise

processed in such a way as to remove natural pollen contained in the honey.

(2) No individual who prepares low-risk foods in the home shall sell such foods unless he is registered to collect any local sales and use taxes that are applicable to the sale of such foods, as evidenced by a current sales tax certificate issued to the seller by the sales and use tax collector for the parish in which the sales occur.

E. For purposes of this Section, "low-risk foods" shall include all of the following, none of which shall consist of any animal muscle protein or fish protein:

- (1) Baked goods, including breads, cakes, cookies, and pies.
- (2) Candies.
- (3) Cane syrup.
- (4) Dried mixes.
- (5) Honey and honeycomb products.
- (6) Jams, jellies, and preserves.
- (7) Pickles and acidified foods.
- (8) Sauces and syrups.
- (9) Spices.

F. No preparer of low-risk foods pursuant to this Section shall sell any food containing cannabidiol unless the United States Food and Drug Administration approves cannabidiol as a food additive.

RS 40:4.9.1 — Louisiana Small Wild Catfish Processor's Act; preparation for direct sale to the

r regulation that requires any equipment, design, construction, utensils, supplies, preparation, or services shall apply to the preparation of wild catfish for direct sale to the consuming public. This Section shall not be construed to allow the sale or distribution of any unwholesome food.

(b) The provisions of Subparagraph (a) of this Paragraph shall not apply to any preparer of wild catfish who employs any individual to assist in the preparation of the wild catfish for sale.

(2) Notwithstanding any provision of law to the contrary, all equipment used or connected in any way with the manufacture or other processing, handling, packing, or storing of any wild catfish prepared for direct sale to the consuming public pursuant to this Section shall comply with the following:

(a) Be maintained in a clean and sanitary manner, be free from cracks and, wherever possible, be composed of noncorroding metal or other smooth, impervious material giving an easily cleanable surface. Stationary or not readily movable equipment shall be so installed as to provide for easy cleaning.

(i) All barrels, boxes, tubs, pails, or other receptacles used for holding the processed wild catfish shall be kept clean and sanitary and shall be so constructed as to be easily cleanable.

(ii) All food contact surfaces shall be cleaned and sanitized after each day's production.

(b) If appropriate, be refrigerated so that all processed wild catfish shall be maintained at an appropriate temperature.

B. No individual who prepares wild catfish for direct sale to the consuming public pursuant to this Section shall sell more than four hundred pounds of wild catfish per month.

C. No individual who prepares wild catfish for direct sale to the consuming public pursuant to this Section shall sell the processed wild catfish to any retail business or individual for resale.

D.(1) Any individual who prepares wild catfish for direct sale to the consuming public pursuant to this Section shall affix to any processed wild catfish offered for sale a label which clearly indicates that the food was not produced in a licensed or regulated facility.

(2) No individual who prepares wild catfish for direct sale to the consuming public pursuant to this Section shall sell the processed wild catfish unless the individual is registered to collect any local sales and use taxes that are applicable to the sale of the seafood, as evidenced by a current sales tax certificate issued to the seller by the sales and use tax collector for the parish in which the sales occur.

E. No individual who prepares wild catfish for direct sale to the consuming public pursuant to this Section shall sell the processed wild catfish unless the individual holds a wholesale/retail seafood dealer's license pursuant to R.S. 56:306 or a fresh products license pursuant to R.S. 56:303.1.1.

F. This Section shall be known and may be cited as the "Louisiana Small Wild Catfish Processor's Act".

RS 40:4.10 — Public notice of infectious medical waste storage by landowner
ng used, for the storage of infectious medical waste, as

is defined by R.S. 40:4(A)(2)(b), or has been identified by the department as a storage facility for infectious medical waste, the landowner, lessees, and occupants shall cause notice of the location of the storage facility to be recorded in the conveyance records of the parish in which the property is located.

(2) Such notice shall be made in a form approved by the state health officer and within the time specified by the state health officer. If a landowner, lessees, and occupants fail or refuse to record such notice, the state health officer may, if he determines that the public interest requires, and after due notice and an opportunity for a hearing with the division of administrative law has been given to the landowner, lessees, and occupants, cause such notice to be recorded at the cost of the landowner, lessee, or occupant.

(3) The clerk of court of the parish in which the property is located shall forward to the Louisiana Department of Health, office of public health, center for environmental health services, the Department of Environmental Quality, the local fire department, the municipal police department, and the local sheriff a copy of each notice recorded by a landowner, lessees, and occupants in accordance with this Subsection.

B.(1) If any person wishes to remove such notice, he shall notify the state health officer prior to requesting the removal by the clerk of court in the parish where the property is located. The request shall specify the facts supporting removal of the notice, including any evidence that the waste no longer poses a potential threat to the public health. Upon finding that the infectious medical waste is no longer present and no longer poses a potential threat

to public health, the state health officer shall approve removal of the notice.

(2)(a) If approval is granted by the state health officer, the request may be made by affidavit to the clerk of court for the removal of the notice, and it shall be removed. Within ten days after removal, the clerk of court shall send a notice of the removal to the state health officer.

(b) If the state health officer objects to the removal of such notice, or fails to make a final determination upon the request within ninety days, the person desiring to have the notice removed may petition the division of administrative law for removal of the notice and after a contradictory hearing between the landowner, lessee, or occupant, the clerk of court, and the state health officer or his designee, the administrative law judge may grant such relief upon adequate proof by the petitioner that the property no longer contains the infectious medical waste which posed a threat to health or to the environment.

C. This Section shall not apply to the following:

(1) Infectious medical waste generated at a residence by individuals.

(2) Small healthcare and medical facilities, being defined as those facilities generating in any given month, or cumulatively stored in any given month, infectious medical waste meeting both of the following criteria:

(a) Less than twenty-five kilograms (fifty-five pounds), not including sharps.

(b) Less than five kilograms (eleven pounds) of sharps.

(3) An office at a particular location operated by a licensed, registered, or certified healthcare provider actively engaged in the practice of his profession whose office prominently displays to the public such practice of healthcare profession.

(4) A "pharmacy" as defined in R.S. 37:1164.

(5) A "hospital" as defined in R.S. 40:2102.

(6) A medical facility located at a commercial or industrial site used primarily to administer medical services to site personnel.

(7) Postsecondary educational institutions, including but not limited to schools of medicine, pharmacy, dentistry, veterinary science, nursing, and allied health professions and any related clinical and research programs.

D. The failure of a landowner, lessees, or occupants to file the required notice under this Section may subject him to a fine, payable to the department, of not less than fifty dollars per day and not more than five hundred dollars per day and not to exceed ten thousand dollars per violation per calendar year.

E. Nothing in this Section shall be deemed to derogate or detract in any way from the functions, powers, or duties prescribed by law of any other department of this state.

RS 40:4.11 — Community-type sewage systems and public water systems; permits

ublic water system, including a

community water system, or a community-type sewage system within sixty days after receipt of the initial submission to the office of public health of plans and specifications for which a permit is requested pursuant to the state sanitary code.

B. If the office of public health fails to take action to approve or

disapprove a plan within seventy-five days after initial submission of the plans and specifications for which approval is sought, then any interested party may bring an action for mandamus against the state health officer or appropriate office of public health, and such officer or office shall be responsible for all costs of court and reasonable attorney fees incurred in the prosecution of such action. Nothing in this Section shall prohibit the party seeking the permit and the office of public health from agreeing in writing to an extension of the time limits specified in this Section.

C. The office of public health of the Louisiana Department of Health shall promulgate rules to implement the requirements of this Section, which rules shall include the establishment of time delays, not in conflict with this Section, within which the office of public health must request further information, clarifications, or changes to plans and specifications received from an applicant, as well as the establishment of time delays, not in conflict with this Section, within which an applicant must supplement his plans and specifications pursuant to a request to do so from the office of public health.

D. Nothing in this Section shall be construed to alter any enforcement authority regarding sewage disposal and water supplies otherwise granted to the state health officer pursuant to statute or rule.

RS 40:4.12 — Water distribution in certain facilities

table and nonpotable water, including by painting such piping and outlets yellow or blue, shall not be required within a facility that is engaged in activities defined or classified under one or more of the following subsectors, industry groups, or industries of the 1997 North American Industry Classification System (NAICS), provided that such facility has a potable water distribution identification plan that satisfies the requirements set forth in Subsection B of this Section:

- (1) 22111 electric power generation.
- (2) 3221 pulp, paper, and paperboard mills.
- (3) 324 petroleum and coal products manufacturing.
- (4) 325 chemical manufacturing.
- (5) 326 plastics and rubber products manufacturing.
- (6) 331 primary metal manufacturing.
- (7) 211 oil and gas extraction.
- (8) 486 pipeline transportation.
- (9) 213111 drilling oil and gas wells.
- (10) 213112 support activities for oil and gas operations.

B.(1) A qualifying potable water distribution identification plan must contain the following information:

- (a) The name and address of the facility.
- (b) The position of the facility employee responsible for implementation of the plan.
- (c) A written procedure, which may be provided by reference to existing facility procedures, that is applicable and in effect at the facility, and:
 - (i) Preserves potable water by preventing cross-connection and other possibilities for contamination from modification and replacement of piping or equipment at the facility by any person.
 - (ii) Identifies on-site piping and outlets conveying potable water.

(iii) Requires a formal cross connection control survey of the facility to be performed by a qualified individual at least once every five years beginning no later than July 1, 2006.

(2) The plan must be maintained and fully implemented by the facility.

(3) The procedures in the plan must be communicated, in writing or transmitted electronically, to all employees of the facility and to all contractors or subcontractors working at the facility.

C. If a facility identified in Subsection A of this Section has a potable water distribution identification plan that satisfies the requirements set forth in Subsection B of this Section, valves, branch fittings, and branch terminals in nonpotable water service at such facility need not be identified by the words "nonpotable water" or any similar language or labeling system.

D. Facilities identified in Subsection A of this Section shall not be deemed in violation, past or present, of any law or regulation concerning color coding or labeling of piping, valves, branch fittings, branch terminals, and outlets conveying potable or nonpotable water until the plan is fully implemented. The plan shall be fully implemented by July 1, 2006, unless a later date is agreed upon by the facility and the state health officer or his designee. The plan shall be maintained at the facility and made available for inspection upon request by the state health officer or his designee.

RS 40:4.13 — Repealed by Acts 2021, No. 98, §2.

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RS 40:4.14 — Not-for-profit entity or charitable organization; receipt or use of certain meats or fish in food or meal distribution

gulation to the contrary, it shall be lawful for a not-for-profit entity or a charitable organization to receive or use any commercial or game fish, migratory or resident game bird, game quadruped, as defined in R.S. 56:8, alligator, or feral hog in food or meal distribution at no cost to an individual.

RS 40:4.15 — Minimum disinfectant residual level of free or total chlorine throughout public water

health, shall promulgate

rules and regulations pursuant to the Administrative Procedure Act that require a public water system to maintain a minimum disinfectant level of free or total chlorine in the water being delivered to the distribution system, in finished water storage tanks, and in all points of the distribution. Such rules and regulations shall not specify a minimum disinfectant level of less than 0.1 parts per million. This Section shall apply to any water system that provides water for residential consumption and use. However, the provisions of this Section shall not apply to any private water system that supplies water to three or less residences or that is used primarily for agricultural operations as defined in R.S. 3:3602(5).

B. The department shall review such rules and regulations as necessary and shall submit an annual report as to the state of public water systems across Louisiana to the Senate Committee on Health and Welfare and the House Committee on Health and Welfare no later than February first of each year.

C. An industrial user that owns, operates, and maintains a water system dedicated to the exclusive use of its operations or facilities may apply for a variance from any requirement to maintain a minimum disinfectant level of free or total chlorine in its water system. The department shall review any such variance request and may grant approval if not inconsistent with applicable federal statute, rule, or regulation. Nothing in this Section shall be construed to require such an industrial user or consumer holding such a variance or holding a variance pending final agency determination to reapply for such variance.

RS 40:4.16 — Water systems; iron and manganese control

dure Act to implement iron and

manganese control requirements for water systems.

RS 40:5 — General powers and jurisdiction

rity:

- (1) To isolate or quarantine for the care and control of communicable disease within the state.
- (2) To take such action as is necessary to accomplish the subsidence and suppression of diseases of all kinds in order to prevent their spread.
- (3) To enforce a sanitary code for the entire state containing provisions for the improvement and amelioration of the hygienic and sanitary conditions of the state.
- (4) To enact provisions regulating the standards of health and decency and building regulations of all prisons, jails, lock-ups, and camps where prisoners are detained or confined.
- (5) To supervise, inspect, and issue sanitation permits for water supplies, slaughterhouses, cold storage plants, all places of public accommodation, and the handling and control of hygienic conditions with respect to all food.
- (6) To take such action as may be authorized by the administrator of the Environmental Protection Agency under the federal Safe Drinking Water Act of 1974, as amended.
- (7) To make all sanitary inspections and provide for the issuance of health permits.
- (8) Over the enforcement of controls and issuance of permits for the distribution and handling of dangerous drugs.
- (9) Over the treatment and disposal of municipal or domestic sewage.
- (10) Over the reporting of communicable diseases.
- (11) Over the gathering, keeping, reporting, and tabulating of vital and mortuary records and statistics for all parishes of the state.
- (12) Over the providing of facilities for vaccination.
- (13) To assist in the supervision and operation of parish and municipal health units and departments.
- (14) Over the regulation of the carriage and transportation of persons, freight, and dead bodies brought into the state or transported through or in the state as they may affect public health.
- (15) Over the sanitary inspection of meat, milk, and other products which may affect public health and safety.
- (16) Over the sanitary conditions required at any public gathering or meeting.
- (17) Over the adoption of rules and regulations regarding public health, sanitary, and hygienic subjects, including those for standards governing noxious odors.
- (18) To promulgate rules and regulations in accordance with the Administrative Procedure Act to establish a fee schedule, based on ability to pay or eligibility for third party reimbursement, for services provided by the Children's Special Health Services program and maternal and child health programs in the office of public health.
- (19) To conduct health inspections and issue health permits through state-employed licensed sanitarians, or by licensed sanitarians of parish health units or departments.

(20) Over those functions of the state provided by law relating to environmental quality and pollution control which are related to the public health and which are specifically assigned to the department by statute.

(21)(a) To conduct health, safety, and sanitation inspections, through state-employed licensed sanitarians, of any place upon receipt of a complaint that the department determines shows appropriate and sufficient grounds to indicate a health hazard or sanitary code violation may exist, regardless of whether such place is licensed or not, or otherwise regulated.

(b) In order to comply with the provisions of Subparagraph (a) of this Paragraph, a licensed sanitarian may, if necessary, seek and obtain an appropriate order or warrant from the state district court for the judicial district in which the place to be inspected is located to enter, examine, and inspect such place for a health hazard or sanitary code violation.

B. Nothing in this Section shall grant or be interpreted as to grant the state health officer or the office of public health of the Louisiana Department of Health the authority to supercede the authority of municipalities or parishes to enforce the State Uniform Construction Code provided for in Part IV-A of Chapter 8 of this Title. The building official for the parish, municipality, or regional planning commission, as authorized in R.S. 40:1730.24 and appointed pursuant to R.S. 40:1730.25, or a qualified building code enforcement officer designated by the building official, shall have the authority to enforce the plumbing provisions adopted pursuant to Part IV-A of Chapter 8 of this Title.

RS 40:5.1 — Sanitation; inspection of railroad property

emises for sanitary conditions and
enforce the rules and regulations pertaining to sanitation.

RS 40:5.2 — Limitations

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creed or tenets of any religious
denomination of which he is an adherent, provided that sanitary and quarantine
regulations are complied with by such person.

RS 40:5.3 — Molluscan shellfish sanitation requirements; opening and closing of molluscan

or bacteriological analysis; testing of oysters;

Calcasieu Lake

A. The legislature finds and declares that serious risks to public health are posed by harvesting molluscan shellfish from growing areas not approved by the state health officer; and that it is in the best interests of the public health and welfare, as well as the Louisiana molluscan shellfish industry, that the state be authorized to immediately close from harvesting any molluscan shellfish growing area adversely affected by health dangers, and to immediately open such molluscan shellfish growing areas when it is determined that the health dangers are no longer a threat to public health.

B. Notwithstanding the provisions of R.S. 40:4, the provisions of Chapter 13 of Title 49 of the Louisiana Revised Statutes, except R.S. 49:951, 952, 953, 968, and 979, shall not

apply to procedures and proceedings to close from molluscan shellfish harvesting any molluscan shellfish growing area affected by a public health danger, nor to procedures and proceedings for subsequent opening of any such molluscan shellfish growing areas when the Louisiana Department of Health and the Department of Wildlife and Fisheries jointly determine that the protection of the public health mandates or warrants such closure or opening, nor to procedures and proceedings for such determination.

C. The Louisiana Department of Health shall utilize supplemental water quality data from certified laboratories of other state and local government agencies in water quality monitoring and sampling programs to be used by the department for certifying the quality of molluscan shellfish harvested from Louisiana growing areas in compliance with this Section. However, nothing in this Subsection shall prevent the department from having the final decision making authority in the opening and closing of molluscan shellfish growing areas.

D. Approved molluscan shellfish growing area water quality monitoring plans from other state or local agencies may be shared in meetings called by the representative or senator from the respective districts containing molluscan shellfish growing areas.

E. The purpose of this Section is to develop guidelines to govern and regulate the shellfish industry to ensure that the final shellfish product is safe and wholesome. The Louisiana Department of Health shall enforce the requirements for classification of shellfish growing areas and for certifying, processing, and distributing shellfish, which requirements are contained in Part IX of Title 51 of the Louisiana Administrative Code and promulgated under the provisions of R.S. 49:962.

F. The Louisiana Legislature may create a Shellfish Management Task Force which shall periodically review the procedures by which the Louisiana Department of Health and the Department of Wildlife and Fisheries determine the opening and closing of molluscan shellfish growing areas to be certain that Louisiana water quality monitoring and sampling is in full compliance with sanitation requirements for shellfish growing areas and for harvesting, processing, and distributing shellfish.

G. The taking of molluscan shellfish from areas closed, or not approved, by the state health officer shall constitute a violation of this Section and R.S. 56:424(E).

H. In order for the Louisiana Department of Health to monitor molluscan shellfish-related diseases for verification and certification, the department may collect from all water bottoms, both public and private, such shellfish samples as may be required for bacteriological, chemical, and radiological analysis. The department shall notify the owner or lessee of the collection of such samples, but it shall not be a condition precedent to the taking of such shellfish.

I. Until final adoption by the secretary of the Department of Wildlife and Fisheries of regulations governing freshwater mussels, the provisions of this Section shall not apply to the harvesting of freshwater mussels in those areas of the state designated as freshwater by R.S. 56:322(A) and (B) provided that such harvesting is for shells only.

J. The Louisiana Department of Health shall be required to collect any samples of oysters and report the results of any testing of oysters in Calcasieu Lake for chemical, radiological, or metallic analysis at least forty-five days prior to the opening of the oyster

season as fixed by the commission in accordance with R.S. 56:435.1 or 435.2. Nothing herein shall interfere with the authority of the department to conduct such routine chemical testing for the presence of such contaminants during the open season.

RS 40:5.4 — Testing of private water wells

well and shall report the results of such testing to the owner.

RS 40:5.5 — Sanitary inspections of certain food service establishments; food safety certificates

two permits issued in accordance with the sanitary code for businesses that possess a valid local or state Class R permit and operate primarily as a restaurant. The fee provided for in this Subsection for the first two shall not exceed the fee assessed for the first permit according to administrative regulations in effect on September 3, 1989.

B. No person, other than a representative of the restaurant, shall be notified by the department of the time and place of the inspection prior thereto.

C. The state health officer and the office of public health of the Louisiana Department of Health shall require, at a minimum, the owner or a designated employee of a food service establishment to hold a food safety certificate; however, the state health officer and the office of public health of the Louisiana Department of Health shall not require more than one owner or employee per establishment to hold a food safety certificate. Provisions for the issuance and renewal of such certificate shall be made part of the state's Sanitary Code in accordance with the provisions of R.S. 40:4 and the following requirements, conditions, and authorizations:

(1) The office of public health shall approve training programs for applicants which impart and test knowledge of the nature, prevention, and control of foodborne illness transmission and of methods for identifying and monitoring critical control points for safeguarding the production, processing, preparation, and serving of food. Such training programs shall include but not be limited to instructions in the standards set forth in the Applied Food Service Sanitation Program established by the Educational Foundation of the National Restaurant Association or other programs recognized in the food service industry. The office of public health shall approve training programs administered or approved by another state, a political subdivision, or other jurisdiction with standards that meet or exceed those established by this Subsection.

(2) A food safety certificate shall be issued to any person who files an application upon a form and in such a manner as prescribed by the Sanitary Code if such person furnishes satisfactory evidence that he has completed an approved training program or has passed a written examination provided by the individual or group providing approved training programs.

(3) A fee, not to exceed twenty-five dollars, may be imposed on and collected from an individual or a food service establishment for a food safety certificate to defer expenses in the administration of this Subsection.

(4) Renewal of the food safety certificate shall be required every five years.

(5) Display of a current, duly issued food safety certificate in the food service establishment shall be required.

(6) Any food service establishment whose food sales are less than one hundred

twenty-five thousand dollars annually shall not be required to comply with this Subsection until July 1, 2002. However, any such establishment may apply for such certificate prior to such date.

D. No parish or municipality shall adopt or enforce any ordinance or regulation requiring a food service establishment or any of its employees to complete a food safety training program or test.

E.(1) For purposes of this Section, except as provided in Paragraph (2) of this Subsection, "food service establishment" means an establishment which prepares food for human consumption, either for individual service or for a group of people, whether consumption is on or off the premises and regardless of whether there is a charge for the food.

(2) The term "food service establishment" shall not include any of the following:

(a) A private home where food is prepared or served for individual family consumption.

(b) A private club where food is prepared and served exclusively for member consumption.

(c) Religious or charitable food sales.

(d) An establishment that heats or prepares boudin or sausage for personal consumption.

(e) A bar or lounge that serves beverages only.

(f) A temporary or seasonal establishment.

(g) A bed and breakfast operation.

(h) A nursing facility.

(i) A public, private, or parochial school.

F, G. Repealed by Acts 2022, No. 271, §7.

RS 40:5.5.1 — Food service establishments; self-service buffets

Is to wash their hands prior to serving themselves.

B. Any violation of this Section shall be a violation of the state's Sanitary Code.

C. The Louisiana Department of Health shall prescribe and publish minimum standards, rules, and regulations as necessary to effectuate the provisions of this Section.

D. For purposes of this Section "food service establishment" shall have the same meaning as provided for in R.S. 40:5.5.

RS 40:5.5.2 — Seafood safety

green,

copper salts, and other residues found in seafood that originates from outside of the United States. The overexposure to antibiotics from such seafood may cause serious antibiotic resistance to the consumer. In addition, chemicals such as malachite green are known carcinogens. It is the intent of the legislature to protect the health and welfare of Louisiana consumers from potentially harmful residues in imported seafood that is sold or served in Louisiana. The legislature further recognizes that the magnitude of the health risks associated with imported seafood requires the full cooperation and collaboration of the

Louisiana Department of Health, the Louisiana Department of Agriculture and Forestry, the Louisiana Department of Wildlife and Fisheries, the Department of Culture, Recreation and Tourism, and the Department of Environmental Quality.

B.(1) The state health officer shall prepare and promulgate all rules and regulations necessary to ensure that all consumers of imported marine and freshwater seafood products are warned about the potential health risks associated with the consumption of those products.

(2) The state health officer, in consultation with the Department of Agriculture and Forestry, office of the lieutenant governor, the Louisiana Seafood Promotion and Marketing Board, and the Louisiana Restaurant Association shall employ a marketing campaign that places an emphasis on highlighting the benefits of eating domestic seafood.

(3) The state health officer shall produce a statement that may be included on labels, placards, menu boards, or other promotional signage that encourages consumers to consume Louisiana seafood and warns of the risks that may be associated with the consumption of imported seafood.

(4) With the cooperation and assistance of the Louisiana Retailers Association, the Louisiana Restaurant Association, and other necessary organizations, the state health officer in conjunction with the Department of Agriculture and Forestry shall encourage the display of the signage and other promotional literature as provided for in this Section where seafood sales occur.

C. As used in this Part, the following terms shall have the following meanings:

(1) "Commingle" means to cause to blend together, mix, or combine domestic and imported seafood.

(2) "Domestic crawfish" means any food product that is derived from red swamp crawfish (*Procambarus clarkii*), white river crawfish (*Procambarus zonangulus*), or pond-raised crawfish and is either:

(a) Raised, harvested, and processed in Louisiana.

(b) Raised, harvested, and processed in the United States and has satisfied the same or substantially equivalent testing and labeling requirements of this state.

(3) "Domestic shrimp" means any food product that is derived from the species *Litopenaeus setiferus*, *Farfantepenaeus aztecus*, *Farfantepenaeus duorarum*, *Sicyonia brevirostris*, *Pandalus borealis*, and *Pleoticus robustus* and is either:

(a) Caught in Louisiana waters, the Gulf of Mexico, or any other adjacent state waters and landed and processed in Louisiana.

(b) Caught, landed, and processed in the United States and has satisfied the same or substantially equivalent testing and labeling requirements of this state.

RS 40:5.5.3 — Seafood Safety Task Force; creation; purpose

force". The task force shall serve

as the state panel of experts focused on ensuring the safety of seafood processed, distributed, purchased, and consumed in Louisiana and the education and awareness of consumers regarding the health risks associated with imported seafood, as well as making recommendations on the utilization of monies in the Imported Seafood Safety Fund to test

imported seafood.

B. The task force shall be charged with making recommendations to the commissioner of agriculture and forestry on all of the following:

- (1) The method in which the imported seafood is inspected in Louisiana.
- (2) The frequency of inspections of imported seafood.
- (3) The substances for which imported seafood are currently being tested, including but not limited to malachite green, oxytetracycline, fluoroquinolone, and nitrofurantoin.
- (4) The results of sampling analysis of potentially harmful substances in imported seafood.
- (5) The harmful effects of antibody resistance due to consumption of imported seafood.
- (6) The most effective methods of education and awareness to alert the public on the importance of reading labels, menus, packaging, and signage before consuming seafood.
- (7) The most effective methods of protecting our waters from contaminated foreign bait shrimp.
- (8) The cost of permits and the amount of fines and penalties imposed by the agencies that regulate seafood in this state and whether the cost of the permits are sufficient to effectively enforce state-mandated seafood programs and whether the fines and penalties imposed are functioning as a successful deterrent or if they need to be increased.
- (9) The many laws of the state regarding the seafood industry to ensure that they are updated and modernized to continue to protect consumers of seafood.
- (10) Any other matter considered appropriate by the members of the task force or as requested by the legislature, governor, lieutenant governor, or state agency with responsibility for seafood safety.

C. The task force shall compile the results of these findings annually and shall develop seafood safety recommendations to be reported to the governor and the legislature no later than February first of each year.

D. The task force shall be composed of the following fourteen members:

- (1) A member appointed by the chairman of the House Committee on Health and Welfare.
- (2) A member appointed by the chairman of the Senate Committee on Health and Welfare.
- (3) The commissioner of the Department of Agriculture and Forestry or his designee.
- (4) The chancellor of the Louisiana State University Agricultural Center or his designee.
- (5) A representative of the Louisiana Seafood Promotion and Marketing Board.
- (6) The secretary of the Louisiana Department of Health or his designee.
- (7) A representative of the Louisiana Shrimp Task Force.
- (8) A representative of the Louisiana Farm Bureau Federation.
- (9) The secretary of the Department of Wildlife and Fisheries or his designee.
- (10) The secretary of the Department of Environmental Quality or his designee.
- (11) A representative of the Louisiana Restaurant Association.

(12) A public health nutritionist.

(13) A representative of the Louisiana Crawfish Promotion and Research Board.

(14) A representative of the Louisiana Retailers Association.

E. The task force shall convene at least quarterly. At the first meeting of each calendar year, the members shall elect a chairman and other officers as they consider appropriate.

F. The task force shall meet at times and at places throughout the state as it may designate to ensure participation. Meetings shall be held at the call of the chairman or at the call of a quorum of members upon not less than seven days' notice. A majority of a quorum shall be present to transact any business. The members of the task force shall not be compensated for their services on the task force but may seek travel reimbursements from their respective agencies under their respective guidelines. Meetings of the task force shall be subject to laws regarding open meetings, and records of the task force shall be subject to laws regarding public records.

G.(1) The chair of the task force may appoint committees to fulfill the purposes of the task force. The chair of the task force shall appoint the chair of any committee and shall designate the functions and responsibilities of each committee appointed.

(2) Committees may include but not be limited to a committee to facilitate coordination with other coastal or seafood producing states in the United States, a committee on coordination with the Louisiana Congressional delegation and the bipartisan American Seafood Caucus, and a committee on promoting jobs and professional interest in commercial fisheries.

H. The Department of Agriculture and Forestry shall promulgate any rules necessary, in accordance with the Administrative Procedure Act, for implementation of the provisions of this Section.

RS 40:5.5.4 — Imported crawfish and shrimp; notice to patrons of food service establishments

r provides cooked or prepared crawfish or shrimp that originate outside of the United States shall display the following disclaimer in a clearly visible location on the menu:

"Some items served at this establishment may contain imported crawfish or shrimp. Ask for more information."

B.(1) Any food service establishment that does not use a menu as a standard business practice and sells or provides cooked or prepared crawfish or shrimp that originate outside of the United States shall display the following disclaimer on a sign posted at the main entrance to the establishment:

"Some items served at this establishment may contain imported seafood. Ask for more information."

(2) Each sign shall be at least eighteen inches tall and eighteen inches wide and shall be written in the English language in letters not less than one inch in size. The sign shall be placed in an open area and in a conspicuous position not less than thirty-six inches from the floor so that it is visible to all patrons.

C.(1) No owner or employee of a restaurant or other retailer that sells imported seafood shall misrepresent to the public, either verbally, on a menu, or on signs displayed on

the premises, that the crawfish or shrimp being sold is domestic.

(2) All representations, notices, and declarations made to the general public under this provision shall state clearly whether or not the crawfish or shrimp being sold to the consumer at the point of purchase is either domestic or imported.

D. For any seafood that is sold unpackaged, a food establishment shall clearly display the country of origin in a manner that is easily visible to the consumer.

E.(1) The Louisiana Department of Health shall be responsible for ensuring compliance with this Section. Any violation of this Section shall constitute a violation of the state Sanitary Code. The department shall issue fines for violations of this Section as follows:

(a) For a first offense, a fine of not less than two hundred dollars and not more than five hundred dollars per violation. The department, in its discretion, may provide an opportunity for corrective action in lieu of a fine for a first offense.

(b) For a second offense, a fine of not less than five hundred dollars and not more than one thousand dollars per violation.

(c) For a third and subsequent offense, a fine of not less than one thousand dollars and not more than two thousand dollars per violation.

(2) Notwithstanding any provision of law to the contrary, including R.S. 40:6(D), prior issuance of a notice of violation or compliance order shall not be a prerequisite to imposing the fines authorized by this Subsection, which may be imposed by issuance of a notice and order of imposition of penalties. The notice shall state with specificity the nature of the violation, shall be served on the violator by any means authorized by the Sanitary Code, and shall be subject to the same administrative appeal procedures and delays as provided for compliance orders in the Sanitary Code.

F. The department shall establish a reporting mechanism for members of the public to report suspected violations of this Section.

G. Reports to the department of suspected violations may be made anonymously. No person who in good faith reports a suspected violation to the department shall be liable for any civil damages. This Subsection shall not exempt from liability those individuals who intentionally cause damages to another individual, business, or entity.

H. The Louisiana Department of Health shall promulgate all such rules in accordance with the Administrative Procedure Act as are necessary to enforce the provisions of this Section.

I. For purposes of this Section, "food service establishment" shall mean any establishment provided for in R.S. 40:5.5 and any seafood market, grocer, vehicle, or other entity or person that sells food directly to the public for consumption.

RS 40:5.6 — Safe drinking water; inspections and tests; cost
perform all

inspections, tests, or procedures on public water supplies as may be authorized by the administrator of the Environmental Protection Agency under the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq. at no cost to any municipality, parish governing authority, or any public or privately owned water system

except as provided in R.S. 40:31.33.

B. The office of public health shall perform tests for contaminants identified in accordance with the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq., at least once a year, as funds are appropriated, on all public water supplies in municipalities with the following populations, based on the 1990 census:

- (1) Between three thousand one hundred fifty and three thousand one hundred sixty people.
- (2) Between three thousand four hundred seventy and three thousand four hundred eighty people.
- (3) Between five thousand and five thousand fifteen people.
- (4) Between twenty thousand one hundred twenty and twenty thousand one hundred thirty people.
- (5) Between seventy thousand five hundred seventy and seventy thousand five hundred ninety people.

RS 40:5.6.1 — Safe drinking water; pilot program for water testing at schools; reporting;

t", shall establish a pilot program for drinking water testing at elementary schools which comports with the requirements and specifications provided in this Section.

B. The department shall select for the pilot program twelve public elementary schools at which to conduct drinking water testing. The department shall select for the pilot program schools with buildings which were built prior to 1986 or which may otherwise be susceptible to drinking water contamination.

C. The office of public health of the department shall conduct drinking water testing on a schedule determined by the state health officer in each school selected for the pilot program. The state health officer shall select the standards for which the office shall test such that the testing is accomplished in a cost-neutral manner.

D. The department shall operate the pilot program in a manner which incurs no additional cost to the department.

E. The department shall report findings and outcomes of the pilot program to the House and Senate committees on health and welfare on or before December thirty-first annually.

F. The provisions of this Section shall terminate on January 1, 2021.

RS 40:5.7 — Sanitary inspections of individual, privately owned water wells; fees

dollars for the collection and analysis of bacteriological water samples from individual, privately owned water wells, only at the request of the owner.

RS 40:5.8 — Definitions

water system that serves year-round

residents within a residential setting. Examples of "community water systems" include systems serving municipalities, water districts, subdivisions, and mobile home parks.

- (2) "Noncommunity water system" means a public water system that serves persons

in a nonresidential setting. Examples of "noncommunity water systems" include systems serving schools, day care centers, hospitals, highway rest areas, restaurants, bars, and grocery stores.

(3) "Nontransient noncommunity water system" means a noncommunity water system that regularly serves at least twenty-five of the same persons over six months per year. Examples of "nontransient noncommunity water systems" include public water systems serving schools, day care centers, and hospitals.

(4) "Person" means an individual, a public or private corporation, an association, a partnership, a public body created by or pursuant to state law, the state of Louisiana, an agency or political subdivision of the state, a federally recognized Indian tribe, the United States government, a political subdivision of the United States government, and any officer, employee, and agent of one of those entities.

(5) "Potable water" means water having bacteriological, physical, radiological, and chemical qualities that make it safe and suitable for human drinking, cooking, and washing uses.

(6) "Public water system" means a system for the provision to the public of water for potable purposes, through pipes or other constructed conveyances, if the system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year. The term includes all of the following:

(a) Any collection, treatment, storage, and distribution facilities under the control of the operator of the system and used primarily in connection with the system.

(b) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

(7) "State health officer" means the legally appointed or acting state health officer as defined in R.S. 40:2 and includes his duly authorized technical representative.

RS 40:5.9 — Enforcement of drinking water regulations; administrative compliance orders; civil necessary

to aid in the enforcement of the provisions of this Chapter relative to public water systems and regulations adopted under this Chapter relative to public water systems, including orders modifying, suspending, or revoking permits, variances, or exemptions, and orders requiring persons to comply with a rule, regulation, schedule, or other requirement of the state health officer. An order may also require remedial actions to be taken to prevent harm to public safety, health, or welfare. The power to issue an order under this Chapter is in addition to any other remedy afforded to the state health officer by law.

(2) Any administrative order issued under this Section shall:

(a) Notwithstanding the requirements of R.S. 40:2, be signed by the state health officer and shall be effective upon issuance unless a later date is specified therein.

(b) State with reasonable specificity the nature of the violation.

(c) State a time limit for compliance.

(d) State that in the event of noncompliance, a civil penalty may be assessed.

(e) State that the order shall become final and not subject to further review twenty days after notice of the order is served by certified mail or hand-delivered to the respondent,

unless the respondent files a written request for a hearing with the state health officer within that twenty-day period. Upon finding that an emergency exists which requires that immediate action be taken, the state health officer shall issue such emergency orders as are necessary, which shall be effective immediately upon issuance, and any request for hearing shall not suspend the implementation of the action ordered.

(f) Be subject to appeal procedures set forth by state law.

(3) Notwithstanding the provisions of R.S. 40:6, any person who violates a provision of an administrative compliance order of the state health officer made under Subsection A of this Section may be subject to a civil penalty of not more than three thousand dollars a day for each day of violation and for each act of violation.

(4) Any civil penalty under this Section shall be assessed by the state health officer.

The state health officer is hereby authorized to promulgate rules, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., which delineate a procedure for calculating the monetary amount of the civil penalty assessment based upon such factors as the seriousness of the violation, culpability of the owner and/or operator, size of the public water system, and the duration of the violation. All penalties imposed under this Section shall be paid to the office of public health of the Louisiana Department of Health and transmitted for deposit into the state treasury.

(5) If any person fails to pay an assessment of a civil penalty after it has become final and unappealable, or after the appropriate court of appeal has entered final judgment in favor of the state health officer, the state health officer shall bring an action to recover the amount for which such person is liable in any court of competent jurisdiction. In any such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(6) If civil action is necessary to recover penalties imposed under this Section, the violator shall be liable for the amount of the penalty, legal interest from the date of assessment, and all costs of recovery, including legal fees and court costs.

(7) The state health officer, with the approval of the secretary of the Louisiana Department of Health, may settle or resolve out of court any suit for recovery of penalties if deemed in the best interest of the state.

B.(1) Any civil action necessary to carry out provisions of this Chapter relative to public water systems shall be brought by the state health officer, notwithstanding the provisions of R.S. 40:4(B)(2) and 6(C).

(2) To protect and preserve the health of the citizens of the state, the state health officer may apply to a court of competent jurisdiction for injunctive relief, without bond, when there is reason to believe that the state health officer's administrative orders will not be obeyed, when there is evidence that the public water system has failed to comply with previously issued orders, or when necessary to assist in enforcing emergency orders when there exists serious and imminent danger to public health.

(3) The state health officer may also bring a civil action in a court of competent jurisdiction to require compliance: with any provision of this Chapter relative to public water systems; with a rule, regulation, or order of the state health officer made hereunder; with a

civil penalty assessment imposed under Paragraph (A)(3) of this Section; or with any schedule or other requirement imposed pursuant to a permit, license, variance, or exemption granted under this Chapter relative to public water systems.

(4) In an action brought under this Chapter relative to public water systems, the court may enter such judgment as protection of public health may require, taking into consideration the time necessary to comply and the availability of alternative water supplies.

(5) If, in an action brought under this Chapter, the court determines that there has been a violation of this Chapter relative to public water systems, or a rule, regulation, order, schedule, or other requirement hereunder for which such action was brought, the court, taking into account the seriousness of the violation, the population at risk, and other appropriate factors, may impose on the violator a civil penalty not to exceed three thousand dollars a day for each day of violation and for each act of violation.

C.(1) The state health officer may apply to a court of competent jurisdiction for the appointment of a receiver of a public water system to collect the system's assets and carry on the system's business. Application by the state health officer shall not be subject to any bond requirement.

(2) In addition to any other criteria for receivership set forth in this Part, the court may place the public water system in receivership upon finding one of the following:

(a) The system has been abandoned by the operator, or service to the system's customers has ceased, and no provisions have been made for the continued operation of the system by a qualified operator, or for providing the water system's users with potable water in sufficient quantities to serve the users of the systems.

(b) The operator of the system has failed or refused to comply with administrative orders issued pursuant to Subsection A of this Section.

(c) Such other circumstances indicating that receivership is necessary to ensure uninterrupted safe water service to, or the protection of the health of, the system's users.

(d) Such circumstances as may be identified in rules promulgated by the state health officer acting through the Louisiana Department of Health, office of public health, under which a receivership may be needed.

(3) The receiver shall execute a bond to assure the proper performance of the receiver's duties in an amount to be set by the court. However, if the receiver is a local governmental subdivision, no bond shall be required.

(4) No later than ninety days after appointment, the receiver shall develop and submit an improvement plan to the Louisiana Department of Health for approval. The improvement plan shall include the ability to increase rates paid by users of the community water system based on a fair assessment of the community water system compared to other comparable water systems, the consolidation of the community water system with a neighboring system or systems, or other measure which may be proposed by the receiver or the Louisiana Department of Health to ensure the sustainability of the system for the benefit of the customers who rely on the community water system for their drinking water. The receiver shall include in the improvement plan any additional measures proposed by the Louisiana Department of Health necessary to bring the community water system into technical and

operational compliance and financial sustainability. The appointing court shall grant authority to the receiver necessary to implement the improvement plan as approved by the Louisiana Department of Health. Rate adjustments shall be subject to approval by the appropriate rate setting authority.

(5) The receiver shall carry out the orders specified and directed by the court until discharged.

(6) The court may dissolve the receivership if the person owning or operating the defendant public water system requests that the receivership be dissolved and such owner or operator can show good cause for the dissolution of the receivership.

RS 40:5.9.1 — Community water system accountability process; creation of letter grade schedule;
ing

Water Infrastructure Sustainability Act" which has been enacted by the legislature to provide:

(1) For the development and implementation of a community water system accountability process which requires and supports drinking water infrastructure sustainability for the citizens of Louisiana.

(2) Assurance to the citizens that the quality of drinking water is monitored and maintained at levels essential for health, safety, welfare, and long-term sustainability.

(3) Clear standards and expectations for community water systems so that assessment of their quality, performance, and sustainability will be understood.

(4) Information that will assist community water systems and citizens in understanding expectations, outcomes, and consequences for failing community water systems.

(5) Consequences and penalties for community water systems that do not achieve minimum standards.

B. "Community water system" has the same meaning as provided for in R.S. 40:5.8.

C. The Louisiana Department of Health, referred to in this Section as the "department", shall provide for a statewide system of accountability for community water systems and establish a letter grade schedule reflective of community water system quality, performance, and sustainability based on, at a minimum, the following standards:

(1) Federal water quality violation history.

(2) State violation history.

(3) Water system financial sustainability.

(4) Operation and maintenance performance history.

(5) Infrastructure violations.

(6) Customer satisfaction.

(7) Level of secondary contaminants.

D.(1) The department shall promulgate rules and regulations to establish and implement the community water system letter grade schedule provided for in this Section.

The rules and regulations shall provide clear and appropriate point values for each standard set forth in Subsection C of this Section and other assessed criteria as determined by the department that is used to calculate the community water system's letter grade. Point values shall be based on objective criteria so that each community water system is assessed equally

and fairly. Community water systems shall be assigned a letter grade of "A", "B", "C", "D", or "F".

(2) The department shall publish scores and letter grades earned by each community water system on its website in a frequency and duration established by rule.

E.(1) Any community water system that receives a letter grade of "D" or "F" shall be considered operationally unacceptable and may be subject to the following:

(a) Enforcement actions as provided for in R.S. 40:5.9.

(b) Oversight of all federal or state funding by an auditor approved by the legislative auditor who has experience with fiscal management of local government. The oversight provided for in this Paragraph shall include the authority to make decisions regarding the expenditure of funding.

(c) Notice being submitted to the State Bond Commission, the Public Service Commission, and the attorney general to prohibit the community water system or the local governing authority operating the community water system from incurring any additional debt for anything not directly related to the improvement and sustainability of the community drinking water system pursuant to a plan approved by the department.

(d) If the condition or operations of any community water system that receives a letter grade of "D" or "F" necessitates the expenditure of state funds to address or mitigate an emergency related to that community water system, such circumstances shall be grounds for a civil action for court-appointed receivership in accordance with R.S. 40:5.9 or to the appointment of a fiscal administrator in accordance with R.S. 39:1351 et seq.

(2) A community water system that receives a letter grade of "D" or "F" shall not be precluded from obtaining funding for the improvement and sustainability of the community drinking water system based solely on the letter grade.

(3) A community water system that receives a letter grade of "D" or "F" shall constitute prima facie evidence that a community water system is financially at risk and not able to maintain financial stability and shall serve as grounds for the Fiscal Review Committee to determine that a political subdivision is reasonably certain to not maintain financial stability.

F. Notwithstanding any provision of law to the contrary, no local governing authority that operates a community water system that receives a grade of "D" or "F" shall expend any money raised through payments made by customers for access to water or from any other water system revenue for any item, debt payment, or public purpose other than the improvement and sustainability of the community water system. A violation of this Subsection shall be grounds for a civil action for court-appointed receivership in accordance with R.S. 40:5.9, the appointment of a fiscal administrator in accordance with R.S. 39:1351 et seq, or for a court to order the mandatory safe water purchase from another system determined to be available by the department. The provisions of this Subsection shall not be construed to prohibit the payment of bonded indebtedness secured by the water system's revenue prior to August 1, 2021.

G. The department shall publish the first letter grades issued pursuant to this Section no later than January 1, 2023.

RS 40:5.9.2 — Community water system accountability; federal funds

s or relief payments or grants, for the

upgrade, repair, or otherwise replacement of the water system infrastructure shall submit a detailed plan describing how the federal funds will be used to the Louisiana Department of Health.

RS 40:5.10 — Oyster Sanitation Dedicated Fund Account

ed Fund Account, hereinafter referred

to as the "account". The account shall consist of monies received by virtue of the surcharge assessed pursuant to R.S. 30:2075.1, such monies as may be appropriated to it by the legislature, and monies received by the account from grants and donations. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

B. Monies in the account shall be invested by the state treasurer in accordance with the law, and shall comply with the provisions of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund. Subject to Article VII, Section 9 of the Constitution of Louisiana, the investment earnings on account monies shall be credited to the account. The treasurer shall advise the governor and the legislature of the status of the account thirty days prior to each regular session of the legislature and at any other time upon their request.

C. Upon request of the secretary of either department named herein, and pursuant to appropriation by the legislature, the treasurer shall disburse monies from the account to the Louisiana Department of Health or the Department of Wildlife and Fisheries for projects or measures that protect, enhance, or restore sanitary conditions directly related to the molluscan shellfish industry.

D. Monies from the account may not be used other than for the sanitation purposes authorized in Subsection C of this Section, or investment authorized in Subsection B of this Section.

RS 40:5.10.1 — Imported Seafood Safety Fund

e "fund". After

allocation of money to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the treasurer shall deposit in and credit to the fund monies collected pursuant to R.S. 40:31.35(C). Monies in the fund shall be invested in the same manner as monies in the state general fund. Interest earned on investment of monies shall be deposited in and credited to the fund. Unexpended and unencumbered monies in the fund shall remain in the fund.

B. The monies in the fund shall be appropriated to the Department of Agriculture and Forestry and expended solely for the purpose of enforcing the provisions of R.S. 3:4749 et seq.

RS 40:5.11 — Water fluoridation program

he dental health of the

citizens of this state, and especially children, through the prevention of tooth decay.

B.(1) Each public water system that has at least five thousand service connections and natural levels of fluoride that are outside the optimal range established in the rules and regulations adopted pursuant to this Section shall acquire, install, operate and maintain appropriate equipment and material in order to maintain the level of fluoride in its water system in the optimal range for the purpose of protecting the dental health of citizens of this state, as established in the rules and regulations adopted pursuant to this Section.

(2) Each public water system with at least five thousand service connections that has fluoride levels outside the optimal range established in the rules and regulations adopted pursuant to this Section shall provide to the Louisiana Department of Health no later than March 1, 2009, an estimate of the total capital costs to acquire and install fluoridation treatment equipment capable of maintaining fluoride levels within the optimal range for the purpose of protecting the dental health of citizens of this state, as established in the rules and regulations adopted pursuant to this Section.

(3) No public water system shall be required to comply with Paragraph (1) of this Subsection unless sufficient funds have been identified by the state, whether by appropriation, capital outlay, grants or similar means or source of funds, as available to that system for the cost of acquiring and installing fluoridation equipment and the cost of material required to fluoridate said system for at least six months from the date of initial installation.

(4) A public water system that has never used fluoridation to adjust fluoride levels in its water and whose water contains fluoride in amounts outside the range established in the rules and regulations adopted pursuant to this Section as optimal for the purpose of protecting the dental health of the citizenry shall be exempt from compliance with Paragraph (1) of this Subsection provided all of the following apply:

(a) A petition requesting the exemption has been signed by at least fifteen percent of the registered voters who reside in the precincts served by said water system, as certified by the parish registrar of voters, and has been presented to the governing authority of each municipality or parish in whose jurisdiction the system provides service.

(b) A local election has been called on the exemption after the petition has been received by each governing authority pursuant to Subparagraph (a) of this Paragraph. Participation in the election shall be limited to those precincts in which the water system provides service. The local election shall be called and conducted by the governing authority of each municipality in whose jurisdiction the water system provides service if all of the registered voters served by the water system reside wholly within the jurisdiction of one or more municipalities. However, the local election shall instead be called and conducted by the governing authority of each parish in whose jurisdiction the water system provides service if either of the following applies:

(i) The water system also provides service to registered voters in unincorporated areas of one or more parishes.

(ii) The water system was created or franchised by the parish or parishes.

(c) Each local election pertaining to the exemption of said water system has been held in accordance with state and local law, and the certified results of each election show

that a majority of the registered voters who cast a vote in said election approve exemption.

(d) No election on the same question in the same jurisdiction took place in the four years immediately prior to the election in which the exemption was approved.

C.-F. Repealed by Acts 2018, No. 515, §4.

G. The office of public health, through the department, shall promulgate rules and regulations in accordance with the Administrative Procedure Act relating to the fluoridation of public water systems, including but not limited to maintaining levels of fluoride in public water systems within the optimal range for the purpose of protecting the oral health of the citizens of this state.

RS 40:5.12 — Cancer investigation and intervention

Office of public health of the Louisiana

Department of Health are hereby authorized to operate a program of cancer investigation and subsequent intervention if sufficient funding is available for this purpose.

C. The source of monies for the cancer investigation and intervention program provided for in this Section may be any appropriation by the legislature, including appropriations of federal funds; appropriations from the Health Excellence Fund created by Article VII, Section 10.8(A)(2) of the Constitution of Louisiana, and appropriations from the Louisiana Fund created by Article VII, Section 10.9(A) of the Constitution of Louisiana; any public or private donations, gifts, or grants from individuals, corporations, nonprofit organizations, or other business entities; and any other monies which may be provided by law.

D. The state health officer and the office of public health of the Louisiana

Department of Health shall engage and collaborate with the Louisiana Tumor Registry, the Louisiana Cancer Research Center, and the Louisiana Advisory Committee on Populations and Geographic Regions With Excessive Cancer Rates in administering the cancer investigation and intervention program provided for in this Section.

E. The program provided for in this Section shall be conducted in addition to the activities of, and shall not replace or supplant, the Louisiana Cancer Prevention and Control Programs of the School of Public Health of the Louisiana State University Health Sciences Center-New Orleans.

RS 40:5.13 — Rules for administration of medical activities under Emergency Use Authorization

activities under Emergency Use Authorization by all members of

the healthcare community in this state, during both health emergencies and regular operations, to protect public health and safety.

B. For the purposes of this Section:

(1) "Emergency Use Authorization" or "EUA" refers to the authority granted under federal law, specifically Section 564 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 360bbb-3, to allow the use of unapproved medical products or unapproved uses of approved medical products during a public health emergency.

(2) "Healthcare community" includes but is not limited to hospitals, public and private clinics, pharmacies, nursing homes, and any other entity that participates in healthcare activities where EUA may apply, whether during a health emergency or under the regular

order of business for the medical community.

(3) "Health emergency" means a state of emergency declared by the governor or a public health emergency declared by the state health officer under the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.

C.(1) The surgeon general shall promulgate rules in accordance with the Administrative Procedure Act for the administration of medical activities under Emergency Use Authorization (EUA) by all members of the healthcare community in this state.

(2) Such rules shall apply to all entities within the healthcare community, including but not limited to hospitals, public and private clinics, pharmacies, nursing homes, and any other entity involved in healthcare activities where EUA may apply, whether during a health emergency or under the regular order of business for the medical community.

D. The rules promulgated by the surgeon general shall include but not be limited to the following:

(1) Procedures for the safe and effective administration of EUA-authorized medical products including therapeutics, vaccines, diagnostics, and other interventions.

(2) Guidelines for informed consent, ensuring that patients are fully informed of the risks, benefits, and alternatives associated with EUA-authorized products.

(3) Protocols for monitoring and reporting adverse events related to EUA-authorized products, including mandatory reporting to the Louisiana Department of Health and, where applicable, federal authorities.

(4) Standards for training and education of healthcare providers on the proper use and administration of EUA-authorized products.

(5) Measures to promote access to EUA-authorized products and protections across all segments of the population, with specific attention to underserved and rural communities.

(6) Provisions for transparency, including public disclosure of EUA-related activities by healthcare entities, to maintain public trust during health emergencies.

(7) Procedures for compliance and enforcement, including penalties for noncompliance by healthcare entities, to ensure uniformity and accountability.

E.(1) The rules promulgated in accordance with this Section shall apply to all EUA-related medical activities conducted by the healthcare community in this state, whether during a health emergency or under the regular order of business for the medical community.

(2) The rules shall not supersede federal regulations governing EUA but shall complement such regulations by providing state-specific guidance to ensure uniformity and safety in administration.

F. The surgeon general shall coordinate with the following agencies or organizations during the development of his rules:

(1) The office of the attorney general.

(2) The Louisiana State Law Institute.

(3) The Louisiana State Board of Medical Examiners.

(4) The Louisiana Hospital Association.

(5) The Louisiana Board of Pharmacy.

(6) The Louisiana State Medical Society.

(7) The Louisiana State Board of Nursing.

(8) Any other agencies or organizations deemed appropriate by the surgeon general.

RS 40:6 — Penalties for violation of state Sanitary Code

sions dealing with isolation or

quarantine of communicable disease, shall be fined not more than twenty-five dollars or be imprisoned for not more than ten days, or both, for the first offense. For the second offense, he shall be fined not less than twenty-five dollars nor more than fifty dollars or be imprisoned for not less than ten days nor more than thirty days, or both. For any subsequent offense, he shall be fined one hundred dollars or be imprisoned for not less than thirty days, or both.

B.(1) Whoever violates those provisions of the sanitary code dealing with the isolation or quarantine of communicable disease, or any person having such a communicable disease that may cause a severe health hazard to the community and who, after having been officially isolated or quarantined by any local health officer or by the state health officer or the duly authorized representative of either health officer, violates the provisions of the isolation or quarantine shall be fined not less than fifty dollars nor more than one hundred dollars or be imprisoned for not more than two years, or both.

(2) Any person convicted of violating the provisions of the sanitary code regarding isolation or quarantine under this Section may be confined either to the parish jail, to any state-operated hospital, or to the hospital section of the state penitentiary, at the discretion of the court. If, however, any person convicted under this Section and committed to any state-operated hospital unlawfully leaves that institution before serving his full sentence, the district court shall then commit him to the hospital section of the state penitentiary. If the superintendent of any state-operated hospital or the medical director of the hospital at the state penitentiary determines that any person committed to their respective institution under this Section is no longer harboring a communicable disease or if the disease is no longer in a communicable or infectious state and the person has not completed serving the sentence imposed upon him, the said superintendent or medical director shall transmit this information immediately to the district court which committed the person, with a request for commutation of sentence, and said district court is hereby authorized, in its discretion, to commute said sentence. Nothing in this Section is to be construed as depriving any individual of the right to decline any medical treatment or to provide other care or treatment for himself or herself at his or her own expense, which care does not cause a severe health hazard to the community, provided that the sanitary and quarantine laws, rules, and regulations relating to communicable disease are complied with.

C.(1) In addition to a criminal prosecution, the district attorney may, upon request of the state health officer or secretary of the Louisiana Department of Health, or his duly authorized representative, petition the district court, and the district court may, upon such petition and for cause, restrain any person by temporary or permanent injunction for the violation of any provision of the state Sanitary Code when necessary to arrest or prevent epidemics or to abate any imminent menace to the public health.

(2) The secretary of the Louisiana Department of Health or the state health officer may also petition the court to seek injunctive relief for violations of the state Sanitary Code.

D. In addition to a criminal prosecution, to assist in enforcement and encourage abatement of violations of the state Sanitary Code, the secretary of the Louisiana Department of Health, upon the recommendation of the state health officer, or their duly authorized representatives, may assess civil fines or other sanctions, including but not limited to requesting injunctions, or both, against violators of the state Sanitary Code. Injunctions may be sought for Class A and Class B violations only. The secretary of the Louisiana Department of Health, upon the recommendation of the state health officer, may exercise his discretion and mitigate these civil fines or other sanctions, or both, in cases where he is satisfied the violator has abated the violation and demonstrated a sincere intent to prevent future violations. These civil fines shall not exceed one hundred dollars per day per violation and shall not exceed ten thousand dollars per violator per calendar year. These civil fines or other sanctions, or both, may include but are not limited to:

- (1) Requiring the violator or his employee designee to attend training seminars in the area of the violator's operations, in lieu of a civil fine; or
- (2) Civil fines determined by the gravity of the violation. These civil fines shall be assessed only after a violator of the state Sanitary Code has received notice of violation and been furnished an opportunity to comply, and upon reinspection been found to still be in violation of the state Sanitary Code and had a compliance order issued against the violator to remedy the violation of the state Sanitary Code, and the violation continues. These civil fines shall not apply to those areas of the state Sanitary Code which have their own special penalty and fine provisions by state or federal statute or regulation, including but not limited to the milk and dairy program and public water system supervision program.

E. In addition to a criminal prosecution, to assist in collection of license or permit renewals, the Louisiana Department of Health, office of public health, shall assess late charges for failure to timely renew licenses or permits issued by the Louisiana Department of Health, office of public health, which late fees shall be ten percent of the license or permit fee, but no more than one hundred dollars, if paid to and received by the Louisiana Department of Health after thirty days of the due date, and if not paid and received within ninety days of the due date, the renewal fee late charge shall be equal to the original renewal fee.

F. The provisions of Paragraph (C)(2), and Subsections D and E shall not apply to floating camps, including but not limited to houseboats which are classified as vessels by the United States Coast Guard.

G.(1) In all cases wherein the secretary and state health officer have issued an order assessing a civil penalty or requiring specific compliance actions to be undertaken, which order has become final as a result of all appeals being exhausted or delays having lapsed, if the penalty assessed has not been paid or the actions undertaken, attorneys for the department may file an ex parte petition in the district court for the parish in which the violation occurred, in accordance with Code of Civil Procedure Article 2782, attaching a certified copy of the order to the petition, seeking to make the order of the secretary and state health officer a judgment of the district court and making the judgment executory.

(2) The district court shall grant the relief prayed for and issue a judgment without

a trial de novo of the facts supporting the order. Upon good cause shown and upon the posting of a bond in favor of the state as the court may require, a person against whom a judgment is rendered requiring specific compliance actions to be undertaken may, within ten days of service of the judgment, seek an extension, modification, or suspension of the judgment by summary proceeding. The hearing shall be limited to the issue of whether or not good cause has been shown for granting an extension, modification, or suspension of the order and whether or not compliance has taken place.

H. Any violation of the rules and regulations contained in Chapter 3 of Part IX of Title 51 of the Louisiana Administrative Code pertaining to refrigeration of oysters, clams, and mussels, shall constitute a class four violation as delineated in R.S. 56:34(A) but shall not include forfeiture of anything seized in connection with the violation as required by R.S. 56:34(B).

RS 40:7 — Communicable disease epidemic; procedure

isease to the other portions of the

state, the state health officer shall issue his proclamation declaring the facts and ordering the infected parish or municipality or the infected portion thereof quarantined. Further, the state health officer shall order all local health officers to quarantine against the locality; shall establish and promulgate the rules, regulations, terms, and conditions on which intercourse with the infected locality will be permitted; and shall issue to the other local sanitary authorities instructions as to the measures adopted in quarantining against persons, goods, or other property coming from the infected locality. These rules, regulations, terms, and conditions shall be observed and obeyed by all health authorities. Any other of the noninfected portions of the state may, upon approval of the state health officer, add to the regulations, rules, terms, and conditions already imposed by the state health officer.

B. The state health officer may prohibit the introduction into any infected portion of the state persons acclimated, unacclimated, or said to be immune, when, in his judgment, the introduction of those persons would increase the prevalence of the disease.

C. The state health officer shall render to the local health officers all the assistance which the conditions of his finances permit.

RS 40:8 — Investigations; entry on and inspection of premises; order to compel attendance of witnesses or production of documents

nce with the state sanitary code or health and sanitary laws of the state and shall investigate any circumstances which he has determined pose a threat or reasonable expectation of a threat to the public health.

B. In conducting an investigation pursuant to this Section, the state health officer or any duly authorized representative may enter, examine, and inspect all grounds, structures, public buildings, and public places in execution of a warrant issued in accordance with the constitution and laws of Louisiana.

C. In conducting an investigation pursuant to this Section, the state health officer may petition the district court of the parish where the person, agency, organization, or legal entity resides, may be found, transacts business, or has its principal place of business for an order to compel the attendance of a witness or to compel the production of documents or records anywhere in the state, if information relevant to the inspection or investigation is in the possession of the witness or is contained in the documents or records.

D. The clerk of court of the parish where the district court is located that issues an order under this Section shall mail a certified copy of the order and certified copy of the state health officer's petition to the parties indicated in the state health officer's petition to receive service of process of the order and petition. The clerk shall file a certificate in the record

showing the date on which, and the counsel and parties to whom, the certified copy of the order and petition were mailed. The mailing of the certified copy of the order and petition shall be effective service of process on residents and nonresidents under R.S. 13:3201 et seq.

RS 40:9 — Arrests for violations

officer or any article

or provision of the sanitary code, when the violation occurs within his sight, view, or personal knowledge. When the violation does not so occur, he may arrest only in execution of a warrant duly issued in accordance with the provisions of this Part or by a competent judicial authority.

B. All law enforcement officers shall aid in the apprehension of persons violating the provisions of the sanitary code or any rule or regulation of the state health office. These officers shall themselves arrest and apprehend all offenders committing such violations in their view or sight or within their personal knowledge.

RS 40:9.1 — Repealed by Acts 1987, No. 927, §1.

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RS 40:10 — Preparation for emergency

nalía so as to repair to any place in the state that applies to him, when deemed necessary by the state health officer, or to any place in the state in which there is an outbreak of communicable disease, with the view of stamping it out. The legislature shall appropriate an annual sum for use by the state health officer for such emergencies. The local authorities shall keep up the work at their own expense after it has been started, if their funds permit.

RS 40:11 — Distribution of funds to parish health units or departments

from federal or state sources and appropriated, apportioned, assigned, or otherwise made available to support parish health units in Louisiana, shall not be altered to provide a lesser appropriation from such federal or state funds to any parish health unit if such parish by a vote of a millage by the qualified voters of such parish provides or has provided a larger financial support from local tax sources. If the total appropriation of federal funds available to the state health officer is reduced or abolished, this provision shall not apply to said federal funds.

RS 40:13 — Expenses of parish health units

promotion

and conservation of public health. For the purposes of this Title they shall be known as parish health units.

B. If a municipality encompasses an entire parish, the municipal authorities shall, for the purposes of this Part, be known as parish authorities.

RS 40:14 — Parish health units; jurisdiction

he state. They may pass local health and sanitary ordinances and define and abate nuisances dangerous to the public health of that parish only. They may also regulate drainage and ventilation with reference to human habitation and places of business and public resort; provide for the disposition of fecal matter and garbage and waste subject to provisions of state law and the sanitary code; regulate the erection of buildings, with due regard to the filling and grading of lots, and the arrangement of buildings; provide for the vacation and demolishing of buildings when necessary for the protection of public health; and generally enforce all health and sanitary ordinances so adopted. However, these rules, ordinances and regulations shall not conflict with the rules and regulations of the sanitary code and shall not be less restrictive than the state sanitary code and may provide and regulate with respect to health matters not covered by the sanitary code.

RS 40:15 — Quarantine by parish health officer

lative body. The state health officer has supervisory power over all local quarantines so established.

RS 40:16 — Parish health units to act in harmony with state health officer

es and environmental quality of the
Louisiana Department of Health.

RS 40:16.1 — Proceeds of any sale of the state facilities owned by the Louisiana Department of

erties which have

been declared to be surplus property are to be dedicated to the renovation of any current
mental health facilities being operated in the same area.

RS 40:16.3 — John J. Hainkel, Jr., Home and Rehabilitation Center; lease

ction as the "chancellor", is hereby authorized to

execute a negotiated lease to LCMC Health for the John J. Hainkel, Jr., Home and
Rehabilitation Center, including the lease of the property, buildings, equipment, movable
assets, and all other appurtenances of the facility, which is described as follows:

That portion of ground, together with all the buildings and improvements thereon and
all the rights, ways, privileges, servitudes, appurtenances, and advantages thereunto
belonging, or in anywise appertaining, situated in the Sixth District of the city of New
Orleans, State of Louisiana, Burtheville, being all of Square 22, composed of Lots 1 through
24, bounded by Patton, Constance, Calhoun, and Henry Clay, and said square measures 317
feet 8 inches 5 lines (317 feet 6 inches 7 1/2 lines title) front on Patton, 311 feet 3 inches 0
lines (311 feet 6 1/2 lines title) front on Constance, 289 feet 7 inches 4 lines (289 feet 3
inches 7 lines 7 inches title) front on Henry Clay, containing 91,063.10 square feet; all in
accordance with survey of Joseph F. Varisco, Jr., dated November 14, 1975, resurveyed
January 23, 1976. And, according to a survey of Joseph F. Varisco, Jr., dated September 14,
1977, revised November 27, 1979, said property has the same actual dimensions,
encompasses all of Square 22 and contains improvements known as 612 Henry Clay Avenue.

B. The lease of property by the chancellor shall be expressly exempted from the
provisions of R.S. 41:1211 et seq., relative to the lease of public land.

C. The chancellor shall be authorized and empowered to execute the appropriate
instrument or instruments, and any corrections thereof, to effectuate the lease of the property
described in Subsection A of this Section. Additionally, the chancellor is hereby authorized
and empowered to negotiate such terms and conditions in the lease document as may be
necessary to ensure:

(1) That the facility shall continue to be named the "John J. Hainkel, Jr., Home and
Rehabilitation Center" and operate as a long-term care facility that provides nursing home
level services, and that may provide adult day health care services.

(2) That the facility shall continue its mission to provide quality health care services
to indigent persons.

(3) That the facility shall continue as a medical and clinical training facility.

(4) That the facility shall be operated by LCMC Health; however, LCMC Health
shall have the option to enter into a sublease or a cooperative endeavor agreement to operate
the facility consistent with the terms and conditions of the lease, which shall include but not
be limited to requiring the lessee to maintain the facility in the same manner in which it was
maintained prior to the execution of the lease and to seek to maintain the facility as a five star

quality rated facility, subject to approval by the Louisiana Department of Health and the Senate and House committees on health and welfare, meeting jointly or separately.

(5) Repealed by Acts 2019, No. 257, §2.

(6) That the state shall continue and complete all previously funded or obligated capital outlay repairs to the facility.

(7) Repealed by Acts 2019, No. 257, §2.

(8) That the lease shall terminate if the facility ceases to operate as a long-term care facility.

(9) Any and all other terms and conditions consistent herein to effectuate this Section.

D. Nothing in this Section shall preclude the chancellor from negotiating readiness assessment criteria with LCMC Health prior to the commencement of the lease.

RS 40:16.4 — Louisiana Department of Health's Facility Support Fund Number 2

ort Fund Number 2, hereinafter referred to as the "fund".

B.(1) Notwithstanding any other provision of law to the contrary, after compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana, relative to the Bond Security and Redemption Fund, and after a sufficient amount is allocated from that fund to pay all of the obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer shall pay an amount into the fund equal to the amount collected by the state from the proceeds of the sale or transfer of certain lands as provided in Section 1 of Act No. 272 of the 2019 Regular Session of the Legislature, less the amount of the sale proceeds to be deducted by the state land office to offset its appraisal, survey, and other closing costs occasioned by the transactions.

(2) Monies appropriated from the fund shall be used solely as provided in Subsection C of this Section and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. The monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to the fund following compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana, relative to the Bond Security and Redemption Fund.

C. Subject to annual appropriation by the legislature, the monies in the fund shall be used solely for the planning, design, permits, improvements, repairs, equipment, restoration, renovation, or construction of the Central Louisiana State Hospital.

RS 40:17 — Mandatory medical examination; confinement; when allowed; emergency certificate

erson to any medical examination or confine him in any institution unless directed or authorized to do so by the judge of the parish in which the person is located, except when said person is infected or suspected of infection with smallpox, cholera, yellow fever, or bubonic plague, or is infected with tuberculosis.

B.(1) A person who is infected with tuberculosis in an active and communicable state, who is a patient in a hospital, and who refuses treatment for tuberculosis against medical advice may be detained and held in a hospital for a period not to exceed fifteen days by an emergency certificate executed by the hospital's infectious disease control physician or pulmonary disease physician in accordance with the procedure set forth in this Section.

(2) In such case, the hospital's infectious disease control physician or pulmonary disease physician and the patient's physician shall contact the state health officer through the nearest tuberculosis control unit or clinic of the office of public health for purposes of coordinating the patient's transfer to a state tuberculosis treatment facility pursuant to R.S. 40:31.24 within the fifteen days covered by the emergency certificate.

(3) If the patient violates in any way the emergency certificate issued pursuant to this Section, it shall be deemed to be a violation of a quarantine order and shall be subject to the sanctions set forth in R.S. 40:6(B).

(4) Upon expiration of the emergency certificate, the patient shall be released from the hospital, unless a court order pursuant to R.S. 40:31.24 transferring the patient to a treatment facility has been obtained.

C. The following procedure shall govern the preparation and issuance of an emergency certificate for the purpose of detaining and holding a patient pursuant to the provisions of this Section:

(1) The hospital's infectious disease control physician or pulmonary disease physician, or any hospital staff physician authorized to act in the role of the infectious disease control physician for the hospital may execute an emergency certificate to detain and hold a person infected with active, infectious, and communicable tuberculosis. Thereafter, the following tasks shall be completed as soon as possible with regard to a person detained and held pursuant to an emergency certificate:

(a) The infectious disease control physician or pulmonary disease physician must personally examine the patient and confer with the patient and the patient's treating physician.

(b) The patient's medical records must be reviewed by the infectious disease control physician or pulmonary disease physician to confirm that the tuberculosis is in an active, infectious, and communicable state.

(c) The infectious disease control physician or pulmonary disease physician must find current evidence that the patient has refused to take required tuberculosis medications and that the patient desires to leave the hospital against medical advice.

(d) The infectious disease control physician or pulmonary disease physician must conclude that the patient poses a present danger to himself or herself and others if the patient should leave the hospital against medical advice.

(2) The emergency certificate must state the date and hour of examination by the infectious disease control physician or pulmonary disease physician and must be signed by the physician at such time under penalty of perjury.

(3) Within a period of seventy-two hours following the execution of the emergency certificate by the hospital infectious disease control physician or pulmonary disease physician, there must be a follow-up examination of the patient by any hospital staff physician, who shall record his or her findings in the section provided for such findings in the emergency certificate. The information provided in this Section must also state the date and hour of the follow-up examination and must be signed at that time by the physician under the penalty of perjury. If the follow-up examination confirms the initial findings of the infectious disease control physician or pulmonary disease physician, the emergency certificate shall remain in full force and effect. If after the examination it is determined that circumstances have changed, that the patient is taking the required tuberculosis medications, and that the patient no longer poses a present threat to himself or herself and others, the emergency certificate shall expire upon the examining physician's signature attesting to this fact. If no follow-up examination occurs within the seventy-two hours following the execution of the emergency certificate, the emergency certificate shall be deemed to have expired by operation of law.

(4) The state health officer and the tuberculosis control unit of the office of public health shall provide all licensed public and private hospitals with emergency certificate forms and instructions for the purposes of this Section.

RS 40:18 — Communicable disease; isolation and report to state health officer; quarantine

officer, the local health officer shall immediately isolate it and

communicate the fact as expeditiously as practicable to the state health officer, together with the information as to what steps have been taken to isolate and care for the case. The local health officer shall, from time to time, communicate the progress of the case to the state health officer.

B. Upon receipt of notice of the case by the state health officer, or at any time during the case thereafter, the state health officer shall, if he thinks the emergency sufficient, send

an expert physician, selected by him, to examine and diagnose the disease. If, after this examination and diagnosis, the expert declares the case to be one of an obnoxious or communicable nature, liable to spread or to become dangerous to the general public health of the state, the state health officer shall instruct the local health officer as to what additional steps, if any, should be taken to isolate the case and prevent the spread of the infection any further. The state health officer shall require that the local health officer immediately conform to and put these instructions in operation. If the local health officer or other local authorities connected with the case fail to act immediately on these instructions or fail to act in the case in a manner satisfactory to the state health officer, the state health officer shall take charge of the case and manage it through his own officers or employees.

RS 40:19 — Domicile of parish health unit

erience any technical difficulties navigating this website,

RS 40:20 — Appointment of parish health officer; qualifications; Orleans Parish

approval of the secretary of the Louisiana Department

of Health, and the parish governing authority, shall appoint a parish health officer, except in Orleans Parish. In Orleans Parish, the parish health officer shall be designated as the health director and shall be appointed by the mayor of the city of New Orleans.

B. The parish health officer shall be a full-time licensed physician, if possible, and if a physician is not available the parish health officer shall be a full-time employee experienced in the administration and enforcement of public health programs. The health officer shall be domiciled in the parish in which he is appointed unless he serves more than one parish as hereinafter provided.

C. If the parish health officer is unclassified or under contract, he may be removed by the state health officer with the approval of the parish governing authority and a replacement named as herein provided. If the parish health officer is in the classified service, he shall be a member of the state classified service and shall be appointed or removed by the state health officer in accordance with existing state civil service provisions of law and regulations. The provisions of this Subsection shall not apply to the parish health director for Orleans Parish.

RS 40:21 — Establishment of health district; district health officer

t composed of the health units of their respective parishes. In lieu of one health officer in each of the parishes, the parishes may, in that case, jointly use the services of and appropriate funds for the payment of the compensation of a single health officer. The jurisdiction, powers and duties of the district health officer in the health district and the manner in which he may be appointed and removed from office are the same as those of a parish health officer.

RS 40:22 — Removal of parish or district health officer; Orleans Parish health

office, after thirty days written notice by either

the state health officer or the governing body of the parish, with the consent of the secretary of the Louisiana Department of Health, except in Orleans Parish. In Orleans Parish, the parish health director shall be subject to removal

by the mayor of the city of New Orleans, at least thirty days after written notice thereof has been given to the health director.

RS 40:23 — Salaries of parish or district health officers; unclassified

duties if the health officer is in the unclassified

service or serving on a contractual basis. In the case of an unclassified or contractual district health officer, the parishes which jointly employ him shall fix his salary and expenses and the proportionate share of each parish.

B. The salaries and expenses provided for in Subsection A of this Section shall be paid by the governing bodies of the parish or parishes for which the health officer was appointed, except as herein provided.

C. Where a parish or group of parishes appoint a full-time health officer whose entire time is devoted to health work as such, exclusive of any private practice, the state may appropriate and assist in paying the salary of that health officer not to exceed twenty percent of the salary if the parish or parishes contract with the Louisiana Department of Health for the establishment and maintenance of a health unit as hereafter provided.

RS 40:24 — Issuance of warrants by health officer; general duties of officer

the public health in his parish.

B. The parish health officer shall issue all orders and warrants, subject to the limitations provided in Subsection A of this Section, and take all necessary steps to execute the sanitation laws of the state under the state health officer and to carry out the rules, regulations, and ordinances of the Louisiana Department of Health.

RS 40:25 — Entry on and inspection of premises

n of a warrant issued in accordance with the constitution and the laws of Louisiana.

RS 40:26 — Contractual agreement on establishment and maintenance of parish

Department of Health on or before

November 1 of any calendar year, for the establishment and/or partial maintenance of the parish health unit and a full-time health officer. In such case the parish shall provide housing for said health unit. The governing body of the parish may appropriate and disburse funds for the support of the unit jointly with state and/or federal funds as furnished by the Louisiana Department of Health within the terms of a state fiscal year budget having the approval of both the parish and state.

B. The parish health officer shall be appointed in accordance with the provisions of this Chapter and shall, if classified, be in the state classified service. As a prerequisite of said contract, the parish health officer shall be subject to all state laws and regulations and orders of the state health officer and the department. Notwithstanding any provisions of this Chapter, the employees of the parish health unit, including the parish health officer, may, at the option of the parish, be employed as parish or municipal employees in which case their salaries and all benefits shall be paid in full by the parish, and they shall be under the direction and control of the parish but subject to the

general supervision of the state health officer through the parish health officer.

In all other respects they shall be parish or municipal employees.

RS 40:27 — Salaries and personnel benefits of health unit

rt by funds from the state and parish, except, that if said employees are parish or municipal employees, all salaries and personnel benefits shall be paid entirely by parish funds including any increases in salaries or personnel benefits.

RS 40:28 — Tubercular individuals; free diagnostic clinics

work for

possible tubercular individuals. These clinics shall be equipped with appropriate X-ray and other laboratory apparatus.

B. Any licensed physician engaged in private practice in Louisiana may utilize these clinics as aids in his private practice for the detection of tuberculosis only, subject to the conditions imposed by the Louisiana Department of Health. The Louisiana Department of Health may operate, along with these clinics, any other appropriate health work related thereto.

RS 40:29 — State health laboratories; fee schedule

tment of Health on a statewide,

regional, or parish basis whether in connection with a parish health unit or independently operated by the office as a state laboratory shall not perform any test, procedure, function, or any operation unless the office charges and receives payment of a fee for such test, procedure, function, or operation as is required by the fee schedule provided in this Section.

B. The fee schedule provided in this Section shall not apply and no such fee shall be charged:

(1) To the office of public health of the Louisiana Department of Health or a patient at a parish health unit or to any physician, hospital, clinic, nurse, or any other individual who is treating a patient of the office of public health or a parish health unit in an official capacity unless payment of such fee is required by rules and regulations duly promulgated pursuant to Subsection D of this Section.

(2) For the diagnosis of tuberculosis or venereal disease.

(3) In any instance when the state health officer declares an epidemic, for any test, procedure, function, or operation related to such epidemic.

(4) If exemption from payment is otherwise provided by the state sanitary code.

(5) To any state hospital or institution when the secretary of the Louisiana Department of Health requires the office of public health or a parish health unit laboratory to act for such institution in case of emergency.

C. The schedule of fees required by this Section shall be as follows and the appropriate fee or fees as provided by this fee schedule shall be charged for any test, procedure, function, or operation performed by a state, regional, or parish health unit laboratory operated by the office of public health, on specimens, cultures, or procedures which are submitted by any physician, hospital, clinic, nurse, veterinarian, or any other individual, except as otherwise provided in this Section:

Test Description

Fee

(1)

Ab identification, RBC each panel,

\$

57.00

each serum technique

(2)

Ab screen, RBC each serum

\$

21.00

technique

(3)

Adenovirus Ab

\$

18.00

(4)

Alpha fetal protein (amniotic fluid)

\$

22.00

(5)

Alpha fetal protein (serum)

\$

22.00

(6)

Antibiotic disc test

\$

4.00

(7)

Blood-hemogram, automated and

\$

8.00

manual differential WBC (CBC)

(8)

Blood-RBC antigen other than ABO

\$

5.00

and Rh(D), each antigen

(9)

Blood-Rh (D) antigen

\$

19.00

(10)

Blood-typing, ABO

\$
4.00
(11)
Bordatella parapertusis Ab
\$
19.00
(12)
Bordetella pertusis antigen
\$
19.00
(13)
Bordetella pertusis culture
\$
11.00
(14)
Borelia Ab IgG (relapsing fever)
\$
19.00
(15)
Borelia Ab IgM (relapsing fever)
\$
19.00
(16)
Borelia Ab total (relapsing fever)
\$
19.00
(17)
Brucella abortus Ab
\$
14.00
(18)
Chlamydia Ab (LGV)
\$
18.00
(19)
Chlamydia testing by DNA gene
\$
18.00
probe, each probe used
(20)
Clinical chemistries/21 tests +
\$

15.00
amylase
(21)
Corynebacterium diphtheriae culture
\$
11.00
(throat or nose)
(22)
Coxiella brunetti (Q fever) Phase
1-IgG and IgM
\$
18.00
(23)
Coxiella brunetti (Q fever) Phase
\$
18.00
2-IgG and IgM
(24)
Cryptococcus Ab
\$
21.00
(25)
Culture typing, precipitin method
(grouping) per antiserum
\$
7.00
(26)
Culture typing, serologic method,
\$
7.00
agg grouping, per antiserum
(27)
Culture typing, serologic method,
\$
5.00
speciation
(28)
Culture, Bact, screen, stool
\$
13.00
(29)
Culture Bact, anaerobe, ID, any source

\$
11.00
without GLC
(30)
Culture Bact, ID, aerobe, any source
\$
11.00
(31)
Culture, Bact, screen (aerobic and
\$
15.00
anaerobic plates)
(32)
Culture, Bact, screen, other source
\$
12.00
(33)
Culture, Bact, screen, throat or nose
\$
11.00
(34)
Culture, Bacti, anaerobe, isolation, any
\$
13.00
source
(35)
Culture, Bacti, ID anaerobe with GLC
\$
20.00
(36)
Culture, Bacti, ID any source, in
\$
8.00
addition to primary culture
(37)
Culture, Bacti, ID presumptive, any
\$
12.00
source, multiple organism
(38)
Culture, Bacti, ID presumptive, any
\$

10.00

source, single organism

(39)

Culture, Bacti, ID screen, any source

\$

9.00

single organism

(40)

Culture, Bacti, ID, screen, multiple

\$

12.00

organisms

(41)

Culture, Bacti, ID, urine

\$

9.00

(42)

Cytomegalovirus (CMV) Ab IgG

\$

20.00

(43)

Cytomegalovirus (CMV) Ab IgM

\$

20.00

(44)

Dengue fever Ab

\$

18.00

(45)

Encephalitis testing in birds (per viral

\$

19.00

study)

(46)

Encephalitis, Eastern equine IgG

\$

19.00

(47)

Encephalitis, Eastern equine IgM

\$

19.00

(48)

Encephalitis, La Crosse (California)

\$

19.00

IgG

(49)

Encephalitis, La Crosse (California)

\$

19.00

IgM

(50)

Encephalitis, Saint Louis IgG

\$

19.00

(51)

Encephalitis, Saint Louis IgM

\$

19.00

(52)

Encephalitis, Western Equine IgG

\$

19.00

(53)

Encephalitis, Western Equine IgM

\$

19.00

(54)

Enterovirus Ab (eg coxsackie, echo,

\$

19.00

polio)

(55)

Ehrlichia Ab

\$

18.00

(56)

Estradiol assay

\$

52.00

(57)

Fluorescent Ab screen, each Ab

\$

18.00

(Bordatella)

(58)

Flourescent Ab titer, each Ab

\$

17.00

(59)

Flourescent antibody (direct) (rabies

\$

18.00

DFA)

(60)

Fluorescent antibody (indirect)

\$

34.00

(61)

Flourescent antibody - double stain

\$

8.00

(62)

Follicle stimulating hormone (FSH)

\$

35.00

(63)

Francisella tularensis Ab

\$

15.00

(64)

Glucose quantitative

\$

7.00

(65)

Hepatitis, anti-A

\$

18.00

(66)

Hepatitis, anti-C

\$

18.00

(67)

Hepatitis, anti-HBc total

\$

17.00

(68)

Hepatitis, anti-HBe

\$

18.00

(69)

Hepatitis, anti-HBs

\$

15.00

(70)

Hepatitis, HBe Ag

\$

16.00

(71)

Hepatitis, HBs Ag

\$

15.00

(72)

Herpes I group IgG

\$

19.00

(73)

Herpes II group IgG

\$

19.00

(74)

Herpes II group IgM

\$

19.00

(75)

Herpes simplex Type 1 and 2 Ab differential

\$

20.00

(76)

HIV-Dry Blood Spot analysis

\$

6.00

(77)

HIV-1 EIA

\$

13.00

(78)

HIV-1 WB

\$
28.00
(79)
Human arbovirus IgG
\$
18.00
(80)
Human arbovirus IgM
\$
18.00
(81)
Human chorionic gonadotropic (hCG)
\$
21.00
pregnancy test-quantitative
(82)
Human chorionic gonadotropic (hCG)
\$
11.00
pregnancy test-qualitative
(83)
Human rickettsia IgG
\$
10.00
(84)
Human rickettsia IgM
\$
10.00
(85)
Influenza A Ab
\$
20.00
(86)
Influenza B Ab IgG
\$
20.00
(87)
Legionella Ab
\$
21.00
(88)
Leptospirous Ab

\$

19.00

(89)

Leutinizing hormone assay

\$

36.00

(90)

Lipoproteins HDL cholesterol

\$

14.00

(91)

Lipoproteins triglycerides

\$

11.00

(92)

Lymes-(borellia burgdorferi) IgG

\$

22.00

(93)

Lymes-(borellia burgdorferi) IgM

\$

22.00

(94)

Meningoencephalytic Ab (adult)

\$

18.00

(95)

Meningoencephalytic Ab (childhood)

\$

18.00

(96)

Mumps virus Ab

\$

19.00

(97)

Mycoplasma pneumonia Ab

\$

19.00

(98)

Neisseria gonorrhoeae testing by DNA

\$

18.00

gene probe
(99)
Newborn screening panel
\$
31.00
(100)
Parainfluenza I Ab
\$
18.00
(101)
Parainfluenza II Ab
\$
18.00
(102)
Parainfluenza III Ab
\$
18.00
(103)
Parasite large volume filtration
\$
47.00
(104)
Polio virus Ab-Type I
\$
19.00
(105)
Polio virus Ab-Type II
\$
19.00
(106)
Polio virus Ab-Type III
\$
19.00
(107)
Prolactin assay
\$
36.00
(108)
R. rickettsia Ab to antigen (Rocky
\$
18.00
Mountain spotted fever)IgG or IgM

(109)

R. typhi Ab (typhus fever) IgG or

\$

18.00

IgM

(110)

Rabies analysis

\$

73.00

(111)

Reovirus Ab

\$

18.00

(112)

Respiratory syncytial virus (RSV) Ab

\$

18.00

(113)

Rheumatoid factor - qualitative (latex)

\$

8.00

(114)

Rheumatoid factor - quantitative

\$

8.00

(115)

Rotavirus Ab

\$

19.00

(116)

Rubella (German measles) Ab, IgG

\$

20.00

(117)

Rubella (German measles) Ab, IgM

\$

20.00

(118)

Rubeola (red measles) Ab, IgG

\$

18.00

(119)

Rubeola (red measles) Ab, IgM

\$

18.00

(120)

Sensitivity study; antibiotics, disk

\$

10.00

method, per plate (12)

(121)

Smear with interpretation

\$

6.00

(122)

Syphilis test VDRL qualitative (serum

\$

6.00

and CSF)

(123)

Syphilis test VDRL quantitative,

\$

6.00

MHA-TP (serum and CSF)

(124)

T cells including cell ratio

\$

54.00

(125)

TB panel (bilirubin, AST, uric acid,

\$

11.00

creatinine)

(126)

TB screen-AST

\$

7.00

(127)

TB, AFB, antibiotic sensitivities, each

\$

8.00

drug (includes culture)

(128)

TB-AFB smear

\$
8.00
(129)
TB-concentration and isolation of
\$
16.00
mycobacteria, each
(130)
TB-DNA probe identification of AFB
\$
18.00
cultures
(131)
TB-HPLC ident of mycobacterium
\$
26.00
(132)
Tissue culture studies
\$
163.00
(133)
TORCH Ab (CMV, Herpes, Rubella,
\$
82.00
Toxo) IgG
(134)
TORCH Ab (CMV, Herpes, Rubella,
\$
82.00
Toxo) IgM
(135)
Toxoplasma Ab, IgG
\$
18.00
(136)
Toxoplasma Ab, IgM
\$
21.00
(137)
Treponema pallidum Ab-
\$
19.00

confirmatory test FTA-ABS

(138)

Typhus in rats-antigen to antibody

\$

10.00

(139)

Varicella zoster Ab, IgG

\$

18.00

(140)

Vibrio cholerae ID

\$

93.00

(141)

Vibrio vulnificus ID

\$

47.00

(142)

Viral load studies for HIV

\$

121.00

(143)

Virus ID-tissue cult. additional studies,

\$

34.00

each isolate

(144)

Virus ID-tissue cult. inoculation and

\$

37.00

observation

(145)

Virus ID-tissue cult. inoculation of

\$

28.00

egg/small animal, observation

(146)

Yersinia pestis (plague) study in rats,

\$

154.00

includes slide prep. animal inoculation,
plague demonstration

(147)

Any public health biochemistry

\$

1.75

procedure not expressly stated will
be charged based on the cost per
unit of time (work time unit or WTU)
as calculated by the fiscal department
of the office of public health

(148)

Any public health microbiology

\$

1.75

procedure not expressly stated will
be charged based on the cost per
unit of time (work time unit or WTU)
as calculated by the fiscal department
of the office of public health

(149)

Any public health serology

\$

1.75

procedure not expressly stated will
be charged based on the cost per
unit of time (work time unit or WTU)
as calculated by the fiscal department
of the office of public health

(150)

Any public health virology

\$

1.75

procedure not expressly stated will
be charged based on the cost per
unit of time (work time unit or WTU)
as calculated by the fiscal department
of the office of public health

(151)

Any research procedure not expressly

\$

1.75

stated will be charged based on the
cost per unit of time (work time

unit or WTU) as calculated by the
fiscal department of the office of
public health

(152)

A-1 (FC MPN)

\$

20.00

(153)

Adipates/Phthalates

\$

160.00

(154)

Alfatoxins (HPLC)

\$

119.00

(155)

Alfatoxins (screen)

\$

40.00

(156)

Alkalinity (total)

\$

9.00

(157)

Aluminum

\$

16.00

(158)

Antibiotic disc assay

\$

16.00

(159)

Antibiotic sensitivity study/

\$

6.00

antibiotic

(160)

Antimony

\$

33.00

(161)

Arsenic

\$
16.00
(162)
Barium
\$
16.00
(163)
Beryllium
\$
16.00
(164)
BOD-5 day (manual)
\$
160.00
(165)
BOD-automated robotic testing
\$
26.00
(166)
Bottled and vended waters-colilert
\$
4.00
(167)
Bottled water-herbicides
\$
237.00
(168)
Bottled water-trihalomethanes (THM)
\$
33.00
(169)
Bottled water-VOC (P/T)
\$
172.00
(170)
Butter analysis
\$
121.00
(171)
Butterfat, babcock
\$
27.00

(172)

Butterfat, roese-gotlieb (confirmation)

\$

92.00

(173)

Butterfats and nonfat solids

\$

32.00

(174)

C. jejeuni and C. campylobacter-

\$

33.00

environmental

(175)

Cadmium

\$

16.00

(176)

Cadmium in foods

\$

3.00

(177)

Caffeine

\$

79.00

(178)

Calcium hardness

\$

8.00

(179)

Carbamates

\$

200.00

(180)

Caustics

\$

11.00

(181)

Cereal analysis-qualitative

\$

1.00

(182)

Cereal analysis-quantitative

\$

32.00

(183)

Charm I; App N antibiotic testing

\$

13.00

(184)

Charm II; App N antibiotic testing-

\$

13.00

cloxacillin

(185)

Charm II; App N antibiotic testing-

\$

13.00

other

(186)

Charm II; App N antibiotic testing-

\$

40.00

quantitative

(187)

Charm II; App N antibiotic testing-

\$

13.00

sequential

(188)

Chemical oxygen demand (COD)

\$

80.00

(189)

Chloride %-hypochlorites and

\$

7.00

chloramines (screen)

(190)

Chloride %; hypochlorites and

\$

21.00

chloramines (confirmation)

(191)

Chlorides

\$

7.00

(192)

Chromium

\$

17.00

(193)

Coffee (chicory)

\$

4.00

(194)

Coliform determinations-confirmed

\$

31.00

(includes MPN for coliform and fecal
coliform)

(195)

Coliform determinations-E. coli

\$

13.00

(verified) each isolate

(196)

Coliform determinations-fecal

\$

8.00

(197)

Coliform determinations-fecal by
MPN (includes presumptive,

\$

45.00

completed, and confirmed tests)

(198)

Coliform determinations-fecal

\$

31.00

coliforms (includes coliform and
E. coli MPN)

(199)

Colilert

\$

8.00

(200)

Color

\$

5.00

(201)

Color and preservatives in food

\$

80.00

(202)

Compliance analysis of nutritional

\$

13.00

content and labeling

(203)

Conductivity

\$

7.00

(204)

Copper flame AA

\$

9.00

(205)

Copper ICAP

\$

4.00

(206)

Corrosion control (copper, lead, pH,

\$

53.00

alkalinity, THRD)

(207)

Cosmetics (organoleptics, net weight,

\$

13.00

filth, and foreign materials)

(208)

Cryoscope (added water)

\$

8.00

(209)

Cyanide

\$

160.00
(210)
Dairy waters-MTF
\$
19.00
(211)
Diquat
\$
200.00
(212)
Dissolved oxygen (DO)
\$
8.00
(213)
Drained weight analysis
\$
7.00
(214)
Dry skim milk-qualitative
\$
3.00
(215)
Dry skim milk-quantitative
\$
119.00
(216)
Dual column (confirmation)
\$
33.00
(217)
E. coli 015:H7
\$
27.00
(218)
E. coli MPN
\$
31.00
(219)
E. coli speciation
\$
20.00
(220)

Endothall

\$

253.00

(221)

Ethylene dibromide (EDB)

\$

133.00

(222)

Etiological agent ID for consumer

\$

100.00

food, beverage

(223)

Fecal coliform MPN (includes

\$

31.00

presumptive, completed, and
confirmed tests)

(224)

Filth and foreign (filter)

\$

5.00

(225)

Filth and foreign (macro)

\$

5.00

(226)

Filth and foreign (micro)

\$

7.00

(227)

Filth and foreign (trap/sv)

\$

389.00

(228)

Fluoride analysis

\$

20.00

(229)

Fluorides

\$

11.00

(230)

Foreign fat (R1)

\$

4.00

(231)

Formaldehyde testing (AIR)

\$

409.00

(232)

Fossomatic CC

\$

12.00

(233)

Fossomatic OSCC

\$

13.00

(234)

Free CO2

\$

12.00

(235)

Gamma screen

\$

26.00

(236)

GC/MS confirmation

\$

479.00

(237)

General chemistry (organoleptic,

\$

16.00

net weight, filth, and foreign
materials)

(238)

Glycol/recirculating water

\$

13.00

(10-tube MPN)

(239)

Glycol/Recirculating water (HPC)

\$

8.00
(240)
Glyphosphate
\$
160.00
(241)
Gross alpha and beta (radon 222,
\$
67.00
radium 226, radium 228, radon,
uranium)
(242)
Heavy metal (ICAP)
\$
100.00
(243)
Heavy metals (includes Hg)
\$
180.00
(244)
Herbicides
\$
240.00
(245)
Heterotrophic plate count (HPC)
\$
8.00
(246)
Inorganic chemicals
\$
299.00
(247)
Iodine 131
\$
396.00
(248)
Iron
\$
17.00
(249)
Iron and alumina oxide
\$

33.00
(250)
Lead-other analysis by furnace
\$
55.00
atomic absorption
(251)
Lead analysis (wipes)
\$
20.00
(252)
Lead analysis in water/chemistry
\$
20.00
(253)
Lead analysis in waters-schools,
\$
20.00
day care, water coolers, faucets
(254)
Lead analysis of paint
\$
40.00
(255)
Lead and copper analysis for private
\$
23.00
residence water
(256)
Lead-blood lead screen by graphite
\$
13.00
furnace atomic absorption
(257)
Listeria analysis-milk
\$
27.00
(258)
Listeria analysis-food
\$
100.00
(259)

Listeria culture-environmental

\$

20.00

(260)

Loss on ignition

\$

5.00

(261)

Manganese

\$

16.00

(262)

Mercury in foods

\$

79.00

(263)

Mercury in water

\$

20.00

(264)

Metal (1 metal) ICAP

\$

16.00

(265)

Metals (13 metals) ICAP

\$

53.00

(266)

Metals (4 metals) ICAP

\$

24.00

(267)

Metals (ICAP) plus mercury

\$

180.00

(268)

Metals in food-ICAP

\$

40.00

(269)

Microbiology culture for

\$

175.00

environmental organisms

(listeria, canpylobacter, yersenia,
salmonella, staphylococcus, and
E. coli)

(270)

Milk containers-paper and plastic

\$

17.00

(271)

Net weight and contents

\$

7.00

(272)

Nickel

\$

16.00

(273)

Nitrate

\$

13.00

(274)

Nitrates and nitrites

\$

13.00

(275)

Nitrites

\$

13.00

(276)

Nonfat solids

\$

5.00

(277)

Nuisance organisms

\$

20.00

(278)

Oil and grease

\$

158.00

(279)

Organoleptic exam

\$

3.00

(280)

Organoleptic exam in foods

\$

13.00

(281)

Oyster meat analysis for vibrio
and salmonella

\$

40.00

(282)

Oyster waters-analysis for

\$

33.00

salmonella, shigella, vibrio, staph

(283)

Oyster waters; metals

\$

100.00

(284)

Oyster waters; organics

\$

40.00

(285)

Oyster waters; pesticides

\$

233.00

(286)

Pesticide (Endrin, lindane,

\$

100.00

methoxychem, toxophene)

(287)

Pesticide battery 12 assays

\$

201.00

(288)

Pesticide residues-food

\$

273.00

(289)

Pesticide residues-grains

\$

273.00

(290)

Pesticide residues-vegetables

\$

233.00

(291)

Pesticide/PCBs in soil

\$

246.00

(292)

Pesticides/herbicides and PCB

\$

100.00

(293)

Pesticides/metals-ICP

\$

313.00

(294)

Pesticides/PCBs

\$

233.00

(295)

Pesticides/PCBs (Food)

\$

233.00

(296)

Pesticides/PCBs (HECD)

\$

273.00

(297)

Pesticides/PCBs (NPD)

\$

273.00

(298)

Pesticides/PCBs (serum)

\$

64.00

(299)

Pesticides/PCBS GC/MS

\$

475.00

(300)

Pesticides/PCBs in seafood

\$

233.00

(301)

Pesticides/PCBs in water (multi-scan)

\$

233.00

(302)

Pesticides/water (multi-scan)

\$

231.00

(303)

pH

\$

5.00

(304)

Phenols

\$

319.00

(305)

Phosphatase by fluorophos

\$

7.00

(306)

Phosphatase by sharer

\$

11.00

(307)

Phosphatase by sharer-reactivation

\$

46.00

(308)

Phosphatase by sharer-interfering

\$

11.00

substances

(309)

Phosphatase by sharer-microbial

\$

34.00

(310)

Phosphates

\$

40.00

(311)

Polyaromatic hydrocarbons (PAH)

\$

79.00

(312)

Potassium

\$

16.00

(313)

Priority chemicals

\$

166.00

(314)

Radionuclides; gamma

\$

53.00

(315)

Radium 226 and 228

\$

725.00

(316)

Radon 222

\$

79.00

(317)

Red tide (sample prep for mouse

\$

67.00

assay)

(318)

Red tide (tissue culture assay)

\$

133.00

(319)

Reducing sugars

\$

133.00

(320)

Residual chlorine (chloramines)

\$

20.00

(321)

Residue/insoluble materials

\$

237.00

(pipe scales)

(322)

Salinity

\$

7.00

(323)

Salmonella analysis-food

\$

27.00

(324)

Salmonella and vibrio analysis

\$

126.00

(325)

Salmonella culture

\$

20.00

(326)

Salmonella culture-chocolate

\$

47.00

(327)

Secondary chemicals

\$

146.00

(328)

Sediment analysis

\$

240.00

(329)

Selenium

\$

33.00

(330)

Shellfish-microbial screen

\$

166.00

(staph aureus, salmonella, shigella,
vibrio, listeria)

(331)

Silicates

\$

40.00

(332)

Silver

\$

16.00

(333)

Silvex 2,4-D and 2,4 TP

\$

237.00

(334)

Sodium

\$

16.00

(335)

Sodium and potassium

\$

11.00

(336)

Staphylococcus analysis-

\$

20.00

Environmental

(337)

Staphylococcus aureus ID-

\$

13.00

Environmental

(338)

Strontium 89 and 90

\$

396.00

(339)

Sulfates

\$

8.00
(340)
Sulfides
\$
47.00
(341)
Sulfite analysis-qualitative
\$
3.00
(342)
Sulfite analysis-quantitative
\$
48.00
(343)
Surfactants (MBAS)
\$
158.00
(344)
Synthetic organic chemicals
\$1,131.00
(13 classes)
(345)
Syrup-polarization
\$
106.00
(346)
Thallium
\$
33.00
(347)
Total chlorine residual
\$
11.00
(348)
Total dissolved solids
\$
11.00
(349)
Total hardness
\$
8.00
(350)

Total solids

\$

11.00

(351)

Total solids (lactometer)

\$

7.00

(352)

Total solids-drying

\$

17.00

(353)

Total suspended solids

\$

27.00

(354)

Trihalomethanes (THM)-

\$

33.00

(liquid/liquid)

(355)

Trihalomethanes (THM)-

\$

79.00

(purge and trap)

(356)

Tritium (H3)

\$

79.00

(357)

Turbidity

\$

4.00

(358)

Unregulated volatile organics

\$

173.00

(359)

Uranium

\$

198.00

(360)

Urines for methylparathion

\$

8.00

(361)

Vibrio cholerae

\$

150.00

identification and typing

(362)

Vibrio vulnificus identification

\$

118.00

(363)

Vitamin A

\$

158.00

(364)

Vitamins A and D

\$

185.00

(365)

Vitamin D

\$

158.00

(366)

Volatile organic chemicals

\$

33.00

(VOCs) (liquid/liquid)

(367)

Volatile organic chemicals

\$

172.00

(VOCs) (purge and trap)

(368)

Yersinia culture-environmental

\$

30.00

(369)

Zinc

\$

16.00

(370)

Zinc in foods

\$

3.00

(371)

Any environmental chemistry and

\$

1.75

toxicology procedure not expressly
stated will be charged based on the
cost per unit of time (work time unit
or WTU) as calculated by the fiscal
department of the office of public health

(372)

Any environmental microbiology

\$

1.75

procedure not expressly stated
will be charged based on the cost
per unit of time (work time unit
or WTU) as calculated by the fiscal
department of the office of public
health

(373)

Any research procedure not

\$

1.75

expressly stated will be charged
based on the cost per unit of time
(work time unit or WTU) as
calculated by the fiscal department
of the office of public health

D. The Louisiana Department of Health may adopt rules and regulations in
accordance with the Administrative Procedure Act to provide for the collection of fees
required by the fee schedule provided in this Section. The rules may also provide for
modification of the fee schedule, provided a fee shall not exceed the prevailing market price
for the item.

RS 40:30 — Provisions of this Chapter not to affect Louisiana Department of Agriculture
tions administered by the Louisiana Department of Agriculture, particularly the provisions of R.S. 40:2277.*

RS 40:31 — Costs of court not charged against state or parish health officers
are exempt from the payment of
all costs of court and stenographers' fees in any suit in which any one of them

is a party. However, in such a case, costs may be charged against any party, other than one of the above, cast in judgment, as though the above had not been exempt and had actually paid costs.

RS 40:31.1 — Reye's Syndrome disease; mandatory reporting

sh or municipality wherein such physician

practices, any case or suspected case of Reye's Syndrome disease which he is attending, or has examined, or for which such physician has prescribed. The report shall be made as promptly as possible from the time the physician first visits, examines or prescribes for the patient and such report shall state the name, age, sex, race, usual residence, place where the patient is to be found, the nature of the disease, the date of onset, and any additional information that the state health officer may require. The state health officer shall send a copy of such report to the United States Centers for Disease Control and Prevention, or such information contained therein as may be required by that agency.

RS 40:31.2 — Repealed by Acts 2008, No. 815, §5.

on Rouge, Louisiana 70804-9062

RS 40:31.3 — Adolescent school health initiative; health centers in schools

o facilitate and encourage development of comprehensive

health centers in public middle and secondary schools in Louisiana which shall provide preventive health services, counseling, acute health services, and appropriate referral for acute health services. Such initiative shall be subject to the approval of the local school systems.

B. The office of public health shall:

- (1) Coordinate efforts to facilitate and encourage establishment of health centers in schools by providing information, technical assistance, direction, and, to the extent appropriate, funds to locally based entities for the establishment and operation of health centers in middle and secondary schools.
- (2) Convene and participate in an intergovernmental coordinating council which shall be composed of representatives from the departments of education, children and family services, health, and other governmental entities or programs related to health services to assist in implementation, oversight, and funding assistance for health centers in schools.
- (3) Apply for and assist local efforts to apply for all available public and private funds to establish and operate health centers in schools.
- (4) Establish procedures for allocation of funds appropriated or otherwise available to the program in a manner which prioritizes funding according to the urgency and degree of healthcare needs among the various middle and secondary school populations.
- (5) Establish criteria to be considered in selection of locations for placement of health centers in schools.
- (6) Require that centers be registered with the office of public health.

C. Health centers in schools are prohibited from:

- (1) Counseling or advocating abortion in any way or referring any student to any organization for counseling or advocating abortion.

(2) Distributing at any public school any contraceptive or abortifacient drug, device, or other similar product.

D. The provisions of this Section shall be applicable only to the extent that funds are made available for this purpose from public or private sources.

RS 40:31.11 — Purpose

g

the immunization rates of the state's children and young adults in order to prevent the spread of diseases at which the immunizations are directed. Registries established in accordance with this Part shall provide for a method of informing the parent, guardian, or registrant when the registrant is due or is late for a recommended immunization and shall serve as a means for persons and institutions that either provide immunization services or are required to ensure that persons are immunized to receive prompt and accurate immunization information. Such persons and institutions shall include but not be limited to public health units, healthcare providers, schools, and early learning centers.

RS 40:31.12 — Definitions

stem.

(2) "Early learning center" means a facility licensed as an early learning center under the provisions of the Early Learning Center Licensing Act, R.S. 17:407.31 et seq.

(3) "Immunization record" means a client's medical record related to the client's receipt of immunizations. An immunization record shall only include:

- (a) The name and social security number of the client.
- (b) The date and place of birth of the client.
- (c) The hospital where the client was born.
- (d) The name of the client's mother or legal guardian.
- (e) A list of any immunizations received.
- (f) The date of each immunization received.
- (g) A report of any complication or side effect associated with a particular immunization.

(4) "Immunization registry" means any listing of clients and information relating to their immunization status.

(5) "Immunization tracking and recall record" is a record that includes but is not limited to the client's name, address of the client or parent or guardian of the client, telephone number, provider, and other information needed to send reminder cards to, to place telephone calls to, or to personally contact the client or the parent or the guardian of a client for the purposes of informing the client, parent, or guardian that the client is due for a recommended immunization or is late in receiving a recommended immunization.

(6) "Provider" means any health care provider or facility licensed to provide health care services in Louisiana, any managed health care system, health maintenance organization, health service contractor, or insurance carrier, or the Louisiana Medical Assistance Program.

(7) "Public health unit" means any facility acting under the supervision and advice of the state health officer and the office of public health, including any state-operated or contracted public health clinic.

(8) "School" means any institution or facility which provides for education of children in grades one or above, which shall include any kindergarten or prekindergarten attached thereto.

(9) "Tracking and recall system" means a system associated with an immunization registry designed to contact clients listed in the registry to assist in the completion of the immunization series in a timely manner.

RS 40:31.13 — Development of immunization registry and tracking and recall system; standards

p an immunization registry and an associated tracking and recall

system. The developer of any system shall consult providers in developing the system to provide for a simple and efficient system of transferring information. The registry and associated tracking system shall be named the Louisiana Immunization Network (LINKS), and shall include but not be limited to the following:

(1) Immunization records of all clients born or living within the jurisdiction of the agency that develops the registry.

(2) A uniform method of tracking, updating, and recording immunization histories of registered clients.

(3) Procedures formulated in consultation with providers that will allow a provider to provide information to and obtain information from the immunization registry and immunization tracking and recall records without the consent of a client under eighteen years of age or the parent or guardian of such a client.

(4) Procedures that allow an immunization record of a client to be released to a client or the client's parent, guardian, school, or early learning center.

(5) A method of notifying the client or parent or guardian of the client when the tracking and recall system indicates that a client is due to receive a scheduled immunization or when the client has missed a scheduled immunization.

(6) A procedure for sharing or transferring information with any other immunization registry and its associated tracking and recall systems within the state.

(7) A method for providing or publishing information in aggregate form that does not identify a client.

(8) Methods assuring that information contained in the immunization registry only be used to track and document immunization status, for other immunization program-related activities, and for associated public health research.

RS 40:31.14 — Authorization of release of immunization records

red privileged communications between

a healthcare provider and patient when such records are used in accordance with the provisions of this Part. The Louisiana Department of Health, public health units and their agents, providers, parents or guardians, schools, and early learning centers may obtain information from, or provide information to, the immunization record of a client of any immunization registry without the written consent of a client.

B. A provider, a public health unit, the Louisiana Department of Health, or the agents of any of them, schools, and early learning centers shall not be subject to an action or be liable for sharing information from the immunization record or using information from the

immunization tracking and recall record for purposes of tracking immunizations of clients and for outreach to clients who have missed immunizations.

C. Information in an immunization registry or in the immunization tracking and recall record or derived therefrom is confidential and shall not be disclosed to any person who is not specifically authorized to receive information under this Part.

RS 40:31.15 — Rulemaking

tries and their associated tracking

and recall systems in accordance with the Administrative Procedure Act. The rules shall include a process by which a custodial parent or guardian can control the transfer of information from the immunization record or the immunization tracking and recall record when such control is necessary to protect the health or safety of the family.

RS 40:31.16 — Parental consent; parental responsibility for immunization; exemptions

ation to the healthcare provider of a client, parent, or guardian of a minor client.

(2) General consent for treatment and release of information to other providers or to the office of public health shall be considered consent for sharing historical, current, and future immunization information. In addition, each immunization provider shall comply with at least one of the following requirements:

(a) Place a poster in the patient registration area notifying patients and parents that the site is participating in the state immunization registry and that immunization data is being shared with the registry.

(b) Provide each patient or parent a brochure supplied by the office of public health describing the purposes of the registry and notifying patients and parents that they can prohibit data sharing by notifying the healthcare provider not to submit immunization information to the registry.

B. The immunization record of a client shall be purged from the registry at any time that the client or client's custodial parent or legal guardian requests, in writing, that the immunization record be purged from the registry.

C. Nothing in this Part shall be construed to mitigate the responsibility of a parent or guardian to have a child of that parent or guardian properly immunized.

D. Nothing in this Part shall be construed to require immunization or tracking of any child otherwise exempt from immunization requirements for medical or religious reasons.

RS 40:31.21 — Legislative intent, declaration of policy

k voluntary

treatment or failed to comply with quarantined directly observed therapy, or both, and is considered a public health risk.

B. It is the policy of the state that:

(1) A person suffering from active tuberculosis shall be encouraged to seek voluntary treatment.

(2) Notwithstanding any provision of law to the contrary, in the event

a person suffering from active tuberculosis fails to seek voluntary treatment or fails to comply with quarantined directly observed therapy, or both, as ordered by the state health officer or his designee, the person may be ordered pursuant to R.S. 40:4 et seq., into temporary isolation or quarantine, or both, at an inpatient facility for the treatment of active tuberculosis.

(3) A person suffering from active tuberculosis shall not be held involuntarily without being afforded an opportunity for a timely adversarial hearing as provided by this Part.

(4) The Louisiana Department of Health shall be responsible for providing the funds necessary to implement the provisions of this Part.

RS 40:31.22 — Admission; general provisions

persons for care and treatment:

(1) A person whose admission is authorized under the procedures set forth in R.S. 40:4 et seq., and the provisions of this Part.

(2) A person who is ordered to be admitted by the state health officer or his designee.

B. The failure by any director of an inpatient treatment facility to obey an order or judgment by a court of competent jurisdiction shall not be construed as contempt of court if the director shows that the failure to obey is due to the inability to comply with the order or judgment because medically suitable accommodations for the patient are unavailable or because consent of the state health officer or his designee has not been obtained.

C. A person admitted to a facility for the treatment of active tuberculosis shall be informed in writing at the time of admission of the procedures for requesting release from the treatment facility, the availability of counsel, and the rules and regulations applicable to or concerning his conduct while a patient in the treatment facility. If the person is illiterate or otherwise does not read or understand English, appropriate provisions shall be made to supply him with the required information. A copy of the information required by this Subsection also shall be posted in any area where a person is confined or treated.

D. A person confined to a treatment facility for active tuberculosis may receive medication and treatment without his consent.

E.(1) When a person arrives at the inpatient facility for treatment of tuberculosis pursuant to R.S. 40:31.24, the facility shall triage the patient and shall determine whether the patient is in need of medical stabilization for conditions other than infectious tuberculosis.

(2) If it is determined that medical stabilization is needed, the patient may be temporarily transferred to a general hospital for appropriate stabilization of the other medical conditions.

(3) Any such temporary transfer to a general hospital shall not be deemed to affect the patient's status at the facility for the treatment of tuberculosis, and the provisions of R.S. 40:31.23 shall continue to apply while the patient is temporarily housed in the general hospital for medical stabilization purposes. The patient shall be returned to the facility for the treatment of tuberculosis in time for the procedures specified in R.S. 40:31.25.

RS 40:31.23 — Admissions; voluntary; involuntary

all be provided an opportunity to execute an informed consent document wherein the person agrees to cooperate with the required treatment regimen. The admission of any person executing such a document shall be considered voluntary.

B. A refusal to execute the informed consent document provided for by Subsection A of this Section shall result in the involuntary admission of such person.

C. When a person admitted pursuant to the provisions of Subsection A of this Section at any time thereafter no longer desires to remain at the facility for tuberculosis treatment, he may sign a certificate requesting release. The director of the treatment facility shall immediately notify the state health officer or his designee of the person's desire to be released.

The state health officer or his designee shall determine if further inpatient treatment is necessary, and he may cause a petition for judicial commitment to be filed in the court having jurisdiction over the treatment facility within fifteen days of

the person's request for release. If no petition is timely filed, the person shall be released. If a petition is timely filed, the provisions of R.S. 40:31.25 shall apply.

RS 40:31.24 — Ex parte judicial order for custody; grounds; civil liability

erson is suffering from active tuberculosis, is in need of immediate treatment, and is a public health risk, any judge of a court of competent jurisdiction may order a person to be taken into protective custody and transported to a treatment facility for active tuberculosis for immediate treatment.

(2) The affidavit shall include but need not be limited to the following information, as may apply:

- (a) Facts leading to the conclusion that the person is suffering from active tuberculosis and is a public health risk.
- (b) Facts showing that the person has been encouraged to seek treatment and is unwilling to seek such treatment or to comply with quarantined directly observed therapy, or both.
- (c) Facts showing that an inpatient facility for the treatment of active tuberculosis has verified the availability of space in the facility for placement.

B. The order for protective custody shall be in writing, in the name of the state of Louisiana, signed by a judge of a court of competent jurisdiction, and effective for seventy-two hours from its execution. The order shall include but need not be limited to the following information, as may apply:

- (1) The date and hour of issuance and the parish where issued.
- (2) The name of the person to be taken into custody or, if his name is not known, a designation of the person by any name or description by which he can be identified with reasonable certainty.
- (3) A description of the facts leading to a belief that the person is suffering from active tuberculosis, is in need of immediate care and treatment in an inpatient facility for the treatment of active tuberculosis, and is a public health risk.
- (4) A statement that the person shall be transported in accordance with the requirements of this Section by the sheriff or other law enforcement officer under the court's jurisdiction to an inpatient treatment facility for active tuberculosis.

C. The date and hour that the person is taken into protective custody shall be written on the order. Without delay and no more than twelve hours after being taken into protective custody, the person shall be delivered to the director of a treatment facility for active tuberculosis by the individual who has transported the person. Upon arrival, the person may be admitted voluntarily or involuntarily.

D. An official acting in good faith to order a person to be taken into protective custody and transported for examination and treatment in accordance with this Part shall not be civilly liable for damages to such person resulting from the official's action.

RS 40:31.25 — Adversarial judicial commitment; procedure

treatment facility for active tuberculosis as provided for in R.S. 40:31.23, he shall be involuntarily admitted and provided a timely judicial commitment hearing in accordance with the provisions of this Section.

B. Within seven days following an involuntary admission pursuant to R.S. 40:31.23(B), the state health officer or his designee shall cause a petition for judicial commitment to be filed in the court having jurisdiction over the treatment facility for active tuberculosis asserting his belief that the person in protective custody is suffering from active tuberculosis and is a public health risk.

C. The commitment petition shall contain but need not be limited to the facts which are the basis of the assertion of active tuberculosis and shall provide the person in protective custody with adequate notice and knowledge relative to the nature of the proceedings.

D.(1) Upon the filing of the commitment petition, the court shall assign a time for a hearing on the petition, not later than eighteen days thereafter, assign a place for the hearing, issue an order to the treatment facility authorizing detention of the person until the hearing on the commitment petition, and cause reasonable notice of the hearing to be given to the person, to his attorney, if known, and to the petitioner.

(2) The notice shall inform the person in protective custody that he has the following rights:

- (a) The right to counsel and the right to have counsel appointed to represent him if he is indigent or otherwise qualified.
- (b) The right to be present and to participate fully at the hearing, but only through telecommunications, community antenna television, or other such technology.

(c) The right to present evidence and to cross-examine witnesses testifying at any hearing on the commitment petition, but only through telecommunications, community antenna television, or other such technology.

E.(1) The court shall appoint a physician to examine the person in protective custody and make a written report to the court, the petitioner, and, at least three days prior to the hearing, to the person and the person's attorney.

(2) The written report shall set forth specifically the objective factors leading to any conclusion that the person is suffering from active tuberculosis, is a public health risk, and is in need of immediate treatment as a result of such illness, and why involuntary confinement and treatment are required. At their discretion and expense, the person or his attorney shall have the right to seek an additional independent medical opinion.

RS 40:31.26 — Judicial hearings; general provisions

e person in protective custody.

(2) At the appointed time, the court shall conduct a hearing on the commitment petition or any other petition brought under the provisions of this Part. If the person is confined to a treatment facility for active tuberculosis, the judge of the court where the petition was filed may in his discretion hold the hearing on such commitment at the treatment facility where the person is confined or may conduct the hearing through telecommunications, community antenna television, or other such technology.

(3) On the day appointed, the hearing shall take precedence over all other matters, except pending cases of the same type.

(4) If the court finds by clear and convincing evidence that the person in protective custody has active tuberculosis and is a public health risk, it shall render a judgment for his commitment.

B. The court shall cause a recording of the testimony of the hearing to be made which shall be transcribed only in the event of an appeal from the judgment. A copy of such transcript shall be furnished without charge to any appellant whom the court finds unable to pay for it.

C. Notice of any action taken by the court shall be given in such manner as the court considers appropriate to the person in protective custody, the person's attorney, the director of the designated treatment facility, and the state health officer or his designee.

D. Each clerk of court shall keep a record of the cases relating to persons with active tuberculosis coming before the court pursuant to the provisions of this Part and the disposition of such cases. The clerk also shall keep on file the original petition and certificates of physicians required by this Section or a microfilm duplicate of such records. All records maintained in the courts under the provisions of this Section shall be sealed and available only to the person placed in protective custody, his attorney, or the petitioner.

RS 40:31.27 — Judicial commitment; review

rt. The report shall include but need not be limited to the committed person's response to treatment, his current condition, and the reasons, if any, why continued involuntary treatment is necessary to improve his condition or to prevent it from deteriorating. The report shall be treated by the court as confidential and shall not be available for public examination, nor shall it be subject to discovery in any proceedings other than those initiated pursuant to this Part.

B. Persons committed judicially shall have their cases reviewed in a hearing annually. The annual hearing shall be conducted according to the procedures and standards set forth by the district court for the judicial district in which the person is being confined and may be conducted through telecommunications, community antenna television, or other such technology. The court may at any time, however, upon application or upon its own motion, order a new hearing to be held in order to determine whether the involuntary status should be continued.

C. A person who is judicially committed shall be allowed to appeal devolutively from the order to the court of appeal. If the lower court finds the individual indigent, it shall allow the appeal to be taken in forma pauperis.

D. Upon affirmation of the order of commitment, the person may apply for appropriate writs from the supreme court.

E. Nothing in this Part shall deny the right of habeas corpus, including an application based upon a change of circumstances. The hearing for habeas corpus may be conducted through telecommunications, community antenna television, or other such technology.

RS 40:31.28 — Discharge

g the recommendation shall not be legally responsible to any person for the subsequent acts or behavior of a person discharged in good faith and in accordance with the provisions of this Part.

B.(1) A person who is committed to a treatment facility for active tuberculosis may be conditionally discharged for a period of up to one year by the director, upon the recommendation of the state health officer or his designee, or by a court of competent jurisdiction after a hearing. The person may be required to report for outpatient treatment as a condition of his release. The terms and conditions of the conditional discharge shall be specifically set forth in writing and signed by the person. A copy of the conditional discharge shall be given to the person and explained to him before he is discharged.

(2) If the person is conditionally discharged by the director upon the recommendation of the state health officer or his designee, a copy of the conditional discharge shall be sent to the court which judicially committed him and to the person's counsel of record. If the person is conditionally discharged by the court, a copy of the conditional discharge shall be sent to the director of the treatment facility to which the person has been committed, the state health officer or his designee, and the committed person's counsel of record.

(3) The director, upon the recommendation of the state health officer or his designee, or the court may extend the conditional discharge of a person for a period of up to two years and the person may be required to report for outpatient treatment as a condition of his release. The terms and conditions of the extension of the conditional discharge shall be specifically set forth in writing and signed by the person. A copy of the extension of the conditional discharge shall be given to the person and explained to him.

(4) If a conditional discharge is extended by the director upon the recommendation of the state health officer or his designee, a copy of the extension shall be sent to the court which judicially committed the person and to the person's counsel of record. If the conditional discharge is extended by the court, a copy of the extension shall be sent to the director, to the state health officer or his designee, and to the person's counsel of record.

(5) If a person does not comply with the terms and conditions of his conditional discharge, he shall be subject to any of the procedures for involuntary treatment, including but not limited to the issuance of an order for protective custody. A conditionally discharged person who is confined pursuant to any of these involuntary procedures shall have all rights of a person committed involuntarily, including the right to periodic reports and review and an annual hearing pursuant to the provisions of this Part.

RS 40:31.29 — Costs

lth and shall be disbursed based on a schedule of

costs to be established and administered by the court presiding over the matter.

B. Reasonable compensation of appointed counsel shall be established by the court. If it is determined by the court that the costs shall not be borne by the person, then compensation to the attorney shall be paid by the Louisiana Department of Health based upon a schedule of costs to be established and administered by the court presiding over the matter, but not to exceed two hundred dollars per hearing per confined person. The person shall have the right to privately retained and paid counsel at any time.

C. A court reporter recording any of the proceedings and preparing any transcripts provided for by this Part shall be paid by the Louisiana Department of Health based upon a schedule of costs to be established and administered by the court presiding over the matter. Such costs shall not exceed two hundred dollars per month.

RS 40:31.31 — Definitions

rom transporters and haulers of sewage

sludge or biosolids, when "department" means the Department of Environmental Quality.

(2) "Office" means the Louisiana Department of Health, office of public health.

RS 40:31.31.1 — Export certificate fees

facturer or

distributor whose operations are subject to the jurisdiction of the Louisiana Department of Health or whose products are subject to rules promulgated by the Louisiana Department of Health in accordance with R.S. 40:627.

RS 40:31.32 — Individual sewage fees

ance with state

Sanitary Code requirements, the department shall charge and collect the fees as provided by this Section.

B. The department shall charge and collect a one-time fee of one hundred fifty dollars for each individual-type sewerage system installed for residential use. Such fee shall be payable by the manufacturer or, if authorized by the department, manufacturer-authorized system distributor, franchise, sale, or agent thereof.

C. The Department of Environmental Quality shall charge and collect for each sewage hauler license issued an annual fee of one hundred dollars payable by the individual seeking licensure.

D.(1) For each sewerage installer license issued to a person who installs sewage treatment systems, the department shall charge and collect an annual fee of one hundred fifty dollars payable by the individual seeking licensure.

(2) For each sewerage maintenance license issued to a person who maintains or services sewage treatment systems, the department shall charge and collect an annual fee of one hundred fifty dollars payable by the individual seeking licensure.

(3) For each combination installer and maintenance license issued to a person who installs and maintains or services sewage treatment systems, the department shall charge and collect an annual fee of one hundred fifty dollars payable by the individual seeking licensure.

E. The department shall charge and collect an inspection fee of one hundred fifty dollars for each sewerage treatment and interrelated systems inspection or related request associated with loanmaking procedures for existing residential and commercial properties. The fee shall be payable by the individual requesting such inspection or related activity.

F. Repealed by Acts 2025, No. 514, §2, eff. July 1, 2025.

RS 40:31.33 — Safe drinking water fee; exemptions

ted from each

consumer by the community system provider in not less than quarterly installments and remitted to the department, in quarterly payments minus five percent per metered connection or account to be retained by the community system provider for administrative costs for the collection of the fee.

(2) Metered connections servicing installations or accounts that are not involved in providing drinking water shall not be assessed the fee.

B. In order to comply with the provisions of R.S. 40:5.6 and the federal Safe Drinking Water Act, the department shall charge an annual fee of one hundred dollars for noncommunity systems.

C. The funds remitted to the department pursuant to Subsections A and B of this

Section shall be used for the following purposes:

- (1) To comply with the provisions of R.S. 40:5.6 and the federal Safe Drinking Water Act.
 - (2) To offset the annual costs of the Louisiana Rural Water Association in an amount not to exceed five hundred thousand dollars.
 - (3) To fund up to forty additional sanitarian positions within the department based upon the number of sanitarian positions funded by the department on July 1, 2016.
- D. The fee collected pursuant to Subsections A and B of this Section shall be known as the "Safe Drinking Water Fee".

RS 40:31.34 — Infectious waste permits

permit is required under the state Sanitary Code. The fee shall be two hundred dollars for each transporter facility, including one transport body or vehicle, plus fifty dollars for each additional vehicle.

B. The department shall charge and collect an annual infectious waste permit fee for each facility for storage and treatment of potentially infectious biomedical waste for which a permit is required by the state Sanitary Code. The fee shall be two hundred dollars per storage site or storage and treatment site.

C. A properly permitted transport body or vehicle used for the storage at the site of a generator of potentially infectious biomedical waste will not be required to have a storage permit.

D. The fees established in this Section shall replace the fees promulgated in the July 20, 1991, Louisiana Register and shall apply to renewals of said permits.

RS 40:31.35 — Commercial seafood permit fee

e department shall

charge and collect an annual commercial seafood permit fee to support the cost of inspection, monitoring, sampling, and laboratory analysis as mandated by the state Sanitary Code. The classification of the permit shall be classified as a domestic commercial seafood processor permit, an imported commercial seafood processor permit, and a commercial seafood distributor permit. The fee shall be collected from each seafood distributor and processing plant based on gross revenues of the plant or distributor as follows:

Revenues

Annual fee

\$1,000,000 and under

\$ 150.00

\$1,000,001 - \$2,500,000

250.00

\$2,500,001 - \$5,000,000

350.00

over \$5,000,000

500.00

B. The department shall charge and collect a shellfish transplant permit fee of one hundred dollars.

C. In addition to the fee provided for in Subsection A of this Section, the Louisiana Department of Agriculture and Forestry shall charge and collect an annual imported seafood safety fee from each holder of a commercial seafood permit who processes or distributes imported seafood. The fee shall be three hundred dollars for the 2025 calendar year, five hundred dollars for the 2026 calendar year, seven hundred fifty dollars for the 2027 calendar year, and one thousand dollars for the 2028 calendar year and each calendar year thereafter. The proceeds of such fee shall be deposited into the Imported Seafood Safety Fund.

RS 40:31.36 — Health unit fees

whose other

pediatric services are provided outside of the department's system.

B. The department shall charge and collect an administrative fee not to exceed fifty dollars in parish health units for administering international immunizations for foreign travel. In addition, the patient shall be responsible for the parish health unit's current cost of yellow fever, cholera, and typhoid vaccines.

C. The department shall charge and collect a clinic service copayment fee not to exceed twenty-five dollars per clinic service and not to exceed twenty-five dollars per pharmacy service, for a maximum total of fifty dollars per clinic visit, for each service performed at a parish health unit. Such fee shall not apply to visits paid for under Subsection A or B of this Section.

D. The provisions of this Section shall not apply to Title XIX recipients, Title XXI recipients, and those documenting financial status at or below one hundred percent of the applicable federal poverty guideline as published in the Federal Register by the United States Department of Health and Human Services.

E. The fees charged in Subsections A and B of this Section shall be in lieu of those promulgated by the department in the June 20, 1989, Louisiana Register for childhood immunizations and for international immunizations.

F. The department may publish current fee schedules by promulgating rules in accordance with the Administrative Procedure Act and shall post the current fee schedule in each parish health unit and on the department's website.

RS 40:31.37 — Retail food establishment fees

of establishments defined therein: itinerant food establishment, itinerant retail food store/market, market, mobile food establishment, mobile retail food store/market, retail food manufacturer, retail food store/market, temporary food establishment, and temporary retail food store/market.

(2) For each nonmobile location of a food establishment, the department shall require a permit for each mode of operation therein that, if standing alone, would meet the state Sanitary Code definition of a food establishment.

(3) Except as otherwise provided in this Section, fees shall be charged annually for each permit issued to an establishment in accordance with the following schedule:

First permit

\$150.00

Second through fifth permits

\$112.50 each

Each permit after the fifth

\$75.00 each

B. The department shall charge each day care center an annual food establishment permit fee based upon the number of children for which the center is licensed, in accordance with the following schedule:

Licensed for:

0 - 15 individuals

\$37.50

16 - 50 individuals

\$75.00

51 - 100 individuals

\$112.50

101 or more individuals

\$150.00

C. For nonitinerant retail food stores/markets whose food sales are equal to or greater than sixty percent of the total gross sales, the department shall charge a single annual fee per store, regardless of the number of permits issued to that store, based on the annual gross receipts of the store, in accordance with the following schedule:

Annual Gross Revenue

Annual Fee

Less than \$100,000

\$75.00

\$100,000 - \$500,000

\$112.50

\$500,001 - \$1,000,000

\$187.50

\$1,000,001 - \$2,500,000

\$375.00

\$2,500,001 - \$5,000,000

\$600.00

More than \$5,000,000

\$750.00

D. For nonitinerant retail food stores/markets whose food sales are less than sixty percent of the total gross sales, the department shall charge a fee for each required permit issued to a store, based on the annual gross receipts of the store, in accordance with the following schedule:

Annual Gross Revenue

Annual Fee

Less than \$100,000

\$75.00

\$100,000 - \$500,000:

First through fourth permits

\$112.50 each

Each permit after the fourth

\$75.00 each

\$500,001 - \$1,000,000:

First permit

\$187.50

Second through fourth permits

\$112.50 each

Each permit after the fourth

\$75.00 each

\$1,000,001 - \$2,500,000:

First permit

\$375.00

Second through fourth permits

\$112.50 each

Each permit after the fourth

\$75.00 each

\$2,500,001 - \$5,000,000:

First permit

\$600.00

Second through fourth permits

\$112.50 each

Each permit after the fourth

\$75.00 each

More than \$5,000,000:

First permit

\$750.00

Second through fourth permits

\$112.50 each

Each permit after the fourth

\$75.00 each

E.(1) Upon written request by the department, a retail food store/market shall within thirty days furnish proof of gross receipts for the most recent twelve-month period for which proof is available. In the case of establishments doing business less than one year, proof for less than a twelve-month period shall be submitted and the department shall calculate a projected annual gross receipts figure.

(2) New retail food stores/markets shall be issued temporary permits upon payment of an initial fee in the amount of one hundred twelve dollars and fifty cents and shall thereafter be required to furnish within seventy-five days of opening proof of gross receipts for the first three months of operation, from which the department shall calculate projected gross annual receipts and assess the appropriate fees in accordance with Subsections C and D of this Section, giving credit for the one hundred twelve dollars and fifty cents initial fee amount paid.

(3) Failure to provide the department with gross receipts data as required in this Subsection shall result in an assessment of the maximum applicable fees provided by Subsection D of this Section.

F. For temporary or special events, including fairs and festivals, requiring a food establishment permit, the department shall charge a twenty-five dollar fee for the entire event.

G. For food establishments that are seasonal, as defined in the state Sanitary Code, the department shall not charge an annual fee but shall instead charge a fifteen dollar fee for each month of operation.

H. State and local government-owned and operated facilities, churches, and nonprofit organizations, as defined by the United States Internal Revenue Service, are exempt from any fees authorized by this Section.

I. Notwithstanding any other provisions of this Section, the department shall not collect retail food establishment fees in an amount that results in the office of public health's retail food section having a surplus of more than three million dollars at the end of any fiscal year.

RS 40:31.38 — Office of public health reinspection fees

al item" has the meaning ascribed in the sanitary code, LAC 51:XXIII.101.

(2)(a) "Initial inspection" means any routine, complaint-based, or pre-opening inspection of a commercial facility conducted to determine compliance with the sanitary code that identifies either a minimum of five sanitary code violations or a minimum of one sanitary code violation constituting a critical item that is not corrected during the inspection.

(b) Any reinspection that identifies either a minimum of five sanitary code violations or a minimum of one sanitary code violation constituting a critical item, and in which none of the violations were previously identified in the most recent inspection, constitutes an initial inspection for purposes of this Section.

(3) "Reinspection" means any inspection subsequent to an initial inspection conducted to determine remedial compliance related to any sanitary code violation identified during an initial inspection.

(4) "Second or subsequent reinspection" means any reinspection conducted following a prior reinspection and that identifies either a minimum of five sanitary code violations or a minimum of one sanitary code violation constituting a critical item that remains uncorrected after being identified either in an initial inspection or in a reinspection.

B.(1) The department may conduct a reinspection of any commercial facility subject to regulation and inspection by the department pursuant to R.S. 40:4 or 5.

(2) The department shall charge a fee of one hundred fifty dollars to conduct any second or subsequent reinspection, which shall be assessed to the owner of the reinspected facility by notice served in the same manner provided for in the sanitary code for service of a notice of violation.

(3) Failure of the owner to pay the fee within thirty days of service shall be grounds for the issuance of an order revoking any permit held by the owner. The order shall be subject to an adjudicatory hearing before the division of administrative law if requested by the owner within the time limit set forth in the order.

(4) The department shall not issue any permit to the owner of an unpermitted facility until any fee for a second or subsequent reinspection is paid.

RS 40:31.39 — Dairy farms and plants; milk plants; permit fees; definitions

(2) As used in this Subsection, the term "dairy farm" means any place or premises where one or more cows, goats, sheep, water buffaloes, or other hooved mammals are kept for milking and from which a part or all of the milk produced is provided, sold, or offered for sale to a dairy plant, transfer station, or receiving station possessing a permit from the Louisiana Department of Health.

B.(1) The department shall charge an annual fee in the amount of three hundred dollars per permit issued to a dairy plant.

(2) As used in this Subsection, the term "dairy plant" means any place, premises, or establishment where milk, milk products including frozen desserts, frozen dessert mixes, filled milk or filled milk products, anomalous milk, anomalous milk products or anomalous dairy products, and dairy products are collected, handled, processed, stored, pasteurized, ultra-pasteurized, aseptically processed, churned, frozen, dried, blended, concentrated, condensed, packaged, or prepared for distribution and where milk tank trucks are cleaned and sanitized when received. The term also includes out-of-state facilities and establishments whose products are sold or distributed within the state of Louisiana.

C.(1) The department shall charge an annual fee in the amount of three hundred dollars per permit issued to a single service milk and milk product container or closure manufacturing plant.

(2) As used in this Subsection, the term "single service milk and milk product container or closure manufacturing plant" means fabricators, converters, printers, closure manufacturers, plastic laminators, sheet formers, blow molders, vacuum formers, plastic extruders, injection molders, preformers, manufacturers of valves, valve parts, tubes, dispensing devices, and sample containers for use with milk or milk products. The term also includes out-of-state facilities and establishments whose products are sold or distributed within the state of Louisiana.

RS 40:31.40 — Plan review fees

Louisiana

Department of Health, office of public health, in connection with a permit application for a new facility, operation, or establishment or a plan required to be submitted in connection with a substantial renovation to an existing permitted facility, operation, or establishment. For an alternative fee of one thousand dollars, the Louisiana Department of Health shall expedite and guarantee a complete review of a plan within five business days from the date the plan and fee are submitted.

B. The plan review fees authorized by this Section are collected in addition to any permit fees authorized by this Title.

C. This Section shall not apply to the review of plans for a public water supply system, commercial treatment facility, community sewerage system, or swimming pool.

RS 40:31.41 — Legislative intent

children born with birth defects regarding services available in their community and the development of appropriate prevention programs.

RS 40:31.42 — Definitions

birth defects

surveillance system.

(2) "Birth defect" means an abnormality of structure, function, or metabolism that develops during prenatal, perinatal, or early postnatal life that is diagnosed before a child reaches three years of age.

(3) "Department" means the Louisiana Department of Health.

(4) "Office" means the office of public health within the Louisiana Department of Health.

(5) "Reporting source" means any physician, nurse, allied health professional, hospital, laboratory, and any other facility or agent which directly or indirectly provides medical services or other health care to a child affected by a birth defect.

(6) "Secretary" means the secretary of the Louisiana Department of Health.

(7) "Surveillance system" means the process that is used to collect data about children with birth defects.

RS 40:31.43 — Louisiana Birth Defects Surveillance System

data relative to birth defects in Louisiana.

B. In establishing the surveillance system, the department shall require reporting sources to report information on birth defects to the office. However, reporting sources shall not collect or report information on birth defects of a child to the office whenever there is a written objection by the parent or legal guardian that collecting and reporting such information would conflict with their religious tenets or practices.

C. The system has the authority to collaborate with other interstate and interagency efforts as they relate to the surveillance system.

RS 40:31.44 — Confidentiality

ch data shall not be released unless express written informed consent of a parent or legal guardian has been obtained. Data gathered by the office shall be used only for the purposes set forth in this Part.

RS 40:31.45 — Report

on health and welfare.

RS 40:31.46 — Advisory board

t nine members, each of whom shall have an expressed interest in a birth defects surveillance system, and shall be appointed in the following manner:

- (1) One pediatrician from a list of names submitted by the Louisiana State Medical Society.
 - (2) One board-certified clinical geneticist from a list of names submitted by Ochsner Clinic.
 - (3) One board-certified clinical geneticist from a list of names submitted by Tulane University Medical Center.
 - (4) One board-certified clinical geneticist from a list of names submitted by Louisiana State University Health Sciences Center-New Orleans.
 - (5) One board-certified clinical geneticist from a list of names submitted by Louisiana State University Health Sciences Center-Shreveport.
 - (6) One maternal/fetal medicine physician from a list of names submitted by the March of Dimes.
 - (7) One parent representative from a list of names compiled from various parent groups or by individual application.
 - (8) One consumer representative from a list of names compiled from various consumer groups or by individual application.
 - (9) One epidemiologist employed by or contracted to the department.
- C. Each member shall serve at the pleasure of the secretary.
- D. Vacancies shall be filled in the manner of the original appointment.
- E. The members of the advisory board shall serve on a voluntary basis and shall receive no compensation for their services.
- F. The members of the advisory board shall elect from their membership a chairman and a vice chairman.

RS 40:31.47 — Cooperation by other state entities

ut the purposes of this Part.

RS 40:31.61 — Legislative intent

e suffer from Parkinson's and by gathering vital information from these individuals, such as general age, ethnicity, gender, as well as possible environmental factors that may have played a part in the development of the disease. Thus, it is the intent of the legislature to establish a system to collect and assess information and data regarding the incidence of Parkinson's disease in the state.

RS 40:31.62 — Definitions

Health.

(2) "Office" means the office of public health within the Louisiana Department of Health.

(3) "Parkinson's disease" means a chronic and progressive neurologic disorder resulting from deficiency of the neurotransmitter dopamine as the consequence of degenerative, vascular, or inflammatory changes in the area of the brain called the basal ganglia. It is characterized by tremor at rest, slow movements, rigidity of movement, droopy posture, muscle weakness, and unsteady or shuffling gait.

(4) "Regional Parkinson's disease incidence reporting areas" means those demographic regions of the state designated by the department that are responsible for collecting and collating Parkinson's disease incidence data. The department may contract with an agency, including but not limited to a health systems agency, a parish health department, multiparish health department grouping, or nonprofit professional association representing a designated disease-reporting region for the purposes of carrying out the responsibilities of the disease-reporting region.

(5) "Regional Parkinson's Disease Registry" means those regions of the state as designated by the department responsible for providing, on a timely basis, Parkinson's disease incidence data as determined by the department to the department.

RS 40:31.63 — Parkinson's Disease Registry

It encompass all areas of the state for which Parkinson's disease incidence data are available. The program shall include the monitoring of Parkinson's disease associated with suspected chemical agents encountered by the general public both in occupational locations and in the environment generally. The department shall designate regional Parkinson's disease incidence reporting areas and regional Parkinson's disease registries for the purpose of monitoring the incidence of the disease throughout the state.

B. Any hospital or other facility providing therapy to Parkinson's disease patients within an area designated as a Parkinson's disease-reporting area shall report each case of Parkinson's disease to the department or the authorized representative of the department in a format prescribed by the department. If the hospital or other facility fails to report in a format prescribed by the department, the department's authorized representative may access the information from the hospital or the facility and report it in the appropriate format. In these cases, the hospital or other health facility shall reimburse the department or authorized representative for its costs to access and report the information.

C. Any physician, surgeon, dentist, podiatrist, or other licensed, certified, or registered health care practitioner diagnosing or providing treatment for Parkinson's disease patients shall report each Parkinson's disease case to the department or the authorized representative of the department, except for those cases directly referred to a treatment facility or those previously admitted to a treatment facility for diagnosis or treatment of that instance of Parkinson's disease.

D. The department and any regional Parkinson's disease registry designated by the department shall use the information to determine the sources of Parkinson's disease and evaluate measures designed to eliminate, alleviate, or ameliorate their effect.

E. Nothing in this Section shall preempt the authority of facilities or individuals providing diagnostic or treatment services to patients with Parkinson's disease to maintain their own facility-based Parkinson's disease registries.

F. Reporting sources shall not collect, track, or report information on a Parkinson's disease patient whenever the patient objects based on his or her religious beliefs.

RS 40:31.64 — Director

grants of public or private funds for the program. The director shall analyze available incidence data and prepare reports and perform studies as necessary to identify Parkinson's disease hazards to the public health and further identify possible mitigating or preventative factors.

RS 40:31.65 — Authority and responsibility of the director

orted in the state or any demographic parts of the state in which Parkinson's disease information is collected pursuant to this Section. All cases of Parkinson's disease diagnosed or treated in the reporting area shall thereafter be reported to the representative of the department authorized to compile the Parkinson's disease data or any individual, agency, or organization designated to cooperate with that representative.

RS 40:31.66 — Confidentiality; cooperation with other state and federal entities

ot be subject to discovery. Such information shall not be released, except to persons with a valid scientific interest who are engaged in demographic, epidemiological, or other similar studies related to health who meet qualifications as determined by the department, and who agree, in writing and according to standards which shall be determined by the department, to maintain confidentiality. In addition, the individual or individuals to whom the information pertains shall be permitted access to his or her own information upon written request.

B. The department and any regional Parkinson's disease registry designated by the department may enter into agreements to furnish confidential information to other states' Parkinson's disease registries, federal Parkinson's disease control agencies, local health officers, or health researchers for the purpose of determining the sources of Parkinson's disease and evaluating measures designed to eliminate, alleviate, or ameliorate their effect. Before confidential information is disclosed to those agencies, officers, researchers, or out-of-state registries, the requesting entity shall agree in writing, and according to standards and requirements to be determined by the department, to maintain the confidentiality of the information.

C. Notwithstanding any other provision of law to the contrary, any disclosure authorized in accordance with this Section shall include only the information necessary for the stated purpose of the requested disclosure, used for the approved purpose, and not be further disclosed.

D. The furnishing of confidential information to the department or its authorized representative in accordance with this Section shall not expose any person, agency, or entity furnishing information to liability and shall not be considered a waiver of any privilege or a violation of a confidential relationship.

E. The department shall maintain an accurate record of all persons who are given access to confidential information. The records shall include the name of the person authorizing access; name, title, address, and organizational affiliation of persons given access; dates of access; and the specific purpose for which information is to be used. The record of access shall be open to public inspection during normal operating hours of the department.

F. Nothing in this Section shall prohibit the publication by the department of reports and statistical compilations that do not in any way identify individual cases or individual sources of information.

RS 40:31.67 — Funding

funding from any and all sources, including private or federal funds, to implement these provisions.

RS 40:31.68 — Rules and regulations

ce any technical difficulties navigating this website,

RS 40:31.71 — Legislative findings

a diagnosis of exclusion, meaning that it becomes the diagnosis after other options are exhausted.

(2) The average time living with the disease is two to five years and is often shorter

and seldom much longer unless invasive measures are taken, such as a tracheostomy.

(3) It costs over two hundred thousand dollars per year to live with a tracheostomy tube, so ninety percent of the ALS population in the United States chooses not to undergo the procedure.

(4) Because the disease progresses so rapidly, patients most often do not attend an ALS clinic or long-term care clinic where their diagnosis would or could be reported to the Centers for Disease Control and Prevention (CDC), the organization tasked with counting those with ALS.

(5) The CDC program uses payor information and self-reporting to create their data and acknowledges that their numbers are likely low, but they are beholden to the methods outlined by Congress.

(6) Several studies have been done to show that in states with implemented efforts to count those living with ALS, the number dramatically increased in each state.

(7) Louisiana currently reflects very few people with ALS north of Baton Rouge, likely because they remain uncounted.

(8) The only state, Massachusetts, that has ALS as a mandatory reportable disease has become a hub for ALS research.

RS 40:31.72 — ALS disease surveillance system

collect, analyze,

interpret, and disseminate data relative to individuals living with ALS in Louisiana.

B. In establishing the surveillance system, the department shall require reporting sources to report information on ALS to the office of public health.

RS 40:31.73 — Confidentiality

discovery.

Data shall not be released for any child unless express written informed consent of a parent or legal guardian has been obtained. Data gathered by the office shall be used only for the purposes set forth in this Part.

RS 40:31.74 — Report

the House and Senate committees on health and welfare.

RS 40:32 — Definition of terms

indicates:

(1) "Biological parents" means a husband and wife, joined by legal marriage recognized as valid in this state, who provide sperm and egg for in vitro fertilization, performed by a licensed physician, when the resulting fetus is carried and delivered by a surrogate birth parent who is related by blood or affinity to either the husband or wife.

(2) "Dead body" means a lifeless human body or such severed parts of the human body, or the bones thereof, from the state of which it may be reasonably concluded that death has recently occurred.

(3) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe

or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(4) "File" means the presentation of a vital record provided for in this Chapter for registration by the vital records registry.

(5) "Final disposition" means the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or fetus.

(6) "Funeral director or person acting as such" is a licensed funeral director or embalmer as defined in R.S. 37:831 et seq. or persons acting under the authority of the state health officer in accordance with R.S. 40:5.

(7) "Induced termination of pregnancy" (abortion) means the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus and if

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such interruption does not result in a live birth.

(8) "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domiciliary care, or to which persons are committed by law.

(9) "Live birth" means a birth in which the child shows evidence of life after complete birth. A birth is complete when the child is entirely outside the mother, even if the umbilical cord is uncut and the placenta still attached. The words "evidence of life" include heart action, breathing, or movement of voluntary muscles.

(10) "Person in charge of interment" means any person who places or causes to be placed a deceased or stillborn child, dead body, or, after cremation, the ashes thereof, in the earth, a grave, tomb, vault, urn, or other receptacle, either in a cemetery or at any other place, or otherwise disposes thereof.

(11) "Physician" means a person authorized under the laws of this state to practice medicine.

(12) "Public health statistics unit" means that section which codes, tabulates, analyzes, reports, and coordinates vital records and other health status indicator data for the office of public health.

(13) "Registration" as otherwise qualified in rules and regulations means the acceptance of vital records by the vital records registry and the incorporation thereof into its official records.

(14) "Removal" means the transportation of a dead human body or the remains thereof from the jurisdiction of the state of Louisiana.

(15) "Signature" or "sign(ed)" means a written signature or an electronic signature.

(16) "Spontaneous fetal death" and "stillbirth" mean the expulsion or extraction of a product of human conception resulting in other than a live birth and when the expulsion or extraction is not the result of an induced termination of pregnancy.

(17) "System of vital records" means the registration, collection, preservation, amendment, certification, and issuance of certified copies of vital records required by this Chapter and activities related thereto.

(18) "Vital records", "certificates", or "forms" means paper or electronic reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment, and data related thereto.

(19) "Vital records registry" means a central registry as provided for in R.S. 40:33(A) which maintains the vital records archives and operates the system of vital records.

RS 40:33 — Vital records registry; establishment; general authority and duties of state registrar

th and a registrar of vital records for the state with an office properly equipped and operated for the safety and preservation of all vital records covering the births, deaths, marriages, divorce judgments, adoptions, and change of names, made and received under this Chapter or under the regulations adopted by the Louisiana Department of Health.

B. The vital records registry shall be directed by the state registrar who shall enforce this Chapter and the regulations made pursuant thereto and shall investigate all cases of irregularity in preparation and filing of vital records. Documents shall not be registered until such irregularities have been resolved.

C. Subject to the provisions of this Chapter, the secretary of the Louisiana Department of Health shall make and amend, after due notice and hearing, in accordance with the provisions of the Administrative Procedure Act, regulations necessary for the efficient performance of a single adequate system of vital records for this state, and shall give instructions for collecting, transcribing, compiling, analyzing, reporting, preserving, and issuing certified copies of vital records.

D. The domicile of the vital records registry shall be in the parish of Orleans. All suits or mandamus actions brought against the registry shall be brought in the parish of Orleans.

E. The appointment of the state registrar shall be in accordance with the civil service law and regulations.

F. The state registrar, with the approval of the secretary of the Louisiana Department of Health shall prescribe, print, and supply each parish with all certificate forms or reports provided for in this Chapter. The local registrar shall supply such forms to every hospital, clinic, almshouse, lying-in hospital, or other institution, public or private, including penal institutions, located in his registration district to which persons resort for treatment of disease or injury or for childbirth or are committed by process of law and to all physicians in his registration district.

G. Any person having knowledge of the facts shall furnish such information as he or she may possess regarding any birth, death, spontaneous fetal death, induced termination of pregnancy, marriage, or divorce, dissolution of marriage, or annulment, upon demand of the state registrar. Nothing in this Section or Chapter shall be construed to require the person charged by R.S. 40:45 with preparing birth certificates to make other than a reasonable effort, as defined in R.S. 40:44, to obtain missing information or signature.

H. Repealed by Acts 2010, No. 175, §6.

RS 40:34 — Vital records forms

its, and any

other forms recommended by the national office in charge of gathering vital statistics. Only

these forms shall be used in registering, recording, and preserving the vital information required by this Chapter. These forms shall be typewritten in black type or written in jet black ink or transferred by electronic means. Additionally each certificate of a birth occurring in a licensed hospital shall be typewritten in black type or computer generated. Whenever a form is changed, the new form shall be furnished to the person charged with preparing it not less than thirty days prior to the date upon which the form shall be required to be used.

(2) The Louisiana Department of Health shall promulgate rules and regulations in accordance with the Administrative Procedure Act to allow electronic registration in lieu of typewritten or written birth, death, fetal death, marriage, and divorce certificates.

B. The forms shall be printed and supplied or provided by electronic means by the state registrar.

C.(1) Each coroner or physician who signs a death certificate shall certify the certificate using the Louisiana Electronic Event Registration System of the Louisiana Department of Health, state registrar of vital records.

(2) Each coroner shall report drug overdose deaths where the decedent's toxicology results indicate that an opioid was present at the time of death and related to the overdose. The reporting shall be entered into the Louisiana Electronic Event Registration System of the Louisiana Department of Health, state registrar of vital records.

RS 40:34.1 — Original birth certificate; required contents

case of a child born of a surrogate birth parent as a result of an enforceable gestational carrier contract, as provided in R.S. 9:2720, the biological parents shall be considered the parents of the child.

RS 40:34.2 — Original birth certificate; required contents; name of child

(1) First name.

(a) If the child dies without a first name before the certificate is filed, enter the words "died unnamed" in this blank.

(b) If the living child has not yet been given a first name at the date of filing of the certificate, leave blank the space for the first name of the child and enter the name later when supplied by affidavit.

(2) Surname.

(a) Unless otherwise provided by law and except as provided in Subparagraph (c) of this Paragraph, if the child is born to a mother who either is married or was married within three hundred days prior to the birth of the child, the surname of the child shall be recorded in accordance with the following requirements:

(i) If the mother is married at the time of the birth of the child, and if the mother was not married to another man within three hundred days prior to the birth of the child, the surname of the child shall be the surname of the current husband of the mother.

(ii) If the mother, though married to one man at the time of the birth of the child, was married to another man within three hundred days prior to the birth of the child, the surname of the child shall be the surname of the former husband of the mother.

(iii) If the mother, though unmarried at the time of the birth of the child, was married

to a man within three hundred days prior to the birth of the child, the surname of the child shall be the surname of the former husband of the mother.

(iv) In any of these cases, if both the man whose surname should be given to the child and the mother agree, the surname of the child may be the maiden name or surname of the mother or a combination of the surname of the man and the maiden name or surname of the mother.

(b) If the child is born to a mother who neither is married nor was married within three hundred days prior to the birth of the child, the surname of the child shall be the maiden name or surname of the mother, at her discretion. If the father has acknowledged his child by authentic act and if both the mother and the father agree, the surname of the child may be the maiden name or surname of the mother, the surname of the father, or a combination of the surname of the father and the maiden name or surname of the mother.

(c) In the case of a child born to a mother who either is married or was married within three hundred days prior to the birth of the child, including cases in which both a person presumed to be the father pursuant to the Civil Code and a biological father exist, the surname of the biological father who has been judicially declared to be the father of the child in a filiation or paternity proceeding shall be the surname of the child. If the biological father and the mother agree, the surname of the child shall be the maiden name or surname of the mother or a combination of the surname of the biological father and the maiden name or surname of the mother.

(d) In the case of a child born of a surrogate birth parent as a result of an enforceable gestational carrier contract, as provided in R.S. 9:2720, the surname of the child's biological parents shall be the surname of the child.

(e) In any case provided for in this Paragraph, if the mother or the man whose surname may be given to the child possesses both a paternal and maternal surname according to national custom or practice, the surname of the child may be consistent with the national custom or practice of the mother or man.

RS 40:34.4 — Original birth certificate; required contents; circumstances of birth

es shall include all of the following:

- (1) Time of birth.
- (2) Date of birth, including the year, the month, and the day.
- (3) Place of birth, address, including city or town and state; if in a hospital or other institution, its name.
- (4) Whether a plural birth. A separate certificate is required for each child in a plural birth.
- (5) If a plural birth, the number of each child in order of birth.

RS 40:34.5 — Original birth certificate; required contents; name of father

the child, the full name of the father shall be recorded in

the same manner provided for the recordation of the surname of the child in R.S.

40:34.2(2)(a) and (c), unless otherwise provided by law.

B. If the child is born to a mother who neither is married nor was married within three hundred days prior to the birth of the child, the full name of the father who has

acknowledged his child by authentic act shall be included on the birth record of the child, but only if the father and mother agree.

C. In the case of a child born of a surrogate birth parent as a result of an enforceable gestational carrier contract, as provided in R.S. 9:2720, the full name of the biological father shall be listed as the father.

D. In all other cases, the name of the father and other information pertaining to the father shall not appear on the birth certificate and the surname of the child shall be recorded as the maiden name or surname of the mother, at her discretion.

NOTE: Subsection (E) eff. until October 1, 2027. See Acts 2025, No. 477.

E. Nothing in this Section shall preclude the Department of Children and Family Services, office of children and family services, child support enforcement section from obtaining an admission of paternity from the biological father for submission in a judicial proceeding, or prohibit the issuance of an order in a judicial proceeding which bases a legal finding of paternity on an admission of paternity by the biological father and on any other additional showing required by state law.

NOTE: Subsection (E) as amended by Acts 2025, No. 477, eff. October 1, 2027.

E. Nothing in this Section shall preclude the Department of Children and Family Services, office of child support from obtaining an admission of paternity from the biological father for submission in a judicial proceeding, or prohibit the issuance of an order in a judicial proceeding which bases a legal finding of paternity on an admission of paternity by the biological father and on any other additional showing required by state law.

RS 40:34.5.1 — Three-party acknowledgment of paternity; effect

child, the mother, and the

biological father of the child may execute a three-party acknowledgment of paternity pursuant to Civil Code Article 190.1 on the form provided by the Louisiana Department of Health. Upon receipt of that form and a certified report of blood or tissue sampling which indicates by a ninety-nine and nine-tenths percentage point threshold probability that the biological father is the father of the child, the state registrar shall:

- (1) For the father of the child, record the full name of the biological father.
- (2) For the surname of the child, record the maiden name or surname of the mother, at her discretion. However, if the biological father and the mother agree, the state registrar shall record as the surname of the child the maiden name or surname of the mother, the surname of the biological father, or a combination of the surname of the biological father and the maiden name or surname of the mother.

RS 40:34.5.2 — Form and notice for three-party acknowledgment of paternity

the form, for the purposes of implementing R.S.

40:34.5.1. The form shall include the following:

- (1) A declaration in authentic form by the husband or former husband presumed to be the father of the child that he is not the father of the child.
- (2) A declaration in authentic form by the biological father that he is the father of the child and that a certified report of blood or tissue sampling indicates by a ninety-nine and nine-tenths percentage point threshold probability that he is the biological father of the child.

(3) A declaration in authentic form by the mother, husband or former husband presumed to be the father of the child, and the biological father of the child that each understands the form and has executed it voluntarily, and that each has received written notice of the consequences of executing the form.

RS 40:34.6 — Original birth certificate; required contents; name of mother

birth certificate; however, if the child was born of a surrogate birth parent as a result of an enforceable gestational carrier contract, as provided in R.S. 9:2720, the maiden name of the biological mother shall be listed as the mother.

RS 40:34.7 — Original birth certificate; required contents; other information regarding the parents
ficate:

- (1) Respective ages of parents on their last birthday, in years.
- (2) Races of parents as reported by the parents.
- (3) Ethnicities of parents as reported by the parents.
- (4) Residences of parents.
- (5) Birthplaces of parents, at least the state or foreign country, if known.
- (6) Number of children born to this mother.
- (7) Number of children born to this mother living.
- (8) Social security account numbers issued to the parents, if obtainable; however, these numbers shall not be printed on the birth certificate of the child, but shall be entered only as a part of vital records.

RS 40:34.8 — Original birth certificate; required contents; certification of attendant

the year, month, day, and hour of birth, shall be entered on the original birth certificate. This certification shall be signed by the physician, midwife, or other person in attendance, with the address and date of signature.

RS 40:34.9 — Original birth certificate; required contents; attestation of local filing

ntered on the original birth certificate.

RS 40:34.10 — Death certificate; required contents

cial security number issued to the decedent, unless a social security number cannot be obtained.

- (3) Sex.
- (4) Race.
- (5) Ethnicity.
- (6) Conjugal status; single, married, widowed, or divorced. If married, name of spouse.
- (7) Age, in years, months, and days. If less than one day, in hours or minutes.
- (8) Occupation, including any remunerative employment; the trade, profession, or particular kind of work; the general nature of the industry, business, or establishment in which employed.
- (9) Place of residence, address, including city or town and state.
- (10) Date of birth, including year, month, and day.
- (11) Place of birth; if of foreign birth, how long in the United States.

(12) Name and birthplace of father.

(13) Maiden name and birthplace of mother.

(14) Place of death, address, including city or town and state.

(15) Name and address of the informant of the above items. The informant may be any competent person acquainted with the facts, attesting to the accuracy of the above information.

(16) Official signature of the local registrar, with the date when the certificate containing the above items was filed and the registered number of the certificate.

(17) Date and place of burial, cremation, or removal.

(18) Signature and address of undertaker, or person acting as such, on the statement of facts required in Paragraph (17) of this Section.

(19) The medical certification of the physician, if any, last attending to the deceased, which certificate shall be made and signed by the physician within twenty-four hours after death with his name and address. In the absence of a physician, the parish coroner shall sign the certificate. In either event, the certification shall contain the following items:

(a) The fact and date of death, including year, month, day, and the time of the day.

(b) Time in attendance.

(c) Time he last saw the deceased alive.

(d) Cause of death, showing the course of the disease or the sequence of causes resulting in the death; and contributory or secondary causes, the duration of each, and whether any primary or secondary causes of death are attributed to dangerous or insanitary conditions of employment. If the cause of death was violent, the certificate shall show the determination of the coroner as to whether the death was probably accidental, suicidal, or homicidal.

RS 40:34.11 — Paternity acknowledgement affidavit; required contents

nts of the affidavit specified by the secretary
of the United States Department of Health and Human Services under 42 U.S.C. 652(a)(7).

RS 40:34.12 — Provision of information to aid implementation of program of family support

) to the agency charged with implementing a program of family
support in accordance with R.S. 46:236.1.1 et seq.

RS 40:34.13 — Registration of acknowledgements and adjudications of paternity

Louisiana court shall be filed with the state registrar,
office of vital records, in a central repository pursuant to 42 U.S.C. 666(a)(5)(M).

RS 40:35 — Failure to complete medical certification

noting only symptoms of disease or conditions resulting from disease and the like, the state registrar may require that the certificate be returned for completion and no certified copy of the death certificate shall be issued until completed properly.

RS 40:36 — State registrar as custodian

municipality, or which may
hereafter be received by him. He shall gather, compile, index, bind, and make provisions for
the storage and preservation of these records.

B. The state registrar shall take every precaution to preserve all documents in their original form.

C. To preserve vital records, the state registrar is authorized to prepare accurate typewritten, photographic, electronic, or other reproductions of certificates or reports in the vital records registry. Such reproductions when certified by the state registrar shall be accepted as the original records.

D. The public health statistics unit as provided for in R.S. 40:32(5) shall provide reports containing analysis and tabulation of data derived from certificates and reports required under this Chapter, as determined necessary for health planning and program activities.

E. The state registrar may delegate such functions and duties vested in him or her to employees of the vital records registry.

F. The public health statistics unit shall submit to the secretary of the Louisiana Department of Health, to the legislature, and to the governor an annual report which shall take the form of a compilation and recapitulation of the information received pursuant to this Section and shall include such information as required in accordance with the provisions of R.S. 40:65.

G. The state registrar of vital records may annually transfer and the secretary of state, division of archives, records management and history, is authorized to receive all birth records over one hundred years old and all records of death, stillbirth, marriage, dissolution of marriage, and annulment over fifty years old which records shall be available for use by genealogists and the general public. Such records shall not be subject to the amendment or alteration provisions of this Chapter.

H. The state registrar of vital records shall provide a monthly report to each assessor concerning the deaths which occurred in the state during the preceding calendar month, as provided for in R.S. 47:1965.

RS 40:37 — Local registrars; duties

as local registrar in Orleans Parish. All local registrars shall be responsible for completion of incomplete birth certificates not properly returned to the preparer and shall enforce the provisions of this Chapter and regulations adopted thereunder.

RS 40:38 — Certified copies; issuance

re of records under this

Title and regulations duly promulgated in accordance with the Administrative Procedure Act.

RS 40:39 — Issuance of short-form birth certification cards

iginal documents on file in the vital records registry, and for use as legal proof of the recorded facts of birth for all purposes.

B. Short-form birth certification cards and abstracts shall be issued only for those births registered with the central vital records registry within twelve years of the date of birth.

C. An applicant requesting the issuance of a "long-form" certified photocopy or certified record of the original birth record in lieu of the "short-form birth certificate card" may obtain it by submitting an application and appropriate fee.

RS 40:39.1 — Certified copies of birth certificates and death certificates; clerks of district courts

A. The state registrar of vital records shall promulgate rules to implement the issuance of certified copies of birth certificates and death certificates through the office of

the clerk of district court in each parish and the office of clerk of the Second City Court of the city of New Orleans. Such rules shall apply only to issuance of those birth and death records that are available for electronic issuance from the birth and death databases of the vital records registry and shall include access to the following items:

(1) Automated access, retrieval, and production of short-form birth certificates, long-form birth certificates, and death certificates by the clerks of district courts and the clerk of

the Second City Court of the city of New Orleans using the data network available to the secretary of state.

(2) Record searches to be conducted by the offices of the clerks of court.

(3) Sale of certified copies of birth and death certificates issued by the offices of the clerks of court.

B.(1) The clerk of district court in each parish and the clerk of the Second City Court of the city of New Orleans may issue certified copies of short-form birth certificate cards and long-form birth certificates and death certificates in accordance with rules promulgated pursuant to Subsection A of this Section. In addition to fees collected for issuance of a birth record or death certificate as provided in R.S. 40:40, the clerk of court shall collect a fee of five dollars for a short-form birth certificate and nineteen dollars for a long-form birth certificate or a death certificate. A short-form birth certificate card may be purchased only by an individual who also purchases a long-form birth certificate in the same transaction.

(2) Clerks shall pay to the state registrar such amounts as are required in R.S. 40:40.

In addition, four dollars for each long-form birth certificate or death certificate issued by each clerk of court shall be remitted to the state treasurer on the tenth day of each month for deposit in the state treasury. The funds deposited shall be credited to the Bond Security and Redemption Fund. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated to pay all obligations secured by the full faith and credit of the state which become due and payable in any fiscal year, the treasurer shall credit to the Vital Records Conversion Dedicated Fund Account, hereby created, an amount equal to the funds deposited under the provisions of this Section. Monies deposited into the Vital Records Conversion Dedicated Fund Account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

(3) The monies held in the Vital Records Conversion Dedicated Fund Account shall only be appropriated with the mutual consent of the secretary of state and the secretary of the Louisiana Department of Health for the following purposes:

(a) For installation and establishment of a communications network and computer hardware to provide for the electronic issuance of birth and death certificates.

(b) For maintenance of the communications network and related computer hardware.

(c) For conversion of existing birth and death records to a format suitable for electronic issuance.

(4) All unexpended and unencumbered monies in the Vital Records Conversion Dedicated Fund Account at the end of the fiscal year shall remain in the account. The

monies in the account shall be invested by the treasurer in the same manner as monies in the state general fund. All interest earned on account monies invested by the treasurer shall be deposited in the account.

(5) Notwithstanding any other provision of law to the contrary, in addition to fees collected for issuance of a birth record or death certificate as provided in R.S. 40:40, and Paragraph (1) of this Subsection, the clerks of district court in East Feliciana Parish and West Feliciana Parish may charge an additional ten dollar fee for issuance of certified copies of birth certificates and death certificates.

C. The clerks of district courts, the clerk of the Second City Court of the city of New Orleans, and the secretary of state shall be subject to provisions of this Chapter governing confidentiality of vital records information in the same manner provided for the state registrar and provisions governing to whom a certified copy of a birth certificate or death certificate may be issued. Any birth certificate or death certificate issued by the clerk of a district court and the clerk of the Second City Court of the city of New Orleans shall be accepted as an original record.

D. The state registrar shall promulgate the rules necessary for the implementation of the provisions of this Section on or before January 1, 2015.

RS 40:40 — Fees for certified copies

fication card.

(2) A fee of eleven dollars for the issuance of a certified photocopy or certified record of an original birth record, or "long-form" copy.

(3) A fee of nine dollars for the issuance of an initial certified copy of a death certificate sold to funeral directors, and a fee of seven dollars for all subsequent issuances of the same death certificate.

(4) A nonrefundable fee of eighteen dollars for filing a delayed certificate of birth or death.

(5) A fee of five dollars for each certified copy of a delayed certificate of birth or death.

(6) A fee of fifteen dollars for each marriage license and a fee of five dollars for each certified copy of a marriage certificate.

(7) Repealed by Acts 2003, No. 657, §2.

(8) A nonrefundable fee of eighteen dollars for filing an acknowledgment in connection with a certificate of birth on file.

(9) A nonrefundable fee of eighteen dollars for filing an adoption judgment in connection with a certificate of birth on file.

(10) A nonrefundable fee of eighteen dollars for filing of any correction of a birth or death certificate, except corrections that are initiated within ninety days of the filing date shall be made without charge.

(11) A fee of five dollars for each certified copy of a certificate after amendment by the filing of an acknowledgment, adoption, or correction.

(12) In the event that there is no record on file, the fee shall be retained to cover time consumed in searching for any record.

(13) Services provided to public bodies shall be subject to regulations duly promulgated in accordance with the Administrative Procedure Act.

(14) Notwithstanding the provisions of any other Paragraphs of this Section to the contrary, in no case shall a fee be charged for the first certified copy of a birth certificate mailed to the address of the parent shown on the newborn child's birth certificate. This certified copy shall be mailed as soon as practical after the birth certificate has been accepted for registration and numbering. Fees for subsequent certified copies of birth certificates shall be charged in accordance with other Paragraphs of this Section.

(15) A fee of ten dollars for each certified copy of an evidentiary document.

(16) A fee of ten dollars for each certified copy of a divorce certificate.

(17) A fee of ten dollars for issuance of a putative father registry certificate.

RS 40:41 — Disclosure of records

lose data contained in

vital records, except as authorized by this Chapter.

B.(1)(a) Disclosure of confidential birth information from which can be determined whether the child was born of or outside of marriage may be made only upon order of the court in any case where that information is necessary for the determination of personal or property rights and then only for that purpose. Upon receiving an order from the court, the vital records registrar shall file a copy of the birth certificate, marked for judicial purposes only, under seal in the records of the clerk of court. The judge presiding over the matter may review the birth certificate in chambers and may use the birth certificate within his discretion during the course of the proceedings. No copies of the birth certificate shall be issued by the court to the litigants in the proceeding. The birth certificate shall be destroyed at the conclusion of the proceedings after all appeal delays have lapsed.

(b) The provisions of Subparagraph (a) of this Paragraph shall not apply in any case where any member of law enforcement, United States attorney, attorney general, or district attorney makes written request to the state registrar. Upon receipt of such written request, the registrar shall make disclosure to any member of law enforcement, United States attorney, attorney general, or district attorney requesting same, of the contents of birth records in the registrar's custody.

(2)(a) Disclosure of confidential death certificate information may be made only upon order of the court in any case where a judge orders that information is necessary for the resolution of the proceeding and then only for that purpose. Upon receiving an order from the court, the vital records registrar shall file a copy of the death certificate, marked for judicial purposes only, under seal in the records of the clerk of court. The judge presiding over the matter may review the death certificate in chambers and may use the death certificate within his discretion during the course of the proceedings. No copies of the death certificate shall be issued by the court to the litigants in the proceeding. The death certificate shall be destroyed at the conclusion of the proceedings after all appeal delays have lapsed.

(b) The provisions of Subparagraph (a) of this Paragraph shall not apply in any case where any member of law enforcement, United States attorney, attorney general, public administrator, or district attorney makes a written request to the state registrar. Upon receipt of such written request, the registrar shall make disclosure to any member of law enforcement, United States attorney, attorney general, public administrator, or district attorney requesting same, of the contents of the death certificate in the registrar's custody.

C.(1) The state registrar shall not permit inspection of the records or issue a certificate, or any part thereof, unless he is satisfied that the applicant is any of the following:

(a) The person named in the certificate.

(b) A member of the immediate or surviving family of the person named in the certificate.

(c) A person named in a court proceeding as a member of the immediate or surviving

family of the person named in the certificate.

(d) The beneficiary of an insurance policy or trust.

(e) A succession representative.

(f) A universal or general legatee in judgment of possession.

(g) Any beneficiary of a decedent's public pension plan.

(h) Any beneficiary of a decedent's individual retirement account or other private retirement plan or pension.

(i) Any beneficiary of a decedent's financial institution accounts, including security accounts, classified as a "payable on death account".

(j) An agent for the surety of the person named in the certificate when the person named in the certificate is a party to a criminal bail bond. Proper documentation, including a copy of the power of attorney, shall be required by the agent for the surety requesting the certificate.

(2)(a) The credentials of an attorney, together with a written declaration of the record in which the attorney is interested and a written declaration or oral statement that the attorney is a legal representative of one of the named parties referenced in Paragraph (1) of this Subsection, including parties under the age of eighteen, shall constitute sufficient proof of a direct interest in the matter recorded. The state registrar shall accept and fulfill requests for birth certificates upon submission of such a written declaration with a copy of the credentials of the attorney, whether the request is submitted by the attorney or by a nonlawyer employed or retained by or associated with that attorney.

(b) In addition to the provisions of Subparagraph (a) of this Paragraph, a written declaration by the attorney that he is preparing a small succession pursuant to Code of Civil Procedure Article 3431 et seq. for the deceased person whose death certificate is being requested shall constitute sufficient proof of a direct interest in the matter recorded.

(3) The provisions of this Subsection shall not apply to marriage records.

(4) The provisions of this Subsection shall not apply to the release of birth rosters to local city and parish supervisors of child welfare and attendance; however, such birth information shall be kept confidential by the supervisors of child welfare and attendance and not used for any purpose other than the enforcement of the compulsory school attendance law.

(5) The state registrar shall issue a certified copy of a death certificate to a funeral director acting at the request of the immediate or surviving family up to one year following the date of death. Thereafter, the provisions of R.S. 40:41(C)(1) and (2) shall apply.

(6) The state registrar shall issue a certified copy of a death certificate to a notary if the notary submits his credentials and declares in writing that he is assisting an heir of the deceased in the preparation of a small succession in accordance with Code of Civil Procedure Article 3431 et seq.

D.(1) In accordance with rules and regulations promulgated by the state health officer to ensure that all identifying information is kept confidential, the data contained in vital records may be made available to state judicial district courts to enable the courts to remove deceased persons from the juror rolls, to the department for use in the administration of the

programs of the department, and to qualified researchers.

(2) A panel of public health officials which shall include the state health officer, the state registrar, and the tumor registry administrator shall review each proposal for use of vital records in the administration of the programs of the department or in research to ensure:

(a) That the proposal is in the best interest of the state or the public health of its citizens, and

(b) That those persons having access to vital records are either involved in the administration of the programs of the department or are well qualified to conduct research.

(3) Only those proposals which are certified by the panel as meeting these two standards shall be approved by the panel to use confidential vital records.

E. The registrar shall make available for inspection and copying and shall forward upon request copies of records of deaths to the Louisiana cancer registry program established pursuant to R.S. 40:1105.1 et seq.

F. The federal agency responsible for national vital statistics may be furnished such copies or data from the system of vital records as it may require for national statistics, provided such federal agency shares in the cost of collecting, processing, and transmitting such data, and provided further that such data shall not be used for other than statistical purposes by the federal agency unless so authorized by the state registrar.

G. The state registrar may, by agreement, transmit copies of records and other reports required by this Chapter to offices of vital statistics outside this state when such records or other reports relate to residents of those jurisdictions or persons born in those jurisdictions. The agreement shall require that the copies be used for statistical and administrative purposes only and the agreement shall further provide for the retention and disposition of such copies. Copies received by the vital records registry from offices of vital statistics in other states shall be handled in the same manner as prescribed in this Section.

H. The state registrar shall, pursuant to rules and regulations promulgated by the secretary of the Louisiana Department of Health, transmit information from the death certificate of any state resident to each public agency from which the deceased received, or could have received, benefits. The Department of Public Safety and Corrections shall be notified of the death of each state resident. Such information shall be limited to the name of the deceased, his address, the date of death, date of birth, and any other identifying information which may be necessary for the public agency to identify the deceased as a recipient of benefits.

I. The state registrar shall issue a certified copy of a birth or death certificate to any public retirement system, fund, or plan in the state of Louisiana upon written request of the respective retirement system for the following purposes:

(1) A certificate is required by the retirement system to determine if benefits are owed by or to the retirement system.

(2) The immediate or surviving family has refused to provide such certificate and refused to authorize the retirement system to request such certificate or if the birth or death certificate provided appears to be altered or forged.

J.(1) Data contained in the vital records registry shall be made available upon written

request by the Louisiana Department of Health for review or use by the Louisiana Department of Health in evaluating the effectiveness of departmental programs. The data shall only be utilized for this specific purpose.

(2) Any Louisiana Department of Health employee using data that may contain identifying information shall sign a statement ensuring confidentiality.

(3) Any identifying data shall be stripped from resulting databases as soon as the need for it has expired.

(4) All data shall be destroyed or returned to the office of vital records by the Louisiana Department of Health upon the finalization of the evaluation process.

K. Upon the written request of the Louisiana Office of Student Financial Assistance in the case of a student loan guaranteed by the Student Financial Assistance Commission, or the written request of the office of the attorney general when a student loan is being collected by the office of the attorney general, the state registrar shall issue a certified copy of a death certificate to the respective requesting office when the certificate is required by the office to determine whether a student loan is eligible for discharge and the immediate or surviving family has refused to provide such certificate, has refused to authorize the office to request such certificate, or the death certificate provided appears to be altered or forged.

L.(1) Upon written request, the state registrar shall issue a certified copy of a death certificate to a representative of an organ procurement organization designated for the state of Louisiana by the United States Department of Health and Human Services, which presents a document of a gift as defined in R.S. 17:2351 for the sole purpose of documenting donor eligibility in accord with the United States Food and Drug Administration regulations and industry standards.

(2) The written request of the organ procurement organization shall be transmitted by telefax, electronic delivery, or by United States mail.

(3) The written request shall contain all of the following:

(a) The organization's name and citation to the United States Department of Health and Human Services website or correspondence evidencing its designation as an organ procurement organization for the state.

(b) The donor's name.

(c) The donor's date of birth.

(d) The donor's date of death.

(e) The requestor's name.

(f) The requestor's telephone number.

(g) The requestor's date of request.

(h) A request that the certified copy be transmitted by telefax, electronic delivery, or by United States mail.

(4) The information required by Paragraph (2) of this Subsection, together with the documentation of a donor's anatomical gift, shall constitute sufficient proof for the release of the death certificate.

(5) If the organization's requested form of transmittal is by telefax or electronic delivery, the death certificate shall be accompanied by the state registrar's verification that

the death certificate is a duplicate of the original, the date the copy of the death certificate was issued by the state registrar's representative, along with his signature and title.

M.(1) For the purpose of determining the eligibility of a person to participate in veterans' benefits, upon written request, the state registrar shall issue a certified copy of a death certificate to a representative from the United States Department of Veterans Affairs. The written request from the United States Department of Veterans Affairs, howsoever transmitted, shall constitute sufficient proof for release of the certificate.

(2) The state registrar may submit data related to deaths of veterans directly to the United States Department of Veterans Affairs for the purpose of determining the eligibility of veterans benefits.

N. The state registrar shall issue the following records to the Department of Children and Family Services upon the written request of an office of the department:

- (1) A certified copy of a birth certificate of a child placed in the custody of the Department of Children and Family Services.
- (2) A certified copy of a death certificate of a child who was in the custody of the Department of Children and Family Services at the time of his death.
- (3) A certified copy of a death certificate of a parent of a child placed in the custody of the Department of Children and Family Services.

RS 40:42 — Evidentiary character of certificates

tated. The names of parents as entered on birth and death records shall not be deemed to be prima facie evidence of the existence of a marriage between the said parents.

B. Certified copies of original certificates shall be admitted as evidence under the same conditions as the original certificate. Upon service of a subpoena at least seven days in advance of the return date, the state registrar shall forward a certified copy of the subpoenaed document, by certified mail, to the clerk of court or other lawful authority who issued the subpoena. A personal return with the original document shall not be required unless the court or other lawful authority, for good cause shown, orders the production of the original by a personal return by the state registrar or his designee.

RS 40:44 — Compulsory registration of births; rejection of certificates

the birth occurred or, at the direction of the state registrar, the certificate shall be filed directly with the central vital records registry. In the event that any information or signature required by this Chapter has not been obtained within the time allowed, the person responsible for preparing the certificate shall nevertheless file the certificate with such information and signatures as have been obtained and shall demonstrate that a reasonable effort has been made to obtain the missing information or signature. For the purposes of this Section, a request by certified mail to the last known address of the person or entity having the needed information or required to sign after an attempt to contact the person or entity by regular mail, telephone, or both, shall constitute reasonable effort.

(2) In the event that a signature other than the physician's signature has not been obtained, then the hospital shall also certify on a separate document that the information contained on the certificate accurately reflects the contents of the medical record. The state registrar or local registrar shall then sign the certificate in place of the missing signature.

B. No certificate shall be returned for completion which complies with this Section. No certificate which is otherwise accurate and legible shall be rejected for minor blemishes or aesthetic flaws, except that certificates which contain erasures, liquid paper, type-overs, or other evidence of alteration in the legal section shall not be accepted by the state registrar nor shall documents be accepted which are not machine readable due to information overlap with lines or text on the birth certificate form.

C. A certificate not in compliance with this Section or otherwise properly rejected shall be returned within fifteen days of receipt by the local registrar to the person charged by R.S. 40:45 with preparing it. That person shall, within fifteen days of receipt, obtain the missing information or signature or demonstrate that a reasonable effort has been made to obtain

the missing information or signature.

RS 40:45 — Preparation of birth certificates; by whom made

n or his or her designated representative shall obtain, or make a reasonable effort, as defined in R.S. 40:44, to obtain the personal data, prepare the certificate, secure, or make a reasonable effort, as defined in R.S. 40:44, to secure the signatures required, and file the certificate as directed in R.S. 40:44. The physician or other person in attendance shall provide the medical information required by the certificate and certify to the facts of birth within seven days after the birth.

If the physician, or other person in attendance, does not certify to the facts of birth within the seven day period, the person in charge of the hospital shall complete and sign the certificate.

B. For births occurring outside of hospitals, the certificate shall be prepared and filed by the physician, midwife, or other person in attendance at the birth, or, if not so attended, by one of the parents who shall file it with the local registrar. If neither of the parents of the newborn child, unattended by either physician or midwife, is able to prepare a birth certificate, the local registrar shall secure the necessary information from either of them or from any person having direct knowledge of the birth and prepare and file the certificate in accordance with duly promulgated regulation as provided in R.S. 40:33(C).

C. When a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in this state, the place where it is first removed shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in this state, the birth shall be registered in this state but the certificate shall show the actual place of birth insofar as can be determined. Such registration shall further comply with duly promulgated regulation as provided in R.S. 40:33(C).

D. Whoever assumes the custody of a live born infant of unknown parentage shall report on a form and in a manner prescribed by the state registrar within five days to the vital records registry the following information:

- (1) The date and place of finding.
- (2) The sex, race, and approximate birth date of child.
- (3) The name and address of the person or institution with whom the child has been placed for care.
- (4) The name given to the child by the custodian of the child; or
- (5) The other data required by the state registrar through regulations.

E. The place where the child was found shall be entered as the place of birth.

F. A report registered under this Section shall constitute the certificate of birth for the child.

G. If the child is identified and a certificate of birth is later found or obtained, the report registered under this Section shall be placed in a special file and shall not be subject to inspection except upon order of a court of competent jurisdiction or as provided by regulation.

RS 40:46 — Amendments to certificate of birth

y change in the surname of a child from that required or allowed in R.S.

40:34.2 shall be made by court order as provided in R.S. 13:4751 through 4755 or as otherwise provided in this Chapter or by rules promulgated thereunder.

RS 40:46.1 — Amended birth certificates; change of biological filiation; general principle

the state registrar shall amend the birth certificate to reflect this change, in accordance with R.S. 40:46.2 through 46.11.

RS 40:46.2 — Change of maternal filiation; child with unidentified mother

t of which is to recognize maternal filiation between a

woman and a child whose birth certificate did not identify the mother of the child, the state registrar, upon receipt of a certified copy of that judgment, shall amend the birth certificate as follows:

- (1) For the surname of the child:

(a) If the adjudged mother was married to a man at the time of the birth of the child, but was not married to another man within three hundred days prior to the birth of the child, enter the surname of her husband.

(b) If the adjudged mother was not married to a man at the time of the birth of the child, but was married to a man within three hundred days prior to the birth of the child, enter the surname of her former husband.

(c) If the adjudged mother was married to one man at the time of the birth of the child, but was married to another man within three hundred days prior to the birth of the child, enter the surname of the latter.

(d) If the adjudged mother was married neither at nor within three hundred days prior to the birth of the child, enter her maiden name or surname, at her discretion.

(2) For the name of the mother of the child, her date of birth, race, ethnicity, residence, birthplace, and social security number, the number of children born to her, and the number of children born to her living, enter those of the adjudged mother.

(3) For the name of the father of the child, his age, race, ethnicity, and residence, birthplace, and social security number:

(a) If the adjudged mother was married to a man at the time of the birth of the child, but was not married to another man within three hundred days prior to the birth of the child, enter those of her husband.

(b) If the adjudged mother, though unmarried at the time of the birth of the child, was married to a man within three hundred days prior to the birth of the child, enter those of her former husband.

(c) If the adjudged mother was married to one man at the time of the birth of the child, but was married to another man within three hundred days prior to the birth of the child, enter those of the latter.

B. In any case to which the provisions of Paragraph (A)(1) of this Section apply, if the man whose surname should be given to the child and the adjudged mother agree that the surname of the child should be either the maiden name or surname of the mother or a combination of his surname and her maiden name or surname, the state registrar shall enter the surname upon which they have agreed.

C. Upon the petition of the mother of the child, a court may, for good cause shown, order the state registrar to enter, as the surname of the child, the maiden name or surname of the mother or a combination of the surname of the man whose surname should otherwise be given to the child under Paragraph (A)(1) of this Section and the maiden name or surname of the mother, whichever she may choose, even if that man does not concur.

RS 40:46.3 — Change of maternal filiation; child with identified mother

of which is to recognize maternal filiation between a child and a woman other than the woman identified in the birth certificate as the mother of the child, the state registrar, upon receipt of a certified copy of that judgment, shall amend the birth certificate as follows:

(1) Strikethroughs:

(a) Strike through the surname of the child, the name of the mother of the child, and

all other information pertaining to the mother, in particular, her date of birth, race, ethnicity, residence, birthplace, and social security number, the number of children born to her, and the number of children born to her living.

(b) If the name of the father of the child or other information pertaining to him, in particular, his age, race, ethnicity, residence, birthplace, and social security number, as it was previously entered on the birth certificate, was that of the man who, by virtue of his marriage to the woman previously identified in the birth certificate as the mother of the child, was presumed to be the father of the child under Civil Code Article 185 or 186, the state registrar shall strike through his name and his other information.

(2) Additions:

(a) For the surname of the child:

(i) If the adjudged mother was married to a man at the time of the birth of the child, but was not married to another man within three hundred days prior to the birth of the child, enter the surname of her husband.

(ii) If the adjudged mother, though unmarried at the time of the birth of the child, was married to a man within three hundred days prior to the birth of the child, enter the surname of her former husband.

(iii) If the adjudged mother was married to one man at the time of the birth of the child, but was married to another man within three hundred days prior to the birth of the child, enter the surname of the latter.

(iv) If the adjudged mother was married neither at nor within three hundred days prior to the birth of the child, enter her maiden name or surname, at her discretion.

(b) For the name of the mother of the child, her date of birth, race, ethnicity, residence, birthplace, and social security number, the number of children born to her, and the number of children born to her living, enter those of the adjudged mother.

(c) For the name of the father of the child, his age, race, ethnicity, residence, birthplace, and social security number:

(i) If the adjudged mother was married to a man at the time of the birth of the child, but was not married to another man within three hundred days prior to the birth of the child, enter those of her husband.

(ii) If the adjudged mother, though unmarried at the time of the birth of the child, was married to a man within three hundred days prior to the birth of the child, enter those of her former husband.

(iii) If the adjudged mother was married to one man at the time of the birth of the child, but was married to another man within three hundred days prior to the birth of the child, enter those of the latter.

B. In any case to which the provisions of Paragraph (A)(2) of this Section apply, if the man whose surname should be given to the child and the adjudged mother agree that the surname of the child should be either the maiden name or surname of the mother, the surname of the man, or a combination of his surname and her maiden name or surname, the state registrar shall enter the surname upon which they have agreed.

C. Upon the petition of the mother of the child, a court may, for good cause shown,

order the state registrar to enter, as the surname of the child, the maiden name or surname of the mother or a combination of the surname of the man whose surname should otherwise be given to the child under Paragraph (A)(2) of this Section and the maiden name or surname of the mother, whichever she may choose, even if that man does not concur.

RS 40:46.4 — Change of paternal filiation; disavowal of paternity or three-party acknowledgment

to the father as it was entered on the birth certificate was that of the man who was presumed to be the father of the child under Civil Code Article 185, 186, or 195, and if the man or his successor obtains a final and definitive judgment disavowing paternity of the child or the parties execute the three-party acknowledgment provided in Civil Code Article 190.1, the state registrar, upon receipt of a certified copy of that judgment or of the three-party acknowledgment and certified report of blood or tissue sampling which indicates by a ninety-nine and nine-tenths percentage point threshold probability that the biological father is the father of the child, shall amend the birth certificate as follows:

(1) Strikethroughs: Strike through the surname of the child, the name of the father of the child, and all other information pertaining to him, in particular, his age, race, ethnicity, residence, birthplace, and social security number.

(2) Additions:

(a) If the judgment of disavowal does not trigger the presumption of paternity established in the first sentence of the second paragraph of Civil Code Article 186, the state registrar shall amend the birth certificate as follows: for the surname of the child, enter the maiden name or surname of the mother of the child, at her discretion.

(b) If the judgment of disavowal triggers the presumption of paternity established in the first sentence of the second paragraph of Civil Code Article 186, the state registrar shall amend the birth certificate as follows:

(i) For the surname of the child, enter either that of the second husband of the mother of the child or, if both he and the mother agree, her maiden name or surname or a combination of his surname and her maiden name or surname.

(ii) For the name of the father of the child, his age, race, ethnicity, residence, birthplace, and social security number, enter those of the second husband of the mother.

(c) If the state registrar receives the three-party acknowledgment provided in R.S. 40:34.5.1, the state registrar shall amend the birth certificate as follows:

(i) For the surname of the child, enter the maiden name or surname of the mother, at her discretion. However, if the biological father and the mother agree, the state registrar shall enter as the surname of the child the maiden name or surname of the mother, the surname of the biological father, or a combination of the surname of the biological father and the maiden name or surname of the mother.

(ii) For the name of the father of the child, his race, ethnicity, residence, birthplace, and social security number, enter those of the biological father.

B. Upon the petition of the mother of the child, a court may, for good cause shown, order the state registrar to enter, as the surname of the child, the maiden name or surname of the mother or a combination of the surname of the man whose surname should otherwise be given to the child under Subparagraph (A)(2)(b) of this Section and the maiden name or

surname of the mother, whichever she may choose, even if that man does not concur.

RS 40:46.5 — Change of paternal filiation; contestation and establishment of paternity

r as it was entered on the birth certificate was that of the man who was presumed to be the father of the child under Civil Code Article 185 or 186 and if the mother of the child, after the birth certificate was prepared, obtains a final and definitive judgment contesting and establishing paternity of the child, the state registrar, upon receipt of a certified copy of that final and definitive judgment, shall amend the birth certificate as follows:

(1) Strikethroughs: Strike through the surname of the child, the name of the father of the child, and the other information pertaining to the father, in particular, his age, race, ethnicity, residence, birthplace, and social security number.

(2) Additions:

(a) For the surname of the child, enter either that of the present husband of the mother or, if both agree, her maiden name or surname or a combination of his surname and her maiden name or surname.

(b) For the name of the father and his age, race, ethnicity, residence, birthplace, and social security number, enter those of the present husband of the mother.

(c) Upon the petition of the mother of the child, a court may, for good cause shown, order the state registrar to enter, as the surname of the child, the maiden name or surname of the mother or a combination of the surname of the man whose surname should otherwise be given to the child under Subparagraph (a) of this Paragraph and the maiden name or surname of the mother, whichever she may choose, even if that man does not concur.

RS 40:46.6 — Change of paternal filiation; marriage and formal acknowledgment

copy of the certificate of the marriage of the mother of the child, (ii) a certified copy of the act in which her husband formally acknowledged the child, and (iii) if the mother did not sign the act of acknowledgment, her affidavit that she concurs in this formal acknowledgment, shall amend the birth certificate as follows:

(1) Strikethroughs: If the mother and her husband have agreed that the surname of the child should be changed and, in addition, have agreed that the new surname should be either the maiden name or surname of the mother, the surname of her husband, or a combination of his surname and her maiden name or surname, strike through the surname of the child.

(2) Additions:

(a) If the mother and her husband have agreed that the surname of the child should be changed and, in addition, have agreed that the new surname should be either the maiden name or surname of the mother, the surname of her husband, or a combination of his surname and her maiden name or surname, enter the surname upon which they have agreed.

(b) For the name of the father, his age, race, ethnicity, residence, birthplace, and social security number, enter those of the husband of the mother.

RS 40:46.7 — Change of paternal filiation; formal acknowledgment alone

formal acknowledgment and (ii) if the mother did not sign

the act of acknowledgment, her affidavit that she concurs in this formal acknowledgment, shall amend the birth certificate as follows:

(1) Strikethroughs: If the mother and the man who made the acknowledgment have agreed that the surname of the child should be changed and, in addition, have agreed that the new surname should be either the maiden name or surname of the mother, the surname of the man who made the acknowledgment, or a combination of his surname and her maiden name or surname, strike through the surname of the child.

(2) Additions:

(a) If the mother and the man who made the acknowledgment have agreed that the surname of the child should be changed and, in addition, have agreed that the new surname should be either the maiden name or surname of the mother, the surname of the man who made the acknowledgment, or a combination of his surname and her maiden name or surname, enter the surname upon which they have agreed.

(b) For the name of the father and his age, race, ethnicity, residence, birthplace, and social security number, enter those of the man who made the acknowledgment.

B. If, after a birth certificate has been amended pursuant to Subsection A of this Section, the man who made the formal acknowledgment should revoke or annul it, the state registrar, upon receipt of the form described in R.S. 9:406(A)(1)(a) or a final and definitive judgment recognizing that a revocation or annulment has been accomplished, shall amend the birth certificate as follows: strike through any information that was added to the birth certificate and restore any information that was struck through when it was amended.

RS 40:46.8 — Change of paternal filiation; judgment of paternity

of which is to establish paternal filiation between

a man and a child whose birth certificate did not identify the father of the child, the state registrar, upon receipt of a certified copy of that judgment, shall amend the birth certificate as follows:

(1) Strikethroughs: If the mother of the child and the adjudged father have agreed that the surname of the child should be changed and, in addition, have agreed that the new surname should be either the maiden name or surname of the mother, the surname of the adjudged father, or a combination of his surname and her maiden name or surname, strike through the surname of the child.

(2) Additions:

(a) If the mother of the child and the adjudged father have agreed that the surname of the child should be changed and, in addition, have agreed that the new surname should be either the maiden name or surname of the mother, the surname of the adjudged father, or a combination of his surname and her maiden name or surname, enter the surname upon which they have agreed.

(b) For the name of the father and his age, race, ethnicity, residence, birthplace, and social security number, enter those of the adjudged father.

B. Following a final and definitive judgment of paternal filiation, rendered pursuant to Civil Code Article 197 or 198, the effect of which is to establish paternal filiation between a child and a man other than the man identified in the birth certificate as the father of the

child, the state registrar, upon receipt of a certified copy of the judgment, shall amend the birth certificate as follows:

(1) Strikethroughs: If the mother of the child and the adjudged father have agreed that the surname of the child should be changed and, in addition, have agreed that the new surname should be either the maiden name or surname of the mother, the surname of the adjudged father, or a combination of his surname and her maiden name or surname, and if the man whom the birth certificate identified as the father of the child does not object, strike through the surname of the child.

(2) Additions:

(a) If the mother of the child and the adjudged father have agreed that the surname of the child should be changed and, in addition, have agreed that the new surname should be either the maiden name or surname of the mother, the surname of the adjudged father, or a combination of his surname and her maiden name or surname, and if the man whom the birth certificate identified as the father of the child does not object, enter the surname upon which they have agreed.

(b) For the name of the father and his age, race, ethnicity, residence, birthplace, and social security number, enter above the existing entries those of the adjudged father.

(3) Upon the petition of the mother or the adjudged father of the child, a court may, for good cause shown, order that the surname of the child as it appears on the birth certificate be changed in conformity with this Section despite the objection of the man whom the birth certificate identified as the father of the child.

RS 40:46.10 — Child born as a result of a surrogacy agreement

arents, proven to be so by DNA testing, shall be considered the parents of the child.

B. In the case of a child born of a surrogate birth parent who is related by blood or affinity to a biological parent, the surname of the biological parents of the child shall be the surname of the child.

C. In the case of a child born of a surrogate birth parent who is related by blood or affinity to a biological parent, the birth certificate of the child shall be amended so that the full name of the biological parent who is proven to be the father by DNA testing shall be listed as the father.

D. In the case of a child born of a surrogate birth parent who is related by blood or affinity to a biological parent, the birth certificate of the child shall be amended so that the full name, including the maiden name and other surname, of the biological parent who is proved to be the mother by DNA testing shall be listed as the mother, and the name of the surrogate birth parent shall be struck through.

RS 40:46.11 — Review by district attorney

avit to be obtained from the

district attorney of the parish in which the child resides or is domiciled stating any objection to the name change. If the district attorney does not object, the state registrar shall prepare a new birth certificate for the major child. If there is an objection, the state registrar may not proceed to prepare a new birth certificate until the district attorney's objection has been

resolved.

RS 40:46.12 — Hospital-based paternity program

e period immediately

before or after the birth of a child.

B. During the period immediately before or after the birth of a child to an unmarried woman, a hospital-based program established in accordance with this Section shall, at a minimum:

(1) Provide to both the mother and alleged father, if he is present in the hospital:

(a) Written materials about paternity establishment.

(b) The forms necessary to voluntarily acknowledge paternity.

(c) A written description of the rights, responsibilities, and alternatives as provided in R.S. 9:392(A) which are involved in acknowledging paternity.

(d) The opportunity to speak with hospital personnel, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment.

(2) Provide the mother and alleged father, if he is present, the opportunity to voluntarily acknowledge paternity in the hospital in accordance with the Civil Code and R.S. 9:392.

(3) Afford due process safeguards.

(4) Forward completed acknowledgments to the state registrar.

C. Hospital support personnel that provide birthing services shall possess notarial powers to administer oaths to and authenticate signatures of any persons in connection with execution of a formal acknowledgment of paternity in accordance with this Section. Any oaths administered or signatures authenticated pursuant to this Section shall have the same force and effect as if taken or signed before a duly commissioned notary public.

NOTE: Subsection (D) eff. until October 1, 2027. See Acts 2025, No. 477.

D. Hospital personnel shall forward an acknowledgment of paternity to the state registrar who shall forward copies of same to the Department of Children and Family Services, office of children and family services, child support enforcement section. A statewide database shall be maintained by the Department of Children and Family Services in accordance with federal regulations.

NOTE: Subsection (D) as amended by Acts 2025, No. 477, eff. October 1, 2027.

D. Hospital personnel shall forward an acknowledgment of paternity to the state registrar who shall forward copies of same to the Department of Children and Family Services, office of child support. A statewide database shall be maintained by the Department of Children and Family Services in accordance with federal regulations.

E. A voluntary acknowledgment executed in accordance with this Section shall be signed by both parents and the parents' signatures shall be authenticated by a person possessing notarial powers in accordance with state laws.

NOTE: Subsection (F)(introductory paragraph) eff. until October 1, 2027. See Acts 2025, No. 477.

F. The Department of Children and Family Services, office of children and family

services, child support enforcement section shall provide to all birthing hospitals in the state:

NOTE: Subsection (F)(introductory paragraph) as amended by Acts 2025, No. 477, eff.

October 1, 2027.

F. The Department of Children and Family Services, office of child support shall provide to all birthing hospitals in the state:

- (1) Written materials about paternity establishment.
- (2) Forms necessary to voluntarily acknowledge paternity.
- (3) Copies of a written description of the rights, responsibilities, and alternatives as provided in R.S. 9:392(A) which are involved in acknowledging paternity.
- (4) Training, guidance, and written instructions relative to voluntary acknowledgment of paternity, as necessary to operate the hospital-based program.
- (5) An assessment of each birthing hospital's program on at least an annual basis.

G. Except in the case of intentional misconduct, no hospital or any agent or employee thereof shall be held civilly or criminally liable for any action or omission arising out of the performance of, attempted performance of, or failure or inability to perform the duties imposed herein.

RS 40:46.13 — Paternity establishment services

tates Department of

Health and Human Services. The state registrar may designate specific employees in the offices of the vital records registry who shall possess notarial powers to administer an oath to any person in connection with any document required in the course of establishing paternity.

RS 40:47 — Compulsory registration of deaths and spontaneous fetal deaths (stillbirths)

It shall be filed with a registrar within five days after its occurrence. If the place of death or spontaneous fetal death is not known, the certificate shall be filed with the state registrar within five days after the finding of the body. In any case, a certificate shall be filed prior to interment, cremation, removal, or other disposition of the body. The place where the body is found shall be known as the place of death. If the date of death is unknown, it shall be determined by approximation.

B. When spontaneous fetal death, required to be reported by this Section, occurs without medical attendance at or immediately after the delivery or when inquiry is required by R.S. 40:34.10(19)(d) the coroner shall investigate the cause of death and shall prepare and file the certificate within five days.

C. When a spontaneous fetal death occurs in a moving conveyance and the fetus is first removed from the conveyance in this state or when a dead fetus is found in this state and the place of fetal death is unknown, the fetal death shall be reported in this state. The place where the fetus was first removed from the conveyance or the dead fetus was found shall be considered the place of fetal death.

RS 40:48 — Abortions (induced termination of pregnancy); birth and death

the birth of said born human being even

though said human being may thereafter die. For the purposes of this Section

a human being is live born, or there is a live birth, whenever there is the complete expulsion or extraction from its mother of a human embryo or fetus, irrespective of the duration of pregnancy, which after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or movement of the voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. In the event death does ensue after a short time, a death certificate shall be issued. Both the birth and the death certificates shall be issued in accordance with the provisions of this Part and of rules and regulations of the Louisiana Department of Health.

B. Each induced termination of pregnancy which occurs in this state shall be reported to the vital records registry within fifteen days by the person in charge of the institution in which the induced termination of pregnancy was performed. If the induced termination of pregnancy was performed outside an institution, the physician in attendance at or immediately after delivery shall prepare and file the report.

RS 40:49 — Preparation and filing of death and spontaneous fetal death certificate (stillbirth)

fetal death or stillbirth provided for in R.S. 40:47.

B. In preparing a certificate of death or spontaneous fetal death or stillbirth, he shall:

- (1) First obtain and enter on the certificate the personal data required by the state registrar from the person best qualified to supply such data.
- (2) Except as provided in Paragraph (4) of this Subsection, if the death occurred with medical attendance, present the certificate of death to the physician last in attendance upon the deceased, who shall certify over his signature within twenty-four hours the cause of death to his best knowledge and belief; or, if the spontaneous fetal death occurred with any person in attendance, present the certificate of spontaneous fetal death to the physician, midwife, or other person in attendance at the spontaneous fetal death for the certification of the fact of spontaneous fetal death and such medical data pertaining to the spontaneous fetal death as the physician or midwife can furnish in his professional capacity.
- (3) Except as provided in Paragraph (4) of this Subsection, if the death occurred without medical attendance, or if the physician or midwife or other person last in attendance at the death or spontaneous fetal death refuses or for any reason fails to sign the certificate, immediately notify the appropriate local registrar. The local registrar shall, prior to issuing a permit for burial, cremation, or other disposition of the body, inform the coroner, and refer the case to him for immediate investigation and certification of the information required under Paragraph (2) of this Subsection. Provided, however, that nothing in this Section shall be construed to require an investigation, autopsy or inquest in any case where death occurred without medical attendance solely because the deceased was under treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, and under such eventualities, the death certificate may be completed on the basis of information received from persons having knowledge of the facts.
- (4) Whether the death or spontaneous fetal death occurred with or without medical attendance, if the circumstances of the case suggest that the death or spontaneous fetal death was caused by other than natural causes, the local registrar shall refer the case to the coroner or medical examiner for investigation and certification.
- (5) When death occurs more than ten days after the decedent was last treated by a physician, the case shall be referred to the coroner for investigation to determine and certify the cause of death.
- (6) When inquiry is required by the coroner, he shall determine the cause of death and shall complete and sign the medical certification within forty-eight hours after taking charge of the case.
- (7) If the cause of death cannot be determined within forty-eight hours after death, the attending physician or coroner shall give the funeral director or person acting as such notice of the reason for the delay, and final disposition of the body shall not be made until authorized by the attending physician or coroner.

(8)(a) When a death is presumed to have occurred on a specific date and at a specific time and place within this state but the body cannot be located, a death certificate may be prepared by the state registrar upon receipt of an order of a Louisiana court of competent jurisdiction following a contradictory proceeding brought against the district attorney in the parish of the presumed place of death. The court shall require such clear and convincing proof as it deems necessary and in accordance with the provisions of Louisiana Civil Code Articles 54, 55, and 1957 and Louisiana Code of Evidence Articles 301 through 308 and, if applicable, in further accord with R.S. 9:1441-1443. The court's judgment shall include the finding of sufficient facts to complete the essential parts of the death certificate.

(b) A certified copy of the petition shall accompany a certified copy of the judgment presented to the state registrar, along with a fee of ten dollars for filing and preparation of the presumptive death certificate, plus a fee of five dollars for each certified copy of the presumptive death certificate after the original document has been completed and recorded in the vital records registry.

(c) Such a death certificate shall be clearly marked or stamped "presumptive" and shall show on its face the date of registration and shall identify the court and the date of decree.

(9) Each spontaneous fetal death of twenty complete weeks gestation or more, calculated from the date last normal menstrual period began to the date of delivery, or a weight of three hundred fifty grams or more, which occurs in this state shall be reported within five days after delivery to the vital records registry or as otherwise directed by the state registrar.

(10) When a dead fetus is delivered in an institution, the person in charge of the institution or his or her designated representative shall prepare and file the spontaneous fetal death (stillbirth) certificate.

(11) When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where it is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in this state, the death shall be registered in this state but the certificate shall show the actual place of death insofar as can be determined.

(12) The medical certification shall be completed, signed, and returned to the funeral director, if applicable, within twenty-four hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death, except when a coroner's inquiry is required. In the absence of the physician or with his or her approval the certificate may be completed and signed by his or her associate physician, the chief medical officer of the institution in which death occurred, the physician who performed an autopsy upon the decedent, or the coroner, provided such individual has access to the medical history of the case, views the deceased at or after death, and death is due to natural causes.

RS 40:50 — Issuance of death certificates; duties of state registrar

ate a death certificate shall initiate such certificate in

original only, and shall file the original with a local registrar. The local registrar of each parish shall retain this original in his office for a period of ten days from the date the certificate is filed.

B. If no certified copy has been issued or if all certified copies issued have been returned and destroyed by him, a local registrar, upon receipt of documentary evidence or affidavit of the original informant, may make corrections on these certificates during this ten-day period, provided that no changes or corrections may be made as to the time of death or cause of death.

C. A local registrar may issue certified copies of any death certificate during the ten-day period it is retained by him, and the certification of the local registrar shall have the same legal effect as certification by the state registrar, as otherwise provided by law. The local registrar shall forward each death certificate to the state registrar on the tenth day after the certificate is filed with him. Each month the state registrar shall notify each parish registrar of voters as to the name, address, and age of each resident of that parish over eighteen years of age for whom a death certificate has been received.

D. After preparation by the funeral director or other person required by law to initiate a death certificate and issuance from the local registrar, the state registrar shall provide the official death certificate to any applicant who meets the requirements of R.S. 40:41 within ten business days after the state registrar has received the applicant's request for the death certificate. The state registrar's provision of the death certificate to the applicant shall be deemed timely when it has been mailed via the United States Postal Service, or with a commercial mail service, with a timely commercial mail meter stamp or commercial mail service certificate that is within the ten-business-day period. Any death certificate provided to an applicant outside of the ten business days that is unable to be meter-stamped for United States Postal Service mail delivery or certified for commercial mail service delivery during the ten-business-day period due to events outside of the state registrar's control shall be considered timely provided.

RS 40:51 — Delayed determination of cause of death

, but the attending physician or coroner shall notify the local registrar of the parish in which the death occurred, in writing, of the reason for the delayed certification of the cause of death, in order that a permit for the disposition of the body may be issued.

RS 40:52 — Permit for removal, burial, cremation, or other disposition of body for a

When a death or spontaneous fetal death (stillbirth) occurs in this state or when a dead human body is found, the deceased, stillborn child, or dead human body shall not be interred, deposited in a vault or tomb, removed from the state, cremated, or otherwise disposed of until a burial transit permit has been issued by a local registrar. However, a dead human body shall not be removed from the continental United States until a burial transit permit has been issued and a death certificate has been completed by the parish coroner or a physician as required in R.S. 40:34.10(19).

RS 40:53 — Foreign permits; death outside state

tion issued in accordance with the law and the regulations in force at the place where the death or stillbirth occurred, the body may be transported into or through this state. However, before the interment, cremation, or other disposal of the body within the state, the out of state permit shall be endorsed by the local registrar. The local registrar shall keep an appropriate record of all such permits endorsed by him.

RS 40:54 — Prerequisites for permit

position without the necessity of a completed death certificate. However, no permit for the disposition by removal from the continental United States shall be issued by a local registrar until a certificate of death or stillbirth, has been completed by the parish coroner or a physician as required in R.S. 40:34.10(19), and has been filed with a local registrar. No permit may be issued unless and until all the regulations of the Louisiana Department of Health in respect to the issuance of the permit have been complied with. No permit shall be issued which would be contrary to the sanitary laws of the state.

RS 40:55 — Marriage certificate; compulsory registration of marriages

ation prescribed. On the face of the certificate shall appear the certification to the fact of marriage, signed by the parties to the marriage and by the witnesses, and the signature and title of the officiant.

Every officiant of a marriage ceremony performed in this state shall sign a certificate of marriage in triplicate.

RS 40:57 — Divorce certificate; registration of divorces and annulments

decree becomes final, from the court records, a certificate of the decree on forms furnished by the state registrar.

On or before the fifteenth day of each calendar month, the clerk shall forward the certificates which were prepared by him during the preceding calendar month to the state registrar.

RS 40:58 — Fee of clerk of court for divorce and annulment report

istrar. This fee shall be included and collected as court costs for the divorce or annulment.

RS 40:59 — Delayed or altered certificates; allowed subject to department regulations

ribed for its filing and any alteration of any

certificate after it is filed with the state registrar is subject to regulations in which the secretary of the Louisiana Department of Health shall prescribe in detail the proofs to be submitted by any applicant for delayed filing or for an alteration of a certificate. Notwithstanding regulations of the department regarding the proofs necessary for the alteration of a certificate, the state registrar shall permit alteration or correction of information supplied by the informant with the exception of the name of the surviving spouse on a death certificate within one year from the date of death. This shall not apply to typographical errors in the name of the spouse. Other errors may be corrected upon presentation of an affidavit stating the errant information and the correction thereto and bearing the signature of the informant, or if unavailable the signature of a member of the immediate family, unless the information was taken from hospital or other records, in which case, an affidavit executed by a member of immediate or surviving family of the deceased shall be sufficient. After one year from the date of death, all alterations and corrections shall comply with departmental regulations promulgated pursuant to this Section.

RS 40:60 — Handling of delayed or altered certificate

rtificates,

which have been altered after being filed with the state registrar shall contain the date of the delayed filing or the date of the alteration and be marked distinctly "delayed" or "altered".

(2) All alterations of birth certificates shall be accomplished by preparation of a new birth certificate on which the altered information is entered. The new certificate shall have the original file number and be annotated at the top of the document with the word "Amended". The original birth certificate shall indicate such alterations by the interlinear method of drawing a line through the old information and entering the new information. The line shall not obscure the original information. Thereafter, the certificate shall be distinctly marked "altered". Thereafter, when a verified certification of birth is issued, it shall be based upon the new certificate, except when an

order of a court of competent jurisdiction shall require the issuance of a verified transcript or certification based upon the original record of birth.

B. After a certificate has been accepted for delayed filing or after a certificate on file has been altered, the state registrar shall note on the certificate a summary statement of the evidence submitted in support of the acceptance for delayed filing or the alteration, together with the alteration made.

C. Evidence affecting delayed certificates or affecting the alteration of a certificate after it has been filed with the state registrar shall be kept in a special permanent file.

D. Upon receipt of a certified copy of an order of a court of competent jurisdiction changing the name of a person born in this state and upon request of such person or, if a minor, of both his parents, guardian, or legal representative, the state registrar shall prepare a new birth certificate on which the new information is entered and which shall have the original file number and be annotated at the top of the document with the word "Amended". The registrar shall then amend the certificate of birth to show the new name on the original certificate as provided in rules and regulations promulgated by the department.

E.(1) When an applicant does not submit the minimum documentation required in the regulations for amending a vital record or when the state registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statements or the documentary evidence, and if the deficiencies are not corrected, the state registrar shall not amend the vital record and shall advise that applicant of the reason for this action and shall further advise the applicant of the right to seek a court order in a contradictory proceeding against the state registrar of vital records brought in a Louisiana court of competent jurisdiction at the domicile of the vital records registry.

(2) The petitioner's burden of proof in such proceedings shall be to show by a preponderance of the evidence that the vital record on file with the vital records registry is incorrect or contains inaccurate information and that such vital record should be altered to show the correct or accurate information.

F. To protect the integrity of vital records and to prevent the fraudulent use of birth certificates of deceased persons, the state registrar is hereby authorized to match birth and death certificates, in accordance with written standards promulgated by the secretary of the Louisiana Department of Health to prove beyond a reasonable doubt the fact of death, and to stamp "deceased" and date the appropriate birth certificate. Copies issued from birth certificates marked deceased shall be similarly marked.

RS 40:61 — Penalties

atement in a certificate, record, or report required by this Chapter, or in an application for a certified copy of a vital record, or who willfully and knowingly supplies false information intending that such information be used in the preparation of any

such report, record, or certificate, or amendment thereof; or

(2) Any person who without lawful authority and with the intent to deceive, makes, counterfeits, alters, amends, or mutilates any certificate, record, or report required by this Chapter or a certified copy of such certificate, record, or report; or

(3) Any person who willfully and knowingly obtains, possesses, uses, sells, furnishes, or attempts to obtain, possess, use, sell, or furnish to another, for any purpose of deception, any certificate, record, or report required by this Chapter or certified copy thereof so made, counterfeited, altered, amended, or mutilated, or which is false in whole or in part or which relates to the birth of another person, whether living or deceased; or

(4) In addition to dismissal proceedings pursuant to state civil service regulations, any employee of the vital records registry or office of public health who willfully and knowingly furnishes or processes a certificate of birth or death, or certified copy of a certificate of birth or death, or discloses information contained in a certificate of birth or death, with the knowledge or intention that it be used for the purposes of deception.

(5) Any person who without lawful authority possesses any certificate, record, or report, required by this Chapter or a copy or certified copy of such certificate, record, or report knowing same to have been stolen or otherwise unlawfully obtained.

B. A fine of not more than one thousand dollars or imprisonment of not more than one year, or both, shall be imposed on:

(1) Any person who willfully and knowingly refuses to provide information required by this Chapter or regulations adopted hereunder; or

(2) Any person who willfully and knowingly transports or accepts for removal, interment, or other disposition a dead body without an accompanying permit as provided in this Chapter; or

(3) Any person who willfully and knowingly neglects or violates any of the provisions of this Chapter or refuses to perform any of the duties imposed upon him or her by this Chapter.

RS 40:61.1 — Criminal background investigation

er handling, disclosure, and falsification.

(2) The alteration and falsification of vital records may contribute to and foster the violation of certain illegal activities.

(3) It is in the public interest to ensure the security and integrity of all vital records in this state.

B. No person shall be hired or promoted in the division of records and statistics, office of public health, Louisiana Department of Health, until it is determined whether such person has been convicted or pled nolo contendere to a crime as defined by R.S. 14:7.

C. The Louisiana Department of Health through the division of records and statistics, office of public health, and the Louisiana Bureau of Criminal Identification and Information in the Department of Public Safety and Corrections shall establish procedures necessary to implement the requirements of this Section, which procedures shall provide the following:

(1) That the division of records and statistics shall receive a copy of any criminal history information disclosed by the investigation.

(2) That the costs of providing the information required in this Section shall be borne by the individual applicant in the case of persons seeking new employment.

(3) That the request for information shall be made on a form prepared by the Louisiana Bureau of Criminal Identification and Information and signed

by a designated officer of the Louisiana Department of Health. It must include a statement signed by the person about whom the request is made which gives his permission for such information to be released.

(4) That, upon receiving a request meeting the requirements of R.S. 40:61.1(C)(3), the bureau shall provide a report promptly and in writing, but provide only such information as is necessary to specify whether or not that person has been convicted of or pled nolo contendere to any such crime or crimes as defined by R.S. 14:7, the crime or crimes therein of which he has been convicted or to which he has pled nolo contendere, and the date or dates on which they occurred.

(5) That division employees seeking promotion as well as persons seeking employment in the division shall submit to a criminal investigation and may be required to be fingerprinted to establish positive identification.

D.(1) Any division employee who has been convicted or pled nolo contendere to a crime as defined by R.S. 14:7 may be subject to a personnel or disciplinary action, including but not limited to transfer to an area outside of the division or termination in accordance with civil service rules.

(2) Any person seeking employment in the division may be denied such employment if such person has been convicted or pled nolo contendere to a crime as defined by R.S. 14:7.

(3) Any division employee seeking promotion who refuses to submit to a record check, including fingerprinting, may be subject to a personnel or disciplinary action, including but not limited to transfer to an area outside of the division or termination in accordance with civil service rules.

RS 40:62 — Issuance of new birth certificate after anatomical change of sex by surgery

I structure of the sex of the individual to that of a sex other than that which appears on the original birth certificate of the individual, may petition a court of competent jurisdiction as provided in this Section to obtain a new certificate of birth.

B. Suits authorized by this Section shall be filed contradictorily against the state registrar in the judicial district court having jurisdiction over the parish in which the petitioner resides or over the parish in which the petitioner was born. A nonresident born in Louisiana shall file the petition in the parish of birth. The suit of any petitioner born in Louisiana shall be filed contradictorily against the state registrar. In the event the petitioner is married, the spouse shall also be a necessary party to the suit. To the extent that the petitioner's name is to be changed, the district attorney shall also be a necessary party. In all cases the petition shall be accompanied by a certified copy of the petitioner's original birth record, in which case the short-form birth certificate card shall not be sufficient.

C. The court shall require such proof as it deems necessary to be convinced that the petitioner was properly diagnosed as a transsexual or pseudo-hermaphrodite, that sex reassignment or corrective surgery has been properly performed upon the petitioner, and that as a result of such surgery and subsequent medical treatment the anatomical structure of the sex of the petitioner has been changed to a sex other than that which is stated on the original birth certificate of the petitioner.

If the court shall find that the evidence sustains the required proof, the court shall render a judgment ordering the issuance of a new birth certificate changing the sex designated thereon from that shown upon the petitioner's original certificate of birth. The petitioner may in the same suit seek to have the name of the petitioner changed, and the court may render judgment in accordance with law upon this additional petition at the same time.

D.(1) A certified copy of the petition and judgment for a new certificate pursuant to this Section shall be furnished to the state registrar of vital records at New Orleans within ten days after the judgment is rendered. The registrar shall issue to

the petitioner a new certificate or certified copy thereof; whereupon the original birth certificate and the copy of the petition and judgment received by the registrar shall be sealed in a package and filed in the archives of the vital records registry.

(2) This sealed package shall be opened only upon demand of the individual to whom the new certificate was issued, and then only by order of the court which rendered the judgment ordering the issuance of the new certificate.

RS 40:62.1 — Issuance of new birth certificate for child with mistaken sex designation on original birth record

y recorded at the time of birth on an original birth certificate, the state registrar may prepare a new certificate with a proper sex designation and allow the child's first or given name to be changed when the parent or parents of the child, or in the absence of a parent, the person legally responsible for the child, requests a new birth certificate and presents competent medical evidence in the form of affidavits from two or more physicians certifying and establishing by medical diagnosis that the original erroneous sex designation was due to a hereditary genetic defect or hormone deficiency, including but not limited to congenital adrenal hyperplasia or a related condition, and not due to sexual reassignment or major corrective surgery as contemplated in R.S. 40:62.

B. Upon the issuance of a new birth certificate, the child's original birth certificate together with the affidavits and related evidence received by the state registrar shall be sealed in a package or envelope and filed in the archives of the vital records registry. This sealed package or envelope shall be opened only upon the demand of a parent, or other person legally responsible for the child in the absence of a parent, or the individual registrant, after emancipation or reaching the age of majority, and then only by order of a court of competent jurisdiction in the parish wherein the vital records registry is legally domiciled.

RS 40:63 — Abortion, induced termination of pregnancy; purpose

the improvement of maternal health and life. The further purpose and function of this Part shall be to serve as a monitor on all induced terminations of pregnancies performed in the state of Louisiana to assure that they are performed only in accordance with the provisions of law.

RS 40:64 — Forms for collection of data

limited to, the following

information:

- (1) The age, marital status, and state and parish (county) of residence of the woman who is aborted.
- (2) The place where the abortion is performed.
- (3) The full name and address of the physician or physicians performing the abortion.
- (4) The age, marital status, and state and parish (county) of residence of the father, if known.
- (5) Medical reason for the abortion.
- (6) Medical procedure employed to procure the abortion.
- (7) The length of the aborted fetus.
- (8) The weight of the aborted fetus.
- (9) Other significant conditions of the fetus and mother.
- (10) The results of pathological examinations of all aborted fetuses, as required by R.S. 40:1061.13.

RS 40:65 — Completion of forms; filing with vital records registry

e abortion in each case in which an abortion is performed. Such completed form shall be transmitted by the physician or physicians to the vital records registry within fifteen days of the performing of such abortion.

RS 40:66 — Failure to complete form; penalty

or both. Such failure to complete such form and to timely transmit same shall be admissible as evidence that the unreported abortion was illegal.

RS 40:67 — Persons over twelve years of age; establishment of birth record

establish a birth record through the district courts of the various parishes of the state provided he cannot otherwise meet the requirements for obtaining a delayed birth registration.

RS 40:68 — Petition

file suit in the parish of birth. The petition shall be accompanied by a letter from the vital records registry bearing the raised imprint of the seal of the state and the letter shall be made a part of the suit and shall state to the effect that the petitioner has no record on file.

RS 40:69 — Proof required

and parish of birth, sex, race, mother's maiden name and father's name, also parents' birth places. Persons who have had their names changed by court order prior to filing the suit to establish a delayed certificate of birth must file a certified copy of the judgment ordering the change of name together with the petition and the letter from the registration authority.

RS 40:70 — Copy of petition and judgment to registrar

s after the judgment is rendered.

RS 40:71 — Issuance of copy

al difficulties navigating this website,

RS 40:72 — Record of adoptions prior to July 27, 1938

n in Louisiana, by observing the legal requirements for adoption in Louisiana existing at the time of the adoption, presents the original or a certified copy of the birth certificate of the adopted person and a certified copy of a final judgment decreeing the adoption or the notarial act of adoption, in accordance with the legal requirements existing on the date of the judgment or act of adoption, the state registrar shall make a record showing:

- (1) The date of birth of the person adopted.
- (2) The new name of the person adopted, if his name was changed in accordance with law; and
- (3) The names and addresses of the adoptive parents and any other data about them that is available and adds to the completeness of the new certificate of the adopted person.

RS 40:73 — Certified copy of the new record; sealing and confidentiality of the original birth

R.S. 40:72, the state registrar

shall issue to the adopted person or to the adoptive parents a certified copy of the new record and shall place the original birth certificate, the contact preference form submitted pursuant to Subsection F of this Section, and the copy of the judgment or the copy of the act of adoption in a sealed package and shall file the package in the archives of the vital records registry.

B. This sealed package shall be opened only upon the demand of the adopted person, or if deceased, by his or her descendants, or upon the demand of the adoptive parent, or the state registrar, or the recognized public or private social agency which was a party to the adoption, and then only as provided in Subsections E and F of this Section or by order of a Louisiana court of competent jurisdiction at the domicile of the vital records registry, which order shall issue only after a showing of compelling reasons. Information shall be revealed only to the extent necessary to satisfy such compelling necessity.

C. In satisfying the requirement that information shall be revealed only to the extent necessary to satisfy the compelling necessity shown, the court is further authorized to use the

services of the curator ad hoc appointment pursuant to Code of Civil Procedure Article 5091.2.

D. Except as provided in Subsection E of this Section, all motions for records under this Section shall be in accordance with and subject to the provisions of Children's Code Articles 1188 through 1192 and, if an adoption agency is involved, the agency shall be served with a copy of the motion as provided in Code of Civil Procedure Article 1313.

E.(1) Notwithstanding any provision of the law to the contrary, an adopted person who is twenty-four years of age or older may request an uncertified copy of his birth certificate from the state registrar. Upon such a request, the registrar shall open the sealed package and issue an uncertified copy of the original birth certificate to the adopted person.

(2) The uncertified copy of the original birth certificate shall be issued to the adopted person in accordance with the regulations duly promulgated in accordance with the Administrative Procedure Act for a certified copy of a vital record in the custody of the vital records registry.

F.(1) A birth parent may at any time request from the state registrar a contact preference form that shall accompany the adopted person's original birth certificate.

(2) The contact preference form shall provide the following information to be completed at the option of the birth parent who shall indicate his intentions as follows:

(a) I would like to be contacted.

(b) I would prefer to be contacted only through an intermediary.

(c) I prefer not to be contacted at this time. If I decide later that I would like to be contacted, I will submit an updated contact preference form to the state registrar.

(3) The contact preference form is a confidential communication from the birth parent to the person named on the sealed birth certificate and shall be placed in the sealed packet containing the original birth certificate. The contact preference form shall be released to an adopted person when he requests his original birth certificate pursuant to Subsection E of this Section.

RS 40:74 — Report of annulments of adoption

forms furnished by the state registrar. On or before the fifteenth day of each month, the clerk shall forward the certificates prepared by him during the preceding calendar month to the state registrar.

Upon receipt of a court order of annulment of an adoption registered in his office, the state registrar shall restore the original certificate to its original place in the files.

RS 40:75 — Adult adoption; name changes

records registry, except

that when a name change is effected pursuant to R.S. 9:465 and an affidavit is presented from the district attorney of the parish or place of residence of the requesting party indicating that there is no objection of the district attorney to the adoptee's name change along with a certified copy of the notarial act of adoption and the appropriate fee, the registrar of vital records shall prepare a new birth certificate to reflect the new name. If there is an objection from the district attorney, the registrar of vital records shall not seal the adopted person's birth certificate nor prepare a new certificate until the grounds for the objection have been removed and confirmed by a supplemental affidavit from the district attorney.

B. In such cases, the validity and civil effects of the notarial act of adoption are in no way affected and shall continue to be governed by the laws applicable thereto.

RS 40:76 — Record of foreign adoptions

new record of birth in the archives upon presentation of a properly certified copy of the final decree of adoption or, if the case has been closed and the adoption decree has been sealed, upon the receipt of a certified statement from the record custodian attesting to the adoption decree.

B. The decree is considered properly certified when attested by the clerk of court in which it was rendered with the seal of the court annexed, if there is a court seal, together with a certificate of the presiding judge, chancellor, or magistrate to the effect that the attestation is in due form. The certified statement is considered proper when sworn to and having the seal of the foreign state or territory's record custodian.

C. Upon receipt of the certified copy of the decree, the state registrar shall make a new record in its archives, showing:

- (1) The date and place of birth of the person adopted.
- (2) The new name of the person adopted, if the name has been changed by the decree of adoption; and
- (3) The names of the adoptive parents and any other data about them that is available and adds to the completeness of the certificate of the adopted child.

RS 40:77 — Certified copy for adoptive parents; issuance of original birth certificate

is born in Louisiana and adopted in another state, the state registrar

shall issue to the adoptive parents a certified copy of the new record and shall place the original birth certificate, the contact preference form submitted pursuant to Subsection F of this Section, and the copy of the decree and related documents in a sealed package and shall file the package in its archives.

B. Except as provided in R.S. 40:74, this sealed package shall be opened only upon the demand of the adopted person, or if deceased, by his or her descendants, or upon the demand of the adoptive parent, or the state registrar, or the recognized public or private social agency which was a party to the adoption, and then only as provided in Subsections E and F of this Section or by order of a Louisiana court of competent jurisdiction at the domicile of the vital records registry which court order shall issue only after a showing of compelling reasons, and opened only to the extent necessary to satisfy such compelling necessity.

C. In satisfying the requirement that information shall be revealed only to the extent necessary to satisfy the compelling necessity shown, the court is further authorized to use the services of the curator ad hoc appointed pursuant to Code of Civil Procedure Article 5091.2.

D. Except as provided in Subsection E of this Section, all motions for records under this Section shall be in accordance with and subject to the provisions of Children's Code Articles 1188 through 1192 and, if an adoption agency is involved, the agency shall be served with a copy of the motion as provided in Code of Civil Procedure Article 1313.

E.(1) Notwithstanding any provision of the law to the contrary, an adopted person who is twenty-four years of age or older may request an uncertified copy of his birth certificate from the state registrar. Upon such a request, the registrar shall open the sealed package and issue an uncertified copy of the original birth certificate to the adopted person.

(2) The uncertified copy of the original birth certificate shall be issued to the adopted person in accordance with the regulations duly promulgated in accordance with the Administrative Procedure Act for a certified copy of a vital record in the custody of the vital

records registry.

F.(1) A birth parent may at any time request from the state registrar a contact preference form that shall accompany the adopted person's original birth certificate.

(2) The contact preference form shall provide the following information to be completed at the option of the birth parent who shall indicate his intentions as follows:

(a) I would like to be contacted.

(b) I would prefer to be contacted only through an intermediary.

(c) I prefer not to be contacted at this time. If I decide later that I would like to be contacted, I will submit an updated contact preference form to the state registrar.

(3) The contact preference form is a confidential communication from the birth parent to the person named on the sealed birth certificate and shall be placed in the sealed packet containing the original birth certificate. The contact preference form shall be released to an adopted person when he requests his original birth certificate pursuant to Subsection E of this Section.

RS 40:78 — Retroactive operation

as after, the effective date of this Chapter.

RS 40:79 — Record of adoption decree

vices, his

certificate of the decree to the state registrar who shall make a new certificate of live birth of the person adopted, in the new name if the name has been changed in the decree.

(2)(a) If the child is adopted by a married couple, the names of both parties shall be recorded as the parents, even if one of the petitioning parties dies prior to entry of the final judgment of adoption. However, if the child is adopted by a step-parent who was married to the legal parent of the child and the legal parent dies prior to the filing of the petition for adoption, the names of both the deceased legal parent and the step-parent shall be recorded on the child's birth certificate at the request of the step-parent.

(b) If the child is adopted by a single person, the word "adopted" may be written on the new birth certificate if the adopting parent requests it, otherwise no such wording shall be imprinted on the document and the name of the single adopting parent shall be recorded on the new birth certificate.

(3) Upon request of an adopting parent of a child whose birth certificate has the word "adopted" indicated thereon, the state registrar shall immediately reissue a birth certificate which has no reference or other indication that the child was adopted.

(4) The state registrar shall seal and file the original certificate of birth with the certificate of the decree and the contact preference form submitted pursuant to Subsection F of this Section. This sealed package may be opened only on the order of a competent court or as provided in Subsection E of this Section.

B. If no original record of birth is located in the files of the state registrar of vital records, then unless the child is known to have been born out of the state of Louisiana, he shall file a new certificate of birth in the adoptive name as evidence of the name of the child, names of parents, birth date, and birthplace. The state registrar may require additional documentary evidence necessary to establish the circumstances of birth.

C. A person born in a foreign country who is adopted in the state of Louisiana, but who is not a United States citizen, or who is a naturalized United States citizen, and a person born in a foreign country and adopted outside the United States by adoptive parents who are residents of the state of Louisiana at the time of the adoption, may obtain a new birth certificate according to the following conditions, limitations, and procedures:

(1) Where a certified copy of the original foreign birth certificate of the adopted person, and, if the certificate is not in English, a certified verbatim translation of the certificate are available, the state registrar, upon receipt of the certificate translation and a certified copy of the order or decree of adoption, shall prepare a birth certificate in the new name of the adopted person and shall seal and file the foreign certificate and order or decree of adoption.

(2) Where the certified copy of the original birth certificate of the adopted person and certified translation are not available, the court having jurisdiction of adoptions in the parish, upon evidence presented by the Department of Children and Family Services from information secured at the port of entry or upon evidence from other reliable sources, may make findings on the date, place of birth, and parentage of the adopted person. Upon receipt of a certified copy of such findings of the court, together with a certified copy of the order or decree of adoption, the state registrar shall prepare a birth certificate in the new name of the adopted person and shall seal and file the certified copy of the findings of the court and the certified copy of the order or decree of adoption.

(3) A birth certificate issued pursuant to the provisions of this Subsection shall show specifically the true or probable country, island, or continent of birth. Except as provided in the following Paragraph, the birth certificate shall be annotated with the provision "not proof of United States citizenship".

(4) Where a certified copy of a certificate of naturalization is received by the state registrar together with the documents required by this Subsection, the date and number of the certificate of naturalization shall be included in the birth certificate, and the birth certificate shall be accepted by all state agencies as evidence of United States citizenship.

D. Except as provided in Subsections E and F of this Section, all motions for records under this Section shall be in accordance with, and be subject to, the provisions of Children's Code Articles 1188 through 1192, and, if an adoption agency is involved, the agency shall be served with a copy of a motion as provided in Code of Civil Procedure Article 1313.

E.(1) Notwithstanding any provision of the law to the contrary, an adopted person who is twenty-four years of age or older may request an uncertified copy of his birth certificate from the state registrar. Upon such a request, the registrar shall open the sealed package and issue an uncertified copy of the original birth certificate to the adopted person.

(2) The uncertified copy of the original birth certificate shall be issued to the adopted person in accordance with the regulations duly promulgated in accordance with the Administrative Procedure Act for a certified copy of a vital record in the custody of the vital records registry.

F.(1) A birth parent may at any time request from the state registrar a contact preference form that shall accompany the adopted person's original birth certificate.

(2) The contact preference form shall provide the following information to be completed at the option of the birth parent who shall indicate his intentions as follows:

(a) I would like to be contacted.

(b) I would prefer to be contacted only through an intermediary.

(c) I prefer not to be contacted at this time. If I decide later that I would like to be contacted, I will submit an updated contact preference form to the state registrar.

(3) The contact preference form is a confidential communication from the birth parent to the person named on the sealed birth certificate and shall be placed in the sealed packet containing the original birth certificate. The contact preference form shall be released to an adopted person when he requests his original birth certificate pursuant to Subsection E of this Section.

RS 40:91 — Title

ntact the webmaster.

RS 40:92 — Certificate of stillbirth; requirements

by the state registrar for each

spontaneous fetal death which occurs in this state after twenty complete weeks of gestation or more, calculated from the date the last normal menstrual period began to the date of delivery, or a weight of three hundred fifty grams or more; and for each instance of spontaneous fetal death when a parent of a stillborn child requests a certificate of stillbirth.

(2) The certificate established pursuant to this Section shall be provided by the vital records registry upon the request of the parent or parents of a stillborn child.

B. The certificate of stillbirth shall be identified as a certificate of birth resulting in stillbirth and shall contain the following information:

(1) The name of the child who shall be identified as deceased, or if the child is not named, the preparer shall include the sex of the child who shall be identified as deceased.

(2) The date and location of the stillbirth.

(3) The name of the mother and the father if the father's name is available.

(4) The certificate of stillbirth shall clearly indicate that it is not proof of a live birth.

C. One copy of the certificate of birth resulting in stillbirth shall be provided by the vital records registry at no cost upon request. Additional copies shall be subject to the same fees as a certificate of live birth as provided in R.S. 40:40.

RS 40:93 — Gestational carrier data collection; purpose

the extent that it is authorized by law.

RS 40:94 — Forms for collection of data

forms shall require but not be

limited to the following information:

(1) The age, marital status, and state and parish of domicile of the gestational carrier.

(2) The parish in which the in utero embryo transfer took place.

(3) The full name and address of the physician or physicians performing or attending to the following phases of the gestational carrier:

(a) In utero embryo transfer.

- (b) Prenatal and postnatal care.
- (c) Birth.
- (d) Miscarriage.
- (e) Induced abortion.
- (4) The age, marital status, and state and parish of domicile of the intended parents.
- (5) The medical reason necessitating the gestational carrier.
- (6) The medical procedures employed in the birth, miscarriage, or termination of pregnancy for medical emergency as provided by R.S. 40:1061.23.
- (7) The length and weight of the child born as a result of gestational carrier.
- (8) The length and weight of an unborn child miscarried after the initiation of a gestational carrier.
- (9) Other significant conditions or health complications of the unborn child and gestational carrier.
- (10) The results of pathological examinations of any unborn child who died as a result of pregnancy complications or termination incidental to a gestational carrier.

RS 40:95 — Completion of forms; filing with vital records registry

provide the information required by the provisions of R.S. 40:94. Such completed forms shall be transmitted by the physician to the vital records registry within fifteen days of the performance of the medical procedures and shall be confidential.

RS 40:96 — Confidentiality

disclosure, release, or inspection except upon application to a competent court and in conformity with the applicable requirements of confidentiality applicable to adoptions in the Children's Code. The reporting of the data for public health purposes shall redact any identifying information and any public report shall indicate patient numbers as assigned pursuant to rules promulgated by the Louisiana Department of Health.

RS 40:101 — Commemorative certificate of miscarried child; requirements

miscarried child" means an unintentional, spontaneous fetal

demise occurring at or prior to the twentieth week of gestation during a pregnancy.

B.(1) A licensed healthcare practitioner who attends or diagnoses a miscarried child or a licensed healthcare facility where the birth of a miscarried child occurs may advise a patient who experiences a miscarried child that the patient may request a commemorative certificate as provided for in this Section.

(2) The vital records registry shall provide on its website a form that may be completed by a healthcare practitioner or his designee affirming that he attended or diagnosed a patient who experienced a miscarried child.

C. Upon request of the patient and submission of a completed form provided for in this Section, the vital records registry shall issue a commemorative certificate of miscarried child. If requested, one copy of the commemorative certificate of miscarried child shall be provided by the vital records registry at no cost. Additional copies shall be subject to the

same fees as a certificate of live birth as provided in R.S. 40:40.

D.(1) The commemorative certificate shall contain the name of the fetus and the gender, if known. If the name is not furnished by the patient, the vital records registry may complete the commemorative certificate with the name "Baby Boy" or "Baby Girl" and the last name of the patient. If the gender of the fetus is unknown, the department shall fill in the commemorative certificate with the name "Baby" and the last name of the patient.

(2) The front of the commemorative certificate shall include a disclaimer stating that the commemorative certificate is not proof of a live birth.

E.(1) The vital records registry shall not register a birth associated with a commemorative certificate issued pursuant to this Section nor use it to calculate live birth statistics.

(2) A commemorative certificate is commemorative in nature and has no legal effect.

(3) A commemorative certificate issued according to this Section shall not be used to establish, bring, or support a civil cause of action seeking damages against any person or entity for bodily injury, personal injury, or wrongful death of a miscarried child.

RS 40:381 — Title

his website,

RS 40:381.1 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:382 — Findings and purposes

d in safe, livable neighborhoods, and affordable to persons of low and moderate income.

(2) Many persons and families throughout this state occupy inadequate, overcrowded, unsafe, or unsanitary residential housing because they are unable to locate and secure suitable housing at a price that they can reasonably afford. This circumstance has resulted in undue concentrations of impoverished populations in certain areas, increased rates of crime, deterioration in human health, and other family and social dysfunctions, thereby seriously and adversely affecting the public health, safety, and welfare of persons residing in this state.

(3) In addition to the lack of suitable, affordable housing, there persist in numerous areas of this state conditions of economic distress, accompanied by physical deterioration of public facilities and the commercial and residential infrastructure.

(4) It is the goal and policy of this state that all its residents shall have access to decent, safe, sanitary, and affordable housing in safe and livable neighborhoods and it is the policy of this state to assure the availability, for rental or sale, of decent, safe, and sanitary housing that is affordable to all persons residing in this state.

(5) It is further the goal and policy of this state that, to the maximum extent feasible, persons and families benefiting from activities authorized under this Chapter be encouraged to become economically self-sufficient.

(6) Achieving permanent improvement in the living standards of persons of low and moderate income may require, in addition to providing enhanced housing opportunities, the delivery of social, educational, and other supportive services and the operation of programs to develop self-sufficiency and to provide economic and employment opportunities and other benefits for persons assisted under this Chapter.

(7) Persons of low and moderate income possess inadequate access to sources of equity and financing for the purchase and ownership of housing at rates and upon terms reasonably affordable to such persons.

(8) The adverse conditions described above cannot be remedied, nor can the above stated goals and policies be successfully carried out, through the ordinary functioning of private enterprise alone. These objectives may be attainable, however, by diligent efforts of public agencies acting both alone and cooperatively with private sector entities and enterprises. The actions of public agencies so taken are, therefore, not competitive with private enterprise.

(9) The clearance, replanning, and reconstruction of areas in which housing is unsafe or unsanitary or in which neighborhoods are unsafe or unlivable; the provision of decent, safe, and sanitary housing that is affordable to persons of low and moderate income, including the development, leasing, or sale thereof, and the provision of supportive services and programs benefiting persons and families receiving housing assistance under this Chapter are public uses and purposes and essential governmental functions for which public funds may be spent and private property acquired. The character of any expenditures of public funds contemplated under this Chapter, as necessary and proper public expenditures for essential government functions, is not altered because such expenditures may be made to, or in connection with, the activities of private sector entities or enterprises, whether nonprofit or for profit in nature.

(10) The amount of funding for decent, safe, and sanitary housing that is affordable to persons of low and moderate income and for associated services to benefit such persons has not kept pace either with the growing demand for such housing and services or with the needs of local housing authorities to operate and maintain their facilities and programs. Since local housing authorities have not possessed the power to tax, it is necessary to ensure other adequate funding sources for their activities. Accordingly, this state must provide to its local housing authorities sufficient power to adequately address the housing needs of persons of low and moderate income within this state, and to operate related programs, with funding derived from public and private sources as well as the federal government.

(11) The purposes of this Chapter will best be carried out by affording to local housing authorities of this state the maximum amount of flexibility, responsibility, and discretion. Therefore, in carrying out the purposes of this Chapter, such authorities shall be presumed to possess broad powers and legal prerogatives which will enable them to carry out their purposes in any manner not prohibited by law.

(12) Improved sources of financing must be made available to local housing authorities, and by local housing authorities to the private sector of the economy, to enable such authorities and private enterprise to increase the production of new housing, and to conserve and preserve the supply of existing housing, that is affordable for rental or sale to persons of low and moderate income.

(13) This state and its public agencies should be involved to a significant degree in the provision of decent, safe, and sanitary, affordable housing for its residents within safe, livable neighborhoods. It is the policy of this state to cooperate and to encourage all of its public agencies to cooperate with local housing authorities in order to facilitate, to the maximum extent feasible, the planning, development, and operation of decent, safe, and sanitary housing that is affordable to persons of low and moderate income.

(14) Adverse social conditions and crime problems, including drug-related crime problems, exist within this state and in some local housing authority developments. All practicable steps should be taken to mitigate adverse social conditions and to lessen the effects of drug and crime problems on residents of local housing authority developments. Local housing authorities should possess the maximum power and authority to establish and implement policies, and to take all actions they deem appropriate, to mitigate adverse social conditions, and to eliminate drug and crime problems in their developments.

(15) While it is the goal of this state to provide access to decent, safe, sanitary, and affordable housing to all of its residents, the benefits of this Chapter are not a matter of right, but of privilege, and persons accepting assistance under this Chapter shall, by such acceptance thereof, recognize their responsibilities to the local housing authorities providing such assistance and to other persons living in their vicinity. Accordingly, local housing authorities shall be permitted to impose and enforce occupancy standards and requirements that are typical of those applicable in private dwellings.

RS 40:383 — Purposes

ch housing to all such persons, to preserve existing supplies of such housing, and to create, administer, and operate programs to increase and maintain access to decent, safe, and sanitary rental housing and home ownership, upon terms affordable to such persons.

(2) To encourage the development, redevelopment, rehabilitation, and preservation of safe, livable neighborhoods containing housing that is affordable to persons of low and moderate income, including mixed-use and mixed-income developments, and to reduce where feasible high residential concentrations of impoverished persons.

(3) In connection with the provision of affordable housing and related activities authorized under this Chapter, to eliminate or ameliorate conditions of blight and physical deterioration in public facilities and the commercial and residential infrastructure.

- (4) To provide housing, rental, and other assistance to persons of low and moderate income, and assistance to properties and entities, in accordance with this Chapter, and, subject to standards and procedures adopted by the local housing authority, to authorize the provision by local housing authorities of supportive services and programs of every kind and description to advance the social, educational, and economic well-being and the economic and social self-sufficiency, of persons receiving housing assistance under this Chapter, so as to create wholesome living environments, eliminate long-term poverty, encourage gainful employment, develop social and economic self-sufficiency, including living independently of housing assistance, and enhance personal responsibility on the part of such persons.
- (5) To increase intergovernmental cooperation and the use of consortia and intergovernmental partnerships for the development of affordable housing and suitable neighborhoods.
- (6) To encourage the use of entrepreneurial methods and approaches and to stimulate and increase private sector initiatives and joint public-private sector initiatives by local housing authorities in carrying out the purposes and provisions of this Chapter.
- (7) To increase the availability, from both public and private sector sources, of financing for the purchase of dwellings and the financing for home improvements, repairs, and rehabilitation at rates and upon terms that are affordable to persons of low or moderate income; further, to increase the availability of sources of equity and other financing for the development and operation by local housing authorities and private sector entities of decent, safe, and sanitary rental housing that is affordable to persons of low and moderate income.
- (8) In carrying out the foregoing purposes, to vest in local housing authorities the maximum feasible responsibility, authority, and discretion. Except where clearly prohibited by applicable law, such authorities shall also possess the powers and legal prerogatives of private sector entities.

RS 40:384 — Definitions

rs from the context:

- (1) "Affiliate" means any corporation, entity, partnership, venture, syndicate, or arrangement in which a local housing authority has an ownership or governance interest of less than a majority.
- (2) "Affordable housing" means dwelling units that may be rented or purchased, as the case may be, by persons of eligible income as defined herein with or without government assistance.
- (3) "Arrangement" means a legal relationship with another party that may include but shall not be limited to a general or limited partnership; joint venture; syndicate or syndication; corporation; limited liability company; corporation or partnership; an unincorporated association; a cooperative; a consortium; and all other structures, organizations, and forms of legal relationships with third parties.
- (4) "Area of operation" means the geographical area within which a local housing authority may own or operate housing developments as more particularly set forth in R.S. 40:396.
- (5) "Municipality" means and includes any political subdivision of this state known as a city, town, or village which is an incorporated unit of general local government.
- (6) "Parish" means and includes any political subdivision of this state known as a parish, which is a unit of general local government.
- (7) "Commissioner" means a person serving on the governing board of a local housing authority, including any person identified under prior law as a "member" of a housing authority.
- (8) "Community facility" means real and personal property suitable for recreational, educational, health, or welfare purposes, including but not limited to buildings, equipment, and parks and other spaces or structures.
- (9) "Development" or "housing development" means and includes all dwellings and associated appurtenances, including real and personal property, and all other facilities and improvements of every kind and description which a local housing authority may own or operate or in which it may hold an interest under this Chapter; all land upon which such dwellings, appurtenances, and facilities are situated; all work and activities undertaken by a local housing authority or others relating to the creation of such property; all tangible and intangible personal property relating thereto, including all leases, licenses, agreements, and other instruments and all rights and obligations arising thereunder, establishing or confirming ownership, title, or right of use or possession in or to any such property by a local housing authority, all as more particularly described and authorized in this Chapter.

(10) "Establishing a housing authority" means taking all actions required under R.S. 40:392 or 411 to be taken by the governing body of a municipality or parish, or in the case of a regional or consolidated housing authority by the governing bodies of all political subdivisions participating therein, for a housing authority to conduct business and to exercise its powers. In the case of a housing authority existing on August 15, 1997, "established" means that such authority has been authorized to conduct business and exercise its powers in accordance with prior law.

(11) "Family" means two or more persons that includes a husband or father and/or wife or mother and/or one or more children, that a local housing authority accepts for occupancy of a dwelling or to which such authority offers or provides other assistance, as particularly defined in the eligibility and occupancy standards adopted by the authority. For the limited purposes of any reference to the term family or household in this Part, such terms shall also include a person who is elderly, a person with a disability, and any other person who may be unmarried or without children.

(12) "Guest" means any person, not a resident of such development, who is present within a development, or any person, not a resident in a dwelling, who is present within such dwelling in a development, as an invitee of or otherwise with the acquiescence or consent of a resident of such development or dwelling, as the case may be.

(13) "Hold an interest" means ownership or control of or participation in an arrangement with respect to a development by a local housing authority or any affiliate thereof.

(14) "Household" means a family as defined in Paragraph (11) of this Section.

(15) "Housing authority" or "authority" means and includes both a local housing authority established pursuant to R.S. 40:391 or 392 and a regional or consolidated housing authority established pursuant to R.S. 40:411. Wherever the context requires or permits, this term shall be deemed to include a subsidiary of a housing authority.

(16) "Local housing authority" or "authority" means a public body, corporate and politic, previously established, or to be established, by a municipality or a parish pursuant to the authority provided in this Chapter, exercising necessary and essential governmental functions for the purposes stated in this Chapter in matters of statewide concern, although its operations are local in nature. It is a political subdivision of this state, independent from the municipality or parish which established or establishes it or which may appoint some or all of its commissioners, and is not a state agency for any purpose, including R.S. 42:421(B). Any reference in this Chapter to a local housing authority shall also be deemed to include a "housing authority" or a "regional or consolidated housing authority" unless the context clearly otherwise requires. "Local housing authority" also includes any housing authority established under prior law.

(17) "Mixed finance development" means a development that is financed both by funding derived from the private sector and funding provided by the federal government that is permitted to be used for the development of affordable housing.

(18) "Mixed income development" means a housing development intended to be and which in fact is occupied both by persons of eligible income and by persons other than those of eligible income.

(19) "Mixed use development" means a development that includes both residential and non-residential uses.

(20) "Person" shall include a family and, where the context so requires, a household.

(21) "Persons of eligible income" means:

(a) With respect to state or federally funded activities or developments, individuals or families who meet the applicable income requirements of the state or federal program involved, if any such state or federal income requirements are applicable, and, if none are so applicable, then individuals or families who meet the requirements of Subparagraph (b) of this Paragraph.

(b) With respect to activities and developments other than those to which Subparagraph (a) of this Paragraph is applicable, individuals or families who, in the determination of the local housing authority, lack sufficient income or assets, taking into account all resources available to such individuals or families from whatever source derived or reasonably derivable, to enable them, without undue hardship or governmental financial assistance, to purchase or rent, as the case may be, decent, safe, and sanitary dwellings of adequate size.

(c) Whenever any provision of Part I, II, or III of this Chapter refers to persons of eligible income with specific reference to this Subparagraph, "persons of eligible income" includes not only the persons described in Subparagraph (b) of this Paragraph, but also individuals and families whose income does not exceed one hundred fifty percent of the maximum income standard applicable under Subparagraph (b) of this Paragraph.

(22) "Public agency" means and includes:

- (a) Any parish; municipality; school, drainage, tax improvement or other district; local housing authority; department, division, or political subdivision of this state or another state; housing authority, housing finance agency, or housing trust of this state or another state; and any other agency, bureau, office, authority, or instrumentality of this state or another state.
- (b) Any board, agency, commission, division, or other instrumentality of a municipality or parish.
- (c) Any board, commission, agency, department, or other instrumentality of the United States, or any political subdivision or governmental unit of any of them.
- (23) "Regional housing authority" or "consolidated housing authority", as the case may be, means a public body, corporate and politic, and a governmental subdivision of this state, formed by two or more parishes pursuant to the authority provided in R.S. 40:411(A), or by two or more municipalities pursuant to the authority in R.S. 40:411(B), exercising necessary and essential governmental functions for the purposes stated in this Chapter in matters of statewide concern, although its operations are local or regional in nature. It is a political subdivision of this state, independent from political subdivisions of this state which established it or which may appoint some or all of its commissioners.
- (24) "Representative" means a commissioner, officer, employee, or agent of a local housing authority.
- (25) "Resident" means a person residing in a development of a housing authority, with the consent of such authority, according to its policies, rules, and procedures.
- (26) "State" means the state of Louisiana and its duly constituted government.
- (27) "Subsidiary" means any corporation, entity, partnership, venture, syndicate, or arrangement in which a local housing authority shall participate by holding an ownership interest or participating in its governance, in which commissioners, officers, employees, and agents of such authority constitute a majority of the governing body of such entity.
- (28) "Criminal history record information" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and records of convictions and any disposition arising therefrom, including sentencing, correctional supervision, and release, but does not include information collected for intelligence or investigatory purposes, nor does it include any identification information which does not indicate involvement of the individual in the criminal justice system.

RS 40:385 — Benefits not a right

right. All benefits conferred shall be pursuant to the conditions and qualifications established by this Chapter and by the rules and regulations of the local housing authority administering it. Further, the benefits of this Chapter are necessarily limited by the resources available to each local housing authority of this state. Consequently, all persons who might otherwise be eligible may not receive a benefit. Further, those receiving benefits may receive the same only on a temporary basis or for a limited period of time.

RS 40:391 — Establishment of local housing authorities

1997 shall have continued existence under this Chapter, shall have all the powers conferred by this Chapter and existing under law immediately prior to August 15, 1997, and shall continue to own its property and conduct its operations consistent with this Chapter.

B. All commissioners of such authority and all officers, legal counsel, technical experts, directors, and other appointees or employees of such authority holding office or employment on August 15, 1997 by virtue of any such prior law shall be deemed to have been appointed or employed under this Chapter.

RS 40:392 — Establishment of authorities

ch authority shall not be deemed to be established under this Chapter, nor shall it be authorized to conduct any business or exercise any of its powers, unless and until the governing body of the municipality or parish declares by resolution that a need exists for such a local housing authority to function in such municipality or parish and finds that there exists a shortage of decent, safe, and sanitary dwelling accommodations in such municipality or parish or that such accommodations are not available and affordable to all residents regardless of income.

B. The Houma Housing Authority is hereby abolished and the Houma-Terrebonne Housing Authority is hereby created and established as the successor to the Houma Housing Authority. The Houma-Terrebonne Housing Authority shall be governed as provided by this Chapter and shall have all of the powers, functions, and duties of a housing authority as provided in this Chapter or any other provision of law. It shall exercise such powers, functions, and duties throughout

Terrebonne Parish including within the corporate limits of Houma and of any municipality incorporated in the future.

RS 40:393 — Resolution of governing body

or parish desiring to establish such authority shall adopt a resolution declaring, in substance, that there is a need for a local housing authority in said municipality or parish because there exists a shortage of decent, safe, and sanitary housing in the municipality or parish or that such housing is not affordable to all residents thereof, regardless of income. No further action or findings shall be necessary. Upon the adoption of the resolution, the local housing authority shall be established and shall have perpetual existence unless dissolved in accordance with law.

RS 40:394 — Adoption of a legal name

erating purposes. The name so adopted shall include a reference to the geographic locus of the authority and such other name or identifier as the governing body establishing the authority shall determine. A local housing authority established under prior law may adopt a name consistent with the foregoing requirements by resolution adopted by at least two-thirds of such authority's entire board of commissioners and approved by the governing body of the municipality or parish which established such authority.

RS 40:395 — Evidence of establishment of local housing authority

d, serve as conclusive evidence that such authority has been properly established and is authorized to transact business and exercise its powers under this Chapter.

RS 40:396 — Area of operation of local housing authority established by municipality

nicipality and the area within ten miles from the territorial boundaries thereof. Depending upon the geographical location of the municipality, such area of operation may include portions of one or more parishes. It may also include areas lying within the territorial boundaries of municipalities outside the municipality establishing the local housing authority. In order to resolve territorial conflicts, the following rules shall apply:

- (1) In the case of the local housing authority's home parish, it may operate outside of the area described in this Section in the unincorporated areas of the home parish only with the permission of the governing authority.
- (2) In the case of incorporated areas of the home parish, the local housing authority may operate within the territorial boundaries thereof only by consent of such other municipality and its local housing authority, if any.
- (3) In the case of unincorporated portions of parishes other than the local housing authority's home parish, it may operate only with the consent of the governing body of the parish, regardless of whether the other parish has established a local housing authority.
- (4) In the case of incorporated areas within other parishes, it may operate only with the consent of the governing body of any municipality incorporating such areas, and, if the other municipality has also established its own local housing authority, also with the consent of the other local housing authority.
- (5) Notwithstanding any other provision of this Section, a local housing authority may, subject to the limitations stated in R.S. 40:449, provide rental assistance to persons residing outside the authority's area of operation as defined in this Section.

B. For purposes of this Section, "home parish" means the parish in which the municipality establishing the local housing authority is situated.

RS 40:397 — Area of operation of local housing authority established by parish

pt that portion which lies within the territorial boundaries of any municipality in which a local housing authority has been established.

RS 40:398 — Concurrent jurisdiction

ties, or for any other reason, territories may exist that include the area of operation of two or more local housing authorities. Such areas shall be areas of concurrent jurisdiction.

B. No local housing authority whose area of operation shall include an area of concurrent jurisdiction shall construct, acquire, or develop any new housing development within the area of concurrent jurisdiction except upon sixty days prior written notice to all other local housing authorities existing within the area of concurrent jurisdiction. The notice shall specify the location, size, and general nature of the proposed new development. Any local housing authority receiving the

notice shall have thirty days to send written objections thereto to the local housing authority sending the notice and proposing said new development.

C. If written objections are timely made, the local housing authority proposing the new development shall not proceed unless and until both authorities shall have made a good faith effort to resolve their differences and, failing such resolution, the proposing local housing authority shall submit the matter to the governing body of the municipality or parish in which said proposed new development is planned to be located. The governing body, after allowing both local housing authorities to be heard, shall decide whether said new development shall be constructed, acquired, or developed by the local housing authority proposing such action.

RS 40:399 — Continuation of operations after commenced

shing the development or its designee unless the development is conveyed to another housing authority or to a municipality, parish, or other public agency or is otherwise disposed of in accordance with law.

RS 40:400 — Cooperative jurisdiction

gencies within this state and any public agencies of any other state, with the federal government, and with any person or entity, public or private, and wherever located, in order to carry out the purposes of this Chapter. Such cooperation may include but shall not be limited to activities and operations conducted with the agreement of any public agency.

Therefore, the area of operation of a local housing authority shall be deemed to include any other area or areas within any municipality or parish, regardless of location, with respect to which the municipality or parish within whose boundaries the area or areas lie agrees to allow the local housing authority to operate.

RS 40:401 — Vesting of authority's powers in commissioners, voting

the authority for the purpose of conducting its business and exercising its power and for all other purposes. Except for any matter with respect to which the resolution creating the authority or its bylaws requires a higher number or proportion of votes, action may be taken by the authority upon the vote of a majority of the commissioners present and voting.

RS 40:401.1 — Housing authority of the parish of St. Landry; commissioners

hall constitute a quorum of the authority for the purpose of conducting its business and exercising its power and for all other purposes.

RS 40:401.2 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:401.3 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:401.4 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:401.5 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:401.6 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:401.7 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:401.8 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:401.9 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:402 — Executive committees

such powers over the management or operation of such housing authority as the commissioners of such authority shall specify and declare in the resolution establishing the executive committee.

RS 40:403 — Responsibility for debts or liabilities of local housing authorities

sh with respect to which a local housing authority is established, nor any municipality or parish participating in a regional housing authority, nor the state, nor any other public agency of this state shall be responsible for the debts or liabilities of any local housing authority or regional housing authority.

RS 40:404.1 — Housing authorities of the cities of Gonzales and St. Martinville; per diem

aid from funds of the respective housing authority, for a maximum of twenty-four days per year for attendance at meetings of the respective housing authority in amounts not to exceed the following:

- (1) Fifty dollars for the chairman of the authority.
- (2) Twenty-five dollars for all other members.

RS 40:405 — Exemptions from levy and execution

ts subsidiaries shall be exempt from execution, levy, and sale for the payment of debt or otherwise pursuant to any judicial or other process.

RS 40:406 — Exemptions from certain laws

be exempt from all licensing requirements imposed by any law with respect to the sale, rental, or management of real property or the improvement or development thereof, including requirements imposing any fee or charge.

B. The following provisions of law, and any regulations relating thereto, shall not apply to a local housing authority unless the legislation imposing such requirements is expressly and specifically applicable to local housing authorities or the local housing authority expressly elects to be governed by such legislation or regulations:

- (1) The Administrative Procedure Act.
- (2) Any law, ordinance, or regulation governing or otherwise applicable to the procurement of goods and services, or to the acquisition, operation, or disposition of property by public agencies of this state.

RS 40:411 — Creation

onal housing authority for both or all of such parishes, a public body corporate and politic known as a regional housing authority shall thereupon exist and exercise its powers and perform its functions in such parishes.

B. If the governing body of each of two or more municipalities, whether or not in the same general geographical location, declares by resolution that there is a need for one consolidated housing authority for both or all of such municipalities, a public body corporate and politic known as a consolidated housing authority shall thereupon exist and exercise its powers and perform its functions within its area of operation.

C. Regional and consolidated housing authorities may select appropriate corporate names for themselves.

RS 40:412 — Area of operation

if created separately by political subdivisions establishing the regional housing authority, would have, when aggregated.

The area of operation of a regional housing authority shall not include any area which lies within the territorial boundaries of any municipality or parish in which a local housing authority has been established and which municipality or parish is not a participant in said regional authority. However, the local housing authority of the municipality or parish and the governing body of the municipality or parish may consent to the operation of one or more developments by said regional housing authority within the municipality's or parish's territorial boundaries.

B. In the case of a consolidated housing authority, the authority's area of operation consists of all of the territory within the boundaries of each municipality joining in its creation together with the territory within one mile of the boundaries of each municipality.

RS 40:413 — Increasing area of operation

ot already within a regional or consolidated housing authority and, in the case of parishes, in the same general geographical location, if the governing body of each of the parishes or municipalities then included in the area of operation of the regional or consolidated housing authority, the commissioners of the authority, and the governing body of

each such additional parish or municipality adopts a resolution declaring that there is a need for the inclusion of the additional parish or municipality in the area of operation of the regional or consolidated housing authority.

RS 40:414 — Effect on local authorities of adoption of consolidated or regional authorities

regional housing authority, pursuant to R.S. 40:411, or a consolidated housing authority, pursuant to R.S. 40:413, it shall obtain the consent of the local housing authority. In the event of such consent, any such existing housing authority which embraces the municipality or parish within its area of operation may elect to cease to exist therein, except for the purpose of winding up its affairs and transferring its property to the consolidated or regional housing authority, as provided in R.S. 40:419. In the event that any such housing authority elects to continue in existence, then in such event, the jurisdiction of such regional or consolidated housing authority shall be exercised concurrently with that of the local housing authority within its area of operation.

RS 40:415 — Prerequisites to adoption of resolution creating or expanding regional or consolidated authority

R.S. 40:411 only if it finds that:

- (1) In the area of its respective parish or municipality, there are insanitary or unsafe inhabited dwelling accommodations or there is a shortage of safe or sanitary dwelling accommodations available to families of low income at rentals they can afford or that slum or blighted areas exist.
- (2) The regional or consolidated housing authority would be the most efficient and economical administrative unit to carry out the purposes of this Part in its parish or municipality.

B. In the case of the expansion of the area of operation of a regional or consolidated authority, the governing body of any parish or municipality and the commissioners of the regional or consolidated housing authority shall adopt a resolution pursuant to R.S. 40:413 if both:

- (1) The governing body of each parish or municipality to be included finds that insanitary or unsafe inhabited dwelling accommodations exist therein or that there is a shortage of safe or sanitary dwelling accommodations therein available to families of low income at rentals they can afford or that slum or blighted areas exist therein.
- (2) The governing body of the parishes or municipalities already included in the area of operation of the regional or consolidated housing authority, the commissioners of the regional or consolidated housing authority and the governing body of each additional parish or municipality finds that the regional or consolidated housing authority would be a more efficient or economical administrative unit to carry out the purposes of this Part if the area of operation of the regional or consolidated housing authority is increased to include the additional parish or municipality.

RS 40:416 — Public hearings to create regional or consolidated authority or increase its area of operation

:411 or 413 unless a public hearing has first been held. The governing body shall give notice of the time, place, and purpose of the public hearing at least ten days prior to the day on which it is to be held, in a newspaper published in the parish or municipality, as the case may be, or, if there is no newspaper published therein, in a newspaper published in the state and having a general circulation in the parish or municipality. On the date fixed for the hearing, an opportunity to be heard shall be granted to all residents of the parish or municipality and to all other interested persons.

B. In determining whether dwelling accommodations are unsafe or insanitary the governing body of a parish shall take into consideration the safety and sanitation of dwellings; the light and air space available to the inhabitants of such dwellings; the degree of overcrowding; the size and arrangement of the rooms; and the extent to which conditions exist in such dwellings which endanger life or property by fire or other causes.

RS 40:417 — Consent of obligees and commissioners of local authority to substitution of regional or consolidated authority, transfer of rights, duties and property

lity shall not adopt a resolution pursuant to the provisions of R.S. 40:411 or 413 if there is an existing housing authority therefor which has any obligations outstanding unless:

- (1) All obligees of the existing housing authority and the parties to its obligations consent in writing to the substitution of the regional or consolidated housing authority therefor on all such obligations.

(2) The commissioners of the existing housing authority adopt a resolution consenting to the transfer of all the rights, obligations and property thereof to the regional or consolidated housing authority.

B. When the two conditions in Subsection A are complied with and the regional or consolidated housing authority is created and authorized to exercise its powers and perform its functions, all rights, obligations and property of the former housing authority shall vest in the regional or consolidated housing authority and be in its name. All rights and obligations of the former housing authority shall be the rights and obligations of the regional or consolidated housing authority and may be asserted and enforced by or against the regional or consolidated housing authority as they might have been asserted and enforced by or against the former housing authority.

RS 40:418 — Notification of mayor of adoption of consolidated authority

y, it shall promptly notify the mayor of the municipality of that adoption.

RS 40:419 — Transfer of property to regional or consolidated authority; registration

of R.S. 40:417, it shall execute an act transferring the property to the regional or consolidated authority. The regional or consolidated authority shall thereupon register the act as provided by law in the case of sales. However, nothing contained in this Section affects the vesting of property in the regional or consolidated housing authority as provided in R.S. 40:417.

RS 40:420 — Time of official creation; contents of resolution; resolution as evidence

e conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of a resolution declaring the need of such authority by the governing body of each of the parishes or municipalities originally within the authority. This resolution is sufficient if it declares that there is a need for the authority and finds in substantially the terms used in R.S. 40:415(A) that the conditions enumerated as Paragraphs (1) and (2) therein exist. Copies of these resolutions duly certified by the presiding officers or secretaries or the clerks of the respective governing bodies are admissible in evidence in any proceeding.

RS 40:421 — Decreasing area of operation; conversion to parish or municipal authority

e or more parishes or municipalities if the governing body of each of the parishes or municipalities in the area and the commissioners of the regional or consolidated housing authority each adopt a resolution declaring that there is a need for excluding the parish or municipality from the area.

B. If this action decreases the area of operation of the regional or consolidated housing authority to only one parish or municipality, regardless of its population, the authority shall thereupon become a housing authority for that parish or municipality. Such an authority has the same powers, duties and functions of a regular parish or municipal authority and is subject to all the provisions of this Part applicable thereto.

RS 40:422 — Prerequisites to adoption of resolution decreasing area of operation

authority and the commissioners of the authority shall adopt a resolution pursuant to R.S. 40:421 if both:

(1) The governing body of each of the parishes to remain in the area of operation of the authority and the commissioners of the authority find that, because of facts arising or determined subsequent to the time when the area first included the parish or municipality to be excluded, the regional or consolidated housing authority would be a more efficient or economical administrative unit to carry out the purposes of this Part if the parish or municipality was excluded from the area of operation thereof.

(2) The governing body of each parish or municipality to be excluded and the commissioners of the authority each also find that, because of the changed facts, the purposes of this Part could be carried out more efficiently or economically if the area of operation of the regional or consolidated housing authority did not include it.

B. However, no such resolution shall be adopted unless and until R.S. 40:423 and 424 have been complied with.

RS 40:423 — Public hearing necessary before decrease

escribed in R.S. 40:416.

RS 40:424 — Creditors of agency must consent to decrease

tedness, unless all the holders thereof first consent in writing to that action.

RS 40:425 — Disposal of property held in eliminated area

hory shall be disposed of by the authority in the public interest as soon as practicable after the exclusion.

RS 40:426 — Creation of new local authority in parishes and municipalities excluded from regional or consolidated authority

f a regional or consolidated housing authority, the governing body of the parish or municipality, regardless of the population thereof, may adopt a resolution declaring that there is a need for a housing authority in the parish or municipality, as the case may be. If the governing body finds such need in the same manner and subject to the same conditions prescribed for this finding in the case of regular parish and municipal authorities, a public body corporate and politic known as the housing authority of the parish or the municipality shall exist therefor.

B. Such an authority possesses the same powers, duties, and functions as a regularly created parish or municipal authority, as the case may be, and is subject to the provisions of this Part applicable thereto.

C. Nothing in this Part prevents the parish or municipality from thereafter being included within the area of operation of a regional or consolidated housing authority.

RS 40:427 — Commissioners of regional or consolidated housing authority; appointment

operation, shall appoint one commissioner of the authority. The first commissioner which any parish governing body appoints shall be approved by the governor. The governing body of each parish shall appoint the successors of the commissioner appointed by it.

B. The mayor of each municipality included in a consolidated housing authority, originally or by an expansion of its area of operation, shall appoint one commissioner of the authority, subject to the approval of the governor. Successors to this commissioner shall be appointed in the same manner.

C. If any parish or municipality is afterwards excluded from the area of operation of a regional or consolidated housing authority, the office of commissioner of the authority from that parish or municipality is abolished as of the time of the exclusion.

D. If the area of operation of a regional or consolidated housing authority consists at any time of an even number of parishes or municipalities, the commissioners of the regional or consolidated housing authority shall, subject to the approval of the governor, appoint one additional commissioner. The commissioners appointed by the parish governing bodies or the municipal mayors, as the case may be, shall in like manner appoint the successors if any, of this additional commissioner.

E. At any time that the area of operation of the regional or consolidated authority is changed to consist of an odd number of parishes or municipalities, the additional commissioner's term, determined under R.S. 40:428, ends.

RS 40:428 — Terms of commissioners

s to determine whether their terms of office as commissioners shall be for one, two, three, four, or five years, respectively, from the date of their appointments. No term shall be for a longer period than five years. Should there be more than four commissioners to draw, the terms of all the commissioners in excess of four shall run for five years from the dates of their appointments. The minutes of the first meeting of the commissioners shall recite the results of the drawing by lot and shall be conclusive proof of the terms of office of these respective commissioners. Thereafter, all commissioners of a regional or consolidated housing authority shall be appointed for terms of five years. All vacancies shall be filled for the unexpired terms.

RS 40:429 — Certificates of appointment of commissioners

igned by the presiding officer or the clerk of the municipality, as the case may be, and by the governor, if his approval of the appointment is required, is conclusive evidence of the due and proper appointment of the commissioner.

B. A certificate of the appointment of any additional commissioner of a regional or consolidated housing authority shall be signed by the commissioners making the appointment and filed with the other records of the regional or consolidated housing authority and, when approved by the governor, shall be conclusive evidence of the due and proper appointment of the additional commissioner.

RS 40:431 — General character of local housing authority powers

g any power provided herein, and engaging in any activity related to furthering the purposes of this Chapter. Such powers shall include but shall not expressly be limited to the powers enumerated in this Section or stated elsewhere in this Chapter or in other applicable law.

B. The powers enumerated in this Chapter may be exercised singly or in any combination. The enumeration of any power shall not require, expressly or by implication, that any local housing authority shall be required to exercise such power.

C. In addition to any other express, constructive, or implied powers existing under applicable law, a local housing authority shall have powers, which may be exercised singly or in any combination. The enumeration of such powers shall not be construed to limit the powers of any local housing authority to the powers so enumerated. Those powers are to:

- (1) Have perpetual existence unless terminated by proper authority as provided by law.
- (2) Sue and, subject to the limitations, privileges, and immunities provided by applicable law, be sued.
- (3) Adopt a seal and to alter such seal from time to time.
- (4) Adopt, amend, repeal, and restate bylaws.
- (5) Adopt and enforce rules and regulations related to carrying out the purposes of the local housing authority and exercising its powers and to amend or repeal such regulations from time to time.
- (6) Enter into, execute, and perform contracts, instruments, and agreements of every kind and description, within or without its area of operation except where otherwise expressly provided, in furtherance of the purposes of this Chapter and in connection with the exercise of any of its powers.
- (7) Issue bonds and other debt instruments as provided in R.S. 40:470 and secure the repayment of such bonds and debt instruments by granting security interests in any or all of the local housing authority's real and personal property.
- (8) Guarantee any indebtedness or performance of any affiliate or third party in furtherance of the purposes of this Chapter.
- (9) Enter into and perform interagency and intergovernmental agreements of every kind and description and act in consortium with, as agent or manager for, or pursuant to agreement or contract with, other local housing authorities and any and all state, federal, and local public agencies to carry out the purposes of this Chapter and exercise any of its powers.
- (10) Form and operate nonprofit corporations and other affiliates of every kind and description, which may be wholly or partially owned or controlled by the authority, for carrying out the purposes of this Chapter and in connection with the exercise of any of the powers of a local housing authority.
- (11) Enter into arrangements of every kind and description in furtherance of the purposes of this Chapter and in connection with the exercise of any of its powers of a local housing authority.
- (12) However, no local housing authority shall exercise any power or authority relative to the issuance of bonds or other debt instruments without prior approval of the State Bond Commission.

D. Such arrangements may include but shall not be limited to arrangements with individual persons, general and limited partnerships; joint ventures; syndicates and syndications; corporations; limited liability companies, corporations, and partnerships; unincorporated associations; cooperatives; consortia; and any and all other forms of structures, arrangements, and organizations.

E. A local housing authority may participate as a general or limited partner, co-venturer, shareholder, or otherwise as a principal, an investor, a lender, a guarantor, a contracting party, or in any other manner, all upon such terms and conditions and with such rights and obligations as the governing board of the local housing authority shall, from time to time, in its discretion determine to be appropriate.

F. With respect to the forms and characteristics of arrangements, local housing authorities shall have, consistent with the limitations upon their powers set forth below and as otherwise imposed in this Chapter, the same discretion, authority, and flexibility as would be possessed by a private person or entity performing the same function.

G. Consistent with the limitations upon their powers set forth in R.S. 40:482, local housing authorities may participate in cooperative arrangements with persons and for profit entities whose purpose is solely that of pecuniary gain, as well as with nonprofit entities and persons who seek no pecuniary gain. The participation of a local housing authority in any arrangement with other persons or entities, including for-profit persons and entities, shall not cause any activity engaged

in by the authority to be characterized as proprietary nor deprive the authority of any privilege or immunity otherwise existing under law.

RS 40:431.1 — Jefferson Parish Housing Authority; power of taxation

em tax, as authorized by the housing authority, subject to prior approval of the Jefferson Parish Council.

B. The amount of the annual tax or fee shall be requested by duly adopted resolution of the board of commissioners of the housing authority, and the amount of the tax shall not exceed one-half mill.

C.(1) A tax shall be imposed only after the question of its imposition has been approved by a majority of registered voters of the parish voting at a regularly scheduled primary or general election held for that purpose in accordance with the Louisiana Election Code. No other election shall be required except as provided by this Subsection.

(2) The tax shall expire at the time provided in the proposition authorizing the tax, not to exceed eight years from its initial imposition; however, the tax may be renewed as provided for in Paragraph (1) of this Subsection.

D. The tax shall be collected in the same manner and at the same time as all other ad valorem taxes on property subject to taxation by the parish are levied and collected.

E. The proceeds of such tax shall be used solely and exclusively for the purpose and benefit of the housing authority; however, the parish may retain one percent of the amount collected as a collection fee.

RS 40:432 — Examinations and investigations

authority may:

(1) Conduct examinations and investigations with respect to any matter relating to the purposes of this Chapter.

(2) Make available to public agencies and officials and the public, all findings, conclusions, and recommendations resulting from such examinations and investigations.

(3) Subpoena and compel the attendance of witnesses and the production of documents, books, records, papers, electronic and other data, and things.

(4) Issue commissions for the examination of witnesses who are outside this state, unable to attend a hearing, or are excused from such attendance.

(5) Issue commissions for the examination of documents, books, records, papers, electronic and other data, and things outside this state.

(6) Administer oaths and receive sworn or unsworn testimony or other proofs at public or nonpublic hearings.

(7) Request and obtain criminal history record information on any person applying for public housing as provided for by R.S. 15:587(F).

B. A local Housing Choice Voucher agency, acting through its director or his designee, may request and obtain criminal history record information on any person applying for a voucher under Housing Choice Voucher programs.

RS 40:433 — Issue subpoenas and commissions

sses who are out of state, unable to attend before the authority, or are excused from attendance.

RS 40:434 — Funds and investments

the operations of the authority, its developments and its programs, in property or securities in any manner allowable by law; cooperate with this state or any public agency of this state with respect to investing the authority's funds; enter into investment agreements and contracts with responsible agents upon such terms and conditions as the authority deems appropriate; and purchase the authority's own bonds or other securities at such price as the authority shall, in its discretion, determine to be acceptable.

RS 40:435 — Assessments and planning

e means and methods through which unsatisfactory living conditions may be improved and affordable housing and community development and redevelopment needs may be met; participate in the planning processes conducted by units of local government having jurisdiction over the authority's area of operation and make recommendations with respect to the provision of decent, safe, and sanitary dwelling accommodations to persons of eligible income and the improvement of the social and economic conditions affecting such persons; evaluate the supply and adequacy of financing available for

the development and rental of affordable housing and for the purpose of decent, safe, and sanitary dwelling accommodations by persons of eligible income; and identify the means and methods through which adequate sources of financing for such purposes may be developed and maintained.

RS 40:436 — Development

rate housing, housing projects or developments, or any portions of housing projects or developments, and nonresidential and mixed-use facilities.

B. As used in this Section, the terms "development" or "housing development" shall include without limitation:

(1) Any and all site work, construction, and improvements and other work or responsibility undertaken by a local housing authority, any affiliate thereof, or any other person or entity, whether public or private, in cooperation or pursuant to agreement with such local housing authority to either:

(a) Carry out the activities described in this Section.

(b) Demolish, clear, or remove buildings and other improvements from land situated in blighted areas or slums.

(c) Create, provide, and finance affordable, decent, safe, and sanitary living accommodations and other facilities and improvements described in this Section, and otherwise authorized in this Chapter.

(2) All facilities and improvements created by the work or undertakings described in this Section, including, without limitation:

(a) All living accommodations operated primarily for residential purposes.

(b) The buildings containing such living accommodations and all appurtenances thereto.

(c) Partially or wholly manufactured housing, mobile homes, modular structures, the sites upon which they are situated, and all utilities, streets and roads, and other improvements and appurtenances relating thereto.

(d) All land, leasehold rights, easements and licenses, and other rights to the use or occupancy of the land upon which the improvements of a development are situated.

(e) All common areas, roads, streets, sidewalks, and pedestrian ways, bicycle routes and paths, drainage facilities, parking facilities, street lighting and lighting of buildings and pedestrian ways landscaping, site improvements, and other improvements to land.

(f) All facilities and improvements for the supply of utilities and services, including electrical, gas, sewer, water, telephone, and other communications systems, television or other electronic reception or transmission, Internet and other computer networking services, waste collection and disposal, and all other utilities and services.

(g) Playgrounds, parks, and other facilities intended for sports or recreational purposes benefitting residents.

(h) All facilities and improvements used in providing security to residents and employees of an authority and the property of both.

(i) All community facilities and other facilities and improvements used for providing educational, vocational, or other training programs, supportive services to residents, or for other programs and activities to carry out the purposes of this Chapter.

(j) All facilities and improvements used for commercial or other nonresidential purposes as permitted by this Chapter.

(k) All fixtures and equipment and personal property incorporated, owned, or used in connection with any development as elsewhere defined in this Chapter.

(l) All other real property, tangible and intangible property, and other assets owned, used or held in connection with any development.

(3) The planning, replanning, and design of any residential or nonresidential project or development, the obtaining of permits and approvals necessary therefor, and all architectural and engineering work, surveying, platting, dedication, and all other activities requisite to construction of any buildings, facilities or improvements, property acquisition, demolition, construction, alteration, repair, rehabilitation, or reconstruction of existing buildings, facilities or improvements, and activities, and work undertaken in connection therewith.

(4) All agreements, contracts, leases, and other legal means through which the right to use or operate any property that is otherwise defined as a development is acquired, held, or used.

C. A local authority's developments may, as permitted under and subject to the limitations imposed by R.S. 40:482 through 489, include both:

- (1) Dwelling units or other living accommodations occupied by persons and families other than persons of eligible income.
- (2) Buildings, facilities, or improvements used for nonresidential purposes and mixed-use projects.

RS 40:437 — Development, operations, and activities

source or sources of revenue, and employing such financing methods or techniques as the authority deems appropriate.

- (2) Combine revenues derived from different sources, including equity investments and borrowing, in any combinations and proportions as the authority deems appropriate.
- (3) Create and to enter into arrangements concerning mixed-finance developments.
- (4) Provide financing for affordable housing owned in whole or in part by others.

RS 40:438 — Maintenance of housing developments

r associated therewith.

RS 40:439 — Rental of housing and other property

l or personal property owned, controlled, or possessed by the authority, or with respect to which the authority has contractual rights permitting such lease or rental, for such terms, upon such conditions and lease terms and in exchange for such rentals as the authority may from time to time in its discretion determine.

- (2) Establish rents in such manner and in such amounts as the authority may deem appropriate, including but not limited to rents based upon family income, determined with such adjustments and exclusions as the authority deems appropriate, minimum rents, flat rents, graduated rents, rent ranges, and maximum rents, any of which may vary among the authority's developments.
- (3) Establish any other standards and conditions relating to rentals that the authority may deem appropriate.

RS 40:440 — Acquisition and sale of housing and other property

interests in, or any other interest in or relating to land, dwellings, facilities, or any other real or personal property by purchase, gift, grant, bequest, devise, lease, contract, or any other manner or arrangement.

- (2) Take over or lease and manage any housing development or undertaking in which a local government or the state or federal government has an interest.
- (3) Transfer, donate, sell, lease, exchange, convey, assign, or otherwise dispose of any of its property or any interest therein to any person, organization, or entity, either public or private, or nonprofit or for-profit, and in such regard:
 - (a) Sell or lease any real or personal property or any interest therein with or without public bidding, as the authority, in its sole discretion, may deem appropriate.
 - (b) At and subsequent to an acquisition of occupied property, permit existing tenants therein to remain in occupancy upon such terms and conditions and for such periods as the authority shall deem appropriate, notwithstanding that such tenants do not qualify as persons of eligible income.

B. Any acquisition or disposition of property or any interest therein may occur upon such terms and conditions and in exchange for such prices, or without consideration, as the authority shall deem appropriate, provided that such actions are taken in furtherance of the purposes of this Chapter and subject to the limitations contained in R.S. 40:482 through 489.

RS 40:441 — Non-residential and mixed-use properties and facilities

r, which are used for office, administrative, management, maintenance, commercial, or educational purposes, for providing services, or for carrying out any other purpose authorized under this Chapter.

- (2) Acquire, own, lease, and operate properties and facilities that are both residential and non-residential in character.

RS 40:442 — Community facilities

tion, or organization, public or private, for recreational, educational, health, or welfare purposes for the benefit and use of the local housing authority or for occupants of its dwelling accommodations, or persons of eligible income, persons who are elderly, or persons with disabilities, or for any combination of the foregoing, and which facilities may also serve the general public, and provision of such community facilities may be with or without charge therefor as in the local housing authority's discretion shall be deemed advisable to promote the public purposes of this Chapter.

(3) Operate or manage community facilities, itself, or as agent for any public agency, or any person, institution, or organization, public or private, and receive compensation therefor, if any, as the parties may agree.

RS 40:443 — Preservation of affordable housing

and other financial assistance to public or private persons or entities, whether nonprofit or for-profit, in order to rehabilitate, maintain, procure, and preserve existing affordable housing stocks in safe, decent, and sanitary condition and ensure that they remain affordable to persons of eligible income and in connection therewith, impose or agree to such terms and conditions concerning the term of affordability and other matters as the local housing authority shall deem appropriate.

RS 40:444 — Program eligibility, procedures, and requirements

lating to eligibility for any assistance administered or provided by the authority as the authority shall, from time to time, determine to be necessary, appropriate, or desirable, including without limitation criteria and requirements relating to income, work or employment, child care, education, job training, and personal or family self-sufficiency; in addition to establishing eligibility, utilize such criteria and requirements for determining the amount and duration of any assistance to be provided to a beneficiary for such assistance; establish such exclusions from income for purposes of determining eligibility as the authority shall deem appropriate; and adopt and administer lawful preferences which may include preferences for working persons and families.

RS 40:445 — Mortgaging, pledging, encumbering property and assets

to a lien or other security interest in, any real or personal property, or any interest therein, owned or held by the authority or in which the authority may hold an interest; take any and all actions to provide security for the repayment of borrowed funds, or to secure any guarantee of such repayment or any other performance by the authority, or to secure any payment, guarantee, or performance of any affiliate of the authority or of any arrangement into which the authority shall have entered in furtherance of the purposes of this Chapter. Any such action shall be upon such terms and conditions as the authority shall in its discretion from time to time determine.

B. The terms and conditions of any mortgage or other instrument granting or consenting to a security interest in property of a local housing authority may include any and all provisions that are deemed necessary by the authority. Such terms and conditions may, among other things, contain a power of sale or right of foreclosure in the event of nonpayment of other default thereunder; notwithstanding the foregoing, no guarantee of indebtedness or security interest given by a local housing authority in connection with acquiring or modernizing any development shall unreasonably jeopardize the financial well-being of the authority as a whole, or unreasonably expose to foreclosure, levy, or other loss any property of the authority other than the development acquired or modernized with funds derived from the indebtedness that is so guaranteed or secured.

C. The authority shall not provide a guarantee that is backed by the full faith and credit of the authority or its assets in general.

D. All actions taken by a local housing authority authorized in this Section shall be consistent with the requirements of R.S. 40:489 and shall comply with the requirements of R.S. 40:488, where such requirements are applicable.

RS 40:446 — Loans, guarantees, tax inducements, mortgage assistance

ts to or for the benefit of persons of eligible income.

(2) Act as a conduit, fiduciary, borrower, and lender in conduit financing programs which provide mortgage financing to persons of eligible income as defined in R.S. 40:384(21)(c).

(3) Purchase mortgages given by persons of eligible income or mortgages encumbering housing for persons of eligible income.

(4) Make mortgage loans to persons of eligible income as defined in R.S. 40:384(21)(c).

- (5) Operate any program to provide mortgage or other financing available for the production and operation or the purchase of affordable housing through the use of federal or state tax credits or other tax-related inducements.
- (6) Make acquisition, development, construction, and rehabilitation loans, long-term mortgage loans, and guarantees, to or for the benefit of persons, firms, partnerships, associations, joint ventures, or corporations, public or private, whether nonprofit or for-profit, for purposes of developing and constructing housing for persons of eligible income, including mixed-income housing developments.
- (7) Engage in mortgage rate buy-downs and other actions of every kind and description to enhance the availability of mortgage financing that is affordable to persons of eligible income as defined in R.S. 40:384(21)(c).
- (8) Enter into and perform contracts, agreements, and arrangements of every kind and description with banks, thrift institutions, credit unions, mortgage bankers, and other lenders.

B. In order to enhance the supply of mortgage financing at rates and terms affordable to persons of eligible income as defined in R.S. 40:384(21)(c), and to enhance the supply of financing at rates and terms sufficiently attractive to encourage the production of rental and fee-ownership housing that is affordable to persons of eligible income as defined in R.S. 40:384(21)(c), a local housing authority may make and perform commitments relating to any action authorized under this Subsection, charge such fees and impose such repayment terms and other terms and conditions concerning loans, mortgages, guarantees, mortgage subsidies and other forms of loan and mortgage assistance provided by the authority as the authority shall from time to time determine to be necessary or appropriate, and make loans other than mortgage loans to persons of eligible income as defined in R.S. 40:384(21)(c) upon such terms and conditions as the authority shall deem appropriate. All actions taken by a local housing authority authorized in this Subsection above shall be consistent with the requirements of R.S. 40:489.

RS 40:447 — Forgiveness or compromise of indebtedness

igation owed to the local housing authority.

RS 40:448 — Mixed-income housing

nded by Acts 1960, No. 278, §3; Acts 1978, No. 786, §5, eff. July 17, 1978; Acts 1997, No. 1188, §1.

RS 40:449 — Rental and relocation assistance

peration and, to the extent such authority has determined such administration to be feasible, in any area elsewhere in this state with respect to which a local housing authority has not been established, or with the consent of any local housing authority established to serve the area in which such assistance would be administered, and, in connection with the administration of such assistance, may make payments relating to relocations and rent subsidy payments to persons of eligible income or to others, including landlords, on behalf of persons of eligible income. Rental assistance programs administered by a local housing authority may be tenant-based, in which event the assistance is provided to or for the benefit of the tenant, or development-based, in which event the assistance is connected to particular real property.

RS 40:450 — Insurance

for all bonds and policies of insurance purchased by the authority. Bonds and policies of insurance benefiting or insuring the authority shall be in such amounts, contain such terms and conditions, provide for such deductibles, be in such form, and be issued by such companies as the authority shall deem appropriate.

(2) Self-insure and form and participate in consortia, insurance pools, and other organizations owned or operated by housing authorities for the purpose of insuring such authorities; such consortia, pools, or organizations may include units of government or public agencies other than housing authorities.

(3) Purchase and maintain insurance covering the liability of any commissioner, officer, employee, or agent of the authority, arising in connection with the authority's business or affairs.

RS 40:451 — Indemnification

4; Acts 1968, No. 236, §1; Acts 1968, Ex.Sess., No. 19, §§1, 2; Acts 1988, No. 103, §1; Acts 1997, No. 1188, §1.

RS 40:452 — Services

property to provide services or make financial or other contributions of every kind and description to enhance the social and economic well-being of residents of the authority's housing developments and other persons of eligible income.

- (2) Create and operate accounts for the benefit of persons and families participating in activities and programs for the enhancement of individual and family economic self-sufficiency.
- (3) Award scholarships and to conduct or make provision for educational and training programs of every kind and description.
- (4) Except as otherwise provided in this Chapter, establish and collect fees or seek reimbursement of costs in connection with the delivery of programs and services.
- (5) Move residents from welfare to work. An authority shall develop initiatives to accomplish this goal and may expend funds to support such initiatives.

RS 40:453 — Local, state, or federal assistance

government in connection with any activity or program furthering the purposes of this Chapter, notwithstanding any limitation to the contrary contained in this Chapter.

(2) Take all actions necessary to agree to and fully comply with all requirements and conditions of any state or federal program, grant, loan, or program providing services or assistance to the authority, its programs, its properties and housing developments, and the residents of such housing developments.

(3) Perform all responsibilities and obligations of the authority under any contract or agreement with state or federal authorities and imposed by applicable state or federal law and regulation with respect to such state or federal assistance.

B. Without limiting the foregoing, a housing authority may:

- (1) Take over or lease or manage any development or undertaking constructed or owned by the state, or any public agency thereof, or the federal government.
- (2) Participate in any plan or program of the state, any public agency thereof, or the federal government which provides revenues that may be used for carrying out the purposes of this Chapter, including without limitation any program involving the issuance of bonds, special fees or taxes, or tax credits.
- (3) Operate and administer any program providing rental assistance for itself or on behalf of others.
- (4) Comply with such conditions and enter into such mortgages, trust indentures, leases, agreements, or arrangements as may be necessary, convenient or desirable for the purposes of this Subsection.

C. It is the purpose and intent of this Chapter to authorize every housing authority to do all things necessary or desirable to secure the financial aid or cooperation of the state and federal governments and their public agencies in the development, maintenance, operation, or disposition of any housing development or other activity undertaken by such housing authority to carry out the purposes of this Chapter.

RS 40:454 — Private cooperation and assistance

therance of the purposes of this Chapter except as expressly otherwise provided under this Chapter.

- (2) Agree to and comply with all otherwise lawful requirements and conditions attached to the provisions of such assistance.
- (3) Enter into contracts, agreements, joint ventures, partnerships, and arrangements of every kind and description with private persons and entities, nonprofit or for-profit, to acquire, create, manage, or operate housing developments, including, without limitation, mixed-income housing developments and housing developments benefitting persons of eligible income as defined in R.S. 40:384(21)(c), to supply services to the residents of such developments, and otherwise to engage in activities furthering the purposes of this Chapter.
- (4) Undertake and perform all responsibilities and obligations of the authority under such arrangements as the authority determines to be necessary or desirable in connection therewith, provided that the same is not expressly prohibited by this Chapter.

RS 40:455 — Management contracts

whether private or public and whether nonprofit or for-profit, if the authority determines that such action will further the purposes of this Chapter.

- (2) Permit and provide for the operation and management of any development in which the authority holds an interest by a person or entity other than the authority, whether public or private and whether nonprofit or for-profit.

- (3) Administer any program of, or provide services or assistance on behalf of, another housing authority or other public agency.
- (4) Permit and provide for the management or administration of any of the authority's programs, assistance, or services by another housing authority or other public agency, or by any other person or entity, whether public or private and whether nonprofit or for-profit.
- (5) Enter into and perform contracts and agreements relating to any such management or administration upon such terms and conditions, and in exchange for such compensation, if any, as the authority deems appropriate.

RS 40:456 — Security of persons and property

reement with others, for the maintenance of safety and security and the protection of persons and property at or near the authority's developments.

- (2) Make, impose, and enforce rules and regulations for such purposes.
- (3) Eject from such developments or other authority property, persons engaging in criminal activity and other unauthorized persons.
- (4) Obtain injunctions, sanctions, and other legal relief for the temporary or permanent exclusion of such persons, as authorized in R.S. 40:510.

RS 40:456.1 — The Housing Authority of New Orleans; peace officers; appointment, duties, and powers

rs who shall enforce laws, rules, and regulations to secure the protection of persons, properties, or interests relating to HANO.

B. HANO's peace officers may carry weapons, concealed or exposed while in the performance of their duties, and shall take such action as is authorized by law, rule, or regulation to protect persons, properties, or interests relating to HANO.

Such peace officers shall exercise regular police powers of the state granted to law enforcement officers, including but not limited to, enforcement of municipal laws, issuance of municipal summons and citations and with respect to criminal and other offenses affecting the protection of persons, properties, or interests relating to HANO or affecting the performance of their duties.

C. HANO's peace officers shall be P.O.S.T. certified in accordance to the Peace Officers Standard and Training Law.

D. HANO's peace officers shall prevent and detect crime, apprehend criminals, enforce the criminal and traffic laws of the state, keep the peace and good order in the state by the enforcement of the state's police powers, and perform any other related duties imposed upon them by the legislature.

RS 40:457 — Resident organizations

her nonprofit entities controlled and operated by residents of the authority's developments.

- (2) Lend monies to such resident organizations in such amounts and upon such terms and conditions as the authority deems appropriate.
- (3) Enter into and perform contracts, agreements and arrangements with resident organizations for the management of housing developments and other facilities and properties and for the administration of programs, assistance, or services, and for other activities, all with respect to such matters and upon such terms and conditions as the authority may from time to time deem appropriate.
- (4) Enter into partnerships, joint ventures, associations, or other arrangements with resident organizations in furtherance of the purposes of this Chapter. Such activities may include the formation and operation of business enterprises that provide employment and other benefits to residents of the authority's housing developments and others as elsewhere permitted under this Chapter.

RS 40:458 — Facilities and programs to assist homeless persons

ssist homeless persons, including without limitation shelters and transitional housing.

- (2) Provide other assistance and services to homeless persons. Such housing and other assistance may be provided in such manner, upon such conditions, and for such duration as the local housing authority shall deem appropriate.

RS 40:459 — Commercial activities

acquisition, ownership, leasing, or operation of real property used by others for commercial purposes, which shall be governed by R.S. 40:441.

RS 40:460 — Benefit plans

but not limited to health care, health insurance, retirement or pension, and other plans, for the benefit of employees of the local housing authority and their families.

RS 40:461 — Expenditure of public funds

ting under other applicable law.

RS 40:462 — Memberships in associations

nd participate in the activities of such organizations or associations.

RS 40:463 — Grants, donations and contributions

ch manner and amount as the authority may deem appropriate if the authority determines such action will benefit residents or other persons of eligible income, or will otherwise further the purposes of this Chapter; provided such expenditures, property or services are provided in accordance with law and for a public purpose. Notwithstanding the foregoing, a housing authority may not engage in political activities and may not make any grant or contribution to any candidate for political office, any campaign committee or other organization advocating the election of a political candidate, or any political action committee or other organization whose principal activity involves political action or advocacy.

RS 40:464 — Elimination or amelioration of slums and blight

authority's area of operation.

RS 40:465 — Pre-existing powers

. 1188, §1.

RS 40:466 — Mixed-income development

such development may be occupied by persons who are not persons of eligible income.

B. With respect to any mixed-income housing development that is not solely owned or financed by a local housing authority, the proportion of the development that is intended to be affordable to persons of eligible income shall be equal to or greater than the proportion of financial resources for the development which are provided by the local housing authority, such proportion to be determined in accordance with such reasonable method as shall be adopted by the authority. Such proportion may be based upon a proportion of dwelling units, bedrooms, square footage, or any other criteria deemed reasonable and appropriate by the local housing authority. The determination of such proportion shall take into account any special benefits accruing to an authority by virtue of its status as such, including, among other things:

- (1) The capital value of all subsidies and other assistance provided by the authority or by other public sources on behalf of the authority.
- (2) Tax exemptions available because of the authority's participation.
- (3) Interest savings attributable to tax exempt financing or to below market interest rates that are available because of the participation of the local housing authority or the presence in the development of dwelling units to be occupied by persons of eligible income.

C. A local housing authority may determine the period during which any unit shall be designated for occupancy only by persons of eligible income.

D. Dwelling units in a mixed-income development that are designated for occupancy by persons of eligible income need not be particular units that are permanently so designated, and the physical location of the units so designated may change from time to time.

RS 40:467 — Bonds and other debt instruments, financing

gations issued under this Chapter prior to August 15, 1997, are hereby declared to be valid, legal, binding, and enforceable obligations to the extent of the obligation as provided in any such bonds, notes, instruments, certificates or evidences of indebtedness, and the proceedings relating to the issuance thereof. This Chapter, as it existed immediately prior to August 15, 1997, shall continue to govern all rights and obligations existing under any bonds issued or authorized by a housing authority of this state prior to August 15, 1997. This Section shall be deemed not to have been repealed by the enactment of Parts I, II, and III of this Chapter, with respect to all such bonds. Notwithstanding the foregoing, all obligors and all obligees may agree in writing that any bonds of a housing authority which are outstanding or authorized on August 15, 1997, shall be governed by this Chapter.

RS 40:468 — Issuance of bonds; means for payment

It deem necessary or desirable, for any purpose permitted under this Chapter. A housing authority may also issue refunding and advance refunding bonds for the purpose of paying or retiring bonds previously issued by it. This Section, without reference to other statutes of the state, shall constitute full and complete authority for the authorization, issuance, delivery, and sale of bonds hereunder, and such authorization, issuance, delivery, and sale shall not be subject to any conditions, restrictions, or limitations imposed by any other law.

RS 40:469 — Liability on bonds; debt limitations

B. The bonds and other obligations of a housing authority shall not be a debt of the municipality or parish, the state, or any public agency thereof, and the bonds and obligations shall so state on their face. Except as the state, or a municipality, parish, or other public agency shall otherwise expressly agree, and further except as the bonds of a housing authority, duly authorized by such agreement, shall specifically and directly otherwise provide, neither the state, nor any municipality or parish, nor any public agency other than the housing authority issuing the bonds shall be liable thereon. Nor, in any event, shall such bonds or obligations be payable out of any funds or properties other than those of such issuing housing authority or any guarantor or insurer of such authority.

C. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

RS 40:470 — Issuance of bonds; type, form and sale of bonds

They be issued in one or more series and shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payments, at such places, and be subject to such terms of redemption, with or without premium, as such resolution, its trust indenture or mortgage may provide.

Bonds of a housing authority may be issued in zero coupon form or subject to federal taxation of interest thereon if the resolution authorizing issuance so provides.

C. The bonds may be sold at public sale held after notice prior to such sale promulgated in such manner as the authority shall deem appropriate or, if the resolution authorizing issuance of the bonds so provides, they may be sold on a negotiated basis or at private sale without any public advertisement. At the discretion of the housing authority, the bonds may be sold at par, or at any discount or premium, as the resolution authorizing them provides. A housing authority issuing bonds may enter into such agreements and arrangements with third parties for the marketing of its bonds as it shall deem appropriate.

RS 40:471 — Signatures validated, presumption of validity of bond

Signatures, or agents of the issuing authority before the delivery of such bonds, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the representatives had remained in office until delivery. Any law to the contrary notwithstanding, bonds issued pursuant to this Chapter are fully negotiable.

B. No suit, action, or proceeding involving the validity or enforceability of any bond of a housing authority may be commenced after delivery of the bond. In any suit, action, or proceeding involving the validity or enforceability of any bond of a housing authority or the security therefor, any such bond reciting in substance that it has been issued by the housing authority to aid in financing a development or activity furthering the purposes of this Chapter is conclusively deemed to have been issued in accordance with this Chapter, and any development financed thereby and with respect to which such recitation made shall be conclusively deemed to have been planned, located, and constructed in accordance

with this Chapter.

RS 40:472 — Powers of housing authority; securing payment of bonds or lease obligations

nds or obligations, a housing authority may:

- (1) Pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or thereafter comes into existence.
- (2) Mortgage its real or personal property, then owned or thereafter acquired.
- (3) Covenant and agree against pledging all or any part of its returns, fees, and revenues, or against mortgaging all or any part of its real or personal property to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property.
- (4) Covenant and agree with respect to limitations on its right to sell, lease, or otherwise dispose of any development or any part thereof.
- (5) Covenant and agree as to what other or additional debts or obligations may be incurred by it.
- (6) Covenant and agree as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof.
- (7) Provide for the replacement of lost, destroyed, or mutilated bonds.
- (8) Covenant and agree against extending the time for the payment of its bonds or interest thereon.
- (9) Redeem the bonds and covenant for their redemption and provide the terms and conditions thereof.
- (10) Covenant and agree, subject to the limitations of this Chapter, as to the rents and fees to be charged in the operation of a development or developments, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to the use and disposition to be made thereof.
- (11) Create or authorize the creation of special funds for monies held for construction or operating costs, debt service, reserves, or other purposes, and covenant as to the use and disposition of the monies held in such funds.
- (12) Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the minimum required amount of bonds that must be held by holders consenting to an amendment or abrogation in order to authorize the same, and the manner in which such consent may be given.
- (13) Covenant and agree as to the use, maintenance, and replacement of its real and personal property, the insurance to be carried thereon and the use and disposition of insurance monies.
- (14) Covenant and agree as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation.
- (15) Covenant, agree, and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.
- (16) Vest in a trustee or trustees of the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds.
- (17) Vest in a trustee or trustees the right, in the event of a default by the authority, to take possession and use, operate, and manage any housing development or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such monies in accordance with the agreement of the housing authority with the trustee.
- (18) Provide for the powers and duties of the trustee and to limit their liabilities.
- (19) Provide the terms and conditions upon which the trustee or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.
- (20) Purchase letters of credit, bond insurance, or any other credit enhancement device that would establish or increase marketability of its bonds.
- (21) Pay its obligations with income, revenues, or loan repayments of the development financed with the proceeds of such obligations, or with such proceeds together with a grant from the federal government, or this state, or any public agency thereof, in aid of such development.
- (22) Exercise all or any part or combination of the powers granted in this Section.

(23) Make covenants and agreements other than and in addition to the covenants expressly authorized in this Section, of like or different character.

(24) Make any covenants and agreements and do any acts and things necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of said authority, to assure the marketability of its bonds, although the covenants, acts or things are not enumerated in this Section.

B. A local housing authority may waive any one or more of the powers stated in this Section; however, any such waiver shall be by resolution duly adopted by the affirmative vote of a majority of the board, which resolution shall set forth the particular circumstances which, in the judgment of the housing authority warrant such waiver.

RS 40:473 — Short-term bond anticipation notes

ds and within the authorized maximum of such bond issue.

B. Bond anticipation notes shall be issued for all monies borrowed under this Section. Such notes may be issued for a period not exceeding five years and may be renewed from time to time for periods not exceeding one year, but each such note, including renewals, shall mature and be paid not later than five years after the date on which the original note was issued. Such notes shall be authorized by resolution of the board of commissioners of the housing authority and shall be in such denomination or denominations, shall bear interest at such rate or rates, shall be in such form, and shall be executed in such manner, as said board of commissioners shall prescribe. Such notes may be sold at public or private sale in the manner and at such price or prices or for such other consideration, including real or personal property, as the authority shall determine, provided that if such notes be renewal notes, they may be exchanged for notes then outstanding on such terms as the authority shall determine.

RS 40:474 — Underwriter as agent

authority's designated agents for the purpose of preparing all disclosure materials and otherwise ensuring that all requirements of federal and state laws are fully complied with in connection with such offering. The participating institution and such underwriter shall accept such appointment in writing and shall, unless such requirement is expressly waived by the local housing authority, agree to indemnify and hold harmless the housing authority, its representatives, and the state and its public agencies and their respective officials, officers and employees from any and all claims, losses or damages, howsoever arising, resulting from inaccurate, incomplete, false or misleading statements contained in such disclosure materials, except those provided to the participating agency or underwriter by the housing authority or from failure to comply in any respect with the requirements of federal or state laws.

B. As used in this Section, "public offering" means any offering of bonds other than a private placement with a single financial institution, and "underwriter" means any person conducting such public offering as managing underwriter, senior managing underwriter, placement agent, or lead financial institution in a placement involving several financial institutions, or other such person or entity playing a similar role.

RS 40:475 — Enforcing rights of obligee of a housing authority

pon the obligee, may:

(1) By mandamus or other action or proceeding for legal or equitable remedies, compel the housing authority and its representatives to perform each and every term, provision, and covenant contained in any contract of the housing authority with or for the benefit of such obligee, and require the carrying out of all covenants and agreements of the housing authority and the fulfillment of all duties imposed upon the housing authority by this Chapter.

(2) By action or proceeding, enjoin any acts or things which may be unlawful, or the violation of any rights of the obligee.

RS 40:476 — Power of housing authority to confer additional rights upon obligee

nter upon any obligee holding or representing a specified amount in bonds or other instruments, or holding a lease, such rights as the housing authority determines are necessary or desirable in order to generate revenues or which it otherwise deems to be in its best interests and in furtherance of its purposes. Such rights, which shall be exercisable upon the happening of an event of default as defined in such resolution or instrument, are cumulative of all rights otherwise conferred and may, in the authority's discretion, include any one or more of the following rights, which shall be enforceable by suit, action or proceeding in any court of competent jurisdiction, the right to:

(1) Cause possession of any housing development of any part thereof to be surrendered to an obligee.

(2) Obtain the appointment of a receiver for any housing development or part thereof and of the rents and profits therefrom. If a receiver is appointed, the receiver may enter and take possession of the housing development or any part thereof and operate and maintain it and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and shall keep such monies in separate accounts and apply them in accordance with the obligations of the housing authority as the court directs.

(3) Require the housing authority to account as if it were the trustee of an express trust.

(4) Provide that, after foreclosure sale of the security therefor, the obligee shall be permitted to obtain a judgment or decree for any deficiency due on the indebtedness secured thereby and issue execution on the credit of the housing authority. In such event, except with respect to any property developed with funds provided by the federal government, which shall not be subject to levy pursuant to any deficiency judgment unless the federal government shall have otherwise authorized, such deficiency judgment or decree shall be a lien and charge upon the property of the housing authority, which may be levied on and sold by virtue of an execution or other judicial process for the purpose of satisfying such deficiency judgment or decree. At any such sale of the property by an obligee, either the authority or any municipality or parish with respect to which such authority has been established may purchase the property affected, or it or they may, prior to the institution of a foreclosure action or proceeding, or during such action or proceeding, make such payment or take such other steps as may be necessary to cure any defaults that may have occurred and such steps as may be necessary to protect the property of the authority or the public interest.

B. If conferred, these rights and remedies of the obligee are cumulative and in addition to all other rights and remedies that may be conferred upon him by law or by any contract with the authority.

RS 40:477 — Investment in bonds and authorized for public funds, financial institutions, trusts and fiduciaries

institutions, investment companies, insurance companies, insurance associations, and other persons carrying on a banking or insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any monies or funds belonging to them or within their control in any bonds or other obligations issued by a housing authority, and such bonds and other obligations shall be authorized security for all public deposits; it being the purpose of this Chapter to authorize any of the foregoing to use any funds owned or controlled by them, including but not limited to sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations; however, nothing in this Chapter shall be construed as relieving any person, firm, or corporation from any duty or exercising reasonable care in selecting securities. This Chapter shall apply notwithstanding any restrictions on investments contained in other laws.

RS 40:478 — Issuance of debt instruments other than bonds

rtificates, certificates of participation, and other debt or equity instruments, of every kind and description, for the purpose of generating funds to carry out the purposes of this Chapter.

B. Such notes, certificates, or instruments may be issued for such consideration, in such amounts, and upon such terms and conditions as the authority shall deem appropriate, consistent with the requirements of R.S. 40:489.

C. The limitation on liability set forth with respect to bonds in R.S. 40:469 shall also be applicable with respect to any such notes, certificates, or instruments.

D. The housing authority may offer such notes, certificates, or instruments at public or private sale and may enter into such contracts, agreements, and arrangements relating to such sale as it shall deem appropriate.

RS 40:479 — Taxability of bonds and other debt instruments

articipation in any development of a local housing authority or any subsidiary thereof are deemed to be issued for an essential public and governmental purpose and shall be free of taxation of any kind by this state and its public agencies unless the authority issuing such bonds, notes, certificates, or other instruments shall elect that they be taxable. Any such election shall apply only to the specific issue of bonds, notes, certificates, or other instruments with respect to which such election is expressly made.

RS 40:480 — Essential governmental purpose

thereof are deemed to be issued for an essential governmental purpose.

RS 40:481 — Issuance of debt instruments on behalf of others

pose authorized by this Chapter.

RS 40:482 — Limitations on housing authority powers; not-for-profit operation

apter and all income, fees, or revenues derived or generated therefrom and belonging to such local housing authority are for public use and purposes, are not used or held for profit and are governmental functions of state concern. No income, fees, and revenues received by a local housing authority, from whatever source, shall be used as a source of revenue for any municipality or parish establishing said local housing authority or for any other public agency, nor shall any net income, fees, or net revenues be considered profit, but all of the same shall be utilized in the furtherance of the maintenance and enhancement of an adequate supply of decent, safe, and sanitary housing that is affordable to persons of eligible income and for other purposes contemplated by this Chapter.

RS 40:483 — Method of operation

se. Further, it shall operate its housing developments in a manner calculated to enable the authority to fix rentals for dwelling accommodations for persons of eligible income at low rates consistent with its acting in a fiscally responsible manner and providing affordable, decent, safe, and sanitary dwelling accommodations for said persons. Therefore, a local housing authority shall establish and charge rents no higher than it shall determine to be necessary to produce revenue which, together with all other available money, revenue, income, and receipts of the authority, from whatever source derived, will be sufficient to:

- (1) Pay, when due, all indebtedness of the authority.
- (2) Pay all administrative and other costs of operating the authority's developments and programs of assistance.
- (3) Pay the administrative and other costs of the maintenance, rehabilitation, renovation, repair, and replacement of the authority's developments and other property.
- (4) Otherwise carry out its purposes under this Chapter, including acquiring or creating additional housing developments and acquiring or improving property for other purposes authorized under this Chapter, including community facilities, commercial facilities, mixed income and mixed use developments and all other facilities and developments authorized by this Chapter.
- (5) Pay the costs of insurance, including the cost of claims, liabilities, losses, and other expenses incurred in connection with any self-insurance programs.
- (6) Provide funds for all required payments in lieu of taxes.
- (7) Make all payments required under and otherwise fully perform the authority's obligations under any contract, agreement, or arrangement entered into by the authority, including without limitation those required in connection with any partnership or joint venture entered into by the authority.
- (8) Perform the terms of any commitment or guarantee issued or given by the authority.
- (9) Provide a reasonable return on the value of the property so as to enable the housing authority to continue to fulfill its duties, including but not limited to the acquisition of additional housing developments, land acquisition, acquisition or construction of buildings, equipment, facilities or other real or personal property for public purposes, including parks or other recreational, educational, welfare or community facilities within its own area of operation.
- (10) Accommodate economic factors which affect the financial stability and solvency of the authority's developments and programs.
- (11) Pay the cost of actions occasioned by natural disasters and other emergencies.
- (12) Create and maintain operating and capital reserves that are reasonable and adequate to ensure the authority's ability to make all payments referred to in this Section and any other matter with respect to which the authority, in its discretion reasonably exercised, determines that the creation and maintenance of a reserve is appropriate. Nothing herein shall be construed to limit the amount which a housing authority may charge for non-dwelling facilities or for dwelling facilities that are not rented to persons of eligible income.

RS 40:484 — Use of income or surplus

s Chapter.

RS 40:485 — Application of policies

ce, or enforcing standards relating to occupancy or continuance of assistance in an arbitrary or capricious manner.

RS 40:486 — Rights of action

ority to exercise any one or more of its discretionary powers.

RS 40:487 — Affiliates, applicability of certain laws

e applicable to public agencies and their governing bodies, including but not limited to laws pertaining to open meetings, minimum wage rates applicable to government contracts and employees, if any, procurement of goods and services, and laws relating to public employees.

B. Notwithstanding any provision of Subsection A of this Section to the contrary, affiliates of housing authorities shall be subject to the Public Records Law. For the purposes of the Public Records Law, affiliates of housing authorities shall be considered public bodies.

RS 40:488 — Recourse obligations and cross-collateralization

g authority in connection with financing the acquisition, creation, modernization, rehabilitation, or replacement of a development, which exposes to foreclosure, loss, or levy any property of the housing authority other than the development being acquired, created, modernized, rehabilitated, or replaced with the proceeds of such financing shall be given or entered into, unless the authority's board of commissioners shall have specifically approved such action by resolution which finds that such action:

- (1) Is necessary and essential to acquiring the financing with respect to which such recourse instrument is given or entered into.
- (2) Will not unreasonably expose to loss or foreclosure property of the authority other than the development for which financing will be used.
- (3) Is prudent and sound as required under R.S. 40:489.
- (4) Is commercially reasonable, taking into account the characteristics of the transaction in which such recourse instrument would be given and its relative benefits and potential costs to the authority.

RS 40:489 — Financial prudence

difficulties navigating this website,

RS 40:490 — Tax exemption

es. An authority is exempt from the payment of any taxes or fees to the state or any subdivision thereof or to any officer or employee of the state or any subdivision thereof. The property of an authority is exempt from all taxes of the municipality or parish and from all other local taxes.

B. However, except in the parish of East Baton Rouge, unless otherwise provided in Subsection C of this Section, the municipality or parish may:

- (1) Fix a sum which shall be paid to it annually by an authority for each housing project located therein;
- (2) Agree with an authority or government upon the sum to be paid by the authority for any year or years for a housing project or projects located therein;
- (3) Accept or agree to accept a fixed sum or other consideration in lieu of any such payment for any year or years; or
- (4) Agree that the authority shall not pay or be liable to pay any sum for housing projects located therein.

C. Notwithstanding the provisions of Subsection B of this Section, the parish of East Baton Rouge and any municipality or school board in that parish may exercise any of the powers granted in Subsection B of this Section. A housing authority in the parish of East Baton Rouge shall make payments in lieu of taxes to a school district in which the housing authority is located.

RS 40:491 — Repealed by Acts 1997, No. 1188, §2.

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RS 40:492 — Repealed by Acts 1997, No. 1188, §2.

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RS 40:493 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:494 — Repealed by Acts 1997, No. 1188, §2.

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RS 40:495 — Repealed by Acts 1997, No. 1188, §2.

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RS 40:496 — Repealed by Acts 1997, No. 1188, §2.

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RS 40:497 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:498 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:499 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:500 — Tenant-housing authority relationship

y's developments shall be rented only to households consisting of persons of eligible income at the time of their initial occupancy of such units. Notwithstanding any other provision of law, a local housing authority may allow police officers and maintenance and management employees, not otherwise eligible for residence, to reside in dwelling units in a local housing authority's developments.

RS 40:501 — Selection and preferences

s for prompt notification of eligibility or disqualification, and procedures for maintaining a waiting list of eligible applicants for whom vacancies are not immediately available. Eligible applicants shall be offered available vacancies as provided in said policies. Such policies and plans may, but shall not be required to, include:

- (1) That a local housing authority may deny a lease, right of occupancy, or any other assistance to any person, including the family or household of such person, if it determines that such person or any member of such person's household either:
 - (a) Has committed any fraud or made any misrepresentation or omission deemed material by the local housing authority in connection with any application for assistance.
 - (b) Has committed any fraud or made any misrepresentation or omission deemed material by the local housing authority in connection with any previous application for any public assistance or in connection with any determination or redetermination of eligibility therefor.
 - (c) Possesses a personal history which exhibits violent, disruptive, antisocial, or criminal behavior, with or without criminal convictions, which, in the determination of the authority, renders such person unsuitable for occupancy or receipt of assistance.
 - (d) Because of a history of poor credit or housekeeping or other deficient behavior, is otherwise likely to fail in meeting all lease terms, authority rules and regulations, or other requirements of occupancy or of the authority's program of assistance.
- (2) Preferences to give priority to persons displaced by public or private action, to families of veterans and servicemen, to families whose members are gainfully employed, to citizens of the United States or this state, to persons with disabilities or who are elderly and such other preferences, as well as priorities within each preference category, as the local housing authority deems appropriate.

(3) Occupancy standards that provide for offering available units only to families of appropriate size and such other standards relating to occupancy and tenant conduct as the local housing authority deems appropriate.

B. Without limiting the foregoing, the local housing authority may further limit the offering of available units to families of appropriate qualifications in order to comply with state or federal law or regulations or contractual agreements with governmental agencies pursuant to such law or regulations.

C. Nothing contained in this Section shall prevent a housing authority from suspending processing of applications of persons of eligible income unlikely to be offered units within a reasonable time after initial application as determined by the authority or requiring annual renewal of applications.

RS 40:502 — Differing criteria, requirements, or standards

respect to admissions and occupancy, to utilize different methods of establishing and charging rents, or to impose different occupancy standards for different developments or portions thereof or with respect to recipients of assistance in any program designed or intended to differentiate between individual recipients on the basis of their circumstances, actions, or characteristics.

RS 40:503 — Continued occupancy after termination of eligibility

r occupancy or receipt of other assistance at the discretion of the local housing authority for such period, upon such terms and conditions, and, in the case of continued occupancy, in exchange for such rent, not less than any applicable minimum rent, as the authority shall determine to be appropriate.

RS 40:504 — Lease

deems appropriate. No tenant or lessee of, or recipient of assistance from, a local housing authority shall have any right to the renewal of any lease, tenancy, right of occupancy or assistance, except as expressly agreed by the authority. All members of the household who are permitted to reside in a dwelling unit must be identified in any lease of a dwelling.

RS 40:505 — Change in family composition

nued occupancy for the unexpired lease term or periodic tenancy. A local housing authority may adopt such rules and procedures governing such determinations as it deems appropriate.

RS 40:506 — Termination of tenancy

perty.

B. Without limiting the foregoing, a local housing authority may terminate the tenancy of a household or a resident or terminate any other assistance provided by the authority for either:

(1) Any unlawful drug-related activity or other criminal behavior on the part of a recipient or head of household or any member of the household, including any child who is a member thereof, or on the part of any guest or invitee of a member of the household, notwithstanding that the head of household or any other member of the household either:

(a) Was unaware of the misconduct constituting the ground for termination of tenancy.

(b) Did not approve or participate in such misconduct.

(c) Was not personally at fault in connection with such misconduct.

(2) Commission of any fraud or any misrepresentation or omission on the part of any recipient of assistance or member of a resident household in connection with any application for assistance or any determination or redetermination of eligibility therefor, or in connection with any investigation or determination of the local housing authority regarding compliance by the household with the terms of any lease or the authority's rules and regulations.

(3) Any other violation of one or more provisions of any lease, or agreement with the local housing authority to which a recipient of assistance or a resident is a party, or any of the authority's rules or regulations, duly promulgated.

C. Criminal conviction shall not be a requirement or prerequisite to any termination of lease, tenancy, or other assistance which termination is based upon criminal misconduct, nor shall any standard of proof greater than a preponderance of the evidence be applicable in any proceeding involving such termination of lease, tenancy, or other assistance.

D.(1) The local housing authority may not terminate the tenancy of a household or a resident or terminate any other assistance provided by the authority under Paragraph (B)(1) of this Section for reasons of domestic abuse, dating violence, or family violence committed against the head of household, a member of household, or a resident. The local

housing authority may terminate the tenancy of or any other assistance provided to the perpetrator of the domestic abuse, dating violence, or family violence.

(2) For purposes of Paragraph (B)(1) of this Section, no person may be considered a guest or invitee of a member of a household without the consent of the head of household or a member of household. Consent is automatically withdrawn when a guest or invitee is a perpetrator of an act of domestic abuse, dating violence, or family violence.

(3) As used in this Subsection:

(a) "Domestic abuse" has the meaning as defined in R.S. 46:2132(3).

(b) "Dating violence" has the meaning as defined in R.S. 46:2151(C).

(c) "Family violence" has the meaning as defined in R.S. 9:362(3).

RS 40:507 — Community participation

vities for community and neighborhood betterment. Such conditions of assistance may require the performance of work in and around the authority's developments for the maintenance or improvement thereof, the performance of services to benefit residents or others, or work performed elsewhere in the community. Such requirements may vary among individual residents or other recipients of assistance.

B. In establishing conditions of assistance and determining the requirements applicable to individual recipients thereof, local housing authorities shall take into account such individual circumstances as the authority deems appropriate in order to assure that, in the authority's judgment, the requirements are reasonably applied. Individual circumstances so taken into account may include, without limitation, age, disability, and employment status.

C. A local housing authority may require, as a prerequisite to granting assistance, including any lease or right of occupancy of a dwelling unit, that the resident or recipient enter into a tenant participation plan or other similar agreement which sets forth the conditions of assistance and provides for the discontinuance of tenancy or other assistance in the event of the failure of the resident or recipient to satisfy such conditions.

D. Except as and to the extent a local housing authority shall specifically and expressly agree in writing to the contrary, the community participation activities of a resident or other recipient of assistance contemplated by this Section shall not create, for any purpose, a legal relationship of agent/principal or employee/employer between the person performing such community participation activities and the local housing authority requiring such participation or any other public agency for whose benefit such activities may be carried out.

RS 40:508 — Property of housing authorities; limitation on access

f their property, and the safety and security of their persons and property, a local housing authority may, in addition to any other power or authority contained in this Chapter, limit access to any development or other authority property by persons who are not any of the following: residents or their permitted guests, or employees of the local housing authority, its guests, law enforcement officers, or other persons conducting official business.

RS 40:509 — Identification of persons

nt on its developments or other property. Such rules, procedures, and systems may include but shall not be limited to requirements for personal identification cards, guest registration and identification, registration of vehicles, restricted pedestrian and vehicular access, and other measures for verification that persons present upon the authority's developments or property are entitled to be so present.

RS 40:510 — Exclusion or ejection of unauthorized persons

ng authority, its guests, law enforcement officers, or others conducting official business, may be excluded from such premises by the local housing authority, and, if said persons shall refuse to leave, after first being requested to do so, said persons shall be considered trespassers who shall be subject to an applicable state or local trespass law. Additionally, and without limiting the foregoing, the local housing authority may obtain injunctions for the temporary or permanent exclusion of such persons from authority property.

RS 40:511 — Law cumulative

, unauthorized entry upon property, or the exclusion or ejection of unauthorized persons from public or private property, all of which laws shall, in addition to R.S. 40:508 through 510, remain applicable to local housing authorities and their

developments and property. A local housing authority may elect to exercise its rights under this Section without waiver of its rights or remedies under any other applicable provision of law, and vice versa.

RS 40:512 — Annual reports of local housing authorities

activities for the year then ended. Such report shall contain financial statements fairly depicting the financial condition of the authority, its assets and liabilities, including contingent liabilities, and the results of its operations for the year then ended. The report shall be approved by the local authority's board of commissioners and signed by its chairperson.

B. The annual report of the local housing authority shall be a public record that is available for inspection and copying by members of the general public at the offices of the local housing authority.

C. A local housing authority shall also file its annual report with the municipal or parish clerk, or equivalent official whose duties include receipt and custody of public records of the municipality or parish, promptly upon completion thereof.

Regional and consolidated housing authorities shall file annual reports with the appropriate officials of all participating political subdivisions.

RS 40:513 — Filing a false report

of misconduct in office.

RS 40:514 — Audits

statements of authorities with gross revenues of less than two hundred fifty thousand dollars shall be audited at least biennially.

RS 40:515 — Immunity from personal liability of commissioners, officers, employees, and agents

t to any matter or act not directly committed or authorized by such person.

(2) For any action, including a direct action or authorization, taken in good faith:

(a) Pursuant to any rule, procedure, or system implemented by an authority to deny access to the authority's developments or property by unauthorized persons, including but not limited to any action to identify any person or to verify such person's authority to be present upon authority property, or to exclude or eject any person determined in good faith to be an unauthorized person.

(b) With respect to disclosure or nondisclosure of information under R.S. 40:526 or any other law pertaining to the confidentiality or disclosure of information or records.

RS 40:516 — Authority to indemnify representatives

a proceeding, because the representative is or was such, against liability incurred in the proceeding unless either:

(1) The conduct of the representative was outside the scope of his official duties.

(2) The representative's conduct constituted malfeasance in office.

(3) The representative's conduct constituted a wilful or wanton neglect of duty.

B. The termination of a proceeding by judgment, order, settlement, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the representative did not meet the standard of conduct described in this Section.

C. A housing authority may not indemnify a representative under this Section in connection with either:

(1) A proceeding by or in the right of a housing authority in which the representative was adjudged liable to the housing authority.

(2) Any other proceeding charging improper personal benefit to the representative in which the representative was adjudged liable on the basis that personal benefit was improperly received by the representative.

D. Indemnification permitted under this Section in connection with a proceeding by or in the right of a housing authority is limited to reasonable expenses incurred in connection with the proceeding.

RS 40:517 — Mandatory indemnification

urred by him in connection with any proceeding if the representative is wholly successful, on the merits, in the defense of the proceeding to which he was a party because he was a representative of the housing authority.

RS 40:518 — Advance for expenses

ition of the proceeding.

B. Any authorization of payments under this Section shall be made by resolution of the housing authority.

RS 40:519 — Determination and authority of indemnification

pursuant to R.S. 40:516(A) or (C).

B. A determination that indemnification of a representative is permissible shall be made:

- (1) By majority vote of a quorum consisting of commissioners not at the time parties to the proceeding.
- (2) If a quorum cannot be obtained under Paragraph (1) of this Subsection, by a majority vote of a committee duly designated by the commissioners consisting solely of two or more commissioners not at the time parties to the proceeding. However, commissioners who are parties to the proceeding may participate in designation of the committee.
- (3) By special legal counsel selected by the board or its committee in the manner prescribed in Paragraph (1) or (2) of this Subsection or, if a quorum of the commissioners cannot be obtained under Paragraph (1) and a committee cannot be designated under Paragraph (2), the special legal counsel shall be selected by a majority vote of the commissioners, including commissioners who are parties to the proceeding.

C. Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under Paragraph (3) of Subsection B to select counsel.

RS 40:520 — Insurance

housing authority or who, while a representative, is or was serving at the request of the housing authority as a director, officer, partner, trustee, employee, or agent of a partnership, joint venture, employee benefit plan, or other enterprise.

RS 40:521 — Indemnification; extent; reimbursement of commissioner expenses as witness

med exclusive of any other rights to which a representative may be entitled under any agreement, general or specific action of a housing authority, or otherwise, and shall continue as to a person who has ceased to be a representative and shall inure to the benefit of the heirs, executors, and administrators of such a person. Specifically and not by way of limitation, a housing authority may make or agree to make any further indemnification, including advancement of expenses, of any representative whose agreement for such was approved, adopted, or ratified, before or after such indemnification or agreement is made.

B. Notwithstanding other provisions of this Chapter limiting compensation of commissioners, a housing authority may pay or reimburse expenses incurred by a commissioner in connection with the commissioner's appearance as a witness in a proceeding at the time when the commissioner has not been made a named defendant or respondent to a proceeding.

RS 40:522 — Limitations

ve in connection with the same matter as that for which indemnity would otherwise be given. Further, no discretionary payment of indemnity shall be made if such payment would jeopardize the ability of the authority to carry on its customary activities and meet its other obligations.

RS 40:523 — Planning and zoning

ted.

RS 40:524 — Exceptions for affordable housing or local housing authorities

sing authorities and their affiliates, a municipality or parish may grant exceptions to the requirements of:

- (1) Zoning ordinances, and other laws, ordinances, and regulations regulating the use, development, and improvement of land or buildings.
- (2) Laws, ordinances, and regulations pertaining to historic buildings and structures.
- (3) Redevelopment plans, comprehensive plans, and other plans governing municipality or parish land use.

B. However, any such exception shall not compromise essential health and safety standards. This Section shall be cumulative of, and not in limitation of, any existing laws, ordinances, and regulations that permit variances, special exceptions, and other relief from applicable requirements relating to development and improvement of real property.

RS 40:525 — Local authority planning participation

processes, take into account all recommendations of local housing authorities formed by such municipality or parish, or by the municipalities and parishes affected by the actions of such regional planning body.

RS 40:526 — Exempt records

All records in the individual file of a resident, former resident, or applicant for public housing.

- (2) All records in the individual file of any landlord or individual providing a dwelling that is in any manner administered by a housing authority.
- (3) All lists that identify residents, former residents, and applications. However, statistical compilations are not exempt unless, by identification of location, family size, employment, or similar information, a resident, former resident, or applicant may be identified.
- (4) The addresses of any dwellings that are assisted, either directly by the action of the housing authority or as a result of the resident's selection. However, statistical compilations are not exempt unless some or all of them may be specifically identified by address as a result of such compilation.
- (5) The home address or personal telephone number of any resident, former resident, applicant, or landlord.
- (6) Communications within a housing authority or between a housing authority and other public agencies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final authority determination of policy or action.
- (7) Any information in the possession of the authority concerning the criminal history or other background information pertaining to any tenant or applicant for assistance.
- (8) Information submitted to a housing authority in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, and the housing authority has obliged itself in good faith not to disclose the information.
- (9) Any other material or information that is otherwise exempt from disclosure under applicable law.

RS 40:527 — Permitted disclosure

is identified in the record which is to be so disclosed.

- (2) To such parties as the housing authority deems necessary when the authority determines that the disclosure is essential to the preservation of life, health, or safety.
- (3) To anyone as required by a court order.
- (4) To a law enforcement agency without order of court, to the extent the authority deems such disclosure to be appropriate and in the public interest.
- (5) To a landlord or prospective landlord for purposes of enabling the landlord to determine an applicant's suitability for initial tenancy or to determine the suitability for continued tenancy of a person receiving assistance from the authority and who is already in occupancy.
- (6) To any applicant, tenant, or recipient of assistance to whom such information relates or to such person's designee or legal representative.
- (7) To any state or federal public agency as required by law or agreement.

RS 40:528 — Disclosure to residents and applicants; limitations

s. However, a local housing authority shall have no obligation to disclose to any resident or recipient of assistance any information pertaining to any investigation or confidential law enforcement activity relating to possible criminal misconduct on the part of such person.

RS 40:529 — Procedures for procurement of goods and services, sale or disposition of property, personnel management

t of goods or services, the sale or disposition of authority property, and the management of authority personnel. Such policies, rules, and procedures shall apply to all subsidiaries but not affiliates of a local housing authority, unless the authority, by resolution of its board of commissioners, elects otherwise.

RS 40:530 — Conflict of interest

technical difficulties navigating this website,

RS 40:531 — Appointment of commissioners to local housing authority

R.S. 40:393, that it is expedient to establish a

local housing authority, the chief elected official of the municipality or parish, or if no such official exists, then the governing body itself shall appoint five persons who shall constitute the governing body of the local housing authority and shall be called commissioners.

(2) Notwithstanding any other provision of law to the contrary, when the governing body of the parish of St. John the Baptist has determined, by resolution as set forth in R.S. 40:393, that it is expedient to establish a local housing authority, the governing body of that parish shall appoint five persons who shall constitute the governing body of the local housing authority and shall be called commissioners.

(3) Notwithstanding any other provision of law to the contrary, when the governing body of a parish with a population of not more than forty-six thousand five hundred persons and not less than forty-five thousand five hundred persons based on the latest federal decennial census has determined by resolution as set forth in R.S. 40:393 that it is expedient to establish a local housing authority, the chief elected official of the parish shall appoint five persons who shall constitute the governing body of the local housing authority and who shall be called commissioners.

B.(1) In the city of New Orleans, the governing authority of the housing authority shall consist of nine commissioners, at least two of whom shall be tenants of the housing authority, referred to in this Chapter as "tenant commissioners", and one of whom shall be appointed as provided in Subparagraph (2)(b) of this Subsection, referred to in this Chapter as a "landlord commissioner".

(2)(a) Six commissioners, excluding the landlord commissioner, shall be appointed by the mayor of the city of New Orleans. The two tenant commissioners shall be appointed by the president of the New Orleans city council from a list of names submitted by the Citywide Tenants Council, Inc., of the housing authority. The number of names submitted shall be three for each vacancy to be filled by a tenant commissioner.

(b) The one landlord commissioner shall be appointed by the mayor from a list of three nominees submitted by the Landlords Advisory Committee. No person who has or who is seeking a business or financial relationship with the housing authority or who otherwise has a conflict pursuant to the Code of Governmental Ethics regarding service on the housing authority shall be eligible to be appointed as a landlord commissioner. The committee shall meet within sixty days after any mayoral election is concluded or any vacancy in the landlord commissioner position and shall nominate the list of landlord commissioners as provided in this Subsection upon a majority vote of the members of the committee present and voting. The committee shall give notice of the purpose, time, and place of such a meeting through the landlord portal on the official website of the housing authority or by publication in the official journal of the city of New Orleans at least seven days prior to the date set for the hearing.

(c) Repealed by Acts 2019, No. 137, §2.

C. In the parish of Jefferson, the governing authority of the housing authority shall consist of nine commissioners and, notwithstanding any other provision of law to the contrary, such commissioners shall be appointed as provided in this Subsection. Seven of the commissioners shall be appointed by the governing body of the parish. One of such commissioners shall be appointed by the chief executive officer of the parish. One of such commissioners shall be a tenant member of the Marrero Tenants Organization and shall be appointed by the governing authority of said organization.

D. Notwithstanding any other provision of law to the contrary, the Houma-Terrebonne Housing Authority shall be governed by a five-member board of commissioners appointed by the parish president. He shall appoint at least one tenant from housing developments operated by the authority. The tenant commissioner shall serve in accordance with R.S. 40:536 and any other applicable provision of law.

E.(1) The legislature hereby finds and declares that it is a matter of public policy and concern that a tenant of a local housing authority development or recipient of other assistance from such authority shall be a commissioner of the authority and serve in accordance with R.S. 40:536 and any other applicable provision of law.

(2) The tenant commissioner shall recuse himself from participating in a matter which would be in violation of R.S. 42:1112.

(3) The tenant commissioner or the commissioner who is a recipient of other assistance shall be chosen from a list of names submitted to the appointing authority by tenants of a local housing authority development. However, no tenant of a local housing authority shall become or remain a tenant commissioner if delinquent in rental or lease payments to the housing authority.

F. The local housing authority may permit a per diem to each member of the commission of the local housing authority in an amount of not less than seventy-five dollars for each day of his attendance at meetings of the commission from funds of the local housing authority.

RS 40:531.1 — Repealed by Acts 1997, No. 1188, §2.

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RS 40:532 — Terms of office for local housing authority commissioner

of one, two, three, four and five years, respectively,

from the date of their appointment, but thereafter commissioners shall be appointed for terms of five years. All commissioners shall, except as otherwise provided in R.S. 40:536 and 537, continue to serve until their successors have been duly appointed.

B.(1)(a) Notwithstanding the provisions of Subsection A of this Section, seven commissioners of the Housing Authority of New Orleans, excluding the landlord commissioner, shall serve five-year terms after serving initial terms as provided in this Subparagraph. One member shall serve an initial term of one year, one shall serve two years, one shall serve three years, two shall serve four years, and two shall serve five years as determined by lot at the first meeting of the board.

(b) The seven commissioners serving on August 1, 2015, shall continue to serve until the expiration of their terms. The successors of such commissioners shall be appointed as

provided in R.S. 40:531(B). Vacancies shall be filled in the manner of the original appointment; however, if a vacancy occurs prior to the expiration of a term of any such commissioner serving on August 1, 2015, the mayor of the city of New Orleans shall appoint a commissioner to fill the vacancy in the same manner as the original appointment. The commissioner appointed shall serve for the remainder of the unexpired term.

(2) The one landlord commissioner appointed pursuant to R.S. 40:531(B) shall serve terms concurrent with the mayor. A vacancy shall be filled in the manner of the original appointment.

RS 40:533 — Vacancies in local authorities

appointment.

RS 40:534 — Certificate of appointment or reappointment

ty or parish, as the case may be, shall be filed with the secretary or clerk of the governing body of the municipality or parish, and such certificate shall be conclusive evidence of the proper appointment of such commissioner.

RS 40:535 — Eligibility of commissioners

mmissioner ceases to reside in the local housing authority's area of operation, his or her term of office shall automatically terminate and a successor shall be appointed to fill such vacancy in the manner provided in R.S. 40:533. Any commissioner who ceases to reside within the area of operation of the local housing authority in which such commissioner serves shall immediately so inform the board of commissioners of the authority and the appointing authority of his or her change in residence. Commissioners shall be adult persons of integrity. No person who has been convicted of a felony shall be eligible for appointment or service as a commissioner.

RS 40:536 — Tenant commissioners

Notwithstanding any other Subpart of this Chapter, a resident or recipient of other assistance who is a commissioner may participate in any decision of the authority except a decision that specially affects his or her individual interests. In the event that the appointing authority intends that a commissioner's appointment is made within the intention that such commissioner represent the persons assisted by said local housing authority, then his or her certificate of appointment shall so state. In the event that any such commissioner so appointed and designated shall cease to reside in a development of, or otherwise cease to receive assistance from, the authority which such person serves as commissioner, then his or her term of office shall automatically terminate, and a successor shall be appointed to fill such vacancy in the manner provided in this Subpart.

RS 40:537 — Removal of commissioners

commissioner of a local housing authority in any municipality or parish may be removed on any such grounds by the chief elected official of the municipality or parish appointing the commissioner, or if no chief elected official exists, then by the governing body thereof.

(3) A commissioner of a local housing authority in the parish of St. John the Baptist may be removed on any such grounds by the governing body of the parish appointing the commissioner.

(4) A commissioner of a regional or consolidated housing authority may be removed on any such grounds by the governing body of the municipality or parish that originally appointed the commissioner.

(5) Notwithstanding any other provision of law to the contrary, a commissioner of a local housing authority in any parish with a population of not more than forty-six thousand five hundred persons and not less than forty-five thousand five hundred persons based on the

latest federal decennial census may be removed on any such grounds by the chief elected official appointing the commissioner.

(6) Notwithstanding any other provision of law to the contrary, the landlord commissioner appointed pursuant to R.S. 40:531(B) may be removed by the appointing authority for neglect of duty or misconduct in office. A landlord commissioner convicted of a felony while serving as a commissioner shall be disqualified and removed from office by the appointing authority.

B.(1) The chief elected official or the governing body of the municipality or parish, as the case may be, which seeks to remove a commissioner shall send a notice of removal to such commissioner, which notice shall set forth the charges against the commissioner. Unless, within ten days from the receipt of such notice, such commissioner files with the clerk or secretary of the municipality's or parish's governing body a request for a hearing before the governing body, the commissioner shall be deemed removed from office. If a request for hearing is so filed, the governing body of the municipality or parish, as the case may be, shall hold a hearing, not sooner than ten days subsequent to the date a hearing is requested, at which the commissioner shall have the right to appear in person or by counsel and the governing body shall determine whether the removal shall be upheld. If the removal is not upheld by the governing body, the commissioner shall continue to hold office.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, the appointing authority seeking to remove a commissioner pursuant to Paragraph (A)(6) of this Section shall send a notice of removal to such commissioner, which notice shall set forth the charges against the commissioner. Unless such commissioner files with the appointing authority a request for a hearing before the appointing authority within ten days after receipt of such notice, the commissioner is deemed removed from office. If a request for hearing is so filed, the appointing authority shall hold a hearing no earlier than ten days after the filing of the request for a hearing at which hearing the commissioner has the right to appear in person or by counsel and the appointing authority shall determine whether the removal is to be upheld. If the removal is not upheld by the appointing authority, the commissioner shall continue to hold office.

RS 40:538 — Validity of actions of board of commissioners

ctions taken by a board of commissioners shall be presumed valid unless otherwise shown by clear and convincing evidence.

RS 40:539 — Selection of chairman and vice chairman; executive director; hiring of employees

ignate the first chairman of the municipality or parish authority, but thereafter the authority shall select a chairman from among its commissioners.

(2) The authority shall also select a vice chairman from its commissioners.

B. Every regional or consolidated housing authority shall elect a chairman from among its commissioners. The commissioners may select any other officers which the authority requires.

C.(1) The authority shall select a secretary who shall be the executive director and chief executive and administrative officer of the authority. The authority shall enter into an employment contract with the executive director for a term not to exceed five years. The

employment contract shall fix the compensation of the executive director and such other terms of employment as the authority may determine.

(2) The executive director shall employ such housing authority staff and employees, permanent and temporary, as shall be necessary to carry out the functions of the authority. The executive director shall determine the qualifications, duties, and compensation of the employees of the authority. The executive director shall have authority over termination of employment. In carrying out his functions and responsibilities, the executive director shall be subject to applicable civil service laws, rules, and regulations and policies of the authority.

(3) The executive director shall exercise administrative supervision over all employees of the authority, and all employees of the authority shall be responsible to the executive director for the accomplishment of their duties. The executive director shall organize the personnel of the authority in the most efficient manner to accomplish the purposes of the authority.

(4) Housing authority staff and employees shall consist of professional, technical, administrative, and clerical personnel necessary to carry out the purposes and objectives of the housing authority.

(5) The authority, after receiving the recommendations of the executive director, may employ its own counsel and legal staff to perform any legal services it may require. Also, any authority, municipality, or parish may call upon the principal legal officer of the municipality, or parish, as the case may be, for any legal services which it requires.

(6) The authority may arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for or in connection with its developments or the occupants thereof. Notwithstanding anything to the contrary contained in this Chapter or in any other provision of law, the authority may agree to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or administration of developments, and may include in any contract awarded or entered in connection with a development, stipulations requiring that the contractor and all subcontractors comply with the requirements as to minimum salaries, wages, and maximum hours of labor, and comply with any conditions attached to the financial aid of the development.

(7) The authority may employ accountants, appraisers, technical experts, and such other officers, agents, and employees, as it may require and shall determine their qualifications, duties, compensation, and term of office. A local housing authority may delegate to one or more of its agents or employees such powers and duties as it may deem proper. With respect to the employment of its staff, a local housing authority shall enjoy the exemptions contained in R.S. 40:406.

(8)(a)(i) Except as provided in the Constitution of Louisiana and Item (ii) of this Subparagraph and as may otherwise be authorized by the State Civil Service Commission, all employees of the authority, except authority members, the executive director, and one other employee whom the authority shall designate and employ, and except professional employees employed on a contract basis, shall be in the classified state civil service.

(ii) Notwithstanding any provision of law to the contrary, a housing authority may, upon determining that it should not be considered to be an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana and therefore that the employees of such authority shall not be included in the state civil service, adopt a resolution to that effect and transmit a certified copy of the resolution by certified mail to the director of the Department of State Civil Service. The resolution shall be given effect upon the director's receipt.

(b) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Housing Authority of New Orleans shall not be considered to be an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(c) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Cottonport Housing Authority shall not be considered to be an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(d) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the housing authority of Denham Springs shall not be considered to be an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(e) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Housing Authority of the Town of Oil City shall not be considered to be an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(f) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Housing Authority of the City of Lafayette shall not be considered to be an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(g) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the East Baton Rouge Parish Housing Authority shall not be considered an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(h) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Monroe Housing Authority shall not be considered an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana and employees of the authority shall not be included in the state civil service.

(i) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Housing Authority of the City of Shreveport shall not be considered an instrumentality of the state for purposes of Article X, Section 1(A) of the

Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(j) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Kenner Housing Authority shall not be considered an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(k) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Simmesport Housing Authority shall not be considered an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(l) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Bunkie Housing Authority shall not be considered an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(m) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Colfax Housing Authority shall not be considered an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(n) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Kinder Public Housing Authority shall not be considered an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(o) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Berwick Housing Authority shall not be considered an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(p) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Morgan City Housing Authority shall not be considered an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(q) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Delcambre Housing Authority shall not be considered an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(r) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the Gueydan Housing Authority shall not be considered an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(s) Notwithstanding any provision of Subparagraph (a) of this Paragraph or of any other law to the contrary, the White Castle Housing Authority shall not be considered an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

(t) Notwithstanding Subparagraph (a) of this Paragraph or of any other law to the contrary, the New Roads Public Housing Authority shall not be considered an instrumentality of the state for purposes of Article X, Section 1(A) of the Constitution of Louisiana, and employees of the authority shall not be included in the state civil service.

RS 40:540 — Compensation; expense reimbursements to commissioners

In the case of regional or consolidated housing authorities, the governing bodies of the municipalities and parishes participating therein, commissioners shall receive no compensation for their services, but shall be entitled to reimbursement for necessary expenses, including travel expenses, incurred in connection with the discharge of their duties.

B. Subject to said approval, a board of commissioners may authorize compensation, provided that:

- (1) The method of compensation shall be uniformly applied with respect to all commissioners.
- (2) Payment shall be made only in connection with actual participation in meetings or other authority activities on a per diem basis.
- (3) Payments to any commissioner shall be reasonably related to the efforts expended.

RS 40:541 — Dissolution of local housing authorities

Dissolution shall occur unless all of the following conditions are met:

- (1) The governing body of the municipality or parish which established the local housing authority so dissolving shall have consented thereto.
- (2) The dissolving authority shall have designated another local housing authority or another municipality, parish, or public agency of this state, which may be the municipality or parish for which the authority was formed, as the transferee of its assets and liabilities in dissolution.
- (3) The local housing authority, municipality, parish, or other public agency receiving such property or assets and the political subdivision which established its consent thereto by resolution.
- (4) All obligees of bonds or other evidences of indebtedness of such transferring or dissolving authority, or the trustees for such obligees, or the federal government if the bonds or other obligations are secured by any contract right pursuant to a contract between the transferring authority and the federal government, shall have consented thereto in writing, or adequate provision shall have been made for the payment of such bonds or other obligations, by escrow or otherwise, the performance without breach or default of an obligation secured only by one or more developments or the income thereof shall be deemed to be "adequate provision". Further, no such transfer shall in any way diminish or impair the obligations of any transferring authority.

RS 40:542 — Rights and obligations upon transfer, dissolution

Upon the transfer of any of the authority's property, the receiving local housing authority, municipality, parish, or other public agency shall have all right, title, and interest in and to such property and all duties and obligations arising out of the transfer of such property as the transferring authority had. Upon dissolution and transfer, all rights, contracts, agreements, obligations, and property, real and personal, of such transferring authority, shall be in the name of, and vest in, such receiving local housing authority, municipality, parish, or other public agency, and all obligations of such transferring local housing authority shall be the obligations of such receiving local housing authority, municipality, parish or other public agency. All rights and remedies of any person against such transferring local housing authority may be asserted, enforced, and prosecuted against such receiving local housing authority, municipality, parish, or other public agency. All rights and remedies of any person against such transferring local housing authority may be asserted, enforced, and prosecuted against such receiving local housing authority, municipality, parish, or other public agency to the same extent as they might have been asserted, enforced, and prosecuted against such transferring local housing authority.

RS 40:543 — Area of operation after dissolution

Notwithstanding the dissolution of the authority, the area of operation of the transferring local housing authority.

RS 40:544 — Dissolution of regional and consolidated housing authorities

consent of all participating municipalities and parishes shall be required and the transfer of property and assets of the regional or consolidated housing authority upon dissolution may be effected either to a single transferee or to multiple transferees, as the authority shall determine, subject to approval by the participating political subdivisions.

RS 40:545 — Private rights of action; third party beneficiary rights

withstanding any other provision of law to the contrary, this Chapter shall not confer upon any person or organization a right of action in any court to enforce this Chapter. Except as otherwise stated in this Section, any and all rights to enforce this Chapter are vested exclusively in housing authorities and the municipalities and parishes of this state that establish housing authorities, and without limiting the foregoing, no person or entity not expressly named as a party to a contract entered into by a housing authority shall have any right of action, by virtue of the status of such person or entity as a third party beneficiary of such contract, or otherwise based upon such contract. Any claim or action in violation of this Section shall be absolutely null and void.

RS 40:546 — Meetings of commissioners

ity or within any additional area where the housing authority is authorized to undertake a housing project.

RS 40:547 — Validating provisions

performed, or done with reference thereto, are hereby validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any want of statutory authority or defect or irregularity in such acts or proceedings. Said housing authorities are hereby constituted and declared to be bodies corporate and politic with all the powers, rights, and duties set forth in this Chapter and any amendments thereto.

B. All contracts, agreements, obligations, and undertakings of housing authorities heretofore entered into relating to financing or aiding in the development, construction, maintenance, or operation of any housing or redevelopment development or developments or to obtaining aid therefor from the federal government, including, without limiting the generality of the foregoing, loan and annual contributions contracts and leases with the federal government, agreements with municipalities or other public bodies, including agreements which are pledged or authorized to be pledged for the protection of the holders of any notes or bonds issued by housing authorities or which are otherwise made a part of the contracts with such holders of notes or bonds, relating to cooperation, contributions, grants, payments, if any, in lieu of taxes, furnishing of municipal services and facilities, and the elimination of unsafe and insanitary dwellings, and contracts for the construction of housing developments, together with all proceedings, acts and things heretofore undertaken, performed, or done with reference thereto, are hereby validated, ratified, confirmed, approved, and declared legal in all respect, notwithstanding any defect or irregularity therein or any want of statutory authority.

C. All proceedings, acts, and things heretofore undertaken, performed, or done in or for the authorization, issuance, sale, execution, and delivery of notes and bonds by housing authorities for the purpose of financing or aiding in the undertaking of a housing or redevelopment development or developments and all notes and bonds heretofore issued by housing authorities are hereby validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

RS 40:548 — Filing false reports on income; penalty

all be imprisoned for not more than six months, or both.

RS 40:549 — Legal construction

difficulties navigating this website,

RS 40:550 — Partial invalidity; severability

r the application of that provision to other circumstances shall not be affected. In such event it is the intention of the legislature that this Chapter would have been adopted without the inclusion of the provision held to be unconstitutional or otherwise invalid.

RS 40:561 — Definitions

nder a public housing assistance

program covered by HUD and with respect to whom wage record and unemployment compensation information is sought.

- (2) "Consent form" means the Authorization for Release of Information Form authorized for use by HUD.
- (3) "Disclose" or "disclosure" means the release of information or data with the consent, as indicated by a signed consent form, of the individual or individuals to whom the information pertains by either the division of unemployment insurance or the housing authority.
- (4) "HUD" means the United States Department of Housing and Urban Development.
- (5) "Information" means wage record and unemployment compensation information.
- (6) "Louisiana Works" means Louisiana Works and its subdivisions, including the office of unemployment insurance administration, or its successor.
- (7) "Participant" means a person who receives benefits under a program covered by HUD and with respect to whom wage record or unemployment compensation information is sought.
- (8) "Participating housing authority" means a housing authority that has entered into a cooperative agreement with Louisiana Works.
- (9) "Unemployment compensation information" means unemployment compensation claim or payment information from the administrator of the Louisiana Employment Security Law.
- (10) "Wage record" means wage record information reported to the state by employers on a quarterly basis as provided in R.S. 23:1660(A).

RS 40:562 — Housing authorities' ability to obtain information

tate and Louisiana Works may enter into a cooperative agreement for the ongoing disclosure of wage records and unemployment compensation data. Such disclosure shall be made through a computer matching operation to be used by the housing authorities to determine initial and continuing eligibility of applicants for and participants in any housing assistance program covered by the United States Department of Housing and Urban Development.

RS 40:563 — Procedures

These procedures shall be in writing and shall be available, upon request, to all applicants and participants.

B. Each participating housing authority shall comply with the following measures to protect the confidentiality and unauthorized access or disclosure of wage record and unemployment compensation information:

- (1) Wage record and unemployment compensation information shall be used only to the extent necessary to assist in the valid administrative needs of the housing authority performing HUD related activity.
- (2) The information shall be stored in a place physically secure from access by unauthorized persons.
- (3) Information in electronic format shall be stored and processed in such a way that unauthorized persons cannot retrieve the information by means of computer, remote terminal, or other means.
- (4) Only authorized personnel shall be given access to on-line files that may be created by the participating housing authorities.

C. No participating housing authority shall disclose any information provided under this Subpart except as follows:

- (1) Any information may be given to the individual who is the subject of the information.
- (2) Information about an individual may be given to an individual's attorney or other agent duly authorized by sworn affidavit if the information is needed in connection with a claim for HUD benefits or to respond to the housing authority's administrative findings.
- (3) The housing authority may release this information as permitted by state and federal law.
- (4) Any information may be given to HUD or another housing authority which administers programs covered under HUD, provided that each such housing authority agrees in writing to protect the confidentiality of such information in a manner

consistent with the provisions of this Subsection.

RS 40:564 — Violations

discloses any such information in any manner to any individual not entitled under law to receive it shall be subject to criminal and civil penalties under all appropriate federal and state laws, including R.S. 23:1660(C) related to the improper disclosure of wage records and unemployment compensation data and federal penalties for improper disclosure of information of public housing authority records which are covered under the Privacy Act of 1974.

B. The contact person at any participating housing authority receiving wage record and unemployment insurance information shall promptly report any suspected or known request or disclosure violations to Louisiana Works and shall immediately deny the persons involved further access to such information.

RS 40:565 — Repealed by Acts 1954, No. 710, §1

on Rouge, Louisiana 70804-9062

RS 40:566 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:567 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:568 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:569 — Repealed by Acts 1997, No. 1188, §2.

ton Rouge, Louisiana 70804-9062

RS 40:570 — Title

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RS 40:571 — Finding and declaration of necessity

, unsafe or insanitary dwelling accommodations and a shortage of safe and sanitary dwelling accommodations for persons of low income; that these conditions constitute a menace to the health, safety, morals, and welfare of the residents of the state and impair economic values; and that the public interest requires the remedying of these conditions.

It is hereby found and declared that the assistance herein provided for the remedying of the conditions set forth in the Housing Authorities Law constitutes a public use and purpose and an essential governmental function for which public monies may be spent and other aid given; that it is a proper public purpose for any state public body to aid any housing authority operating within its boundaries or jurisdiction, or any housing development or redevelopment project located therein; as the state public body derives immediate benefits and advantages from such an authority development or project; and that the provisions hereinafter enacted are necessary and in the public interest.

RS 40:572 — Definitions

" means an area, other than a slum area, where by reason of the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, submergence of lots by water or other insanitary or unsafe conditions, deterioration of site improvements, failure to install public utilities, diversity of ownership, tax delinquency, defective or unusual conditions of title, improper subdivision or obsolete platting, or any combination of such factors, the development of such blighted area, which may include some incidental building or improvements, into predominantly housing uses is being prevented.

(2) "Federal government" includes the United States or any agency or instrumentality, corporate or otherwise, of the United States.

- (3) "Governing body" means the commission council, board of aldermen, council, board of commissioners, or other body having charge of the fiscal affairs of a state public body.
- (4) "Housing authority" means any housing authority created by or pursuant to the Housing Authorities Law of this state.
- (5) "Housing development" means any work or undertaking of a housing authority pursuant to the Housing Authorities Law or any similar work or undertaking of the federal government.
- (6) "Redevelopment project" shall mean any work or undertaking:
- (a) To acquire slum areas or blighted areas, including lands, structures or improvements the acquisition of which is necessary in order to assure the proper clearance and redevelopment of the entire slum or blighted area and to prevent the spread or recurrence of slum conditions or conditions of blight, thereby protecting the public health, safety, morals or welfare.
 - (b) To clear any areas acquired and install, construct, or reconstruct streets, utilities, and site improvements essential to the preparation of sites for uses in accordance with the redevelopment plan.
 - (c) To sell, lease, or otherwise make available land so acquired for residential, recreational, commercial, industrial or other use in accordance with the redevelopment plan.
 - (d) To make provisions for the repair, renovation, or rehabilitation of buildings and structures in the area so acquired in accordance with the redevelopment plan. The term "redevelopment project" also may include the preparation of a redevelopment plan and the initiation, planning, survey and other work incident to a redevelopment project and also the preparation of all plans and arrangements for carrying out a redevelopment project.
- (7) "State public body" means any municipality, parish, commission, board district, authority, other subdivision or public corporation, or other public body of the state.

RS 40:573 — Cooperation in undertaking housing projects

ed within the area in which it is authorized to act, any state public body may, upon such terms as it determines:

- (1) Dedicate, sell, convey, or lease any of its interest in any property, or grant servitudes or other rights or privileges therein to a housing authority or to the federal government.
- (2) Cause parks or playgrounds or recreational, community, educational, water, sewer, or drainage facilities, or any other works which it is otherwise empowered to undertake to be furnished adjacent to or in connection with such developments or projects.
- (3) Furnish, dedicate, close, pave, install, grade, regrade, plan, or replan streets, roads, alleys, sidewalks or other places which it is otherwise empowered to construct.
- (4) Plan or replan, zone or rezone, any part of the state public body; or make exceptions to any of its building regulations and ordinances. Municipalities may also change their maps.
- (5) Cause any services to be furnished to the housing authority which it is empowered to furnish.
- (6) Enter into agreements with respect to the exercise by it of its powers relating to the repair, elimination, or closing of unsafe, insanitary, or unfit dwellings.
- (7) Employ any funds belonging to it or within its control, including funds derived from the sale or furnishing of property or facilities to a housing authority, in the purchase of the bonds or other obligations of a housing authority; and exercise all the rights of any holder of such bonds or other obligations.
- (8) Accept as security for its deposits any bonds or other obligations of any housing authority created under the Housing Authorities Law.
- (9) Do any and all things, necessary or convenient, to aid and cooperate in the planning, undertaking, construction, or operation of such developments or projects.
- (10) Incur the entire expense of any public improvements made by it in exercising the powers granted in this Part. However, it shall be the responsibility of the state public body to make available to those families who have been deprived of living accommodations through the removal of these structures as provided for in this Part, living quarters either in housing developments or through private enterprise at a comparable rate of rent as was previously paid. When a dwelling or business is condemned and demolished, the property owner shall retain his equity in the land, regardless of whether it is subsequently subdivided, unless the land is expropriated for a municipal use such as a playground, school,

street, or municipal building.

(11) Enter into agreements, which may extend over any period, with a housing authority respecting action to be taken by the state public body pursuant to any of the powers granted by this Part. If at any time title to, or possession of, any development is held by any public body or governmental agency authorized by law to engage in the development or administration of low rent housing or slum clearance projects, including any agency or instrumentality of the United States of America, the provisions of such agreements shall inure to the benefit of and may be enforced by such public body or governmental agency.

(12) Conduct public hearings on a proposed housing development or redevelopment project for its planning, undertaking, construction, or operation. Notice of such public hearing shall be given to the legislators within whose district the development or redevelopment project is located.

RS 40:574 — Exception of contracts from requirements of appraisal; advertising and bidding

public notice, advertising, or public bidding.

RS 40:575 — Exception of certain developments from regulations of state public body

which the housing authority by resolution has found to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation, and other protection, no state public body shall require any changes to be made in the housing development or the manner of its construction or take any other action relating to its construction.

RS 40:576 — Agreements on taxes due by housing authority; East Baton Rouge Parish excepted

any state public body, except in East Baton Rouge Parish, may agree with a housing authority or the federal government that a certain sum be paid by the authority in lieu of taxes for any year or period of years or that no taxes be paid by the authority for any year or years on the property included in the development.

RS 40:577 — Advances to housing authority

or agree to take such action.

RS 40:578 — Procedure for exercising powers

res thereof present at the meeting of the governing body. This resolution may be adopted at the meeting at which it is introduced. It shall take effect immediately and need not be laid over, published, or posted.

RS 40:580 — Title

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RS 40:580.1 — Definitions

is the legislative body, commission council, board of aldermen, or other body charged with governing a municipality.

(2) "Dwelling" means any building or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any yard, garden, outhouses, and appurtenances belonging thereto or usually enjoyed therewith.

(3) "Owner" means the holder of the title or a mortgagee, whose interest is shown of record or who is in possession of a dwelling, or any person in control of a dwelling, or the agent of any such person.

(4) "Parties in interest" means persons who have an interest of record in or who are in possession of a dwelling.

(5) "Public authority" means any housing authority of a municipality or any officer who is in charge of any department or branch of the government of the municipality, parish, or state relating to health, fire, building regulations, or to other activities concerning dwellings in the municipality.

(6) "Public officer" means the officer or officers who are authorized by ordinance adopted under this Part to exercise the powers prescribed in the ordinance and by this Part.

RS 40:580.2 — Slum conditions; action by municipality

of fires, accidents, or other calamities; lack of ventilation, light, or sanitary facilities, or other conditions rendering the dwellings unsafe and unsanitary and dangerous or detrimental to health, safety, or morals, or that there are dwellings therein which are otherwise inimical to the welfare of its residents, it may exercise its police powers to remedy or eliminate those conditions in the manner provided in this Part.

RS 40:580.3 — Standards for determination of unfitness for human habitation

human habitation if he finds that conditions exist therein which are dangerous or injurious to the health, safety, or morals of the persons using it for human habitation or of the public. These conditions may include the following: defects increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness. The ordinance may provide additional standards to guide the public officer or his agents in determining the fitness of a dwelling for human habitation.

RS 40:580.4 — Complaints or orders; service; posting

tered mail. If the whereabouts of the persons are unknown and cannot be ascertained by the public officer by the use of reasonable diligence and the public officer makes an affidavit to that effect, the complaint or order may be served by publication once each week for two successive weeks in a newspaper printed and published in the municipality, or, in the absence of such a newspaper, in one printed and published in the parish and circulating in the municipality in which the dwellings are located.

B. A copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy shall also be filed in the mortgage office of the parish in which the dwelling is located. This filing of the complaint has the same force and effect as the filing of lis pendens notices.

RS 40:580.5 — Injunction against public officer

the provisions of the order. The court may, upon such application, issue an order restraining the public officer pending final disposition of the cause. Hearings shall be had by the court on the application within twenty days of its filing, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar.

B. In all such proceedings the findings of the public officer as to facts, if supported by evidence, are conclusive. Costs shall be in the discretion of the court.

RS 40:580.6 — Damages recoverable

97, No. 1188, §1.

RS 40:580.7 — Powers of public officers

oses and provisions of this Part, including the following:

- (1) To investigate the dwelling conditions in the municipality to determine which dwellings therein are unfit for human habitation.
- (2) To administer oaths and affirmations and examine witnesses and receive evidence.
- (3) To enter upon premises for the purpose of making examinations provided the entries are made in such manner as to cause the least possible inconvenience to the persons in possession.
- (4) To appoint and fix the duties of such officers, agents, and employees as he thinks necessary to carry out the purposes of the ordinance.

RS 40:580.8 — Estimates of annual expenses; appropriations and donations

e annual expenses or costs of providing equipment, personnel, and supplies necessary for periodic examinations and investigations of the dwellings of the municipality for the purpose of determining the fitness of the dwellings for human habitation and for the enforcement and administration of its ordinances adopted under this Part.

B. Municipalities may make any appropriations from their revenues which they think necessary for this purpose and may accept and apply grants or donations to assist them in carrying out the provisions of such ordinances.

RS 40:580.9 — Powers conferred in Part supplemental

inances or regulations or to prevent or punish violations thereof.

B. The powers conferred by this Part are in addition and supplemental to the powers conferred by any other law.

RS 40:580.10 — Authority

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RS 40:581.1 — §§581.1 to 581.41 repealed by Acts 1988, 1st Ex. Sess., No. 1, §10, eff. Mar. 28, 1988.

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RS 40:592.2 — Declaration of purpose

which, among other things, suffer from high unemployment, substandard and deteriorated structures, vacant and partially used lots, overcrowded housing, high crime rates, and other blighting influences and undesirable conditions.

(2) The conditions extant in the above-described neighborhoods tend to discourage investment in the construction of new housing affordable for purchase by low to moderate-income families and individuals.

(3) Since the economic and physical ills and problems of depressed residential neighborhood areas typically necessitate the infusion of tax-supported services, improvements, and assistance to relieve and remedy, it is a matter of public policy and concern that corrective measures be taken.

(4) The purpose of this Part is to authorize governing authorities to acquire and resell or lease at its option vacant and undeveloped or unoccupied and uninhabitable real property at prices conducive to the construction of new housing generally affordable to low to moderate-income families and individuals, with such transactions to occur in residential neighborhoods as defined in this Part.

RS 40:592.3 — Definitions

city council or other legislative body charged with governing any incorporated municipality in the state or its duly authorized representative.

(2) "Housing development area" means an area approved by the United States Department of Housing and Urban Development under its Urban Development Action Grant Program or a successor program as a pocket of poverty or an area which by reason of the presence therein of slum, deteriorated, or deteriorating residential or nonresidential buildings, structures or improvements; by reason of the existence therein of significant unsanitary, unhealthy, or other hazardous conditions which endanger the public health, safety, morals, or welfare of the inhabitants thereof and of the city; or by reason of the existence of any combination of the herein stated causes, factors, or conditions, results in a condition in that area which substantially retards or arrests the provision of a sound and safe housing environment.

(3) "Low and moderate-income families and individuals" means those families and individuals whose gross annual incomes does not exceed one hundred twenty percent of the metropolitan statistical area or parish median income as adjusted by family size based on data from the United States Census Bureau, the United States Department of Housing and Urban Development, or another acceptable and appropriate data source.

(4) "Nonprofit corporation" means any organization organized on a not-for-profit basis under the provisions of Chapter II of Title 12 of the Louisiana Revised Statutes of 1950.

(5) "Person" means any individual, firm, partnership, corporation, association, or body politic and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(6) "Real property" means all lands, including improvements and fixtures thereon, property of any nature appurtenant thereto and used in connection therewith, and every estate, interest, right or use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise.

(7) "Rehabilitation" means the provision of improvement to a substandard structure in order that it attains at a minimum United States Department of Housing and Urban Development's Section 8 Housing Quality Standards or local codes after improvements are completed.

(8) "Substandard structure" means an uninhabited structure which is not acceptable for occupancy due to its state of disrepair and deterioration. The unit does not meet local codes or United States Department of Housing and Urban Development's Section 8 Housing Quality Standards.

RS 40:592.5 — Governing authority; duties and powers

acquire by purchase, donation, or bequest vacant, undeveloped real property and/or real property on which one or more substandard structures are located provided that the transaction does not involve the exercise of municipal expropriation powers except as permitted in this Part.

(2) To exercise expropriation powers only when necessary to correct or otherwise address title defects, problems of identifying and/or locating property owners, property description discrepancies, and similar problems.

(3) To demolish and remove or cause to be demolished and removed any substandard structures and other improvements and fixtures as may detract from the reuse of the property as a site or sites for the construction of new housing or the placement of already-constructed housing which will be improved to comply with local building codes and resold.

(4)(a) To resell or lease the real property acquired hereunder by publicly advertised competitive bid to private persons at not less than nor more than the fair market value thereof or otherwise transfer title except through donation of that property to a qualified nonprofit corporation.

(b) In no case shall the sale price be less than the purchase price.

(c) The property to be sold or otherwise disposed of shall only be used as a site for the construction of new owner-occupied housing and/or the placement of relocated housing which is to be properly improved and resold to owner-occupants and shall be subject to such other covenants, conditions, and restrictions including covenants running with the land, reasonable construction start and completion times, sale or resale affordability guidelines, etc., as may be deemed necessary and desirable to assist in accomplishing the purposes of this Section and in complying with the municipality's master or comprehensive plan, zoning ordinance, and other applicable codes, ordinances, policies, programs, and plans, if any.

RS 40:592.6 — Taxes; exemption

parish, the state, and any political subdivision thereof, except as may otherwise be provided by the Constitution of Louisiana, but such tax exemption shall terminate when the municipality sells, leases, or otherwise disposes of the property to a purchaser, lessee, or transferee which is not a public body and not otherwise entitled to tax exemption.

RS 40:592.7 — Title; conclusive proof of compliance

sumed to have been executed in compliance with the provisions of this Part insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

RS 40:599.1 — Declaration of purpose

which, among other things, suffer from high unemployment, substandard and deteriorated structures, vacant and partially used lots, high crime rates, and other blighting influences and undesirable conditions.

(2) Since the economic and physical ills and problems of depressed areas typically necessitate the infusion of tax-supported services, improvements, and assistance to relieve and remedy, it is a matter of public policy and concern that corrective measures be taken.

RS 40:599.2 — Definitions

(1) "Authority" means a quasi-public nonprofit entity created by one or more local governments under this Part.

(2) "Board" means the board of directors of an authority.

(3) "Bond" means a bond issued by an authority under this Part. "Bond" shall include a bond, a refunding bond, a note, and any other obligation.

(4) "Cost" means:

(a) Purchase price of property.

(b) Cost of any improvements made to property.

(c) Amount to be paid to discharge each obligation necessary or desirable to vest title to any part of the property in an authority or other owner.

(d) Amount to be paid to discharge each obligation necessary or desirable to vest title to any party of property in an authority or other owner.

(e) Cost of any property, right, easement, franchise, or permit associated with a project.

- (f) Cost of labor, machinery, and equipment necessary to implement a project.
- (g) Financing charges.
- (h) Interest and reserves for principal and interest and for improvements.
- (i) Cost of revenue and cost estimates, engineering and legal services, plans, specifications, studies, surveys, and other expenses necessary or incident to determining the feasibility or practicability of a project.
- (j) Administrative expenses.
- (k) Other expenses as necessary or incident to:
 - (i) Financing a project.
 - (ii) Acquiring and improving a project.
 - (iii) Placing a project in operation, including reasonable provisions for working capital.
 - (iv) Operating and maintaining a project.
- (5) "Local government" means a municipality or a parish.
- (6)(a) "Project" means any organized plan carried out by an authority in relation to:
 - (i) Acquiring and rehabilitating abandoned and dilapidated properties.
 - (ii) Marketing and leasing, selling, or otherwise transferring the rehabilitated properties.
- (b) "Project" includes:
 - (i) Acquiring land or an interest in land.
 - (ii) Acquiring structures, equipment, and furnishings located on a property.
 - (iii) Acquiring property that is functionally related and subordinate to a project.
 - (iv) Obtaining or contracting for any services necessary for the rehabilitation of a property.
- (7) "Revenue" means the income, revenue, and other money an authority receives from or in connection with a project and all other income of an authority. Revenue includes grants, rentals, rates, fees, and charges.
- (8) "Tax sale property" means property or an interest in property sold by the tax collector of the parish or for which interest has been adjudicated by a local government.
- (9) "Trust agreement" means an agreement entered into by an authority to secure a bond. Trust agreement includes a bond contract, bond resolution, or other contract with or for the benefit of a bondholder.

RS 40:599.3 — General

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an authority under any other law.

C. The provisions of this Part do not authorize an authority to:

- (1) Exercise the power of eminent domain.
- (2) Impose any tax or special assessment.

RS 40:599.4 — Establishment

orporation Law, R.S. 12:201 et seq.

B. Two or more local governments may elect to enter into an intergovernmental cooperation agreement to create a single land bank to act on behalf of the local governments.

C. An ordinance adopted under this Section:

- (1) Is administrative in nature.
- (2) Is not subject to referendum.
- (3) In a parish that has a publicly elected parish executive or in a municipality that has a publicly elected chief executive or mayor, is subject to approval by the parish executive, chief executive, or mayor.

D. An ordinance adopted under the provisions of this Part shall include all of the following:

- (1) The name of the authority, which shall be "Land Bank Authority of (name of the incorporating local government)".
- (2) The authority is formed under this Part.
- (3) The names, addresses, and terms of office of the initial members of the board.
- (4) The address of the principal office of the authority.
- (5) The purposes for which the authority is formed.
- (6) The powers of the authority, subject to the limitations of this Part.

E.(1)(a) The chief executive or mayor of the incorporating local government, or any other official designated in the ordinance establishing an authority, shall execute and file the articles of incorporation in accordance with the provisions of the Nonprofit Corporation Law, R.S. 12:201 et seq., and pay applicable filing fees in accordance with R.S. 49:222, to the secretary of state.

(b) An entity incorporated pursuant to this Part shall not be subject to the restrictions in R.S. 12:204(A).

(2) When the articles of incorporation are filed in accordance with the requirements of this Section, the authority becomes a body politic and corporate and an instrumentality of the incorporating local government.

(3) Filing of the articles of incorporation with the secretary of state is conclusive evidence of the formation of the authority.

F.(1) By ordinance, the governing authority of the incorporating local government may seek to amend the articles of incorporation of an authority.

(2) The proposed articles of amendment, passed by ordinance, may contain any provision that lawfully may be contained in articles of incorporation at the time of the amendment.

(3) The governing authority shall take all steps to file the articles of amendment with the secretary of state.

(4) The articles of amendment are effective as of the time the articles of amendment are filed with the secretary of state in accordance with the provisions of the Nonprofit Corporation Law, R.S. 12:201 et seq.

G. Subject to this Part and any limitations imposed by law on the impairment of contracts, the incorporating local government, in its sole discretion, by ordinance may:

- (1) Set or change the structure, organization, procedures, programs, or activities of an authority.
- (2) Terminate the authority.

(3) If one or more local governments engaged in an intergovernmental cooperation agreement decide not to terminate the authority, the authority may continue to operate if:

(a) The name of the authority is revised to remove the local government that has decided to terminate its participation in the authority by withdrawal.

(b) The withdrawing local government designates all property to remain with the authority.

(i) On demand of a withdrawing local government that is a municipality, all property located wholly within the municipality shall be transferred to the municipality.

(ii) On demand of a withdrawing local government that is a parish, all property located wholly within the parish and outside any municipality participating in the intergovernmental cooperation agreement shall be transferred to the parish.

(iii) All obligations of the authority to the withdrawing local government and of the withdrawing local government to the authority are assumed by the withdrawing local government.

(4) Notwithstanding the provisions of this Section, an entity incorporated pursuant to this Part shall be required to follow the provisions of the Nonprofit Corporation Law, R.S. 12:201 et seq., when amending its articles of incorporation and articles of amendment or electing to terminate its operations.

H. On termination of the authority:

(1) Title to all property of the authority shall be transferred to and shall vest in the incorporating local government.

(2) All obligations of the authority shall be transferred to and assumed by the incorporating local government.

RS 40:599.5 — Board of directors

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(2) Powers of the board.

(3) Removal procedures.

(4) Term lengths.

(5) The election of a chair.

RS 40:599.6 — Powers

Adopt, amend, and repeal bylaws for the conduct of business of the authority.

(2) Sue and be sued.

(3) Maintain an office at a place the authority designates.

(4) Borrow money.

(5) Issue bonds and other obligations for any corporate purpose in accordance with this Subtitle or an ordinance adopted under this Subtitle.

(6) Invest money of the authority in instruments, obligations, securities, or property.

(7) Enter into contracts and execute the instruments or agreements necessary or convenient to carry out this Part or an ordinance adopted under this Part to accomplish the purposes of the authority.

(8) Solicit and accept gifts, grants, loans, or other assistance in any form from any public or private source, subject to this Subtitle or any ordinance adopted under this Part.

- (9) Participate in a program of the federal government, the state, a political subdivision of the state, or an intergovernmental entity created under state law.
 - (10) Contract for goods and services.
 - (11) Study, develop, and prepare reports or plans to assist in the authority's exercise of powers and to monitor and evaluate the authority's progress.
 - (12) Contract with public or private entities for services necessary to manage and operate the authority.
 - (13) Provide acquisition, management, and sale services to a local government for property owned by the local government.
 - (14) Create, own, control, or be a member of a corporation, limited liability company, partnership, or other person, whether operated for profit or not for profit, for the purposes of development property in order to maximize marketability.
 - (15) Exercise a power usually possessed by a private corporation in performing similar functions, unless to do so would conflict with state law.
 - (16) Insure against losses in connection with the real property, assets, or activity of the authority.
 - (17) Design, develop, construct, demolish, rehabilitate, renovate, relocate, and otherwise improve real property or interest in real property.
 - (18) Raise revenue by a legal means required to make the operations and activities of the authority self-sustaining.
 - (19) Do all things necessary or convenient to carry out the powers expressly granted by this Subtitle or by an ordinance adopted under this Part.
- C. An authority may delegate to a member or officer a power granted to the authority by this Part, including the power to execute a bond, obligation, certificate, deed, lease, mortgage agreement, or other document or instrument.

RS 40:599.7 — Property

- transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the authority considers proper.
- (2) Own property in the authority's name, including tax-foreclosed property and adjudicated property without clear title.
 - (3) Sell, lease as lessor, transfer, and dispose of the authority's interest in property.
 - (4) Procure insurance against loss in connection with the property, assets, or activities of the authority.
 - (5) Execute deeds, mortgages, contracts, leases, purchases, or other agreements regarding the property of the authority.
- B. Property purchased, owned, or sold under this Part may not be located outside the jurisdiction of the local government in which the authority is located.
- C.(1) An authority may quiet title or foreclose on a property in which it holds an interest by:
- (a) Conducting an examination of title to determine the identity of any person possessing a claim or interest in the property.
 - (b) Filing a complaint to quiet title.

(2) An authority may join a single complaint to quiet title or foreclose on one or more parcels of real property.

RS 40:599.8 — Staff and consultants

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RS 40:599.10 — Internal administration

d procedures requiring:

- (a) The disclosure of relationships that may create a conflict of interest.
 - (b) Any member of the board with a direct or indirect interest in a matter before the authority to disclose the member's interest to the board before the board takes any action on the matter.
 - (3) Comply with the Open Meetings Law.
- B. Except as otherwise provided in this Part or the ordinance establishing an authority, the procedures of the incorporating local government control any matter relating to the internal administration of an authority.

RS 40:599.11 — Immunity

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RS 40:599.12 — Property rights

- 2) Set, charge, and collect rents, fees, and charges for use of the property.
 - (3) Pay taxes or special assessments due.
 - (4) Take any action, provide any notice, or institute any proceeding required to clear or quiet title in order to establish ownership by and vest title to property in the authority.
 - (5) Abate violations of the local and state buildings, fire, health, and related codes.
 - (6) Hold, manage, maintain, operate, repair, lease as lessor, secure, and prevent the waste or deterioration of, or demolish the property and take all other actions necessary to preserve the value of the property.
- B. An authority shall be made a party to, and shall defend any action or proceeding concerning, claims against property held by the authority.

RS 40:599.13 — Inventory and classification

urt may not charge a fee to record a document evidencing the transfer under this Part of property to the authority by the state or a local government.

RS 40:599.14 — Outstanding tax liens

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jurisdiction where the property is located, an authority may accept from a person with an interest in tax delinquent property, or tax sale property a deed or assignment conveying that person's interest in the property instead of:

- (a) The foreclosure or sale of the property for delinquent taxes, penalties, and interest.
 - (b) Delinquent taxes imposed by a local taxing jurisdiction.
- (2)(a) After an unsuccessful attempt by the local government to collect outstanding liens that are delinquent and at the discretion of the governing body of the jurisdiction, or the tax collector where the property is located, an authority may accept from the local government with an interest in a tax delinquent property, or tax sale property its interest in

the tax liens in the property.

(b) The authority may:

- (i) Collect on liens or taxes collected under Subparagraph (1)(a) of this Subsection and retain all payment of taxes, liens, penalties, or any interest on the liens or taxes.
- (ii) Foreclose on, enter into a deed in lieu of foreclosure, or sell the property for the liens or taxes and retain all payment of taxes, penalties, or interest on the liens or taxes and the costs of selling the property and, if any other net proceeds remain from the sale, return any net proceeds to the tax collector for distribution on a pro rata basis to the appropriate taxing units in a ration equal to the delinquent taxes, penalties, and interest owed on the property.

B. Conveyance of property by deed instead of foreclosure or transfer of a lien or tax on property under this Section may not affect or impair any other lien against the property or any existing recorded or unrecorded interest in the property, including any:

- (1) Easement of right-of-way.
- (2) Future installment of a special assessment.
- (3) Lien recorded by the state.
- (4) Private deed restriction.
- (5) Security interest or mortgage.
- (6) Tax lien of another taxing jurisdiction that does not consent to a release of its lien.

C. A tax lien against property held by or under the control of an authority may be released or abated at any time by:

- (1) A local government with respect to a lien held by the local government.
- (2) The governing body of any taxing jurisdiction other than the state, parish, or municipality with respect to a lien held by the taxing jurisdiction.
- (3) The comptroller with respect to a state tax lien.

RS 40:599.15 — Money and proceeds

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property subject to a tax lien of any taxing unit, shall be returned to the tax collector in the jurisdiction where the property is located for distribution on a pro rata basis to the appropriate taxing units in an amount equal to delinquent taxes, penalties, and interest owed on the property.

B. Proceeds received by an authority may be retained by the authority for the purposes of this Part, unless otherwise designated by:

- (1) An agreement of the authority.
- (2) The provisions of a deed.
- (3) This Subtitle.
- (4) Any other law.

C. Money received by an authority as payment of taxes, penalties, or interest, or from the redemption or sale of property subject to a tax lien of any taxing unit may be retained by an authority under a written agreement with a local government or a law enacted by the legislative body of a local government.

D.(1) To facilitate a transfer of real property to an authority, the governing body for

the jurisdiction where the real property is located may release any liens for unpaid real property taxes or other charges and assessments imposed by the governing body to which the property would be otherwise subject, if:

(a) The total amount of liens for unpaid real property taxes, charges, and assessments imposed with respect to the property exceeds the lesser of the total value of the land and any improvement on the land as last determined by the tax assessor of the governing body or as determined by an appraisal report prepared, not more than six months before the request for the release of the lien, by a real estate appraiser who is licensed.

(b) The tax collector for the local government has sold real property at a tax sale, but the tax sale certificate has become void.

(2) The code of enforcement office, housing, department, or equivalent department or agency of the local government of the jurisdiction where the tax lien is held certifies that the property:

(a) Is a vacant lot.

(b) Has a building or structure that is:

(i) Vacant.

(ii) Unsafe or unfit for habitation.

(3) The authority finds that a transfer under this Section is necessary:

(a) To eliminate a blighting influence.

(b) To prevent the tax abandonment of a property.

E. The release of a lien for real property taxes, charges, or assessments as authorized under Paragraph (1) of this Subsection does not abate the transferor's liability for the remaining amount of the tax debt.

F. The governing body of a jurisdiction may set additional standards and requirements for approval of the release of liens under this Section.

RS 40:599.16 — State and local taxes

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B. Except as provided in Subsection D of this Section, property that an authority sells or leases to a private entity is subject to state and local property taxes from the time of the sale or lease.

C. The principal of an interest on bonds, the transfer of bonds, and any income derived from the bonds, including profits made on their sale or transfer, are exempt from all state and local taxes.

D. Sale or lease to a nonprofit organization is exempt from state and local property taxes from the time of sale or lease, if:

(1) The nonprofit organization has entered into an agreement with an authority to redevelop the property.

(2) The agreement is in force and effect and not defaulted on within the application period.

RS 40:599.17 — Civil action

authority shall be made a party to any action to set aside:

(a) Title to property the authority holds.

(b) The sale of property by the authority.

(2) A hearing in an action under this Subsection may not be held until the authority is served.

RS 40:599.18 — Public property

d for a public and governmental purpose.

RS 40:599.19 — Local laws

(3) Zoning laws.

RS 40:599.21 — Bonds

bonds with any funds available.

(d) Hold, pledge, cancel, or resell bonds.

(2) By resolution, an authority may authorize the chair, one of the authority's members, or a committee of the members to determine or provide for any matter relating to bonds that the authority considers appropriate, including:

(a) Specifying, determining, requiring, and approving matters, documents, and procedures that relate to the authorization, sale, security, issuance, delivery, and payment of and for the bonds.

(b) Creating security for the bonds.

(c) Providing for the administration of bond issues.

(3) The power granted in Paragraph (2) of this Subsection is in addition to powers conferred on the authority by this Part and does not limit any power of the authority under this Part.

(4) Within the limits that the authority sets, the authority may authorize the executive director to take any of the actions described in Paragraph (2) of this Subsection.

B. An authority may issue the bonds at one time or in one or more series.

C. For each issue of an authority's bonds, the authority shall pass a resolution that:

(1) Specifies and describes the project for which the proceeds of the bond issuance are intended.

(2) Generally describes the public purpose and the financing transaction to be accomplished.

(3) Specifies the maximum principal amount of the bonds that may be issued by the authority.

(4) Imposes any terms or conditions on the issuance and sale of the bonds that the authority considers appropriate.

D. Subject to any provision for their registration, bonds are negotiable instruments for all purposes regardless of whether they are payable from a special fund.

E.(1) The bonds may be serial bonds, term bonds, or both.

(2) Subject to any delegation under Paragraph (A)(3) of this Section, the resolution authorizing bonds may provide:

(a) The dates of the bonds.

(b) The maturity dates of the bonds.

(c) The interest rates on the bonds.

- (d) The time at which the bonds will be payable.
- (e) The denominations of the bonds.
- (f) Whether the bonds will be in coupon or registered form.
- (g) Any registration privileges of the bonds.
- (h) The manner of execution of the bonds.
- (i) The place at which the bonds will be payable.
- (j) Any terms of redemption of the bonds.
- (3) The bonds shall mature within a period not to exceed fifty years after the date of issue.
- (4) The bonds shall be payable in United States currency.
- F. An authority shall sell the bonds at competitive or negotiated sale in a manner and for a price the authority determines to be in the authority's best interest.
- G. An officer's signature or facsimile on a bond remains valid if the officer leaves office before the bond is delivered.
- H. Pending preparation of the definitive bonds, an authority may issue interim receipts or certificates that will be exchanged for definitive bonds.
- I. A trust agreement authorizing bonds may contain provisions that are part of the contract with bondholders, including:
 - (1) The rates, rentals, fees, and other charges, the amounts to be raised in each year, and the use and disposition of the revenues.
 - (2) The setting aside of reserves and sinking funds and their disposition.
 - (3) Limits on the right of the authority or the authority's agents to restrict and regulate the use of a project.
 - (4) Limits on the purpose to which the proceeds of the sale of bonds may be applied.
 - (5) Limits on issuing additional bonds and refunding bonds and the terms under which additional bonds may be issued and secured.
 - (6) The procedure to amend or abrogate the terms of a contract with bondholders and the requirements for consent.
 - (7) Limits on the amount of project revenues to be expended for operating, administrative, or other expenses of the authority.
 - (8) The acts or omissions that constitute default by the authority and the rights and remedies of the bondholders in a default.
 - (9) The conveyance or mortgaging of a project and its site to secure the bondholders.
 - (10) Creation and disposition of a collateral fund to secure the bondholders.
 - (11) Pledging the following to secure payment of bonds, subject to any existing agreements with bondholders:
 - (a) The full faith and credit of an authority.
 - (b) Revenues of a project.
 - (c) A revenue-producing contract the authority has made with a person or public entity.
 - (d) The proceeds of the sale of bonds.
- J. The members of an authority and a person executing the bonds may not be held

liable personally on the bonds.

RS 40:599.22 — Trust agreement

expense incurred out of the trust agreement or a resolution may be treated as part of the cost of the operation of a project.

RS 40:599.23 — Conclusive and binding determination of authority

or a bond, the determination of an authority under this Part is conclusive and binding.

RS 40:599.24 — Securities

deposit of bonds or obligations of the state is authorized by law.

(2) In which any of the following persons or entities may legally and properly invest money, including capital that the person or entity owns or controls:

- (a) An officer or a unit of the state or a political subdivision of the state.
- (b) A bank, a trust company, a savings and loan association, an investment company, or any other person conducting a banking business.
- (c) An insurance company, an insurance association, or any other person conducting an insurance business.
- (d) A personal representative, a guardian, a trustee, or any other fiduciary.
- (e) Any other person.

RS 40:599.25 — Liability; full faith and credit

aith and credit of the state or a political subdivision of the state.

B. Each bond shall state on its face that neither the state nor a political subdivision of the state is obliged to pay the principal of or interest on the bond except from revenues pledged to the payment of the bond.

C. The issuance of bonds does not directly, indirectly, or contingently obligate the state or any political subdivision:

- (1) To impose or pledge a tax to pay the bonds.
- (2) To appropriate money to pay the bonds.

D. The provisions of this Section do not prohibit an authority from pledging its full faith and credit in connection with the issuance of bonds.

RS 40:599.26 — Rates, rents, and fees

Contract with any person or governmental entity to exercise its authority under this Section.

B. The rates, rents, fees, and charges established by an authority under this Section shall be imposed and adjusted so that the aggregate amount of the rates, rents, fees, and charges from the project, when added to other available money, is sufficient to:

- (1) Pay for the expense for the project.
- (2) Pay the principal of and the interest on the bonds that the authority issued for the project as they become due and payable.
- (3) Create and maintain reserves required or provided for in a trust agreement.

C. The rates, rents, fees, and charges established by an authority under this Section are not subject to supervision or regulation by any unit of the state.

RS 40:599.27 — Pledge of revenue

authority pledges and receives is subject immediately to the lien of the pledge.

(b) Neither physical delivery of the revenue or money nor any other act is required to validate the lien.

(3) The lien of the pledge is valid and binding against each party with a claim against the authority in tort, contract, or otherwise, regardless of whether the party has notice of the lien.

B. The trust agreement and any other agreement or lease creating a pledge under this Section need not be filed or recorded, except in the records of the authority.

RS 40:599.28 — Trust funds

(1) Each officer, bank, or trust company that receives trust money from the authority under this Part shall act as trustee of the money and shall hold and apply the money for the purposes specified under this Part.

(2) The officer, bank, or trust company holding money is subject to:

(a) Any regulation adopted under this Subtitle.

(b) The resolution authorizing the issuance of bonds or the trust agreement.

RS 40:599.29 — Refunding bonds

t accrued or to accrue to the date of redemption, purchase, or maturity of the bonds.

(c) Any part of the cost of acquiring or improving property as part of a project.

(2) Refunding bonds may be issued for any corporate purpose, including:

(a) Realizing savings in the effective costs of debt service, directly or through a debt restructuring.

(b) Alleviating a potential or actual default.

B. Refunding bonds issued under this Section shall be issued in the same manner and are subject to this Part to the same extent as any other bond.

C. An authority may issue refunding bonds in one or more series in an amount greater than the amount of the bonds to be refunded.

RS 40:599.30 — Bond anticipation notes

notes issued under this Section shall be issued in the same manner as bonds.

C. Bond anticipation notes issued under this Section and the resolution authorizing them may contain any provision, condition, or limitation that may be included in a trust agreement.

D. An authority may issue bond anticipation notes to pay any other anticipation notes.

E. Bond anticipation notes shall be paid from:

(1) Money available and not otherwise pledged.

(2) Revenues of the authority.

(3) The proceeds of the sale of the bonds in anticipation of which the notes were issued.

RS 40:599.31 — Conveyance of title and release of collateral

(1)(a) The principal of an interest on bonds issued to finance or refinance the project, including any refunding bonds, have been fully paid and retired.

(b) Adequate provision has been made to fully pay and retire the bonds.

(2) All other conditions of trust agreement have been satisfied.

(3) The lien of the trust agreement has been released.

B. On satisfaction of the conditions under Subsection A of this Section, an authority promptly shall execute any deed, conveyance, release, or document and take any other action necessary to convey title to the property and release collateral free of any lien or encumbrance created through the authority.

RS 40:599.32 — Enforcement of rights and duties

ect and enforce rights under state law or a trust agreement.

(2) To enforce and compel the performance of duties by an authority or its officer, employee, or agent that this Subtitle or a trust agreement requires, including imposing rates, rents, fees, and charges that the trust agreement requires to be imposed.

B. The rights under this Section are subject to any trust agreement.

RS 40:600.26 — Short title; purpose

low-income individuals and families in accessing affordable housing and to provide for the development, rehabilitation, and preservation of decent, safe, and affordable housing for low-income individuals and families and to address homelessness; and, therefore, to address these needs, the purposes of this Chapter shall be the following:

(1) To fill the growing gap in Louisiana's ability to build affordable housing by encouraging the dedication of public and private sources to fund additional housing activities.

(2) To develop rental housing for individuals and families with the greatest economic need, in mixed-income settings and in areas with the greatest economic opportunities.

(3) To promote home ownership for low-income individuals and families, to address homelessness and the prevention of homelessness, and to produce, rehabilitate, and preserve affordable dwellings.

C. The Louisiana Housing Corporation shall create and establish the Louisiana Housing Trust Fund, hereinafter referred to as the "trust fund", to be administered by the Louisiana Housing Corporation. Interest earned on investment of monies in the trust fund shall be credited to the trust fund. Unexpended and unencumbered monies in the trust fund at the end of each fiscal year shall remain in the trust fund. Monies in the trust fund shall be made available for assisting the development, rehabilitation, and preservation of affordable housing and for other purposes consistent with this Chapter.

D. The trust fund shall receive monies in the following manner:

(1) Donations to the trust fund from the income tax checkoff as provided in R.S. 47:120.64.

(2) Gifts, grants, and donations to the trust fund received from individuals, partnerships, and public or private organizations.

(3) Monies appropriated to the trust fund by the legislature subject to budgetary control or authority of the division of administration as may be provided in the Act appropriating such funds.

(4) Any federal funds made available to the state under any federal housing trust fund legislation for which the trust fund shall be the sole repository for the state.

(5) Monies appropriated or otherwise made available to the trust fund, from income derived under the Road Home Housing Program from the sale of real property, acquired by the state, or its agent, under the program and sold for purposes of redevelopment of housing or from the repayment of loans, grants, or any other agreement wherein the state

provided financial assistance to an individual for rehabilitation or buyout of a home under the program, but only in such amounts as are approved by the Louisiana Recovery Authority and the division of administration and provided that such monies shall be subject to budgetary control and authority of the division of administration.

E. The monies in the trust fund shall be available for the purposes of loans and investments in accordance with guidelines determined by the Louisiana Housing Corporation.

F. The Louisiana Housing Corporation is authorized to retain six percent of the monies in the trust fund for necessary and associated administrative expenses of the trust fund.

G. Notwithstanding any other provision of law to the contrary, the Louisiana Housing Corporation shall give priority to assisting municipalities and displaced citizens, of a declared disaster area, with developing, rehabilitating, and preserving affordable housing.

RS 40:600.31 — Short title

hcnical difficulties navigating this website,

RS 40:600.32 — Legislative findings

units in the state substantially damaged in areas that must be repopulated to restore the economic base both of the core disaster areas and of the state, and created an unprecedented housing shortage throughout the state.

(2) Significant numbers of displaced residents from core disaster areas who were homeowners may fail to return to their neighborhoods or may be unwilling to make the investment to restore and occupy their housing units if other previously occupied housing units within such neighborhoods become blighted or remain uninhabitable and are permitted to deteriorate by neglect.

(3) In the aftermath of Hurricanes Katrina and Rita where thousands of Louisiana residents have been forced to find temporary housing outside of the state and which exodus from the state poses a serious threat to the economic stability of the state and local governmental subdivisions, the existence of blighted and uninhabitable housing units will stagnate reinvestment by property owners wanting to rebuild and will have a negative impact on livability in neighborhoods and communities. The existence of such blighted and uninhabitable housing creates public health problems, diminishes the property values of neighboring properties, has a negative effect on the quality of life of adjacent property owners, increases the risk of property damage through arson and vandalism, and discourages neighborhood stability and revitalization.

(4) Many blighted and abandoned residential housing properties should be rehabilitated and preserved to maintain the character of neighborhoods and simultaneously provide an opportunity to local governmental subdivisions to arrange for the renovation or rehabilitation of such residential housing properties to help alleviate the unprecedented housing crisis throughout the state.

(5) Local governmental subdivisions and their instrumentalities must be provided an additional tool in order to access and invest funds to renovate abandoned, blighted, and uninhabitable housing units within a judicially approved framework so that: (a) neighborhoods are not negatively impacted by blighted and abandoned properties; (b) owners will be assured that neighborhoods are safe places to live and that their reinvestment in rebuilding will not be devalued by the negative influence of blighted and abandoned properties in their neighborhood; (c) decent, safe, sanitary, and affordable housing may be provided to displaced persons and other priority tenants; (d) the statewide housing crisis may be alleviated; and (e) the substantial delays associated with blighted property may be avoided.

RS 40:600.33 — Definitions

rdance with law without appraisalment following advertisement in the official journal of the local governmental subdivision and for which a tax deed by the local governmental subdivision's tax collector has been issued that constitutes prima facie evidence that a valid sale was made.

(2) "Alternate plan" means a renovation or rehabilitation plan for either a residential housing property below minimum habitability standards or a blighted housing property prepared by the owner or other secured party that preserves the historic integrity of the residential building and restores such property to minimum habitability standards as evidenced by (a) a physical condition assessment identifying components of the blighted housing property requiring repair, replacement, or improvement to restore the property to minimum habitability standards in a cost-effective manner, (b) an estimate and certificate of costs executed by the owner or other secured party, including a schedule of values executed

by a contractor committed to complete the repairs, replacements, or improvements identified in the physical condition assessment within the estimate of costs, (c) evidence of funding commitments from government or commercial lenders sufficient to finance all costs identified in the estimate and certificate of costs, (d) a timetable evidencing the time frame within which the rehabilitation plan may be completed which shall include a date certain by which the rehabilitation will be completed, and (e) a detailed financial feasibility analysis, including documentation of the economic feasibility of the proposed reuse if the residential housing property is not to be occupied as the principal residence of the owner, including operating budgets or resale prices, or both, as appropriate.

(3) "Approving resolution" means a resolution adopted by the governing authority of a local governmental subdivision following an administrative hearing at which the owner and secured parties were provided notice and each given an opportunity to show cause why a rehabilitation plan for the residential housing property should not be prepared and implemented and which resolution determines that (a) the residential housing property is confirmed to be a blighted housing property and (b) the owner and secured parties either failed to submit an acceptable alternate plan or submitted an unacceptable alternate plan.

(4) "Blighted housing property" means (a) any residential housing property for which environmental remediation is required by state law, rule, or regulation and the condition of which is found or declared by the public officer to be harmful to the health or welfare, including the economic welfare, of the residents of the local governmental subdivision wherein the residential property is located, (b) any residential housing property that, as of the effective date of this Chapter, had been determined to be a blighted property or an adjudicated property by the local governmental subdivision, (c) any residential housing property that (i) is offered by a party in interest for inclusion on a blighted housing properties list and (ii) the current condition of which is declared by the local governmental subdivision to be below minimum habitability standards and unfit for human habitation, occupancy, or use, or (d) any residential housing property that (i) has not been legally occupied for eighteen months prior to the time a public officer makes a determination that the property has been vacant for such eighteen-month period and (ii) has been determined to be a public nuisance by the local governmental subdivision, except no residential housing property in an area impacted by Hurricane Katrina or Hurricane Rita which was occupied as of August 28, 2005, shall be included if the owner is eligible for and receives assistance under the Road Home Housing Program.

(5) "Blighted housing property list" means a list prepared and periodically updated by a designated public official that identifies blighted housing properties in the jurisdiction of the local governmental subdivision.

(6) "Capital recovery payment" means a monthly payment to a local governmental subdivision or qualified rehabilitation entity after completion of the rehabilitation or renovation of the residential housing property based upon the amount of any costs incurred by the local governmental subdivision or qualified entity, including any new funds for reserves, repairs, transaction costs, or similar property costs.

(7) "Commitment" means a legally binding agreement to receive and use a specific amount of money to complete construction or rehabilitation that can reasonably be expected to start within six months of the agreement date.

(8) "Cost-effective manner" means the rehabilitation costs of a blighted housing property is less than fifty percent of the replacement costs of such property unless the blighted housing property has historic significance that must be preserved.

(9) "Court" means the district court, city court, parish court, or municipal court with jurisdiction for the local governmental subdivision in which the blighted housing property is located.

(10) "Designated official" means the chief executive officer of the local governmental subdivision or such other person designated to act on behalf of such chief executive officer by the local governmental subdivision.

(11) "Governing authority" means the body which exercises the legislative functions of the local governmental subdivision.

(12) "Hearing officer" means an officer of the local governmental subdivision appropriately qualified to carry out the responsibilities of hearing appeals and who does not report to the public officer.

(13) "Local governmental subdivision" means any parish or municipality.

(14) "Minimum habitability standards" means the minimum property standards requirements set forth by the United States Department of Housing and Urban Development (HUD) in 24 CFR 200.929(b), particularly those standards in HUD 4910.1(HUD Minimum Property Standards for Housing).

(15) "Municipality" means an incorporated city, town, or village as defined in Article VI, Section 44(3) of the Constitution of Louisiana of 1974.

(16) "Owner" means the holder or holders of title to a blighted housing property.

(17) "Party in interest" means (a) any individual, association, and corporation who has an interest of record in a residential housing property and any who has the right to possession of such property, (b) any owner of property adjacent to the residential housing property, or (c) any neighborhood association of property owners recognized by the local governmental subdivision covering an area inclusive of a residential housing property that is below minimum habitability standards.

(18) "Public officer" means an officer of the local governmental subdivision appropriately qualified to carry out the responsibilities of inspecting housing properties to determine whether such properties comply with state and local building codes and local health and safety codes and designated by resolution of the governing body of the local governmental subdivision in which the housing property is located.

(19) "Qualified rehabilitation entity" means any person or entity designated by the local governmental subdivision or the state housing agency on the basis of having demonstrated knowledge and substantial experience in the construction or rehabilitation of residential housing properties, the provision of affordable housing, the restoration of blighted property, the revitalization and improvement of neighborhoods and that is well qualified by virtue of its staff, professional consultants, financial resources, and prior activities to carry out the rehabilitation of blighted residential housing properties.

(20) "Receiver" means either the local governmental subdivision, secured party, or a qualified rehabilitation entity approved by the court.

(21) "Receivership" means the judicially established framework for real property interest which is created by the court with respect to a blighted housing property pursuant to which a receiver is designated to preserve, rehabilitate, restore, and operate the blighted housing property.

(22) "Receivership term" means the period of time established by the court commencing as of the date that the receivership is established and ending not earlier than the date required by the receiver to collect all capital recovery payments and not later than the date the owner is approved by the court to take possession and use of the property. In no event shall a receivership term be longer than five years.

(23) "Rehabilitation plan" means (a) a renovation or rehabilitation plan for a blighted housing property approved by the local governmental subdivision that is consistent with any neighborhood redevelopment strategy, preserves the historic integrity of the residential housing property and restores such property to minimum habitability standards based upon (i) a physical condition assessment identifying components of the blighted housing property requiring repair, replacement, or improvement to restore the property to minimum habitability standards in a cost-effective manner, (ii) an estimate and certificate of costs executed by a public officer, including a schedule of values executed by a contractor committed to complete the repairs, replacements, or improvements identified in the physical condition assessment within the estimate of costs, (iii) evidence of funding commitments from government or commercial lenders sufficient to finance all costs identified in the estimate and certificate of costs, and (iv) a tentative timetable evidencing the time frame within which the rehabilitation plan may be completed, (b) an operating budget, including any required or permitted capital recovery payment, and (c) a receivership term.

(24) "Replacement costs" means the costs of constructing a housing unit of the same size and with the same features on the sight of the blighted housing property.

(25) "Secured party" means any lienholder, mortgagee, or other secured party with an interest in the blighted housing property that is recorded in the local governmental subdivision's mortgage, conveyance, or clerk of court records or the secretary of state's records.

(26) "State housing agency" means the Louisiana Housing Corporation, a public body corporate and politic constituting a political subdivision and instrumentality of the state of Louisiana, created and organized pursuant to and in accordance with the provisions of Chapter 3-A of Title 40 of the Louisiana Revised Statutes of 1950, as amended.

RS 40:600.34 — Blighted housing property list; creation, maintenance, and challenges thereto

officer to identify residential housing properties below minimum

habitability standards for the purpose of establishing a blighted housing property list which

may be a list of such properties throughout the local governmental subdivision or only within those parts of the local governmental subdivision as the governing body may designate by resolution.

(2) The ordinance may direct the public officer to exclude from the inventory of blighted housing property any property for which the expense to the local governmental subdivision of determining the cost of environmental remediation required under state or federal law would be excessive in the judgment of the local governing body.

(3) Each blighted housing property on the inventory so identified shall include the tax block and lot number, the name of the owner of record, if known, and the street address of the lot. No residential housing property in an area impacted by Hurricane Katrina or Hurricane Rita which was occupied as of August 28, 2005, shall be included on the inventory as a blighted housing property if the owner is eligible for and receives assistance under the Road Home Housing Program.

(4) Evidence of utility connections, including sewer, water, electric, or gas and billings to an occupant for the month of July or August 2005 shall be presumptive evidence that a residential housing property was occupied as of August 28, 2005.

(5) Residential housing properties that, as of June 13, 2006, were adjudicated or declared blighted by the local governmental subdivision in accordance with all applicable laws may be added to the blighted housing property list without any additional notice to the owner or secured parties.

B. Maintenance of blighted housing property list. (1) In those local governmental subdivisions in which an inventory has been conducted and blighted housing properties have been identified, the public officer shall establish and maintain a list of blighted housing properties, to be known as the "blighted housing property list".

(2) The local governmental subdivision may add properties to the blighted housing property list at any time and may delete properties at any time when the public officer finds that the property no longer meets the definition of a blighted housing property. Any party in interest may request that a residential housing property below minimum habitability standards be included on the blighted housing property list by filing an affidavit with the public officer of a local governmental subdivision certifying the basis for such person being a party in interest and the conditions of the property that make the property unfit for human habitation, occupancy, or use.

(3) Upon receipt of such an affidavit, the public officer or any qualified rehabilitation entity designated by the local governmental subdivision shall be empowered to inspect the property and make a determination as to whether the property should be declared a blighted housing property. A residential housing property that is below minimum habitability standards shall not be included on the blighted housing property list if rehabilitation is being performed by the owner in a timely manner, as evidenced by building permits issued and diligent pursuit of rehabilitation work authorized by those permits, or by the filing of a rehabilitation plan approved by the court.

C. Rules and regulations prescribing risk guidelines. The state housing agency, in conjunction with the state departments of environmental quality and health, shall adopt rules

and regulations prescribing guidelines and criteria for assessing and determining if a residential housing property is harmful to the health or welfare, including the economic welfare, of the residents of the local governmental subdivision wherein the residential housing property is located, or unfit for human habitation, occupancy, or use, and whether such property is undergoing rehabilitation in a timely manner within the meaning of Subsection B of this Section. The public officer shall apply such standards in conducting any inventory pursuant to this Section.

D. Notice to owners with properties on the blighted housing properties list.

(1) A public officer, within thirty days of the completion of the blighted housing property list, or any additions thereto, shall send a notice, by certified mail, return receipt requested, and by regular mail, to the owner of record of every property included on the list and shall cause the list, including periodic updates to the list, to be published in the official journal of the local governmental subdivision, which publication shall constitute public notice, and, to the extent that the local governmental subdivision maintains an informational web site, post the list on the local governmental subdivision's informational web site.

(2) The published and mailed notices shall identify property determined to be blighted housing property setting forth the owner of record, if known, the tax lot and block number, and street address.

(3) The public officer, in consultation with the tax collector, shall also send out a notice by regular mail to any mortgagee, servicing organization, or property tax processing organization that receives a duplicate copy of the tax bill. When the owner of record is not known for a particular property and cannot be ascertained by the exercise of reasonable diligence by the public officer, notice shall not be mailed but instead shall be posted on the property and published in the official journal of the local governmental subdivision.

(4) The mailed notice shall include the factual basis for the public officer's finding that the property is blighted housing property, specifying the information relied upon in making such finding, and the owner's right and procedures to appeal the finding.

E. Challenges to listing on blighted housing property list. (1) An owner or secured party may challenge the inclusion of his property on the blighted housing property list by appealing that determination to the hearing officer within sixty days of the owner's receipt of the certified notice.

(2) In the case of a notice that is returned as undeliverable or an owner whose identity was not known to the public officer, the owner shall have ninety days from the date upon which notice was published or posted, whichever is later, to challenge the inclusion of a property on the blighted housing property list.

(3) For good cause shown, the hearing officer shall accept a late filing of an appeal. Within thirty days of receipt of a request for an appeal of the findings, the hearing officer shall schedule a hearing of the matter at which the owner or any party in interest may present oral or written testimony that the property should not be included on the list.

(4) The owner or any party in interest may submit documentation including but not limited to photographs, repair invoices, bills, and construction contracts to challenge the inclusion of the property on the list.

(5) The hearing officer shall render a decision on the appeal within thirty days of the hearing and shall promptly, by certified mail, return receipt requested, notify the property owner of the decision and the reasons therefor.

F. Appeal of blighted property designation. The property owner may challenge an adverse determination of an appeal with the hearing officer, by filing an appeal in the court in the parish in which the property is located. Such action shall be instituted within thirty days of the date of the notice of decision mailed by the hearing officer. The failure to institute an action of appeal on a timely basis shall constitute a jurisdictional bar to challenging the adverse determination, except that, for good cause shown, the court may extend the deadline for instituting the action.

G. Removal of properties from blighted housing property list. The public officer shall promptly remove any property from the blighted housing property list that has been determined not to be a blighted housing property on appeal.

RS 40:600.35 — Statewide blighted housing property list

erty list shall submit their list to the state housing agency no later than December thirty-first of each year. The information submitted to the state housing agency shall be updated quarterly.

B. State housing agency; duty to maintain statewide blighted housing property list. The state housing agency shall publish, no later than March fifteenth of each year, a statewide blighted housing property list based on information received from local governmental subdivisions in accordance with the provisions of this Section. The list shall also be maintained on the state housing agency's web site and shall be updated quarterly.

C. The state housing agency shall utilize a statewide housing locator system for the purpose of maintaining the blighted housing property list. The system shall be updated as needed.

RS 40:600.36 — Filing of action to implement rehabilitation plan; notice to secured parties

e owner to establish a receivership in connection with a blighted housing property on a blighted housing property list, the designated official shall serve notice on the secured party which notice shall state that:

- (1) The local governmental subdivision has determined the residential housing property of the owner to be a blighted housing property and has placed such property on the local governmental subdivision's blighted housing property list.
- (2) The local governmental subdivision and the owner will arrange for a rehabilitation plan to be prepared and submitted to the court to restore the property to minimum habitability standards.
- (3) A secured party may request a copy of such rehabilitation plan upon its submission to the court.
- (4) A secured party may submit an alternate plan to the public officer within forty-five days of the date of the notice.
- (5) If a secured party does not present to the public officer an alternate plan within forty-five days of the date of the notice, the secured party may file an objection to the local governmental subdivision's action to implement a rehabilitation plan in the court.

B. Service of notice. The notice shall be served on the secured parties by registered or certified mail, postage prepaid, addressed to the secured party at their last known addresses.

C. Recordation of notice. Any notice served pursuant to this Section shall be filed with the recorder of mortgages where the property is located. Once filed, said notice shall be deemed notice to all subsequent transferees. Any transferee of such property takes the property subject to all recorded liens, mortgages, and notices thereunto pertaining.

RS 40:600.37 — Action to establish a receivership

ntal subdivision or a qualified rehabilitation entity may be brought by a local governmental subdivision in the court in the parish in which the blighted housing property is located.

B. An action submitted to a court to establish a receivership shall include:

- (1) The documentation supporting the residential housing property being designated a blighted housing property.

(2) An affidavit executed by the designated official stating that (a) the residential housing property was listed on the blighted housing property list, (b) the owner of the property has consented to placing the property in receivership, (c) notice was delivered to the secured parties in accordance with the provisions of this Chapter and was filed as required in the mortgage record of the local governmental subdivision, or that there are no secured parties, (d) a rehabilitation plan for the blighted housing property was offered to the secured parties for review, (e) the secured party did not submit an acceptable alternate plan to the public officer, (f) a statement has been received by an individual holding appropriate professional qualifications that there are sound reasons that the blighted housing property should be rehabilitated rather than demolished based upon the physical, aesthetic, or historical character of the residential housing property or the relationship of such residential housing property to other buildings and lands within its immediate vicinity, and (g) the governing authority of the local governmental subdivision approved the implementation of the rehabilitation plan pursuant to an approving resolution.

(3) An affidavit from the owner consenting to placing the property in receivership and agreeing to the cost of the rehabilitation plan.

(4) A certified copy of the approving resolution.

(5) A copy of the rehabilitation plan.

(6) A request that the court establish a receivership for the blighted housing property, appoint a receiver, and approve and authorize the receiver to implement the rehabilitation plan.

C. Prior to establishing a receivership, the court shall consider any objections filed by secured parties and evaluate any alternate plans submitted by secured parties. The court may approve a secured party's alternate plan that, in the judgment of the court, is realistic and likely to result in the expeditious rehabilitation of the property to minimum habitability standards and a return of the blighted housing property to commerce. If the court approves the secured party's alternate plan, then the court shall appoint the public officer to act as monitor of the secured party's compliance. If the secured party fails to carry out any step in the approved alternate plan, then the local governmental subdivision may apply to the court to complete the local governmental subdivision's rehabilitation plan.

D.(1) If the court finds that the property is blighted property and that the secured party has failed to submit an acceptable alternate plan or to take any action to restore the blighted housing property to minimum habitability standards, then the court shall authorize the local governmental subdivision or a qualified rehabilitation entity designated by the local governmental subdivision to take possession, control, and use of the blighted housing property for the receivership term and to implement the rehabilitation plan.

(2) The possession of the property by the local governmental subdivision or qualified rehabilitation entity shall continue in receivership for the receivership term established by the court. In no event shall the receivership term exceed five years.

(3) The costs to rehabilitate the property contained in the rehabilitation plan submitted for approval by the court shall be a lien against the property, which lien may be satisfied through capital recovery payments or by the maintenance of the receivership for the receivership term unless the owner applies to the court as otherwise provided in this Chapter for reinstatement of possession and control of the property and meets the criteria for reinstatement, including satisfying any and all liens, imposed by the court.

E. Other proceedings in court. The local governmental subdivision or the qualified rehabilitation entity granted possession and control as receiver may commence and maintain any further proceedings in the court as may be necessary for the conservation, protection, rehabilitation, or disposition of the property or as may be necessary to recoup the cost and expenses of rehabilitation.

F. Receiver subject to direction and control by court. Any receiver so appointed shall be under the direction and control of the court and shall have full power over the property and shall, upon appointment by the court, commence and maintain all actions for the conservation, protection, or disposal of the residential housing property as the court may deem proper.

G. Technical advisory assistance to court. The state housing agency shall serve as a technical advisor to a court and may review each alternate plan and rehabilitation plan submitted to the court and advise the court as to the feasibility or viability of such plans; monitor on behalf of the court the implementation of the receivership over the receivership term; and advise the court as may be necessary and appropriate concerning revisions or adjustments to an alternate plan or a rehabilitation plan.

RS 40:600.38 — Local governmental subdivision as receiver

(2) The local governmental subdivision or its designated qualified rehabilitation entity is qualified to undertake the rehabilitation plan.

(3) The rehabilitation plan submitted by the local governmental subdivision represents a realistic and timely plan for the rehabilitation and reuse of the blighted housing property.

B.(1) The local governmental subdivision shall take all steps necessary and appropriate to further the rehabilitation and reuse of the property consistent with the rehabilitation plan submitted to the court.

(2) In making its findings pursuant to this Section, the court may consult with qualified parties and, upon request by a party in interest, may hold a hearing on the plan.

(3) Regardless of whether a local governmental subdivision exercises its rights directly or designates a qualified rehabilitation entity pursuant to this Section, while in possession of a blighted housing property, a local governmental subdivision shall maintain, safeguard, and maintain insurance on the blighted housing property.

C. Notwithstanding the local governmental subdivision's possession of the blighted housing property during the receivership term, nothing in this Chapter shall be deemed to relieve the owner of the property of any civil or criminal liability or any duty imposed by reason of acts or omissions of the owner, or of any obligation the owner or any other person may have for the payment of taxes or other municipal liens and charges, or mortgages or liens to any party, whether those taxes, charges, or liens are incurred before or after the appointment of the receiver.

RS 40:600.39 — Designation of qualified rehabilitation entity

act as its designee for the purpose of exercising the local governmental subdivision's rights where that designation will further the rehabilitation and reuse of the property consistent with the rehabilitation plan. This designation shall be made by resolution of the governing authority.

B. Assignment of receivership by local governmental subdivision to a qualified rehabilitation entity. Where the local governmental subdivision has been granted possession by the court in the name of the local governmental subdivision, the local governmental subdivision may seek the approval of the court to assign its rights to another entity, which approval shall be granted by the court when it finds that the entity to which the local governmental subdivision's rights will be assigned is a qualified rehabilitation entity and the assignment will further the purposes of this Chapter.

C. Reports. Where a local governmental subdivision has designated a qualified rehabilitation entity to act on its behalf, the qualified rehabilitation entity shall provide quarterly reports to the local governmental subdivision on its activities and progress toward rehabilitation and reuse of the property. The local governmental subdivision or qualified rehabilitation entity, as the case may be, shall provide such reports to the court as the court determines to be necessary. If the court finds that the local governmental subdivision or its designee have failed to take diligent action toward rehabilitation of the property within six months from the grant of possession, then the court may request the local governmental subdivision to designate another qualified rehabilitation entity to exercise its rights, or if the local governmental subdivision fails to do so, may terminate the receivership and return the property to its owner.

RS 40:600.40 — Permits, taxes, liens, and notice of completion

ocal governmental subdivision, secured party, or qualified rehabilitation entity shall be deemed to have an ownership interest in the property for the purpose of filing plans with public agencies and boards, seeking and obtaining construction permits and other approvals, and submitting applications for financing or other assistance to public or private entities.

B. Legal control. For the purposes of any program of grants or loans, possession of a blighted housing property pursuant to the provisions of this Chapter shall be considered legal control of the property.

C. Liens. The court may approve the borrowing of funds by a local governmental subdivision, with the consent of the property owner, to rehabilitate the property. Prior to seeking approval to borrow funds, the local governmental subdivision shall have exhausted all grant opportunities. The court may grant a lien or security interest in the property for the amount of the borrowed funds.

D. Recordation of liens. No lien authorized by the court shall take effect unless recorded in the mortgage office of the parish in which the property is located.

E. Notice of completion. The local governmental subdivision shall file a notice of completion with the court, and shall also serve a copy on the owner and any mortgage holder or lienholder, at such time as the local governmental subdivision has determined that at least fifty percent of the rehabilitation plan is complete. This notice shall include an affidavit of the

public officer attesting to the frame within which that rehabilitation can realistically be anticipated to be complete and a statement setting forth such actions as it plans to undertake to ensure that reuse of the property is consistent with the plan.

RS 40:600.41 — Reinstatement of owner in possession

eff. June 13, 2006.

RS 40:600.42 — Petition for reinstatement

o complete the rehabilitation plan.

(2) Provide legally binding assurances that the owner will comply with all conditions of any grant or loan secured by the local governmental subdivision or repay those grants or loans in full, at the discretion of the maker of the loan or grant.

B. If the requirements of the petition are met, the court shall reinstate the owner to possession, control, and use of the property.

RS 40:600.43 — Sale of property

hip.

(2) The owner shall be served with a copy of the petition in accordance with the Code of Civil Procedure Article 1201 et seq. and be given an opportunity to respond.

B. Any sale of property pursuant to the provisions of this Section shall be for the fair market value of the rehabilitated property, but not less than the amount necessary to recoup the costs incurred in rehabilitating the property.

C. Any proceeds resulting from the sale in excess of the amount necessary to recoup the costs incurred in rehabilitating the property shall be returned to the property owner.

RS 40:600.44 — Preference to affected areas

f activities by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business in the state of Louisiana.

RS 40:600.51 — Short title; purpose

ists in the state a need to assist low-income individuals and families, and particularly those individuals and families who have mental or physical disabilities, in accessing and acquiring affordable housing and to provide for the development and construction of decent, safe, accessible, and affordable housing for low-income individuals and families such as currently is provided by Louisiana affiliates of Habitat for Humanity. The legislature further finds that the Louisiana Housing Corporation has the requisite powers and duties to support and administer this program. Therefore, to address these needs, the purposes of this Chapter shall be the following:

(1) To partner with Louisiana Habitat for Humanity affiliates which are constructing affordable housing for Louisiana citizens.

(2) To encourage the development of accessible housing for people with disabilities through media outreach in collaboration with disability based community organizations.

(3) To purchase homeowner loans from habitat affiliates and thereby provide more resources for such entities to serve more potential home buyers.

(4) To establish a revolving fund to provide a growing pool of monies to support the partnership between the Louisiana Housing Corporation and the habitat affiliates.

RS 40:600.52 — General provisions; trust fund

Corporation shall assist in the provision of affordable housing for Louisiana families by purchasing home loans from Louisiana Habitat for Humanity affiliates.

B.(1) The Louisiana Habitat for Humanity Trust Fund, hereinafter referred to as the "trust fund", is hereby created to be administered by the Louisiana Housing Corporation. Monies credited to the fund shall include, but not be limited to, funds received as provided by Paragraph (2) of this Subsection. Interest earned on investment of monies in the trust fund shall be credited to the trust fund. Unexpended and unencumbered monies in the trust fund at the end of each fiscal year shall

remain in the trust fund. Monies in the trust fund shall be used exclusively for the purchase of loans from Habitat for Humanity affiliates in accordance with the provisions of this Chapter.

(2) The trust fund shall receive monies in the following manner:

(a) Monies annually allocated by the board of the Louisiana Housing Corporation from agency funds specifically designated for the Habitat for Humanity Loan Purchase Program.

(b) Gifts, grants, and donations to the trust fund received from individuals, partnerships, and public or private organizations.

(c) Monies appropriated to the trust fund by the legislature for these purposes.

(d) Any federal funds made available to the state under any federal housing legislation consistent with these provisions.

(e) Any monies received in repayment for loans made under the provisions of this Chapter.

C. For the purposes of this Chapter, the Louisiana Housing Corporation shall promulgate all rules, regulations, and other such procedures in conjunction with representatives of Louisiana habitat affiliates, as may be designated by Habitat for Humanity International, in accordance with the provisions of R.S. 40:600.6(A)(4)(b)(x).

(1) The proposed rules shall be formulated for submission to the board of commissioners of the Louisiana Housing Corporation no later than October 15, 2006.

(2) The board shall review and adopt the proposed rules no later than November 30, 2006.

(3) The board shall submit the proposed rules to the Joint Legislative Committee on the Budget for review at the committee's first regularly scheduled meeting in 2007.

RS 40:600.61 — Short title

e any technical difficulties navigating this website,

RS 40:600.62 — Definitions

"Division of administration" means the division of administration created within the office of the governor by Title 39 of the Louisiana Revised Statutes of 1950.

(2) "Project" collectively means the acquisition, disposition, purchase, renovation, improvement, leasing, or expansion of housing stock, including but not limited to housing stock as described in action plans for The Road Home Program, for the purposes set forth therein, as such action plan may hereafter be amended, supplemented, or otherwise modified, by the corporation. The project may be financed with funds provided in whole or in part from the United States Department of Housing and Urban Development's Community Development Block Grant Program, as administered by the Louisiana office of community development of the division of administration.

(3) "Road Home Corporation" means the nonprofit corporation authorized to be formed by this Chapter, or any corporation succeeding to the principal functions thereof or to which the powers conferred upon the corporation by this Chapter shall be given by law. Such corporation may amend its articles of incorporation to change its name to Louisiana Land Trust. It is further declared that any such corporation shall not constitute a state agency, board, or commission; nor shall it constitute an instrumentality of the state or of any political subdivision.

(4) "State" means the state of Louisiana or any agency or instrumentality thereof.

RS 40:600.63 — Functions of Road Home Corporation

public, the acquisition, disposition, purchase, renovation, improvement, leasing, or expansion of housing stock, including but not limited to housing stock as described in action plans for The Road Home Program, for the purposes set forth therein, as such action plans hereafter may be amended, supplemented, or otherwise modified. R.S. 41:131 through 140 and 1338 shall not apply to the corporation or to any property conveyed by the corporation. To the extent that the provisions of this Chapter are inconsistent with the provisions of R.S. 12:202.1 or any other provisions of any general statute or special act or parts thereof, the provisions of this Chapter shall be deemed to be controlling.

RS 40:600.64 — Membership of the board of directors; vacancies; compensation; expenses

ted from a list of three persons nominated by the president of the Senate and with one member appointed from a list of three persons nominated by the speaker of the House of Representatives. No less than three of such members shall be a domiciliary of one of the parishes most affected by Hurricane Katrina and no less than three members shall be a

domiciliary of one of the parishes most affected by Hurricane Rita. Any domiciliary selected under this Subsection shall have been domiciled in their respective parish for at least one year prior to August 29, 2005. At least five of the members, including the members nominated by the president of the Senate and the speaker of the House of Representatives, shall have education, training, or experience in banking, mortgage financing, housing development, environmental remediation, land use, or urban planning.

B. Members of the board of directors shall serve without compensation, but the Road Home Corporation may reimburse such members for necessary expenses incurred in the discharge of their duties.

RS 40:600.65 — Applicable laws to Road Home Corporation

is subject to examination, audit, and review by the legislative auditor.

RS 40:600.66 — Powers and responsibilities of the Road Home Corporation and the Louisiana Land Trust

ised Statutes of 1950, as amended, the Road Home Corporation shall have the power to undertake any project, in adherence to the policy guidelines for rebuilding, recovery, and land use management set forth by the Louisiana Recovery Authority, to provide for the financing thereof as administered by the office of community development, and in connection therewith:

- (1) To receive and accept from any agency of the United States or any agency of the state of Louisiana or any municipality, parish, or other political subdivision thereof, or from any individual, association, or corporation, gifts, grants, or donations of monies or other property for achieving any other purposes of this Chapter.
- (2) To finance, own, lease as lessee or lessor, sell, exchange, donate, or otherwise hold or transfer a property interest in housing stock damaged by Hurricane Katrina or Hurricane Rita, including contracts for the acquisition, purchase, construction, disposition, sale, exchange, donation, renovation, improvement, or expansion of such housing stock property interest by the Road Home Corporation.
- (3) To receive and accept from any source, loans, contributions, or grants for or in aid of a project, or the financing thereof in either money, property, labor, or other things of value.
- (4) To mortgage all or any portion of its interest in a project and the property on which any such project is located, whether owned or thereafter acquired, including the granting of a security interest in any property, corporeal or incorporeal, and to assign or pledge all or any portion of its interest in property, corporeal or incorporeal and the revenues therefrom.
- (5) To obtain, or aid in obtaining, from any department or agency of the United States or the state or any private company, any insurance or guarantee as to, or of, or for the payment or repayment of, interest or principal, or both, or any part thereof, on any lease or obligation or any instrument evidencing or securing the same, made or entered into pursuant to the provisions of this Chapter and to assign any such insurance or guarantee as security.
- (6) To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purpose of the Road Home Corporation or to carry out any power expressly given in this Chapter.
- (7) In connection with Road Home grant post-closing regulatory compliance reviews being conducted by the Louisiana Recovery Authority and the office of community development, as to any Road Home applicant who has on or before June 10, 2008, exhausted his remedies of appealing to the Road Home Appeals Panel and further to the office of community development and for whom a decision was issued by the office of community development on or before June 10, 2008, denying the relief sought by the Road Home applicant through his appeal, the Louisiana Recovery Authority and the office of community development shall provide the applicant the opportunity to have the applicant's grant file reviewed by the third person or agency contracted by the division of administration to conduct the post-closing regulatory compliance reviews. The applicant shall be afforded the opportunity to receive any grant award or additional disbursement which the review process discloses were eligible amounts which should have been awarded.

B. Housing assistance rendered by the Road Home Corporation or the Louisiana Land Trust or rendered through any other housing assistance program under the provisions of this Chapter shall be subject to the following:

- (1) Any certified property appraisal or market analysis conducted by the Road Home Corporation or the Louisiana Land Trust shall be binding on the corporation. If more than one certified property appraisal or market analysis is rendered, the

property owner shall receive assistance based upon the higher certified appraisal value or the analysis most favorable to the property owner.

(2) No individual shall be required to sell property in excess of five acres if the property was unimproved land or was regularly used in farming operations immediately prior to hurricanes Katrina or Rita.

(3) No individual shall be required to sell property in which the individual holds an undivided ownership interest with family members as legal heirs to such property.

(4) No individual shall be required to sell property in which the individual has a divided interest in the property which is contiguous to five or more acres owned by the individual and his immediate family.

RS 40:600.67 — Excess earnings

e Program.

RS 40:600.68 — Dissolution of the Road Home Corporation; title to property to vest in successor

the successor corporation created by the legislature, if any. If no such successor corporation is so created, title to such property shall vest in the state of Louisiana.

RS 40:600.71 — Title

2007, No. 383, §3, the provisions of this Section ceased to be effective on July 1, 2010.

RS 40:600.72 — Legislative findings

ricanes Katrina and Rita destroyed thousands of residential housing units in Louisiana, left thousands of residential housing units substantially damaged in areas that must be repopulated to restore the economic base of those areas, and created an unprecedented housing shortage for both homeowners and renters throughout the state.

(3) Displaced persons need the assistance of knowledgeable professionals to develop suitable housing strategies for their primary residences. This assistance can best be provided by nonprofit organizations that have been certified by the Louisiana Housing Corporation. These certified nonprofit organizations will be sustainable community based entities acting as consumer advocates and evolving over time to meet the needs of our citizens.

RS 40:600.73 — Definitions

nistration created within

the office of the governor by Title 39 of the Louisiana Revised Statutes of 1950.

(2) "Road Home Corporation" means the nonprofit corporation authorized in Title 40 of the Louisiana Revised Statutes of 1950, or any corporation succeeding to the principal functions thereof or to which the powers conferred upon the corporation shall be given by law.

(3) "Suitable housing strategy" means a plan for the acquisition of residential housing property to replace property or for the disposition, renovation or rehabilitation of either a residential housing property below minimum habitability standards or a blighted housing property prepared by the owner or other secured party that preserves the historic integrity of the residential building and restores such property to minimum habitability standards.

RS 40:600.74 — Sources

, eff. July 10, 2007; Acts 2011, No. 408, §5(B), eff. July 5, 2011.

NOTE: Pursuant to Acts 2007, No. 383, §3, the provisions of this Section ceased to be

effective on July 1, 2010.

RS 40:600.75 — Funding

ogram, may set aside sufficient funds to accomplish and implement the requirements of this Chapter.

B. The office of community development may conduct competitive negotiations by initiating the issuance of a request for proposals containing a description of the services required and the factors to be used in evaluating the proposals.

RS 40:600.76 — Type of assistance

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housing programs of the Louisiana Recovery Authority, or any other housing programs designed to assist Louisiana residents with housing needs. Housing counseling assistance providers may also assist displaced persons, who were homeowners or renters, and property owners by creating suitable housing strategies for person with special needs.

RS 40:600.86 — Short title; findings; purpose

in the state of Louisiana a serious shortage of affordable, accessible, decent, safe, and sanitary residential housing that is in compliance with Title II of the Americans with Disabilities Act, 42 U.S.C.A. §12131 et seq., the Fair Housing Act, 42 U.S.C.A. §3601 et seq., and Section 504 of the Rehabilitation Act, 29 U.S.C.A. §794.

(2) The legislature hereby finds and declares further that private enterprise and investment unaided has not been able to produce the needed construction of decent, safe, accessible, and sanitary residential housing at prices which persons and families of low or moderate income can afford, or to achieve the urgently needed rehabilitation of existing inadequate and substandard residential housing. The legislature further finds and declares that it is imperative that the supply of residential housing for persons and families of low or moderate income, senior citizens and persons with disabilities, that is in compliance with Title II of the Americans with Disabilities Act, 42 U.S.C.A. §12131 et seq., the Fair Housing Act, 42 U.S.C.A. §3601 et seq., and Section 504 of the Rehabilitation Act, 29 U.S.C.A. §794, be increased substantially and that private enterprise and investors be encouraged to sponsor, build, and rehabilitate residential housing for such persons and families.

(3) The legislature hereby finds and declares further that a major cause of the shortage of residential housing is the inadequate supply of funds available from private mortgage lenders for residential housing mortgage loans at interest rates within the financial means of persons and families of low or moderate income.

(4) The legislature hereby finds and declares that the limited resources available directly to the state or its agencies may be more effectively and efficiently utilized if a single corporation is authorized and directed to coordinate housing programs administered by the state or its agencies and instrumentalities.

(5) The legislature hereby finds and declares further that additional financial resources and technical skills must be available in local communities if the state is to mobilize the capacity of the private sector, including nonprofit community housing development organizations, to provide a more adequate supply of decent, safe, affordable, accessible, and sanitary housing.

(6) The legislature hereby finds and declares further that state leadership is needed to achieve an adequate supply of affordable and accessible housing for all residents of the state and that such leadership shall be provided through the corporation.

(7) The legislature hereby finds and declares further that this corporation should have the maximum amount of flexibility, responsibility, and discretion to assure that all the residents of the state shall have access to decent, safe, sanitary, accessible, and affordable housing; therefore, in carrying out the purposes of this Chapter, the corporation shall be presumed to possess broad powers and legal prerogatives which enable the corporation to carry out its purposes directly or indirectly through one or more nonprofit subsidiaries.

(8) The legislature hereby finds and declares further that a major cause of the shortage of residential housing available for persons and families of low or moderate income is the lack of a coordinated approach and clear statewide policy

regarding funds for such residential housing.

(9) The legislature hereby finds and declares further that providing housing for citizens with disabilities and senior citizens is a crucial responsibility of the state and that any coordinated approach or clear statewide policy regarding funds for residential housing shall take into account assuring that such housing remains available and affordable for senior citizens and persons with disabilities.

RS 40:600.87 — Definitions

nds" shall have the same meaning as "Securities" in R.S. 39:1421(1).

(2) "Corporation" means the Louisiana Housing Corporation created by this Chapter.

(3) "Federal government" means the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

(4) "Insured mortgage loan" means a mortgage loan for the acquisition, construction, rehabilitation or improvement of residential housing located within the state which is insured or guaranteed in whole or in part by the federal or state government, or any instrumentality or agency of the federal government or the state government, including the Louisiana Housing Corporation, or by a private mortgage insurance company, which insures the holder of the mortgage against financial loss.

(5) "Lending institution" means any bank, investment bank, mortgage bank or company, pension or retirement fund, savings bank, or savings and loan association which is authorized to do business in Louisiana.

(6) "Mortgage" means a conventional mortgage evidencing a contract by which a person binds all or part of his immovable property in favor of another to secure the execution and enforcement of a contract, but without divesting himself of the possession of such property.

(7) "Mortgage loan" means a financial obligation secured by a mortgage.

(8) "Persons or families of low or moderate income" means an individual or household whose income qualifies as low income or moderate income as determined from time to time by the corporation's board of directors in a manner consistent with federal housing programs.

(9) "Residential housing" means a specific work or improvement within the state undertaken primarily to provide decent, safe, and sanitary dwelling accommodations that are in compliance with Title II of the Americans with Disabilities Act, 42 U.S.C.A. §12131 et seq., for persons of low or moderate income, including, but not limited to, the acquisition, construction, rehabilitation, or improvement of land, buildings, and improvements thereto in connection with apartments, condominiums, single family homes, townhouses, and nonhousing facilities appurtenant thereto.

(10) "State" means the state of Louisiana.

(11) "State agency" means any board, authority, agency, department, commission, public corporation, body corporate and politic, or instrumentality of the state. A local housing authority established pursuant to R.S. 40:381 et seq., shall not be considered a "state agency".

RS 40:600.88 — Creation of the corporation

the "corporation", shall be an instrumentality of the state.

RS 40:600.89 — Organization of the corporation

be the state treasurer or his designee. Notwithstanding the

provisions of R.S. 49:307.1, the treasurer may name any person as his designee to this board.

(2) Eight members shall be appointed by the governor, two of whom shall be at-large appointments. All members appointed by the governor shall meet all of the following criteria:

(a) Each shall be a resident of the state.

(b) Each shall have at least five years of experience in one or more of the following fields:

(i) Banking or bonds.

(ii) Residential or multi-family construction.

(iii) Real estate.

(iv) Affordable housing development.

(v) Nonprofit residential development.

(vi) Programs of the Department of Housing and Urban Development or any successor agency.

(c) Not more than one member appointed pursuant to this Paragraph shall be a resident of a single congressional district, except for the at-large members who may be selected from the state at large.

(d) One shall either be a consumer of or an advocate for affordable housing.

(e) The eight members appointed by the governor shall be diverse and representative of the state's population as near as practicable, including with respect to ethnicity, and shall each be submitted to the Senate for confirmation.

(3) Four additional members shall be appointed as follows:

(a) Two persons appointed by the president of the Senate, one of whom shall be appointed from a parish having a population of less than seventy-five thousand persons according to the latest federal decennial census or a municipality having a population less than fifteen thousand persons according to the latest federal decennial census. The two members appointed pursuant to this Subparagraph shall serve at the pleasure of the president of the Senate.

(b) Two persons appointed by the speaker of the House of Representatives, one of whom shall be appointed from a parish having a population of less than seventy-five thousand persons according to the latest federal decennial census or a municipality having a population less than fifteen thousand persons according to the latest federal decennial census. The two members appointed pursuant to this Subparagraph shall serve at the pleasure of the speaker of the House of Representatives.

B. In the event of a vacancy in the office of any member of the board of directors, by death, resignation, removal, or otherwise, a replacement shall be appointed in the same manner as the person whose position is now vacant was originally appointed and, if appointed by the governor, shall serve for the remainder of the unexpired term.

C.(1) Each appointed member of the board of directors shall hold office until his successor has been appointed and has qualified.

(2)(a) Any appointed member shall be eligible for reappointment.

(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, no member appointed by the governor shall serve more than three consecutive terms. Any such member who serves three consecutive terms shall be eligible for reappointment no earlier than one year after leaving office.

(3) Any member of the board of directors of the corporation may be removed from office by the appointing authority for incompetence, malfeasance, misconduct, or willful neglect of duty, after reasonable notice and a public hearing, unless the notice and hearing are expressly waived in writing.

(4) Every member of the board of directors of the corporation shall, before entering office, take the oath of office required of public officials to administer the duties of his office faithfully and impartially, and a record of such oath shall be filed with the secretary of state.

(5) Board members appointed by the governor shall serve staggered four-year terms as provided in this Section. Two shall serve initial terms of two years each, two shall serve initial terms of three years each, and two shall serve initial terms of four years each, as determined by lot at the first meeting of the board.

(6) Board members may receive compensation of fifty dollars per diem for their services and may be eligible for reimbursement of reasonable travel expenses incurred in connection with the discharge of their duties only as provided by majority vote of the board.

D.(1) Each member of the board of directors shall file financial disclosure statements pursuant to R.S. 42:1124.2.1.

(2) The executive director shall file financial disclosure statements pursuant to R.S. 42:1124.2.

(3) If the state treasurer does not appoint a designee but serves as a member, he shall not file the disclosure statement required by this Subsection but rather shall file disclosure statements as otherwise required by law for the state treasurer.

RS 40:600.90 — Officers of the corporation; duties; liability

ject to confirmation by the Senate for a term not to exceed three years. Any person appointed shall meet all the requirements for being a member of the board of directors except for the requirement of R.S. 40:600.89(A)(2)(a).

(b) Any person whose appointment was not confirmed shall not be reappointed for confirmation for a period of two years.

(2) Duties; requirements.

(a) The executive director of the corporation shall manage the daily affairs of the corporation and shall have such powers and duties as specified by this Chapter and by the board of directors.

(b) The executive director shall not be a member of the board.

(c) The executive director of the corporation shall be terminated only for cause.

(d) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation.

B. The executive director shall submit a staffing plan to the board for its approval.

C. No officer or employee of the corporation shall be a member of the board.

D. The powers of the board.

(1) The powers of the corporation shall be vested in the board of directors.

(2) A majority of the members of the board currently serving shall constitute a quorum for the transaction of any business, and the presence of a quorum shall be required for the exercise of any power or function of the corporation. No vacant

office shall be included in the determination of the number of members of the board necessary to establish a quorum.

(3) No action shall be taken by the board until such time as at least seven of the members have been appointed and have taken the oath of office.

(4) No vacancy in the board shall impair the rights of a quorum of the board to exercise any power or function of the corporation as provided in Paragraph (5) of this Subsection.

(5) Action may be taken by a quorum of the board upon an affirmative vote of a majority of the members present.

(6) The board may create and appoint members to any committee deemed necessary or beneficial to carrying out the duties of the board.

(7) The board may employ counsel to represent the board.

(8) The board may appoint and, so appointing, prescribe the duties of the officers as are named to assist in the operation of the corporation, including, but not limited to, a secretary or treasurer of the corporation. The offices and duties shall be included in the bylaws of the corporation.

E. The corporation shall be domiciled in Baton Rouge.

F. The corporation shall adopt bylaws for its own governance and internal organization, provided that such bylaws shall not conflict with any of the provisions of this Chapter or with any other law applicable to public bodies or agencies. Except to the extent in conflict with this Chapter, the corporation and its board shall be subject to the laws relative to meetings of public bodies, public records, and the Code of Governmental Ethics.

G. No member of the board of directors shall be civilly liable by reason of any act or omission committed or suffered in the performance of his duties as member of the board or with respect to the operations of the corporation, but any act, liability for omission, or obligation of a member in the performance of his duties or with respect to the operations of the corporation shall extend to the whole of the property of the corporation, or so much thereof as may be necessary or available to discharge such liability or obligation, and not otherwise.

H.(1) If any member of the board of directors or any officer or employee of the corporation shall have an interest, either direct or indirect, in any contract to which the corporation is, or is to be, a party, or in any lending institution requesting a loan from or offering to sell insured mortgage loans to the corporation, such interest shall be disclosed to the corporation in writing and shall be set forth in the minutes of the corporation.

(2) Notwithstanding the provisions of R.S. 42:1112, no member of the board of directors and no officer or employee having such interest shall participate in any action by the corporation, including but not limited to discussion and voting on any issue bearing on that interest. The member of the board of directors shall recuse himself from any action taken by the board of directors.

(3) Failure to make a disclosure required pursuant to this Subsection shall constitute misconduct in office.

I. Fiscal matters.

(1) The corporation shall operate from self-generated funds and shall not be a budget unit of the state.

(2) The corporation may receive state appropriations and the expenditure of such appropriated funds shall be subject to budgetary controls or authority of the division of administration.

(3) The corporation shall establish an operating budget for the use of its funds, subject to the favorable vote of two-thirds of the current membership of the board of directors of the corporation.

(4) The fiscal year for the corporation shall run concurrently with the fiscal year of the state.

(5) Any budget adopted for a fiscal year shall be effective for that fiscal year.

RS 40:600.91 — Powers and duties of the corporation

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following powers in addition to all other powers granted by other provisions of this

Chapter:

(1) The corporation may sue and be sued in its own name.

(2) The corporation may establish a seal and alter the same at its pleasure.

(3) The corporation shall adopt, in accordance with the provisions of the

Administrative Procedure Act, R.S. 49:950 et seq., those rules and regulations as are necessary and proper for the performance of its duties and responsibilities, in compliance with and subject to the exceptions in the following provisions:

(a) The Administrative Procedure Act, R.S. 49:950 et seq., shall not apply to the sale of bonds, notes, or other obligations of the corporation or of programs of the corporation funded with the proceeds thereof, when such sale occurs after reasonable public notice and public hearing.

(b) The Administrative Procedure Act, R.S. 49:950 et seq., shall not apply to the administration and allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, except that upon adoption of rules and regulations relative to such administration and allocation, the corporation shall submit these rules and regulations to the Joint Legislative Committee on the Budget for review.

(c) The Administrative Procedure Act, R.S. 49:950 et seq., shall not apply to the following programs, except that upon adoption of such rules and regulations relative to such programs, the program or the corporation shall submit such rules and regulations to the Joint Legislative Committee on the Budget for review. The programs subject to this provision are as follows:

- (i) The Risk Sharing Program.
- (ii) The Mark to Market Program.
- (iii) The Louisiana Housing Trust Fund.
- (iv) The HOME Program.
- (v) The Low Income Housing Energy Assistance Program (LIHEAP).
- (vi) The Weatherization Program (WAP).
- (vii) The Section Eight Contract Administration Program.
- (viii) The Louisiana Habitat for Humanity Loan Purchase Program Act.
- (ix) Funding for the Louisiana Land Trust.

(4) The corporation may make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions pursuant to this Chapter with any federal or state governmental agency, public or private corporation, lending institution, or other entity or person.

(5) The corporation may accept donations of movable or immovable property from any source and receive appropriations from the legislature or financial assistance or subsidies from the federal or state government.

(6) The corporation may, subject to the rights of holders of bonds of the corporation, renegotiate, refinance, or foreclose on any mortgage or commence any action to protect or enforce any right or benefit conferred upon the corporation by any law, mortgage, contract, or other agreement, and bid for and purchase such property at any foreclosure or at any other sale, or otherwise acquire or take possession of any such property, and, in this event, the corporation may complete, administer, pay the principal of and interest on any obligation incurred in connection with such property, dispose of and otherwise deal with such property in such manner as may be necessary

or desirable to protect the interest of the corporation or of holders of its bonds therein.

(7) The corporation may procure or provide for the procurement of insurance or reinsurance against any loss in connection with its property or operations, including but not limited to insurance, reinsurance or other guarantees from a federal or state governmental agency or private insurance company for the payment of any bonds issued by the corporation or bonds, notes, or any other obligations or evidences of indebtedness issued or made by any lending institution or other entity or person or insurance or reinsurance against loss with respect to mortgages or mortgage loans, including the power to pay premiums on such insurance or reinsurance.

(8) The corporation may insure, reinsure, or cause to be insured or reinsured mortgage loans or mortgages on residential housing, may receive premiums on such insurance or reinsurance, may establish reserves for losses, and may participate in the insurance or reinsurance of mortgage loans or mortgages on residential housing with the federal or state government.

(9) The corporation may enter into agreements and contracts with persons and entities including but not limited to the federal or state government or its subdivisions, agencies, or instrumentalities, or with mortgagors or lending institutions.

(10) The corporation may undertake and carry out or authorize the completion of studies and analyses of housing conditions and needs within the state and ways of meeting such needs, may make such studies and analyses available to the public and to the housing industry, may engage in research, and may disseminate information on housing, in coordination with the office of community development within the division of administration.

(11) The corporation may accept federal, state, or private financial or technical assistance, comply with any conditions for such assistance, and become a "co-insurer" with the United States Department of Housing and Urban Development or other appropriate federal agency for housing finance programs.

(12) The corporation may collect fees and charges in connection with its loans, insurance, commitments, and services including but not limited to reimbursement of costs of issuing bonds, service charges, and insurance premiums.

(13) The corporation may purchase secured loans or make lending commitments to purchase or sell construction or mortgage loans with respect to residential housing. Further, the corporation may make secured loans to lending institutions, including commitments therefor, with respect to the making of construction or mortgage loans by lending institutions for residential housing.

(14) The corporation may acquire or contract to acquire from any person, firm, corporation, municipality, federal or state agency, by grant, purchase, or otherwise, movable or immovable property or any interest therein; may own, hold, clear, improve, lease, construct, or rehabilitate, and may sell, invest, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber the

same, subject to the rights of holders of the bonds of the corporation, at public or private sale, with or without public bidding.

(15) The corporation may borrow money, issue bonds, and provide for the rights of the lenders or holders thereof.

(16) The corporation may, subject to the rights of holders of the bonds of the corporation, consent to any modification with respect to the rate of interest, time payment of any installment of principal or interest, security or other term of any loan, contract, mortgage, mortgage loan or commitment therefor, or agreement of any kind to which the corporation is a party or beneficiary.

(17) The corporation may maintain an office, in addition to the office in Baton Rouge, at such place or places in the state as the corporation shall determine.

(18) In carrying out its functions under this Chapter, the corporation shall accomplish all of the following:

(a) The corporation shall adopt rules and regulations which shall require fair, impartial, and equitable treatment of all lending institutions by the corporation.

(b) Such rules and regulations shall ensure that favoritism shall not be an element in the allocation of services by the corporation and that objective standards and criteria shall control and govern access to the allocation of services and functions authorized by this Chapter.

(c) The board of directors of the corporation shall establish statewide policy for the financing of housing for persons or families of low or moderate income and for senior citizens and persons with disabilities and such policy shall apply to all units, divisions, agencies, public corporations, and instrumentalities of the state, and may include the division of administration, involved directly or indirectly in financing single family or multi-family housing for such persons or families.

(19) The corporation may purchase secured loans or make lending commitments to purchase loans on multi-family housing projects under such guidelines, rules, and restrictions as shall be adopted by the corporation.

(20) The corporation is authorized to sell residential loans purchased by it or by others either singly or in "packages" or pools to investors, including the retirement plans and trusts established for the employees of the state and its subdivisions, agencies, instrumentalities, and units of government which may be authorized to purchase residential first mortgages for investment purposes; however, all such mortgage loans purchased by the corporation for resale shall have been made on real estate in the state.

(21) Notwithstanding any provisions of this Chapter or any other law to the contrary, specifically R.S. 12:202.1, the corporation may create or cause to be created such nonprofit corporations as may be necessary or expedient to participate in housing programs of the federal government or its agencies and instrumentalities.

(22) Notwithstanding the provisions of this Chapter or any other law to the contrary, specifically R.S. 12:202.1, the corporation may create or cause to be created such nonprofit corporations as may be necessary or desirable to establish housing

equity funds, the purpose of which shall be to direct the investment of capital primarily from Louisiana residents to residential housing developments qualifying under Section 42 of the Internal Revenue Code of 1986 for low income housing credits.

(23) The corporation shall administer the federal grants for energy assistance and weatherization services for low-income persons.

(24) The corporation shall administer the Louisiana Housing Trust Fund.

(25) Notwithstanding any provisions of this Chapter or any other law to the contrary, the corporation is authorized to:

(a) Sponsor a statewide community housing development organization to partner with or to expand the capacity of local nonprofit organizations in limited resource communities and to develop and manage affordable residential rental housing in partnership with such local nonprofit organizations.

(b) Originate and fund second mortgage loans to persons or households of low or moderate income as defined by the United States Department of Housing and Urban Development.

(c) Finance directly pools of loans to public housing authorities as established under the Louisiana Housing Authorities Law, contained in R.S. 40:381 et seq.

(d) Establish one or more subsidiaries to carry out the purposes of this Chapter.

(e) Establish the Louisiana Housing Finance Agency as a subsidiary of the corporation, and to operate the agency as a subsidiary until June 30, 2012.

(f) Notwithstanding any provision of law to the contrary, the corporation may assume the obligations of any entity that becomes a subsidiary of the corporation in accordance with this Chapter.

(26)(a) Notwithstanding any provision of law to the contrary, the corporation is authorized and required to assume administration or management of disaster recovery programs funded by the Department of Housing and Urban Development Community Development Block Grants and the Supplemental Appropriations Act of 2008 (P.L. 110-252) as designated by the commissioner of administration.

(b) In the event that a state agency has contracts in place for the purpose of the implementation of such programs, the agency may transfer to the corporation the contracts or the portion of the contracts related to the programs transferred.

(c) Notwithstanding any provisions of law to the contrary, the Homelessness Prevention and Rapid Re-housing program in the Department of Children and Family Services shall be transferred to the corporation.

(27) The corporation shall have all powers necessary to access any and all federal funding related to housing. The corporation may access programs funded by the Department of Housing and Urban Development's Community Development Block Grants.

(28)(a) The corporation, through its board, may establish advisory

committees to assist in carrying out its mission, goals, and purposes.

(b)(i) The corporation shall establish the Housing and Transportation Planning and Coordinating Commission as an advisory committee. The primary purpose of this commission shall be to advise the corporation in coordinating the integration of planning and spending by local governments, parish and municipal governing authorities, redevelopment authorities, and the Department of Transportation and Development on housing and transportation needs. The commission shall recommend multiple modes of transportation and multiple types of housing developments to be planned so as to provide planned recreational growth, more fully integrated and livable communities, and effective spending of public funds for the betterment of life for Louisiana citizens.

(ii) The commission shall be comprised of the following members:

(aa) The executive director of the Louisiana Housing Corporation, or his designee.

(bb) One member appointed by the commissioner of administration to represent the office of facility planning and control.

(cc) The secretary of the Department of Transportation and Development, or his designee.

(dd) The secretary of the Department of Children and Family Services, or his designee.

(ee) The president of the Louisiana Housing Alliance, or his designee.

(ff) One member appointed by the National Association of Regional Councils from its Louisiana chapter.

(gg) One member appointed by the Louisiana chapter of the Association of Metropolitan Planning Organizations.

(hh) One member appointed by the National Association of Housing and Redevelopment Officials from its Louisiana chapter.

(ii) Repealed by Acts 2012, No. 686, §2.

(jj) Two members of nonprofit housing development organizations appointed by the board of the Louisiana Housing Corporation.

(kk) One member appointed by the Louisiana Housing Council.

(ll) One member appointed by the Policy Jury Association of Louisiana.

(mm) One member appointed by Louisiana Municipal Association.

(nn) One member appointed by the Louisiana state chapter of the American Planning Association.

(oo) The superintendent of the Department of Education, or his designee.

(pp) The secretary of Louisiana Economic Development, or his designee.

(qq) One member appointed by the Louisiana Association of Affordable Housing Providers.

(iii) Members of the commission appointed shall serve at the pleasure of the appointing authority and serve four-year terms. A vacancy in the office of a member shall be filled in the same manner as the original appointment for the remainder of

the unexpired term.

(iv) The commission shall elect a chairman and such other officers as it deems necessary from among its members.

(v) Members of the commission shall not receive any salary or reimbursement of expenses for performing their duties as members other than compensation or reimbursement provided by their individual employers.

(vi) The commission shall create a statewide housing plan for state agencies and conduct a parish-by-parish assessment of housing. The assessment shall be conducted once every five years and the statewide housing plan shall be updated based on the most recent assessment. All parish governing authorities, local governments, and redevelopment authorities shall cooperate with the commission.

(aa) The assessments shall document the overall supply of housing including single-family, multi-family, special needs, and institutional housing; conditions of the housing stock; housing cost burden in each parish; and access to transit and job centers in each parish or metropolitan planning area.

(bb) As part of its assessment, the commission shall hold not fewer than three public hearings in each region of the state to provide for citizens participation in the development of the plan. In each region, each such hearing shall be held at a different time of day and on a different day of the week from the other meetings in that region in order to maximize the opportunity for citizen participation. Members of the commission shall be invited guests to the public hearings.

(cc) The commission, at regular intervals and in public meetings, shall update the board on the progress of the development of the statewide housing plan and maintenance thereof or any updates thereto. The commission shall also submit the developed plan, or once the plan is developed any recommended updates to such plan, to the board for approval, approval with comments, or rejection at a schedule determined by the board. Any plan or update which is rejected by the board shall not be incorporated into the statewide housing plan.

(vii) The commission shall advise and provide recommendations to the board in the following areas:

(aa) Planning and housing regions of the state.

(bb) Public and alternative transportation needs. Such recommendation may include alternative modes of transportation including public transit, bus rapid transit, and rail and bicycle paths.

(cc) Estimates on low and moderate income housing needs.

(dd) Criteria and guidelines for parishes and municipalities to determine and address their local affordable housing needs, to promote consistency and uniformity in the information obtained and reported.

(ee) Criteria and guidelines for parishes, municipalities, and redevelopment authorities, and metropolitan planning organizations to coordinate and address local and regional transportation needs, to promote consistency and uniformity in the information obtained and reported.

(ff) Schedule and establish criteria to review housing and transportation plans for parishes and municipalities, and provide technical assistance to those parishes and municipalities unable to develop plans consistent with the established criteria and guidelines to determine consistency with established criteria and guidelines to address local affordable housing and transportation needs.

(29) The corporation shall have all the powers and duties of a housing authority created pursuant to the Louisiana Housing Authorities Law, R.S. 40:381 et seq., necessary to administer the Permanent Supportive Housing program.

B. The corporation may promulgate rules, regulations, or other procedures for the coordination of all state-administered housing programs. Notwithstanding any provisions of this Chapter or any other provision of the law to the contrary, every department, agency, or instrumentality of the state administering any federal or state housing resource shall provide assistance to the corporation, including but not limited to information, technical assistance, and personnel of such department, agency, or instrumentality, which is being or may be used to provide decent, safe, sanitary, accessible, and affordable housing to the residents of the state in order to accomplish the goals and to comply with the provisions of this Chapter.

C. The Louisiana Housing Corporation is authorized and directed to cooperate and coordinate with units of general local government, local public housing authorities, and other instrumentalities of local government, including but not limited to public trusts and local nonprofit housing corporations, in developing a comprehensive plan and housing strategy as required by the Department of Housing and Urban Development. Such plan shall be submitted to the House Committee on Municipal, Parochial and Cultural Affairs and the Senate Committee on Local and Municipal Affairs for review within thirty days of its completion.

D. The Louisiana Housing Corporation is authorized and directed to increase the supply of supportive housing, which combines structural features and services needed to enable persons with disabilities and senior citizens to live with dignity and independence.

E. The Louisiana Housing Corporation is authorized and directed to finance mixed-income residential rental developments or homeownership using federal housing tax benefits or any other available federal funds or benefits.

RS 40:600.92 — Purchase of mortgage loans

ch terms and conditions as it shall determine by rules or regulations adopted by the board of directors. All lending institutions are authorized to sell insured mortgage loans to the corporation in accordance with the provisions of this Chapter and the rules and regulations of the corporation.

B. The corporation may require as a condition of purchase of any insured mortgage loan from a lending institution that the lending institution represent and warrant to the corporation all of the following:

- (1) The unpaid balance of the mortgage loan and the interest rate thereon have been accurately stated to the corporation and that the interest rate is not usurious.
- (2) The amount of the unpaid principal balance of the mortgage loan is justly due and owing in accordance with the terms thereof.

- (3) The lending institution has no notice of the existence of any counterclaim, offset, or defense asserted by the mortgagor or his successor in interest.
- (4) The mortgage loan is evidenced by a note and a mortgage which has been properly recorded in the parish in which the immovable property is situated.
- (5) The mortgage constitutes a valid first lien on the immovable property described to the corporation, subject to property taxes not yet due, installments of assessments not yet due, and such servitudes, encumbrances, or restrictions which do not adversely affect to a material degree the use or value of the immovable property or the improvements thereon.
- (6) The mortgage loan when made was lawful under federal or state law, or both, whichever governed the making of the loan, and would be lawful on the date of purchase by the corporation if made by the lending institution on that date in the amount of the unpaid principal balance.
- (7) The mortgagor is not now in default in the payment of any installment of principal or interest, escrow funds, property taxes or otherwise in the performance of his obligations under the mortgage loan documents and has not to the knowledge of the lending institution been in default in the performance of any such obligation for a period of longer than sixty days during the life of the mortgage.
- (8) The improvements to the mortgaged property are covered by a valid and current policy of insurance, in full force and effect, issued by an insurance company authorized to issue such policies in the state and providing fire and extended coverage in an amount not less than the outstanding principal balance of the mortgage loan or the maximum insurable value of the mortgaged property, whichever is greater.
- (9) The mortgage loan meets the prevailing investment quality standards for mortgage loans of that type in the state and is an insured mortgage loan.
- C. A lending institution shall be liable to the corporation for any damages suffered by the corporation by reason of the untruth of any representation or the breach of any warranty and, in the event that any representation shall prove to be untrue when made or in the event of any breach of warranty, the lending institution at the option of the corporation shall repurchase the mortgage loan for the original purchase price, adjusted for amounts subsequently paid thereon and for damages incurred by the corporation, as the corporation may determine.
- D. The corporation may require the recording of an assignment of any mortgage loan or mortgage purchased by it from a lending institution. The corporation shall not be required to inspect or take possession of the mortgage loan documents if the lending institution from which the mortgage loan is purchased by the corporation enters into a contract with the corporation to service such mortgage loan and to account to the corporation regarding such mortgage loan.
- E. If the corporation purchases a mortgage loan from a lending institution, the corporation may contract with that or another lending institution to act as servicing agent for the corporation for the collection of mortgage loan payments from the mortgagor and for the exercise of the rights and the discharge of the responsibilities provided for in the mortgage loan documents and federal and state law.
- F. To the extent that any provisions of this Section may be inconsistent with any provision of law of the state governing lending institutions, the provisions of this Section shall control.
- G. Notwithstanding any provision of this Chapter or of any other law to the contrary, the corporation may directly fund insured mortgage loans in connection with a federal program if benefits provided by such program would not otherwise be made available within the state.

RS 40:600.93 — Loans to lending institutions

or regulations adopted by the board of directors.

- (2) All lending institutions are authorized to borrow funds from the corporation in accordance with the provisions of this Chapter and the rules and regulations of the corporation.
- (3) The corporation shall require that the proceeds of its loans to lending institutions or an equivalent amount shall be used by such lending institutions to make mortgage loans with respect to residential housing located within the state, subject to such terms and conditions as the corporation may prescribe.
- B. The corporation shall require that each lending institution which is the recipient of a loan pursuant to this Section shall issue and deliver to the corporation an evidence of its indebtedness to the corporation, which shall constitute a general obligation of such lending institution and shall bear such date or dates, shall mature at such time or times, shall be subject

to such prepayment, and shall contain such other provisions consistent with this Section as the corporation shall determine.

C. Notwithstanding any other provisions of this Section to the contrary, the interest rate or rates and other terms of such loans to lending institutions made from the proceeds of any issue of bonds of the corporation shall be at least sufficient to assure the payment of said bonds and the interest thereon as the bonds become due.

D. The corporation shall require that loans made to lending institutions pursuant to this Section shall be additionally secured as to payment of both principal and interest by a pledge of collateral security in such amounts and consisting of such obligations, securities, or mortgages as the corporation shall determine to be necessary to assure the payment of such loans and the interest thereon as the same become due.

E.(1) The corporation may require that collateral for loans to lending institutions be deposited with a bank, trust company, or other financial institution acceptable to the corporation located either within or outside the state as designated by the corporation.

(2) In the absence of such requirement, a lending institution that is the recipient of a loan from the corporation shall enter into an agreement with the corporation containing such provisions as the corporation shall deem necessary or desirable to adequately identify and maintain such collateral, to service such collateral, and to require that the lending institution shall hold such collateral as agent for the corporation and shall be accountable to the corporation as the trustee of an express trust for the application and disposition thereof and the income therefrom solely to the uses and purposes in accordance with the provisions of such agreement.

(3) A copy of each such agreement and any revisions or supplements thereto shall be filed with the secretary of state, and no further filing or other action under any other law of the state shall be required to perfect the security interest of the corporation in such collateral or any additions thereto or substitutions therefor, and the lien and trust for the benefit of the corporation so created shall be binding from and after the time made against all parties having claims of any kind in tort, contract, or otherwise against such lending institution.

(4) The corporation may also establish such additional requirements as it shall deem necessary with respect to the pledging, assigning, setting aside, or holding of such collateral and the making of substitutions therefor or additions thereto and the disposition of income and receipts therefrom.

F. The corporation shall require lending institutions that are the recipients of loans from the corporation to submit evidence satisfactory to the corporation that the lending institution has used the proceeds of such loans by the corporation, or any equivalent amount, to make mortgage loans with respect to residential housing and that the lending institution has complied with the terms and conditions of such loans as prescribed by the corporation. In connection therewith, the corporation, through its employees or agents, may inspect the books and records of such lending institution.

G. The corporation may require as a condition of any loans to lending institutions such representations and warranties as it shall determine to be necessary or desirable to service such loans and implement the provisions of this Section.

H. Subject to the rights of holders of bonds of the corporation, the corporation may collect, enforce the collection of, and foreclose on any collateral securing its loans to lending institutions and acquire or take possession of such collateral and sell the same at private or public sale, with or without public bidding, and otherwise deal with such collateral as may be necessary to protect the interest of the corporation therein.

I. To the extent that any provisions of this Section may be inconsistent with any provision of the law of the state governing lending institutions, the provisions of this Section shall control.

RS 40:600.94 — Bonds of the corporation

ernal Revenue Code of 1986 as now enacted or subsequently amended or is exempt therefrom to provide funds for and to fulfill and achieve its authorized public functions or corporate purposes as set forth in this Chapter including but not limited to the following purposes:

- (1) The purchase of insured mortgage loans from lending institutions.
- (2) The making of secured loans to lending institutions.
- (3) Construction of residential buildings.

(4) The purchase of residential loans previously made and secured by first mortgages and for the purchase of securities fully collateralized by first mortgages on residential housing.

(5) The purchase of "pre-packaged" residential first mortgage loans for investment or resale.

(6) The payment of interest on bonds of the corporation, the establishment of reserves to secure such bonds, the establishment of reserves with respect to the insurance of mortgage loans for residential housing.

(7) All other expenditures of the corporation incident to and necessary or convenient to carry out its public functions or corporate purposes.

B. Except as may otherwise be provided by the corporation, all bonds issued by the corporation shall be negotiable instruments and may be general obligations of the corporation, secured by the full faith and credit of the corporation and payable out of any money, assets, or revenues of the corporation or from any other sources whatsoever that may be available to the corporation.

C. The bonds of the corporation shall be solely the obligations of the corporation. In no event shall any bonds of the corporation constitute an obligation, either general or special, of the state or of any political subdivision of the state or constitute or give rise to a pecuniary liability of the state or of any political subdivision of the state, nor shall the corporation have the power to pledge the general credit or taxing power of the state or of any political subdivision of the state.

D. Bonds shall be authorized, issued, and sold by a resolution or resolutions of the corporation adopted as provided in this Chapter. Such bonds may be of such series, bear such date or dates, mature at such time or times, bear interest at such rate or rates, payable at such time or times, be in such denominations, be sold at such price or prices, at public or private negotiated sale, after advertisement as is provided for in R.S. 39:1421 through 1427, be in such form, either in coupon form, registered as to principal only or fully registered without coupons, carry such registration and exchangeability privileges, be payable at such place or places, be subject to such terms of redemption, and be entitled to such priorities on the income, revenue, and receipts of, or available to, the corporation as may be provided by the corporation in the resolution or resolutions providing for the issuance and sale of the bonds of the corporation.

E. The bonds of the corporation shall be signed by such directors or officers of the corporation, by either manual or facsimile signatures, as shall be determined by resolution or resolutions of the corporation, and shall have impressed or imprinted thereon the seal of the corporation, or a facsimile thereof. The coupons attached to coupon bonds of the corporation shall bear the facsimile signature of such director or officer of the corporation as shall be determined by resolution or resolutions of the corporation.

F. Any bonds of the corporation may be validly issued, sold, and delivered, notwithstanding that one or more of the directors or officers of the corporation signing such bonds, or whose facsimile signature or signatures may be on the bonds or on coupons shall have ceased to be such director or officer of the corporation at the time such bonds shall actually have been delivered.

G. Bonds of the corporation may be sold in such manner and from time to time as may be determined by the corporation to be most beneficial, and the corporation may pay all expenses, premiums, or commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof, subject to the provisions of this Chapter.

H. Bonds of the corporation may be issued under and subject to such terms, covenants, or conditions, consistent with this Chapter, as may be determined by resolution or resolutions of the corporation to be necessary or desirable, including but not limited to all of the following:

(1) The establishment of a trust indenture or indentures by and between the corporation and a corporate trustee, which may be any bank or trust company having the powers of a trust company, located within or without the state, that is acceptable to the corporation.

(a) Such trust indenture may provide for the pledging or assigning of any assets or income from assets to which or in which the corporation has any rights or interest, and may further provide for such other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of the bonds of the corporation, and not otherwise in violation of law.

(b) Such agreement may provide for the restriction of the rights of any individual holder of bonds of the corporation.

(c) Such trust indenture may provide that all expenses incurred in carrying out the provisions of such trust indenture may be treated as a part of the cost of operation of the corporation.

(d) The trust indenture may contain any further provisions which are reasonable to delineate further the respective rights, duties, safeguards, responsibilities, and liabilities of the corporation.

(2) The pledge or creation of a lien, to the extent provided by resolution or resolutions of the corporation, on all or any part of the money, assets, or revenues of the corporation or on any money or assets held by others for the benefit of the corporation to secure the payment of such bonds.

(3) Provisions for the custody, collection, securing, investment, and payment of any money of or due to the corporation.

(4) The creation or funding of reserves or sinking funds and the regulation or disposition thereof.

(5) Limitations on the purposes to which the proceeds of the sale of any issue of bonds then or thereafter to be issued may be applied.

(6) Limitations on the issuance of additional bonds and on the refunding of outstanding or other bonds.

(7) The procedure, if any, by which the terms of any contract with the holders of bonds of the corporation may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(8) The creation of special funds into which any money of the corporation may be deposited.

(9) The vesting in a trustee or trustees of such properties, rights, powers, and duties in trust as the corporation may by resolution determine.

(10) The definition of the acts or omissions which shall constitute a default in the obligations and duties of the corporation and providing for the rights and remedies of the holders of bonds of the corporation in the event of such default in accordance with the provisions of the Chapter and the general laws of the state.

(11) Any other matters of like or different character, which in any way affect the security and protection of the bonds and the rights of the holders thereof.

I. The corporation is hereby granted the total allocation for qualified mortgage bonds for state housing finance corporation issuers pursuant to the federal Mortgage Subsidy Bond Tax Act of 1980, 26 U.S.C. 103A. Any allocation made pursuant to this Act to issuers other than state housing finance corporation issues which have not been sold by September first of each year may be allocated, in whole or in part, by the governor of the state of Louisiana to the corporation.

RS 40:600.95 — Statutory pledge

eived by the corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the corporation, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed in order to establish and perfect a lien or security interest in the property so pledged.

RS 40:600.96 — Refunding bonds

efunding any bonds of the corporation then outstanding, together with the payment of any redemption premiums thereon and interest accrued or to accrue to the date of redemption of such outstanding bonds.

B. All such refunding bonds of the corporation shall be issued, sold or exchanged, and delivered, shall be secured, and shall be subject to the provisions of this Chapter in the same manner and to the same extent as any other bonds issued by the corporation pursuant to this Chapter, unless otherwise determined by resolution of the corporation.

C. Refunding bonds issued by the corporation as herein provided may be sold or exchanged for outstanding bonds of the corporation and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption, or payment of such outstanding bonds.

D. Pending the application of the proceeds of any such refunding bonds, with any other available funds, to the payment of the principal, accrued interest, and redemption premiums, if any, on the bonds being refunded, and, if so provided or permitted in the trust indenture or the resolution of the corporation authorizing the issuance of such refunding bonds, to the payment of any interest on such refunding bonds and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal and interest on which are unconditionally guaranteed by, the United States which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be

required for the purposes intended.

RS 40:600.97 — Liability of directors, officers, or employees of the corporation

personally liable on the bonds or be subject to any personal liability or accountability by reason of the issuance, sale, or delivery thereof while acting within the scope of their authority.

RS 40:600.98 — Purchase of bonds by corporation

It thereupon be cancelled, at a price not exceeding either of the following:

- (1) If the bonds are then subject to optional redemption, the optional redemption price then applicable plus accrued interest to the next interest payment date thereon.
- (2) If the bonds are not then subject to optional redemption, the optional redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to optional redemption plus accrued interest to such date.

RS 40:600.99 — Approval of issuance of bonds by State Bond Commission

approval by, any other governmental body or public officer shall be required as a prerequisite to the issuance, sale, or delivery of any bonds of the corporation, or to the making of any loans by the corporation to lending institutions, or to the purchase of insured mortgage loans by the corporation from lending institutions, or to the insurance by the corporation of any mortgage loan with respect to residential housing, or to the exercise of any other public function or corporate power of the corporation, except as is expressly provided in this Chapter.

RS 40:600.100 — Exemption from taxes

all purpose for the benefit of the people of the state, and for the improvement of their health, safety, welfare, comfort, and security and that the functions and purposes are public purposes and that the corporation will be performing an essential governmental function in the exercise of the powers conferred upon it by this Chapter.

B. The money, assets, revenues, and operations of the corporation shall be exempt from all taxation by the state or any of its political subdivisions.

C. The corporation shall not be required to pay any recording fee or transfer tax of any kind on account of instruments recorded by it or on its behalf.

D. All bonds authorized to be issued by the corporation pursuant to the provisions of this Chapter, together with interest thereon, income therefrom, and gain upon the sale thereof shall be exempt from all state and local taxes.

RS 40:600.101 — Covenant of state

that if the corporation issued pursuant to the provisions of this Chapter, that the state will not impair, limit, or alter the rights hereby vested in the corporation to fulfill the terms of any agreements made with the holders of the bonds of the corporation, or in any way impair the rights or remedies of such holders thereof, until such bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds of the corporation.

RS 40:600.102 — Trust funds

corporate purposes of the corporation.

RS 40:600.103 — Bonds as legal investment and security for public deposits

trust company, savings bank and institution, building and loan association, savings and loan association, investment company or any person carrying on a banking or investment business, any insurance company or business, insurance associations and any person carrying on an insurance business, and any executor, administrator, curator, trustee, and other fiduciary, and retirement system or pension fund may legally invest any sinking funds, monies, or other funds belonging to them or within their control in any bonds issued by the corporation pursuant to the provisions of this Chapter, and such bonds shall be authorized security for all public deposits.

B. It is the purpose of this Section to authorize such persons, firms, corporations, associations, political subdivisions and officers, or other entities, public or private, to use any funds owned or controlled by them, including but not limited to sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the

purchase of any such bonds of the corporation, and that any such bonds shall be authorized security for all public deposits. However, nothing contained in this Section with regard to legal investments or security for public deposits shall be construed as relieving any such person, firm or corporation, or other entity from any duty of exercising reasonable care in selecting securities.

RS 40:600.104 — Accounts and audits

annual audit of the accounts and operations of the corporation.

C. The corporation shall submit to the governor and to both houses of the legislature an annual report on the operations of the corporation. It also shall submit to them a copy of the report of every audit of the books and accounts of the corporation, within sixty days from the receipt thereof by the corporation.

RS 40:600.105 — Cooperation of state agencies

ts 2011, No. 408, §1, eff. July 5, 2011.

RS 40:600.106 — Suits to determine validity of bonds

5, 2011.

RS 40:600.107 — State appropriations or grants

oses.

RS 40:600.108 — Termination of corporation

hall have bonds outstanding, unless adequate provision has been made for the payment thereof.

B. Upon termination of the existence of the corporation, all of its rights, money, assets, and revenues in excess of its obligations shall pass to and be vested in the state.

RS 40:600.109 — Construction of Chapter

5, 2011.

RS 40:600.110 — Fees

administered by it. Such schedule shall be submitted to and subject to approval of the Joint Legislative Committee on the Budget.

RS 40:600.111 — Mortgage foreclosure counseling

ulting on the mortgages on their homes.

(2) If the corporation establishes such a program, the corporation may work with the office of financial institutions and the office of financial institutions shall cooperate with the corporation to effectuate the purposes of this Section.

(3) The corporation may enter into an agreement with any public, private, or nonprofit entity to carry out any part of the mortgage foreclosure counseling and education program.

(4) The program may include a central toll-free telephone number that homeowners may call to receive mortgage foreclosure counseling and education.

(5) The corporation may award grants for the training of counselors who will provide mortgage foreclosure counseling and education from funds appropriated by the legislature for that purpose or any other funding available for that purpose.

(6) The corporation may establish standards for the certification of counselors who will provide mortgage foreclosure counseling and education.

B. The program shall be funded through self-generated funds of the corporation; however, the corporation may solicit contributions and grants from the private sector, nonprofit entities, and the federal government to assist in carrying out the purposes of this Section.

C. The corporation shall annually submit a report to the Senate Committee on Commerce, Consumer Protection and International Affairs and the House Committee on Commerce on the operation of the mortgage foreclosure counseling and education program and shall include a summary of the mortgage foreclosure rates and trends in the state of Louisiana and the United States of America.

RS 40:600.151 — Louisiana Interagency Council on Homelessness

pter as the "council", for the

purpose of developing a statewide plan to end homelessness in Louisiana.

B. The term "homelessness" for the purpose of this Chapter shall have the same meaning as provided in the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, 42 U.S.C. 11302.

C. The duties and responsibilities of the council shall include but are not limited to the following:

(1) To develop a statewide plan to end homelessness, which shall include and address the following:

(a) Identification and analysis of the particular challenges and barriers that cause people in Louisiana to become at risk of homelessness, to experience homelessness, and to be unable to return to housing.

(b) Assessment of factors that contribute to episodes and rates of homelessness at the individual, community, and state levels.

(c) Proposed actions and policies to address the challenges, barriers, and factors that contribute to homelessness.

(2) To advise the governor, legislature, and local governments as appropriate on the causes of homelessness in Louisiana.

(3) To submit an annual written report to the governor and the legislature regarding the statewide plan to end homelessness.

D.(1) The membership of the council shall be reflective of all geographic regions of the state and shall be comprised of the following members:

(a) The commissioner of administration or his designee.

(b) The executive director of the Louisiana Housing Corporation or his designee.

(c) The secretary of the Department of Children and Family Services or his designee.

(d) The state superintendent of education or his designee.

(e) The secretary of the Department of Public Safety and Corrections or his designee.

(f) The secretary of the Louisiana Department of Health or his designee.

(g) The secretary of the Department of Veterans Affairs or his designee.

(h) One representative from each of the federally recognized continuum of care to end homelessness programs located in Louisiana appointed by the governing board of each continuum of care.

(i) The executive director of the Louisiana Services Network Data Consortium or his designee.

(j) The executive director of the Louisiana Coalition Against Domestic Violence or his designee.

(k) The president of the Louisiana Occupational Therapist Association board of directors or his designee.

(l)(i) The chairmen of the Senate and House committees on health and welfare shall appoint six members. Three members shall be appointed by the Senate chairman and three members shall be appointed by the House chairman. The members shall be appointed from

a list of nominations submitted jointly by the governing boards of the continuums of care located in Louisiana.

(ii) Each person appointed pursuant to this Subparagraph shall have at least five years of academic or professional expertise in housing or services for people experiencing homelessness with a focus in one or more of the following areas:

(aa) Street outreach.

(bb) Diversion, rapid resolution, or homeless prevention services.

(cc) Emergency shelter.

(dd) Transitional housing.

(ee) Rapid rehousing.

(ff) Permanent supportive housing.

(gg) Behavioral health or substance abuse disorders.

(hh) Homelessness as it relates to actual or perceived sexual orientation, gender identity, or marital status.

(ii) Racial or ethnic disparities in homelessness.

(jj) Veterans homelessness.

(kk) Youth homelessness.

(ll) Chronic homelessness.

(mm) Domestic violence.

(m) The executive director of the Louisiana Housing Corporation shall appoint at least two members with lived experience of homelessness. The members shall be appointed from a list of nominations submitted jointly by the governing boards of the continuums of care located in Louisiana. Each member appointed pursuant to this Subparagraph shall represent as many of the following subpopulations as possible:

(i) Youth aged twenty-four or under.

(ii) Veterans.

(iii) People experiencing or who experienced chronic homelessness.

(iv) People with differing actual or perceived sexual orientation, gender identity, or marital status.

(v) Survivors of domestic violence.

(2) Appointed members shall serve two-year terms. Members are eligible for reappointment. Any designee shall serve at the pleasure of the designating authority.

(3) Members appointed pursuant to Subparagraphs (1)(l) and (m) of this Subsection shall receive a per diem for attendance at council meetings. The per diem shall be paid by the Louisiana Housing Corporation.

(4) The council shall elect a chairman and officers from its membership.

(5) The council shall meet at regularly scheduled intervals and at the call of the chairman.

E. The Louisiana Housing Corporation shall provide support for the council, including staff, facilities, and resources to facilitate remote participation in meetings to the extent authorized by law.

RS 40:602 — Definition of terms

rtisement" includes all representations of fact or opinion disseminated to the public in any manner or by any means other than by the labeling.

(2) "Cosmetic" includes all substances and preparations intended for cleansing, altering the appearance of, or promoting the attractiveness of a person. The term includes soaps only when medicinal or curative qualities are claimed by the use thereof.

(3) "Department" means the Louisiana Department of Health and "secretary" means the secretary thereof.

(4) "Device" includes all devices intended for use in diagnosis, treatment, or prevention of disease in man or beast, or intended to affect the structure of any function of the body.

(5) "Drug" includes all substances and preparations recognized in the official compendium, as herein defined. It includes all substances and preparations intended for use in the diagnosis, treatment, or prevention of disease in man or beast, and all substances and preparations, other than food and cosmetics, intended to affect the structure or any function of the body.

(6) "Food" includes all substances and preparations used for or entering into the composition of food, drink, confectionery, chewing gum, or condiment for man or beast.

(7) "Label" means the principal display or displays of written, printed, or graphic matter upon any food, drug, device, or cosmetic, or the immediate container thereof, or upon the outside container or wrapper, if any, of the retail package of any food, drug, device, or cosmetic.

(8) "Labeling" includes all labels and other written, printed, and graphic matter, in any form whatsoever, accompanying any food, drug, device, or cosmetic.

(9) "Medical opinion" means the opinion, within their respective fields, of the practitioners of any branch of the medical profession, the practice of which is licensed by law in this state.

(10) "Medical profession" means the legalized profession of the healing art.

(11) "Official compendium" means the United States Pharmacopoeia, Homeopathic Pharmacopoeia of the United States, National Formulary, or any supplement of any of them, official at the time any drug, to which the provisions thereof relate, is introduced into commerce.

(12) "Scientific opinion" means the opinion, within their respective fields, of competent pharmacologists, physiologists, or toxicologists.

RS 40:603 — Liability of persons

n, within the scope of employment or office, shall in every case be considered the act or omission of such person, as well as that of the officer, employee, or agent.

Whenever a corporation or association violates any of the provisions of this Part, unless otherwise provided, the violation shall also be considered a violation by the individual directors, officers or agents of the corporation or association who personally ordered or did any of the acts constituting the violation, in whole or in part.

RS 40:604 — Regulations

added by Acts 1978 No. 786, §5, eff. July 17, 1978.

RS 40:605 — Examinations, investigations, and hearings conducted by board or agent

of this Part.

Hearings authorized or required by this Part shall be conducted by the department or the officer or employee designated by it for the purpose.

RS 40:606 — Court review of regulations and administrative actions; injunctions

enforcement by an officer, representative, or employee of the department of any regulation promulgated by it under the provisions of this Part if it is shown that the regulation is unreasonable, arbitrary, or capricious, or not in accordance with the facts or law, and that the petitioner may suffer substantial damage by reason of its enforcement; and

(2) Grant appropriate injunctive relief from any act or omission of any officer, representative, or employee of the department in the administration of this Part, if it has been shown that the act or omission is unreasonable, arbitrary or capricious, or not in accordance with the facts or law and that petitioner may suffer substantial damage thereby.

RS 40:607 — Adulterated food

stances, added or otherwise, which may render it dangerous to health; or any added poisonous or deleterious substance which is prohibited by R.S. 40:611 or which is in excess of the limits of tolerance prescribed by regulations of the department.

(2) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food.

(3) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health.

(4) If it is the product of a diseased animal or of an animal which has died otherwise than by slaughter.

(5) If its container is composed of any poisonous or deleterious substance which may render the contents injurious to health.

(6) If any valuable constituent has been in whole or in part abstracted therefrom.

(7) If any substance has been substituted wholly or in part therefor.

(8) If damage or inferiority has been concealed in any manner.

(9) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, reduce its quality or strength, or create a deceptive appearance.

(10) If it contains a coal-tar color other than one from a batch that has been certified in accordance with regulations of the department.

(11) If it is confectionery or ice cream and it contains any alcohol, resinous glaze, or nonnutritive substance, except harmless coloring, harmless resinous glaze, harmless flavoring, natural gum, and pectin; provided, that this Paragraph shall not apply to any confectionery by reason of its containing less than ten percent by volume of alcohol or to any chewing gum by reason of its containing harmless nonnutritive masticatory substance.

B. The department shall promulgate sanitary regulations for implementing the provisions in Paragraphs (2) and (3) of this Section.

C. For the first charge and finding thereunder the person shall be given a notice and hearing and a notice to correct the unsanitary conditions or the unsanitary food complained of. This notice and order does not prohibit the seizure of food dangerous to health as provided in this Part.

D. For purposes of this Section:

(1) Anyone who sells confectionery that contains more than one-half of one percent alcohol rendered unfit for beverage purposes to a person who is under the legal age for purchasing alcoholic beverages shall be fined not more than three

hundred dollars or imprisoned for not more than six months, or both.

(2) Any confectionery manufactured in this state that contains more than one-half of one percent alcohol rendered unfit for beverage purposes shall bear a label containing the statement: "Sale of this product to persons under the legal age for purchasing alcoholic beverages is unlawful." A person who violates the provisions of this Paragraph shall be fined not more than three hundred dollars or imprisoned for not more than six months, or both.

(3) No confectionery containing more than one-half of one percent alcohol rendered unfit for beverage purposes shall be sold in this state unless the product bears a label that meets the requirements of Paragraph (2) of this Subsection or a sign containing the statement: "Sale of confectionery containing more than one-half of one percent alcohol to persons under the legal age for purchasing alcoholic beverages is unlawful" is displayed at the place where the product is sold or offered for sale. A person who violates the provisions of this Paragraph shall be fined not more than three hundred dollars or imprisoned for not more than six months, or both.

RS 40:608 — Misbranded food

rticular.

(2) If it is offered for sale under the name of another food.

(3) If it is an imitation of another food and its label fails to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

(4) If its container is so made, formed, or filled as to mislead the purchaser.

(5) If it is in package form and does not bear a label containing (a) the name and place of business of the manufacturer, packer, distributor, or seller; and (b) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. For the purposes of Subparagraph (b) of this Paragraph, reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations of the department.

(6) If any word, statement, or other information required on the label under any provision of this Part is not prominently placed thereon in such a manner as to be easily seen and in such terms as to be readily understood by purchasers and users of the articles under customary conditions of purchase and use. Due consideration shall be given to the size of the package.

(7) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations of the department and (a) it does not conform to the definition and standard, (b) its label does not bear the name of the food prescribed in the definition and standard, or (c) when the definition and standard permits optional ingredients other than spices, flavors, and coloring, its label does not bear the common names of the optional ingredients present in it, if those names are required by the regulations.

(8) If it purports to be or is represented as a food for which a standard of quality or fill of container has been prescribed by regulations of the department and its quality or fill falls below that standard and its label fails to bear a statement, in the manner specified in the regulations, showing that it falls below the standard.

(9) If it is not subject to the provisions of Paragraph (7) of this Section and its label fails to bear (a) the common or usual name of the food, if any, and, (b) in case it is fabricated from two or more ingredients, the common or usual name of each ingredient. Spices, flavors, coloring, other than those sold as such, may be designated as spices, flavors, and colorings without naming each. To the extent that compliance with the requirements of Subparagraph (b) of this Paragraph is impracticable because of variations in ingredients usual to good manufacturing or packing practice or is impracticable for any other reason, exemptions shall be established by regulations promulgated by the department. Subparagraph (b) of this Paragraph does not apply to any proprietary food the ingredients of which have been fully and correctly disclosed to the department if compliance with the Subparagraph would give competitors information they could not otherwise obtain.

The department shall establish regulations for implementing the provisions of this Paragraph and publish from time to time the list of ingredients required herein to be declared on the label. However, these lists shall be within the class of ingredients required to be declared on the label under this Paragraph.

(10) If it purports to be or is represented as being for special dietary uses, such as by infants or invalids or for other special nutritional requirements, and its label fails to bear statements concerning its vitamin, mineral, and other dietary properties which fully inform the purchaser as to its nutritional value.

The department shall establish regulations for implementing the provisions of this Paragraph, including administrative regulations covering vitamin, mineral, and other dietary properties. These regulations shall be established in cooperation with the United States Public Health Service, with a view particularly to the work of that service connected with pellagra and other dietary diseases and the feeding of children, so that the inspection to determine correct labeling shall fully conform to the work of the public health service, as far as that work goes.

(11) If it bears or contains any artificial flavor, artificial color, or chemical preservative and it fails to bear a label stating that fact.

(12) If bottled water to be sold in the state for human consumption, is not labeled to indicate the source of the water, the methods used to treat the contents to reduce or eliminate impurities, and the chemical names and concentrations of any preservatives or additives.

RS 40:608.1 — Mislabeling of honey

duct or to

sell or offer for sale any product which is labeled as honey or which contains a label with the word honey prominently displayed thereon, unless such product is pure honey manufactured by honeybees.

B. Any person violating the provisions of this Section shall be guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars nor more than five hundred dollars and each such violation shall constitute a separate offense.

RS 40:608.2 — Unlawful practices in sale of kosher food; penalty

onsumption either on or off the premises, any article of food falsely represented as kosher, either by direct statements, orally or in writing, or by the display of the word kosher in English or Hebrew letters, or by the display of any sign or mark in simulation of such word, or by display of any insignia, six pointed star, or any mark which might reasonably be calculated to deceive or lead a reasonable person to believe that a representation is being made that the food exposed for sale is kosher, or prepared in accordance with orthodox Hebrew religious requirements; or

(2) Sell or expose for sale with intent to defraud any meat or meat preparations and falsely represent the same to be kosher, with intent to defraud, whether such meat or meat preparations be raw or prepared for human consumption, or as having been prepared under and a product or products sanctioned by the orthodox Hebrew religious requirements; or

(3) Falsely represent with intent to defraud any food product or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed thereon the word kosher in any language.

B. The word kosher as used in Subsection A of this Section shall mean in conformity with orthodox Jewish religious requirements.

C. Any person violating the provisions of this Section shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars and each such violation shall constitute a separate offense.

RS 40:608.3 — Repealed by Acts 2012, No. 222, §1.

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RS 40:609 — Exemption from labeling requirements

so food which is, in accordance with the practice of the trade, processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that the food is in conformity with the provisions of this Part upon removal from the processing, labeling, or repacking establishment.

RS 40:610 — Definitions and standards for food

of container. However, no standard of quality shall be established for fresh fruit and fresh vegetables and no standard of identity for fresh apples and fresh pears. In any regulation pertaining to fill of container the department shall give due consideration to the natural shrinkage in storage and in transit of fresh natural food and to the need for the necessary packing and protective material.

RS 40:611 — Tolerance for poisonous ingredients in food and certification of coal-tar colors for food

n of the food or cannot be avoided by good manufacturing practice. When such a substance is required or cannot be avoided, the department may, for the protection of public health, promulgate regulations limiting the quantity therein or thereon.

In determining the quantity of added substance to be tolerated in or on different articles of food, the department shall take into account the extent to which the use of this substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

B. The department may promulgate regulations for the certification of coal-tar colors which are harmless and suitable for use in food.

This certificate shall contain the physiological factors tested and give notice that only those factors have been tested.

No person shall use this certificate in the label or advertising of any food.

RS 40:612 — Contaminated food; permit control

cture, processing, or packing thereof, is injurious to health, and such injurious nature cannot be adequately determined after the articles have entered state commerce, it may then, and in that case only, promulgate regulations, governing the conditions of manufacture, processing, or packing for such temporary periods of time as may be necessary to protect the public health. Thereafter, no manufacturer, processor, or packer of that class of articles shall introduce into state commerce any such food unless he holds an unsuspended, valid permit issued by the department as provided by the regulations.

RS 40:614 — Suspension of permit; reinstatement

the conditions of the permit have been violated. The holder of a permit so suspended may apply at any time for its reinstatement. After a prompt hearing and an inspection of the establishment, the department shall immediately reinstate the permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued or as amended.

RS 40:615 — Inspection of permittee's establishment; denial of access

from the department, for the purpose of ascertaining whether or not the conditions of the permit are being complied with.

Denial of access for this inspection is grounds for suspension of the permit until the access is freely given by the operator.

RS 40:616 — Adulterated drugs

utrid, or decomposed substance.

(2) If it has been prepared, packed, or held under unsanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health.

(3) If its container is composed of any poisonous or deleterious substance which may render it injurious to health.

(4) If it contains, for purposes of coloring only, a coal-tar color other than one from a batch that has been certified in accordance with department regulations.

(5) If its name is recognized in the official compendium, or if it purports to be a drug the name of which is so recognized, and it differs from the standard of strength, quality, or purity as determined by the tests or methods of assay set forth in the official compendium or in the regulations of the department, unless its standard of strength, quality, or purity is plainly stated on its label.

However, no such department regulation shall be adopted unless tests or methods of assay have not been prescribed in the official compendium or the tests or methods of assay prescribed therein are insufficient and, after due notice by the department of that fact, the official body in charge of the revision of the compendium has not corrected the deficiency.

(6) If it is not subject to the provisions of paragraph (5) of this Section and its identity or strength differs from or its purity or quality falls below that which it purports or is represented to possess.

(7) If any substance has been mixed or packed therewith so as to reduce its quality or strength or substituted wholly or in part therefor.

RS 40:617 — Misbranded drugs and devices

misleading in any particular. Any representation concerning any effect of a drug or device is considered false for purposes of this Paragraph if the representation is not supported by demonstrable scientific facts or substantial and reliable medical or scientific opinion.

(2) If it is dangerous to health under the conditions of use prescribed in the labeling or advertising thereof.

(3) If it is in package form and it does not bear a label containing: (a) the name and place of business of the manufacturer, packer, seller, or distributor; and (b) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under Subparagraph (b) of this Paragraph reasonable variations shall be permitted and exemptions as to small packages shall be established by regulations prescribed by the department where compliance with the provisions would be impracticable.

(3.1) If it is a prescription drug bearing the following words "Caution: Federal law prohibits dispensing without a prescription", and (a) the manufacturer, packager, seller, or distributor of any prescription drug sold, delivered, or offered for sale in the state of Louisiana after January 1, 1976, does not have printed on the label on the immediate container of the drug the name and place of business of the manufacturer and, if different, the name and place of business of the packer or distributor of the final dosage form of the drug; and (b) the manufacturer, packager, seller, or distributor does not have printed on the label on the final dosage form an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. Under Subparagraph (b) of this Paragraph reasonable variations shall be permitted and exemptions as to small packages shall be established by regulations prescribed by the department where compliance with the provisions would be impracticable. Wholesalers or jobbers who sell prescription drugs only to retailers or institutions shall be exempt from the provisions of this Paragraph. However, nothing contained in the provisions of this Paragraph shall affect the labeling requirements of a prescription label placed on a container by a pharmacist in the process of dispensing a prescription drug.

(3.2) If it contains any quantity of amyl nitrite, isopentyl nitrite or any of their isomers, or butyl nitrite, n-butyl nitrite, isobutyl nitrite or any of their isomers, and is not labeled "Caution: Louisiana Law prohibits dispensing without a prescription" and its sale is not restricted to the prescription of a physician, except that amyl nitrite may be labeled in accordance with labeling requirements of the Federal Food, Drug and Cosmetic Law.

(4) If any information required on the label under any provision of this Part is not prominently placed thereon in such a manner as to be easily seen and in such terms as to be readily understood by purchasers and users of the articles under customary conditions of purchase and use. Due consideration shall be given to the size of the package.

(5) If it is for use by man and contains any quantity of any of the following narcotic or hypnotic substances and, except when dispensed on the written order of a member of the medical profession, its label fails to bear the name and quantity or proportion of the substance or derivative and in juxtaposition therewith the statement "Warning--May be Habit Forming": Alpha eucaine, barbituric acid, beta eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, sulphomethane, or any substance chemically derived therefrom, except derivatives of coca leaves which do not contain cocaine, ecgonine (or substances from which cocaine or ecgonine may be synthesized or made) or any other narcotic or hypnotic substance designated as habit forming by regulations of the department, unless the derivative is clearly not habit forming.

(6) If it is a drug and is not designated solely by a name recognized by an official compendium or if its label has been disapproved by the United States government or the department.

(7) If its name is recognized in an official compendium, or if it purports to be a drug the name of which is so recognized, and it is not packaged and labeled as prescribed therein.

(8) If it is a drug liable to deterioration and is not packaged in the form or manner required by department regulations for the protection of public health or its label does not bear a statement of those precautions.

No such regulation shall be established for any drug recognized in the official compendium until the department shall have informed the appropriate body charged with the revision of the compendium of the need for the packaging or labeling requirements and that body shall have failed within a reasonable time to prescribe those requirements.

(9) If it is a drug and its container is so made, formed, or filled as to mislead the purchaser.

(10) If it is a drug and it is an imitation of another drug.

(11) If it is a drug and it is offered for sale under the name of another drug.

B. When construing and enforcing the provisions of this Part with respect to labeling and advertisements, the term "antiseptic" has the same meaning as the word "germicide", except, however, in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or for such other use as involves prolonged contact with the body.

RS 40:617.1 — Repealed by Acts 2011, No. 100, §2

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RS 40:618 — Drugs recognized in compendiums

of the United States Pharmacopoeia for purposes of this Part unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia.

RS 40:619 — Certain drugs and devices excepted from labeling and packaging provisions

ices which are, in accordance with the practice of the trade, processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that these drugs and devices are in conformity with the provisions of this Part upon removal from the processing, labeling, or repacking establishment.

RS 40:620 — Certification of coal-tar colors for drugs

ng only.

RS 40:621 — Adulterated cosmetics

leterious substance which may render it injurious to health under such conditions of use as are customary or usual.

- (2) If it consists in whole or in part of any filthy, putrid, or decomposed substance.
- (3) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health.
- (4) If its container is composed of any poisonous or deleterious substance which may render it injurious to health.
- (5) If it contains a coal-tar color other than one from a batch that has been certified in accordance with regulations of the department.

RS 40:622 — Misbranded cosmetics

particular or if it is injurious to health under the conditions of use prescribed in the labeling or advertising thereof.

- (2) If it is in package form and it does not bear a label containing: (a) the name and place of business of the manufacturer, packer, seller, or distributor; and (b) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count. However, under Subparagraph (b) of this Paragraph reasonable variations shall be permitted and exemptions as to small packages shall be established by regulations prescribed by the department where compliance with that provision would be impracticable.
- (3) If any word, statement, or other information required on the label under any provision of this Part is not prominently placed thereon in such a manner as to be easily seen and in such terms as to be readily understood by the purchasers and users of the articles under customary conditions of purchase and use. Due consideration shall be given to the size of the package.

RS 40:623 — Certain cosmetics excepted from labeling requirements

ctice of the trade, processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that these cosmetics are in conformity with the provisions of this Part upon removal from the processing, labeling, or repacking establishment.

RS 40:624 — Certification of coal-tar colors for cosmetics

y Acts 1978, No. 786, §5, eff. July 17, 1978.

RS 40:625 — False advertisement

y

representation concerning any effect of a drug or device is false under this Subsection if it is not supported by demonstrable scientific facts or substantial and reliable medical or scientific opinion.

B. Except as provided below, the advertisement of a drug or device representing it to have any therapeutic effect in the treatment of Bright's disease, cancer, tuberculosis, poliomyelitis, venereal disease, heart and vascular diseases, or any other diseases for which no known therapeutic effect has been fully established is false. No advertisement not in violation of Subsection A of this Section shall be considered false under this Subsection, if it is disseminated only to members of the medical and pharmaceutical professions or appears only in the scientific periodicals of these professions, or if it is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of the drugs or devices.

C. Except as provided in R.S. 40:626, it is unlawful for any person to disseminate false advertisement by any means for the purposes of inducing, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

RS 40:626 — Exceptions as to false advertising by agencies

is not to violate the provisions of R.S. 40:625(C) by the dissemination of any false advertisement when the dissemination is caused by the manufacturer, packer, distributor, or seller who resides in Louisiana. However, the manufacturer, packer, distributor, or seller is amenable to the prosecution and penalties provided for the violations of that Subsection. No publisher, radio broadcast licensee, television broadcast licensee, advertising agency, or other agency or medium for the dissemination of advertising shall willfully refuse, on reasonable request of an officer or employee duly designated by the department, to furnish to the officer or employee the name and post office address of the manufacturer, packer, distributor, or seller, residing in Louisiana, who caused him to disseminate any such advertisement.

RS 40:627 — Registration of certain products

ietary or patent medicines,

prophylactic devices, and cosmetics, in package form, to register each separate and distinct product annually with the department and to supply it with a sample of each such product upon request.

B. The submission of a catalog and specimens of labels shall be required at the time of application for registration of products produced, packaged, and prepared in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act, which will constitute satisfactory compliance for registration of the products. With respect to all other products, submission of a catalog and specimens of labels shall be required at the time of application for registration, but registration will not become effective until examination and approval of the label or product by the department. This approval shall be by written notification to the manufacturer, packer, or processor.

C. No manufacturer, packer, or proprietor shall sell any product which he has failed to register in conformity with this Section. Such failure also subjects the product to seizure and condemnation as provided by R.S. 40:632 through R.S. 634.

D. The department shall assess each manufacturer, packer, or proprietor a penalty of ten dollars for failure to register each separate and distinct product annually as provided in this Section. The penalty assessed shall be in addition to the examination and investigation charge assessed as provided in R.S. 40:628(B). Each failure to register a

separate and distinct product shall constitute a separate violation. However, no manufacturer, packer, or proprietor shall be assessed more than one hundred dollars in any calendar year. The department shall promulgate rules and regulations to provide for assessment and collection of the penalty provided in this Subsection.

E. This Section shall not apply to alcoholic beverages. For the purposes of this Section, "alcoholic beverages" has the same meaning as assigned in R.S. 26:2 and 241.

RS 40:628 — Examination and investigation fee; food and drug control fees

o the expenses of inspections, examinations, and investigations conducted under the authority of this Part and for the maintenance and enforcement of the provisions of this Part.

B. The department shall charge and collect from the manufacturers, packers, or proprietors of the products referred to in R.S. 40:627 an annual examination and investigation charge of not more than twenty-seven dollars for any one separate and distinct product registered, up to a maximum of two hundred seventy dollars annually from each manufacturer, packer, or proprietor. Manufacturers, packers, or proprietors of soft drinks and nonalcoholic beverages, except nonalcoholic fruit juices, and manufacturers, packers, or proprietors of products offered for sale or sold at retail only in their own establishments are exempt from the payment of examination and investigation charges here authorized.

C. The department shall charge and collect an annual food and drug control permit fee from manufacturers, packers, and processors of foods, drugs, and cosmetics. The fee shall not apply to any plant required to have a commercial seafood permit pursuant to R.S. 40:31.35. This Section shall not apply to meat packers, meat processors, and meat warehouses, or agricultural commodities or any combination thereof, regulated by the state Department of Agriculture and Forestry. The fee shall be for each separate establishment for which a permit is required based on the annual sales of such establishment according to the following schedule:

Annual sales

Annual fee

Under \$500,000

\$ 175.00

\$500,001 - \$1,000,000

475.00

\$1,000,001 - \$2,500,000

775.00

\$2,500,001 - \$5,000,000

1,075.00

over \$5,000,000

1,375.00

D. The department shall charge and collect an annual food and drug control fee of three hundred dollars from warehouses and distributors of foods, drugs, and cosmetics. The fee shall be for each separate establishment for which a permit is required.

RS 40:629 — Records of interstate shipment

rstate commerce shall, upon the request in the manner set out below of an officer or employee duly designated by the department, permit the officer or employee to have access to and to copy all records showing the movement in interstate commerce of any food, drug, device, or cosmetic, and the quantity, shipper, and consignee thereof.

B. The request provided for in this Section shall be accompanied by a definite statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which it relates.

C. Evidence obtained under this Section shall not be used in criminal prosecution of the person from whom obtained.

RS 40:630 — Carriers in interstate commerce; excepted from Part

age, or delivery of food, drugs, devices, cosmetics, or advertising matter in the usual course of business as carriers.

RS 40:631 — Factory inspections

, officers or employees duly designated by the department, after making reasonable request, may enter any factory, warehouse, or other establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held for storage or shipment in commerce or are held after such shipment, or any vehicle being used to transport food, drugs, devices, or cosmetics in commerce and inspect the factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein.

B. No owner, operator, or custodian of such a place shall refuse this reasonable request, under pain of the penalties provided in this Part.

RS 40:632 — Causes for seizure and condemnation of food, drugs, devices, or cosmetics

nufactured, processed, or packed in a factory or establishment, the operator of which did not, at the time of manufacture, processing, or packing, hold an unsuspended valid permit, if so required under R.S. 40:612, is subject to seizure and condemnation by the department or by any officer or employee it designates for that purpose.

RS 40:633 — Seizure; procedure; prohibition on sale or disposal of article

of any food, drug, device, or cosmetic, as set out in R.S. 40:632 exists, he shall affix to the article a tag, stamp, or other appropriate marking, giving notice that the article is, or is suspected of being subject to seizure under the provisions of R.S. 40:632 and that it has been detained and seized by the department. He shall also warn all persons not to remove or dispose of the article by sale or otherwise, until permission of the department or of the court of the jurisdiction in which the article is detained or seized is given.

B. It is unlawful for any person to remove or dispose of the detained or seized article by sale or otherwise without permission of the department or of the court in such cases.

RS 40:634 — Condemnation and sale; release

S. 40:632, the

department shall petition a court for an order of condemnation or sale, as the court may direct. The proceeds of the sale minus the legal costs and charges shall be paid into the state treasury to the credit of the general fund.

B. Upon the payment of the costs of the condemnation proceeding and upon the execution and delivery of a surety bond to the effect that the goods shall not be sold or otherwise disposed of contrary to the provisions of this Part, the department or court may order that the goods be delivered to the owner thereof instead of being condemned or sold.

C. If the department finds that any article seized pursuant to the provisions of R.S. 40:633 was not subject to seizure pursuant to that Section, the department or the designated officer or employee shall remove the tag or marking.

RS 40:635 — Condemnation or destruction of perishables in certain cases

hicle of transportation any meat, seafood, poultry, vegetables, fruit, or other perishable articles which are unsound or contain any filthy, decomposed, or putrid substance or that may be poisonous or deleterious to health or otherwise unsafe for human consumption, the officer or employee of the department designated by it shall immediately condemn or destroy it or in any other manner render it unconsumable as human food.

B. Nothing in this Title shall be construed to prohibit any duly authorized officer or employee of the department from causing the destruction of any meat, seafood, poultry, vegetables, fruit, or other perishable articles which are of foreign origin and are the subject of a current import ban issued by an agency of the federal government.

RS 40:636 — Other prohibited acts

dulterated or misbranded.

(2) The adulteration, or misbranding, of any food, drug, device, or cosmetic in commerce.

(3) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof in the original unbroken package for pay or otherwise.

(4) The forging, counterfeiting, simulating, or falsely representing or, without proper authority, using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of this Part.

(5) The possession in any place where sales or service is made to the public of any food, drug, device or cosmetic that is adulterated or misbranded.

(6) The using by any person to his own advantage, or the revealing, other than to the department, its officers or employees, or to the courts when relevant in the trial of any case under this Part, any information acquired under authority of R.S. 40:612 through R.S. 40:615 or R.S. 40:631 concerning any method or process which, as a trade secret, is entitled to protection.

RS 40:637 — Procedure for reporting violations of Part

ance with regulations prescribed by it, afford appropriate notice and opportunity for hearing to interested persons upon the question of such violations. The report to the district attorney when such hearings are held shall be accompanied by findings of the appropriate officers and employees.

B. The department need not report for prosecution minor violations of this Part when the purposes of the Part can best be accomplished by a suitable written notice or warning.

RS 40:638 — Duties of district attorney

r drug officer of the state or political subdivision thereof, presents evidence satisfactory to the district attorney, of any such violation, shall institute appropriate proceedings in the proper court without delay.

RS 40:639 — Penalties

not

more than one year, or both. For the second or subsequent offense, he shall be fined not more than three thousand dollars or imprisoned for not more than two years, or both. But any person who violates the provisions of R.S. 40:625(C) shall only be fined not more than one thousand dollars for each violation if the violation does not involve gross deception or imminent danger to health, and is established by opinion evidence only.

RS 40:640 — Dealers excepted from penalty in certain cases

d it as received unless he refuses to furnish on request of an officer or employee duly designated by the department the name and address of the person from whom he purchased or received the article and all documents pertaining to the delivery of the article to him, or

(2) If he established a guaranty or undertaking signed by the person residing in Louisiana from whom he received in good faith the article of food, drug, device, or cosmetic, or advertising copy thereof to the effect that the designated article is not adulterated or misbranded within the meaning of this Part and that the copy is not false. To afford protection, this guaranty or undertaking shall contain the name and address of the person furnishing it. This person shall be amenable to the prosecution and penalties which would attach in due course to the dealer under the provisions of this Part.

RS 40:641 — Injunction proceedings

e repetitious

introduction or causing to be introduced into commerce of any adulterated, misbranded, or unregistered food, drug, device, or cosmetic; or from the dissemination or causing to be disseminated of a false advertisement by any means for the purpose of inducing, directly or indirectly, the purchase of food, drugs, devices, or cosmetics in commerce.

B. In these injunction proceedings it is not necessary to show an intent on the part of the person enjoined to continue the offense.

C. Violation of any injunction issued pursuant to this Section shall be summarily tried and punished by the court as a contempt. The contempt proceedings may be instituted by order of the court or by the filing of an information by the district attorney and process of the court for the arrest of the violator may be served at any place in the state.

D. No person violates any injunction issued pursuant to this Section by reason of the dissemination, subsequent to the injunction, of the false advertisement which was the basis of the injunction, if the dissemination was beyond the control of the person.

RS 40:642 — Repealed by Acts 2022, No. 252, §3.

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RS 40:651 — Definitions

e test result" means any result obtained from a laboratory test of an ingredient, equipment, container, or finished product that indicates the presence of an adulterant, as defined by R.S. 40:607 et seq., in excess of any tolerance specified in state or federal law or regulations.

(2) "Department" means the Louisiana Department of Health.

(3) "Food processing plant" means a commercial operation that manufactures food for human consumption and does not provide food directly to a consumer from that location.

Such term shall not include a commercial operation that produces raw agricultural commodities and whose end product remains a raw agricultural product.

(4) "Secretary" means the secretary of the Louisiana Department of Health.

RS 40:652 — Food processing plants; written food processing plan

e immediately available for review by the department upon request.

B. The secretary shall promulgate rules and regulations, pursuant to the Administrative Procedure Act, establishing minimum standards and requirements for a written food processing plan. The rules and regulations shall require a food processing plan to include, but not be limited to, a description of the procedures to be used to prevent the presence of hazards such as poisonous or deleterious substances or other contaminants that would render finished foods or finished ingredients, as manufactured, injurious to the public health, a description of preventative controls, monitoring methods to ensure the effectiveness of preventative controls, records of corrective actions, and any actions taken in response to the presence of known hazards.

C. Any food processing plant which maintains a Hazard Analysis Critical Control Point Plan which meets or exceeds the criteria required for such plan by either the United States Department of Agriculture or the Food and Drug Administration shall be deemed to have satisfied the requirements of this Section.

D. Any person or firm operating a food processing plant that violates the provisions of this Section shall be subject to a civil fine of not more than five hundred dollars.

RS 40:653 — Food processing plants; recall plan

ble for review by the department upon request.

B. The secretary shall promulgate rules and regulations, pursuant to the Administrative Procedure Act, establishing minimum standards and requirements for a written food recall plan.

C. Any person or firm operating a food processing plant that violates the provisions of this Section shall be subject to a civil fine of not more than five hundred dollars.

RS 40:654 — Food processing plants; foodborne illness reporting and testing requirements

m testing of samples or specimens of finished foods or finished ingredients which indicates a confirmed positive test result, the person or firm shall report such test results to the department within twenty-four hours of obtaining such information.

B. The state health officer may, based upon a showing of probable cause by the department that the food processing facility is producing food which may be adulterated, as defined in R.S. 40:607 et seq., or is processing food in a manner which may cause an imminent menace to the public health, order the food processing facility to submit samples to a laboratory, specified by the department, for testing at the expense of the food processing facility. The results of such testing shall be furnished to the department.

C. Whenever any person or firm violates the provision of this Section, such person or firm shall be subject to a civil fine of not more than one thousand dollars.

RS 40:661 — Food containing artificial colors, additives, or banned chemicals; ingredient

ccordance with the provisions of this Section if the product contains any ingredient identified in this Subsection:

- (1) Acesulfame potassium.
- (2) Acetylated esters of mono- and diglycerides (acetic acid ester).
- (3) Anisole.
- (4) Aspartame.
- (5) Azodicarbonamide (ADA).
- (6) Butylated hydroxyanisole (BHA).
- (7) Butylated hydroxytoluene (BHT).
- (8) Bleached flour.
- (9) Blue dye 1 (CAS 3844-45-9).
- (10) Blue dye 2 (CAS 860-22-0).
- (11) Bromated flour.
- (12) Calcium bromate.
- (13) Canthaxanthin.
- (14) Certified food colors by the United States Food and Drug Administration.
- (15) Citrus red dye 2 (CAS 6358-53-8).
- (16) Diacetyl.
- (17) Dimethylamylamine (DMAA).
- (18) Dioctyl sodium sulfosuccinate (DSS).
- (19) Green dye 3 (CAS 2353-45-9).
- (20) Interesterified palm oil.
- (21) Interesterified soybean oil.
- (22) Lactylated fatty acid esters of glycerol and propylene glycol.
- (23) Lye.
- (24) Morpholine.
- (25) Olestra.
- (26) Partially hydrogenated oil (PHO).
- (27) Potassium aluminum sulfate.
- (28) Potassium bromate.

- (29) Potassium iodate.
- (30) Propylene oxide.
- (31) Propylparaben.
- (32) Red dye 3 (CAS 16423-68-0).
- (33) Red dye 4 (CAS 4548-53-2).
- (34) Red dye 40 (CAS 25956-17-6).
- (35) Sodium aluminum sulfate.
- (36) Sodium lauryl sulfate.
- (37) Sodium stearyl fumarate.
- (38) Stearyl tartrate.
- (39) Sucralose.
- (40) Synthetic trans fatty acid.
- (41) Thiodipropionic acid.
- (42) Toluene.
- (43) Yellow dye 5 (CAS 1934-21-0).
- (44) Yellow dye 6 (CAS 2783-94-0).

B.(1) The product label shall include a quick response code, or QR code, with a statement adjacent to the code that informs the consumer that additional ingredient information can be accessed by scanning the code.

(2) The QR code shall link to a web page that is under the control of the manufacturer.

(3) The web page shall contain the following disclaimer in a prominent location:

"NOTICE: This product contains [insert ingredient here]. For more information about this ingredient, including FDA approvals, click [HERE](#)."

(4) The disclaimer shall link to the United States Food and Drug Administration's web page regarding food chemical safety.

C.(1) The provisions of this Section shall only apply to food or beverages intended for human consumption.

(2) The provisions of this Section shall not apply to any of the following:

(a) A drug or dietary supplement regulated by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 et seq., 21 CFR 3.2(e), or the Dietary Supplement Health and Education Act.

(b) An alcoholic beverage as defined in R.S. 26:2 and 241.

(c) Food prepared and labeled in a retail food establishment.

(d) Medical food as defined in 21 U.S.C. 360ee(b)(3).

(3) If a product is sold at retail as a multiunit package, the provisions of this Section shall only apply to the outer container.

D. Any violation of this Section shall be a violation of the state Sanitary Code.

RS 40:662 — Seed oil; notice to patrons of food service establishments required

lay a disclaimer on the menu or other clearly visible location

that informs customers of the potential presence of seed oil in food served at the

establishment. The disclaimer shall state: "Some menu items may contain or be prepared

using seed oils."

B. For purposes of this Section, "seed oil" shall mean any of the following:

- (1) Canola or rapeseed oil.
- (2) Corn oil.
- (3) Cottonseed oil.
- (4) Grapeseed oil.
- (5) Rice bran oil.
- (6) Safflower oil.
- (7) Soybean oil.
- (8) Sunflower oil.

C. Any violation of this Section shall be a violation of the state Sanitary Code.

RS 40:671 — Washing prohibited; penalty

water anywhere

except running water.

B. Whoever violates the provisions of this Section shall be fined not more than five dollars or imprisoned for not more than five days.

RS 40:676 — Laetrile

prescription of a licensed physician.

B. The manufacture, sale, possession and use of laetrile, or amygdalin, is subject to the provisions of Chapters 1 and 4 of this Title, except for the provisions of the first unnumbered Paragraph of Section 607, the first unnumbered Paragraph of Section 608, last sentence of Paragraph 10 of Section 608, the first unnumbered Paragraph of Section 616, the first unnumbered Paragraph of Section 617, and Section 618. The manufacture, sale, possession, or use of laetrile shall not be restricted or limited on grounds it is ineffective in the prevention or treatment of cancer.

RS 40:681 — License required for use of containers

ibution, or transfer of a food, drug, or beverage any containers other than

new containers unless he has been duly licensed by the Louisiana Department of Health, hereinafter referred to in this Part as the "department".

RS 40:682 — Qualifications for license; sterilization process

ow that the applicant is properly equipped

and maintains and uses the method provided for in Subsection B of this Section in cleansing and sterilizing the containers.

B. All containers shall be cleansed, sterilized, and freed from rust and contamination by soaking them for a period of not less than five minutes in a hot caustic solution of not less than one hundred twenty degrees Fahrenheit, which shall be indicated by a thermometer. This solution shall contain not less than two and one-half percent of caustic soda expressed in terms of sodium hydrates. The containers shall then be thoroughly rinsed in pure water. The cleansing solution shall be changed frequently so as to prevent it from becoming foul and unsanitary.

RS 40:683 — Duration of license

n the same terms and conditions as prescribed in R.S. 40:682. A license fee of five dollars shall be collected from each licensee.

RS 40:684 — Issuance of certificate by licensee; revocation of license for wrongful issuance

the licensee has cleansed, sterilized, and freed the containers from rust and contamination as provided in R.S. 40:682. If any licensee issues this certificate without having complied with the requirements of this Part, his license shall, after a hearing before the department, be revoked by the department.

RS 40:685 — Sterilization certificate as license for use of containers

, he is duly licensed under the provisions of this Part. No purchaser or transferee shall use any containers covered by this Part without a certificate, except as hereafter provided.

RS 40:686 — Sale or transfer to licensee to cleanse or sterilize

d to a purchaser or transferee who is duly licensed under the provisions of this Part to cleanse, sterilize, and free the containers from rust and contamination.

RS 40:687 — Re-use of closures

vacuum cap, cork, or any other article used to cap or seal any container of any food, drug, or beverage.

RS 40:688 — Rules and regulations

1978, No. 786, §5, eff. July 17, 1978.

RS 40:689 — Penalty

rt continue constitutes a separate and distinct offense.

RS 40:690 — Metal beverage containers

e in opening the container. The provisions of this Section do not prohibit the sale of or the offer for sale of the following:

- (1) A beverage container sealed with a laminated tape seal, even if the seal contains aluminum foil, if the seal is not rigid.
- (2) Frozen beverage concentrate in all metal containers with detachable metal pull tabs, customarily and primarily purchased for dilution and for use within the home or for similar purposes.
- (3) Metal beverage containers with pull tabs for milk-based products, soy-based products, or similar products which require sterilization and pressure in the canning process.

B. As used in this Section:

- (1) "Beverage container" shall include but not be limited to any sealed can containing beer, cereal malt beverage, mineral water, and soda water and similar soft drinks in liquid form and intended for human consumption.
- (2) "Soft drink" shall include but not be limited to all beverages, whether carbonated or not, such as soda water, ginger ale, 7-Up, Hi-C, Coca-Cola, iced tea, lemonade, Pepsi Cola, Hawaiian Punch, Dr. Pepper, milk drinks when any flavoring or syrup is added, cider, cordial, carbonated water, mineral water, or any and all preparations commonly referred to as soft drinks of whatsoever kind, including any and all beverages referred to as soft drinks which are manufactured without the use of any syrup.

C. The penalties in R.S. 40:689 shall apply to violations of this Section.

RS 40:695 — Tampering with consumer products; false reports of violations; prohibition; penalties

cosmetic, or the tampering with or attempt to tamper with the label or container of any such item, with the intent to cause bodily injury or death to any person. For purpose of this Subpart, the terms food, drug, device, cosmetic, or label shall have the same meanings as provided in R.S. 40:602, except that they shall include only such items produced or distributed for human consumption or use.

B. Any person who commits the crime of tampering with consumer products shall:

- (1) When no bodily injury or death results, be fined not more than five thousand dollars, imprisoned for not more than five years, or both.
- (2) When the bodily injury of any person results, be fined not more than ten thousand dollars, imprisoned for not more than ten years, with or without hard labor, or both.
- (3) When the death of any person results, be imprisoned for life at hard labor without benefit of parole, probation, or suspension of sentence.

C.(1) False reporting of tampering with consumer products is the willful and malicious imparting or conveying of false information, knowing such information to be false, concerning conduct or attempted conduct which, if such conduct occurred, would constitute a violation of R.S. 40:695(A).

(2) Whoever commits the crime of false reporting of tampering with consumer products shall be fined not more than five thousand dollars, imprisoned for not more than five years, or both.

RS 40:700 — Definition of terms

"advertisement" includes all representations of fact or opinion

disseminated to the public in any manner or by any means.

(2) "Dealer" means any person or entity engaged in the business of selling water treatment devices to the public.

(3) "Department" means the Louisiana Department of Health and "secretary" means the secretary thereof.

(4) "Water treatment device" means any instrument or contrivance sold at retail for residential use and designed to be added to the plumbing system of a water supply intended for human consumption to improve that water supply by any means including, but not limited to, filtration, purification, distillation, or conditioning.

RS 40:700.1 — Rules and regulations

or

Committee on Water Treatment Devices, for the efficient enforcement of this Subpart.

RS 40:700.2 — False advertisement

the advertisement of a water treatment device representing it to have any therapeutic effect in the treatment of cancer, heart and vascular diseases, or any other diseases for which no known therapeutic effect has been fully established is false. No advertisement not in violation of Subsection A of this Section shall be considered false under this Subsection, if it is disseminated only to members of the medical and pharmaceutical professions or appears only in the scientific periodicals of these professions, or if it is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of water treatment devices.

C. Except as provided in R.S. 40:700.3, it is unlawful for any person to disseminate false advertisement by any means for the purposes of inducing, directly or indirectly, the purchase of water treatment devices.

RS 40:700.3 — Exceptions as to false advertising by agencies

is not to violate the provisions of R.S. 40:700.2 by the dissemination of any false advertisement when the dissemination is caused by the manufacturer, packer, distributor, or seller who resides in Louisiana. However, the manufacturer, packer, distributor, or seller is amenable to prosecution and the penalties provided for the violations of R.S. 40:700.2. No publisher, radio broadcast licensee, television broadcast licensee, advertising agency, or other agency or medium for the dissemination of advertising shall willfully refuse, on reasonable request of an officer or employee duly designated by the department, to furnish to the officer or employee the name and post office address of the manufacturer, packer, distributor, or seller, residing in Louisiana, who caused him to disseminate any such advertisement.

RS 40:700.4 — Other prohibited acts

the public for the purposes of inducing, directly or indirectly, the purchase of water treatment devices.

(2) The sale of any water treatment device to the public without a permit issued by the department.

RS 40:700.5 — Permit; application; fees; renewal

provide by regulation for

a reasonable time period in which to obtain such permit.

B. The department shall have the authority to promulgate rules and regulations and

to charge reasonable fees relating to the issuance of such permits. Any applicant which meets the criteria established by the department shall be issued a permit.

C. Permits issued pursuant to the provisions of this Subpart shall be valid for one calendar year from the date of issue, unless revoked as provided in R.S. 40:700.6, and shall be renewed annually thereafter.

RS 40:700.6 — Revocation of permit

the

provisions of this Subpart or the rules and regulations established by the department.

B. The department may revoke any such permit either temporarily, until there is compliance with the provisions of this Subpart and with the rules and regulations as established by the department, or permanently for the unexpired period of the permit.

RS 40:700.7 — Surety bond

ten

thousand dollars. Each bond shall be issued by a surety authorized to do business in Louisiana, and shall be in favor of the state for the use, benefit, and indemnity of any person who suffers any damage or loss as a result of the dealer's violation of law or breach of contract. Recovery hereunder shall in no event exceed the amount of the bond.

B. In lieu of the bond required by Subsection A of this Section, a dealer may deposit with the secretary of the Louisiana Department of Health a certificate of deposit issued by a financial institution doing business in this state and insured by the Federal Deposit Insurance Corporation, and pledge it to the state of Louisiana for the benefit of any customer who suffers any damage or loss as a result of the dealer's violation of law or breach of contract. The certificate shall be in the amount of the bond required under Subsection A of this Section. Any interest from the certificate of deposit shall be payable to the dealer. If the state or a customer obtains a final judgment against the dealer which must be satisfied from the proceeds of the certificate of deposit, any penalty arising from premature payment of the certificate of deposit shall be paid by the dealer and not subtracted from the face amount of the pledged certificate.

C. The state or any person claiming against the bond may maintain an action for damages or other relief against the principal or the surety, or both. The liability of the surety for all breaches of the conditions of the bond provided herein shall in no event exceed the amount of the bond.

D. The dealer shall file any bond required of him with the secretary before doing any business in this state, including advertising or soliciting.

E. The term of a bond required by this Section shall be continuous. The surety on the bond may terminate the bond upon giving a sixty-day written notice to the secretary and the principal; however, the liability of the surety for the acts of the principal shall continue during the sixty-day period. The notice shall not release the surety from liability which accrues before the termination becomes final, but which is discovered after that date.

RS 40:700.8 — Procedure for reporting violations of Subpart

ment shall afford appropriate notice

and opportunity for hearing, in accordance with regulations prescribed by it, to interested persons upon the question of such violations. The report to the district attorney shall be accompanied by findings of the appropriate officers and employees.

B. The department need not report for prosecution minor violations of this Subpart when the purposes of the Subpart can best be accomplished by a suitable written notice or warning.

RS 40:700.9 — Duties of district attorney

art, or to whom any

health, food, or drug officer of the state or political subdivision thereof presents evidence satisfactory to the district attorney of any such violation shall institute appropriate proceedings in the proper court without delay.

RS 40:700.10 — Penalties

th.

B. For the second or subsequent offense, he shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

C. But any person who violates the provisions of R.S. 40:700.2(C) shall only be fined not more than one thousand dollars for each violation if the violation does not involve gross deception or imminent danger to health, and is established by opinion evidence only.

RS 40:700.11 — Injunction proceedings

he dissemination or causing to be disseminated of a false advertisement by any means for the purpose of inducing, directly or indirectly, the purchase of water treatment devices in commerce; or from engaging in the business of selling water treatment devices to the public without a permit issued by the Louisiana Department of Health; or from engaging in other unfair or deceptive trade practices including, but not limited to, verbal or written misrepresentation of any water treatment device.

B. In these proceedings for an injunction it is not necessary to show an intent on the part of the person enjoined to continue the offense.

C. In addition to other remedies, violation of any injunction issued pursuant to this Section shall be summarily tried and punished by the court as a contempt. The contempt proceedings may be instituted by order of the court or by the filing of an information by the district attorney and process of the court for the arrest of the violator may be served at any place in the state.

D. No person violates any injunction issued pursuant to this Section by reason of the dissemination, subsequent to the injunction, of the false advertisement which was the basis of the injunction, if the dissemination was beyond the control of the person.

RS 40:700.12 — Repealed by Acts 2022, No. 252, §3.

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RS 40:701 — Definitions

achine, means any machine

connected to a water supply which filters or purifies water for the purpose of selling such water for human consumption.

RS 40:701.1 — Permit; application; fees; renewal

ch machine; however, any

machine currently in operation may continue in operation until permits for such machine can be obtained under the provisions of this Subpart; however, such period shall not exceed one calendar year from the effective date of this Subpart.

B. The department shall establish written rules and regulations for the issuance of such permits including but not limited to machine construction, installation, performance, control, and maintenance criteria. Any applicant who meets the criteria established by the department shall be issued a permit.

C. The department shall collect a fee of one hundred dollars for each permit issued.

D. Permits issued under the provisions of this Subpart shall be valid for one calendar year from the date of issue unless sooner revoked as provided in R.S. 40:701.2 and shall be renewed annually thereafter.

RS 40:701.2 — Revocation of permit

chine is

found to be in noncompliance with the provisions of this Subpart or the rules and regulations established by the department.

B. The department may revoke any such permit either temporarily until there is compliance with the provisions of this Subpart and with the rules and regulations as established by the department or permanently for the unexpired period of the permit.

C. Any person whose permit for a water vending machine has been revoked shall discontinue the operation of the machine until the machine has been brought into compliance with this Subpart and he shall have obtained a new permit to operate from the department.

RS 40:701.3 — Labeling

ce

of the water dispensed, the methods used to treat the water to reduce or eliminate impurities, and the chemical names and concentrations of any preservatives or additives.

RS 40:701.5 — Injunction proceedings

peration of a water vending machine for which a permit has not been issued under the provisions of R.S. 40:701.1 or which does not display the label required by R.S. 40:701.3.

B. Violation of any injunction issued pursuant to this Section shall be summarily tried and punished by the court as a contempt. The contempt proceedings may be instituted by order of the court or by the filing of a bill of information by the district attorney. Process of the court for the arrest of the violator may be served at any place in the state.

RS 40:711 — Permit for manufacture or sale

permit from the Louisiana Department of Health, hereinafter referred to in this Part as the "department".

RS 40:712 — Part inapplicable to persons selling soft drinks where manufactured

beverages in glasses or jugs on the premises where manufactured.

RS 40:713 — Contents of application; fee

the drink or beverage, and any other pertinent information prescribed by the department in pursuance of the provisions of this Part.

B. Repealed by Acts 2000, 1st Ex. Sess., No. 125, §2, eff. July 1, 2000.

RS 40:714 — Inspection; granting or refusing permit; grounds

is to be manufactured for sale or sold, and, when the provisions of the sanitary code governing the operation of bottling plants have been fully complied with, shall issue to the applicant a permit for the manufacture and sale of the drinks and beverages mentioned in this Section.

B. A permit may be denied at the time of the application:

- (1) If the establishment of the applicant is known to be in an unsanitary condition.
- (2) If the water supply is known to be dangerously contaminated.
- (3) If the applicant does not submit sufficient proof of competency to bottle soft drinks, malt beverages, or other nonalcoholic beverages.
- (4) If the sanitary code has not been complied with by the applicant in every respect.

RS 40:716 — Inspection of soft drinks manufactured outside state; fee

n this state unless

the state health officer of the state in which the plant manufacturing the drink or beverage is located has inspected and approved the plant and forwarded a certificate to that effect to the Louisiana Department of Health and a correct sample is first inspected by and registered with the department. An inspection fee of twenty-five dollars for each sample bearing a distinguishing flavor or name shall be paid by the manufacturer thereof, his agent, or dealer to the department annually.

RS 40:717 — Inspection of bottling plants and places for sale; fee

oholic beverages are manufactured or sold in containers. However, it may inspect any such plant as often as it thinks proper for the enforcement of this Part or in the interest of the public health. The department may issue multiple permits to bottling plants; however, only one annual fee per establishment shall be charged and collected from plants bottling soft drinks, syrups, mixes, and concentrates. The department shall charge and collect an annual fee for each soft drink bottling plant based on the gross annual sales of such plant according to the following schedule:

Annual sales

Annual fee

Under \$500,000

\$ 175.00

\$500,000 - \$1,000,000

475.00

\$1,000,001 - \$2,500,000

775.00

\$2,500,001 - \$5,000,000

1,075.00

over \$5,000,000

1,375.00

RS 40:718 — Each separate plant subject to inspection or permit fee

s considered a separate and distinct business, subject to the inspection or permit fees provided for in this Part, even though the plants or places may be owned or operated by one person.

RS 40:719 — Revocation of permit

of the state.

B. It may revoke any such permit either temporarily, until there is a compliance with the provisions of this Part and with the sanitary code and other laws and regulations on the same subject matter, or permanently for the unexpired period of the permit.

C. Any person whose permit has been revoked shall discontinue the manufacture and the sale within this state of soft drinks, malt beverages, and other nonalcoholic drinks until he shall have complied with this Part and shall have obtained a new permit to operate from the department.

RS 40:720 — Ingredients permitted in soft drinks

beet sugar syrup or such other sweetening liquids or substances as are permitted by the regulations of the department, containing pure flavoring material, with or without added fruit acid, with or without added color. Nothing in this Part prohibits the use of any other harmless ingredients in the manufacture of soft drinks, malt beverages, and other nonalcoholic beverages. When artificial coal-tar colors are used, nothing but the certified colors approved by the government of the United States are permissible.

RS 40:721 — Disposition of proceeds of fees

of this Part.

RS 40:722 — Penalty for violations

less than ten days nor more than ninety days, or both. For each subsequent offense, he shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not less than ninety days nor more than six months, or both.

RS 40:731 — Legislative intent

ehicles or vessels to ensure that consumers who obtain water through such means are given appropriate information as to the nature of such water and that such consumers are assured that the water meets acceptable standards for human consumption.

RS 40:732 — Definitions

tate or

department or certified by the U. S. Environmental Protection Agency (EPA), or certified by the primary enforcement authority in any state which has been granted primacy by the EPA, or certified or accredited by a third-party organization acceptable to a primacy state.

(2) "Approved source" when used in reference to a bottled water plant's product water or water used in the plant's operations, means the source of the water whether it be from a spring, artesian well, drilled well, public or community water system or any other source that has been inspected and the water sampled, analyzed and found of a safe and sanitary quality with or without treatment. Such approval shall be obtained and maintained in accordance with R.S. 40:735. The presence in the plant of a current certificate or notification of approval from the department shall constitute approval of the source.

(3) "Artesian water" means bottled water from a well tapping a confined aquifer in which the water level stands above the water table.

"Artesian water" shall meet the requirements of "natural water".

(4) "Bottled water" means water that is placed in a sealed container or

package and is offered for sale for human consumption or other consumer uses. Bottled water may be with or without natural or added carbonation and may be prepared with added flavors, extracts, or essences derived from a spice or fruit which comprise less than one percent by weight of the final product. Said products shall contain no sweeteners, acidulants, or additives other than said flavors, extracts, or essences.

(5) "Bottled water plant" means any place or establishment in which bottled water is prepared for sale.

(6) "Carbonated water" or "sparkling water" means bottled water containing carbon dioxide.

(7) "Department" means the Louisiana Department of Health.

(8) "Distilled water" means bottled water which has been produced by a process of distillation and meets the definition of purified water in the most recent edition of the United States Pharmacopeia.

(9) "Drinking water" means bottled water obtained from an approved source that has at minimum undergone treatment consisting of filtration (activated carbon or particulate) and ozonation or an equivalent disinfection process.

(10) "Fluoridated water" means bottled water containing fluoride. The label shall specify whether the fluoride is naturally occurring or added. Any water which meets the definition of this Paragraph shall contain not less than 0.8 milligrams per liter fluoride ion and otherwise comply with the Food and Drug Administration (FDA) quality standards in 21 CFR Section 103.35(d)(2).

(11) "Mineral water" means bottled water that contains not less than 500 parts per million total dissolved solids. "Natural mineral water" shall meet the requirements of "natural water".

(12) "Natural water" means bottled spring, mineral, artesian, or well water which is derived from an underground formation and is not derived from a municipal system or public water supply.

(13) "Plant operator" means any person who owns or operates a bottled water plant and who meets the requirements of R.S. 40:734.

(14) "Purified water" means bottled water produced by distillation, deionization, reverse osmosis or other suitable process and that meets the definition of purified water in the most recent edition of the United States Pharmacopeia. Water which meets the definition of this Paragraph and is vaporized, then condensed, may be labeled "distilled water".

(15) "Spring water" means water derived from an underground formation from which water flows naturally to the surface of the earth.

"Spring water" shall meet the requirements of "natural water".

(16) "Water dealer" means any person who imports bottled water or causes bulk water to be transported for bottling for human consumption or other consumer uses.

(17) "Well water" means water from a hole bored, drilled or otherwise constructed in the ground which taps the water of an aquifer. "Well water" shall meet the requirements of "natural water".

RS 40:733 — Product quality

All bottled water shall meet standards prescribed by the FDA in 21 CFR Section 103.35, except that the total dissolved solids limitation of Section 103.35(d) shall not apply to mineral water and except that bottled water shall not exceed 10 ppb of total trihalomethanes and 5 ppb of lead.

B. Except as provided in Subsection A of this Section, bottled water, including mineral water, shall not exceed any maximum contaminant level contained in R.S. 40:740(A), or any maximum contaminant level established by EPA under the Safe Drinking Water Act or established by the department by rule for any organic or inorganic chemical.

RS 40:734 — Good manufacturing practices and operational requirements

Practice Regulations (GMPs) 21 CFR Parts 110 and 129, and any rules adopted by the department.

B. Bottled water production, including transporting, processing, packaging and storage, shall be conducted under such conditions and controls as are necessary to minimize the potential for microbiological contamination of the finished product. These conditions and controls shall include the following:

(1) Bottled water shall be subject to effective germicidal treatment by ozonation or carbonation at a minimum of three volumes of carbon dioxide or other equivalent disinfection approved by the department, except that the requirement for filtration and germicidal treatment shall not apply to a bottled water product for which an exemption has been granted by the department pursuant to the criteria as contained in R.S. 40:739.

(2) Bottled water shall not be transported or stored in bulk tanks or processed or bottled through equipment or lines used for any nonfood product.

(3) Bottled water which originates from a surface water source which is not protected from surface contamination shall be subjected to ozonation, filtration, or another effective process which removes or destroys the cysts of the parasite giardia lamblia.

C. Each bottled water plant operator shall develop and maintain written procedures for notification of the department, consumer notification and product recall and shall implement any said procedure as necessary with respect to any product for which the operator or department knows or has reason to believe circumstances exist that may adversely affect its safety for the consumer. In order to facilitate product identification or recall, each bottled water product shall contain a code that is designed to remain attached to the container during use and which contains either the date of manufacture or a lot or batch number.

D. A bottled water supplier who knows that a primary maximum contaminant level has been exceeded or has reason to believe that circumstances exist which may adversely affect the safety of bottled water, including but not limited to source contamination, spills, accidents, natural disasters, or breakdowns in treatment, shall notify the department promptly.

E. If the department determines, based upon representative samples, risk analysis, information provided by the bottled water supplier, and other information available to the department, that the circumstances present an imminent hazard to the public health and that a form of consumer notice or product recall can effectively avoid or significantly minimize the threat to public health, the department may order the water supplier to initiate a level of product recall approved by the department or, if appropriate, issue a form of notification to customers. The bottled water supplier shall be responsible for disseminating the notice in a manner designed to inform customers who may be affected by the problem. The water bottler shall where appropriate provide the notice to radio and television media or to the newspaper serving the affected public or shall in the alternative directly notify affected users where doing so in a manner approved by the department can effectively avoid or minimize the risk to health. Product recalls shall conform to the procedures and policies of 21 CFR Part 7.

F. Where a maximum contaminant level has been violated but circumstances, including risk analysis and representative samples, indicate that the violation of the maximum contaminant level has been promptly corrected and that already-distributed product will not cause illness and presents no significant health risk, a recall and media notification of consumers is unnecessary. In such circumstances where a recall or media notification is unnecessary, but where there may be significant consumer complaints of product taste or odor, the department may order the bottler to communicate

the exceedance of the maximum contaminant level and the implementation of corrective measures by direct mailings to affected customers or by newspaper publication.

G. Artesian water may be collected with the assistance of external force to enhance the natural underground pressure so long as such measures do not alter the physical properties, composition, and quality of the water.

H. Natural water shall not be modified by blending with water of another type or by deletion or addition of dissolved solids, except as related to disinfection or other treatment to reduce the concentration of any naturally present constituent which exceeds government sanctioned or approved safety standards or guidelines. It may be collected and transported by pumps, pipes, tunnels, trucks, or similar devices.

I. Spring water shall be collected only at the spring or through a bore hole that is adjacent to the point of emergence. Spring water collected with the assistance of external force to protect the water shall retain all the physical properties of and be of the same composition and quality as the water that flows naturally to the surface of the earth.

J. No person shall operate a bottled water plant or bottle water for the purpose of sale or distribution in this state without first obtaining a permit required by the state sanitary code demonstrating that the source, bottling facility treatment and bottling practices, and product water meet the requirements of this Part and regulations adopted hereunder. The department by regulation may establish a reasonable fee for a permit application, which fee shall be based on the cost of processing application and shall be the same for in-state and out-of-state bottlers. An annual renewal fee shall be established. The application fee and the annual renewal fee shall not exceed two hundred dollars.

K. For bottled water imported from outside the United States the required showing shall include a certification signed by the department or agency with jurisdiction over bottled water in the country of origin that describes the requirements of said country for the source, bottling facility, treatment, bottling practices, and product water; states the date of the last officially authorized inspection by the department or agency or acceptable third party inspection organization and review of said source, facility, treatment, bottling practices, and product water in light of such requirements; and certifies that said source, facility, treatment, bottling practices, and product water meet all of the requirements of the country of origin except those that are in conflict with U.S. state and federal laws and regulations.

L. As a condition of receiving a permit and annually thereafter, the bottler shall receive a plant inspection demonstrating compliance with the good manufacturing practices and operational requirements of this Part. Said inspection shall be conducted by the state in which the bottling facility is located, by the federal FDA, or by a third party inspection organization acceptable to the department.

M. A bottled water plant shall not be operated except under the supervision of a competent person qualified by experience, education, and training to operate and maintain the plant's facilities. Said person must hold a certificate demonstrating that he has successfully completed a technical training course, developed and administered by the department or by a third party organization that is acceptable to the department, that covers periodic instruction and testing in plant, source, and product sanitation; operation and maintenance of water treatment technology; and the maintenance and monitoring of source and product water quality in accordance with these bottled water standards.

RS 40:735 — Source water monitoring

analysis that his treatment reduces the contaminant(s) below the maximum contaminant levels in the finished product.

Approval of the source water product derived from a source other than a public water supply must be based upon a field inspection of the source and a review of information prepared by a professionally qualified hydrogeologist that shall demonstrate the integrity of the source and safety of the catchment operations and that shall include:

- (1) An evaluation of the chemical, physical, microbiological, and radiological characteristics of the source.
- (2) A report on the regional geology surrounding the site and the specific site geology. A description of the vertical and horizontal extent of the source aquifer using existing data; the information will be used to define the recharge area of the aquifer, or in the case of regional aquifers, the zone of influence of the subject source.
- (3) A report detailing the development of the source, the method of construction including spring design, well installation, surface catchment and intake structures, and transmission facilities as appropriate.
- (4) A watershed survey of the recharge area or zone of influence of subject source that identifies and evaluates actual and potential sources of contamination, and which shall be updated every three years, including any reported discharge that may affect the source.

(5) Based on the findings in Paragraph (4) of this Subsection, a plan for special monitoring of any significant contaminant source and for taking restrictive preventive or corrective measures as appropriate to protect the source water and the product water.

B. The plant operator shall be responsible for sampling and analysis of all approved sources for the contaminants specified in R.S. 40:733. Such monitoring shall be at least annually, except that analysis for microbiological contaminants shall be weekly if the source is other than a public water system.

C. Approved sources shall be monitored on a frequency of no less than once every four years for the contaminants listed in R.S. 40:740(B) or for which U. S. EPA under the Safe Drinking Water Act or the department requires source water monitoring.

D. Those systems using chlorination or chlorinated public water supplies shall also monitor for contaminants listed in R.S. 40:740(C). The definition of "source" as applied to R.S. 40:740(B) and (C) allows bottlers using public water supplies to take samples at the filler or from the source, all other bottlers being required to obtain samples from the groundwater source.

E. In lieu of source monitoring required by this Section, a plant operator using a public water system as its source may obtain and display a certificate from said system demonstrating that the public water system conducts the monitoring required by this Section.

F. In lieu of source water monitoring for any volatile organic contaminant covered by Subsections C and D of this Section that is confirmed to be present in the source water, the bottler may treat said source using granular activated carbon treatment or an equivalent treatment operated in accordance with good manufacturing practices as provided in 21 CFR 129.80.

G. The department may also exempt any water bottler from the monitoring requirements of Subsections C and D of this Section or reduce the frequency or scope of said source monitoring based on a showing satisfactory to the department that the source does not contain the compound(s) for which monitoring is required and is not vulnerable to contamination by the compound(s) because for surface water sources the compounds are not applied, manufactured, stored, disposed, or shipped upstream, and for groundwater sources, the compounds are not applied, manufactured, stored, disposed, or shipped in the groundwater recharge basin, or that a reliable indicator chemical may be monitored in lieu of said compound(s).

H. Where a bottled water plant operator, water dealer, or regulatory agency knows or has reason to believe that a contaminant not otherwise monitored is present in the source water because of a spill, release of a hazardous substance, or otherwise, and its presence would create a potential health hazard to consumers, the plant operator or water dealer upon receipt of such information shall monitor the source water for said contaminant.

I. Detection of contaminant in source monitoring required pursuant to R.S. 40:735 shall be followed immediately by a program of periodic monitoring to confirm the presence in the source water of said contaminant(s). If such listed unregulated contaminant(s) is confirmed to be present in the source water at a concentration that exceeds a published U.S. EPA health advisory, or a U.S. FDA or a department action level for drinking water, the plant operator or water dealer shall employ appropriate treatment techniques to remove or to reduce said contaminant in the product water below said concentration and shall employ a program of periodic monitoring for said contaminant in the source water until such time as said contaminant is not detectable in the source water.

J. The required source water monitoring shall be performed by qualified personnel and required analysis shall be performed by an approved laboratory. Records of the required sampling and analyses shall be maintained on file at the plant for not less than five years and shall be available for official review upon request of the department.

RS 40:736 — Finished product monitoring

rmed.

(1) For microbiological contaminants specified in R.S. 40:733, analyze weekly a representative sample from a batch or segment of a continuous production for each type of bottled water produced by the plant.

(2) For chemical, physical, and radiological contaminants specified in R.S. 40:733, analyze annually a representative sample from a batch or segment of continuous production run for each type of bottled drinking water produced by the plant.

- B. The required product water sampling shall be performed by qualified personnel and required analysis shall be performed by an approved laboratory.
- C. Records of required sampling and analysis shall be maintained at the plant not less than five years and shall be available for official review upon request of the department.

RS 40:737 — Labeling requirements

mineral water". Bottled water to which minerals are added shall be labeled so as to disclose that the minerals are added and may not be labeled "natural mineral water".

- (2) Spring water may be labeled "spring water" or "natural spring water".
- (3) Water containing carbon dioxide that emerges from the source and is bottled directly with its entrapped gas may bear on its label the words "naturally carbonated" or "naturally sparkling".
- (4) Bottled water which contains carbon dioxide other than that naturally occurring in the source of the product shall be labeled with the words "carbonated", "carbonation added", or "sparkling" when the carbonation is obtained from a natural or manufactured source.
- (5) Well water may be labeled "well water" or "natural well water".
- (6) Artesian water may be labeled "artesian water" or "natural artesian water".
- (7) Purified water shall be labeled "purified water" and the method of preparation shall be stated on the label, except that purified water produced by distillation may be labeled as "distilled water".
- (8) Drinking water may be labeled "drinking water".
- (9) Any bottler, distributor, or vendor of bottled water whose corporate name, brand name, or trademark contains the word "spring", "well", "artesian", "mineral", or "natural" or any derivative of those words shall label each bottle with the type of bottled water as defined in R.S. 40:732 in typeface at least equal to the size of the typeface of the corporate name, brand name, or trademark, if the type of the bottled water is different from the type stated or implied in the corporate name, brand name, or trademark.
- (10) The use of the word "spring", or any derivative thereof other than in a trademark, trade name, or company name, to describe water that is not spring water as defined herein shall be prohibited.
- (11) A product meeting more than one definition as stated in R.S. 40:732 may be identified by any of the applicable product types defined in R.S. 40:732, except where otherwise specifically prohibited.
- (12) Supplemental printed information and graphics may appear on the label but shall not imply properties of the product or preparation methods which are not factual.
- (13) Each bottler, manufacturer, distributor, or vendor of bottled water shall register each separate and distinct type of bottled water with the department in accordance with R.S. 40:627 and R.S. 40:628.

RS 40:738 — Soda water/soft drink exemption

one of those specified in R.S. 40:732 are exempt from the requirements of this Part. Water that is not in compliance with the requirements of this Part may not be identified, labeled, or advertised as "artesian water", "bottled water", "distilled water", "natural water", "purified water", "spring water", or "well water".

RS 40:739 — Waiver of filtration and germicidal treatment

's demonstration to the department's satisfaction that, based on review of long term baseline microbiological monitoring data of the source and product, and consideration of the nature and extent of source monitoring, source protection, and bottling sanitation procedures instituted by the bottler, filtration and germicidal treatment are not necessary to assure that the product will consistently comply with the microbiological standards herein. A waiver may be granted and maintained only upon a demonstration of all of the following:

- (1) That said bottled water product and source are in compliance with the Codex Alimentarius standard (CAC/AS 108) for natural mineral water, as amended, and the requirements of R.S. 40:733.
- (2) That said bottled water product and source are in compliance with the code of hygienic practice for the collecting, processing, and marketing of natural mineral water of the Codex Alimentarius, Alinorm 83/13A, as amended.

(3) That the bottler has submitted a basic hydrogeological survey of the source and an annual sanitary survey, both prepared by a professionally qualified hydrogeologist, demonstrating the integrity of the source, which sanitary survey shall include:

(a) Watershed surveillance consisting of an inspection of portions of the drainage area necessary to identify and evaluate actual and probable sources of contamination.

(b) Evaluation of source construction and protection and where appropriate, intake structures, and transmission facilities.

(c) Evaluation of finished water storage facilities.

(4) That continued compliance of the bottled water product and source with the Codex Alimentarius standards is demonstrated by an official testing performed once every two months by the authorities having jurisdiction, and by a weekly microbiological testing as described in the code of hygienic practices for the collecting, processing, and marketing of natural mineral water of the Codex Alimentarius, Alinorm 85/13A, and by an annual inspection by an independent organization acceptable to the department demonstrating compliance with the code of hygienic practices for the collecting, processing, and marketing of natural mineral water of the Codex Alimentarius, Alinorm 85/13A.

(5) That said bottled water product is bottled in an enclosed filling room/chamber that is under positive pressure of filtered purified air, and using facilities and good manufacturing practices that comply with the requirements of 21 CFR Part 129.

B. This exemption to the requirement for filtration and germicidal treatment for said bottled water product shall be renewed every year by the submission of an annual report establishing compliance with the microbiological standards described in 21 CFR Section 103.35 and the requirements of this Section pertaining to said water and source. Bottled water that is not in compliance with any of such requirements shall be subject to the requirement for filtration and germicidal treatment.

C. This exemption applies only to the requirement for filtration and germicidal treatment. All bottled water shall comply with all other provisions of this Part.

RS 40:740 — Appendices; maximum contaminant levels

g/L)

(1) VOLATILE ORGANIC COMPOUNDS

Trichloroethylene

0.005

5

Carbon tetrachloride

0.005

5

Vinyl Chloride

0.002

2

1,2-Dichloroethane

0.005

5

Benzene

0.005

5

1,1,-Dichloroethylene

0.007

7

1,1,1,-Trichloroethane

0.200

200

p-Dichlorobenzene

0.075

75

Trihalomethanes

0.010

10

(2) INORGANIC COMPOUNDS

Arsenic

0.05

50

Barium

1.0

1000

Cadmium

0.01

10

Chloride

250.0

250,000

Chromium

0.05

50

Copper

1.0

1,000

Fluoride

4.0

4,000

Iron

0.3

300

Lead

0.005

5

Manganese

0.05

50

Mercury

0.002

2

Nitrate

10.0

10,000

Selenium

0.01

10

Silver

0.05

50

Sulfate

250.0

250,000

TDS

500.0

Zinc

5.0

5,000

(3) ORGANIC COMPOUNDS

Endrin

0.0002

0.2

Lindane

0.004

4.0

Methoxychlor

0.10

100.0

Toxaphene

0.005

5.0

2,4-D

0.10

100.0

2,4,5-TP (Silvex)

0.01

10.0

(4) WATER PROPERTIES

Color

< 15 units

Turbidity

< 5 units

pH

6.5 - 8.5

Odor

3 T.O.N.

(5) RADIONUCLIDES

*Gross Alpha

15 pCi/L

**Gross Beta

50 pCi/L

*If Gross Alpha is greater than 5, analyze for Radium 226 and Radium 228. Their total should not exceed 5 pCi/L.

**If Gross Beta is greater than 8 pCi/L, analyze for Strontium 90. If Gross Beta is greater than 50 pCi/L, analyze for Tritium and other man-made nuclides.

B. Appendix B. The following is a listing of inorganic and organic substances:

(1) Inorganics

Aluminum

Ammonia

Antimony

Beryllium

Boron

Cyanide

Foaming Agents

Molybdenum

Nickel

Radium 226

Radium 228

Radon

Sodium

Strontium

Thallium

Uranium

Vanadium

(2) Organics

Acrylamide

Alachlor

Atrazine

Aldrin

Aldicarb

Aldicarb Sulfone

Aldicarb Sulfoxide

Acenaphthene

Acenaphthylene

Adipates

Anthracene

Bentazon

Bromobenzene
Bromochloromethane
Bromomethane
Butylbenzene, n
Butylbenzene, sec
Butylbenzene, tert
Benzidine
Benzo (a) anthracene
Benzo (a) pyrene
Benzo (b) fluoranthene
Benzo (ghi) perylene
Benzo (k) fluoranthene
Bis (2-chloroethoxy) methane
Bis (2-chloroethyl) ether
Bis (2-chloroisopropyl) ether
Bis (2-ethylhexyl) pthalate
Bromophenyl Phenyl Ether, 4
Butylbensyl pthalate
Bromacil
Butachlor
Carbofuran
Cyanazine
Chlordane
Chlorothalonil
Chlorobenzene
Chloroethane
Chloromethane
Chlorotoluene, o-
Chlorotoluene, p-
Carbaryl
Chloro-m-Cresol, p-
Chloronapthalene, 2-
Chlorophenol, 2-
Chlorophenyl Phenyl Ether, 4-
Chrysene
Dacthal
Dalapon
DB,2,4-
Delta BHC
Diazonon
Dibromo-3-Chloropropane, 1,2-
Dimethoate

Dieldrin
Ditrotoluene, 2,4-
Dicamba
Dinoseb
Dibromomethane
Dichlorobenzene, m-
Dichlorobenzene, o-
Dichlorodifluoromethane
Dichloroethane,1,1-
Dichloroethylene,1,2-cis-
Dichloroethylene,1,2,-trans
Dichloromethane
Dichloropropane,1,2-
Dichloropropane,1,3-
Dichloropropane,2,2-
Dichloropropene,1,1-
Dichloropropene,1,3-
Di-n-butyl phthalate
Di-n-octyl phthalate
Dichlorobenzidine,3,3-
Dibenzo (a,h) anthracene
Dichlorophenol,2,4-
Diethyl Pthalate
Dimethy Pthalate
Dimethlyphenol,2,4-
Dinitro-o-Cresol,4,6-
Dinitrophenol,2,4-
Diphenylhydrazine,1,2-
Dinitrotoluene,2,6-
Diuron
Diquat
Endothall
Epichlorohydrin
Ethylbenzene
Ethyl Dibromide
Fluorotrichloromethane
Fluoranthene
Fluorene
Glyphosate
Heptachlor
Heptechlor Epoxide
Hexachlorobenzene

Hexachlorobutadiene
Hexachlorocyclopentadiene
Hexachloroethane
Indeno (1,2,3-c,d) Pyrene
Isophorone
Isopropylbenzene
Isopropyltoluene,p-
Methomyl
Methyl tert-Butyl-Ether
Methyl-4,6-Dinitrophenol,2-
Metolachlor
Metribuzin
Molinate
Napthalene
Nitrobenzene
Nitrophenol,2-
Nitrophenol,4-
Nitrosodimethylamine,n-
Nitrosodiphenylamine,n-
Nitrosodi-n-propylamine,n-
PCB
Pentachlorophenol
Phenathrene
Picloram
Prometryn
Propylbenzene,n-
Pyrene
Simazine
T,2,4,5
TCDD,2,3,7,8-
Tetrachloroethane,1,1,1,2-
Tetrachloroethane,1,1,2,2
Tetrachloroethylene
Thiobencarb
Toluene
Trichlorobenzene, 1,2,3-
Trichloro-1,2,2,-Trifluoroethane
Trichlorobenzene,1,2,4
Trichloroethane,1,1,2-
Trichlorophenol,2,4,5-
Trichlorophenol,2,4,6
Trichloropropane,1,2,3-

Trifluralin

Trimethylbenzene,1,2,4-

Trimethylbenzene,1,3,5

Vydate

Xylene,m-

Xylene,o-

Xylene,p-

C. Appendix C. The following is a listing of disinfection byproducts:

(1) Haloacids:

Bromoacetic acid

Dibromoacetic acid

Chloroacetic acid

Dichloroacetic acid

Trichloroacetic acid

(2) Aldehydes

Acetaldehyde

Formaldehyde

(3) Pentane Extractables

Bromochloroacetonitrile

Dibromoacetonitrile

Dichloroacetonitrile

Trichloroacetonitrile

Chloropicrin

Dichloropropanone,1,1,-

Trichloropropanone,1,1,1,-

(4) Cyanogen Chloride

RS 40:741 — Rules and enforcement; criminal penalties

t.

B. The department may deny, suspend, or revoke a permit when the department determines that there has been a substantial failure to comply with the provisions of this Part or to comply with the rules adopted under the provisions of this Part.

C. Whoever violates the provisions of this Part shall be fined not more than five hundred dollars.

RS 40:751 — Enforcement of Part

s officers or agents.

RS 40:752 — Vitamin content

ited States Pharmacopeia Units of vitamin A per pound.

RS 40:753 — Conformity to rulings of federal security agency

e Federal Security Agency concerning the addition of vitamins to oleomargarine.

RS 40:754 — Right of entry upon premises of manufacturer, processor, or dealer

upon the premises of any person engaged as a retail or wholesale dealer in oleomargarine, to collect samples for analyses or to make such investigations as may be necessary to properly enforce this Part.

RS 40:755 — Shortage of vitamin; procedure for waiver

tage of any vitamin added to or to be added to oleomargarine as required by this Part, the department shall request information from the federal agency responsible for information concerning the availability of that vitamin. If factual information from the federal source can be obtained within ten days, it shall be considered as final and the department shall act thereon. If the information from the federal agency is not available within ten days, the department shall call a public hearing, to be held within ten days after notice. If the testimony presented shows that the sale and distribution of oleomargarine may be substantially impeded by the enforcement of the provisions of this Part, the department shall authorize the sale and distribution of oleomargarine until adequate supplies of the vitamins become available, in the judgment of the department, based on information from the federal agencies or testimony at a public hearing.

RS 40:756 — Labeling

ne with added vitamin A sold in interstate commerce.

RS 40:757 — Penalty

ce any technical difficulties navigating this website,

RS 40:781 — Definitions

ropriate federal agency" means the Federal Security Agency or any agency or department or administrative federal officer charged with the enforcement and administration of the Federal Food, Drug, and Cosmetic Act.

(2) "Bread" means bread of every kind and description made wholly or partly from wheat flour, which conforms to the definition and standard of identity of bread as promulgated by the Federal Security Agency. The term does not include bread containing no wheat flour or breads made from whole wheat flour.

(3) "Enrichment", as applied to flour or bread, means the addition thereto of vitamins and other ingredients of the nature required by this Subpart; and the terms "enriched flour" and "enriched bread", (as defined in the regulations of the Food and Drug Administration, Federal Security Agency) means flour or bread, as the case may be, which has been enriched to conform to the requirements of this Subpart.

(4) "Flour" means flour of every kind and description made wholly or partly from wheat, which conforms to the definition and standard of identity of flour, white flour, wheat flour, and plain flour, as promulgated by the Federal Security Agency. The term does not include whole wheat flour made only from the whole wheat berry with no part thereof removed, and special packaged flours not used for bread baking, such as cake, pancake, cracker, and pastry flours.

(5) "Secretary" means the secretary of the Louisiana Department of Health, hereinafter referred to in this Part as the "department."

RS 40:782 — Rules and regulations

to, such orders, rules, and regulations as it is specifically authorized and directed to make in this Subpart.

RS 40:783 — Publication of rules, orders, notices; effective date

days in newspapers of general circulation in three different sections of the state.

B. Within the limits specified in this Section, these notices, orders, rules, and regulations shall become effective on the date fixed by the department.

RS 40:784 — Exemptions from Subpart

to the sellers a certificate of intent, on a form prescribed by the secretary, certifying that the flour shall be used only in the production of flour or bread enriched, within the given establishment, to meet the requirements of this Subpart or shall be used in the manufacture of products other than flour or bread. No purchaser furnishing this certificate of intent shall use the unenriched flour so purchased in any manner other than as stated in the certificate.

(2) Flour or bread which is made from the entire wheat berry with no parts of the wheat removed from the mixture. In cases of flour or bread containing mixtures of the whole wheat berry and white flour or a mixture of various portions of the wheat berry, these products shall have a vitamin and mineral potency at least equal to enriched flour or enriched bread as described in this Subpart.

(3) Flour ground for the wheat producer when the miller is paid in wheat or feed for the grinding service rendered, except insofar as the mill manufactures toll wheat into flour and sells or offers for sale this flour. In the latter case, this Subpart is applicable.

(4) Farmers in exchanging their wheat for flour or having it ground into flour and disposing of it for their own use or for the use of farm labor on their farms.

RS 40:785 — Vitamin content and other ingredients in flour

d other ingredients are contained in each pound thereof:

Not less than 1.66 milligrams of vitamin B1 (thiamin); not less than 6 milligrams of nicotinic acid (also recognized under the name of niacin) or nicotinic acid amide (also known under the name of niacin amide); and not less than 6 milligrams of iron.

B. The department shall change or add to the specifications for ingredients and the amounts thereof so as to conform to the federal definition of enriched flour.

RS 40:786 — Enrichment of flour; methods

these methods or by any method which is permitted by the Federal Security Agency with respect to flour introduced into interstate commerce.

If other vitamins or minerals than those provided for in R.S. 40:785 are added to flour, they shall be added only in accordance with the regulations of the Federal Security Agency.

Iron shall be added only in forms which are assimilable and harmless and which do not impair the enriched flour.

RS 40:787 — Vitamin content and other ingredients in bread

ess the following vitamins and other ingredients are contained in each pound thereof:

Not less than 1 milligram of vitamin B1 (thiamin); not less than 4 milligrams of nicotinic acid (niacin) or nicotinic acid amide (niacin amide); and not less than 4 milligrams of iron.

B. The department shall change or add to the specifications for ingredients and the amounts thereof so as to conform to the federal definition of enriched bread.

RS 40:788 — Enrichment of bread; methods

y any combination of harmless methods which will produce enriched bread which meets the requirements of R.S. 40:787.

Iron shall be added only in forms that are assimilable and harmless and which do not impair the enriched bread.

RS 40:789 — Labeling

e Federal Food, Drug, and Cosmetic Act, and the regulations thereunder governing the labeling of flour or bread introduced into interstate commerce.

RS 40:790 — Inspection and analyses

es under his supervision. All such officers and employees may enter any factory, mill, warehouse, shop, or establishment where flour or bread is manufactured, processed, packed, sold, or held, or any vehicle and inspect any flour, bread, and pertinent equipment, materials, containers, and labeling therein.

RS 40:791 — Shortage of ingredients; procedure for suspending Subpart

e result that the sale and distribution of flour and bread may be substantially impeded by the enforcement of this Subpart, the department shall issue an order, effective immediately, permitting the omission of the particular ingredients from flour or bread. When it finds that the shortage no longer exists, it shall issue an order, effective not less than ten days after publication, revoking its first order.

B. The department may make a finding as to the existence or imminence of any such shortage or the cessation thereof in either of the following two ways:

(1) On the basis of an order of or factual information supplied by the Federal Food and Drug Administration or any other federal agency possessed of such information, without a public hearing; or

(2) In the absence of any such order or factual information, after a public hearing, called and held in the following manner. Upon receipt of the sworn statement of any person subject to this Subpart that such a shortage exists or is imminent or has ceased, the department shall, within ten days thereafter and after at least ten days notice, hold a public hearing on the matter. Any interested person may present evidence at this hearing in support of the affidavit and any such finding by the department may be based upon the evidence so presented.

RS 40:792 — Penalty

than one hundred dollars or imprisoned for not more than thirty days, or both.

RS 40:821 — Manufacturers and dealers; fees; disposition of fees

ed for use as a

flour, under any name whatsoever, shall first register with the Louisiana Department of Health hereinafter referred to as the "department," the brand, style, and trade name and address under which the product is distributed, sold, or exposed or offered for sale. The fee for registration of each separate and distinct brand or style shall be not more than five dollars annually.

B. All registration fees collected under the provisions of this Subpart shall be devoted to the expenses of registration, inspections, and examinations conducted under the authority of this Subpart and for the enforcement of the provisions of this Subpart.

RS 40:822 — Rules and regulations; standards; inspectors

t may also designate officers or inspectors to make inspections, examinations, and investigations for the enforcement of this Subpart.

RS 40:824 — Penalty

s 2018, No. 206, §4.

RS 40:851 — Contents of self-rising flour

ing ingredients shall be bicarbonate of soda and either calcium acid, phosphate, sodium, aluminum sulphate, cream of tartar, tartaric acid, or a combination of these.

RS 40:852 — Contents of label; required ingredients

se as a self-rising flour, under any name whatsoever, shall securely affix or cause to be securely affixed to the outside of every box, sack, or package containing the flour or compound a label, distinctly printed in plain capital letters and in the English language, containing the name and domicile of the manufacturer or dealer and the percentage by weight of each of the chemical leavening ingredients of the flour or compound.

This self-rising flour or any compound so styled, when sold for use, shall produce not less than one-half of one per cent by weight of available carbon dioxide gas and there shall not be contained therein more than three and one-half per cent of chemical leavening ingredients. Otherwise, the flour or compound shall be considered adulterated.

RS 40:853 — Penalty

No. 206, §4.

RS 40:881 — Labeling of milk products; prohibition; definition; enforcement

ty for milk, as set forth in 21 CFR 131.110, the

Pasteurized Milk Ordinance, and the provisions of this Section to prohibit the sale of plant-based products mislabeled as milk.

B. For purposes of this Section, "milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. Milk that is in its final packaged form for beverage use shall have been pasteurized, ultra-pasteurized, or aseptically processed and shall contain not less than eight and one-quarter percent milk solids not fat and not less than three and one-quarter percent milk fat. Milk may have been adjusted by separating part of the milk fat therefrom or by adding thereto cream, concentrated milk, concentrated low fat milks, dry milk, or dry low fat milks. Milk may be homogenized. Water shall not be added to milk or any ingredient used in milk. Milk may be flavored with safe and suitable flavoring ingredients approved by the state health officer. The word "milk" shall be interpreted to include goat, sheep, water buffalo, camel milk, and the milk of other hooved mammals.

C. Enforcement of this Section shall commence upon enforcement of the standard of identity for milk by the United States Food and Drug Administration.

D. The provisions of this Section shall not apply to breast milk.

RS 40:921 — Grade A requirements; powdered whole milk and powdered skim milk

or the purpose of human consumption as such, shall be

Grade A according to specifications in the rules and regulations promulgated by the Louisiana Department of Health, hereinafter referred to as the "department"; provided that a person may sell properly labeled milk of a quality less than Grade A for a period of thirty days under permit from the department, provided it is labeled as to grade.

B. All powdered whole milk (dry whole milk), powdered skim milk (nonfat dry milk) and other powdered milk products (dry milk products) in packages or other containers offered for sale, sold or delivered for the purpose of human consumption shall be labeled as to grade in a manner sufficient to inform the purchaser of the grade of the product, the grade to be determined according to the specifications in the rules and regulations promulgated by the department, provided that nothing in this Section shall apply to nonfat dry milk or dry whole milk received from the United States Department of Agriculture for the purpose of its food distribution programs for schools, institutions and needy persons.

RS 40:922 — Rules and regulations prescribing sanitary standard requirements and grade labeling requirements

egulations prescribing the sanitary standard requirements of all milk sold or offered for sale in this state, provided that no rules and regulations shall be promulgated setting up standards lower than those as set forth in the U.S. Public Health Service Milk Ordinance and Code.

B. The department is hereby empowered and shall have the authority to promulgate rules and regulations prescribing the sanitary standard requirements and grade labeling requirements of all powdered whole milk (dry whole milk), powdered skim milk (nonfat dry milk), and powdered milk products (dry milk products), sold, offered for sale or delivered in this state.

RS 40:923 — Imported milk and milk products

ct in which it is used as provided in the rules and regulations promulgated by the department.

RS 40:924 — Revocation or cancellation of permit or license

he state who violates any of the provisions of this Subpart.

RS 40:925 — Municipalities and parishes; standards; powers

set up standards concerning all milk and milk products sold within their respective jurisdictions higher than the standards prescribed heretofore in this Subpart, and such municipalities and parishes shall have the power and authority to revoke or cancel the permit or license of any person, firm, or corporation doing business within their respective limits who violates any of the provisions of this Subpart, or ordinance, or rule or regulation, or order prescribed by said municipalities or parishes. No rules and regulations shall be promulgated by the department denying any municipality or parish the power and authority provided for in this Section.

RS 40:940.51 — Exemption of sales to schools; competitive bids for purchase of milk

of any elementary or secondary school in this state after July 31, 1974, shall be exempt from any minimum price or other price fixing requirement or regulation contained in this Part or in any other statute or regulation of any administrative agency.

B. Every school board in this state is hereby authorized and directed, after July 31, 1974, to advertise for competitive bids for the purchase of milk and milk products for use in its schools in accordance with the requirements and procedures of the public bid law, R.S. 38:2211 through 2221.

RS 40:940.52 — Commercial fisherman's catch; transportation and sale

dor's permit" while selling his catch directly from either his boat or his place of residence. No commercial fisherman shall be allowed to sell oysters under the provisions of this Section.

RS 40:941 — Handling of meat not slaughtered under license prohibited; exceptions;

purchase, trade, handle, or sell, in any manner, the carcass or any part thereof of any animal not slaughtered for human consumption by a licensed butcher or in a licensed slaughterhouse, packing house, or abattoir.

B. This Section does not apply to persons slaughtering for human consumption their own animals on their own farm, plantation, or agricultural premises; or to individuals slaughtering their own animals for the occasional sale of meat as an incident to some other business, where these individuals are not otherwise required by law to have a license for the slaughtering or butcher business.

C. This Section does not apply to the slaughtering of alligators or nutria, or the field dressing of wild game, which shall be governed by regulations promulgated by the Louisiana Department of Health, with the concurrence of both the Louisiana Department of Agriculture and the Louisiana Department of Wildlife and Fisheries.

D. Whoever violates this Section shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned for not less than thirty days nor more than ninety days, or both.

RS 40:951 — Definitions

bsorbed, or when applied to or injected into the body in relatively small amounts may, by its chemical action, cause damage to structure or disturbance of function.

RS 40:952 — Caustic alkali and other poisons; label on container; penalty

ear a label on which is printed or stamped in red ink

the word "poison" and also shall have printed thereon the skull and crossbones.

B. The label on any container containing a caustic alkali shall have printed on it, in red ink, the antidote for the caustic alkali, in order that first aid may be given in case of poisoning thereby.

C. Whoever violates this Section shall be fined not less than fifty dollars nor more than one hundred dollars or imprisoned for not less than ten days nor more than thirty days, or both.

D. Nothing in this Section shall apply to the containers of a caustic alkali and other poisons being used or to be used for industrial purposes only or used in the transportation of a caustic alkali and other poisons for industrial purposes only.

E. The labeling on any container containing amyl nitrite, isopentyl nitrite or any of their isomers, or butyl nitrite, n-butyl nitrite, isobutyl nitrite or any of their isomers shall have printed on it, in red ink, the word, "poison" and also shall have printed, thereon, the skull and crossbones unless labeled for prescription drug use, except where such container containing amyl nitrite is labeled in accordance with labeling requirements of the Federal Food, Drug and Cosmetic Law.

RS 40:953 — Seizure

uthorized representative he designates for that purpose.

RS 40:961 — Definitions

ns a drug dependent person who habitually uses any narcotic drugs

as to have lost the power of self-control with reference to his use of said drugs.

(2) "Administer" means to deliver under the auspices of a registered practitioner a controlled dangerous substance to the ultimate user or human research subject by injection, or for inhalation, or ingestion, or by any other means except where otherwise provided by law.

(3) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser but does not include a common or contract carrier, public warehouseman, or employee thereof.

(4) "Aggregate" means the gross weight of an exhibit of evidence.

(5) "Apothecary" means a licensed pharmacist as defined by the laws of this state and, where the context so requires, the owner of the store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this Part shall be construed as conferring on a person who is not registered nor licensed as a

pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this state.

(6) "Cannabis" includes all parts of plants of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed of such plant which is incapable of germination.

(7) "Control" means to add a drug or other substance, or immediate precursor, to a schedule under R.S. 40:964, whether by transfer from another schedule or otherwise.

(8) "Controlled dangerous substance" means any substance defined, enumerated, or included in federal or state statute or regulations, 21 CFR 1308.11 through 1308.15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled dangerous substance by amendment or supplementation of such regulations or statute. The term shall not include distilled spirits, wine, malt beverages, or tobacco.

(9) "Controlled substance analogue" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled dangerous substance in Schedule I or II of R.S. 40:964; which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II; or with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II. Such term shall not include any substance for which there is an approved new drug application; with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under the federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to such substance is pursuant to such exemption; or any substance to the extent not intended for human consumption before an exception takes effect with respect to that substance.

(10) "Counterfeit controlled dangerous substance" means a controlled dangerous substance which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

(11) "Deliver" or "delivery" means the transfer of a controlled dangerous substance whether or not there exists an agency relationship.

(12) "Dentist" means a person licensed and authorized by law to practice dentistry in this state.

(13) "Depressant" means a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid; or any derivatives of barbituric acid; or any substance listed in Schedule I(D), Schedule II(D) or Schedule III(B) of R.S. 40:964, or which has been designated by the secretary of the Louisiana Department of Health as habit forming because of its depressant effect on the central nervous system.

(14) "Dispense" means to deliver a controlled dangerous substance to the ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for such delivery.

(15) "Distribute" means to deliver a controlled dangerous substance whether by physical delivery, administering, subterfuge, furnishing a prescription, or by filling, packaging, labeling or compounding the substance pursuant to the lawful order of a practitioner.

(16) "Distributor" means a person who delivers a controlled dangerous substance as herein defined.

(17) "Drug" means:

(a) Articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them.

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

(c) Articles other than food intended to affect the structure of any function of the body of man or other animals.

(d) Articles intended for use as a component of any article specified in Subparagraph (a), (b), or (c) of this Paragraph, but does not include devices or their components, parts, or accessories.

(18) "Drug dependent person" means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

(19) "Drug Enforcement Administration" means the Drug Enforcement Administration, United States Department of Justice or its successor.

(20) "Hallucinogen" means a drug which contains any quantity of LSD (Lysergic acid diethylamide), its isomers, salts, salts of isomers, or any quantity of a substance listed in Schedule I(C) of R.S. 40:964, or any substance which the secretary of the Louisiana Department of Health after investigation has found to have, and by regulation designates as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system, or hallucinogenic effect.

(21) "Imitation controlled dangerous substance" means a noncontrolled substance which by appearance or operation, including color, shape, size, markings, or packaging, or

by representations made, or by its pharmacological effect, would lead a reasonable person to believe that the substance is a controlled dangerous substance.

(22) "Immediate precursor" means a substance which the secretary of the Louisiana Department of Health has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

(23) "Industrial hemp" means the plant *Cannabis sativa* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis and cultivated and processed in accordance with the U.S. Agriculture Improvement Act of 2018, or the plan submitted by the Department of Agriculture and Forestry that is in compliance with U.S. Department of Agriculture rules.

(24) "Isomers" refers to optical isomers and/or stereoisomers and mixtures thereof, unless specifically excepted in this Part. Optical isomers or stereoisomers are molecules which differ from each other only in the way the constituent atoms are oriented in space.

(25) "Legend drug" means any drug or drug product bearing on the label of the manufacturer or distributor, as required by the federal Food and Drug Administration, the statement "Caution: Federal law prohibits dispensing without prescription".

(26) "Manufacture" means the production, preparation, propagation, compounding, or processing of a controlled dangerous substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacturer includes any person who packages, repackages, or labels any container of any controlled dangerous substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer.

(27)(a) "Marijuana" means all parts of plants of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin.

(b) "Marijuana" shall not include the following:

(i) Industrial hemp that is in the possession, custody, or control of a person who holds a license issued by the Department of Agriculture and Forestry, or is cultivated and processed in accordance with the U.S. Agriculture Improvement Act of 2018.

(ii) The mature stalks of plants of the genus *Cannabis*, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(iii) Cannabinoids when contained in a drug product approved by the United States Food and Drug Administration.

- (28) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
- (a) Opium, coca leaves, and opiates.
 - (b) A compound, manufacture, salt, derivatives, or preparation of opium, coca leaves, or opiates.
 - (c) A substance and any compound, manufacture, salt, derivative, or preparation thereof which is chemically identical with any of the substances referred to in Subparagraphs (a) and (b) of this Paragraph, except that the words "narcotic drug" as used in this Part shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.
- (29) "Nitrogen-heterocyclic analog" means a nitrogen-heterocyclic analog of a synthetic cannabinoid which has a single carbon atom in a cyclic structure of a compound replaced by a nitrogen atom.
- (30) "Opiate" means any dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under R.S. 40:963, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.
- (31) "Opium poppy" means the plant of the species *Papaver somniferum*, except the seeds thereof.
- (32) "Person" includes any institution whether public or private, hospitals or clinics operated by the state or any of its political subdivisions, and any corporation, association, partnership, or one or more individuals.
- (33) "Physical dependence" means a physiologic state of neuroadaptation which is characterized by the emergence of a withdrawal syndrome if drug use is stopped or decreased abruptly, or if an antagonist is administered. Physical dependence is an expected result of opioid use. Physical dependence, by itself, does not equate with addiction.
- (34) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- (35) "Practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research in this state.
- (36) "Prescribe" means to issue a written request or order for a controlled dangerous substance by a person licensed under this Part for a legitimate medical purpose. The act of prescribing must be in good faith and in the usual course of the licensee's professional practice.
- (37) "Prescription" means a written request for a drug or therapeutic aid issued by a licensed physician, dentist, veterinarian, osteopath, or podiatrist for a legitimate medical purpose, for the purpose of correcting a physical, mental, or bodily ailment, and acting in

good faith in the usual course of his professional practice.

(38) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance.

(39) "Secretary" means the secretary of the Louisiana Department of Health or his successor.

(40) "State" means the state of Louisiana.

(41) "Stimulant" means a drug which contains a quantity of amphetamine or any of its isomers; any salt of amphetamine or any salt of an isomer of amphetamine; or any substance listed in Schedules II(C) or III(A) of R.S. 40:964, or any substance which the secretary of the Louisiana Department of Health after investigation, has found to be and by regulation designated as habit forming because of its stimulant effect on the central nervous system.

(42) "Substance abuse" or "addiction" means a compulsive disorder in which an individual becomes preoccupied with obtaining and using a substance, despite adverse social, psychological, or physical consequences, the continued use of which results in a decreased quality of life. The development of controlled dangerous substance tolerance or physical dependence does not equate with substance abuse or addiction.

(43) "Third-party logistics provider" means a person who provides or coordinates warehousing, facilitation of delivery, or other logistic services for a legend drug or legend device in interstate and intrastate commerce on behalf of a manufacturer, distributor, or dispenser of a legend drug or legend device but does not take ownership of the legend drug or legend device nor have responsibility to direct the sale or disposition of the legend drug or legend device.

(44) "Tolerance" means the physiologic state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Controlled dangerous substance tolerance refers to the need to increase the dose of the drug to achieve the same level of analgesia. Controlled dangerous substance tolerance may or may not be evident during controlled dangerous substance treatment.

(45) "Ultimate user" means a person who lawfully possesses a controlled dangerous substance for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

RS 40:961.1 — Industrial hemp exemption

to industrial

hemp or consumable hemp products that are possessed, stored, cultivated, trimmed, dried, cured, and transported by a licensee in accordance with Part V of Chapter 10-A of Title 3 of the Louisiana Revised Statutes of 1950 or that are processed, distributed, sold, or offered to be sold by a permittee in accordance with Part VI of Chapter 10-A of Title 3 of the Louisiana Revised Statutes of 1950.

B. Nothing in this Part shall be construed to prohibit the transportation and shipment of federally compliant hemp products through the state to the limited extent currently provided by federal law. For the purposes of this Section, "through the state" means from

one geographic boundary of the state to another geographic boundary of the state.

RS 40:962 — Authority to control

s substance if it is

classified as a controlled dangerous substance by the Drug Enforcement Administration of the United States government.

C. The secretary may by rule add to the schedules provided in R.S. 40:964 any drug or other substance if he finds that such drug or other substance has a high potential for abuse, and after such a finding by the secretary, the drug shall be added in the appropriate schedule under the criteria provided under R.S. 40:963. In making a finding that a drug or other substance has a high potential for abuse, the secretary shall consider the following factors with respect to each drug or other substance proposed to be controlled:

- (1) Its actual or relative potential for abuse.
- (2) Scientific evidence of its pharmacological effect, if known.
- (3) State of current scientific knowledge regarding the substance.
- (4) Its history and current pattern of abuse.
- (5) Its scope, duration and significance of abuse.
- (6) What, if any, risk there is to public health.
- (7) Its psychic or physiological dependence liability.
- (8) Whether the substance is an immediate precursor of a substance already controlled by this Section.

D. In an adjudication, the secretary may transfer a controlled substance from one schedule to another schedule upon the basis of a finding that the characteristics of the controlled drug or substances are such that under the criteria in R.S. 40:963 the controlled substances should be transferred or that a transfer of any substance listed under R.S. 40:964 from one schedule to another schedule should be made in order to conform with the schedule in which the drug is placed by the Drug Enforcement Administration of the United States government.

E. If the secretary designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

F. The secretary shall exclude any nonnarcotic substance from a schedule if the substance may, under the Federal Food, Drug, and Cosmetic Act and the law of this state, be lawfully sold over the counter without a prescription.

G. The reclassification of any controlled dangerous substance or its transfer from one schedule to another by the secretary or the state health officer shall not affect the penalties provided by this Part.

H. If the scheduling of a substance in Schedule I is necessary to avoid an imminent peril to the public health, safety, or welfare, the secretary may adopt an emergency rule adding the substance to Schedule I pursuant to R.S. 49:962. In determining whether the substance poses an imminent peril to the public health, safety, or welfare, the secretary shall consider the factors set forth in Paragraphs (C)(4), (5), and (6) of this Section.

I. The secretary may by rule delete any drug or other substance from the schedules

provided in R.S. 40:964 if the drug or other substance is no longer classified as a controlled dangerous substance by the United States Drug Enforcement Administration.

RS 40:962.1 — Ephedrine products

a salt of an

optical isomer of ephedrine may be dispensed only upon the prescription of a duly licensed practitioner authorized by the laws of the state to prescribe prescription drugs.

B. The following products containing ephedrine shall be exempt from the provisions of Subsection A of this Section provided that such product may lawfully be sold over the counter without a prescription under the federal Food, Drug, and Cosmetic Act, is labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph, and is manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse:

(1) Solid oral dosage forms (including soft gelatin caplets) that combine active ingredients in the following ranges for each dosage unit:

- (a) Theophylline (100-130 mg), Ephedrine (12.56-24 mg).
- (b) Theophylline (60-100 mg), Ephedrine (12.5-24 mg), Guaifenesin (200-400 mg).
- (c) Ephedrine (12.5-25 mg), Guaifenesin (200-400 mg).
- (d) Phenobarbital (not greater than 8 mg) in combination with ingredients of Subparagraph (a) or (b) of this Paragraph.

(2) Liquid oral dosage forms that combine active ingredients in the following ranges for each (5 ml) dose:

- (a) Theophylline (not greater than 45 mg), Ephedrine (not greater than 36 mg), Guaifenesin (not greater than 100 mg), Phenobarbital (not greater than 12 mg).
- (b) Phenylephrine (not greater than 5 mg), Ephedrine (not greater than 5 mg), chlorpheniramine (not greater than 2 mg), dextromethorphan (not greater than 10 mg), ammonium C1 (not greater than 40 mg), ipecac fluid extract (not greater than 0.005 ml).

(3) Anorectal preparations containing less than five percent ephedrine.

(4) Any liquid compound, mixture, or preparation containing one-half percent or less of ephedrine.

C. The marketing, advertising, or labeling of any nonprescription product containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine for the indication of stimulation, mental alertness, weight loss, appetite control, or energy is prohibited. The Louisiana Department of Health, office of public health is authorized to adopt rules and regulations in accordance with the Administrative Procedure Act to exempt other nonprescription products from the prohibition contained herein. Such rules and regulations shall require a distributor or manufacturer seeking an exemption from the prohibition contained herein to clearly demonstrate that the nonprescription product is intended for use for a valid medicinal purpose and that the marketing of that product does not encourage, promote, or abet the abuse or misuse of ephedrine. In addition, such rules and regulations shall include the following factors for purposes of determining whether or not such an exemption should be granted:

- (1) The packing of the product.

(2) The name and labeling of the product.

(3) The manner of distribution, advertising, and promotion of the product.

(4) Verbal representations made concerning the product.

(5) The duration, scope, and significance of abuse or misuse of the particular product.

D. Whoever violates any provision of this Section shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

E. Notwithstanding any provision of law to the contrary, unless listed in another schedule, any product that contains any quantity of ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine is a Schedule V controlled dangerous substance and shall be dispensed, sold, or distributed only in accordance with the provisions of R.S. 40:1049.1 et seq. Such products shall be exempt from the reporting for Schedule V drugs as provided for in R.S. 40:1001 et seq.

RS 40:962.1.1 — Possession of twelve grams or more of ephedrine, pseudoephedrine, or

son to possess twelve grams or more of ephedrine,

pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers.

(2) It is unlawful for any person to possess ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers in powder form unless the weight of the ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers is less than twelve grams and the powder is in the manufacturer's original packaging and may be lawfully sold over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq.

B. The provisions of this Section shall not apply to any of the following:

(1) Any person possessing a valid prescription for ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, and salts of optical isomers.

(2) Any licensed manufacturer, wholesaler, or distributor who sells, transfers, or otherwise furnishes ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, and salts of optical isomers to any licensed practitioner operating within the course and scope of that profession.

(3) Any licensed pharmacist or other authorized person who sells or furnishes ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, and salts of optical isomers in the course of their professional practice, pursuant to the prescription of any licensed practitioner.

(4) Any licensed practitioner who administers or furnishes ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, and salts of optical isomers in the course of their professional practice.

(5) Any person in possession of ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, and salts of optical isomers in his residence under circumstances that are consistent with typical medicinal or household use.

Factors that the court may consider in determining whether the circumstances of the possession are consistent with typical medicinal or household use include but are not limited

to storage location, purchase date, expiration date, possession of the products in a variety of strengths, brands, types, or purposes and the health conditions of persons in the residence.

(6) Any manufacturer, wholesaler, distributor, or retail business which sells, transfers, or otherwise furnishes products to customers for medicinal purposes, which products contain ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, and salts of optical isomers, while acting within the scope and course of that business.

C. The provisions of this Section shall not apply to any pediatric products primarily intended for administration, according to label instructions, to children under twelve years of age provided that:

(1) For any solid dosage form, the individual dosage unit, according to label instructions, does not exceed fifteen milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine.

(2) For any liquid dosage form, the recommended dosage units, according to label instructions, does not exceed fifteen milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per five milliliters of the liquid product.

(3) For any liquid dosage form intended for administration to children under two years of age, the recommended dosage does not exceed two milliliters and the total package content is not more than one fluid ounce.

D. Repealed by Acts 2009, No. 314, §2.

E. Whoever violates any provision of this Section shall be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not more than two years, or both.

F. Notwithstanding any provision of law to the contrary, unless listed in another schedule, any product that contains any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers is a Schedule V controlled dangerous substance and shall be dispensed, sold, or distributed only in accordance with the provisions of R.S. 40:1049.1 et seq. Such products shall be exempt from the reporting for Schedule V drugs as provided for in R.S. 40:1001 et seq.

RS 40:962.1.2 — Restriction on the sale and purchase of nonprescription products containing dextromethorphan, its salts or optical isomers, and salts of optical isomers

cription material, compound, mixture, or preparation containing any detectable quantity of dextromethorphan, its salts or optical isomers, or salts of optical isomers to any person under the age of eighteen.

(2) It shall be unlawful for any person under the age of eighteen to purchase or attempt to purchase a nonprescription material, compound, mixture, or preparation containing any detectable quantity of dextromethorphan, its salts or optical isomers, or salts of optical isomers.

B.(1) A nonprescription material, compound, mixture, or preparation containing any detectable quantity of dextromethorphan, its salts or optical isomers, or salts of optical isomers shall not be sold unless the purchaser submits a valid, current form of photo identification issued by the state of Louisiana, another state, or the government of the United States, including but not limited to a driver's license, military identification card, state identification card, or passport.

(2) Each form of identification shall on its face establish the age of the person as eighteen years or older, and there must be no reason to doubt the authenticity or correctness of the identification. No form of identification shall be accepted as proof of age if it is expired, defaced, mutilated, or altered. If the state identification card or lawful identification submitted is a duplicate, the person shall submit additional information which contains the name, date of birth, and photograph of

the person.

C. The provisions of this Section shall not apply to a compound, mixture, or preparation containing any detectable quantity of dextromethorphan which is dispensed pursuant to a valid prescription from a licensed practitioner with prescriptive authority.

D.(1) A person who violates the provisions of this Section by selling a nonprescription compound, mixture, or preparation containing any detectable quantity of dextromethorphan, its salts or optical isomers, or salts of optical isomers shall be fined not more than fifty dollars for the first violation. The penalties for subsequent violations shall include a fine of not more than one hundred dollars for the second violation and a fine of not more than one hundred fifty dollars for the third and any subsequent violation.

(2) A person who violates the provisions of this Section by purchasing or attempting to purchase a nonprescription compound, mixture, or preparation containing any detectable quantity of dextromethorphan, its salts or optical isomers, or salts of optical isomers shall be fined not more than fifty dollars for a first violation and not more than two hundred dollars for a second or subsequent violation.

E. The legislature hereby recognizes the need for uniformity in the sales of nonprescription compounds, mixtures, or preparations containing any detectable quantity of dextromethorphan, its salts or optical isomers, and salts of optical isomers. Therefore, the provisions of this Section shall supersede and preempt any rule, regulation, code, statute, or ordinance of any political subdivision or other unit of local government that attempts to regulate the sale or purchase of nonprescription compounds, mixtures, or preparations containing any detectable quantity of dextromethorphan, its salts or optical isomers, and salts of optical isomers.

RS 40:962.2 — Abortion-inducing drugs; restrictions of sales; exceptions; penalties

ed, or delivered in this state in violation of this Section.

B. Notwithstanding any other provision of law to the contrary, delivery to a person in Louisiana by mail-order, courier, or as a result of a sale made via the internet in violation of this Section is strictly prohibited.

C.(1) The Louisiana Department of Health may promulgate rules pursuant to the Administrative Procedure Act to provide for exemptions from this Section for products using an abortion-inducing drug which are distributed for other purposes that do not include causing an abortion.

(2) A physician or other healthcare provider who is licensed to prescribe medications or drugs that are subject to the provisions of Paragraph (1) of this Subsection shall write a diagnosis or a diagnosis code on the prescription that clearly indicates that the prescription is not intended to cause an abortion in violation of this Section.

D.(1) Whoever violates any provision of this Section shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(2) Each instance of a sale or distribution of an abortion-inducing drug shall be considered a separate offense for purposes of the penalties provided in Paragraph (1) of this Subsection.

E. Possessing for her own consumption or consuming an abortion-inducing drug by a pregnant woman in violation of this Section shall not subject the pregnant woman to the criminal consequences.

F. Any act by a licensed pharmacist or pharmacy related to filling a prescription for a drug, medicine, or other substance prescribed for a bona fide medical reason shall not subject the pharmacist or the pharmacy to the criminal consequences of this Section. A diagnosis or a diagnosis code shall be written on the prescription by the prescriber indicating that the drug, medicine, or other substance is intended for a purpose other than to cause an

abortion in violation of this Section.

RS 40:963 — Schedules of controlled dangerous substances

lly consist of the substances listed

in R.S. 40:964. In determining that a substance is to be added to these schedules, the secretary shall find the following:

A. As to Schedule I:

- (1) The drug or other substance has a high potential for abuse.
- (2) The drug or other substance has no currently accepted medical use in treatment in the United States, and
- (3) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

B. As to Schedule II:

- (1) The drug or other substance has a high potential for abuse.
- (2) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions, and
- (3) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

C. As to Schedule III:

- (1) The drug or other substance has a potential for abuse less than the drugs or other substances listed in Schedules I and II.
- (2) The drug or other substance has a currently accepted medical use in treatment in the United States, and
- (3) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

D. As to Schedule IV:

- (1) The drug or other substance has a low potential for abuse relative to the drugs or other substances listed in Schedule III.
- (2) The drug or other substance has a currently accepted medical use in treatment in the United States, and
- (3) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances listed in Schedule III.

E. As to Schedule V:

- (1) The drug or other substance has a low potential for abuse relative to the drugs or other substances listed in Schedule IV.
- (2) The drug or other substance has a currently accepted medical use in treatment in the United States, and
- (3) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances listed in Schedule IV.

RS 40:964 — Composition of schedules

name, common or

usual name, chemical name, or brand name designated:

SCHEDULE I

A. Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, or salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, or salts is possible within the specific chemical designation:

*(1)

Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide)

*(2) Acetylmethadol

*(3) Acrylfentanyl (N-[1-(2-phenylethyl)piperidin-4-yl]-N-phenylacrylamide)

*(4) Allylprodine

*(5) Alphacetylmethadol (except levo-alphacetylmethadol, also known as levomethadyl acetate, or LAAM)

*(6) Alphameprodine

*(7) Alphamethadol

(8) alpha'-methyl butyryl fentanyl (2-methyl-N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide)

*(9) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine)

*(10) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide)

*(11) Benzethidine

*(12) Betacetylmethadol

*(13) Beta-hydroxy-3-methylfentanyl (N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide)

*(14) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide)

(15) Beta-hydroxythiofentanyl (N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide)

*(16) Betameprodine

*(17) Betamethadol

(18) beta-methylfentanyl (N-phenyl-N-(1-(2-phenylpropyl)piperidin-4-yl)propanamide)

(19) beta-phenylfentanyl (N-(1-phenethylpiperidin-4-yl)-N,3-diphenylpropanamide)

*(20) Betaprodine

(21) Brorphine (1-(1-(1-(4-bromophenyl) ethyl) piperidin-4-yl)-1,3-dihydro-2H-benzimidazol-2-one)

(22) Butonitazene (N,N-diethyl-2-[(4-butoxyphenyl)methyl]-5-nitro-1H-benzimidazole-1-ethanamine)

(23) Butyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide)

*(24) Clonitazene

(25) Crotonyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide)

(26) Cyclopentyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide)

*(27) Cyclopropyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide)

*(28) Dextromoramide

*(29) Diampromide

*(30) 3,4-Dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]-benzamide (AH-7921)

*(31) Diethylthiambutene

*(32) Difenoxin

*(33) Dimenoxadol
 *(34) Dimepheptanol
 (35) 2',5'-dimethoxyfentanyl (N-(1-(2,5-dimethoxyphenethyl)piperidine-4-yl)-N-phenylpropanamide)
 *(36) Dimethylthiambutene
 *(37) Dioxaphetyl butyrate
 *(38) Dipipanone
 *(39) Ethylmethylthiambutene
 (40) Etodesnitazene (N,N-diethyl-2-[(4-ethoxyphenyl)methyl]-1H-benzimidazole-1-ethanamine)
 *(41) Etonitazene
 (42) Etonitazepipne (2-[(4-ethoxyphenyl)methyl]-5-nitro-1-[2-(piperidin-1-yl)ethyl]-1H-benzimidazole)
 *(43) Etoxidine
 (44) Fentanyl carbamate (ethyl(1-phenethylpiperidin-4-yl)(phenyl) carbamate)
 (45) Flunitazene (N,N-diethyl-2-(4-fluorophenyl)methyl]-5-nitro-1H-benzimidazole-1-ethanamine)
 (46) 4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)
 (47) 2-fluoro-orthofluorofentanyl (N-(1-(2-fluorophenethyl)piperidin-4-yl)-N-(2-fluorophenyl)propanamide)
 *(48) Furanylfentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide)
 *(49) Furethidine
 *(50) Hydroxypethidine
 (51) Isobutyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide)
 (52) Isotonitazene (N,N-diethyl-2-[(4-isopropoxyphenyl)methyl]-5-nitro-1H-benzimidazole-1-ethanamine)
 *(53) Ketobemidone
 *(54) Levomoramide
 *(55) Levophenacetylmorphan
 (56) Methoxyacetylfentanyl (2-methoxy-N-[1-(2-phenylethyl)piperidin-4-yl]-N-phenylacetamide)
 (57) 4-methylacetylfentanyl (N-(1-(4-methylphenethyl)piperidin-4-yl)-N-phenylacetamide)
 (58) 2-Methyl AP-237 (1-(2-methyl-4-(3-phenylprop-2-en-1-yl)piperazin-1-yl)butan-1-one)
 *(59) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide)
 *(60) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide)
 (61) Metodesnitazene (N,N-diethyl-2-[(4-methoxyphenyl)methyl]-1H-benzimidazole-1-ethanamine)
 (62) Metonitazene (N,N-diethyl-2-[(4-methoxyphenyl)methyl]-5-nitro-1H-benzimidazole-1-ethanamine)
 *(63) Morpheridine
 *(64) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine)
 (65) MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine)
 (66) N-Desethyl isotonitazene (N-ethyl-2-[(4-isopropoxyphenyl)methyl]-5-nitro-1H-benzimidazole-1-ethanamine)
 (67) (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide) (acetyl fentanyl)
 (68) N-pyrrolidino etonitazene (2-[(4-ethoxyphenyl)methyl]-5-nitro-1-

[2-(pyrrolidino-1-yl)ethyl]-1H-benzimidazole)

*(69) Noracymethadol

*(70) Norlevorphanol

*(71) Normethadone

*(72) Norpipanone

(73) Ocfentanil (N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide)

(74) Orthofluoroacrylfentanyl (N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)acrylamide)

(75) Orthomethylacetylfentanyl (N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide)

(76) Orthomethylmethoxyacetylfentanyl (2-methoxy-N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide)

(77) Para-chloroisobutyryl fentanyl (N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)

(78) Para-fluorobutyrylfentanyl (N-(4-fluorophenyl)-N-[1-(2-phenylethyl) piperidin-4-yl]butanamide)

*(79) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide)

(80) para-fluorofuranylfentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide)

(81) Para-methoxybutyryl fentanyl (N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide)

(82) para-methoxyfuranyl fentanyl (N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide)

(83) para-methylcyclopropyl fentanyl (N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)cyclopropanecarboxamide)

(84) para-methylfentanyl (N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)propanamide)

*(85) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine)

*(86) Phenadoxone

*(87) Phenampromide

*(88) Phenomorphan

*(89) Phenoperidine

(90) Phenylfentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylbenzamide)

*(91) Piritramide

*(92) Proheptazine

*(93) Properidine

*(94) Propiram

(95) Protonitazene (N,N-diethyl-2-[(4-propoxyphenyl)methyl]-5-nitro-1H-benzimidazole-1-ethanamine)

*(96) Racemoramide

(97) Tetrahydrofuranylfentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]tetrahydrofuran-2-carboxamide)

*(98) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide)

(99) Thiofuranylfentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylthiophene-2-carboxamide)

*(100) Tilidine

*(101) Trimeperidine

*(102) U-47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)

(103) U-48800 (2,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzeneacetamide)

- (104) U-49900 (3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methyl-benzamide)
- (105) U-51754 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzeneacetamide)
- (106) Valeryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide)
- (107) Zipeprol (1-methoxy-3-[4-(2-methoxy-2-phenylethyl)piperazin-1-yl]-1-phenylpropan-2-ol)

B. Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- *(1) Acetorphine
- *(2) Acetyldihydrocodeine
- *(3) Benzylmorphine
- *(4) Codeine methylbromide
- *(5) Codeine-N-Oxide
- *(6) Cyprenorphine
- *(7) Desomorphine
- *(8) Dihydromorphine
- *(9) Drotebanol
- *(10) Etorphine, except hydrochloride salt
- *(11) Heroin
- *(12) Hydromorphenol
- *(13) Methyldesorphine
- *(14) Methyldihydromorphine
- *(15) Morphine methylbromide
- *(16) Morphine methylsulfonate
- *(17) Morphine-N-Oxide
- *(18) Myrophine
- *(19) Nicocodeine
- *(20) Nicomorphine
- *(21) Normorphine
- *(22) Pholcodine
- *(23) Thebacon

C. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, or salts of isomers, whenever the existence of such salts, isomers, or salts of isomers is possible within the specific chemical designation, for purposes of this Subsection only, the term "isomer" includes the optical, position, and geometric isomers:

- (1) Alpha-ethyltryptamine
- (2) Alphamethyltryptamine
- (3) 5-(2-aminopropyl)-2,3-dihydrobenzofuran (5-APDB)
- (4) 6-(2-aminopropyl)-2,3-dihydrobenzofuran (6-APDB)

- (5) 5-(2-aminopropyl)benzofuran (5-APB)
- (6) 6-(2-aminopropyl)benzofuran (6-APB)
- (7) 4-bromo-2,5-dimethoxyamphetamine
- (8) 4-bromo-2,5-dimethoxyphenethylamine
- (9) 4-bromo-2,5-dimethoxyphenethylamine (2C-B)
- (10) Bufotenine
- (11) 4-chloro-2,5-dimethoxyamphetamine
- (12) Deschloroketamine (2-phenyl-2(methylamino) cyclohexanone)
- (13) Deschloro-N-ethyl-ketamine (2-(ethylamino)-2-phenylcyclohexan-1-one)
- (14) Diethyltryptamine
- (15) Diisopropyltryptamine (DIPT)
- (16) 2,5-dimethoxy-4-chlorophenethylamine (2C-C)
- (17) 2,5-dimethoxy-4-ethylamphetamine
- (18) 2,5-dimethoxy-4-ethylphenethylamine (2C-E)
- (19) 2,5-dimethoxy-4-ethylthiophenethylamine (2C-T-2)
- (20) 2,5-dimethoxy-4-iodophenethylamine (2C-I)
- (21) 2,5-dimethoxy-4-isopropylthiophenethylamine (2C-T-4)
- (22) 2,5-dimethoxy-4-methylphenethylamine (2C-D)
- (23) 2,5-dimethoxy-4-methylthiophenethylamine (2C-T)
- (24) 2,5-dimethoxy-4-nitrophenethylamine (2C-N)
- (25) 2,5-dimethoxy-4-(n)-propylphenethylamine (2C-P)
- (26) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7)
- (27) 2,5-dimethoxyamphetamine
- (28) 2,5-dimethoxyphenethylamine (2C-H)
- (29) Dimethyltryptamine
- (30) Ethylamine analog of phencyclidine
- (31) 2-(ethylamino)-2-(3-methoxyphenyl)cyclohexanone (Methoxetamine)
- (32) 4-Fluoroamphetamine (4-FA)
- (33) 4-Fluoromethamphetamine (4-FMA)
- (34) 4-hydroxy-N,N-diisopropyltryptamine (4-HO-DIPT)
- (35) 4-hydroxy-N-methyl-N-isopropyltryptamine (4-Hydroxy-MIPT)
- (36) Ibogaine
- (37) 5-iodo-2-aminoindane (5-IAI)
- (38) 4-iodo-2,5-dimethoxyamphetamine
- (39) Lysergic acid diethylamide
- (40) Marihuana
- (41) Mescaline
- (42) 5-methoxy-alpha-methyltryptamine (5-MEO-AMT)
- (43) 4-methoxyamphetamine
- (44) 5-methoxy-3,4-methylenedioxyamphetamine
- (45) 5-methoxy-N,N-diallyl-tryptamine (5-MEO-DALT)
- (46) 5-methoxy-N,N-diethyltryptamine (5-MEO-DET)

- (47) 5-methoxy-N, N-diisopropyltryptamine
- (48) 5-methoxy-N,N-dimethyltryptamine (5-MEO-DMT)
- (49) 5-methoxy-N-methyl-N-isopropyltryptamine (5-MEO-MIPT)
- (50) 4-methyl-2,5-dimethoxyamphetamine
- (51) 5-(2-methylaminopropyl)benzofuran (5-MAPB)
- (52) 5,6-methylenedioxy-2-aminindane (MDAI)
- (53) 3,4-methylenedioxyamphetamine
- (54) 3,4-methylenedioxymethamphetamine (MDMA)
- (55) 3,4-methylenedioxy-N-ethylamphetamine
- (56) N-ethyl-3-piperidyl benzilate
- (57) N-hydroxy-3,4-methylenedioxyamphetamine
- (58) N-(2-hydroxybenzyl)-2,5-dimethoxy-4-iodophenethylamine (25I-NBOH)
- (59) N-(2-methoxybenzyl)-2,5-dimethoxy-4-bromophenethylamine (25B-NBOMe)
- (60) N-(2-methoxybenzyl)-2,5-dimethoxy-4-chlorophenethylamine (25C-NBOMe)
- (61) N-(2-methoxybenzyl)-2,5-dimethoxy-4-iodophenethylamine (25I-NBOMe)
- (62) N-methyl-3-piperidyl benzilate
- (63) Parahexyl, also known as Synhexyl
- (64) para-methoxymethamphetamine (PMMA)
- (65) Peyote
- (66) Psilocybin
- (67) Psilocyn
- (68) Pyrrolidine analog of phencyclidine
- (69) Tetrahydrocannabinols, including synthetic equivalents and derivatives, except for tetrahydrocannabinols in hemp
- (70) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine
- (71) Thiophene analog of phencyclidine
- (72) 3,4,5-trimethoxy amphetamine

D. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Bromazolam
- (2) Clonazolam
- (3) Diclazepam
- (4) Etizolam
- (5) Flualprazolam
- (6) Flubromazolam
- (7) Gamma-hydroxybutyric acid (GHB)
- (8) Mecloqualone
- (9) Methaqualone
- (10) Phenazepam

E. Stimulants. Unless specifically excepted, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system including its salts, isomers, esters, or ethers and salts of isomers, esters, or ethers whenever the existence of such salts, isomers, esters, or ethers and salts of isomers, esters, or ethers is possible within the specific chemical designation:

(1) Amineptine (7-[(10,11-dihydro-5H-dibenzo [a,d]cyclohepten-5-yl)amino]heptanoic acid)

(2) 2-amino-1-phenyl-1-propanone (cathinone) or variation in any of the following ways:

(i) By substitution on the phenyl ring to any extent with an alkyl, hydroxyl alkoxy, alkylendioxy, haloalkyl or halide substituents, whether or not further substituted on the phenyl ring by one or more other univalent substituents.

(ii) By substitution at the 3-position with an alkyl substituent.

(iii) By substitution at the 2-amino nitrogen atom with alkyl, cycloalkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(3) Aminorex

(4) Cathinone

(5) 4,4-dimethylaminorex (4,4-DMAR)

(6) Ethylphenidate

(7) Fenethylamine

(8) Mesocarb (N-phenyl-N'-(3-(1-phenylpropan-2-yl)-1,2,3-oxadiazol-3-ium-5-yl)carbamimidate)

(9) Methcathinone

(10) Methiopropamine (N-methyl-1-(thiophen-2-yl)propane-2-amine)

(11) (+)

cis

-4-methylaminorex

(12) Naphthylpyrovalerone whether or not further substituted on the naphthyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl or halide substituents, whether or not further substituted on the naphthyl ring by one or more other univalent substituents or whether or not further substituted on the carbon chain at the 3, 4, or 5 position with an alkyl substituent.

(13) N-Benzylpiperazine (BZP)

(14) N-ethylamphetamine

(15) N,N-dimethylamphetamine

(16) 2-(pyrrolidin-1-yl)-1-(thiophen-2-yl)butan-1-one (Alpha-PBT)

(17) 2-(pyrrolidin-1-yl)-1-(thiophen-2-yl)pentan-1-one (Alpha-PVT)

F. Synthetic cannabinoids. Unless specifically excepted, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, or

unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of a synthetic cannabinoid found to be in any of the following individual compounds or chemical groups, or any of those individual compounds or groups which contain any synthetic cannabinoid salts, isomers, salts of isomers, or nitrogen-heterocyclic analogs, whenever the existence of such salts, isomers, salts of isomers, or

nitrogen-heterocyclic analogs is possible within the specific compounds or chemical groups:

(1) Adamantoylindoles: any compound containing a 3-(1-adamantoyl)indole structure, whether or not further substituted on the indole ring to any extent or whether or not substituted on the adamantyl ring to any extent.

(2) Adamantylamidindoles: Any compound containing a N-(adamantyl)-1H-indole-3-carboxamide structure, whether or not further substituted on the indole ring to any extent or whether or not substituted on the adamantyl ring to any extent.

(3) Benzoylindoles: any compound containing a 3-(benzoyl)indole structure, whether or not substituted on the indole ring to any extent or whether or not substituted on the phenyl ring to any extent.

(4) Benzylindolecarboxamides: Any compound containing a N-benzyl-1H-indole-3-carboxamide structure, whether or not further substituted on the indole ring or whether not substituted on the phenyl ring to any extent.

(5) Butaldehydeamidindoles: Any compound containing a N-(1-oxobutan-2-yl)-1H-indole-3-carboxamide structure, with or without substitution on the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkoxy, aryl, aryl halide, alkylarylhalide, cycloalkylmethyl, cycloalkylethyl, alkenyl, haloalkenyl, aliphatic alcohol, hydroxyl, halide, morpholinoethyl, alkylmorpholinomethyl, alkylpiperidinylmethyl or a tetrahydropyranylmethyl group, whether or not further substituted on the butaldehyde group to any extent.

(6) Cumylindolecarboxamides: Any compound containing a N-(2-phenylpropane-2-yl)-1H-indole-3-carboxamide structure, with or without substitution on the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkoxy, aryl, aryl halide, alkylarylhalide, cycloalkylmethyl, cycloalkylethyl, alkenyl, haloalkenyl, aliphatic alcohol, hydroxyl, halide, morpholinoethyl, alkylmorpholinomethyl, alkylpiperidinylmethyl or a tetrahydropyranylmethyl group, whether or not further substituted on the phenyl group to any extent.

(7) Cyclohexylphenols: any compound containing a 2-(3-hydroxycyclohexyl)phenol structure, whether or not substituted on the cyclohexyl ring to any extent or whether or not substituted on the phenyl ring to any extent.

(8) Cyclopropanoylindoles: any compound containing a 3-(cyclopropanoyl)indole structure, whether or not substituted on the indole ring to any extent or whether or not substituted on the cyclopropyl ring to any extent.

(9) 1-(5-fluoropentyl)-1H-benzimidazol-2-yl)(naphthalen-1-yl) methanone

(10) 1-(5-fluoropentyl)N-naphthalen-1-yl)-1H-pyrrolo[3,2-c]pyridine-3-carboxamide

(11) 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-B]

pyridine-3-carboxamide [5FCUMYL-P7AICA]

(12) Hexahydrodibenzopyrans whether or not substituted on the tricyclic ring system to any extent except where contained in cannabis or cannabis resin.

(13) 1-methoxy-3,3-dimethyl-1-oxobutanyl-2-yl-(1-cyclohexylmethyl)-1H-indazole-3-carboxylate

(14) (4-methylpiperazin-1-yl)(1-pentyl-1H-indol-3-yl) methanone

(15) naphthalen-1-yl(9-(5-fluoropentyl)-9H-carbazol-3-yl)methanone

(16) naphthalen-1-yl(9-pentyl-9H-carbazol-3-yl)methanone

(17) Naphthoylindoles: any compound containing a 3-(1-naphthoyl)indole structure, whether or not substituted on the indole ring to any extent or whether or not substituted on the naphthyl ring to any extent.

(18) Naphthoylpyrroles: any compound containing a 3-(1-naphthoyl)pyrrole structure, whether or not substituted on the pyrrole ring to any extent or whether or not substituted on the naphthyl ring to any extent.

(19) Naphthylamidoindoles: any compound containing a N-(naphthyl)-1H-indole-3-carboxamide structure, whether or not further substituted on the indole ring to any extent or whether or not substituted on the naphthyl ring to any extent.

(20) Naphthylindolecarboxylates: Any compound containing a naphthyl-1H-indole-3-carboxylate structure, whether or not further substituted on the indole ring or whether or not substituted on the naphthyl ring to any extent.

(21) Naphthylmethylenes: any compound containing a 1-(1-naphthylmethyl)indene structure, whether or not substituted on the indene ring to any extent or whether or not substituted on the naphthyl ring to any extent.

(22) Naphthylmethyloindoles: any compound containing a 1-H-indol-3-yl-(1-naphthyl)methane structure, whether or not substituted on the indole ring to any extent or whether or not substituted on the naphthyl ring to any extent.

(23) N-fenchyl-1-[2-(morpholin-4-yl)ethyl]-7-methoxyindole-3-carboxamide

(24) 5-Pentyl-2-(2-phenylpropan-2-yl)pyrido[4,3-b]indole-1-one [Cumyl-Pegaclone; SGT-151]

(25) Phenylacetylindoles: any compound containing a 3-phenylacetylindole structure, whether or not substituted on the indole ring to any extent or whether or not substituted on the phenyl ring to any extent.

(26) Phenylindolecarboxamides: Any compound containing a N-phenyl-1H-indole-3-carboxamide structure, whether or not further substituted on the indole ring or whether or not substituted on the phenyl ring to any extent.

(27) Phenylpropionaldehydeamidoindoles: Any compound containing a N-(1-oxo-3-phenylpropan-2-yl)-1H-indole-3-carboxamide structure, with or without substitution on the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkoxy, aryl, aryl halide, alkylarylhalide, cycloalkylmethyl, cycloalkylethyl, alkenyl, haloalkenyl, aliphatic alcohol, hydroxyl, halide, morpholinoethyl, alkylmorpholinomethyl, alkylpiperidinylmethyl or a tetrahydropyranylmethyl group, whether or not further substituted on the phenylpropionaldehyde group to any extent.

(28) Quinolinyndolecarboxamides: Any compound containing a N-quinoliny-1H-indole-3-carboxamide or N-isoquinoliny-1H-indole-3-carboxamide structure, whether or not further substituted on the indole, quinoline, or the isoquinoline ring to any extent.

(29) Quinolinyndolecarboxylates: any compound containing a quinolin-8-yl-1H-indole-3-carboxylate or isoquinolin-8-yl-1H-indole-3-carboxylate structure, whether or not further substituted on the indole, quinoline, or isoquinoline ring to any extent.

(30) Tetrahydrodibenzopyrans whether or not substituted on the tricyclic ring system to any extent except where contained in cannabis or cannabis resin.

G. Miscellaneous. Unless specifically excepted or contained within a pharmaceutical product approved by the United States Food and Drug Administration, or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers, or salts of isomers, whenever the existence of such salts, isomers, or salts of isomers is possible within the specific chemical designation:

(1) 7-hydroxymitragynine

(2) Mitragynine

(3) Tianeptine

SCHEDULE II

A. Substances of vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrophan, nalbuphine, naldemedine, nalmeferine, naloxegol, naloxone, 6β-naltrexol, and samidorphan, and their respective salts, but including the following:

(a) Raw opium

(b) Opium extracts

(c) Opium fluid extracts

(d) Powdered opium

(e) Granulated opium

(f) Tincture of opium

(g) Repealed by Acts 1999, No. 755, §2.

(h) Codeine

(i) Dihydroetorphine

(j) Ethylmorphine

(k) Etorphine hydrochloride

(l) Hydrocodone

(m) Hydromorphone

- (n) Metopon
- (o) Morphine
- (p) Oxycodone
- (q) Oxymorphone
- (r) Thebaine
- (s) Oripavine

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in Paragraph (1), except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves, and any salt, compound, derivative, or preparation of coca leaves (including cocaine ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include:

(a) Decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

(b) Ioflupane, with and without radioisotopes.

(5) Repealed by Acts 2001, No. 282, §2.

(6) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).

B. Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

- (1) Alfentanil
- (2) Alphaprodine
- (3) Anileridine
- (4) Bezitramide
- (5) Bulk Dextropropoxyphene (non-dosage forms)
- (6) Carfentanil
- (7) Dihydrocodeine
- (8) Diphenoxylate
- (9) Fentanyl
- (10) Isomethadone
- (11) Levo-alphacetylmethadol
- (12) Levomethorphan
- (13) Levorphanol
- (14) Metazocine
- (15) Methadone
- (16) Methadone-intermediate, 4-cyano-2-dimethylamino-4,4-diphenylbutane
- (17) Moramide-intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-

carboxylic acid

(18) Oliceridine

(19) Pethidine (meperidine)

(20) Pethidine-intermediate-A, 4-cyano-1-methyl-4-phenyl-piperidine

(21) Pethidine-intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate

(22) Pethidine-intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid

(23) Phenazocine

(24) Piminodine

(25) Racemethorphan

(26) Racemorphan

(27) Remifentanil

(28) Sufentanil

(29) Tapentadol

(30) Thiafentanil

C. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers

(2) Methamphetamine, its salts, isomers, and salts of its isomers

(3) Phenmetrazine and its salts

(4) Methylphenidate

(5), (6) Repealed by Acts 1999, No. 755, §2.

(7) Lisdexamfetamine, its salts, isomers, and salts of its isomers

D.(1) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, or salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Amobarbital

(b) Carisoprodol

(c) Glutethimide

(d) Pentobarbital

(e) Phencyclidine

(f) Secobarbital

(2) A wholesale drug distributor licensed by the Louisiana Board of Pharmacy and registered with the United States Drug Enforcement Administration shall be exempt from the storage, reporting, record keeping, and physical security requirements for any material, mixture, compound, or preparation which contains any quantity of Carisoprodol.

E. Immediate precursors.

(1) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(a) Immediate precursors to amphetamine and methamphetamine: phenylacetone.

(b) Immediate precursors to phencyclidine (PCP):

(i) 1-phenylcyclohexylamine;

(ii) 1-piperidinocyclohexanecarbonitrile (PCC).

(c) Immediate precursor to fentanyl:

(i) 4-anilino-N-phenethyl-4-piperidine (ANPP)

(ii) Norfentanyl (N-phenyl-N-(piperidin-4-yl)propionamide)

(2) For purposes of this Subsection, possession of immediate precursors sufficient for the manufacture of phenylacetone, piperidine, or cyclohexanone shall be deemed to be possession of such a derivative substance.

F. Hallucinogenic substances:

(1) Nabilone

(2) Dronabinol [delta-9-

trans

tetrahydrocannabinol] in an oral solution in a drug

product approved for marketing by the United States Food and Drug Administration.

SCHEDULE III

A. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Benzphetamine

(2) Chlorphentermine

(3) Clortermine

(4) Repealed by Acts 1982, No. 92, §2.

(5) Repealed by Acts 2008, No. 67, §2.

(6) Phendimetrazine

B. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing:

(a) Amobarbital

(b) Secobarbital

(c) Pentobarbital or any salt thereof and one or more active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing:

(a) Amobarbital

(b) Secobarbital

(c) Pentobarbital or any salt of any of these drugs and approved by the federal Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt thereof, but not including butalbital when in combination with at least three hundred twenty-five milligrams of acetaminophen per dosage unit.

(4) Chlorhexadol

(5) Embutramide

(6) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, which has been approved by the federal Food and Drug Administration.

(7) Ketamine, its salts, isomers, and salts of isomers

(8) Lysergic acid

(9) Lysergic acid amide

(10) Methyprylon

(11) Sulfondiethylmethane

(12) Sulfonethylmethane

(13) Sulfonmethane

(14) Tiletamine and zolazepam or any salt thereof

(15) Perampanel

C. Nalorphine

D. Limited narcotic drugs. Unless specifically excepted or unless listed in another schedule:

(1) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(a) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit with an equal or greater quantity of an isoquinoline alkaloid of opium.

(b) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(c), (d) Repealed by Acts 2015, No. 189, §2, eff. June 23, 2015.

(e) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(h) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

(2) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts:

(a) Buprenorphine

E. Anabolic steroids and muscle building substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, containing any quantity of the following substances, including its salts, esters, ethers,

isomers, and salts of isomers whenever the existence of such salts, esters, ethers, isomers, and salts of isomers is possible within the specific chemical designation. The term "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone that promote muscle growth and include the following:

- (1) 3 β ,17-dihydroxy-5 α -androstane
- (2) 3 α ,17 β -dihydroxy-5 α -androstane
- (3) 5 α -androstan-3,17-dione
- (4) 3 β ,17 β -dihydroxy-5 α -androst-1-ene
- (5) 3 α ,17 β -dihydroxy-5 α -androst-1-ene
- (6) 4-androstenediol
- (7) 5-androstenediol
- (8) 1-androstenedione
- (9) 4-androstenedione
- (10) 5-androstenedione
- (11) Bolasterone
- (12) Boldenone
- (12.1) Boldione
- (13) Calusterone
- (14) Clostebol
- (15) Dehydrochloromethyltestosterone
- (15.1) Desoxymethyltestosterone
- (16) Δ 1-dihydrotestosterone
- (17) 4-dihydrotestosterone
- (18) Drostanolone
- (19) Ethylestrenol
- (20) Fluoxymesterone
- (21) Formebolone
- (22) Furazebol
- (23) 13 β -ethyl-17 α -hydroxygon-4-en-3-one
- (24) 4-hydroxytestosterone
- (25) 4-hydroxy-19-nortestosterone
- (26) Mestanolone
- (27) Mesterolone
- (28) Methandienone
- (29) Methandriol
- (29.1) Methasterone (2,17 α -dimethyl-5 α -androstan-17 α -ol-3-one)
- (30) Methenolone
- (31) 17 α -methyl-3 β ,17 β -dihydroxy-5 α -androstane
- (32) 17 α -methyl-3 α ,17 β -dihydroxy-5 α -androstane
- (33) 17 α -methyl-3 β ,17 β -dihydroxyandrost-4-ene
- (34) 17 α -methyl-4-hydroxynandrolone

- (35) Methyldienolone
- (36) Methyltrienolone
- (37) Methyltestosterone
- (38) Mibolerone
- (39) 17 α -methyl- Δ 1-dihydrotestosterone
- (40) Nandrolone
- (41) 3 β ,17 β -dihydroxyestr-4-ene
- (42) 3 α ,17 β -dihydroxyestr-4-ene
- (43) 3 β ,17 β -dihydroxyestr-5-ene
- (44) 3 α ,17 β -dihydroxyestr-5-ene
- (44.1) 19-nor-4, 9(10)-androstadienedione
- (45) 19-nor-4-androstenedione
- (46) 19-nor-5-androstenedione
- (47) Norbolethone
- (48) Norclostebol
- (49) Norethandrolone
- (50) Normethandrolone
- (51) Oxandrolone
- (52) Oxymesterone
- (53) Oxymetholone
- (53.1) Prostanazol (17 α -hydroxy-5 α -androstano[3,2-c]pyrazole)
- (54) Stanozolol
- (55) Stenbolone
- (56) Testolactone
- (57) Testosterone
- (58) Tetrahydrogestrinone
- (59) Trenbolone

F.(1) Except as provided in Paragraph (2) of this Schedule, the term anabolic steroid does not include a substance listed in Subsection E of this Section but which is expressly intended for administration to livestock or other nonhuman species and which has been approved by the secretary for such an administration.

(2) If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of Subsection E of this Schedule.

(3) A physician, dentist, or veterinarian shall not prescribe, dispense, deliver, or administer an anabolic steroid for human use or cause an anabolic steroid to be administered under his direction or supervision for human use except for a valid medical purpose and when required by demonstrable generally accepted medical indications. Bodybuilding, muscle enhancement, or increasing muscle bulk or strength through the use of an anabolic steroid by a person who is in good health is hereby declared not a valid medical purpose.

G. Substances of vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether

produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Synthetic Dronabinol [delta-9-(trans) tetrahydrocannabinol] in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved product.

SCHEDULE IV

A. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts, in limited quantities, as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene.

(3) Tramadol (2-[(dimethylamino)methyl]-1-(3-methoxyphenyl) cyclohexanol), its salts, isomers, and salts of its isomers.

B. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alfaxalone

(2) Alprazolam

(3) Barbitol

(4) Brexanolone

(5) Bromazepam

(6) Camazepam

(7) Chloral betaine

(8) Choral hydrate

(9) Chlordiazepoxide, but not including chlordiazepoxide hydrochloride in combination with clidinium bromide, or chlordiazepoxide and water-soluble esterified estrogens.

(10) Clobazam

(11) Clonazepam

(12) Clorazepate

(13) Clotiazepam

(14) Cloxazolam

(15) Daridorexant

(16) Delorazepam

(17) Diazepam

(18) Dichloralphenazone

(19) Estazolam

(20) Ethchlorvynol

(21) Ethinamate

- (22) Ethyl loflazepate
- (23) Fludiazepam
- (24) Flunitrazepam
- (25) Flurazepam
- (26) Fospropofol
- (27) Halazepam
- (28) Haloxazolam
- (29) Ketazolam
- (30) Lemborexant
- (31) Loprazolam
- (32) Lorazepam
- (33) Lormetazepam
- (34) Mebutamate
- (35) Medazepam
- (36) Meprobamate
- (37) Methohexital
- (38) Methylphenobarbital (mephobarbital)
- (39) Midazolam
- (40) Nimetazepam
- (41) Nitrazepam
- (42) Nordiazepam
- (43) Oxazepam
- (44) Oxazolam
- (45) Paraldehyde
- (46) Petrichloral
- (47) Phenobarbital
- (48) Pinazepam
- (49) Prazepam
- (50) Quazepam
- (51) Remimazolam
- (52) Suvorexant
- (53) Temazepam
- (54) Tretrazepam
- (55) Triazolam
- (56) Zaleplon
- (57) Zolpidem
- (58) Zopiclone
- (59) Zuranolone

C. Repealed by Acts 2023, No. 201, §2.

D. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers:

- (1) Cathine (norpseudoephedrine)
- (2) Diethylpropion
- (3) Fencamfamin
- (4) Fenproporex
- (5) Lorcaserin
- (6) Mazindol
- (7) Mefenorex
- (8) Modafinil
- (9) Pemoline (including organometallic complexes and chelates thereof)
- (10) Phentermine
- (11) Pipradrol
- (12) Serdexmethylphenidate
- (13) Sibutramine
- (14) Solriamfetol (2-amino-3-phenylpropyl carbamate; benzenepropanol, beta-amino-,carbamate (ester))
- (15) SPA [(-)-1-dimethylamino-1,2-diphenylethane]

E. Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

- (1) Pentazocine
- (2) Butorphanol (including its optical isomers)
- (3) Eluxadoline (5-[[[2-amino-3-[(4-aminocarbonyl)-2,6-dimethylphenyl]-1-oxopropyl][1-(4-phenyl-1H-imidazol-2-yl)thyl]amino]methyl]-2-methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers.

F. Mifepristone; misoprostol. Unless listed in another schedule, any material, compound, mixture, or preparation containing any detectable quantity of mifepristone or misoprostol.

SCHEDULE V

A. Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
- (2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
- (3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
- (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulphate per dosage unit.
- (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
- (6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

B. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below:

(1) Repealed by Acts 2006, No. 54, §2.

C. Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Pyrovalerone

D. Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) Brivaracetam (2-[2-oxo-4-propylpyrrolidin-1-yl]butanamide), also referred to as BRV; UCB-34714; Briviact.

(2) Cenobamate (1-(2-chlorophenyl)-2-(tetrazol-2-yl)ethylcarbamate)

(3) Ezogabine

(4) Ganaxolone (3- -hydroxy-3- -methyl-5- -pregnan-20-one)

(5) Lacosamide

(6) Lasmiditan (2,4,6-trifluoro-N-(6-(1-methylpiperidine-4-carbonyl) pyridine-2-yl-benzamide)

(7) Pregabalin

E.(1) Ephedrine, pseudoephedrine, phenylpropanolamine. Unless listed in another schedule, any material, compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers.

(2)(a) Nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine shall not be sold or distributed in a quantity greater than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base to the same purchaser within any thirty-day period.

(b) Notwithstanding the prescription requirements for Schedule V controlled dangerous substances as provided for in R.S. 40:978(C), nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine may be dispensed without a prescription.

(3)(a) No person shall purchase, receive, or otherwise acquire more than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base within any thirty-day period.

(b) This limit shall not apply to any quantity of such product, mixture, or preparation dispensed pursuant to a valid prescription written by a licensed healthcare professional having prescriptive authority.

(4) Wholesale drug distributors licensed by the Louisiana Board of Drug and Device Distributors and registered with the United States Drug Enforcement Administration shall be exempt from the storage, reporting, record keeping, and physical security requirements

for controlled dangerous substances for nonprescription products containing ephedrine, pseudoephedrine, and phenylpropanolamine which are not listed in another schedule.

(5) Except for sales log requirements and the transmittal of transaction information to the central computer monitoring system authorized by the provisions of Part X-F of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950, pharmacies and pharmacists licensed by the Louisiana Board of Pharmacy and registered with the United States Drug Enforcement Administration shall be exempt from the storage, reporting, record keeping, and physical security requirements for controlled dangerous substances for nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine which are not listed in another schedule.

(6) The transaction information provided for in R.S. 40:1049.3 for the purchase of a nonprescription product containing ephedrine, pseudoephedrine, or phenylpropanolamine shall constitute an "order from a practitioner" as provided for in R.S. 40:970(C). Possession of a nonprescription product containing ephedrine, pseudoephedrine, or phenylpropanolamine pursuant to a valid transaction as provided for in R.S. 40:1049.3 shall be a defense for a violation of R.S. 40:970(C).

F. Repealed by Acts 2021, No. 101, §2.

RS 40:965 — Secretary of health; authority to except

ted in Subsection A, B, C,

or D of Schedule III or in Schedule IV or V from the application of all or any part of this Part if the material, compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, provided that such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a depressant or stimulant effect on the central nervous system.

B. The secretary may, by regulation, exempt any compound, mixture, or preparation containing any anabolic steroids substances listed in Schedule III(E) of R.S. 40:964 from the application of all or any part of this Part if, because of its concentration, preparation, mixture, or delivery system, it has no significant potential for abuse.

RS 40:966 — Penalty for distribution or possession with intent to distribute narcotic drugs listed in

ibution. Except as authorized by this Part, it shall be unlawful

for any person knowingly or intentionally:

(1) To produce, manufacture, distribute or dispense or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance or controlled substance analogue classified in Schedule I.

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule I.

(3)(a) To produce, manufacture, distribute, or dispense or possess with intent to produce, manufacture, distribute, or dispense a consumable hemp product, as defined in R.S. 3:1481, in violation of R.S. 3:1483.

(b) It shall not be considered a violation of this Paragraph if the sole basis for the alleged offense is that the processor, wholesaler, or retailer was operating without an active

permit if both of the following occur:

- (i) The processor, wholesaler, or retailer held a valid permit at the time of applying for permit renewal.
- (ii) The renewal application was under review by the Louisiana Department of Health or the office of alcohol and tobacco control at the time of the alleged offense.
- (c) It shall not be considered a violation of Subparagraph (a) of this Paragraph if the consumable hemp product was approved by the Louisiana Department of Health at the time of the alleged offense. If the product's approval has been revoked, no violation shall be deemed to have occurred unless the revocation occurred more than sixty days prior to the alleged offense.
- (4) To cultivate, possess, process, or sell industrial hemp, industrial hemp products, or viable industrial hemp seeds not in accordance with the Agriculture Improvement Act of 2018 or the plan submitted by the Department of Agriculture and Forestry that is in compliance with U.S. Department of Agriculture rules.

B. Violations of Subsection A. Any person who violates Subsection A of this Section with respect to:

- (1) Except as otherwise provided in Paragraphs (2) and (3) of this Subsection, a substance classified in Schedule I, upon conviction for an amount of:
 - (a) An aggregate weight of less than twenty-eight grams, shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years and may, in addition, be required to pay a fine of not more than fifty thousand dollars.
 - (b) An aggregate weight of twenty-eight grams or more, shall be imprisoned at hard labor for not less than one year nor more than twenty years and may, in addition, be required to pay a fine of not more than fifty thousand dollars.
- (2) A substance classified in Schedule I which is marijuana, tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols, or synthetic cannabinoids for an amount of:
 - (a) An aggregate weight of less than two and one half pounds, shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years, and pay a fine of not more than fifty thousand dollars.
 - (b) An aggregate weight of two and one half pounds or more, shall be imprisoned at hard labor for not less than one year nor more than twenty years and pay a fine of not more than fifty thousand dollars.
- (3)(a) A substance classified in Schedule I that is the narcotic drug heroin or a mixture or substance containing a detectable amount of heroin or its analogues, upon conviction for any amount, shall be imprisoned at hard labor for not less than five years nor more than forty years and may, in addition, be required to pay a fine of not more than fifty thousand dollars.
- (b)(i) If the offender unlawfully distributes or dispenses heroin or a mixture or substance containing a detectable amount of heroin or its analogues, which is the direct cause of serious bodily injury to the person who ingested or consumed the substance, the offense shall be classified as a crime of violence, and the offender shall be imprisoned at hard labor

for not less than five years nor more than forty years. At least five years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence. In addition, the offender may be required to pay a fine of not more than fifty thousand dollars.

(ii) For purposes of this Subparagraph, "serious bodily injury" shall have the same meaning as provided by R.S. 14:2(C).

(4) A consumable hemp product, shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years, or pay a fine of not more than fifty thousand dollars, or both.

C. Possession. It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance classified in Schedule I unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner or as provided in R.S. 40:978, while acting in the course of his professional practice, or except as otherwise authorized by this Part. Any person who violates this Subsection with respect to:

(1) Except as otherwise provided in Paragraphs (2), (3), and (4) of this Subsection, a substance classified in Schedule I for an amount of:

(a) An aggregate weight of less than two grams, shall be imprisoned, with or without hard labor, for not more than two years and may, in addition, be required to pay a fine of not more than five thousand dollars.

(b) An aggregate weight of two grams or more but less than twenty-eight grams, shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years and may, in addition, be required to pay a fine of not more than five thousand dollars.

(2) A substance classified in Schedule I that is marijuana, tetrahydrocannabinol, or chemical derivatives thereof, shall be punished as follows:

(a)(i) On a first conviction or any subsequent conviction, wherein the offender possesses fourteen grams or less, the offender shall be fined not more than one hundred dollars.

(ii) If an offender upon whom a fine has been imposed under this Subparagraph alleges indigency, or otherwise fails to pay the imposed fine, the court shall determine whether the defendant has willfully refused to pay or has made bona fide efforts to legally acquire resources to pay. If an offender has not willfully refused to pay and has made bona fide efforts to attempt to pay the fine imposed, the court shall use its discretion to alternatives, including installment payments or community service.

(iii) This Subparagraph shall be enforced by use of summons in lieu of custodial arrest, in accordance with Code of Criminal Procedure Article 211.

(b) On a first conviction, wherein the offender possesses more than fourteen grams, the offender shall be fined not more than five hundred dollars, imprisoned in the parish jail for not more than six months, or both.

(c) Any person who has been sentenced under the provisions of Subparagraph (a) or (b) of this Paragraph and who has not been convicted of any other violation of a statute or ordinance prohibiting the possession of marijuana for a period of two years from the date of completion of sentence, probation, parole, or suspension of sentence shall not have the

conviction used as a predicate conviction for enhancement purposes. The provisions of this Paragraph shall occur only once with respect to any person.

(d) On a second conviction, wherein the offender possesses more than fourteen grams, the offender shall be fined not more than one thousand dollars, imprisoned in the parish jail for not more than six months, or both.

(e)(i) On a third conviction, wherein the offender possesses more than fourteen grams, the offender shall be sentenced to imprisonment, with or without hard labor, for not more than two years, shall be fined not more than two thousand five hundred dollars.

(ii) If the court places the offender on probation, the probation shall provide for a minimum condition that he participate in a court-approved substance abuse program and perform four eight-hour days of court-approved community service activities. Any costs associated with probation shall be paid by the offender.

(f)(i) On a fourth or subsequent conviction, wherein the offender possesses more than fourteen grams, the offender shall be sentenced to imprisonment with or without hard labor for not more than eight years, shall be fined not more than five thousand dollars, or both.

(ii) If the court places the offender on probation, the probation shall provide for a minimum condition that he participate in a court-approved substance abuse program and perform four eight-hour days of court-approved community service activities. Any costs associated with probation shall be paid by the offender.

(g) Except as provided in Subparagraph (c) of this Paragraph, a conviction for the violation of any other statute or ordinance with the same elements as Subsection C of this Section prohibiting the possession of marijuana, tetrahydrocannabinol or chemical derivatives thereof, shall be considered as a prior conviction for the purposes of this Subsection relating to penalties for second, third, or subsequent offenders.

(h) Except as provided in Subparagraph (c) of this Paragraph, a conviction for the violation of any other statute or ordinance with the same elements as Paragraph (B)(2) of this Section prohibiting the distributing or dispensing or possession with intent to distribute or dispense marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall be considered as a prior conviction for the purposes of this Subsection relating to penalties for second, third, or subsequent offenders.

(3) A substance classified in Schedule I which is a synthetic cannabinoid, the offender shall be punished as follows:

(a) On a first conviction, the offender shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(b) On a second conviction, the offender shall be fined not less than two hundred fifty dollars nor more than two thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

(c) On a third or subsequent conviction, the offender shall be sentenced to imprisonment at hard labor for not more than twenty years, and may, in addition, be fined not more than five thousand dollars.

(d) A conviction for the violation of any other provision of law or ordinance with the

same elements as this Subsection prohibiting the possession of synthetic cannabinoids shall be considered a prior conviction for the purposes of this Paragraph relating to penalties for second, third, or subsequent offenses.

(e) A conviction for the violation of any other provision of law or ordinance with the same elements as Paragraph (B)(2) of this Section prohibiting the distributing or dispensing or possession with intent to distribute or dispense synthetic cannabinoids shall be considered a prior conviction for the purposes of this Paragraph relating to penalties for second, third, or subsequent offenses.

(f) If the court places the offender on probation, the probation shall provide for a minimum condition that he participate in a court-approved substance abuse program and perform four eight-hour days of court-approved community service activities. Any costs associated with probation shall be paid by the offender.

(4) A substance classified in Schedule I that is the narcotic drug heroin or a mixture or substance containing a detectable amount of heroin or of its analogues, upon conviction for an amount:

(a) An aggregate weight of less than two grams, shall be sentenced to a term of imprisonment, with or without hard labor, for not less than two years nor more than four years.

(b) An aggregate weight of two grams or more but less than twenty-eight grams, shall be sentenced to a term of imprisonment, with or without hard labor, for not less than two years nor more than ten years and may, in addition be required to pay a fine of not more than five thousand dollars.

D. If a person knowingly or intentionally possesses a controlled substance as classified in Schedule I, unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, as provided in R.S. 40:978, while acting in the course of his professional practice, where the amount of the controlled substance is equal to or above the following weights, it shall be considered a violation of Subsection A of this Section:

(1) For marijuana, tetrahydrocannabinol, synthetic cannabinoids, or chemical derivatives thereof, two and one-half pounds.

(2) For any other Schedule I controlled substance, twenty-eight grams.

E. Notwithstanding any other provision of law to the contrary, unless eligible for parole at an earlier date, a person committed to the Department of Public Safety and Corrections serving a life sentence for the production, manufacturing, distribution, or dispensing or possessing with intent to produce, manufacture, or distribute heroin shall be eligible for parole consideration upon serving at least fifteen years of imprisonment in actual custody.

F. Immunity from prosecution. (1) Any person who is a patient of the state-sponsored medical marijuana program in Louisiana, and possesses medical marijuana in a form permissible under R.S. 40:1046 for a condition enumerated therein, a caregiver as defined in R.S. 15:1503, any person who is a domiciliary parent of a minor child who possesses medical marijuana on behalf of his minor child in a form permissible under R.S.

40:1046 for a condition enumerated therein pursuant to a legitimate medical marijuana prescription or recommendation issued by a licensed health professional authorized by R.S. 40:1046(B) to recommend medical marijuana to patients, or any visiting qualifying patient as defined in R.S. 40:1046.1 shall be exempt from the provisions of this Section. This Paragraph shall not prevent the arrest or prosecution of any person for diversion of marijuana or any of its derivatives or other conduct outside the scope of the state-sponsored medical marijuana program.

(2) Any retailer permitted to sell marijuana pursuant to R.S. 40:1046, and any employee, board member, director, or agent of a retailer permitted to sell marijuana pursuant to R.S. 40:1046, shall be exempt from the provisions of this Section for possession of marijuana at a location designated by the Louisiana Department of Health's rules and regulations, or distribution of marijuana in a form approved by the Louisiana Department of Health to a patient with a valid recommendation or prescription, in the state-sponsored medical marijuana program. This Paragraph shall not prevent the arrest or prosecution of any person for diversion of marijuana or any of its derivatives or other conduct outside of the scope of the state-sponsored medical marijuana program or for violations of the Louisiana Department of Health's rules and regulations.

(3) Any licensee or its subordinate contractor licensed by the Louisiana Department of Health to produce marijuana pursuant to R.S. 40:1046, and any employee, board member, director, or agent of a marijuana licensee or its subordinate contractor licensed pursuant to R.S. 40:1046, shall be exempt from prosecution under this Section for possession, production, or manufacture of marijuana at the production facility designated by the Louisiana Department of Health or for the transportation of marijuana or any of its derivatives in accordance with the Louisiana Department of Health's rules and regulations. This Paragraph shall not prevent the arrest or prosecution of any person for diversion of marijuana from the production facility designated by the Louisiana Department of Health outside of the scope of the state-sponsored medical marijuana program or for violations of the Louisiana Department of Health's rules and regulations.

(4) Any laboratory that tests marijuana or marijuana preparations produced and distributed under the state-sponsored medical marijuana program, and any employee, board member, director, or agent of a testing laboratory pursuant to R.S. 40:1046, shall be exempt from prosecution under this Section for possession of marijuana or any of its derivatives at a research laboratory designated by the Louisiana Department of Health or for transportation of marijuana or any of its derivatives in accordance with the Louisiana Department of Health's rules and regulations. This Paragraph shall not prevent the arrest or prosecution of any person for diversion of marijuana from a research laboratory designated by the Louisiana Department of Health or other conduct outside of the scope of the state-sponsored medical marijuana program or for violations of the Louisiana Department of Health's rules and regulations.

(5) Any person, employee, board member, director, or agent conducting research pursuant to R.S. 40:1046 shall be exempt from prosecution under this Section for the possession, production, or manufacture of marijuana or any of its derivatives or for the

transportation of marijuana or any of its derivatives in accordance with the Louisiana Department of Health's rules and regulations. This Paragraph shall not prevent the arrest or prosecution of any person for diversion of marijuana or any of its derivatives or other conduct outside of the scope of the state-sponsored medical marijuana program or for violations of the Louisiana Department of Health's rules and regulations.

(6) Any facility that is licensed by the Louisiana Department of Health and has patients in its care using medical marijuana pursuant to R.S. 40:1046 shall be exempt from the prohibitions provided in this Section for possession and distribution of marijuana. This Paragraph shall not prohibit the arrest or prosecution of any person for diversion of medical marijuana or any other conduct outside the scope of the state-sanctioned medical marijuana program provided for in R.S. 40:1046.

(7) Any licensed health professional authorized by R.S. 40:1046(B) to recommend medical marijuana to patients who provides information on marijuana for therapeutic use within a bona fide clinician-patient relationship or who issues a recommendation to a patient for marijuana for therapeutic use pursuant to R.S. 40:1046 shall be exempt from the prohibitions provided in this Section for possession and distribution of marijuana. This Paragraph shall not prohibit the arrest or prosecution of any person for diversion of medical marijuana or any other conduct outside the scope of the state-sanctioned medical marijuana program provided for in R.S. 40:1046.

(8)(a) The defenses in Paragraph (1) of this Subsection shall be raised by reproducing a patient's medical records that contain the legitimate recommendation to possess marijuana for therapeutic use in a form permissible under R.S. 40:1046 issued by a licensed health professional authorized by R.S. 40:1046(B) to recommend medical marijuana to patients.

(b) Notwithstanding any other provision of law to the contrary, except when the person to be arrested has committed a felony, although not in the presence of the officer, no peace officer may arrest any employee, board member, director, or agent during the course and scope of his employment with the following, pursuant to R.S. 40:1046:

(i) A retailer permitted to sell marijuana for therapeutic use.

(ii) A licensee of marijuana for therapeutic use or its subordinate licensed contractor.

(iii) A testing laboratory of marijuana for therapeutic use, authorized to do business.

(iv) A licensed researcher of marijuana for therapeutic use, performing his official duties.

(c) The defendant shall bear the burden of proving that the possession, manufacture, production, transportation, or distribution was in accordance with the state-sponsored medical marijuana program or the Louisiana Department of Health's rules and regulations, as applicable.

G. Treatment for heroin addiction as a condition for probation. (1) Upon conviction of Paragraph (B)(3) or (C)(4) of this Section, possession with intent to distribute heroin or possession of heroin, the court may suspend any sentence which it imposes and place the defendant on probation pursuant to Code of Criminal Procedure Article 893. The court may order the division of probation and parole of the Department of Public Safety and Corrections to conduct a presentence investigation, or may order the defendant to obtain a

substance abuse evaluation, for the purpose of determining whether the defendant has a substance abuse disorder.

(2) Upon receiving the report or evaluation, the court shall, if it finds probable cause from such report to believe the defendant has a substance abuse disorder, order a contradictory hearing for the purpose of making a judicial determination on whether the defendant has a substance abuse disorder.

(3) If, at such contradictory hearing, the court determines that the defendant has a substance abuse disorder, it shall require as a condition of probation that the defendant complete a drug treatment program if the following conditions are met:

(a) There is an available program in the local jurisdiction that has sufficient experience in working with criminal justice participants with substance abuse disorders and is certified and approved by the state of Louisiana.

(b) The cost of the approved treatment does not create a substantial financial hardship to the defendant or his dependents. For purposes of this determination, "substantial financial hardship" shall have the same meaning as provided in R.S. 15:175.

(4) If the offender does not successfully complete the drug treatment program, or otherwise violates the conditions of his probation, the court may revoke the probation or impose other sanctions pursuant to Code of Criminal Procedure Article 900.

RS 40:966.1 — Unlawful possession, production, or distribution of kratom

substance containing 7-hydroxymitragynine or mitragynine.

B.(1) Manufacture; distribution. It shall be unlawful for any person to knowingly produce, manufacture, distribute, or dispense, or possess with intent to produce, manufacture, distribute, or dispense, kratom.

(2) Any person who violates Paragraph (1) of this Subsection for an amount of:

(a) An aggregate weight of less than five hundred grams, shall be fined not more than fifty thousand dollars, imprisoned, with or without hard labor, for not less than one year nor more than three years, or both.

(b) An aggregate weight of five hundred grams or more, shall be fined not more than fifty thousand dollars, imprisoned, with or without hard labor, for not less than one year nor more than five years, or both.

C. Possession. It is unlawful for any person knowingly or intentionally to possess kratom. Any person who violates this Subsection shall be punished as follows:

(1) On a conviction wherein the offender possesses twenty grams or less, the offender shall be fined not more than one hundred dollars.

(2) On a first conviction, wherein the offender possesses more than twenty grams, the offender shall be fined not more than five hundred dollars, imprisoned in the parish jail for not more than six months, or both.

(3) On a second or any subsequent conviction, wherein the offender possesses more than twenty grams, the offender shall be fined not more than one thousand dollars, imprisoned in the parish jail for not more than six months, or both.

RS 40:967 — Prohibited acts - Schedule II; penalties

f 1950, it shall be unlawful for any person knowingly or intentionally:

(1) To produce, manufacture, distribute, or dispense or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance or controlled substance analogue classified in Schedule II.

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule II.

B. Violations of Subsection A. Any person who violates Subsection A of this Section with respect to:

(1) Except as otherwise provided in Paragraphs (2), (3), and (4) of this Subsection, a substance classified in Schedule II for an amount of:

(a) An aggregate weight of less than twenty-eight grams, shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years and may, in addition, be fined not more than fifty thousand dollars.

(b) An aggregate weight of twenty-eight grams or more, shall be imprisoned at hard labor for not less than one year nor more than twenty years and may, in addition, be fined not more than fifty thousand dollars.

(2)(a) Production or manufacturing of amphetamine or methamphetamine shall be sentenced to imprisonment at hard labor for not less than ten years nor more than thirty years, at least ten years of which shall be served without benefit of parole, probation, or suspension of sentence, and in addition may be sentenced to pay a fine of not more than five hundred thousand dollars.

(b) This Subparagraph shall be cited as the "Child Endangerment Law". When the state proves in addition to the elements of the crime as set forth in Subsection A of this Section that a minor child twelve years of age or younger is present in the home, mobile home or other inhabited dwelling at the time of the commission of the offense, the minimum mandatory sentence shall be fifteen years without benefit of parole, probation, or suspension of sentence.

(3) Production or manufacturing of cocaine or cocaine base or a mixture or substance containing cocaine or its analogues as provided in Schedule II(A)(4) of R.S. 40:964 or oxycodone as provided in Schedule II(A)(1)(p) of R.S. 40:964 or methadone as provided in Schedule II(B)(15) of R.S. 40:964 shall be sentenced to imprisonment at hard labor for not less than ten nor more than thirty years, at least ten years of which shall be served without benefit of parole, probation, or suspension of sentence, and may be fined not more than five hundred thousand dollars.

(4) Fentanyl or a mixture or substance containing a detectable amount of fentanyl or its analogues, or carfentanil or a mixture or substance containing a detectable amount of carfentanil or its analogues, shall be punished as follows:

(a) On conviction of an aggregate weight of less than twenty-eight grams, imprisonment at hard labor for not less than five years nor more than forty years, at least five years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand

dollars.

(b) On a first conviction of an aggregate weight of twenty-eight grams or more but less than two hundred fifty grams, imprisonment at hard labor for not less than seven years nor more than forty years, at least seven years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand dollars.

(c) On a second conviction of an aggregate weight of twenty eight grams or more but less than two hundred fifty grams, imprisonment at hard labor for not less than thirty years nor more than forty years, at least ten years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than five hundred thousand dollars.

(d) On a third conviction of an aggregate weight of twenty eight grams or more but less than two hundred fifty grams, imprisonment at hard labor for not less than ninety-nine years without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than five hundred thousand dollars.

(e) On conviction of an aggregate weight of two hundred fifty grams or more, life imprisonment at hard labor, at least twenty-five years of which shall be served without benefit of parole, probation, or suspension of sentence.

(f)(i) If the offender unlawfully distributes or dispenses fentanyl or a mixture or substance containing a detectable amount of fentanyl or its analogues, or carfentanil or a mixture or substance containing a detectable amount of carfentanil or its analogues, which is the direct cause of serious bodily injury to the person who ingested or consumed the substance, the offense shall be classified as a crime of violence, and the offender shall be imprisoned at hard labor for an additional period of five years without benefit of probation, parole, or suspension of sentence. The additional penalty imposed pursuant to this Subparagraph shall be served consecutively to the sentence imposed under this Paragraph.

(ii) For purposes of this Subparagraph, "serious bodily injury" shall have the same meaning as provided by R.S. 14:2(C).

(iii) This Subsection shall be known and may be cited as "Millie's Law".

C. Possession. It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance as classified in Schedule II unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, as provided in R.S. 40:978 while acting in the course of his professional practice, or except as otherwise authorized by this Part. Any person who violates this Subsection with respect to:

(1) An aggregate weight of less than two grams, shall be imprisoned, with or without hard labor, for not more than two years and, in addition, may be sentenced to pay a fine of not more than five thousand dollars.

(2) An aggregate weight of two grams or more but less than twenty-eight grams shall be imprisoned, with or without hard labor, for not less than one year nor more than five years and, in addition, may be sentenced to pay a fine of not more than five thousand dollars.

(3) Phencyclidine, for an amount of an aggregate weight of less than twenty-eight grams, shall be imprisoned at hard labor for not less than one year nor more than twenty

years, or required to pay a fine of not more than five thousand dollars, or both.

(4) Fentanyl or a mixture or substance containing a detectable amount of fentanyl or its analogues, or carfentanil or a mixture or substance containing a detectable amount of carfentanil or its analogues, upon conviction for an amount of:

(a) An aggregate weight of less than two grams, shall be imprisoned, with or without hard labor, for not less than two years nor more than four years.

(b) An aggregate weight of two grams or more but less than twenty-eight grams, shall be imprisoned, with or without hard labor, for not less than two years nor more than ten years and may, in addition, be required to pay a fine of not more than five thousand dollars.

D. If a person knowingly or intentionally possesses a controlled substance as classified in Schedule II, unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, as provided in R.S. 40:978 while acting in the course of his professional practice, where the amount of the controlled substance is an aggregate weight of twenty-eight grams or more, it shall be considered a violation of Subsection A of this Section.

E. Treatment for fentanyl or carfentanil addiction as a condition for probation.

(1) Upon conviction of Paragraph (C)(4) of this Section, possession of fentanyl or carfentanil, the court may suspend any sentence which it imposes and place the defendant on probation pursuant to Code of Criminal Procedure Article 893. The court may order the division of probation and parole of the Department of Public Safety and Corrections to conduct a presentence investigation, or may order the defendant to obtain a substance abuse evaluation, for the purpose of determining whether the defendant has a substance abuse disorder.

(2) Upon receiving the report or evaluation, the court shall, if it finds probable cause from such report to believe the defendant has a substance abuse disorder, order a contradictory hearing for the purpose of making a judicial determination on whether the defendant has a substance abuse disorder.

(3) If, at such contradictory hearing, the court determines that the defendant has a substance abuse disorder, it shall require as a condition of probation that the defendant complete a drug treatment program if the following conditions are met:

(a) There is an available program in the local jurisdiction that has sufficient experience in working with criminal justice participants with substance abuse disorders and is certified and approved by the state of Louisiana.

(b) The cost of the approved treatment does not create a substantial financial hardship to the defendant or his dependents. For purposes of this determination, "substantial financial hardship" shall have the same meaning as provided in R.S. 15:175.

(4) If the offender does not successfully complete the drug treatment program, or otherwise violates the conditions of his probation, the court may revoke the probation or impose other sanctions pursuant to Article 900 of the Code of Criminal Procedure.

RS 40:967.1 — Prohibited acts-Schedule II; distribution of fentanyl with certain characteristics

anyl or packaging of the fentanyl reasonably appeals to a minor, shall

be imprisoned at hard labor for not less than twenty-five years nor more than ninety-nine

years without benefit of probation, parole, or suspension of sentence.

B. Any person who violates the provisions of R.S. 40:967(A) with respect to fentanyl, where the fentanyl or packaging of the fentanyl is designed to resemble branded prescription medication or its generic equivalent, shall be imprisoned at hard labor for not less than ten years nor more than forty years without benefit of probation, parole, or suspension of sentence.

C. For the purposes of this Section, the following definitions shall apply:

(1) "Fentanyl" shall mean a substance or mixture containing a detectable amount of fentanyl or its analogues, or carfentanil or a mixture or substance containing a detectable amount of carfentanil or its analogues.

(2) "Reasonably appeals to a minor" shall mean a design of the fentanyl or the fentanyl's packaging that, due to the shape, color, taste, or design, includes but is not limited to a resemblance of any of the following:

(a) A noncontrolled substance that is primarily consumed by and marketed to minors.

(b) The shape of an animal, vehicle, person, or character.

(c) Food or beverage that is attractive to minors and that is commonly sold in retail establishments, regardless of whether the food or beverage is generic, trademarked, or a branded product.

(d) Candy.

RS 40:968 — Prohibited acts--Schedule III; penalties

(1) To produce, manufacture, distribute or dispense or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule III;

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule III.

B. Violations of Subsection A. Any person who violates Subsection A of this Section with respect to any controlled dangerous substance classified in Schedule III shall be sentenced to a term of imprisonment, with or without hard labor, for not less than one year nor more than ten years and, in addition, may be sentenced to pay a fine of not more than fifteen thousand dollars.

C. Possession. It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance classified in Schedule III unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, or as provided in R.S. 40:978 or 1060.21, while acting in the course of his professional practice or except as otherwise authorized by this Part. Any person who violates this Subsection shall be imprisoned, with or without hard labor, for not less than one year nor more than five years and, in addition, may be required to pay a fine of not more than five thousand dollars.

RS 40:969 — Prohibited acts--Schedule IV; penalties

(1) To produce, manufacture, distribute or dispense or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule IV.

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled

dangerous substance classified in Schedule IV.

B. Violations of Subsection A. Any person who violates Subsection A of this Section with respect to:

(1) Flunitrazepam shall be sentenced to a term of imprisonment at hard labor for not less than one year nor more than twenty years and pay a fine of not more than fifty thousand dollars.

(2) Any other controlled dangerous substance classified in Schedule IV, except flunitrazepam, shall be sentenced to a term of imprisonment, with or without hard labor, for not less than one year nor more than ten years and, in addition, may be sentenced to pay a fine of not more than fifteen thousand dollars.

C. Possession. (1) It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance classified in Schedule IV unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, or as provided in R.S. 40:978, while acting in the course of his professional practice or except as otherwise authorized by this Part. Any person who violates this Subsection with respect to:

(a) Flunitrazepam shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years and may, in addition, be required to pay a fine of not more than five thousand dollars.

(b) Any other controlled dangerous substance shall be imprisoned, with or without hard labor, for not less than one year nor more than five years and, in addition, may be required to pay a fine of not more than five thousand dollars.

(2) It shall not be a violation of this Subsection for a pregnant woman to possess mifepristone or misoprostol for her own consumption.

D. Whoever, with the intent to commit a crime of violence as defined in R.S.

14:2(B)(10) against an individual, violates Subsection A of this Section by administering a controlled dangerous substance to a person who is unaware that the controlled dangerous substance has been or is being administered to him, shall be sentenced to a term of imprisonment at hard labor for not less than five years nor more than forty years and may be fined not more than one hundred thousand dollars.

RS 40:970 — Prohibited acts--Schedule V; penalties

(1) To produce, manufacture, distribute or dispense or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule V.

(2) To create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule V.

B. Violations of Subsection A. Any person who violates Subsection A of this Section with respect to any controlled dangerous substance classified in Schedule V shall be sentenced to a term of imprisonment, with or without hard labor, for not less than one year nor more than five years and, in addition, may be sentenced to pay a fine of not more than five thousand dollars.

C. Possession. It is unlawful for any person unknowingly or intentionally to possess a controlled dangerous substance classified in Schedule V unless such substance was

obtained directly or pursuant to a valid prescription or order from a practitioner, or as provided in R.S. 40:978, while acting in the course of his professional practice or except as otherwise authorized by this Part. Any person who violates this Subsection shall be imprisoned with or without hard labor for not less than one year nor more than five years and, in addition, may be required to pay a fine of not more than five thousand dollars.

RS 40:971 — Prohibited acts; all schedules

ion of this part; or

(b) Who is a licensee to manufacture, distribute, or dispense a controlled dangerous substance to another licensee or other authorized person not authorized by his license; or

(c) To omit, remove, alter, or obliterate a symbol required by the Uniform Controlled Dangerous Substances Law; or

(d) To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice or information required under this part; or

(e) To refuse entry into any premise for inspection as authorized by this part; or

(f) To keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is frequented by persons using controlled dangerous substances in violation of this part for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of this part.

(2) Any person who violates this subsection shall be fined not more than fifteen thousand dollars. Such proceeding shall be independent, and not in lieu of, other proceedings under this part or any other law of this state. If the violation is prosecuted by a bill of information or an indictment which alleges that the violation was committed knowingly or intentionally, such person, upon conviction, shall be imprisoned for not more than six months; and, in addition, may be sentenced to pay a fine of not more than five hundred dollars.

B.(1) It shall be unlawful for any person knowingly or intentionally:

(a) To use in the course of the manufacture or distribution of a controlled dangerous substance a license number which is fictitious, revoked, suspended or issued to another person; or

(b) To acquire or obtain possession of a controlled dangerous substance by misrepresentation, fraud, forgery, deception or subterfuge; or

(c) To furnish false or fraudulent material, information in any application, report or other document required to be kept by this part.

(d) To make, distribute, or possess any punch, die, plate, stone or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another of any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit controlled dangerous substance; or

(e) To alter any controlled dangerous substance obtained by prescription without prior approval of the department; or

(f) To alter any prescription for a controlled dangerous substance; provided that this shall not apply to the person issuing the original prescription or the pharmacist pursuant to instructions from the physician; or

(g) To obtain or attempt to obtain a prescription or prescription blank form from a doctor, dentist, or veterinarian for a controlled dangerous substance and/or legend drug by fraud, theft, misrepresentation, deception or subterfuge.

(h) To possess a prescription for a controlled dangerous substance and/or legend drugs without the express consent of the party for whom such prescription was written. For the purposes hereof a legend drug is any drug or drug product bearing on the label of the manufacturer or distributor as required by the Federal Food and Drug Administration the statement "Caution: Federal law prohibits dispensing without prescription."

(i) To obtain or seek to obtain any controlled dangerous substance or a prescription for a controlled dangerous substance from a health care practitioner, while being supplied with any controlled dangerous substance or a prescription for any controlled dangerous substance by another health care practitioner, without disclosing the fact of the existing prescription to the practitioner from whom the subsequent prescription for a controlled dangerous substance is sought. Failure of a practitioner to request the disclosure is not a violation of this Subsection by the practitioner. The disclosure shall include the name of the controlled dangerous substance, the date of the prescription, the amount of the controlled substance prescribed, and the number of refills if any. The disclosure shall be made in writing by the person obtaining or seeking to

obtain the controlled dangerous substance and shall be made a part of the person's medical record by the health care practitioner. As used in this Section, the term "existing" shall mean the period of time within which the prescription was prescribed to be taken.

(2) Any person who violates this subsection shall be imprisoned, with or without hard labor, for not more than five years; and, in addition may be sentenced to pay a fine of not more than five thousand dollars.

C.(1) It shall be unlawful for a person, including a physician, dentist, podiatrist, or veterinarian, to prescribe, dispense, or administer legally controlled substances beyond his respective prescribing authority or for a purpose other than accepted medical treatment of a disease, condition, or illness.

(2) It shall be unlawful for a pharmacist to dispense legally controlled substances beyond his dispensing authority.

(3) Any person who violates this Subsection shall be subject to the penalties as established for the controlled dangerous substance and the particular criminal act committed in R.S. 40:966 through 967.

D. Every practitioner, as defined in R.S. 40:961, may, if he has a good faith belief that a crime has been committed on the premises, notify local law enforcement authorities when it is believed that an individual has obtained a fraudulent prescription for any controlled dangerous substance or any person has attempted to obtain a fraudulent prescription for any controlled dangerous substance.

E. Every pharmacy in which a controlled dangerous substance is physically obtained by a patient or a patient's agent shall require every person purchasing, receiving, or otherwise acquiring any controlled dangerous substance to produce a photo identification card, unless the patient or the patient's agent is known to the pharmacist. The person purchasing, receiving, or otherwise acquiring the controlled dangerous substance prescription does not have to be the specific patient to whom the prescription is issued.

RS 40:971.1 — Prohibited acts; false representation

dispense any substance which is

represented to be a controlled dangerous substance and which is an imitation controlled dangerous substance, or any controlled dangerous substance which is a counterfeit controlled dangerous substance.

B. The provisions of this Section shall not apply to a law enforcement officer acting in the course and scope of his employment or to a medical practitioner, pharmacist, or other person authorized to dispense or administer controlled dangerous substances pursuant to this Part.

C. Any person who violates the provisions of this Section shall be imprisoned with or without hard labor for not more than five years, and in addition may be fined not more than five thousand dollars.

RS 40:971.2 — Unlawfully prescribing, distributing, dispensing, or assisting in illegally obtaining controlled dangerous substances

ic Drug Abuse and Overdose Prevention Act".

B. It shall be unlawful for a physician, other licensed health care practitioner as defined in R.S. 40:961(31), or any other person to knowingly or intentionally commit any of the following acts:

(1) Assist a patient or any other person in obtaining a controlled dangerous substance through misrepresentation, fraud, forgery, deception, or subterfuge.

(2) Write a prescription for a controlled dangerous substance for a fictitious person.

(3) Distribute or dispense a controlled dangerous substance to a fictitious person.

(4) Operate any type of business or establishment where the primary purpose of the business or establishment is the sale, exchange, barter, or trade of a controlled dangerous substance for anything of value through misrepresentation, fraud, forgery, deception, or subterfuge.

C. Whoever violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years, and in addition may be sentenced to pay a fine of not more than fifty thousand dollars.

RS 40:971.3 — Misbranding or adulteration of drugs with intent to defraud or mislead

and with the intent to defraud or mislead shall be

imprisoned, with or without hard labor, for not more than five years, or fined not more than ten thousand dollars, or both.

RS 40:972 — Rules and regulations and fees

bution, and

dispensing of controlled dangerous substances within this state.

B. The fees collected by the Louisiana Board of Pharmacy for registration and licensing shall not exceed the following schedule:

Minimum

(1)

Manufacturer

\$

100.00

(2)

Ambulatory surgical centers

\$

50.00

(3)

Emergency medical centers

\$

50.00

(4)

Hospital

\$

50.00

(5)

Methadone clinic

\$

50.00

(6)

Wholesaler/Distributor

\$

50.00

(7)

Third-party logistics provider

\$

50.00

(8)

Practitioner

\$

20.00

(9)

Intern/Resident

\$

20.00

(10) Drug Detection/Canine

\$

30.00

(11) Researcher

\$

30.00

(12) Sales representative (or medical service representative
or detail person)

\$

20.00

(13) Other (schools, laboratories, crime laboratories, coroners,
ambulance services, analytical laboratories, etc.)

\$

20.00

(14) Duplicate/Replacement fee

\$

5.00

(15) Delinquent fee

(30 days after expiration/assessed per year)

\$

10.00

C. All said fees collected in accordance with the provisions of this Chapter shall be deposited in a separate fund and used for the administration and enforcement of this Part, and for education and research as provided by R.S. 40:992, together with any supplemental funds appropriated by the legislature or federal funds or grants received.

RS 40:973 — Licensing requirements

n this state,

including third-party logistics providers, or who proposes to engage in the research, manufacture, distribution, procurement, possession, prescribing, or dispensing of any controlled dangerous substance within this state, including third-party logistics providers, shall obtain a controlled dangerous substance license issued by the Louisiana Board of Pharmacy in accordance with the rules and regulations promulgated by the board prior to engaging in such activity.

(2) Upon initial application or upon renewal of a controlled dangerous substance license from the Louisiana Board of Pharmacy, a prescribing practitioner shall automatically and without further action be registered as a participant in the prescription monitoring

program established in R.S. 40:1001 et seq. For purposes of this Subsection, the term "practitioner" shall include those with prescription authority for controlled substances in Louisiana, excluding veterinarians.

B. The following persons shall not be required to obtain a license and may lawfully possess controlled dangerous substances under the provisions of this Part:

(1) An agent, or an employee thereof, of any registered manufacturer, distributor, or dispenser of any controlled dangerous substance if such agent is acting in the usual course of his business or employment.

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled dangerous substance is in the usual course of his business or employment.

(3) An ultimate user or person in possession of any controlled dangerous substance pursuant to a lawful order of a practitioner.

C. The Louisiana Board of Pharmacy may, by regulation, waive the requirement for licensing of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

D. A separate license shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled dangerous substances.

E. The Louisiana Board of Pharmacy is authorized to inspect the establishment of a licensee or applicant for licensing in accordance with the rules and regulations promulgated by the board.

F.(1) Any person licensed by the Louisiana Board of Pharmacy to manufacture, distribute, or dispense controlled dangerous substances shall submit to the board data on transactions involving the disbursement of Schedule II controlled dangerous substances to licensed Louisiana registrants except as provided in R.S. 40:972 and 988(B).

(2) The Louisiana Board of Pharmacy is authorized to promulgate rules and regulations necessary to implement the provisions of this Subsection including but not limited to the scope of such data, the form in which it is to be submitted, and the time requirements for such submission.

G.(1) The Louisiana Board of Pharmacy shall disseminate its findings concerning possible violations to the respective boards for action in correcting violations on the part of licensed Louisiana registrants.

(2)(a) Such supervisory board shall receive the findings of the Louisiana Board of Pharmacy concerning possible violations and shall disseminate such findings to the respective boards for action in correcting violations on the part of licensed Louisiana registrants.

(b) All expenses for the operation of the supervisory board shall be borne by the licensing boards which make up said supervisory boards.

RS 40:973.1 — Louisiana Board of Pharmacy; criminal history record information

who has applied to the board for the issuance or reinstatement of any controlled dangerous substance license that the board is authorized

by law to issue.

(2) "Board" means the Louisiana Board of Pharmacy.

(3) "Bureau" means the Louisiana Bureau of Criminal Identification and Information.

(4) "Criminal history record" or "criminal history record information" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition arising therefrom, including sentencing, correctional supervision, and release. The terms do not include information gathered or collected for intelligence or investigatory purposes, nor do the terms include any identification information which does not indicate involvement of the individual in the criminal justice system.

(5) "FBI" means the Federal Bureau of Investigation of the United States Department of Justice.

(6) "Licensure" means any controlled dangerous substance license that the board is authorized to issue.

B. In addition to any other requirement established by rule, the board may require an applicant who is not in possession of a valid and verifiable license or other credential from a standing professional board of the state of Louisiana or from the Louisiana Department of Health, bureau of health services financing, health standards, or their successors, to do the following as a condition for eligibility for licensure:

(1) Submit fingerprints and other identifying information to the board.

(2) Permit the board to request and obtain state and national criminal history record information on the applicant.

C.(1) The costs of providing the information required under this Section shall be charged by the bureau, as specified in R.S. 15:587, to the board including any additional costs of providing the national criminal history records check for information that pertains to the applicant.

(2) The board may impose any or all of such fees or costs on the applicant.

D. Upon request by the board and upon the board's submission of an applicant's fingerprints and other identifying information as may be required, the bureau shall conduct a search of its criminal history record information relative to the applicant and report the results of its search to the board within sixty days from receipt of such request. Pursuant to R.S. 15:587, the bureau may charge the board a processing fee.

E. If the criminal history record information reported by the bureau to the board does not provide grounds for disqualification of the applicant for licensure by the board, the board may forward the applicant's fingerprints and other identifying information as may be required to the FBI with a request for a search of national criminal history record information relative to the applicant.

F. Any state or national criminal history record information that is obtained by the board from the bureau or FBI and that is not already a matter of public record shall not be public record and shall be confidential, restricted to the exclusive use of the board, its members, officers, investigators, agents, and attorneys in evaluating the applicant's eligibility

or ineligibility for licensure. No information or record related to the state or national criminal history record information of an applicant shall be released or otherwise disclosed to any other person or agency, except with the written consent of the applicant or by an order of a court of competent jurisdiction.

RS 40:974 — Licensing

at such fees as it shall determine to be reasonable, unless it determines that the issuance of such license is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

- (1) Maintenance of effective controls against diversion of particular controlled dangerous substances and any Schedule I or II substance compounded therefrom into other than legitimate medical, scientific, or industrial channels.
- (2) Compliance with applicable state and local law.
- (3) Prior conviction record of applicant under federal or state laws relating to the manufacture, distribution, or dispensing of such substances.
- (4) Past experience in the manufacture of controlled dangerous substances, and the existence in the establishment of effective controls against diversion.
- (5) Such other factors as are relevant to and consistent with the public health and safety.

B. Licenses granted under Subsection A of this Section shall not entitle a licensee to manufacture and distribute controlled dangerous substances in Schedule I or II other than those specified in the license.

C. A license application by a practitioner who wishes to conduct research with a controlled substance shall be referred to the Louisiana Board of Pharmacy. Licensing by the Louisiana Board of Pharmacy for the purpose of bona fide research with a controlled dangerous substance by a practitioner deemed qualified by the board may be denied only on a ground specified in R.S. 40:975(A) or on the ground that the applicant's past practice or proposed procedures furnish grounds for the belief that the applicant will abuse or unlawfully transfer such substances from legitimate medical or scientific use.

RS 40:975 — Denial, revocation, suspension, or termination of license

d or revoked by the Louisiana Board of

Pharmacy upon a finding that the applicant or licensee meets any of the following criteria:

- (1) He has materially falsified any application filed pursuant to or required by this Part.
- (2) He has been convicted of a felony under this Part or any law of the United States, or of any state, relating to any substances defined in this Part as a controlled dangerous substance, or any felony under any other law of the United States or of any state within five years of the date of the issuance of the license.
- (3) His federal license has been suspended or revoked by competent federal authority and he is no longer authorized by federal law to engage in the manufacturing, distribution, or dispensing of controlled dangerous substances.
- (4) He has manufactured, distributed, or dispensed controlled dangerous substances in violation of any provision of this Part or any other state or federal laws pertaining to the

manufacture, distribution, or dispensing of controlled dangerous substances.

(5) He has repeatedly failed to submit to the Louisiana Board of Pharmacy data on transactions involving the disbursement of Schedule II controlled dangerous substances to licensed Louisiana registrants as required by R.S. 40:973(F) and by rules promulgated pursuant thereto.

B. The Louisiana Board of Pharmacy may limit revocation or suspension of a license to the particular controlled dangerous substance with respect to which grounds for revocation or suspension exist.

C. Before taking action pursuant to this Section or pursuant to a denial of license under R.S. 40:974, the Louisiana Board of Pharmacy shall serve upon the applicant or licensee an order to show cause why the license should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or licensee to appear before the Louisiana Board of Pharmacy at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this Section in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this Part or any law of the state.

D. The Louisiana Board of Pharmacy may, in its discretion, suspend any license simultaneously with the institution of proceedings under this Section in cases where it finds that there is an imminent danger to the public health or safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Louisiana Board of Pharmacy or dissolved by a court of competent jurisdiction.

E. In the event the Louisiana Board of Pharmacy suspends or revokes a license granted under R.S. 40:974, all controlled dangerous substances owned or possessed by the licensee pursuant to such license at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the board, be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled dangerous substances shall be forfeited to the state.

F. The Bureau of Narcotics and Dangerous Drugs shall promptly be notified of all orders suspending or revoking license and all forfeitures of controlled dangerous substances.

G.(1) A license pursuant to R.S. 40:974 to manufacture, distribute, or dispense a controlled dangerous substance shall be terminated by the Louisiana Board of Pharmacy if the licensee has failed to timely renew the license and submit the applicable fee, including the fee for the prescription monitoring program authorized pursuant to R.S. 40:1013, and thirty days have elapsed since the date of expiration.

(2) Any appeal from the provisions of this Subsection shall be governed by the Administrative Procedure Act.

(3) The Louisiana Board of Pharmacy shall promulgate rules, regulations, and standards to implement the provisions of this Subsection. The rules, regulations, and standards shall be promulgated in accordance with the Administrative Procedure Act.

RS 40:976 — Records of licensees

of all

stocks of such dangerous substances on hand. Thereafter, complete and accurate records of all such dangerous substances shall be maintained until the next inventory is made for the next two-year period as required by this Section. At each two-year period after July 29, 1970, at the time of his regular physical inventory, each licensee manufacturing, distributing, or dispensing controlled dangerous substances shall prepare an inventory of each dangerous substance in his possession. Records and inventories shall contain such information as shall be provided by rules and regulations promulgated by the Louisiana Board of Pharmacy. This Section shall not apply to practitioners who lawfully prescribe or administer, but do not otherwise dispense, controlled dangerous substances listed in Schedule I, II, III, IV, or V of this Part.

RS 40:976.1 — Chemical precursor; recordkeeping requirements

stances shall make an accurate and

legible record of the transaction and maintain the record for a period of at least five years after the date of the transaction:

- (1) Methylamine
- (2) Ethylamine
- (3) D-lysergic acid
- (4) Ergotamine tartrate
- (5) Diethyl malonate
- (6) Malonic acid
- (7) Ethyl malonate
- (8) Barbituric acid
- (9) Piperidine
- (10) N-acetylanthranilic acid
- (11) Pyrrolidine
- (12) Phenylacetic acid
- (13) Anthranilic acid
- (14) Morpholine
- (15) Ephedrine
- (16) Pseudoephedrine or norpseudoephedrine
- (17) Phenylpropanolamine
- (18) Acetic anhydride
- (19) Anthranilic acid, its esters and its salts
- (20) Benzaldehyde
- (21) Benzyl chloride
- (22) Benzyl cyanide
- (23) Ergonovine and its salts

- (24) Hydriodic acid
- (25) Isosafrole
- (26) 3,4-methylenedioxyphenyl-2-propanone
- (27) N-ethylephedrine, its salts, optical isomers, and salts of optical isomers
- (28) N-ethylpseudoephedrine, its salts, optical isomers, and salts of optical isomers
- (29) N-methylephedrine, its salts, optical isomers, and salts of optical isomers
- (30) N-methylpseudoephedrine, its salts, optical isomers, and salts of optical isomers
- (31) Nitroethane
- (32) 1-phenyl-1-chloro-2-methylaminopropanone (chloroephedrine; chloropseudoephedrine), their salts, optical isomers, and salts of optical isomers
- (33) Phenyl-2-propanone
- (34) Piperonal
- (35) Propionic anhydride
- (36) Safrole
- (37) Thionylchloride

B.(1) Before selling, transferring, or otherwise furnishing to a person in this state a precursor substance designated in Subsection A of this Section, a manufacturer, wholesaler, retailer, or other person shall obtain from the buyer or recipient not representing a business the following information:

- (a) The recipient's driver's license number or other personal identification certificate number, date of birth, and residential or mailing address, other than post office box number. This information shall be obtained from a driver's license or other personal identification card issued by the Department of Public Safety and Corrections that contains a photograph of the recipient.
- (b) The year, state, and number of the motor vehicle license of the motor vehicle owned or operated by the recipient.
- (c) A complete description of how the substance is to be used.
- (d) The recipient's signature.

(2) Before selling, transferring, or otherwise furnishing to a person in this state a precursor substance designated in Subsection A of this Section, a manufacturer, wholesaler, retailer, or other person shall obtain from the buyer or recipient representing a business the following information:

- (a) A letter of authorization from the business that includes the business license or comptroller tax identification number, address, area code, and telephone number and a complete description of how the substance is to be used.
- (b) The signature of the recipient.

(3) For any recipient, the seller, manufacturer, or retailer shall sign as a witness to the signature and identification of the recipient.

C. Except as provided by Subsection E of this Section, a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes to a person in this state a precursor substance designated in Subsection A of this Section shall, at least twenty-one days before the delivery of the substance, submit a report of the transaction on a form

obtained from the deputy secretary that includes the information required by Subsection B of this Section.

D. The deputy secretary shall supply to a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes a precursor substance subject to Subsection A of this Section a form for the submission of:

- (1) The report required by Subsection C of this Section.
- (2) The name and measured amount of the precursor substance, delivered.
- (3) Any other information required by the deputy secretary.

E. The deputy secretary shall require a manufacturer, wholesaler, retailer, or other person to submit a comprehensive monthly report instead of the report required by Subsection C of this Section if the deputy secretary determines either of the following:

- (1) That there is a pattern of regular supply and purchase of the substance between the furnisher and the recipient.
- (2) That the recipient has established a record of utilization of the substance solely for a lawful purpose.

F. A manufacturer, wholesaler, retailer, or other person who received from a source outside this state a substance designated in Subsection A of this Section or who discovers a loss or theft of a substance designated in Subsection A of this Section shall submit a report of the transaction to the deputy secretary in accordance with rules adopted pursuant to administrative procedure, and shall include in the report any difference between the amount of the substance actually received and the amount of the substance shipped according to the shipping statement or invoice or the amount of the loss or theft.

G. A report required under Subsection F of this Section shall:

- (1) Be made not later than the third day after the date that the manufacturer, wholesaler, retailer, or other person learns of the discrepancy, loss, or theft.
- (2) If the discrepancy, loss, or theft occurred during a shipment of the substance, include the name of the common carrier or person who transported the substance and the date that the substance was shipped.

H. The provisions of this Section shall not apply to the sale or transfer of a nonnarcotic product that includes a precursor substance listed in Subsection A of this Section, if the product may otherwise be sold lawfully with a prescription or over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or a rule adopted thereunder.

I. Any person who violates the provisions of this Section shall be imprisoned with or without hard labor for not more than one year, and in addition may be fined not more than one thousand dollars.

RS 40:977 — Order forms

y 17, 1978; Acts 2006, No. 834, §1.

RS 40:978 — Prescriptions

macist, to an ultimate user, no controlled dangerous substance included in Schedule II, which is a prescription drug as determined under the Louisiana Revised Statutes of 1950, may be dispensed or administered without either the written prescription of a practitioner,

or an electronic prescription order as provided by federal law or regulation, except that in emergency situations, as prescribed by the board by regulation, such drug may be dispensed or administered upon oral prescription reduced promptly to writing and filed by the pharmacist. Prescriptions shall be retained in conformity with the requirements of R.S.

40:976. No prescription for a Schedule II substance may be refilled nor may such prescription be filled more than ninety days after the date of the prescription. The pharmacist filling a prescription for a Schedule II substance may, upon request of the patient, dispense the prescribed substance in an amount less than the full quantity prescribed in accordance with 21 U.S.C. 829.

B. Except when dispensed or administered directly by a practitioner or administered by a person authorized to administer by such practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule III and IV which is a prescription drug as determined under the Louisiana Revised Statutes may be dispensed or administered without either a written prescription, an oral prescription, or an electronic prescription order as provided by federal law or regulation. Such prescription may not be filled or refilled more than six months after the date thereof or refilled more than five times after the date of the prescription, unless renewed by the practitioner.

C. No controlled dangerous substance included in Schedule V may be distributed, administered or dispensed other than for a medical purpose by prescription of a licensed practitioner or as otherwise permitted by the provisions of this Part. However, nothing contained in this Subsection shall prohibit a practitioner from delegating the authority to administer controlled dangerous substances in Schedule V to a person authorized by such practitioner.

D. Notwithstanding the requirements of this Section, a prescription for a controlled substance listed in Schedule II, III, IV, or V may be generated, signed, transmitted, and received in electronic form, but only in conformance with the federal rules established by the United States Drug Enforcement Administration at 21 CFR 1311.

E.(1) The pharmacist shall not dispense more than a ten-day supply at a dosage not to exceed the United States Food and Drug Administration's approved labeling for the medication if the prescriber for such medication is not licensed by the state of Louisiana, and the medication is an opioid derivative Schedule II or an opioid derivative Schedule III controlled dangerous substance. The dispensing pharmacist shall notify the prescriber of the supply dispensed and the cancellation of the remainder of the prescription.

(2) Within sixty days of the dispensing of a medication pursuant to Paragraph (1) of this Subsection, such a medication shall not be dispensed again for the individual by a prescriber not licensed by the state of Louisiana.

(3) The provisions of this Subsection shall not apply if either of the following apply:

(a) The prescription monitoring information from the state of the prescriber may be viewed by the dispensing pharmacist.

(b) The prescriber includes on the prescription a diagnosis of cancer or terminal illness.

F.(1) A prescriber or his delegate shall access and review the patient's record in the

prescription monitoring program established in R.S. 40:1001 et seq. prior to initially prescribing any opioid to a patient, and shall access the prescription monitoring program and review the patient's record at least every ninety days if the patient's course of treatment continues for more than ninety days. The requirement established in this Subsection shall not apply in the following instances:

(a) The drug is prescribed or administered to a hospice patient or to any other patient who has been diagnosed as terminally ill.

(b) The drug is prescribed or administered for the treatment of cancer-related chronic or intractable pain.

(c) The drug is ordered or administered to a patient being treated in a hospital.

(d) The prescription monitoring program is inaccessible or not functioning properly due to an internal or external electronic issue. However, the prescriber or his delegate shall check the prescription monitoring program once electronic accessibility has been restored and note the cause for the delay in the patient's chart.

(e) No more than a single seven-day supply of the drug is prescribed or administered to a patient.

(2) The provisions of this Subsection shall be enforced by the health profession licensing board that regulates the prescriber. Each health profession licensing board that regulates prescribers shall promulgate rules and regulations in accordance with the Administrative Procedure Act to comply with the mandate in this Subsection. If a health profession licensing board becomes aware of a prescriber's first failure to comply with this Subsection, as verified by the data of the prescription monitoring program, the board shall notify the prescriber of the relevant statutory requirements and inform the prescriber of the need to correct or amend his prescribing practices to comply with the provisions of this Subsection. If a health profession licensing board becomes aware of a second or subsequent failure to comply with this Subsection, as verified by the data of the prescription monitoring program, the board shall treat the notification as a complaint against the licensee, but shall not consider such notice as evidence of deviation from standard of care.

(3) The provisions of this Subsection shall not apply to individuals licensed by the Louisiana Board of Veterinary Medicine.

G.(1)(a) Except as provided in Paragraph (2) of this Subsection, when issuing a first-time opioid prescription for outpatient use to an adult patient with an acute condition, a medical practitioner shall not issue a prescription for more than a seven-day supply.

(b) Except as provided in Paragraph (2) of this Subsection, a medical practitioner shall not issue a prescription for an opioid to a minor for more than a seven-day supply at any time and shall discuss with a parent, tutor, or guardian of the minor the risks associated with opioid use and the reasons why the prescription is necessary.

(2) If, in the professional medical judgment of a medical practitioner, more than a seven-day supply of an opioid is required to treat the adult or minor patient's acute medical condition or is necessary for the treatment of chronic pain management, pain associated with a cancer diagnosis, or for palliative care, the practitioner may issue a prescription for the quantity needed to treat the patient's acute medical condition or pain. The condition

triggering the prescription of an opioid for more than a seven-day supply shall be documented in the patient's medical record and the practitioner shall indicate that a nonopioid alternative was not appropriate to address the medical condition. The medical practitioner shall indicate on the prescription that more than a seven-day supply of the opioid is medically necessary.

(3) This Subsection shall not apply to medications designed for the treatment of substance abuse or opioid dependence.

H.(1) Prior to issuing a prescription for an opioid, a medical practitioner shall do both of the following:

(a) Consult with the patient regarding the quantity of the opioid and the patient's option to fill the prescription in a lesser quantity.

(b) Inform the patient of the risks associated with the opioid prescribed.

(2)(a) A pharmacist filling a prescription for an opioid may dispense the prescribed substance in an amount less than the recommended full quantity indicated on the prescription if requested by the patient and the prescription complies with the provisions of this Section. The patient may request that the pharmacist fill an additional amount not to exceed the remaining prescribed quantity in accordance with 21 U.S.C. 829.

(b) If the dispensed amount is less than the recommended full quantity, the pharmacist or a designee shall ensure that the actual dispensed amount is accurately recorded in the prescription monitoring program. The pharmacist or a designee shall also, within seven days, make a notation in the interoperable electronic health record of the patient if the pharmacist has access to the record.

(c) Nothing in this Subsection shall be interpreted to conflict with or supersede any other requirement established in this Section for a prescription of a controlled dangerous substance or any requirements or conditions for drug substitutions established by law.

I. The transfer between pharmacies of a prescription or prescription information for controlled substances is permissible in conformance with 21 CFR Part 1306.

RS 40:978.1 — Naloxone; first responder; prescription; administration to third party; limitation of

) "First responder" means any of the following:

(a) A peace officer as defined in R.S. 40:2402.

(b) A firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state of Louisiana, or any volunteer fireman of the state of Louisiana.

(c) An EMS practitioner as defined in R.S. 40:1131.

(2) "Law enforcement agency" means an agency of a federally recognized Indian tribe or band or a state or political subdivision of a state, whose purpose is the detection and prevention of crime and enforcement of laws or ordinances.

(3) "Opioid-related drug overdose" means a condition including extreme physical illness, decreased level of consciousness, respiratory depression, coma, or the ceasing of respiratory or circulatory function resulting from the consumption or use of an opioid, or another substance with which an opioid was combined.

B. A first responder may receive a prescription for naloxone or another opioid

antagonist, maintain the naloxone or other opioid antagonist in the first responder's possession, and administer the naloxone or other opioid antagonist to any individual who is undergoing or who is believed to be undergoing an opioid-related drug overdose.

C.(1) Before receiving a prescription for naloxone or another opioid antagonist pursuant to this Section, a first responder shall complete the training necessary to safely and properly administer naloxone or another opioid antagonist to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose. The training, at a minimum, shall cover all of the following:

- (a) Techniques on how to recognize symptoms of an opioid-related overdose.
 - (b) Standards and procedures for the storage and administration of naloxone or another opioid antagonist.
 - (c) Emergency follow-up procedures.
- (2) A first responder shall keep a record of each instance in which the first responder administers naloxone or another opioid antagonist to an individual who is undergoing or who is believed to be undergoing an opioid-related drug overdose.

D. A law enforcement agency or fire department may enter into a written agreement to affiliate with an ambulance service provider or a physician for all of the following purposes:

- (1) Obtaining a supply of naloxone or another opioid antagonist.
- (2) Allowing law enforcement officers and firefighters to obtain the training necessary to safely and properly administer naloxone or another opioid antagonist to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose.

E. A first responder who, reasonably believing another person to be undergoing an opioid-related drug overdose, administers naloxone or another opioid antagonist to that person shall be immune from civil liability, criminal prosecution, or disciplinary or other adverse action under any professional licensing statute for any outcomes resulting from the administration of the naloxone or another opioid antagonist to that person, unless personal injury results from the gross negligence or willful or wanton misconduct of the first responder administering the drug.

F. The deputy secretary of public safety services of the Department of Public Safety and Corrections shall develop and promulgate, in accordance with the Administrative Procedure Act, a set of best practices for use by a fire department or law enforcement agency in the administration and enforcement of this Section including but not limited to the training necessary to safely and properly administer naloxone or another opioid antagonist to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose, the standards and procedures for the storage and administration of naloxone or another opioid antagonist, and emergency follow-up procedures.

RS 40:978.2 — Naloxone; prescription; dispensing; administration by third party; limitation of

e the drug naloxone or another opioid antagonist without having examined the individual to whom it may be administered if both of the following conditions are met:

- (1) The licensed medical practitioner provides the individual receiving and

administering the naloxone or other opioid antagonist all training required by the department for the safe and proper administration of naloxone or another opioid antagonist to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose.

The training, at a minimum, shall address all of the following:

- (a) Techniques on how to recognize signs of an opioid-related drug overdose.
 - (b) Standards and procedures for the storage and administration of naloxone or another opioid antagonist.
 - (c) Emergency follow-up procedures including the requirement to summon emergency services either immediately before or immediately after administering the naloxone or other opioid antagonist to an individual apparently experiencing an opioid-related drug overdose.
- (2) The naloxone or other opioid antagonist is prescribed or dispensed in such a manner that it shall be administered through a device approved for this purpose by the United States Food and Drug Administration.

B. A licensed medical practitioner who, in good faith, prescribes or dispenses naloxone or another opioid antagonist pursuant to Subsection A of this Section shall not, as a result of any act or omission, be subject to civil liability, criminal prosecution, or disciplinary or other adverse action under any professional licensing statute.

C.(1)(a) A licensed pharmacist shall dispense naloxone or another opioid antagonist prescribed, directly or by standing order, by a licensed medical practitioner pursuant to this Section.

(b) A licensed pharmacist may dispense naloxone or another opioid antagonist pursuant to a nonpatient-specific standing order as provided for in rules promulgated by the Louisiana Board of Pharmacy.

(2) A licensed pharmacist who, in good faith, dispenses naloxone or another opioid antagonist pursuant to this Subsection shall not, as a result of any act or omission, be subject to civil liability, criminal prosecution, or disciplinary or other adverse action under any professional licensing statute.

D. Notwithstanding any other provision of law or regulation, a person or organization acting pursuant to a standing order issued by a healthcare professional who is authorized to prescribe naloxone or another opioid antagonist may store naloxone or another opioid antagonist and may dispense naloxone or another opioid antagonist if such activities are performed without charge or compensation.

E. Notwithstanding any other provision of law or regulation, any person may lawfully possess naloxone or another opioid antagonist.

F. A person acting in good faith who, pursuant to the provisions of this Section, receives and administers naloxone or another opioid antagonist to a person reasonably believed to be undergoing an opioid-related drug overdose shall be immune from criminal and civil liability for the administration, unless personal injury results from the gross negligence or willful or wanton misconduct in the administration of the drug.

G. The department shall develop and promulgate a set of best practices for use by a licensed medical practitioner pursuant to this Section including but not limited to the training necessary to safely and properly administer naloxone or another opioid antagonist

to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose, the standards and procedures for the storage and administration of naloxone or another opioid antagonist, and emergency follow-up procedures.

H. For the purposes of this Section the following definitions apply:

(1) "Department" means the Louisiana Department of Health.

(2) "Licensed medical practitioner" means a physician or other healthcare practitioner licensed, certified, registered, or otherwise authorized to perform specified healthcare services consistent with state law.

(3) "Opioid-related drug overdose" means a condition including extreme physical illness, decreased level of consciousness, respiratory depression, coma, or the ceasing of respiratory or circulatory function resulting from the consumption or use of an opioid, or another substance with which an opioid was combined.

RS 40:978.2.1 — Reporting of opioid-related overdoses

ders with the

capability and mission to contain, mitigate, and resolve the emergency at hand such as but not limited to ambulance services, emergency medical service providers, or law enforcement.

(2) "Opioid-related drug overdose" means a fatal or nonfatal condition including extreme physical illness, decreased level of consciousness, respiratory depression, coma, or the ceasing of respiratory or circulatory function resulting from the consumption or use of an opioid, or another substance with which an opioid was combined.

B. First responders may provide reports or documents to the Louisiana Department of Health, office of public health, related to dispatches where an encountered individual was experiencing an opioid-related drug overdose and whether naloxone was administered. The office of public health shall treat any such reports or documents as confidential and such documents shall not be subject to release pursuant to a public records request or subpoena to the Louisiana Department of Health or the office of public health.

RS 40:978.2.2 — Hospital drug screening; fentanyl; minors

ng the minor's condition, the hospital

shall include testing for fentanyl in the minor's urine drug screening.

B. If the urine drug screening conducted in accordance with Subsection A of this Section detects fentanyl, the hospital shall report the de-identified test results to the Louisiana Department of Health, office of public health.

C. A hospital shall complete the reporting requirements of this Section and comply with any mandatory reporting requirements established in Children's Code Articles 609 and 610.

RS 40:978.3 — Continuing education for the prescribing of controlled substances

e authority in Louisiana that have a controlled dangerous substance license in Louisiana.

B. Each licensing board that regulates practitioners with prescriptive authority in Louisiana shall establish continuing education requirements as a prerequisite to license renewal. Each board shall develop continuing education criteria, to include drug diversion

training, best practice prescribing of controlled substances, appropriate treatment for addiction, and any other matters regarding the prescribing of controlled dangerous substances that are deemed appropriate by the board. Rules and regulations to implement this Section shall be promulgated in accordance with the Administrative Procedure Act. Such rules shall include all of the following:

(1) Each practitioner with prescriptive authority in Louisiana who holds a controlled dangerous substance license shall obtain three credit hours of continuing education as a prerequisite to license renewal with his professional licensing board. Successful completion of this requirement once shall satisfy the requirement in full.

(2) A practitioner with prescriptive authority in Louisiana who has a controlled dangerous substance license shall be exempt from the continuing education requirements for license renewal established in this Section if he completes and submits to his licensing board a certification form developed by his licensing board attesting that he has not prescribed, administered, or dispensed a controlled dangerous substance during the entire applicable reporting period. The licensing board shall verify the attestation of the prescriber through the prescription monitoring program established in R.S. 40:1001 et seq.

C. The licensing board shall provide its members with information on how to access the continuing education courses as required by this Section and shall retain annual compliance documentation that shall be submitted to the Senate and House committees on health and welfare to demonstrate aggregate prescriber compliance. No license shall be renewed for an individual who fails to comply with the provisions of this Section.

D. The continuing education hours required by this Section shall be considered among the credit hours required of the prescriber by the licensing board on and after August 1, 2017, and shall not be considered an additional requirement to be met by a prescriber.

E. The provisions of this Section shall not apply to individuals licensed by the Louisiana Board of Veterinary Medicine.

RS 40:979 — Attempt and conspiracy

anner as

for the offense planned or attempted, but such fine or imprisonment shall not exceed one-half of the longest term of imprisonment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

RS 40:981 — Distribution to persons under age eighteen

e I or II that is a

narcotic drug to a person under eighteen years of age shall, upon conviction, be punished by imprisonment at hard labor for not less than ten nor more than thirty years.

B. Any person who is at least eighteen years of age who violates R.S. 40:966 or 967 by distributing a substance listed in Schedule I or II that is a narcotic drug to a person under eighteen years of age who is at least three years his junior shall, upon conviction, be punished by a term of imprisonment of not less than five nor more than thirty years.

C. Any person who is at least eighteen years of age who violates R.S. 40:966

through 970 by distributing any other controlled dangerous substance listed in Schedules I, II, III, IV, and V to a person under eighteen years of age who is at least three years his junior shall, upon conviction, be punished by a term of imprisonment up to one and one-half times the longest term of imprisonment authorized by R.S. 40:966 through 970 or by payment of not more than twice the fine authorized by R.S. 40:966 through 970, or both.

RS 40:981.1 — Distribution to a student

enrolled in any public or private elementary, secondary, vocational-technical training, special, or postsecondary school or institution in Louisiana shall, upon conviction, be punished by a term of imprisonment of not more than one and one-half times the longest term of imprisonment authorized by the applicable provisions of R.S. 40:966 through 970 or by payment of not more than twice the fine authorized by the applicable provisions of R.S. 40:966 through 970, or both.

RS 40:981.2 — Soliciting minors to produce, manufacture, distribute, or dispense controlled dangerous substances

ghteen years of age to produce, manufacture, distribute, or dispense or possess with the intent to produce, manufacture, distribute, or dispense, in violation of any provision of R.S. 40:966 through R.S. 40:970, any controlled dangerous substance listed in Schedules I, II, III, IV, or V, or to distribute or attempt to distribute, in violation of R.S. 40:989, a chemical substance commonly known as "rush".

B. Except as provided in Subsection C of this Section, any person who violates the provisions of this Section shall upon conviction be punished by a term of imprisonment of not more than one and one-half times the longest term of imprisonment authorized by the applicable provisions of R.S. 40:966 through 970, or by a fine of not more than twice that authorized by such applicable provisions, or both.

C. Any person eighteen years of age or older who violates the provisions of this Section by soliciting, procuring, or counseling a person under eighteen years of age to distribute or to attempt to distribute cocaine, oxycodone, heroin, methamphetamine, or methadone in violation of R.S. 40:967(A) or (B) shall be sentenced to a term of imprisonment at hard labor for not less than ten nor more than thirty years, at least ten years of which shall be served without benefit of parole, probation, or suspension of sentence.

RS 40:981.3 — Violation of Uniform Controlled Dangerous Substances Law; drug free zone

ances Law while on any property used for school

purposes by any school, within two thousand feet of any such property, or while on a school bus, shall, upon conviction, be punished in accordance with Subsection D of this Section.

(2) Any person who violates a provision of R.S. 40:966(A), 967(A), 968(A), 969(A), or 970(A) while on property used as a drug treatment facility or within two thousand feet of any such property, when included within an area marked as a drug free zone pursuant to R.S. 40:1058.10, shall, upon conviction, be punished in accordance with Subsection D of this Section.

(3)(a) Any person who violates a provision of R.S. 40:966 through 970 of the Uniform Controlled Dangerous Substances Law while on any religious building property, public housing authority property, child day care center property, or within two thousand feet of any such property, if the area is posted as a drug free zone, shall, upon conviction, be punished in accordance with Subsection D of this Section.

(b) In order for the provisions of this Section to apply to religious buildings, public housing authority property, or child day care center property, the building must be posted as a drug free zone as provided herein. The design and posting of the signs shall be at the discretion of the entity that owns or has authority over the religious building, public housing

authority property, or child day care center property. In order to post the area as a drug free zone, the signs shall be located in a visible manner on or near each religious building, public housing authority property, or child day care center property indicating that such area is a drug free zone, that such zone extends for a distance of two thousand feet, and that a violation of the Uniform Controlled Dangerous Substances Law will subject the offender to severe penalties under law.

B. Lack of knowledge that the prohibited act occurred on or within two thousand feet of school or drug treatment facility property shall not be a defense.

C. For purposes of this Section:

(1) "School" means any public or private elementary, secondary, vocational-technical school, or any public or private college or university in Louisiana.

(2) "School property" means all property used for school purposes, including but not limited to school playgrounds, as well as any building or area owned by the state or by a political subdivision and used or operated as a playground or recreational facility and all parks and recreational areas administered by the office of state parks.

(3) "Drug treatment facility" means all property used for diagnostic, treatment, and rehabilitative services to patients and their families with problems related to alcohol, drug, or substance abuse.

(4) "Religious building property" means property on which is located any church, synagogue, mosque, or other building, structure, or place used for religious worship or other religious purpose.

(5) "Public housing authority property" means all property owned or operated by a public housing authority or agency created by state law or by any ordinance enacted by a local governing authority.

(6) "Child day care center property" means property on which is located a facility licensed as a day care center under the provisions of the Child Care Facility and Child-Placing Agency Licensing Act (R.S. 46:1401 et seq.) or licensed as a group child day care home under the provisions of the Child Care Registration Law (R.S. 46:1441 et seq.).

D.(1) Whoever violates a provision of this Section shall be punished by the imposition of the maximum fine and be imprisoned for not more than one and one-half times the longest term of imprisonment authorized by the applicable provisions of R.S. 40:966 through 970.

(2) A sentence imposed for a violation of the provisions of this Section shall not be subject to parole, probation, or suspension of sentence to the extent that the minimum sentence for a violation of a felony provision of R.S. 40:966 through 970 is not subject to parole, probation, or suspension of sentence.

E. Repealed by Acts 2014, No. 289, §2, eff. May 28, 2014.

RS 40:981.4 — Repealed by Acts 2014, No. 512, §1.

on Rouge, Louisiana 70804-9062

RS 40:982 — Second or subsequent offenses

at is twice that otherwise

authorized or to payment of a fine that is twice that otherwise authorized, or both. If the

conviction is for an offense punishable under R.S. 40:966(B), 967(B), 968(B), or 969(B), and if it is the offender's second or subsequent offense, the court may impose, in addition to any term of imprisonment and fine, twice the special parole term otherwise authorized.

B. For purposes of this Section, an offense shall be considered a second or subsequent offense if, prior to the commission of such offense, the offender had at any time been convicted of any violation of this state, the United States, any other state or of any foreign country, relating to the unlawful use, possession, production, manufacturing, distribution, or dispensation of any narcotic drug, marijuana, depressant, stimulant, or hallucinogenic drugs.

RS 40:983 — Creation or operation of a clandestine laboratory for the unlawful manufacture of a
ratory for the unlawful manufacture of

a controlled dangerous substance is any of the following:

- (1) The purchase, sale, distribution, or possession of any material, compound, mixture, preparation, supplies, equipment, or structure with the intent that it be used for the unlawful manufacture of a controlled dangerous substance.
- (2) The transportation or arranging for the transportation of any material, compound, mixture, preparation, supplies, or equipment with the intent that such material, compound, mixture, preparation, supplies, or equipment be used for the unlawful manufacture of a controlled dangerous substance.
- (3) The distribution of any material, compound, mixture, preparation, equipment, supplies, or products, which material, compound, mixture, preparation, equipment, supplies, or products have been used in, or produced by, the unlawful manufacture of a controlled dangerous substance.
- (4) The disposal of any material, compound, mixture, preparation, equipment, supplies, products, or byproducts, which material, compound, mixture, preparation, equipment, supplies, products, or byproducts have been used in, or produced by, the unlawful manufacture of a controlled dangerous substance.

B. It shall be unlawful for any person to knowingly or intentionally create or operate a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance.

C. (1) Except as provided in Paragraph (2) of this Subsection, whoever commits the crime of creation or operation of a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance shall be sentenced to imprisonment at hard labor for not less than five years nor more than fifteen years and may, in addition, be sentenced to pay a fine of not more than twenty-five thousand dollars.

(2) Whoever commits the crime of creation or operation of a clandestine laboratory for the unlawful manufacture of fentanyl or a mixture or substance containing a detectable amount of fentanyl or its analogues, or carfentanil or a mixture or substance containing a detectable amount of carfentanil or its analogues, shall be sentenced as follows:

(a) On a first conviction, imprisonment at hard labor for not less than ten years nor more than forty years, at least ten years of which shall be served without benefit of parole, probation, or suspension of sentence and may, in addition, be required to pay a fine of not more than fifty thousand dollars.

(b) On a second conviction, imprisonment at hard labor for not less than thirty years nor more than forty years, at least ten years of which shall be served without benefit of parole, probation, or suspension of sentence and may, in addition, be required to pay a fine of not more than five hundred thousand dollars.

(c) On a third or subsequent conviction, imprisonment at hard labor for not less than ninety-nine years, which shall be served without benefit of parole, probation, or suspension of sentence and may, in addition, be required to pay a fine of not more than five hundred thousand dollars.

D. In addition to the penalties provided in Subsection C of this Section, a person convicted under the provisions of this Section may be ordered to make restitution for the actual governmental cost incurred in the cleanup of any hazardous waste resulting from the operation of a laboratory for the unlawful manufacture of a controlled dangerous substance. The court may order that such amount be paid directly to the governmental agency or agencies that actually incurred the cleanup expense.

RS 40:983.1 — Creation or operation of a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance on or within one thousand feet of school property

rates a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance in violation of the provisions of R.S. 40:983 while on any property used for school purposes by any school or within one thousand feet of any such property shall, upon conviction, be punished in accordance with Subsection D of this Section.

B. Lack of knowledge that the prohibited act occurred on or within one thousand feet of school property shall not be a defense.

C. For purposes of this Section:

(1) "School" means any public or private elementary, secondary, vocational-technical school, or any public or private college or university in Louisiana.

(2) "School property" means all property used for school purposes, including but not limited to school playgrounds, as well as any building or area owned by the state or by a political subdivision and used or operated as a playground or recreational facility and all parks and recreational areas administered by the office of state parks.

D. Whoever violates the provisions of this Section shall be imprisoned at hard labor for not less than five nor more than fifteen years; and may, in addition, be sentenced to pay a fine of not more than twenty-five thousand dollars. At least three years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

E. The sentence imposed pursuant to the provisions of this Section shall be served consecutively with the sentence imposed pursuant to the provisions of R.S. 40:983.

RS 40:984 — Powers of enforcement personnel

rest warrants, administrative inspection

warrants, subpoenas, and summonses issued under the authority of this state.

(3) Make arrests without warrant for any offense under this Part on the same basis as provided in Code of Criminal Procedure Article 213.

(4) Make seizures of property pursuant to the authority granted under the provisions of this Part.

RS 40:985 — Search warrants

warrant is satisfied that there is probable cause to believe that grounds exist for the warrant.

RS 40:986 — Administrative inspections and warrants

r any state magistrate of any court of record

may, within his jurisdiction, and upon proper oath or affirmation after being satisfied there is probable cause to believe that legal grounds exist for the issuance of such warrant, issue warrants for the purpose of conducting administrative inspections authorized by this Part or regulations thereunder, and may authorize seizure of property related to such inspections.

(2) A warrant shall issue only upon an affidavit of any law enforcement officer or employee designated in R.S. 40:984 having knowledge of the facts alleged, sworn to before a judge or magistrate of any court of record and establishing the grounds for issuing the warrant. If the judge or magistrate of any court of record is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall also identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized by R.S. 40:984 to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purposes specified, and, where appropriate, shall also direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate of any court of record to whom it shall be returned.

(3) A warrant issued pursuant to this Section shall be executed and returned within ten days of its date. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken. The judge or magistrate of any court of record, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate of any court of record who has issued a warrant under this Section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the state court for the judicial district in which the inspection was made.

B. The Louisiana Board of Pharmacy is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this Section only, "controlled premises" means all of the following:

(a) Places where persons licensed or exempted from licensing requirements under this Part are required to keep records.

(b) Places including factories, warehouses, establishments, and conveyances where persons licensed or exempted from licensing requirements under this Part are permitted to possess, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled dangerous substance.

(2) When so authorized by an administrative inspection warrant issued pursuant to Subsection A of this Section a law enforcement officer or an employee as designated in R.S. 40:984, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, shall have the right to enter controlled premises for the purpose of conducting such an administrative inspection.

(3) When so authorized by an administrative inspection warrant, a law enforcement officer or an employee as designated in R.S. 40:984 shall have the right:

(a) To inspect and copy records required by this Part to be kept.

(b) To inspect, within reasonable limits and in a reasonable manner, the controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and except as provided in Paragraph (5) of this Subsection, all other things therein including records, files, papers, processes, controls, and facilities subject to regulation and control by the provisions of this Part or by regulations promulgated by the Louisiana Board of Pharmacy.

(c) To inventory any stock of any controlled dangerous substance therein and obtain samples of any such substance.

(4) This Section shall not be construed to prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with this Section, nor shall this Section be construed to prevent entries and administrative inspections including seizures of property without a warrant:

(a) With the written consent of the owner, operator, or agent in charge of the controlled premises;

(b) In situations involving inspection of conveyances where there is probable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(5) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this Section shall extend to any of the following:

(a) Financial data.

(b) Sales data other than shipment data.

(c) Pricing data.

RS 40:987 — Injunctions

the Code

of Civil Procedure and other laws of this state.

RS 40:988 — Cooperative arrangements; inspections

ubstances. To this end,

it is authorized to:

(1) Arrange for the exchange of information between governmental officials concerning the use and abuse of dangerous substances.

(2) Coordinate and cooperate in training programs on dangerous substance law enforcement at the local and state levels.

(3) Cooperate with the Federal Bureau of Narcotics and Dangerous Drugs by establishing a centralized unit which will receive, catalogue, file, and collect statistics,

including records of drug dependent persons and other dangerous substance law offenders within the state, and make such information available for federal, state, and local law enforcement purposes.

(4) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled dangerous substances may be extracted.

B.(1) Any other provision of this Part to the contrary notwithstanding, the inspections authorized or required by that law, insofar as pharmacists and pharmacies registered and licensed under the Louisiana Board of Pharmacy only are concerned, shall be conducted by the Louisiana Board of Pharmacy, through its duly authorized officers, members, inspectors, agents, and representatives, insofar as pharmacists and pharmacies registered and licensed under the Louisiana Board of Pharmacy are concerned; and compliance with requirements involving security measures, inventories, records, and reports required by that law and/or the regulations promulgated from time to time in connection therewith shall be administratively determined by the Louisiana Board of Pharmacy, insofar as pharmacists and pharmacies registered and licensed under the Louisiana Board of Pharmacy only are concerned.

(2) Any other provision of this Part to the contrary notwithstanding, the inspections authorized or required by that law, insofar as physicians licensed to practice medicine by the Louisiana State Board of Medical Examiners only are concerned, shall be conducted by the Louisiana State Board of Medical Examiners, through its duly authorized officers, members, inspectors, agents, and representatives, insofar as physicians licensed to practice medicine by the Louisiana State Board of Medical Examiners are concerned. Compliance with requirements involving security measures, inventories, records, and reports required by that law or the regulations promulgated in connection therewith, or both, shall be administratively determined by the Louisiana State Board of Medical Examiners insofar as physicians licensed to practice medicine by the Louisiana State Board of Medical Examiners only are concerned.

C. Any other provision of this Part to the contrary notwithstanding, the inspections authorized or required by that law, insofar as persons licensed by the Louisiana Department of Health including dentists, veterinarians, scientific investigators, hospitals, or other persons licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research in this state, shall be conducted and furnished exclusively by the Louisiana Department of Health, through its duly authorized officers, members, inspectors, agents, and representatives, insofar as dentists, veterinarians, scientific investigators, hospitals, or other persons licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research in this state registered and licensed under the Louisiana Department of Health are concerned; and compliance with requirements involving security measures, inventories, records, and reports required by that law and/or the regulations promulgated from time to time in connection therewith shall be administratively determined by the Louisiana Department of Health.

RS 40:989 — Dangerous chemical substances; butyl nitrite, nitrous oxide, and amyl nitrite; use and

ess any

compound, liquid, gas, or chemical which contains butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, and mixtures containing butyl nitrite, isobutyl nitrite, secondary butyl nitrite, or tertiary butyl nitrite.

(2) It shall be unlawful for any person to inhale, ingest, use, or possess any compound, liquid, gas, or chemical which contains nitrous oxide, commonly known as "laughing gas", and any amyl nitrite, commonly known as "poppers" or "snappers".

B. The provisions of Subsection A of this Section shall not apply to any of the following:

(1) The possession and use of these substances by a person who is at least twenty-one years of age when prescribed as part of the care or treatment of a disease, condition, or injury by a licensed medical or dental practitioner.

(2) The possession and use of these substances as part of a manufacturing process or industrial operation by a manufacturer or a person who is at least twenty-one years of age and employed by the manufacturer.

(3) The possession, use, or sale of nitrous oxide as a propellant in food preparation for restaurant or food service.

(4) The possession, use, or sale of houseware products by a person at least twenty-one years of age.

(5) The possession, use, or sale of nitrous oxide for automotive purposes by a person at least twenty-one years of age.

C. The presence of additional flavoring in a substance or labeling on any part of a container of the substance referring to the contents being flavored shall create a rebuttable presumption against the exceptions described in Subsection B of this Section.

D. It shall be unlawful for any person, entity, business, or corporation, including an online retailer, to produce, manufacture, possess, buy, sell, or otherwise transfer any substance specified in Subsection A of this Section or otherwise violate the provisions of Subsection A of this Section.

E.(1) Whoever violates the provisions of Subsection A of this Section shall be fined not more than two thousand five hundred dollars or imprisoned with or without hard labor for not more than one year, or both.

(2)(a) Whoever violates the provisions of Subsection D of this Section shall be fined not more than twenty-five thousand dollars or imprisoned with or without hard labor for not more than one year, or both.

(b) Any person, entity, business, or corporation that violates the provisions of Subsection D of this Section and possesses a certificate, permit, or license issued by the commissioner of alcohol and tobacco control in the Department of Revenue shall have its certificate, permit, or license suspended for thirty days upon the first violation. The certificate, permit, or license shall be revoked upon a second violation.

F. Any person who violates any of the provisions of this Section may, in the discretion of the trial judge, be required to participate in an approved drug rehabilitation

program as a condition of probation.

G.(1) The office of alcohol and tobacco control may conduct any investigation as necessary to regulate and enforce the provisions of this Section.

(2) The provisions of this Subsection shall not prohibit a law enforcement agency of the state or its political subdivisions with appropriate jurisdiction from enforcing the provisions of this Section.

H. The office of alcohol and tobacco control shall promulgate rules and regulations in accordance with the Administrative Procedure Act to provide for the regulation and enforcement of this Section.

RS 40:989.1 — Unlawful production, manufacture, distribution, or possession of hallucinogenic

nufacture, distribute, or possess with intent to produce, manufacture, or distribute a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.

(2) Whoever violates the provisions of this Subsection shall be sentenced to a term of imprisonment with or without hard labor for not less than two years nor more than ten years and may, in addition, be sentenced to pay a fine of not more than twenty thousand dollars.

B.(1) It shall be unlawful for any person knowingly or intentionally to possess a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.

(2) Any person who violates the provisions of this Subsection shall be sentenced to a term of imprisonment with or without hard labor for not more than five years and may, in addition, be sentenced to pay a fine of not more than five thousand dollars.

C. For the purposes of this Section:

(1) "Distribute" means to sell, lease, rent, barter, trade, furnish, supply, or otherwise transfer in exchange for anything of value a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.

(2) "Hallucinogenic plant" means any part or portion of any of the following:

- (a) *Brugmansia arborea*.
- (b) *Amanita muscaria*.
- (c) *Conocybe* spp.
- (d) *Panaeolus* spp.
- (e) *Psilocybe* spp.
- (f) *Stropharia* spp.
- (g) *Vinca rosea*.
- (h) *Ipomoea violacea*.
- (i) *Datura* spp.
- (j) *Pancreatium trianthum*.
- (k) *Kaempferia galanga*.
- (l) *Olmedioperebea sclerophylla*.
- (m) *Mesembryanthemum* spp.
- (n) *Virola* spp.

- (o) *Anadenanthera peregrina*.
- (p) *Anadenanthera colubrina*.
- (q) *Erythina* spp.
- (r) *Genista canariensis*.
- (s) *Mimosa hostilis*.
- (t) *Rhynchosia* spp.
- (u) *Sophora secundiflora*.
- (v) *Peganum harmala*.
- (w) *Banisteriopsis* spp.
- (x) *Tetrapteris methystica*.
- (y) *Heimia salicifolia*.
- (z) *Tabernanthe iboga*.
- (aa) *Prestonia amazonica*.
- (bb) *Lagoehilus inebrians*.
- (cc) *Rivea corymbosa*.
- (dd) *Salvia divinorum*.
- (ee) *Atropa belladonna*.
- (ff) *Hyoscyamus niger*.
- (gg) *Mandragora officinarum*.
- (hh) *Brunfelsia* spp.
- (ii) *Methysticodendron amesianum*.
- (jj) *Latua pubiflora*.
- (kk) *Calea Zacatechichi*.
- (ll) *Physalis subglabrata*.
- (mm) *Solanum carolinense*.
- (nn) *Amanita pantherina*.

(3) "Homeopathic drug" means any drug labeled as being homeopathic which is listed in the Homeopathic Pharmacopeia of the United States, an addendum to it, or its supplements. The potencies of homeopathic drugs are specified in terms of dilution. Homeopathic drug products must contain diluents commonly used in homeopathic pharmaceuticals. Drug products containing homeopathic ingredients in combination with non-homeopathic active ingredients are not homeopathic drug products.

(4) "Manufacture" means the production, preparation, propagation, compounding, or processing of a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacturer includes any person who packages, repackages, or labels any container holding a material, compound, mixture, or preparation intended for human consumption which contains a hallucinogenic plant.

(5) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a hallucinogenic plant.

D. The provisions of this Section shall not apply to the possession, planting,

cultivation, growing, or harvesting of a hallucinogenic plant strictly for aesthetic, landscaping, or decorative purposes.

E. The provisions of this Section shall not apply to any dosage form which is legally obtainable from a retail establishment without a prescription and is recognized by the Federal Food and Drug Administration as a homeopathic drug.

F. The provisions of this Section shall not apply to any dosage form which is labeled as a dietary supplement and is manufactured in compliance with the requirements of sections 402(g)(2), 415, and 761 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(g)(2), 350d, and 379aa-1).

RS 40:989.2 — Unlawful production, manufacturing, distribution, or possession of prohibited plant
e,

manufacture, distribute, or possess with intent to produce, manufacture, or distribute a material, compound, mixture, or preparation which contains a prohibited plant and which meets any of the following criteria:

- (a) It is intended to be placed in the oral or nasal cavity.
- (b) It is prepared in such a manner as to be suitable for smoking in a pipe or cigarette, or other device.
- (c) It is to be burned and inhaled or exhaled in any manner or in any form.

(2) Whoever violates the provisions of this Subsection shall be sentenced to a term of imprisonment with or without hard labor for not more than five years and may, in addition, be sentenced to pay a fine of not more than ten thousand dollars.

B.(1) It shall be unlawful for any person knowingly or intentionally to possess material, compound, mixture, or preparation which contains a prohibited plant and which is intended to be placed in the oral or nasal cavity, is prepared in such a manner as to be suitable for smoking in a pipe or cigarette, or is to be burned and inhaled or exhaled in any manner or in any form.

(2) Any person who violates the provisions of this Subsection shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

C. For the purposes of this Section:

(1) "Distribute" means to sell, barter, trade, furnish, supply, or otherwise transfer in exchange for anything of value a material, compound, mixture, or preparation which contains a prohibited plant.

(2) "Homeopathic drug" means any drug labeled as being homeopathic which is listed in the Homeopathic Pharmacopoeia of the United States, an addendum to it, or its supplements. The potencies of homeopathic drugs are specified in terms of dilution. Homeopathic drug products must contain diluents commonly used in homeopathic pharmaceuticals. Drug products containing homeopathic ingredients in combination with non-homeopathic active ingredients are not homeopathic drug products.

(3) "Manufacture" means the production, preparation, propagation, compounding, or processing of a material, compound, mixture, or preparation which contains a prohibited plant either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and

chemical synthesis. Manufacturer includes any person who packages, repackages, or labels any container holding a material, compound, mixture, or preparation which contains a prohibited plant.

(4) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a prohibited plant.

(5) "Prohibited plant" means any combination of any of the parts, leaves, stems, stalks, seeds, materials, compounds, salts, derivatives, mixtures, preparations, or any resin extracted from any part of the following plants:

- (a) *Artemisia vulgaris* (Mugwort).
- (b) *Canavalia rosea* (Bay bean).
- (c) *Leonotis leonurus* (Lion's tail).
- (d) *Leonotis nepetifolia* (Lion's ear).
- (e) *Leonurus sibiricus* (Honeyweed).
- (f) *Mitragyna speciosa*.
- (g) *Nelumbo nucifera* (Sacred Lotus).
- (h) *Nymphaea caerulea* (Blue Lotus, Egyptian Lotus).
- (i) *Pedicularis densiflora* (Indian warrior).
- (j) *Salvia divinorum*.
- (k) *Scutellaria nana* (Dwarf skullcap).
- (l) *Turnera diffusa* (Damiana).
- (m) *Zornia latifolia*.

D. The provisions of this Section shall not apply to any dosage form which is legally obtainable from a retail establishment without a prescription and is recognized by the United States Food and Drug Administration as a homeopathic drug.

E. The provisions of this Section shall not apply to the possession, planting, cultivation, growing, or harvesting of a prohibited plant strictly for aesthetic, landscaping, or decorative purposes.

F. The provisions of this Section shall not apply to any dosage form which is labeled as a dietary supplement and is manufactured in compliance with the requirements of sections 402(g)(2), 415, and 761 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(g)(2), 350d, and 379aa-1).

RS 40:989.3 — Repealed by Acts 2025, No. 41, §2.

ton Rouge, Louisiana 70804-9062

RS 40:989.4 — Unlawful production, manufacturing, distribution, or possession of Xylazine

r possess with intent to produce, manufacture, or distribute
Xylazine.

(2) Whoever violates the provisions of this Subsection shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years and, in addition, may be required to pay a fine of not more than fifteen thousand dollars.

B.(1) It shall be unlawful for any person to knowingly or intentionally possess
Xylazine.

(2) Whoever violates the provisions of this Subsection shall be imprisoned for not

more than six months and, in addition, may be required to pay a fine of not more than five hundred dollars.

C. The provisions of this Section shall not apply to the following:

- (1) The production, manufacturing, distribution, or possession of Xylazine in the course of a legitimate veterinary practice.
- (2) The production, manufacturing, distribution, or possession of a Xylazine bulk chemical for pharmaceutical compounding by a licensed pharmacist or veterinarian.
- (3) The possession of Xylazine pursuant to a valid prescription from a licensed veterinarian.

D. As used in this Section, "Xylazine" means Xylazine and any salt, sulfate, isomer, homologue, analogue, or other preparation of Xylazine, and any salt, isomer, compound, derivative, precursor, homologue, analogue, or other preparation thereof that is substantially chemically equivalent or identical to Xylazine.

RS 40:989.5 — Unlawful production, manufacturing, distribution, or possession of prohibited

distribute, or possess with intent to produce, manufacture, or distribute a material, compound, mixture, preparation, or product intended for human consumption which contains beta-phenyl-GABA, muscimol, ibotenic acid, or any analogue thereof.

(2) Any person who violates the provisions of this Subsection shall be sentenced to imprisonment, with or without hard labor, for not less than two years nor more than ten years, or fined not more than twenty thousand dollars, or both.

B.(1) It shall be unlawful for any person to knowingly or intentionally possess a material, compound, mixture, preparation, or product intended for human consumption which contains beta-phenyl-GABA, muscimol, ibotenic acid, or any analogue thereof.

(2) Any person who violates the provisions of this Subsection shall be sentenced to imprisonment, with or without hard labor, for not more than five years or fined not more than five thousand dollars, or both.

RS 40:990 — Burden of proof; liabilities

pleading or in any trial,

hearing, or other proceeding under this Part, and the burden of proof of any such exemption or exception shall be upon the person claiming its benefit.

B. In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this Part, he shall be presumed not to be the holder of such registration or form, and the burden of proof shall be upon him to rebut such presumption.

C. No liability shall be imposed by virtue of this Part upon any duly authorized law enforcement officer, the Louisiana Board of Pharmacy or its employees as provided in R.S. 40:984 engaged in the enforcement of any law, regulation, or municipal ordinance relating to controlled dangerous substances.

RS 40:991 — Prescription for controlled dangerous substances; proof of valid prescription; time

prescription for any controlled

dangerous substance as a defense to a violation of the provisions of the Uniform Controlled

Dangerous Substances Law shall have the obligation to produce sufficient proof of a valid prescription to the appropriate prosecuting office. Production of the original prescription bottle with the defendant's name, the pharmacist's name, and prescription number shall be sufficient proof of a valid prescription as provided for in this Section.

B. As used in this Section, "controlled dangerous substance" shall have the same meaning as provided in R.S. 40:961 and "prescription" shall have the same meaning as provided in R.S. 40:961.

C. Any individual who claims the defense of a valid prescription for any controlled dangerous substance shall raise this defense before commencement of the trial through a motion to quash.

RS 40:992 — Education and research

nces. In

connection with such programs it is authorized to:

- (1) Promote better recognition of the problems of misuse and abuse of controlled dangerous substances within the regulated industry and among interested groups and organizations.
- (2) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled dangerous substances.
- (3) Consult with interested groups and organizations to aid them in solving administrative and organizational problems.
- (4) Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled dangerous substances.
- (5) Disseminate to the industry and the general public the results of research on misuse and abuse of controlled dangerous substances to promote a better public understanding of what problems exist and what can be done to combat them.
- (6) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled dangerous substances.

B. The Louisiana Board of Pharmacy is authorized to encourage research on misuse and abuse of controlled dangerous substances. In connection with such research and in furtherance of the enforcement of this Part, it is authorized to:

- (1) Establish methods to assess accurately the effects of controlled dangerous substances and to identify and characterize controlled dangerous substances with potential for abuse.
- (2) Make studies and undertake programs of research to:
 - (a) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this Part.
 - (b) Determine patterns of misuse and abuse of controlled dangerous substances and the social effects thereof.
 - (c) Improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled dangerous substances.
- (3) Enter into contracts with public agencies or institutions of higher education, for the purpose of conducting research, demonstrations, or special projects which bear directly

on misuse and abuse of controlled dangerous substances.

C. The Louisiana Board of Pharmacy may authorize persons engaged in research on the use and effects of dangerous substances to withhold the names and other identifying characteristics of persons who are the subjects of such research. Persons who obtain this authorization shall not be compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which authorization was obtained.

D. The Louisiana Board of Pharmacy may authorize the possession and distribution of controlled dangerous substances by persons engaged in research in accordance with rules promulgated by the department. Persons who obtained this authorization shall be exempt from state prosecution for possession and distribution of dangerous substances to the extent authorized by the Louisiana Board of Pharmacy.

E. The Louisiana Board of Pharmacy, with the concurrence and under the supervision and control of the chief law enforcement officer of the jurisdiction wherein the program is conducted, may authorize the possession and exhibition for educational purposes only of controlled dangerous substances by persons employed by local and state law enforcement agencies engaged in educational programs in accordance with rules promulgated by the Louisiana Board of Pharmacy. Persons acting pursuant to this authorization shall be exempt from state and local prosecution for the possession and distribution of dangerous substances to the extent authorized by the Louisiana Board of Pharmacy. The Louisiana Board of Pharmacy shall coordinate and evaluate the training programs of the various law enforcement agencies to ensure compliance with the rules promulgated regulating the possession and exhibition of controlled dangerous substances for educational purposes.

RS 40:993 — Pending proceedings

seizures, forfeitures, and injunctive proceedings commenced prior to July 26, 1972, shall not be affected by this Part or abated by reason thereof.

C. All administrative proceedings pending before the department on July 26, 1972 shall be continued and brought to final determination in accordance with laws and regulations in effect prior to July 26, 1972. Such drugs placed under control prior to enactment of this Part, which are not listed within Schedules I through V, shall automatically be controlled and listed in the appropriate schedule.

D. The provisions of this Part shall be applicable to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings, and investigations which occur following July 26, 1972.

RS 40:994 — Continuation of regulations

n, shall continue in effect until modified, superseded, or repealed.

RS 40:995 — Short title

f you experience any technical difficulties navigating this website,

RS 40:996.1 — Legislative findings

le to abuse or
which lead to addiction.

B. Act No. 634 of the 1972 Regular Session incorporated protections regarding

controlled dangerous substances into the Louisiana Uniform Controlled Dangerous Substances Law.

C. In 2009 and 2010, Louisiana began experiencing increased incidents of individuals consuming synthetic cannabinoids as alternatives to marijuana, as well as increased incidents of individuals consuming substances which mimic the effects of amphetamines and cocaine and which are marketed as bath salts, fertilizer, and insect repellent.

D. These substances, which have been sold throughout Louisiana in retail establishments, have produced symptoms such as high blood pressure, severe hallucinations, anxiety, vomiting, seizures, delusions, and suicidal thoughts.

E. The chemical compositions of these substances make them relatively easy to alter by chemists resulting in the rapid production of new substances which circumvent statutes outlawing the production, manufacture, possession, and distribution of controlled dangerous substances having similar abuse potential and pharmacological effects.

F. These substances have not been approved by the United States Food and Drug Administration as being safe for human consumption, are not subject to any quality control measures in their preparation, and do not have established dosages, making them extremely dangerous and potentially lethal.

G. These substances have a high potential for abuse and no acceptable medical use in treatment in the United States. There is a lack of accepted safety for use of the substances under medical supervision making these substances highly addictive and potentially lethal.

H. Article II, Section 1 of the Louisiana Constitution provides that the powers of government are divided into a legislative, executive, and judicial branch. Article II, Section 2 of the Louisiana Constitution provides that not one of these branches shall exercise power belonging to either of the other branches.

I. The Louisiana Legislature recognizes that the Louisiana Supreme Court, in State

v. All Pro Paint & Body Shop, Inc.,

639 So. 2d 707 (La. 1994), outlined a three-prong test

to evaluate the constitutionality of a statutory delegation of legislative authority. The test provided that a statute delegating authority to an administrative agency is constitutionally valid if the enabling statute contains a clear expression of legislative policy, prescribes sufficient standards to guide the agency in the execution of that policy, and has adequate procedural safeguards to protect against abuse of discretion by that agency.

J. The Louisiana Legislature has a compelling interest in protecting the health, safety, and welfare of its citizens against the detrimental and deadly effects of these substances.

K. The options for the legislature to address the imminent hazard to the health, safety, and welfare for the people of the state of Louisiana are limited by the provisions of Article III, Section 2 of the Louisiana Constitution, which mandates an annual legislative session and provides mechanisms for the convening of an extraordinary or emergency session.

L. The Louisiana Legislature seeks to provide for a limited delegation of legislative

authority within the parameters which have been defined by the Louisiana Supreme Court for the express purpose of protecting the health, safety, and welfare of the citizens of the state from imminent harm.

M. Louisiana law authorizes the secretary of the Louisiana Department of Health to add a substance to the schedules of controlled dangerous substances based upon certain criteria. The provisions of R.S. 40:996.1 through 996.6 are intended to provide additional options for the secretary to address imminent hazards to the public health, safety, and welfare caused by dangerous substances.

RS 40:996.2 — Definitions

not otherwise listed as a

controlled dangerous substance and has been determined to be an imminent hazard to the public health, safety, and welfare by the secretary using the criteria and standards prescribed in R.S. 40:996.3.

(2) "Dangerous substance stop order" is a rule adopted by the Louisiana Department of Health pursuant to the provisions of R.S. 40:996.3 and 996.4, declaring that a substance is a dangerous substance which shall not be sold, distributed, manufactured, or dispensed.

RS 40:996.3 — Declaration of a dangerous substance of the Louisiana Department of Health

substance is a dangerous substance, the secretary shall consider the following factors with respect to each substance:

- (1) Its actual or relative potential for abuse.
- (2) Scientific evidence of its pharmacological effect, if known.
- (3) State of current scientific knowledge regarding the substance.
- (4) Its history and current pattern of abuse.
- (5) Its scope, duration, and level of abuse.
- (6) The level of risk to public health.
- (7) The likelihood of psychic or physiological dependence.
- (8) Whether the substance is an immediate precursor of a substance already controlled by the Uniform Controlled Substances Law.
- (9) Whether the substance is an analogue of a substance already controlled by the Uniform Controlled Dangerous Substances Law.
- (10) Whether there have been any reported fatalities associated with the substance.
- (11) Whether there have been any cases involving the substance reported to the state poison center.
- (12) Any other factors or considerations deemed relevant by the secretary.

B. Prior to the adoption of a rule declaring that a substance is a dangerous substance, the secretary shall make all of the following findings and determinations:

- (1) The substance has a high potential for abuse.
- (2) The substance has no current medical use in treatment in the United States.
- (3) There is a lack of accepted safety for use of the substance under medical supervision.
- (4) There is an imminent hazard to the health, safety, and welfare of the citizens of Louisiana requiring the substance to be declared a dangerous substance and the issuance of

a dangerous substance stop order as authorized by the provisions of this Section.

C. If the secretary has considered the factors provided for in Subsection A of this Section and has made the determinations required by the provisions of Subsection B of this Section, a rule pursuant to the provisions of R.S. 40:996.5 may be adopted declaring the substance a dangerous substance.

D. If the secretary determines that a substance shall be classified as a dangerous substance the rule shall also include a dangerous substance stop order prohibiting the sale, distribution, manufacture, or dispensing of the dangerous substance.

RS 40:996.4 — Dangerous substance stop order; effects; seizure of dangerous substances; duration

isions of R.S. 40:996.3, shall remain in effect upon adoption of the rule and shall extend through the sixtieth day after final adjournment of the succeeding legislative session. Upon the sixtieth day after final adjournment of the succeeding regular legislative session, the dangerous substance stop order shall be null, void, and of no effect.

B. Upon the adoption of the rule declaring a substance a dangerous substance and the issuance of the dangerous substance stop order, any law enforcement officer may seize any products containing the dangerous substance that are in plain view.

C. Whenever a law enforcement officer, or an agent of the Louisiana Department of Health, has probable cause to believe that any dangerous substance is located within the territorial jurisdiction of such officer, the officer may make application pursuant to Code of Criminal Procedure Article 162 to a court of competent jurisdiction for a search warrant. The warrant shall be executed pursuant to the provisions of Code of Criminal Procedure Articles 163, 164, and 165. In lieu of a return on the warrant, the executing officer shall attach to the search warrant a copy of the receipt required to be provided to the person from whom any such property is seized pursuant to this Section.

D. Any product containing any quantity of the dangerous substance shall be deemed contraband drugs, which are subject to forfeiture pursuant to the provisions of Article I, Section (4)(D) of the Louisiana Constitution.

E. The law enforcement officer seizing any dangerous substance pursuant to Subsections B or C of this Section shall appraise the value of the property seized according to his best judgment at its usual and ordinary retail price and shall deliver to the person found in possession thereof, if any, a receipt showing the fact of seizure, the date of the seizure, the name of the person from whom the property is seized, the location of the seizure, the description of the property seized, and the appraised value of such property.

F. Property seized under this Section shall not be subject to sequestration or attachment but is deemed to be in the custody of the law enforcement agency making the seizure, subject only to the order of the court. The seized property shall be immediately returned to the owner upon expiration of the dangerous substance stop order unless the legislature has enacted a provision to designate the dangerous substance as a controlled dangerous substance. In the event the legislature provides for the dangerous substance to be designated as a controlled dangerous substance, the property seized shall be considered contraband and destroyed immediately by the seizing law enforcement agency unless the seizing law enforcement agency determines that the property will be needed as evidence in

a civil or criminal proceeding. If the property is needed as evidence, the law enforcement agency shall place the seized property in a secure facility designated for the holding of evidence, pending further orders of the court.

G. The validity of a rule declaring a substance to be a dangerous substance and issuing a dangerous substance stop order may be determined in an action for declaratory judgment in the Nineteenth Judicial District Court. The Louisiana Department of Health shall be made a party to the action. An action for a declaratory judgment under this Subsection may be brought only by a person to whom such rule is applicable or who would be adversely affected by such rule and only on the grounds that the rule does not meet the criteria for adoption of a dangerous substance stop order as provided for in R.S. 40:996.3. The court shall declare the rule invalid if it finds that there is not sufficient evidence for the adoption of the dangerous substance stop order. Notwithstanding any other provision of law to the contrary, the dangerous substance stop order shall remain in effect until such declaratory judgment is rendered or until it expires as provided for in this Section. The provisions of R.S. 49:968 shall not apply to any action brought pursuant to this Subsection. The provisions of this Subsection are in addition to R.S. 49:968 and shall not limit any action pursuant to R.S. 49:968.

RS 40:996.5 — Rulemaking; special provisions; procedural safeguards

public health, safety, and welfare and the

adoption of a rule declaring a substance a dangerous substance and the issuance of a dangerous substance stop order is necessary, a rule may be adopted pursuant to the provisions of this Section.

B. The secretary shall publish a notice of intention to adopt a rule declaring a substance to be a dangerous substance and to issue a dangerous substance stop order regarding the sale, distribution, manufacture, or dispensing of the dangerous substance, in the official state journal at least twice within a fifteen-day period prior to the adoption of the rule.

C. The notice shall provide for all of the following:

- (1) An explanation of the basis and rationale for the intended action, a summary of the information, and data supporting the intended action.
- (2) The time, the location, and the manner in which interested persons may present their views thereon.
- (3) A statement that the intended action complies with the provisions of R.S. 40:996.1 through 996.7.
- (4) The text of the proposed rule.

D. The secretary shall afford all interested persons reasonable opportunity to submit data, views, comments, or arguments, orally or in writing. The opportunity for oral presentation or argument shall be granted if requested within five days after the initial publication of the notice as provided for in this Section.

E. The rule shall provide for all of the following:

- (1) A recitation of the determinations and findings required by the provisions of R.S. 40:996.3(B) and the reasons for those determinations and findings.

(2) A specific list of the substances declared to be dangerous substances.

(3) A dangerous substance stop order prohibiting the sale, distribution, manufacture, or dispensing of the dangerous substance.

F.(1) The secretary shall transmit and deliver within seven days after the initial publication of the notice in the official journal of the state as provided for in Subsection B of this Section, a copy of any proposed rules to the speaker of the House of Representatives, the president of the Senate, the chairman of the House Committee on Health and Welfare, and the chairman of the Senate Committee on Health and Welfare for review. The chairmen of such committees shall review the proposed rules to determine whether to conduct legislative oversight hearings.

(2) Legislative oversight shall be in accordance with the provisions of R.S. 49:966, except as provided in this Section.

(3) Any legislative oversight committee hearing approving or finding unacceptable any proposed rules shall be held within fourteen days of receipt of the proposed rules by the presiding officers of each house of the legislature and any action by the governor to disapprove the action of the committee shall be taken within four days of receipt of the report of the committee by the governor.

G. The rule shall become effective thirty days following the initial publication in the official state journal unless an oversight hearing is conducted and the rule is found unacceptable by the oversight committee and the governor does not disapprove of the action taken by the oversight committee. The rule shall remain in effect through the sixtieth day after final adjournment of the succeeding regular legislative session.

H. Except as specifically provided for in this Section, the rule shall be adopted pursuant to the provisions of the Administrative Procedure Act.

RS 40:996.6 — Violations

Any person who violates any provision of this Section shall be fined not more than five hundred dollars, or may be imprisoned for not more than two years in the parish jail, or both.

C. Each day of continued violation shall constitute a separate offense.

RS 40:996.7 — Pesticide law not affected

§1.

RS 40:1001 — Short title

cal difficulties navigating this website,

RS 40:1003 — Definitions

istration" means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other means.

(2) "Advisory council" means the entity established in R.S. 40:1005.

(3)(a) "Audit trail information" means information submitted or produced regarding requests for prescription monitoring program data that the board or other individual as specified by this Part uses to help monitor compliance with this Part and other applicable statutes, rules, or regulations.

(b) "Audit trail information" shall not include any information produced or requested

by the Louisiana legislative auditor.

(4) "Board" means the Louisiana Board of Pharmacy.

(5) "Controlled substance" means any substance or drug defined, enumerated, or included in federal or state statute or rules, 21 CFR 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute. "Controlled substance" shall not include distilled spirits, wine, malt beverages, or tobacco.

(6) "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient.

(7) "Dispenser" means a person authorized by this state to dispense or distribute to the ultimate user any controlled substance or drug monitored by the program, but shall not include any of the following:

(a) A pharmacy permitted by the board as a hospital pharmacy that dispenses or distributes any controlled substance or drug monitored by the program for the purposes of inpatient hospital care.

(b) A practitioner who dispenses or distributes no more than a single forty-eight-hour supply of such controlled substance or drug to a patient prior to or subsequent to performing an actual procedure on that patient.

(c) A practitioner or other authorized person who administers such controlled substance or drug upon the lawful order of a practitioner.

(d) A wholesale distributor of such controlled substance or drug that is credentialed by the Louisiana Board of Drug and Device Distributors.

(e) Repealed by Acts 2013, No. 27, §2, eff. May 23, 2013.

(8) "Distribute" or "distribution" means the delivery of a drug or device other than by administering or dispensing.

(9) "Drug" means any of the following:

(a) Any substance recognized as a drug in the official compendium, or supplement thereto, designated by the board for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals.

(b) Any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.

(c) Any substance other than food intended to affect the structure or any function of the body of humans or other animals.

(10) "Drugs of concern" means drugs other than controlled substances as defined by rule which demonstrate a potential for abuse or whose use requires tracking for public health purposes.

(11) "Patient" means the person or animal who is the ultimate user of a controlled substance or drug monitored by the program for whom a prescription is issued and for whom a controlled substance or drug is dispensed.

(12) "Prescriber" means a licensed healthcare professional with prescriptive

authority.

(13) "Prescription monitoring information" means data submitted to and maintained by the prescription monitoring program.

(14) "Prescription monitoring program" or "PMP" means the program established in R.S. 40:1004.

(15) "Procedure" means any dental or medical practice or process described in the current year's version of the American Dental Association's current Dental Terminology or the American Medical Association's Code of Procedural Terminology.

RS 40:1004 — Establishment of prescription monitoring program

onitoring of controlled substances and drugs of concern dispensed in the state or dispensed to an address in the state.

B. In conformity with the Louisiana Public Bid Law, R.S. 38:2211 et seq., the board may contract with a vendor to establish and maintain the electronic monitoring system pursuant to rules promulgated by the board.

C. This Part shall not apply to any person licensed pursuant to R.S. 37:1511 et seq.

RS 40:1005 — Prescription Monitoring Program Advisory Council

of the Louisiana State Board of Medical Examiners.

(2) The president of the Louisiana State Board of Dentistry.

(3) The president of the Louisiana State Board of Nursing.

(4) The president of the Louisiana State Board of Optometry Examiners.

(5) Repealed by Acts 2013, No. 27, §2, eff. May 23, 2013.

(6) The president of the Louisiana Academy of Physicians Assistants.

(7) The president of the Louisiana Board of Pharmacy.

(8) The superintendent of the Louisiana State Police.

(9) The administrator of the United States Drug Enforcement Administration.

(10) The speaker of the Louisiana House of Representatives.

(11) The president of the Louisiana Senate.

(12) The chairman of the House Committee on Health and Welfare.

(13) The chairman of the Senate Committee on Health and Welfare.

(14) The secretary of the Louisiana Department of Health.

(15) The president of the Louisiana State Medical Society.

(16) The president of the Louisiana Dental Association.

(17) The president of the Louisiana Association of Nurse Practitioners.

(18) The president of the Optometry Association of Louisiana.

(19) The president of the Louisiana Pharmacists Association.

(20) The president of the Louisiana Independent Pharmacies Association.

(21) The president of the National Association of Chain Drug Stores.

(22) The president of the Louisiana Sheriffs' Association.

(23) The president of the Louisiana District Attorneys Association.

(24) The president of the Pharmaceutical Research and Manufacturers of America.

(25) The president of the Louisiana Academy of Medical Psychologists.

(26) Repealed by Acts 2013, No. 27, §2, eff. May 23, 2013.

B. The members of the advisory council shall serve at the pleasure of their respective appointing authorities, eleven of whom shall constitute a quorum for the transaction of all

business. The members shall elect a chairman and vice chairman whose duties shall be established by the advisory council. The board shall fix a time and place for regular meetings of the advisory council, which shall meet at least once annually. The advisory council shall establish policies and procedures necessary to carry out its duties.

C. The board shall seek, and the advisory council shall provide, information and advice regarding the development and operation of the electronic monitoring system, including but not limited to the following:

- (1) Which controlled substances should be monitored.
- (2) Which drugs of concern demonstrate a potential for abuse and should be monitored.
- (3) Design and implementation of educational courses identified in R.S. 40:1008.
- (4) The methodology to be used for analysis and interpretation of prescription monitoring information.
- (5) Design and implementation of a program evaluation component.
- (6) Identification of potential additional members to the advisory council.

D. The advisory council may conduct and its members may attend and participate in a meeting via electronic means in accordance with the provisions of R.S. 42:17.4.

RS 40:1006 — Reporting of prescription monitoring information

ored by the program. The information submitted for each prescription shall include, at a minimum, data relative to the identification of the following elements of the transaction:

- (1) Prescriber information.
- (2) Patient information.
- (3) Prescription information.
- (4) Controlled substance or drug information.
- (5) Dispenser information.

B. Each dispenser shall submit the required information in accordance with transmission methods and frequency established by the board. Each eligible prescription transaction shall be reported no later than the next business day after the date of dispensing.

C. The board may issue a waiver to a dispenser who is unable to submit prescription information by electronic means. The waiver shall state the format and frequency with which the dispenser shall submit the required information. The board may issue an exemption from the reporting requirement to a dispenser whose practice activities are inconsistent with the intent of the program. The board may rescind any previously issued exemption without the need for an informal or formal hearing.

D. Any person or entity required to report information concerning prescriptions to the board or to its designated agent pursuant to the requirements of this Part shall not be liable to any person or entity for any claim of damages as a result of the act of reporting the information and no lawsuit may be predicated thereon. Any person or entity who submits report information in good faith containing prescription information that is not the subject of the PMP shall not be liable to any person or entity for any claim of damages and no lawsuit may be predicated thereon.

E. The prescription monitoring program's agents, a dispenser, or a prescriber may report suspected violations of this Section or violations of any law to any local, state, out-of-state, or federal law enforcement agency, or the appropriate prosecutorial agency for further investigation or prosecution.

F. No agent, dispenser, or prescriber who in good faith reports suspected violations as provided for in Subsection E of this Section shall be liable to any person or entity for any claim of damages as a result of the act of reporting the information, and no lawsuit may be predicated thereon.

G. The board shall establish by rulemaking standards for the retention, archiving, and destruction of prescription monitoring information and audit trail information. Nothing in this Section shall be construed to modify or abrogate the provisions of R.S. 44:411.

H. All agencies, as defined in R.S. 44:402, shall keep all records for the time specified in records retention schedules approved by the state archivist and director of the division archives, records management, and history of the Department of State and shall obtain the state archivist's approval before destroying any records in the agency's custody, pursuant to the provisions of R.S. 44:411.

RS 40:1007 — Access to prescription monitoring information and audit trail information

tion submitted to the board and audit trail information shall

be protected health information, not subject to public or open records law, including but not limited to R.S. 44:1 et seq., and not subject to disclosure. Prescription monitoring information and audit trail information shall not be available for civil subpoena from the board nor shall such information be disclosed, discoverable, or compelled to be produced in any civil proceeding nor shall such records be deemed admissible as evidence in any civil proceeding for any reason. Notwithstanding this provision, law enforcement and professional licensing, certification, or regulatory agencies may utilize prescription monitoring information and audit trail information in the course of any investigation and subsequent criminal and administrative proceedings, but only in accordance with federal and state law and the requirements of this Part.

B. The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained, as well as audit trail information, is not disclosed to persons or entities except as authorized or required in Subsections C through J of this Section.

C. The board shall review the prescription monitoring information. If there is reasonable suspicion to believe a breach of professional or occupational standards may have occurred, the board shall notify the appropriate professional licensing agency with jurisdiction over prescribers or dispensers and shall provide prescription monitoring information required for an investigation.

D. The board shall provide prescription monitoring information to public or private entities, whether located in or outside of the state, for public research, policy, or educational purposes, but only after removing information that identifies or could be reasonably used to identify prescribers, dispensers, and individual patients or persons who received prescriptions from prescribers.

E. The following persons may access prescription monitoring information at no cost and in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar protected health information under federal and state law and regulation:

- (1) Persons authorized to prescribe or dispense controlled substances or drugs of concern, or their delegates as defined by rule, for the purpose of providing medical or pharmaceutical care for their patients, or for verifying their prescribing records.
- (2) Designated representatives from the professional licensing, certification, or regulatory agencies of this state or another state charged with administrative oversight of those professionals engaged in the prescribing or dispensing of controlled substances or other drugs of concern.
- (3) Designated representatives from the Louisiana Medicaid program regarding Medicaid program recipients.
- (4) Designated representatives of the board and any vendor or contractor establishing or maintaining the prescription monitoring program.
- (5) A medical examiner or coroner, or a delegate thereof, for the purpose of investigating an individual's death.
- (6) A licensed substance abuse addiction counselor providing services as part of a state-licensed substance abuse or addiction treatment program.
- (7) A probation or parole officer for the purpose of monitoring an offender's compliance with participation in a drug diversion program or with other conditions of probation or parole related to monitored drugs.
- (8) An epidemiologist with the Louisiana Department of Health for the purpose of assisting the board in analyzing prescription monitoring information in order to conduct public health evaluations to support public policy and education pursuant to an agreement with the board.

F. The board may provide a report containing prescription monitoring information upon application of local, state, out-of-state, and federal law enforcement or prosecutorial officials, including judicially supervised specialty courts within the criminal justice system that are authorized by the Louisiana Supreme Court, engaged in the administration, investigation, or enforcement of the laws governing controlled substances or other drugs of concern in compliance with and as limited by the relevant requirements of any of the following:

- (1) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer.
- (2) A grand jury subpoena.
- (3) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided by law enforcement to the board, and further, provided all of the following:
 - (a) The information sought is relevant and material to a legitimate law enforcement inquiry.
 - (b) The request is specific and limited in scope to the extent reasonably practicable

in light of the purpose for which the information is sought.

(c) De-identified information, or limited information that does not identify or could not reasonably lead to the identification of an individual patient, could not reasonably be used.

G. The board may provide prescription monitoring information in response to queries from prescription monitoring programs, electronic health information systems, and pharmacy information systems located in other states, territories, federal districts, and federal jurisdictions, through its participation in a secure interstate data exchange system. The prescription monitoring information made available pursuant to this Subsection may be used only in a manner consistent with this Section.

H. The board may provide prescription monitoring information to authorized users of the prescription monitoring program via a state health information exchange or other third party conduit that has been approved by the board.

I. The board may provide prescription monitoring information to any of the following persons in accordance with procedures established by board regulation:

- (1) An individual who requests his personal prescription monitoring information.
- (2) A parent, legal guardian, or legal healthcare agent, for the purpose of reviewing the history of monitored drugs dispensed to a child or an individual for whom the agent makes healthcare decisions, to the extent consistent with federal and state confidentiality laws and regulations.
- (3) An executor of a will, or a court-appointed succession representative of an estate, for the purpose of reviewing the history of monitored drugs dispensed to a deceased individual.

J. The board may disclose audit trail information to individuals identified in Paragraph (E)(2) and Subsections F and I of this Section for use in an active investigation of an individual who submitted requests for prescription monitoring information.

K.(1) The board and advisory council shall not be subject to civil liability, administrative action, or other legal or equitable relief for any of the following:

- (a) Failure to possess prescription monitoring information that was not reported to the board.
 - (b) Release of prescription monitoring information or audit trail information that was factually incorrect.
 - (c) Release of prescription monitoring information or audit trail information to the wrong person or entity.
 - (d) Unlawful access to prescription monitoring information by an individual, or unlawful disclosure or use of prescription monitoring information by an individual who requested and received prescription monitoring information pursuant to this Section.
- (2) A dispenser or reporting agent shall not be subject to civil liability, administrative action, or other legal or equitable relief for reporting prescription monitoring information to the board.
- (3) A prescriber, dispenser, or other individual, agency, or entity in proper possession of prescription monitoring information or audit trail information pursuant to this Part shall

not be subject to civil liability, administrative action, or other legal or equitable relief for accessing, using, or disclosing prescription monitoring information or audit trail information pursuant to the provisions of this Section.

RS 40:1008 — Education and treatment

course for persons who are authorized to access the prescription monitoring information, but who have violated the laws or breached occupational standards involving the prescribing, dispensing, or use of any controlled substances or drugs monitored by the prescription monitoring program.

(2) A continuing education course for healthcare providers or professionals on prescribing practices, pharmacology, and the identification, treatment, and referral of a patient addicted to or abusing controlled substances or drugs monitored by the prescription monitoring program.

B. The board shall, in consultation with and upon recommendation of the advisory council, implement an educational program to inform the public about the use, diversion and abuse of, addiction to, and treatment for the addiction to controlled substances or drugs monitored by the prescription monitoring program.

C. The board shall, upon reasonable suspicion, refer potential or alleged impaired prescribers and dispensers to the appropriate professional licensing or certification agency to ensure intervention, treatment, and ongoing monitoring and follow-up.

RS 40:1009 — Unlawful acts and penalties

otification by the board,

shall be referred to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency.

B. A person or entity authorized to possess prescription monitoring information pursuant to this Part who knowingly accesses or discloses such information in violation of this Part shall be referred to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency and may, upon criminal conviction, be imprisoned, with or without hard labor, for not more than five years, and in addition, may be fined not more than five thousand dollars.

C. A person or entity authorized to possess prescription monitoring information pursuant to this Part who uses such information in a manner or for a purpose in violation of this Part shall be referred to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency and may, upon criminal conviction, be imprisoned, with or without hard labor, for not more than five years, and in addition, may be fined not more than five thousand dollars.

RS 40:1010 — Evaluation; data analysis; reporting

of the prescription monitoring program and other information relevant to policy, research, and education involving controlled substances and drugs monitored by the prescription monitoring program.

B. The board shall report to the appropriate legislative oversight committees on a periodic basis, but in no case less than annually, the cost benefits and other information contained in Subsection A of this Section.

RS 40:1012 — Authority to contract

sary, to ensure the effective operation of the prescription monitoring program. Any contractor shall be bound to comply with provisions regarding confidentiality of prescription information in R.S. 40:1007 and further shall be subject to the penalties specified in R.S. 40:1009 for unlawful acts.

RS 40:1013 — Funding authority

ment of the prescription monitoring program.

B. In the event the legislature provides full funding for the prescription monitoring program, no fees shall be levied as provided in this Section.

C. The board shall have the authority to levy and collect an annual fee from each of the following practitioners in possession of authority to prescribe or dispense controlled dangerous substances: physicians, podiatrists, dentists, optometrists, advanced practice registered nurses, physician assistants, medical psychologists, or any other person subsequently authorized by law to prescribe controlled dangerous substances. The board shall also have the authority to levy and collect an annual fee from each pharmacy licensed by the board. The annual fee levied and collected from each person enumerated in this Subsection and each pharmacy shall not exceed twenty-five dollars.

D. The board shall not be required to fund any aspect of the prescription monitoring program.

RS 40:1014 — Severability

be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable.

RS 40:1021 — Definitions

uipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Dangerous Substances Law, as scheduled in R.S. 40:964.

(2) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(3) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(4) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

(5) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances.

(6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances.

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.

(9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

(b) Water pipes.

(c) Carburetion tubes and devices.

(d) Smoking and carburetion masks.

(e) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

(f) Miniature cocaine spoons, and cocaine vials.

(g) Chamber pipes.

(h) Carburetor pipes.

(i) Electric pipes.

(j) Air-driven pipes.

(k) Chillums.

(l) Bongs.

(m) Ice pipes or chillers.

B. Notwithstanding any provision of law to the contrary, the term "drug paraphernalia" shall not include rapid fentanyl test strips (FTS) or any testing equipment or devices solely used, intended for use, or designed to determine whether a substance contains any controlled dangerous substance or chemical compound that can cause physical harm or death, provided that the testing equipment is not used to facilitate the manufacture or distribution of any controlled substance in violation of R.S. 40:961 et seq.

C. Notwithstanding any other provision of law to the contrary, the term "drug paraphernalia" shall not include any equipment or devices solely used or intended for use for the inhalation of raw or crude marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols when the person is a patient of a state-sponsored medical marijuana program and possesses medical marijuana in a form permissible under R.S. 40:1046 for therapeutic use.

RS 40:1022 — Determination of drug paraphernalia

g:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Dangerous Substances Law.

(3) The proximity of the object to controlled substances.

(4) The existence of any residue of controlled substances on the object.

(5) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows or should reasonably know intend to use the object to facilitate a violation of the Uniform Controlled Dangerous Substances Law; the innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Dangerous Substances Law shall not prevent a finding that the object is intended for use or

designed for use as drug paraphernalia.

- (6) Instructions, oral or written, provided with the object concerning its use.
- (7) Descriptive materials accompanying the object which explain or depict its use.
- (8) National and local advertising concerning its use.
- (9) The manner in which the object is displayed for sale.
- (10) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
- (11) The existence and scope of legitimate use for the object in the community.
- (12) Expert testimony concerning its use.

RS 40:1023 — Prohibited acts

e to any person any drug paraphernalia.

B. It is unlawful for any person or corporation, knowing, or under circumstances where one reasonably should know, to display for sale or possess with the intent to distribute, any drug paraphernalia.

C. It is unlawful for any person to use, or to possess with intent to use, any drug paraphernalia, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this Part.

D. Repealed by Acts 1990, No. 517, §2, eff. July 18, 1990.

RS 40:1023.1 — Prohibited acts; unmarried persons under seventeen years of age

ibute to any unmarried person under the age of seventeen any drug paraphernalia.

B. The unlawful sale, loan, rent, lease, gift, exchange, exhibition, display, or distribution of drug paraphernalia to any unmarried person under the age of seventeen is the intentional sale, loan, rent, lease, gift, exchange, exhibition, display, or distribution of drug paraphernalia to any unmarried person under the age of seventeen years, at any newsstand, record store, tape store or any other commercial establishment which is open to persons under the age of seventeen years.

C. It shall be unlawful to invite or permit any unmarried person under the age of seventeen to be in any commercial establishment that exhibits or displays any item, material, work, or object of any kind that is defined as drug paraphernalia pursuant to this Part.

D. Lack of knowledge of age or marital status shall not constitute a defense, unless the defendant shows that he had reasonable cause to believe that the minor involved was either married or seventeen years of age or more and that the minor exhibited to the defendant a draft card, driver's license, birth certificate, or other official or apparently official document purporting to establish that such person was either married or seventeen years of age or more.

RS 40:1024 — Exceptions; defenses; local needle exchanges

ribution, or advertisement of any product

or object designed and sold primarily for scientific research, industrial, veterinary, or agricultural purposes, or for bona fide medical or clinical use.

B. It shall be an affirmative defense that the person to whom the drug-related object or advertisement or notice was distributed had a prescription from a licensed medical practitioner or psychiatrist for marijuana or the controlled substance for which the object is primarily intended to be used. It is also an affirmative defense that the drug-related object was designed or marketed as useful primarily for veterinary or agricultural purposes.

C. Any provision of law to the contrary herein notwithstanding, the provisions of this Part shall not prohibit the establishment and implementation of a needle exchange program within the jurisdiction of a local governing authority, including but not limited to a city, town, or parish, upon the express approval of the local governing authority.

RS 40:1025 — Penalties

t in

excess of three hundred dollars, or imprisonment of not more than fifteen days, or both.

(2) A conviction for a violation of the provisions of this Part may not be used as a predicate conviction for enhancement purposes under Subsections B and C of this Section if the offender has not been convicted of any violation of the controlled dangerous substances law for a period of two years from the date of completion of sentence, probation, parole, or suspension of sentence for that conviction. The provisions of this Paragraph shall apply only once with respect to any person.

B. On a second conviction, except as provided in Subsection E of this Section, the offender shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

C. On a third or subsequent conviction, except as provided in Subsection E of this Section, the offender shall be fined not more than two thousand five hundred dollars, or imprisoned, with or without hard labor, for not more than two years, or both.

D. If the second or subsequent conviction is by any person licensed under the occupational license tax law, as provided in R.S. 47:341 et seq., or by such person's manager, agent, servant, or employee, then such person shall forfeit the right to any permit issued thereunder and such permit may be suspended or revoked.

E. The penalty for possessing drug paraphernalia intended for, or used solely for, the inhalation, ingestion, epidermal or sublingual absorption, or other method of introducing marijuana or marijuana derivatives into the human body are as follows for quantities of paraphernalia not exceeding those required for individual personal use:

(1) On a first conviction, a fine of one hundred dollars.

(2) On a second conviction, a fine of five hundred dollars.

(3) On a third or subsequent conviction, a fine of two thousand five hundred dollars.

RS 40:1026 — Contraband; condemnation proceedings

of this Part, may be destroyed by the authorities making the seizure, but only after compliance with the following procedure. Within ninety days after any seizure is made after the effective date of this Section, the district attorney shall institute condemnation proceedings in district court by petition, a copy of which shall be served upon the owner of the seized items, if known. If the owner is unknown, notice of the proceedings shall be published once a week for two weeks in the official journal of the parish. The petition shall allege that the seized items were distributed or possessed in violation of this Part. Fifteen days after the filing of the petition, judgment by default shall be entered by the court, and the court shall order the seized items to be destroyed. Otherwise, the case shall proceed as other civil cases in said court. If the prosecution proves, by a preponderance of the evidence, that the seized items were distributed or possessed in violation of the law, the court shall order the seized items to be destroyed.

RS 40:1031 — Purpose

d abandoned animals.

RS 40:1032 — Permit

ane euthanasia without the permit required by this Part.

RS 40:1033 — Permit application

pply to

the secretary of the Louisiana Department of Health for a permit to purchase, possess, and

administer sodium pentobarbital for the humane euthanasia of animals.

RS 40:1034 — Permit issuance and conditions

have been met:

- (1) The animal control agency or facility is a duly incorporated humane society contracted to perform animal control services by a parish or municipality or a parish or municipal animal control agency.
- (2) The animal control agency has on staff a certified euthanasia technician, as provided in R.S. 37:1551 et seq.
- (3) Any other criteria which may be established by the department pursuant to R.S. 40:1036.

B. The permit shall designate a sole responsible person for the duration of the permit to oversee the purchase, possession, and administration of sodium pentobarbital, which such person shall be a certified euthanasia technician.

RS 40:1035 — Permit revocation or suspension; inspections

an humane animal euthanasia or that the permitted facility has failed to abide by the regulations promulgated by the secretary for the safe and efficient purchase, possession, or administration of sodium pentobarbital.

B. The department shall inspect any permitted animal control facility to determine compliance with this Chapter or any rules or regulations promulgated pursuant thereto.

RS 40:1036 — Rules and regulations

06.

RS 40:1041 — Transactions involving proceeds from drug offenses

tion of R.S. 40:966 et seq. when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or the control of the proceeds known to be derived from such violation or to avoid a transaction reporting requirement under state or federal law.

B. It is unlawful for any person knowingly or intentionally to give, sell, transfer, trade, invest, conceal, transport, maintain an interest in, or otherwise make available anything of value known to be for the purpose of committing or furthering the commission of any violation of R.S. 40:966 et seq.

C. It is unlawful for any person knowingly or intentionally to direct, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds known to be derived from any violation of R.S. 40:966 et seq.

D. It is unlawful for any person to knowingly or intentionally receive or acquire proceeds derived from any violation of R.S. 40:966 et seq., or to knowingly or intentionally engage in any transaction involving proceeds from any such violations.

The provisions of this Section shall not include any transaction between an individual and his attorney, that is necessary to preserve that individual's right to representation by counsel, as guaranteed by the Sixth Amendment of the United States Constitution, and Article I Section 13 of the Constitution of Louisiana. However, this shall not affect the right of the state to seek and obtain forfeiture of any proceeds derived from a violation of R.S. 40:966 et seq., as provided by R.S. 40:2601 through 2622.

E. Any person who is convicted of violating this Section shall be imprisoned for not more than ten years, with or without hard labor, or fined not more than ten thousand dollars, or both.

RS 40:1046 — Recommendation and sale of marijuana for therapeutic use; production facility

er provision of this Part, any clinician authorized by

the provisions of Subsection B of this Section to recommend medical marijuana, referred to in this Section as an "authorized clinician", may recommend, in any form authorized by the rules and regulations of the Louisiana Department of Health, hereafter referred to as the "department", raw or crude marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols for therapeutic use by any patient clinically diagnosed as suffering from a debilitating medical condition.

(2)(a) For purposes of this Subsection, "debilitating medical condition" means any of the following:

- (i) Cancer.
 - (ii) Glaucoma.
 - (iii) Any of the following neurodegenerative diseases and conditions:
 - (aa) Alzheimer's disease.
 - (bb) Amyotrophic lateral sclerosis.
 - (cc) Huntington's disease.
 - (dd) Lewy body dementia.
 - (ee) Motor neuron disease.
 - (ff) Parkinson's disease.
 - (gg) Spinal muscular atrophy.
 - (iv) Positive status for human immunodeficiency virus.
 - (v) Acquired immune deficiency syndrome.
 - (vi) Cachexia or wasting syndrome.
 - (vii) Seizure disorders.
 - (viii) Epilepsy.
 - (ix) Spasticity.
 - (x) Severe muscle spasms.
 - (xi) Intractable pain.
 - (xii) Crohn's disease.
 - (xiii) Muscular dystrophy.
 - (xiv) Multiple sclerosis.
 - (xv) Posttraumatic stress disorder.
 - (xvi) Any of the following conditions associated with autism spectrum disorder:
 - (aa) Repetitive or self-stimulatory behavior of such severity that the physical health of the person with autism is jeopardized.
 - (bb) Avoidance of others or inability to communicate of such severity that the physical health of the person with autism is jeopardized.
 - (cc) Self-injuring behavior.
 - (dd) Physically aggressive or destructive behavior.
 - (xvii) Traumatic brain injury.
 - (xviii) A concussion diagnosed by an authorized clinician.
 - (xix) Chronic pain associated with fibromyalgia.
 - (xx) Chronic pain associated with sickle cell disease.
 - (xxi) Any condition for which a patient is receiving hospice care or palliative care.
 - (xxii) Any condition not otherwise specified in this Subparagraph that an authorized clinician, in his clinical opinion, considers debilitating to an individual patient and is qualified through his clinical education and training to treat.
- (b) No authorized clinician shall recommend medical marijuana for treatment of any condition associated with autism spectrum disorder for a patient who is under the age of eighteen unless the clinician complies with the provisions of this Section and consults with a pediatric subspecialist. For purposes of this Subparagraph, a pediatric subspecialist is an individual licensed to practice medicine in any state in the United States who provides care

to patients with autism spectrum disorder.

(c) Intractable pain means a pain state in which the cause of the pain cannot be removed or otherwise treated with the consent of the patient and which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. It is pain so chronic and severe as to otherwise warrant an opiate prescription.

(d) Repealed by Acts 2019, No. 284, §2.

(e) Repealed by Acts 2019, No. 284, §2.

(3) For purposes of this Part, "recommend" or "recommended" means an opinion of any authorized clinician, provided within a bona fide clinician-patient relationship, that, in the sincere judgment of the clinician, therapeutic cannabis may be helpful to the patient's condition or symptoms and is communicated by any means allowed by the department.

(4) Any authorized clinician may recommend medical marijuana to any patient suffering from a debilitating medical condition with whom he shares a bona fide clinician-patient relationship.

(5)(a) No retailer permitted to sell marijuana for therapeutic use in accordance with the provisions of this Section shall sell more than two and one-half ounces, or seventy-one grams, of raw or crude marijuana every fourteen days to any individual patient.

(b) No retailer permitted to sell marijuana for therapeutic use in accordance with the provisions of this Section shall sell raw or crude marijuana to any person under twenty-one years of age without a recommendation from an authorized clinician specifically recommending marijuana in raw or crude form for that person.

(6) Authorized clinicians shall report adverse events and health outcomes associated with a patient's use of medical marijuana to the data system provided for in R.S. 40:1168.1 et seq.

(7) Nothing in this Subsection shall be construed to prevent the department from authorizing, by rule, medical marijuana in a form to be administered by metered-dose inhaler. For purposes of this Section, "metered-dose inhaler" means a device that delivers a specific amount of medication to the lungs, in the form of a short burst of medicine that is usually self-administered by the patient via inhalation.

B. All of the following licensed health professionals are hereby authorized to recommend medical marijuana to patients and, for purposes of this Part, shall be deemed "authorized clinicians":

(1) Any physician licensed by and in good standing with the Louisiana State Board of Medical Examiners to practice medicine in this state.

(2) Any nurse practitioner licensed by and in good standing with the Louisiana State Board of Nursing to practice advanced practice registered nursing in this state and who has prescriptive authority conferred by the Louisiana State Board of Nursing.

(3) Any medical psychologist licensed by and in good standing with the Louisiana State Board of Medical Examiners to practice medical psychology in this state.

C.(1) The department shall adopt rules to provide for therapeutic marijuana retail permits.

(2) The rules promulgated pursuant to this Subsection shall include but not be limited to:

(a) Repealed by Acts 2024, No. 693, §2, eff. Jan. 1, 2025.

(b) Standards, procedures, and protocols for the dispensing and tracking of recommended therapeutic marijuana in Louisiana.

(c) Procedures and protocols to provide that no recommended therapeutic marijuana may be sold from, produced from, obtained from, sold to, or transferred to a location outside of this state.

(d), (e) Repealed by Acts 2022, No. 491, §2.

(f) Repealed by Acts 2024, No. 693, §2, eff. Jan. 1, 2025.

(g) The establishment of other permit, renewal, and operational standards which are deemed necessary by the department.

(h) Repealed by Acts 2022, No. 491, §2.

(i) The establishment of health, safety, and security requirements for therapeutic marijuana retail permit holders.

(j), (k), (l) Repealed by Acts 2024, No. 693, §2, eff. Jan. 1, 2025.

D. Nothing in this Section shall be construed to prohibit the department from adopting emergency rules as otherwise provided for in the Administrative Procedure Act.

E. Marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols recommended pursuant to this Section shall be sold in person by a marijuana retail permit holder located in Louisiana.

F.(1)(a) Each permitted retailer shall acquire and maintain all software, hardware, and communications infrastructure necessary to ensure connectivity to and implementation of the Louisiana Medical Marijuana Tracking System, hereafter referred to as the "LMMTS", from seed to delivery to an approved laboratory, to wholesale to permitted retailers, to wholesale to another licensed cultivation facility, to delivery to an authorized researcher, to sale to patients or caregivers by permitted retailers, or to destruction. A person who sells marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols pursuant to this Section shall review the patient's information in the database of the LMMTS prior to the selling thereof.

(b) Each retail permit holder shall appoint a minimum of one pharmacist residing in Louisiana who has an active unrestricted license with the Louisiana Board of Pharmacy who is designated by the retail permit holder to be responsible for the operation of the primary retail location and any satellite locations in compliance with all applicable laws and regulations. The pharmacist shall be considered on duty when accessible by the employees and agents of the primary retail location and any satellite locations through telephonic means during open hours and available by telephone or video conference for a patient consultation during open hours.

(2) Any person who sells marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols pursuant to this Section shall comply with the reporting requirements of the LMMTS.

G.(1)(a) The department shall issue an annual retail permit to sell recommended

marijuana for therapeutic use and, except as provided in Paragraph (3) of this Subsection, shall limit the number of retail permits granted in the state to no more than ten.

(b) Upon each annual renewal period, a retail permit in force shall be renewed by the department for the next succeeding period upon proper application for renewal and payment of permit fees as required by law and the rules and regulations of the department. The department shall charge an annual retail permit fee in the amount of twenty-two thousand five hundred dollars to each of the ten retail permit holders authorized in Subparagraph (a) of this Paragraph to sell recommended marijuana for therapeutic use.

(c) Subject to the limitations in this Subsection, the department shall select a new retail permit holder through a competitive bid process in accordance with the applicable provisions of the Louisiana Procurement Code, R.S. 39:1551 et seq., only if any of the following occur:

(i) After written notice from the department and failure of the retail permit holder to cure within thirty days following receipt of written notice, a retail permit holder fails to comply with the proper application for renewal and payment of permit fees as required by law and the rules and regulations of the department, and the retail permit is revoked.

(ii) A retail permit is voluntarily returned or remitted to the department prior to the expiration of the permit period.

(d) The transfer of a membership interest in an entity that holds a marijuana retail permit may be conducted without approval of the department.

(2) For the purposes of this Subsection, the regions among which the marijuana retail permits are allocated shall correspond to the sets of parishes comprising, respectively, the administrative regions of the Louisiana Department of Health as those regions existed on August 1, 2022. On and after October 1, 2022, at least one marijuana retailer shall be located in each region.

(3)(a) After three thousand five hundred active, qualified patients are identified in a region, the department shall notify and allow the marijuana retail permit holder in that region to open one additional retail location as a satellite location in that region. For the purposes of this Paragraph, "satellite location" shall mean an additional marijuana retail location operated by a retail permit holder within the same geographic region but physically separate from the location of the original therapeutic marijuana retail location.

(b) After seven thousand active, qualified patients are identified in a region, the department shall notify and allow the marijuana retail permit holder in that region to open one additional marijuana retail location as a second satellite location in that region.

(c) The retail permit holder shall submit an application to open a satellite location provided for in this Paragraph no later than ninety days after receipt of the notification sent by the department pursuant to this Paragraph. The satellite location shall be operational within three hundred ten days of the approval of the application by the department. The department may grant additional time for the satellite location to become operational due to a circumstance beyond the control of the retail permit holder. If a marijuana retail permit holder declines to open a satellite location pursuant to Subparagraph (a) or (b) of this Paragraph, then the department may issue, pursuant to the provisions of Paragraph (1) of this

Subsection, an additional marijuana retail permit in that region to open one marijuana retail location in lieu of the original retail permit holder's satellite location in that region.

(d) The department shall consider any unserved parishes within the region when approving a satellite location or additional marijuana retail permits pursuant to this Paragraph.

(e) For the purposes of this Paragraph, the active, qualified patient count shall be conducted and reviewed on a quarterly basis using the preceding twenty-four-month period.

(4)(a) The total number of marijuana retail locations, including satellite locations, approved by the department pursuant to Paragraph (3) of this Subsection shall not be greater than thirty locations.

(b) The provisions of this Paragraph shall not be construed to authorize a marijuana retail permit holder to open more than two satellite locations in a single region.

(5) The provisions of this Subsection shall not be construed to require the closure of any marijuana retail location, including satellite locations, if the active, qualified patient count drops below three thousand five hundred after the location is approved.

(6)(a) No marijuana retail permit holder shall locate within a fifteen-mile radius of another retail permit holder's marijuana retail location.

(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, in a region that encompasses any parish with a population of more than three hundred fifty thousand persons according to the most recent federal decennial census, no marijuana retail permit holder shall locate within a ten-mile radius of another retail permit holder's marijuana retail location.

(c) Notwithstanding the provisions of Subparagraphs (a) and (b) of this Paragraph, in a region that encompasses any municipality with a population of more than three hundred fifty thousand persons according to the most recent federal decennial census, no marijuana retail permit holder shall locate within a five-mile radius of another retail permit holder's marijuana retail location.

(d) The provisions of this Paragraph shall not apply if all affected retail permit holders submit a written mutual agreement to the department waiving the provisions of this Paragraph.

(7) Each marijuana retail permit holder shall offer delivery to patients in each zip code within its region at least once per month.

(8) For purposes of this Subsection, "active, qualified patient" means a patient who has acquired a therapeutic marijuana product at least once.

H.(1)(a) The Louisiana Department of Health shall issue no more than two licenses to cultivate, extract, process, produce, and transport therapeutic marijuana in this state. Each license shall be issued on July first and shall be effective for a period of one year.

(b) The licenses issued on July 1, 2024, shall be to the entities who held contracts with the Louisiana State University Agricultural Center and the Southern University Agricultural Center on January 1, 2024, pursuant to Act No. 261 of the 2015 Regular Session of the Legislature.

(c) Upon each renewal period, a license in force shall be renewed by the department

for the next succeeding period upon proper application for renewal and payment of license fees as required by law and the rules and regulations of the department.

(d) Subject to the limitation of no more than two licenses to cultivate, extract, process, produce, and transport therapeutic marijuana in this state, the department shall select a new licensee through a competitive bid process in accordance with the applicable provisions of the Louisiana Procurement Code, R.S. 39:1551 et seq., if any of the following occur:

(i) After written notice from the department and failure of the licensee to cure within thirty days following receipt of written notice, a licensee fails to comply with the proper application for renewal and payment of license fees as required by law and the rules and regulations of the department, and the license is revoked.

(ii) A license is voluntarily returned or remitted to the department prior to the expiration of the licensure period.

(2)(a) The Louisiana Department of Health shall collect all of the following information from each licensee:

(i) The amount of gross marijuana produced by the licensee during each calendar year.

(ii) The details of all production costs including but not limited to seed, fertilizer, labor, advisory services, construction, and irrigation.

(iii) The details of any items or services for which the licensee subcontracted and the costs of each subcontractor directly or indirectly working for the licensee.

(iv) The amount of therapeutic chemicals produced resulting from the marijuana grown pursuant to this Section.

(v) The amount of therapeutic marijuana distributed to each retail permit holder during each calendar year.

(b) The Louisiana Department of Health shall provide the information collected as required by this Paragraph for the previous calendar year in the form of a written report to the legislature no later than February first of each year. The department shall also make a copy of the report required by this Subparagraph available to the public on the internet.

(3) No company that has made a contribution to a candidate in a Louisiana election governed by the provisions of the Campaign Finance Disclosure Act within the five years prior to bidding for the license, or is controlled wholly or in part by a person who made such a contribution within the five years prior to the company bidding for the license, may be eligible for the license.

(4) The Louisiana Department of Health shall:

(a) Establish and collect an annual license fee of one hundred thousand dollars from each licensee permitted to cultivate, extract, process, produce, and transport therapeutic marijuana.

(b) Collect a nonrefundable application fee of ten thousand dollars.

(c) Assess a fee of seven percent of the gross sales of therapeutic marijuana. The fee shall be reported and paid by the licensee. The fee shall be collected by the Department of Revenue and shall be subject to the provisions of Chapter 18 of Subtitle II of Title 47 of the

Louisiana Revised Statutes of 1950. The Department of Revenue shall transfer monthly to the state treasury for deposit into the Disability Services Fund, as established in R.S. 28:826, the amount of revenues collected in accordance with this Subparagraph.

(5) The Louisiana Department of Health shall promulgate rules and regulations as necessary to implement the provisions of this Subsection.

I. The levels of THC in any marijuana produced pursuant to this Section shall be reduced to the lowest acceptable therapeutic levels available through scientifically accepted methods.

J. Notwithstanding any other provision of law to the contrary, employers and their worker's compensation insurers shall not be obliged or ordered to pay for medical marijuana in claims arising under Title 23 of the Louisiana Revised Statutes of 1950, the Louisiana Workers' Compensation Law.

K. Nothing in this Part shall be construed or enforced in any manner that prevents a clinician authorized by Subsection A of this Section to recommend therapeutic marijuana from recommending therapeutic marijuana through telehealth as defined in R.S. 40:1223.3 in this state.

L. The Louisiana State University Agricultural Center, the Southern University Agricultural Center, and the University of Louisiana at Monroe may conduct research on marijuana for therapeutic use.

M. The provisions of this Section shall terminate on July 1, 2030.

RS 40:1046.1 — Sale of marijuana for therapeutic use to visiting qualifying patients
"debilitating medical condition" has the meaning ascribed in R.S.

40:1046(A)(2)(a).

(2) "Department" means the Louisiana Department of Health.

(3) "LMMTS" means the electronic seed-to-sale tracking system approved by the department.

(4) "Medical marijuana" means marijuana for therapeutic use produced pursuant to the provisions of R.S. 40:1046(H).

(5) "Visiting qualifying patient" means a patient with a debilitating medical condition who is not a resident of Louisiana or who has been a resident of Louisiana for less than thirty days and who is in actual possession of a valid medical marijuana registry identification card, or its equivalent, which has been issued under the medical marijuana laws of another state, district, territory, commonwealth, or insular possession of the United States.

B. A visiting qualifying patient may obtain medical marijuana from a marijuana retail permit holder upon producing evidence of his valid medical marijuana registry identification card, or its equivalent, which has been issued under the medical marijuana laws of another state, district, territory, commonwealth, or insular possession of the United States.

C.(1) A marijuana retail permit holder shall require each visiting qualifying patient to certify on a form approved by the department that the patient has been diagnosed by an authorized clinician with one or more debilitating medical conditions. The form shall include the full name, address, and phone number of the visiting qualifying patient and shall include a statement to be signed by the patient by which the patient shall attest that the

patient will not divert to any person any medical marijuana sold to him by the marijuana retail permit holder.

(2)(a) A marijuana retail permit holder shall retain a copy of each of the following documents received from a visiting qualifying patient:

(i) The patient's valid medical marijuana registry identification card or its equivalent.

(ii) The patient's valid driver's license or other government-issued photo identification document.

(iii) The original, completed, and signed form provided for in Paragraph (1) of this Subsection.

(b) The department shall promulgate in accordance with the Administrative Procedure Act a record retention schedule for marijuana retail permit holders which applies to the documents identified in this Paragraph.

D. Prior to dispensing any medical marijuana product to a visiting qualifying patient, a pharmacist or the pharmacist's designee at a marijuana retail location shall review the patient's records in the LMMTS. The pharmacist or the pharmacist's designee shall resolve any concerns identified in the review of the patient's records by consultation with the patient's physician.

E. Upon sale of any medical marijuana product to a visiting qualifying patient, the pharmacist or the pharmacist's designee at a marijuana retail location shall report that transaction to the LMMTS.

F. No marijuana retail permit holder shall sell medical marijuana to a person who holds himself out to be a visiting qualifying patient if the pharmacist or the pharmacist's designee at the retail location determines any of the following with respect to that person:

(1) The person's medical marijuana registry identification card was revoked, has expired, or is otherwise not valid and current.

(2) The person's medical marijuana registry identification card was fraudulently obtained.

(3) The person's application or written certifications were falsified in any way.

(4) The person knowingly violated any law of this state applicable to medical marijuana.

RS 40:1046.2 — Licensees; minimum standards

Department of

Health as provided in this Section.

B. Initial inspections of facilities shall be conducted in accordance with the following procedures and requirements:

(1) Prior to commencement of operations, the Louisiana Department of Health shall conduct an initial inspection of the facility, limited strictly to a determination of the following:

(a) That the facility adheres to all of the following:

(i) Is within a building that has a complete roof enclosure supported by connecting walls, constructed of solid materials, that extend from the ground to the roof.

(ii) Has a foundation, slab, or equivalent base to which the floor is securely attached.

(iii) Meets performance standards ensuring that cultivation and processing activities cannot be and are not reasonably perceptible from the structure in terms of common visual observation, odors, smell, fragrances, or other olfactory stimulus, light pollution, glare, brightness, adequate ventilation to prevent mold, and noise.

(iv) Provides complete visual screening.

(v) Meets the standards of any applicable state and local electrical, fire, plumbing, and building specification codes.

(b) That the licensee possesses and maintains accurate, detailed plans and elevation drawings of all operational areas involved with the cultivation, extraction, processing, and production of therapeutic marijuana.

(c) That the licensee possesses and maintains a written operations plan, which shall be limited to standard operating procedures for the cultivation of marijuana in each facility production area, instructions for making each product produced on the premises, equipment operations manuals, procedures for conducting necessary safety checks, sanitization procedures for working surfaces and equipment, quality control procedures, and emergency preparedness procedures.

(d) That the licensee has connection and access to the Louisiana Medical Marijuana Tracking System, hereafter referred to in this Section as LMMTS.

(e) That the licensee has security against unauthorized entry via the presence of operational alarm and video surveillance systems, limited access areas, secure locking systems, and door controls throughout the facility.

(f) The initial inventory and accuracy of inventory reporting.

(g) The existence of current, complete, and accurate personnel records.

(2)(a) Notwithstanding Paragraph (1) of this Subsection, nothing in this Section shall be construed to obstruct or impede the lawful activity of any licensee.

(b) The provisions of this Subsection are intended to ensure a reliable, adequate, and uninterrupted supply of therapeutic marijuana to Louisiana patients.

C.(1) Inspections of facilities other than initial inspections shall be conducted in accordance with the procedures and requirements provided in Paragraph (2) of this Subsection.

(2) After a licensee commences producing therapeutic marijuana in an approved facility, the Louisiana Department of Health shall inspect each facility at least twice annually to verify the existence or accuracy of the following:

(a) Possession and accuracy of detailed plans and elevation drawings of all operational areas involved with the cultivation, extraction, processing, and production of therapeutic marijuana.

(b) Existence and possession of a current written operations plan.

(c) Connection and accessibility to the LMMTS.

(d) Operational alarm and video surveillance systems.

(e) Secure locks throughout the facility.

(f) Controls to limited access areas.

(g) Current, complete, and accurate personnel records.

(h) Biannual inventory reports.

D. All of the following standards and requirements for security shall apply with respect to facilities:

(1) Any facility alarm or surveillance system shall include the following:

(a) A panic device that sounds an audible alarm and notifies law enforcement.

(b) Surveillance system coverage for all points of ingress and egress to the facility, including but not limited to doorways, windows, and loading bays.

(c) "Duress" or "hold up" features to enable activation of a silent alarm.

(d) Date- and time-stamped recording of all points of ingress and egress, any limited access areas including rooms containing a safe, any room in which any part of the disposal process occurs, and any room or area used to cultivate, extract, process, produce, or store therapeutic marijuana.

(e) Capabilities including continuous recording, archiving, and at least one on-site display monitor connected to the system.

(2) Each facility shall maintain on-site security personnel, at a minimum, during standard United States business hours of eight o'clock a.m. to five o'clock p.m. and shall maintain off-site, electronic security monitoring at all other times.

(3) All surveillance recordings shall be maintained for a minimum of thirty days and access to surveillance controls and monitoring shall be limited to specifically authorized personnel.

(4) Each licensee shall limit access to and post limited-access signage where marijuana is cultivated, extracted, processed, produced, or stored. Limited access areas shall remain locked and accessible only by authorized personnel.

(5) Each employee, supervisor, or agent of each licensee shall keep a current identification card, in a form approved by the department, on his person when present at a facility.

E. All of the following procedures, restrictions, and authorizations shall apply relative to visitors at facilities:

(1) Persons who do not possess a licensee identification card shall be issued a visitor identification badge after signing a log maintained by the licensee that properly identifies the visitor to the premises. The visitor shall wear the badge for the duration of his time on the premises, and the visitor shall not be left unaccompanied in any area where marijuana or marijuana products are present.

(2) Notwithstanding Paragraph (1) of this Subsection, if it is necessary for a visitor to enter a facility to conduct repairs, maintenance, or other specific duties on the premises, the visitor may be escorted to the work site and left unaccompanied while completing a job if that job is not within a limited access area. If it is necessary for a visitor to enter a facility's limited access area, the visitor shall be escorted to the work area and shall remain accompanied by facility personnel while the work is being completed in the limited access area if marijuana or marijuana products are within the limited access area. The visitor may be left unaccompanied in the limited access area if no marijuana or marijuana products are within the limited access area while the visitor is present. If the visitor is left unaccompanied

in the limited access area, facility personnel shall ensure that the visitor is under video surveillance for the duration of the visitor's time spent on the premises.

F. All of the following requirements shall apply with respect to data management by licensees:

(1) Each licensee shall acquire and maintain all software, hardware, and communications infrastructure necessary to ensure connectivity to and implementation of the LMMTS, to track therapeutic marijuana from seed to distribution to an approved laboratory, to retail permit holders, to another cultivation licensee, or to destruction, tagging each plant and product with a unique identification number, and entering the number into the LMMTS for tracking. The licensee shall bear the cost of all expenses related to tracking, tagging, and implementation of the LMMTS.

(2) Within twenty-four hours of the respective qualifying event, the licensee shall record the following in the LMMTS:

(a) Any purchase or acquisition of therapeutic marijuana seeds; plants, including immature plants and seedlings; or derivatives thereof.

(b) The sale, transfer, or transport of therapeutic marijuana or its derivatives to another licensee, approved laboratory, or therapeutic marijuana retail permit holder.

(c) The disposal of therapeutic marijuana.

(3) Notwithstanding any other provision of this Section, each licensee shall keep all documents and information required by this Part for at least the current year and the three preceding calendar years, including but not limited to business records necessary to fully account for each business transaction conducted by the licensee.

G. All of the following standards and requirements shall apply to the licensees' inventory:

(1) Each licensee shall maintain a comprehensive inventory of all marijuana, including without limitation usable marijuana available for sale, mature marijuana plants, and seedlings at each authorized location. Following an initial inventory, all marijuana shall be inventoried on a weekly basis.

(2) Any therapeutic marijuana waste product shall be properly weighed and recorded in the LMMTS and stored in a limited access area of a facility until rendered unusable.

H. Material safety data sheet requirements shall include all of the following:

(1) Any pesticides or chemicals used by a licensee in the production of therapeutic marijuana shall be used and stored according to the licensee's written operations plan.

(2) Each licensee shall maintain a material safety data sheet in each facility area where toxic cleaning compounds, sanitizing agents, solvents used in the production of therapeutic marijuana extracts and concentrates, pesticide chemicals, or other agricultural chemicals are used or stored.

(3) Each licensee shall record the following information when applying a pesticide or other agricultural chemical to therapeutic marijuana at any cultivation stage:

(a) The date and time of the pesticide or chemical application.

(b) The name of each individual who applied the pesticide or chemical.

(c) The identification number of all batches receiving the application.

(d) The amount and name of the pesticide or chemical applied, including the United States Environmental Protection Agency registration number, if any.

I. All of the following requirements shall apply to transportation of therapeutic marijuana by licensees:

(1) Prior to transporting therapeutic marijuana, a licensee shall generate an inventory manifest in the LMMTS, including all of the following information:

(a) The name of the licensee originating the transport.

(b) The name of the licensee, approved laboratory, or retail permit holder receiving the transport.

(c) The quantity by weight or unit of each type of therapeutic marijuana product contained in the transport.

(d) The date and approximate departure and arrival times for the transport.

(e) The identity of the agent or agents accompanying the transport.

(f) The make, model, and license plate number of the transport delivery vehicle.

(2) The licensee originating the transport shall provide the licensee, approved laboratory, or retail permit holder receiving the transport with a copy of the LMMTS inventory manifest, which shall not be altered after departing the originating licensee's facility.

(3) The licensee, approved laboratory, or retail permit holder receiving the transport shall record the quantities of all therapeutic marijuana products in the LMMTS. However, any licensee, approved laboratory, or retail permit holder receiving a therapeutic marijuana transport shall refuse the transport if it is not accompanied by an unaltered LMMTS inventory manifest.

RS 40:1046.3 — Therapeutic marijuana laboratory; licensure and renewal requirements

marijuana laboratory license shall submit an initial license application on a form and in a manner prescribed by the Louisiana Department of Health, referred to hereafter in this Section as the "department".

(2) Approved laboratories may include the Department of Agriculture and Forestry agricultural chemistry laboratory; the colleges, universities, other institutions, and systems governed by the Louisiana Board of Regents; public-private partnerships involving the systems, colleges, and universities governed by the Louisiana Board of Regents and private laboratories; and private laboratories. The Department of Agriculture and Forestry agricultural chemistry laboratory shall be exempt from the application process and deemed approved but shall comply with Subparagraphs (d) and (e) of this Paragraph. All other applicants shall meet all of the following requirements:

(a) Provide proof of accreditation through either of the following:

(i) Be accredited by the National Institute on Drug Abuse, the National Environmental Laboratory Accreditation Conference, the International Organization for Standardization, or other accrediting entity approved by the department, which accreditation shall be maintained in active and good standing or other substantially similar status for the duration of licensure.

(ii) Comply with both of the following criteria:

- (aa) Provide documentation that the owner has operated a state-approved, active medical marijuana laboratory in another state for at least the past twelve months.
- (bb) Be accredited by the International Organization for Standardization or other accrediting entity approved by the department or have an application pending for International Organization for Standardization accreditation. If the accreditation is not achieved within nine months of the department's inspection, the department shall not accept any additional certificates of analysis from the laboratory until the accreditation is received.
- (b) Employ or hire a laboratory director or other qualifying individual. The laboratory director or other qualifying individual and any persons involved in the testing of marijuana or marijuana products or whose involvement with the laboratory requires or authorizes access to restricted limited access areas of the laboratory shall obtain a permit in accordance with the requirements of R.S. 40:1047.
- (c) Submit to at least one on-site facility inspection conducted by the department prior to licensure.
- (d) Implement and utilize the Louisiana Medical Marijuana Tracking System (LMMTS) computerized inventory tracking system to post accurate analyses and results, which shall be subject to review by the department. Payment of any costs associated with access to or implementation or use of LMMTS shall be the responsibility of the laboratory exclusively.
- (e) Demonstrate acceptable laboratory performance standards regarding accuracy, precision, proficiency, reportable ranges, specificity, or other quality controls required by the department.

B.(1) Each therapeutic marijuana laboratory license shall be effective for one year and shall be renewed on or before December thirty-first annually.

(2) Each therapeutic marijuana laboratory licensee shall apply for license renewal on or before October thirty-first each year on a form and in a manner prescribed by the department.

(3) Any therapeutic marijuana laboratory license not timely renewed as required by this Subsection shall expire on December thirty-first at midnight. Upon expiration of the license, the laboratory shall cease all operations and destroy all marijuana or marijuana products physically remaining at its location.

(4) Prior to granting a license renewal application, the department shall ensure that the therapeutic marijuana laboratory licensee continues to meet the requirements of this Part, including but not limited to the licensee's compliance with Subsection A of this Section and its good standing with applicable requirements of the secretary of state. The department shall conduct an out-of-cycle inspection of the therapeutic marijuana laboratory licensee if necessary to ensure acceptable lab performance standards, accuracy, precision, proficiency, reportable ranges, specificity, or other quality controls and assurances necessary to protect Louisiana patients.

RS 40:1046.4 — Testing; sample collection; minimum standards; reporting; remediation

ant to this Part shall comply with approved minimum standards

by making each batch of therapeutic marijuana subject to random selection, sampling, and

analysis conducted by an independent approved laboratory collector in a volume sufficient to ensure compliance.

(2) Each therapeutic marijuana laboratory licensed according to this Part shall maintain test results for no less than three years.

(3) The laboratory shall record test results in the Louisiana Medical Marijuana Tracking System and produce a certificate of analysis to be delivered to the Louisiana Department of Health and licensee permitted to cultivate, extract, process, produce, and transport therapeutic marijuana within twenty-four hours of test completion.

B. Each batch of medical marijuana finished product shall pass all applicable testing standards, including appropriate microbial and fungal limits, acceptable standards for pesticide chemical residues, appropriate residual solvent and heavy metals limits, homogeneity for concentrates and extracts, and complete active ingredient analysis or potency analysis prior to transportation to a medical marijuana retail permit holder. The administrative rules of the Louisiana Department of Health shall allow for a variance of no greater than plus fifteen percent or minus fifteen percent from the labeled amount of active ingredients in the ingredient analysis or potency analysis.

C.(1) Neither a licensee nor an approved laboratory authorized pursuant to this Part shall release or approve a therapeutic marijuana product for delivery or sale until a sample from the applicable product batch has complied with all required testing standards.

(2) A licensee may resubmit to an approved laboratory any sample that fails one or more initial tests required by this Part. The sample may be released for delivery and sale only if it passes all tests conducted by an approved laboratory in duplicate. The sample may be remediated according to any reasonably acceptable industry methods if it fails one or more tests conducted by an approved laboratory.

(3) Any remediated sample shall pass remediation testing in duplicate prior to approval for delivery and sale.

(4) A product may be remediated only once, and any product failing remediation testing shall be destroyed within sixty days of the failed test, in addition to the timely destruction of the entire batch from which the sample was collected.

RS 40:1047 — Permits relating to production of therapeutic marijuana; contractors of licensed

A. As used in this Section, the following terms have the meaning ascribed to them in this Subsection:

(1) "Applicant" means a natural person, a corporation, limited liability company, partnership, joint stock association, sole proprietorship, joint venture, business association, cooperative association, professional corporation or any other legal entity or organization through which business is conducted.

(2) "Contractor" means any person, partnership, joint venture, limited liability company, corporation, association, joint stock association, sole proprietorship, trust, other business entity, or juridical person whether incorporated or not selected by either the Louisiana State University Agricultural Center or the Southern University Agricultural Center through a competitive bid process to cultivate, extract, process, produce, and transport therapeutic marijuana.

(3) Repealed by Acts 2022, No. 628, §2, eff. June 18, 2022.

(4) Repealed by Acts 2022, No. 628, §2, eff. June 18, 2022.

(5) Repealed by Acts 2022, No. 628, §2, eff. June 18, 2022.

(6) Repealed by Acts 2022, No. 628, §2, eff. June 18, 2022.

B.(1) No applicant for a specialty license or permit for the production of recommended marijuana for therapeutic use issued pursuant to R.S. 40:1046(H) or a contractor shall be required to undergo a suitability investigation conducted by any government agency as a prerequisite to obtaining a license or permit.

(2) A contractor shall submit to a criminal history background check conducted by a government agency or private entity subject to any applicable terms and conditions of the contract between the university licensee and contractor. The requirement to undergo a criminal history background check shall be limited to employees of a contractor for the production of recommended marijuana for therapeutic use. The government agency designated to regulate licensees for the production of recommended marijuana for therapeutic use pursuant to R.S. 40:1046 shall issue a provisional permit to the contractor and shall be converted to an unconditional permit upon successful completion of the criminal history background check.

C. Unless otherwise provided by law, nothing in this Section shall be construed to limit or prohibit a contractor from considering the results of a background check of a prospective employee in making the final determination of whether to employ the person.

D. Repealed by Acts 2022, No. 628, §2, eff. June 18, 2022.

E. Repealed by Acts 2022, No. 628, §2, eff. June 18, 2022.

RS 40:1049.1 — Short title

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RS 40:1049.2 — Legislative findings

g which can be produced by someone who does not possess specialized skill or training, is highly addictive, and can be made from inexpensive readily accessible ingredients.

C. Methamphetamine has been reported as one of the most addictive and deadly drug threats in the United States. The use of methamphetamine can result in fatal kidney and lung disorders, brain damage, liver damage, chronic depression, psychosis, hallucinations, and many other devastating physical and mental effects.

D. Louisiana has experienced a drop in methamphetamine production as restrictions on the sale of ephedrine, pseudoephedrine, and phenylpropanolamine have been implemented.

E. Methamphetamine is not only deadly because of the devastating effects of drug addiction, but the production of methamphetamine has resulted in several laboratory explosions and the exposure of our citizens to death, injury, or toxic substances.

F. While the production of methamphetamine has resulted in devastating effects on Louisiana citizens, the drugs used in making methamphetamine: ephedrine, pseudoephedrine, and phenylpropanolamine have legitimate medical uses.

G. The Legislature of Louisiana hereby finds and declares that a pharmacist is in the unique position of dispensing nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine and interacting with the patient at the point of purchase of these products. This relationship with the consumer and the pharmacists' specialized knowledge about the pharmaceutical qualities of products containing ephedrine, pseudoephedrine, and phenylpropanolamine make the pharmacy the best location for the sale of those products to ensure the health and safety of Louisiana's citizens.

H. The Louisiana Legislature, in enacting the provisions of this Part, seeks to provide for the legitimate medical needs of our citizens while at the same time protecting our citizens against the devastating effects of methamphetamines and methamphetamine production.

I. In order to assist law enforcement and prosecutorial agencies in addressing the growing problems associated with methamphetamine production, a real time electronic database is needed to record purchases of products containing ephedrine, pseudoephedrine, and phenylpropanolamine at a pharmacy.

J. Technology is available to record all purchases of products containing ephedrine, pseudoephedrine, and phenylpropanolamine at the point of sale and to transmit that information to a centralized location to be monitored and maintained in a central computer monitoring system operated by the Louisiana State Police.

RS 40:1049.3 — Restriction on the sale of nonprescription products containing ephedrine,

onprescription material, compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall be dispensed, sold, or distributed only by a licensed pharmacist, certified pharmacy technician, or pharmacy employee permitted by the Louisiana Board of Pharmacy.

B. A nonprescription material, compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall not be dispensed, sold, or distributed by a pharmacist, certified pharmacy technician, or pharmacy employee to any person unless the following occur:

(1) The purchaser produces a federal or state issued photo identification, or a document that, with respect to identification, is considered acceptable for purposes of Sections 274a.2(b)(1)(v)(A) and 274a.2(b)(1)(v)(B) of Title 8, Code of Federal Regulations (as in effect on or after March 9, 2006).

(2) The purchaser signs a written or electronic log or receipt showing the date of the transaction, the name of the purchaser, and the amount of the material, compound, mixture, or preparation sold.

(3) The transaction information is recorded by the pharmacy and transmitted to the central computer monitoring system as provided for in this Part.

C.(1) A pharmacist, certified pharmacy technician, or pharmacy employee may sell or distribute nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine; however, those drugs shall not be distributed in a quantity greater than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base, to the same purchaser within any thirty-day period.

(2) A pharmacist, certified pharmacy technician, or pharmacy employee selling or distributing nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine shall be exempt from the rules relative to the recordkeeping requirements for the dispensing of those nonprescription controlled dangerous substances; however, the pharmacist, certified pharmacy technician, or pharmacy employee shall record the transaction information and transmit it to the central computer monitoring system as provided for in this Part.

D.(1) No person shall purchase, receive, or otherwise acquire more than nine grams of any product, mixture, or preparation described in Subsection A of this Section within any

thirty-day period.

(2) The requirements of this Section shall not apply to any quantity of such product, mixture, or preparation dispensed pursuant to a valid prescription from a licensed practitioner with prescriptive authority.

E. A law enforcement officer may, pursuant to R.S. 40:986(B), obtain an administrative search warrant to inspect the written logs or receipts maintained at a pharmacy pursuant to the provisions of this Section.

F. A parish or municipal government authority may regulate the selling, delivering, or providing of packages or grams of pseudoephedrine, ephedrine, or phenylpropanolamine only in a manner that is not more or less restrictive than regulation by the state under this Section.

RS 40:1049.4 — Central computer monitoring system; system requirements

he pharmacist, certified pharmacy technician, or other pharmacy employee shall record all of the following information at the point of sale regarding the transaction:

(1) The date of the transaction.

(2) The name and address of the purchaser verified through photo identification of the purchaser as provided for in R.S. 40:1049.3(B)(1).

(3) The name, quantity of packages, and total gram weight of the product or products purchased, received, or otherwise acquired.

B. Upon recordation of the transaction information, the pharmacy shall transmit the information immediately to a central computer system for purposes of monitoring the sales of these products as provided for in this Section.

C. The central computer system authorized by the provisions of this Section shall be designed and operated to allow the monitoring and reading of sales information regarding products containing ephedrine, pseudoephedrine, and phenylpropanolamine at the point of sale instantly and on a real-time basis.

D. The central computer system authorized by the provisions of this Section shall be located within and administered by the Department of Public Safety and Corrections, office of state police.

E. The central computer monitoring system shall provide for the monitoring of sales of compounds containing ephedrine, pseudoephedrine, and phenylpropanolamine and shall be capable of providing an online computer alert, to ensure direct scrutiny of conditions which would violate the provisions of this Part by law enforcement.

F. The provisions of this Part shall not be construed to require that any pharmacy maintain the transaction records required under the provisions of this Part separate from the log book that is required under 21 U.S.C. 830(e). Use of the central computer monitoring system as required by this Part shall be deemed to satisfy both of these purposes.

RS 40:1049.5 — Funding sources; no fees on pharmacists or pharmacies

gifts, grants, donations, or any other funding sources not otherwise prohibited by law.

B. Thereafter, the maintenance of the central computer monitoring system shall be funded through appropriation, gifts, grants, donations, or any other funding sources not otherwise prohibited by law.

C. The Department of Public Safety and Corrections, office of state police, and the Louisiana Sheriffs' Association may actively seek gifts, grants, and donations that may be available through the federal government or other sources to help fund the central computer monitoring system, provided that such gifts, grants, and donations are not otherwise prohibited by law or rule.

D. No fee shall be charged to any pharmacist or pharmacy to defray the costs of acquiring, implementing, or maintaining the central computer monitoring system as authorized by the provisions of this Part, nor shall any fee be charged to any pharmacist or pharmacy for the transmission of information to the central computer monitoring system.

RS 40:1049.6 — Shared information; state police; sheriffs

, pseudoephedrine, or phenylpropanolamine as authorized by the provisions of this Part and provide instant access to the Louisiana Sheriffs' Association.

B. The Department of Public Safety and Corrections, office of state police, is authorized to enter into a cooperative endeavor, memorandum of understanding, contract, or any other agreement with the Louisiana Sheriffs' Association, or any other law enforcement agency in order to share the information regarding the sale of products containing ephedrine, pseudoephedrine, or phenylpropanolamine as authorized by the provisions of this Part and to provide instant access to all appropriate law enforcement agencies.

RS 40:1049.7 — Board of pharmacy access to information

containing ephedrine,

pseudoephedrine, or phenylpropanolamine as authorized by the provisions of this Part to the Louisiana Board of Pharmacy.

RS 40:1049.8 — Pharmacists, certified pharmacy technician, or pharmacy employee not required to stop sale; may report

pharmacy technician, or pharmacy employee to prohibit or complete a sale of a product containing ephedrine, pseudoephedrine, or phenylpropanolamine even if the pharmacist, certified pharmacy technician, or other employee observes a warning or signal from the central computer monitoring program which indicates that the purchaser has purchased those products in amounts which exceed the amount which can be purchased by law.

(2) The provisions of this Part shall not be construed to limit a pharmacist's professional judgment as otherwise provided for by law or rules adopted by the Louisiana Board of Pharmacy.

B. A pharmacist, certified pharmacy technician, or pharmacy employee may report suspected violations of this Section or any other law to any local, state, or federal law enforcement agency, or the appropriate prosecutorial agency for further investigation or prosecution.

C. No pharmacist, certified pharmacy technician, or pharmacy employee who in good faith reports suspected violations as provided for in this Part shall be liable to any person or entity for any claim of damages as a result of the act of reporting the information, and no lawsuit may be predicated thereon.

RS 40:1049.9 — Licensed practitioner with prescriptive authority exempted

he provisions of this Part in dispensing any product containing ephedrine, pseudoephedrine, or phenylpropanolamine to his patient.

RS 40:1049.10 — Transmission of information contingent on functionality of central computer monitoring system

enylpropanolamine as authorized by the provisions of this Part is contingent upon the acquisition, implementation, and operation of the central computer monitoring system.

B. No licensed pharmacist, certified pharmacy technician, or pharmacy employee at a pharmacy located in Louisiana and permitted by the Louisiana Board of Pharmacy shall be required to transmit data to the central computer monitoring system until the funding for the acquisition and implementation of the central computer monitoring system has been secured through appropriation, gifts, grants, donations, or any other funding sources not otherwise prohibited by law.

C. No pharmacy, licensed pharmacist, certified pharmacy technician, or pharmacy employee at a pharmacy located in Louisiana and permitted by the Louisiana Board of Pharmacy shall be held responsible for failure to transmit transaction information as required by this Part if at any time the central computer monitoring system is rendered inoperable due to natural disaster, tampering, or any other reason.

RS 40:1049.11 — Limitation of liability

830(e) regarding training of employees engaged in the sale of products containing ephedrine, pseudoephedrine, or phenylpropanolamine shall not be liable for violations of this Part by the retail pharmacy's employees.

B. No licensed pharmacist, certified pharmacy technician, or pharmacy employee at a pharmacy located in Louisiana and permitted by the Louisiana Board of Pharmacy shall be personally liable for any act or omission resulting in damage, injury, or loss arising out of the dispensing of a compound containing ephedrine, pseudoephedrine, or

phenylpropanolamine and the transmittal of that transaction to the central computer monitoring program as authorized by the provisions of this Part; however, this limitation of liability shall not be applicable if the damage, injury, or loss was caused by the gross negligence or willful or wanton misconduct of the pharmacist, certified pharmacy technician, or pharmacy employee.

RS 40:1051 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1052 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1053 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1054 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1055 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1057 — Title

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RS 40:1057.1 — Definitions

osol" shall mean a material which is dispensed from

its container as a mist, spray, or foam by a propellant under pressure.

(2) The term "department" means the Louisiana Department of Health.

(3) The term "secretary" means the head of the Louisiana Department of Health, or his legally authorized representative or agent.

(4) The term "person" includes an individual, partnership, corporation, or association, or the legal representative or agent of any of these.

(5) The term "commerce" means any and all commerce within the state of Louisiana and subject to the jurisdiction thereof, and includes the operation of any business or service establishment.

(6) The term "toxic" shall apply to any substance, other than a radioactive substance, which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface.

(7)(a) The term "highly toxic" means any substance which falls within any of the following categories: (1) produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between 200 and 300 grams, at a single dose of 50 milligrams or less per kilogram of body weight, when orally administered; or (2) produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between 200 and 300 grams, when inhaled continuously for a period of one hour or less at an atmosphere concentration of 200 parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, provided such concentration is likely

to be encountered by man when the substance is used in any reasonably foreseeable manner; or (3) produces death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for twenty-four hours, or less.

(b) If the secretary finds that available data on human experience with any aerosol products indicate results different from those obtained on animals in the above named dosages or concentrations, the human data shall take precedence.

(8) The term "extremely flammable" shall apply to any substance which has a flash point at or below 20 degrees Fahrenheit as determined by the Tagliabue Open Cup Tester, and the term "flammable" shall apply to any substance which has a flash point of above 20 degrees to and including 80 degrees Fahrenheit, as determined by the Tagliabue Open Cup Tester, and the term "combustible" shall apply to any substance which has a flash point above 80 degrees Fahrenheit to and including 150 degrees, as determined by the Tagliabue Open Cup Tester, except that the flammability or combustibility of solids and of the contents of self pressurized containers shall be determined by methods found by the secretary to be generally applicable to such materials or containers, respectively, and established by regulations issued by him, which regulations shall also define the terms "flammable," "combustible," and "extremely flammable" in accord with such methods.

(9) The term "label" means a display of written, printed or graphic matter upon the immediate container of any aerosol product and a requirement made by or under authority of this Act that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears (a) on the outside container or wrapper, if any there be, unless it is easily legible through the outside container or wrapper and (b) on all accompanying literature where there are directions for use, written or otherwise.

(10) The term "immediate container" does not include package liners.

(11) The term "misbranded aerosol" means an aerosol intended, or packaged in a form suitable for use in the household or by children, which aerosol product, except as otherwise provided by or pursuant to R.S.

40:1057.2, fails to bear a label:

(a) Which states conspicuously (1) the name and place of business of the manufacturer, packer, distributor, or seller; (2) the common or usual name and/or the chemical name, if there is a common or usual name, or the aerosol ingredients, unless the secretary by regulation permits or requires the use of a recognized generic name; (3) the signal word "DANGER" on aerosol products which are extremely flammable, corrosive, or toxic; (4) the signal word "WARNING" or "CAUTION" or "FATAL" on all other aerosol products; (5)

an affirmative statement of the principal hazard or hazards, such as "Flammable," "Combustible," "Vapor Harmful," "Causes Burns," "Absorbed Through Skin," or similar wording descriptive of the hazard; (6) precautionary measures describing the action to be followed or avoided, except when modified by regulation of the secretary pursuant to R.S. 40:1057.2; (7) instruction, when necessary or appropriate, for first-aid treatment; (8) the word "poison" for any aerosol products which is defined as "highly toxic" by Paragraph (8); (9) instructions for handling and storage of packages which require special care in handling or storage; and (10) the statement "Keep out of the reach of children" or its practical equivalent or if the article is intended for use by children and is not a banned aerosol, adequate directions for the protection of children from the hazard; and

(b) on which any statement required under Subparagraph (a) of this Paragraph are located prominently and are in the English language in conspicuous and legible type in contrast by typograph, layout, or color and other printed matter on the label.

(12)(a) The term "banned hazardous aerosol or aerosol product" means

(1) any aerosol product which contains a toxic substance in such manner as to be susceptible of access by a child to whom such product is entrusted; and (2) any hazardous aerosol product intended or packaged in a form suitable for use in a household, which the secretary by regulation classifies as a "banned hazardous aerosol" on the basis of a finding that, notwithstanding such cautionary labeling as is or may be required under this Chapter for that aerosol product, the degree or nature of the hazard involved in the presence or use of such aerosol is such that the public health and safety can be adequately served only by keeping such aerosol out of the channels of commerce.

(b) Proceedings for the issuance, amendment, or repeal of regulations pursuant to clause (2) of Subparagraph (a) of this Paragraph shall be governed by the provisions of R.S. 40:1057.2.

RS 40:1057.2 — Regulations declaring aerosol products; variations and exemptions; judicial review of determinations

after by avoiding or resolving uncertainty as to its application, the secretary may by regulation declare such aerosol product to be a hazardous aerosol, for the purposes of this Chapter.

B. If the secretary finds that the requirements of R.S. 40:1057.1(11) or R.S. 40:1057.3(a) are not adequate for the protection of the public health and safety in view of the special hazard presented by any particular hazardous aerosol, he may by regulation establish such reasonable variations or additional label requirements as he finds necessary for the protection of the public health and safety, and any such hazardous aerosol product intended or packaged in a form suitable for use in the household or by children, which fails to bear a label in accordance with such regulations, shall be deemed to be a misbranded hazardous aerosol.

C. If the secretary finds that, because of the size of the package involved or because of the minor hazard presented by the substance contained therein or for other good and sufficient reasons, full compliance with the labeling requirements otherwise applicable under this Part is impracticable or is not necessary for the adequate protection of the public health and safety, the secretary shall promulgate regulations exempting such substance from these requirements to the extent he determines to be consistent with adequate protection of the public health and safety.

D. If the secretary finds that the hazard of an article subject to this Chapter is such that labeling adequate to protect the public health and safety cannot be devised or that the article presents an imminent danger to the public health and safety, the secretary may declare such article to be a banned hazardous aerosol and require its removal from commerce.

RS 40:1057.3 — Regulations on aerosols; warnings; mandatory reporting

e. In addition, all

ingredients must be listed in bold type.

B. All manufacturers of aerosol products containing toxic substances or which shall have fatal warnings on the containers shall file the proper treatment in case of misuse with the department. The department shall be responsible for compiling a list of such treatments and forwarding such list on a periodic basis as determined by the secretary to the Louisiana State Medical Society for review, and then distribution to all poison centers and other medical personnel and emergency treatment centers who may have cause to use such treatment.

C. Mandatory reporting of accidental or deliberate use causing injury and/or sudden deaths by involvement with aerosol products shall be required of physicians and coroners. Such reports shall be made directly to the office of health services and environmental quality of the Louisiana Department of Health. The department is directed to:

- (1) Establish the necessary operations to receive statistics of use causing injury or deaths by aerosols.
- (2) Forward statistical information to the Department of Education and other specified agencies on a quarterly basis.
- (3) Direct coroners or pathologists who perform autopsies to be cognizant of the possible involvement of aerosols in the case being examined and particularly in the sudden death of youths.

RS 40:1057.4 — Prohibited acts

azardous aerosol.

(2) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the label of, or the doing of any other act with respect to, a hazardous aerosol if such act is done while the substance is in commerce or while the substance is held for sale, whether or not the first sale, after shipment in commerce, and results in the aerosol being a misbranded hazardous aerosol or a banned hazardous aerosol.

(3) The receipt in commerce of any misbranded hazardous aerosol or banned hazardous aerosol and the delivery or proffered delivery thereof for pay or otherwise.

(4) The giving of a guarantee or undertaking referred to in R.S. 40:1057.5(B)(b) which guarantee or undertaking is false, except by a person who relied upon a guarantee or undertaking to the same effect signed by and containing the name and address of the person residing in the United States from whom he received in good faith the hazardous substance.

(5) The use by any person to his own advantage, or revealing other than to the secretary or officers or employees of the department or to the courts when relevant in any judicial proceeding under this Part, of any information acquired concerning any method or process which as a trade secret is entitled to protection.

RS 40:1057.5 — Penalties

an five hundred dollars or to imprisonment for not more than ninety days, or both, but for offenses committed with intent to defraud or mislead, or for second and subsequent offenses, the penalty shall be imprisonment for not more than one year, or a fine of not more than three thousand dollars, or both such imprisonment and fine.

B. No person shall be subject to the penalties of Subsection (A) of this Section, (a) for having violated R.S. 40:1057.4(3), if the receipt, delivery, or proffered delivery of the aerosol product was made in good faith, unless he refuses to furnish, on request of an officer or employee duly designated by the secretary, the name and address of the person from whom he purchased or received such hazardous aerosol, and copies of all documents, if any there be, pertaining to the delivery of the hazardous aerosol to him; or (b) for having violated R.S. 40:1057.4(1), if he establishes a guarantee or undertaking signed by and containing the name and address of the person residing in the United States from whom he received in good faith the hazardous aerosol, to the effect that the hazardous aerosol is not a misbranded hazardous or a banned hazardous aerosol within the meaning of those terms in this Chapter.

RS 40:1057.6 — §§1057.6, 1057.7 [Blank]

Louisiana 70804-9062

RS 40:1057.8 — Hearing before report of criminal violation

propriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation of this Part is reported to any such attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the secretary or his designated agent, either orally or in writing, or by attorney, with regard to such contemplated proceeding.

RS 40:1057.9 — Regulations

d by Acts 1978, No. 786, §5, eff. July 17, 1978.

RS 40:1057.10 — §§1057.10, 1057.11 [Blank]

, Louisiana 70804-9062

RS 40:1057.12 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:1057.13 — Repurchase

lations of the secretary, be repurchased.

B. For the purposes of this Section, (a) the term "manufacturer" includes an importer for resale, and (b) a dealer who sells at wholesale an aerosol shall with respect to that sale be considered the distributor of that aerosol.

RS 40:1057.14 — Time of taking effect

the Legislature to become effective without action by the governor, as provided by Article III, Section 18 of the 1974 Constitution of the State of Louisiana; however, no penalty or order of court shall be enforced for any violation of this Chapter which occurs prior to the expiration of such prescribed period or periods, by the secretary, ending not more than twelve months after July 17, 1975, as the secretary may prescribe on the basis of a finding that conditions exist which necessitate the prescribing of such additional period or periods; provided, that the secretary may limit the application of such additional period or periods to violations related to specified provisions of this Chapter, or to specified kinds of hazardous aerosols or packages thereof.

RS 40:1058 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:1058.1.1 — Repealed by Acts 2013, No. 308, §2.

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RS 40:1058.2 — Repealed by Acts 2013, No. 308, §2.

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RS 40:1058.3 — Repealed by Acts 2013, No. 308, §2.

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RS 40:1058.4 — Repealed by Acts 2013, No. 308, §2.

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RS 40:1058.5 — Repealed by Acts 2013, No. 308, §2.

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RS 40:1058.6 — Repealed by Acts 2013, No. 308, §2.

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RS 40:1058.7 — Repealed by Acts 2013, No. 308, §2.

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RS 40:1058.8 — Repealed by Acts 2013, No. 308, §2.

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RS 40:1058.9 — Repealed by Acts 2013, No. 308, §2.

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RS 40:1058.10 — Repealed by Acts 2013, No. 308, §2.

aton Rouge, Louisiana 70804-9062

RS 40:1059 — Manufacture, sale, distribution, possession, use and consumption of saccharin and saccharin related products

s and drinks containing such chemical substances may be manufactured, sold, distributed, possessed, used and consumed within the state of Louisiana under the control of the State Food, Drug, and Cosmetic Law, R.S. 40:601 et seq.

The manufacture, sale, distribution, possession, use and consumption of saccharin and saccharin related products is subject to the provisions of Chapters 1 and 4 of this Title, except for the provisions of the first unnumbered Paragraph of Section 607, the first unnumbered Paragraph of Section 608, the first unnumbered Paragraph of Section 616, the first unnumbered Paragraph of Section 617, and Section 618.

RS 40:1060 — Use of dimethyl sulfoxide (DMSO)

ferred to as "DMSO", when prescribed or administered by licensed physicians and requested by a patient unless a formal finding has been made by the state board of health that the substance as prescribed or administered by the physician is harmful. Furthermore, no hospital or health facility shall remove the staff privileges of a physician solely because said physician prescribed or administered DMSO to a patient under the conditions set forth in this Part.

B. No licensed physician in this state shall be subject to disciplinary action by the state board of medical examiners and aseopathic examiners for prescribing or administering DMSO to a patient under his care who has requested the substance unless the state boards have made a formal finding that the substance is harmful.

C. The patient, upon request for the administration of DMSO and after being fully informed as to alternative methods of treatment, shall sign a written statement releasing the physician and, when applicable, the hospital or health facility from any liability from damages which may arise from the use of DMSO.

RS 40:1060.11 — Definitions

arks or monograms unique to the manufacturer,

distributor, or both. The National Drug Code may be used as a code imprint.

(2) "Distributor" means any corporation, person, or entity not engaged in the manufacture of a legend drug product, who distributes for resale and distribution a legend drug product under the label of such corporation, person, or entity.

(3) "Legend drug" means any drug or drug product bearing on the label of the manufacturer or distributor, as required by the Federal Food and Drug Administration, the statement "Caution: Federal law prohibits dispensing without prescription."

(4) "Solid dosage forms" means capsules or tablets intended for oral administration.

RS 40:1060.12 — Legend drug imprint

code imprint

identifying the drug and the manufacturer or distributor of the drug. The Louisiana Department of Health, upon application by a manufacturer or distributor, may exempt a particular drug product from the requirement to be imprinted on the grounds that imprinting is not feasible because of said drug product's size, texture, or other unique characteristics.

B. On or before January 1, 1984, manufacturers or distributors of legend drugs shall provide to the Louisiana Department of Health a list of their legend drugs and the description of the code imprint each bears. The department shall provide for the distribution of the information required to be submitted under this Part to all poison control centers in the state.

The department shall provide to any licensed health care provider, upon request, lists of legend drugs and code imprints provided to the department under this Section, but may charge a reasonable fee to cover copying and postage costs. Manufacturers and distributors shall provide updated lists to the department annually or as changes or revisions occur.

C. A legend drug that does not meet the above requirements shall be deemed misbranded.

D. Whoever manufactures or distributes for sale or otherwise provides to any other person for dispensing any legend drug in solid dosage form that fails to comply with this Section shall be fined twenty-five thousand dollars, or imprisoned for five years, or both.

E. The provisions of Subsections A, B, C, and D of this Section shall not apply to any of the following:

(1) Drugs purchased by a pharmacy, pharmacist, or licensed wholesaler prior to January 1, 1984, and held in stock for resale.

(2) Drugs which are manufactured by or upon the order of a practitioner licensed by law to prescribe or administer drugs and which are to be used solely by the patient for whom prescribed.

RS 40:1060.13 — Sale, distribution, or possession of legend drug without prescription or order y legend drug

except upon the order or prescription of a physician or licensed health care practitioner as defined in R.S. 40:961. This Section shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his license, or to a common or contract carrier or warehouseman, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment.

B. Any person who violates the provisions of this Section shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

RS 40:1060.14 — Prescription requirements; penalties

authorized to prescribe the use

of such legend drugs. An order purporting to be a prescription issued to a drug abuser or habitual user of legend drugs, not in the course of professional treatment, is not a prescription

within the meaning and intent of this Section. Any person who knows or should know that he or she is filling such a prescription or order to a drug abuser or habitual user of legend drugs, as well as the person issuing the prescription, may be charged with a violation of this Section. A legitimate medical purpose shall include use of the drug in the course of a bona fide research program in conjunction with a hospital or university.

B. Any person who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years and may be sentenced to pay a fine of not more than five thousand dollars.

RS 40:1060.15 — Obtaining legend drugs by misrepresentation or fraud; penalties
isrepresentation, fraud, forgery, deception or subterfuge.

B. Any person who violates the provisions of this Section shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

RS 40:1060.16 — Prescriptions; electronic questionnaires

(1) "Electronic questionnaire" means a computer-assisted system for collecting a person's health care data.

(2) "Valid physician-patient relationship" means a medical relationship that exists when the practitioner has conducted at least one medical evaluation with a person in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other practitioners.

B. A prescription issued solely upon the results of answers to an electronic questionnaire, in the absence of a documented patient evaluation including a physical examination, shall be considered issued outside the context of a valid physician-patient relationship and shall not be a valid prescription.

C. If a pharmacist knowingly dispenses a prescription authorized solely on the result of an electronic questionnaire, he shall be in violation of this Section.

D. A pharmacist who knows that a prescription has been authorized in the absence of a valid physician-patient relationship, or otherwise in violation of the prescriber's standard of practice, shall not fill such prescription.

E. A pharmacist who dispenses prescription drugs in violation of this Section is not acting in the best interest of the patient and is dispensing outside the course of the professional practice of pharmacy.

F. A pharmacist who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years and may be sentenced to pay a fine of not more than five thousand dollars.

RS 40:1060.21 — Uses authorized; regulation; penalties

ntended for
administration to livestock or other nonhuman species, that are approved by the federal Food and Drug Administration for such use.

B. "Anabolic steroid" as used herein means any anabolic steroid or synthetic derivative of testosterone, including but not limited to the following:

(1) Bodanone.

- (2) Chlorotestosterone.
- (3) Clostebol.
- (4) Chorionic gonadotropin.
- (5) Dehydrochlormethyltestosterone.
- (6) Dihydrotestosterone.
- (7) Drostanolone.
- (8) Ethylestrenol.
- (9) Fluoxymesterone.
- (10) Mesterolone.
- (11) Methandienone.
- (12) Methandranone.
- (13) Methandriol.
- (14) Methandrostenolone.
- (15) Methyltestosterone.
- (16) Mibolerone.
- (17) Nandrolone.
- (18) Norethandrolone.
- (19) Oxandrolone.
- (20) Oxymesterone.
- (21) Oxymetholone.
- (22) Stanolone.
- (23) Stanozolol.
- (24) Testolactone.
- (25) Testosterone.
- (26) Trenbolone.

C.(1) A physician, dentist, or veterinarian shall not prescribe, dispense, deliver, or administer an anabolic steroid for human use or cause an anabolic steroid to be administered under his direction or supervision for human use except for a valid medical purpose and when required by demonstrable generally accepted medical indications. Bodybuilding, muscle enhancement, or increasing muscle bulk or strength through the use of an anabolic steroid by a person who is in good health is not a valid medical purpose.

(2) Whoever violates the provisions of this Subsection shall be subject to suspension or revocation of his license to practice medicine, dentistry, or veterinary medicine by his governing board.

(3) Whoever violates the provisions of this Subsection shall also be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than five years, or both.

RS 40:1061 — Abortion; prohibition

(1) Any decision of the Supreme Court of the United States which overrules, in whole or in part, *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby restoring to the state of Louisiana the authority to prohibit or limit abortion.

(2) Adoption of an amendment to the United States Constitution which, in whole or

in part, restores to the state of Louisiana the authority to prohibit or limit abortion.

(3) A decision of the Supreme Court of the United States in the case of *Dobbs v.*

Jackson Women's Health Organization, Docket No. 19-1392, which overrules, in whole or in part, *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby restoring to the state of Louisiana the authority to prohibit or limit abortion.

B. The provisions of this Act shall be effective relative to the appropriation of Medicaid funds, to the extent consistent with any executive order by the President of the United States, federal statute, appropriation rider, or federal regulation that sets forth the limited circumstances in which states must fund abortion to remain eligible to receive federal Medicaid funds pursuant to 42 U.S.C. 1396 et. seq.

C. No person may knowingly administer to, prescribe for, or procure for, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent of causing or abetting the termination of the life of an unborn human being. No person may knowingly use or employ any instrument or procedure upon a pregnant woman with the specific intent of causing or abetting the termination of the life of an unborn human being.

D. Any person in violation of this Section shall be prosecuted pursuant to the effective provisions of R.S. 14:87.7, and shall be subject to the penalties provided in R.S. 40:1061.29.

E. Nothing in this Section may be construed to prohibit the sale, use, prescription, or administration of a contraceptive measure, drug or chemical, if it is administered prior to the time when a pregnancy could be determined through conventional medical testing and if the contraceptive measure is sold, used, prescribed, or administered in accordance with manufacturer instructions.

F. It shall not be a violation of Subsection C of this Section for a licensed physician to perform a medical procedure necessary in reasonable medical judgment to prevent the death or substantial risk of death due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of her unborn child in a manner consistent with reasonable medical practice.

G. Medical treatment provided to the mother by a licensed physician which results in the accidental or unintentional injury or death to the unborn child is not a violation of Subsection C of this Section.

H. Nothing in this Section may be construed to subject the pregnant mother upon whom any abortion is performed or attempted to any criminal conviction and penalty.

I. The terms as used in this Section have the same meaning as the definitions provided in R.S. 14:87.1.

J. This Section shall be known, and may be cited, as the Human Life Protection Act.

RS 40:1061.1 — Legislative intent; construction of abortion provisions law regulating abortion

to the fullest extent permitted by the decisions of the Supreme Court of the United States. The legislature does solemnly declare, find, and reaffirm the longstanding public policy of this state that every unborn child is a human being from the moment of

conception and is, therefore, a legal person for purposes under the laws of this state and Constitution of Louisiana.

(2) The legislature further finds and declares that the longstanding policy of this state to protect the right to life of every unborn child from conception by prohibiting abortion is impermissible only because of the decisions of the Supreme Court of the United States and that, therefore, if those decisions of the Supreme Court of the United States are ever reversed or modified or the United States Constitution is amended to allow protection of the unborn then the public policy of this state to prohibit abortions shall be enforced.

B.(1) The provisions of this Chapter that regulate the practice of abortion shall not be construed to repeal any other provision of law that restricts or prohibits abortion.

(2) The provisions of this Chapter that regulate the practice of abortion are enacted to provide for the health, safety, and welfare of women in outpatient abortion facilities until such time and to the extent that the state of Louisiana no longer regulates outpatient abortion facilities.

C. The provisions of this Chapter that regulate the practice of abortion are subject to R.S. 40:2175.10.

RS 40:1061.1.1 — Definitions

provided in R.S. 14:87.1.

- (1) Repealed by Acts 2022, No. 545, §4.
- (2) Repealed by Acts 2022, No. 545, §4.
- (3) Repealed by Acts 2022, No. 545, §4.
- (4) Repealed by Acts 2022, No. 545, §4.
- (5) Repealed by Acts 2022, No. 545, §4.
- (6) Repealed by Acts 2022, No. 545, §4.
- (7) Repealed by Acts 2022, No. 545, §4.
- (8) Repealed by Acts 2022, No. 545, §4.
- (9) Repealed by Acts 2022, No. 545, §4.
- (10) Repealed by Acts 2022, No. 545, §4.
- (11) Repealed by Acts 2022, No. 545, §4.

RS 40:1061.1.2 — Pain-Capable Unborn Child Protection Act

makes the following findings:

- (a) Pain receptors (nociceptors) are present throughout the unborn child's entire body and nerves link these receptors to the brain's thalamus and subcortical plate by no later than twenty weeks.
- (b) By eight weeks after fertilization, the unborn child reacts to touch. After twenty weeks, the unborn child reacts to stimuli that would be recognized as painful if applied to an adult human, for example, by recoiling.
- (c) In the unborn child, application of such painful stimuli is associated with significant increases in stress hormones known as the stress response.
- (d) Subjection to such painful stimuli is associated with long-term harmful neurodevelopmental effects, such as altered pain sensitivity and, possibly, emotional, behavioral, and learning disabilities later in life.

(e) For the purposes of surgery on unborn children, fetal anesthesia is routinely administered and is associated with a decrease in stress hormones compared to their level when painful stimuli are applied without such anesthesia.

(f) The position, asserted by some medical experts, that the unborn child is incapable of experiencing pain until a point later in pregnancy than twenty weeks after fertilization predominately rests on the assumption that the ability to experience pain depends on the cerebral cortex and requires nerve connections between the thalamus and the cortex. However, recent medical research and analysis, especially since 2007, provides strong evidence for the conclusion that a functioning cortex is not necessary to experience pain.

(g) Substantial evidence indicates that children born missing the bulk of the cerebral cortex, those with hydranencephaly, nevertheless experience pain.

(h) In adults, stimulation or ablation of the cerebral cortex does not alter pain perception, while stimulation or ablation of the thalamus does.

(i) Substantial evidence indicates that structures used for pain processing in early development differ from those of adults, using different neural elements available at specific times during development, such as the subcortical plate, to fulfill the role of pain processing.

(j) The position, asserted by some medical experts, that the unborn child remains in a coma-like sleep state that precludes the unborn child's experiencing pain is inconsistent with the documented reaction of unborn children to painful stimuli and with the experience of fetal surgeons who have found it necessary to sedate the unborn child with anesthesia to prevent the unborn child from thrashing about in reaction to invasive surgery.

(k) Consequently, there is substantial medical evidence that an unborn child is capable of experiencing pain by twenty weeks after fertilization.

(2)(a) It is the purpose of the state to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain.

(b) Louisiana's compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain is intended to be separate from and independent of Louisiana's compelling state interest in protecting the lives of unborn children from the stage of viability, and neither state interest is intended to replace the other.

(3) Mindful of

Leavitt v. Jane L.

, 518 U.S. 137 (1996), in which in the context of

determining the severability of a state statute regulating abortion the United States Supreme Court noted that an explicit statement of legislative intent specifically made applicable to a particular statute is of greater weight than a general savings or severability clause, it is the intent of the state that if any one or more provisions, sections, subsections, sentences, clauses, phrases or words of this Section or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this Section shall remain effective notwithstanding such unconstitutionality.

Moreover, the state declares that it would have passed this Section, and each provision,

section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses, phrases or words, or any of their applications, were to be declared unconstitutional.

C. Definitions. For purposes of this Section, the following terms shall have the following meanings unless the context clearly indicates otherwise:

(1) "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of natural causes in utero, accidental trauma, or a criminal assault on the pregnant woman or her unborn child, and which causes the premature termination of the pregnancy.

(2) "Attempt to perform or induce an abortion" means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance or induction of an abortion in this state in violation of this Section.

(3) "Department" means Louisiana Department of Health.

(4) "Fertilization" means the fusion of a human spermatozoon with a human ovum.

(5) "Medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that it necessitates the immediate abortion of her pregnancy without first determining postfertilization age to avert her death or for which the delay necessary to determine postfertilization age will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

(6) "Medically futile" means that, in reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth.

(7) "Physician" means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in the state of Louisiana.

(8) "Postfertilization age" means the age of the unborn child as calculated from the fusion of a human spermatozoon with a human ovum.

(9) "Probable postfertilization age of the unborn child" means what, in reasonable medical judgment, will with reasonable probability be the postfertilization age of the unborn child at the time the abortion is planned to be performed or induced.

(10) "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(11) "Unborn child" or "fetus" each mean an individual organism of the species *homo sapiens* from fertilization until live birth.

(12) "Woman" means a female human being whether or not she has reached the age

of majority.

D. Determination of post fertilization age.

(1) Except in the case of a medical emergency or when a pregnancy is diagnosed as medically futile, no abortion shall be performed or induced or be attempted to be performed or induced unless the physician performing or inducing it has first made a determination of the probable post fertilization age of the unborn child or relied upon such a determination made by another physician. In making such a determination, the physician shall make such inquiries of the woman and perform or cause to be performed such medical examinations and tests as a reasonably prudent physician, knowledgeable about the case and the medical conditions involved, would consider necessary to perform in making an accurate diagnosis with respect to post fertilization age.

(2) Failure by any physician to conform to any requirement of this Section constitutes "unprofessional conduct" pursuant to R.S. 37:1261.

E. Abortion of unborn child of twenty or more weeks post fertilization age prohibited.

(1) No person shall perform or induce or attempt to perform or induce an abortion upon a woman when it has been determined, by the physician performing or inducing or attempting to perform or induce the abortion or by another physician upon whose determination that physician relies, that the probable post fertilization age of the woman's unborn child is twenty or more weeks, unless the pregnancy is diagnosed as medically futile or, in reasonable medical judgment, she has a condition which so complicates her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions.

(2) When an abortion upon a woman whose unborn child has been determined to have a probable post fertilization age of twenty or more weeks is not prohibited by Paragraph (1) of this Subsection, the physician shall terminate the pregnancy in the manner which, in reasonable medical judgment, provides the best opportunity for the unborn child to survive, unless, in reasonable medical judgment, termination of the pregnancy in that manner would pose a greater risk either of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, of the woman than would other available methods.

F. Penalties. Any person who intentionally or knowingly fails to comply with the requirements of this Section shall be subject to the penalties as provided for in R.S. 40:1061.29.

G. Construction. This Section shall not be construed to repeal, by implication or otherwise, R.S. 40:1061.10 or any otherwise applicable provision of Louisiana law regulating or restricting abortion. An abortion that complies with this Section, but violates the provisions of R.S. 40:1061.10 or any otherwise applicable provision of Louisiana law, shall be deemed unlawful as provided in such provision. An abortion that complies with the provisions of R.S. 40:1061.10 or any otherwise applicable provision of Louisiana law regulating or restricting abortion, but violates this Section, shall be deemed unlawful as

provided in this Section. If some or all of the provisions of this Section are temporarily or permanently restrained or enjoined by judicial order, all other provisions of Louisiana law regulating or restricting abortion shall be enforced as though such restrained or enjoined provisions had not been adopted; provided, however, that whenever such temporary or permanent restraining order or injunction is stayed or dissolved, or otherwise ceases to have effect, such provisions shall have full force and effect.

H. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.1.3 — Louisiana Unborn Child Protection from Dismemberment Abortion Act
Act".

B. Repealed by Acts 2022, No. 545, §4.

C.(1) Notwithstanding any other provision of law, it shall be unlawful for any person to intentionally perform or attempt to perform a dismemberment abortion and thereby kill an unborn child unless necessary to prevent serious health risk to the unborn child's mother.

(2) No woman upon whom an abortion is performed or attempted to be performed shall be thereby liable for performing or attempting to perform a dismemberment abortion.

No nurse, technician, secretary, receptionist, or other employee or agent who is not a physician but who acts at the direction of a physician, and no pharmacist or other individual who is not a physician but who fills a prescription or provides instruments or materials used in an abortion at the direction of or to a physician shall be thereby liable for performing or attempting to perform a dismemberment abortion.

D. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars per incidence or occurrence, or imprisoned for not more than two years, or both. In addition to whatever remedies are otherwise available under the laws of this state, failure to comply with the provisions of this Section shall provide all of the following:

(1) A basis for a cause of action for civil damages for injuries and wrongful death as more fully set forth in Civil Code Articles 2315.1 and 2315.2, whether or not the unborn child was viable at the time the abortion was performed, or was born alive, except that such causes of action shall be maintained only by the following persons:

(a) The natural or biological father of the aborted infant or fetus, unless such father's criminal conduct caused the pregnancy.

(b) The mother of the aborted infant or fetus, subject to the provisions of Subsection F of this Section.

(c) The parents or guardian on behalf of the mother of the aborted infant or fetus if the mother was a minor at the time of the abortion, unless the parents or guardian consented to the dismemberment abortion.

(2) A basis for professional disciplinary action under R.S. 37:1261 et seq.

E.(1) A physician charged with an offense pursuant to this Section may seek a hearing before the Louisiana State Board of Medical Examiners on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings concerning the issue provided for in Paragraph (1) of this

Subsection are admissible on that issue at the trial of the physician. Upon motion of the physician, the court shall delay the beginning of the trial for not more than thirty days to permit such hearing to take place; however, this delay may be extended for good cause.

F. When requested, the court shall allow a woman to proceed using solely her initials or a pseudonym and may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed.

G. Any person who is not a physician or not otherwise legally authorized by the state to perform abortions, but who nevertheless directly performs a dismemberment abortion, shall be subject to the provisions of this Section.

H. Nothing in this Section shall be construed as creating or recognizing a right to abortion, or a right to a particular method of abortion.

I. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.1.4 — Abortion based on genetic abnormality; prohibition

person

to intentionally perform or attempt to perform an abortion of an unborn child of twenty or more weeks post fertilization age, as provided for in R.S. 40:1061.1.2, with knowledge that the pregnant woman is seeking the abortion solely because the unborn child has been diagnosed with either a genetic abnormality or a potential for a genetic abnormality.

C.(1) It shall be unlawful for a person to intentionally perform or attempt to perform an abortion of an unborn child of less than twenty weeks post fertilization age without first providing the pregnant woman with an informational document including resources, programs, and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs, and services for infants and children born with disabilities. The informational document provided for in this Subsection shall be given to the pregnant woman at the same time as the requirements in R.S. 40:1061.17(B).

(2) The Louisiana Department of Health shall develop an informational document to comply with the mandate established in this Section to include resources, programs, and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs, and services for infants and children born with disabilities and shall make such information available to any requesting provider of women's health care services and shall maintain the information on a link on the department's website.

(3) No person shall be found in violation of this Subsection, and no penalty for a violation of this Subsection shall be assessed, in any instance in which the informational document required by this Subsection is not available for use.

D. Whoever violates the provisions of this Section shall be subject to the penalties provided in R.S. 40:1061.29.

E. The provisions of this Section shall not apply whenever the abortion is necessary to save the life of the mother.

RS 40:1061.1.5 — Abortion prohibited; detectable fetal heartbeat; ultrasound required

he standards set forth in R.S. 40:1061.10(D), in order to

determine whether or not a fetal heartbeat is present, and the results of the ultrasound shall be included in the pregnant woman's medical records.

(b) Except as provided in Paragraph (2), (3), or (4) of this Subsection, it shall be unlawful for any person to knowingly perform an abortion with the specific intent of causing or abetting the termination of the life of an unborn human being when a fetal heartbeat has been detected. Any person who acts based on the exceptions provided in Paragraph (2), (3), or (4) of this Subsection shall so note in the pregnant woman's medical records and shall specify in the pregnant woman's medical records which of the exceptions the person performing the abortion has invoked.

(2)(a) A person shall not be in violation of Paragraph (1) of this Subsection if the person performs a medical procedure designed to or intended, in that person's reasonable medical judgment, to prevent the death of a pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

(b)(i) A person who performs a medical procedure as described in Subparagraph (a) of this Paragraph shall declare in writing, under penalty of perjury, that the medical procedure was necessary, to the best of that person's reasonable medical judgment, to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. The person shall also provide in that written statement the specific medical condition of the pregnant woman that the medical procedure was performed to address, and the medical rationale for the conclusion that the medical procedure was necessary to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

(ii) The person who performs a medical procedure as described in Subparagraph (a) of this Paragraph shall place the written documentation required by this Subparagraph in the pregnant woman's medical records, and shall maintain a copy of the written documentation for not less than seven years.

(3) A person shall not be in violation of Paragraph (1) of this Subsection if the person has performed an examination for the presence of a fetal heartbeat in the unborn human individual using standard medical practice and that examination does not reveal a fetal heartbeat, or the person has been informed by a physician who has performed the examination for a fetal heartbeat that the examination did not reveal a fetal heartbeat.

(4) For purposes of this Section, "abortion" shall not include an abortion performed when the pregnancy is diagnosed as medically futile.

B. Repealed by Acts 2022, No. 545, §4.

C. Whoever violates this Section shall be prosecuted pursuant to the effective provisions of R.S. 14:87.7 and shall be subject to the penalties provided in R.S. 40:1061.29.

D. In addition to any other grounds provided by law, it shall be grounds for the nonissuance, suspension, revocation, or restriction of a license, or the denial of reinstatement or renewal of a license, issued by the Louisiana State Board of Medical Examiners, that the applicant or licensee has performed an abortion in violation of this Section.

E. This Section shall not be construed to repeal any other provision of law that

restricts or regulates the performance of an abortion by a particular method or during a particular stage of a pregnancy.

F. The provisions of this Section are hereby repealed in favor of the provisions of R.S. 40:1061 immediately upon and to the extent that either:

(1) A decision of the United States Supreme Court upholds the authority of each of the several states of the United States or of the state of Louisiana to prohibit elective abortions.

(2) An amendment to the Constitution of the United States of America is adopted that restores to each of the several states of the United States or to the state of Louisiana the authority to prohibit elective abortions.

RS 40:1061.2 — Discrimination against certain persons; prohibition

is dismissed, demoted, or in any way prejudiced or damaged because of his refusal for any reason to recommend, counsel, perform, assist with or accommodate an abortion.

B. No worker or employee in any social service agency, whether public or private, shall be held civilly or criminally liable, discriminated against, dismissed, demoted, in any way prejudiced or damaged, or pressured in any way for refusal to take part in, recommend or counsel an abortion for any woman.

RS 40:1061.3 — Discrimination against hospitals, clinics, etc.; prohibition

against, or in any way prejudiced or damaged because of any refusal to permit or accommodate the performance of any abortion in said facility or under its auspices.

RS 40:1061.4 — Governmental assistance; discrimination for refusal to participate in an abortion;

state and local grants, loans and all other forms of financial and other aid from any level of government or from any governmental agency.

B. No woman shall be denied governmental assistance or be otherwise discriminated against or pressured in any way for refusing to accept or submit to an abortion, which she may do for any reason and without explanation.

C. No hospital, clinic, or other medical or health facility, whether public or private, shall ever be denied governmental assistance or be otherwise discriminated against or otherwise be pressured in any way for refusing to permit its facilities, staff or employees to be used in any way for the purpose of performing any abortion.

D. No abortion shall be performed on any woman unless prior to the abortion she shall have been advised, orally and in writing, that she is not required to submit to the abortion and that she may refuse any abortion for any reason and without explanation and that she shall not be deprived of any governmental assistance or any other kind of benefits for refusing to submit to an abortion. This provision shall be of full force and effect notwithstanding the fact that the woman in question is a minor, in which event said minor's parents, or if a minor emancipated by marriage, the minor's husband, shall also be fully advised of their right to refuse an abortion for the minor in the same manner as the minor is advised. Compliance with this provision shall be evidenced by the written consent of the

woman that she submits to the abortion voluntarily and of her own free will, and by written consent of her parents, if she is an unmarried minor, and by consent of her husband if she is a minor emancipated by marriage, such written consent to set forth the written advice given and the written consent and acknowledgment that a full explanation of the abortion procedure to be performed has been given and is understood.

RS 40:1061.5 — Employees of state and political subdivisions; counseling abortion prohibited

eof, and no person employed in any public or private social service agency, by contract or otherwise, including workers therein, which is a recipient of any form of governmental assistance, shall require or recommend that any woman have an abortion. Notwithstanding anything contained herein to the contrary, this Section shall not apply to a doctor of medicine, currently licensed by the Louisiana State Board of Medical Examiners pursuant to R.S. 37:1261 et seq., who is acting to save or preserve the life of the pregnant woman.

RS 40:1061.6 — Use of public funds

al, or

employee of the state of Louisiana, or of any local political subdivision thereof, whether such funds are made available by the government of the United States, the state of Louisiana, or of a local governmental subdivision, or from any other public source shall be used in any way for, to assist in, or to provide facilities for an abortion, except when the abortion is medically necessary to prevent the death of the mother.

NOTE: Paragraph (A)(2) eff. until conditions per Acts 2018, No. 498.

(2) No institution, board, commission, department, agency, official, or employee of the state, or of any local political subdivision thereof, shall contract with, award any grant to, or otherwise bestow any funding upon, an entity or organization that performs abortions, or that contracts with an entity or organization that performs abortions, in this state, as more specifically provided in Chapter 1-A of Title 36 of the Louisiana Revised Statutes of 1950.

NOTE: Paragraph (A)(2) eff. upon conditions per Acts 2018, No. 498.

(2)(a) As more specifically provided in R.S. 49:200.51, the Louisiana Department of Health shall not enter into any provider agreement for medical assistance program funding, as defined in R.S. 46:437.3, with any healthcare provider, entity, or organization that does any of the following:

- (i) Performs abortions in this state.
 - (ii) Provides its own facilities where reimbursable medical assistance program services are performed for the use of another healthcare provider, entity, or organization for the purpose of performing abortions in this state.
 - (iii) Hires or retains another healthcare provider, entity, or organization for the purpose of performing abortions in this state.
 - (iv) Provides reimbursable medical assistance program services in the same physical facility as a licensed outpatient abortion facility.
- (b)(i) The prohibitions provided in this Subsection shall apply to state funds, federal funds, and any other public funds administered by the Louisiana Department of Health through a medical assistance program provider agreement, but shall not be construed to

prohibit provision of public protections, such as fire, police, or emergency medical services, public utilities, or other such services to any entity or organization in the same manner as provided to the general public.

(ii) For purposes of this Subparagraph, "medical assistance program" and "provider agreement" shall have the meaning ascribed in R.S. 46:437.3.

B. Notwithstanding any other provision of law to the contrary, no public funds made available to any institution, board, commission, department, agency, official, or employee of the state of Louisiana, or of any local political subdivision thereof, whether such funds are made available by the government of the United States, the state of Louisiana, or a local governmental subdivision, or from any other public source, shall be used in any way for, to assist in, or to provide facilities for an abortion, except for any of the following:

- (1) Whenever the abortion is necessary to save the life of the mother.
- (2) Whenever the abortion is being sought to terminate a pregnancy resulting from an alleged act of rape and all of the requirements of R.S. 40:1061.18(A) are met.
- (3) Whenever the abortion is being sought to terminate a pregnancy resulting from an alleged act of crime against nature as defined by R.S. 14:89(A)(2) and all of the requirements of R.S. 40:1061.18(B) are met.

C. The secretary of the Louisiana Department of Health shall promulgate rules to ensure that no funding of any abortion shall be made based upon a claim of rape or crime against nature as defined by R.S. 14:89(A)(2) until the applicable requirements of R.S. 40:1061.18 have been complied with and written verification has been obtained from the physician performing the abortion and from the law enforcement official to whom the report is made, if applicable.

D. Subsection A of this Section shall be superseded and Subsections B and C and R.S. 40:1061.18 shall become effective only when the circumstances in Subparagraph (1)(a) or in Subparagraph (2)(a) occur:

(1)(a) A decision or order of a court of competent jurisdiction is rendered declaring the provisions of Subsection A unconstitutional, inconsistent with federal law, or otherwise unenforceable based on inconsistency with the Hyde Amendment, or enjoins the state or any of its officials from enforcing Subsection A while at the same time accepting federal funds pursuant to Title XIX, as modified by the Hyde Amendment, and then only if, as, and when a stay pending all appeals of the decision or order is denied, or, if a stay is granted, such stay expires or is no longer effective.

(b) If such a decision or order is rendered, the state Department of Justice, on behalf of the state, shall vigorously and expeditiously pursue judicial remedies seeking to obtain a stay pending all appeals of the decision or order and its reversal.

(2)(a) An order or decision of a court of competent jurisdiction is rendered affirming a finding of the administrator of the Health Care Financing Administration of the United States Department of Health and Human Services that Subsection A fails to substantially comply with the Hyde Amendment or denying a stay of the finding of the administrator and then only if, as, and when the state receives formal notification from the administrator that Medicaid funds, including but not limited to the federal percentage of Medicaid assistance

payments pursuant to 42 U.S.C. 1396 et seq. allocated to the state from the United States government, will be withheld or terminated on a specified date.

(b) If the administrator finds that the state is in noncompliance with the Hyde Amendment as it relates to funding certain abortions, the governor, the state Department of Justice, and the state Department of Health, on behalf of the state, shall vigorously and expeditiously pursue administrative and judicial remedies to obtain a stay of the finding and its reversal.

(c) If such a decision or order is rendered by a court, the state Department of Justice, on behalf of the state, shall vigorously and expeditiously pursue judicial remedies seeking to obtain a stay of the decision or order and to seek its reversal.

E. If Subsections B and C and R.S. 40:1061.18 become effective and subsequently the federal requirement for acceptance of Medicaid funds, that public funds be made available for abortions resulting from pregnancy due to rape or crime against nature as defined by R.S. 14:89(A)(2), is no longer applicable to the state of Louisiana, then on the same day, the provisions of Subsections B and C and R.S. 40:1061.18 shall be superseded and the provisions of Subsection A shall be effective to the fullest extent allowed by law.

RS 40:1061.7 — Instruction in elementary and secondary schools by abortion providers; prohibition tity that performs elective abortion, or of an affiliate as defined in Subsection

B of this Section, shall engage in any of the following activities:

(1) Presenting or otherwise delivering any instruction or program on any health topic, including but not limited to human sexuality or family planning, to students at a public elementary or secondary school, or at a charter school that receives state funding.

(2) Knowingly providing any materials or media regarding human sexuality or family planning for distribution or viewing at a public elementary or secondary school, or at a charter school that receives state funding, regardless of the topic or viewpoint of such materials or media, if the materials or media are created by or bear the identifying mark of an organization, individual, or any other entity, or of an affiliate of any such organization, individual, or entity, that performs elective abortion.

B. For purposes of this Section, "affiliate" means an organization, individual, or any other entity that has a legal relationship with another organization, individual, or any other entity, and such relationship is created or governed by at least one written instrument that demonstrates one or more of the following:

(1) Common ownership, management, or control.

(2) The existence of a franchise.

(3) The granting or extension of a license or other agreement that authorizes common use of a brand name, trademark, service mark, or other registered identification mark.

C. The provisions of this Section shall not apply to any hospital licensed in accordance with the Hospital Licensing Law, R.S. 40:2100 et seq.

D. Any abortion provider or affiliate of an abortion provider whose employee or representative acts in violation of this Section shall be subject to imposition of a monetary penalty established by rule by the Louisiana Department of Health, and the department shall consider such violation in any action regarding license issuance taken in accordance with

R.S. 40:2175.6.

RS 40:1061.10 — Abortion by physician; determination of viability; ultrasound test required;

that person is a physician licensed to practice medicine in the state of Louisiana and is currently board-certified in obstetrics and gynecology or family medicine or enrolled in a residency program for obstetrics and gynecology or family medicine, when that resident performs or induces an abortion under the direct supervision of a physician who is board-certified in obstetrics and gynecology or family medicine. Any outpatient abortion facility that knowingly or negligently employs, contracts with, or provides any valuable consideration for the performance of an abortion in an outpatient abortion facility by any person who does not meet the requirements of this Section is subject to having its license denied, non-renewed, or revoked by the Louisiana Department of Health in accord with R.S. 40:2175.6. For the purposes of this Subsection, "direct supervision" shall mean that the physician must be present in the hospital, on the campus, or in the outpatient facility, and immediately available to furnish assistance and direction throughout the performance of the procedure. The physician need not be present in the room when the procedure is performed in order to maintain direct supervision.

(2) On the date the abortion is performed or induced, a physician performing or inducing an abortion shall:

(a) Have active admitting privileges at a hospital that is located not further than thirty miles from the location at which the abortion is performed or induced and that provides obstetrical or gynecological health care services. For purposes of this Section, "active admitting privileges" means that the physician is a member in good standing of the medical staff of a hospital that is currently licensed by the department, with the ability to admit a patient and to provide diagnostic and surgical services to such patient consistent with the requirements of Paragraph (A)(1) of this Subsection.

(b) Provide the pregnant woman with all of the following before the abortion is performed or induced:

(i) A telephone number by which the pregnant woman may reach the physician, or other health care personnel employed by the physician or facility at which the abortion was performed or induced, who has twenty-four hours per day access to the woman's relevant medical records so that the woman may request assistance related to any complication that arises from the performance or induction of the abortion, or to ask health-related questions regarding the abortion.

(ii) The name and telephone number of the hospital nearest to the home of the pregnant woman at which an emergency arising from the abortion would be treated.

(c) Whoever violates the provisions of Subparagraph (2)(a) of this Paragraph shall be fined not more than four thousand dollars per violation.

B. Viability. Except in the case of a medical emergency, before a physician performs an abortion, the physician, by use of his good faith medical judgment, shall first determine if the unborn child is viable.

C. Determination of Viability. In order to preserve the health of the woman, and in order to assist in making an accurate finding of viability considering the gestational age,

weight, and lung maturity of the unborn child, the physician intending to terminate a pregnancy shall first perform or cause to be performed an ultrasound examination pursuant to the provisions of Subsection D of this Section. The physician shall enter such findings and determination of viability in the medical record of the pregnant woman, along with photographs or prints of the ultrasound evidencing the findings.

D. Ultrasound Requirements. Except in the case of a medical emergency, and in addition to the provisions of R.S. 40:1061.17, consent to an abortion of an unborn child at any stage of gestational development is voluntary and informed only if an obstetric ultrasound is performed in accordance with the provisions of this Section.

(1) Qualifications to perform ultrasound. The ultrasound shall be performed by the physician who is to perform the abortion or a qualified person who is the physician's agent. For purposes of this Section, "qualified person" means a person having documented evidence that he or she has completed a course in the operation of ultrasound equipment and is in compliance with any other requirements of law regarding the operation of ultrasound equipment.

(2)(a) Requirements. Except as provided in Subparagraph (b) of this Paragraph, at least seventy-two hours prior to the woman's having any part of an abortion performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the woman, the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the following requirements:

(i) Perform an obstetric ultrasound on the pregnant woman; simultaneously display the screen which depicts the active ultrasound images so that the pregnant woman may view them; and make audible the fetal heartbeat, if present, in a quality consistent with current medical practice. Nothing in this Section shall be construed to prevent the pregnant woman from not listening to the sounds detected by the fetal heart monitor, or from not viewing the images displayed on the ultrasound screen.

(ii) Provide a simultaneous and objectively accurate oral explanation of what the ultrasound is depicting, in a manner understandable to a layperson, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of cardiac activity if present and viewable, along with the opportunity for the pregnant woman to ask questions.

(iii) Offer the pregnant woman the option of requesting an ultrasound photograph or print of her unborn child of a quality consistent with current standard medical practice that accurately portrays, to the extent feasible, the body of the unborn child including limbs, if present and viewable.

(iv) Prior to the ultrasound, obtain from the pregnant woman a copy of a completed, signed, and dated election form. The election form shall be produced and made available by the department, and shall state as follows:

"Ultrasound Before Abortion Notice and Election Form

Louisiana law requires an ultrasound examination prior to the performance of an abortion. By signing below, I certify that I understand the following:

(1)

I have the option to look at or look away from the ultrasound display at any time.

(2)

I have the option to listen to the heartbeat of the unborn child that is required to be made audible unless I decline by initialing here: _____.

(3)

I am required by law to hear an oral explanation of the ultrasound images, unless I certify below that I am pregnant due to an act of rape or crime against nature as defined by R.S. 14:89(A)(2).

(4)

I have the option to ask and receive answers to any questions about the images of the unborn child.

(5)

I have the option to ask for an ultrasound photographic print depicting the unborn child.

Signature Date

OPTION FOR WOMEN WHO HAVE FILED LAW ENFORCEMENT REPORTS:

I certify that I have reported an act of rape or crime against nature as defined by R.S. 14:89(A)(2) to law enforcement officials, and that I decline to hear an oral explanation of the ultrasound images.

Signature Date"

(v) Orally read the following statement to the pregnant woman in the ultrasound examination room prior to beginning the ultrasound examination, and certify by signature on a form that shall be produced and made available by the department that the following statement was delivered orally:

"During this ultrasound examination, you have the right to an oral explanation of the results. You have the option to view the images on the ultrasound screen. The heartbeat of the unborn child, if present, will be made audible, unless you declined on the election form. You have the right to receive answers to any questions you ask about your ultrasound examination. You have the right to receive an ultrasound photographic print, which will be provided at your request."

(vi) Retain copies of the election form and certification prescribed by Items (iv) and (v) of this Subparagraph. The certification shall be placed in the medical file of the woman and shall be kept by the abortion provider for a period of not less than seven years. If the woman is a minor, the certification shall be placed in the medical file of the minor and kept for at least seven years or for five years after the minor reaches the age of majority, whichever is greater. The woman's medical files shall be kept confidential as provided by law.

(b) If the pregnant woman certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then

the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the requirements of Subparagraph (a) of this Paragraph at least twenty-four hours prior to the woman having any part of an abortion performed or induced.

(3) Options to view or listen to required medical information.

(a) A pregnant woman may choose not to exercise her option to request an ultrasound photograph print as provided for under this Section.

(b) A pregnant woman may choose not to view the ultrasound images required to be provided to and reviewed with the pregnant woman as provided for under this Section.

(c) A pregnant woman may choose not to listen to the sounds detected by the fetal heart monitor required to be provided to the pregnant woman as provided for under this Section.

(d) The physician, the agent of the physician, and the pregnant woman are not subject to a penalty under this Chapter solely because the pregnant woman chooses not to request an ultrasound print, view the ultrasound images, or hear the heart auscultation.

(4) Medical Emergencies.

(a) "Medical emergency" as used in this Section, means the existence of any physical condition, not including any emotional, psychological, or mental condition, which a reasonably prudent physician, with knowledge of the case and treatment possibilities with respect to the medical conditions involved, would determine necessitates the immediate abortion of the pregnancy to avert the pregnant woman's death or to avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy.

(b) Upon a determination by a physician that a medical emergency exists with respect to a pregnant woman, the provider shall certify in writing the specific medical conditions that constitute the emergency. The certification shall be placed in the medical file of the woman and shall be kept by the abortion provider for a period of not less than seven years. If the woman is a minor, then the certification shall be placed in the medical file of the minor and kept for at least seven years or for five years after the minor reaches the age of majority, whichever is greater. The woman's medical files shall be kept confidential as provided by law.

(5) Penalties. Any person who intentionally or knowingly fails to comply with any requirement of this Section shall be subject to the penalties as provided for in R.S. 40:1061.29.

(6) Protection of privacy in court proceedings. In every civil or criminal proceeding or action brought under this Section, the court shall rule whether the anonymity of any female upon whom an abortion has been performed or attempted shall be preserved from public disclosure if she does not give her consent to such disclosure. The court may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion has been performed or attempted. This Section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

E. Pregnant rape survivors or victims of crime against nature as defined by R.S.

14:89(A)(2) who have reported the act to law enforcement officials shall have the opportunity to opt out of the oral explanation provisions of Subparagraph (D)(2)(b) of this

Section, in addition to having the same options to view or listen to the required medical information as provided in Paragraph (D)(3) of this Section.

F. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.11 — Drugs or chemicals used; penalties

room and in the physical

presence of the pregnant woman when the drug or chemical is initially administered, dispensed, or otherwise provided to the pregnant woman.

B. The drug or chemical shall not be administered, dispensed, or otherwise provided to the pregnant woman by a physician or any person acting under the physician's direction, whether in a licensed outpatient abortion facility, private medical office or any other facility, unless the physician has obtained the voluntary and informed consent of the pregnant woman pursuant to the provisions of R.S. 40:1061.17 and the requirements set forth in that Section.

C. If a physician prescribes, dispenses, administers, or provides any drug or chemical to a pregnant woman for the purpose of inducing an abortion, the physician shall report the abortion to the Louisiana Department of Health as provided in R.S. 40:1061.21.

D. In addition to the requirements of reporting complications to the Louisiana Department of Health pursuant to R.S. 40:1061.21, if the physician knows that the woman experienced a serious adverse event, as defined by the MedWatch Reporting System, during or after the administration or use of the drug, the physician shall also report the event to the United States Food and Drug Administration through the MedWatch Reporting System not later than the third day after the date the physician learns that the event occurred.

E. The Louisiana State Board of Medical Examiners may take disciplinary action as authorized in R.S. 37:1261 et seq. or any other applicable provision of law against a physician who violates any provision of this Section.

F. Any person not under the direct and immediate supervision of a physician who knowingly performs or attempts to perform an abortion using chemicals or drugs in violation of this Section shall be subject to penalties pursuant to R.S. 40:1061.29. No penalty may be assessed against the woman who undergoes the abortion.

G. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.11.1 — Chemically induced abortion; required disclosure

he physician's direction, whether

in a licensed outpatient abortion facility, private medical office, or any other facility, then the physician or the person acting under the physician's direction shall provide the disclosure statement found in Subsection B of this Section to the pregnant woman. The disclosure statement may be provided by doing any of the following:

- (1) Stapling the disclosure statement to a bag, envelope, or other package that contains misoprostol for the pregnant woman to self-administer at home.
- (2) Attaching the disclosure statement to a written prescription for misoprostol provided by the physician or the person acting under the physician's direction.
- (3) Attaching the disclosure statement to the patient's discharge instructions if the prescription for misoprostol is sent directly to a pharmacy.

B. The disclosure statement required by this Section shall contain all of the following

text:

"PLEASE READ BEFORE TAKING SECOND PILL

Research has indicated that the first pill provided, identified as mifepristone, is not always effective in ending a pregnancy. If after taking the first pill you regret your decision, please consult a physician or healthcare provider immediately to determine if there are options available to assist you in continuing your pregnancy."

C.(1) Nothing in this Section shall be construed as creating or recognizing a right to abortion.

(2) Nothing in this Section shall be construed as requiring the disclosure statement to be provided to a woman facing a spontaneous miscarriage as defined in R.S. 14:87.1(1)(b)(ii).

(3) Nothing in this Section shall be construed as requiring a pharmacy or any entity other than the facility where the abortion is administered to provide the disclosure statement.

D. As used in this Section, the following terms have the meanings ascribed to them:

(1) "Abortion pill" means the use of mifepristone or misoprostol to induce a chemical abortion.

(2) "Mifepristone" means a synthetic steroid that inhibits the action of progesterone, given orally in early pregnancy to induce a chemical abortion. Mifepristone is the first drug used in a two-drug process to induce a chemical abortion.

(3) "Misoprostol" means a synthetic prostaglandin E

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analogue that is used to induce

a chemical abortion. Misoprostol is the second drug used in a two-drug process to induce a chemical abortion.

E. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.12 — Born-Alive Infant Protection Act

iate medical care as

provided in R.S. 40:1061.13(C), whether the abortion was considered legal or illegal under the law at the time that the abortion was performed.

B. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.13 — Abortion after viability; second attendant physician required; duties

shall first certify in writing that the abortion is

necessary to preserve the life or health of the woman and shall further certify in writing the medical indications for such abortion and the probable health consequences.

B. Any physician who performs an abortion upon a woman carrying a viable unborn child shall utilize the available method or technique of abortion most likely to preserve the life and health of the unborn child. In cases where the method or technique of abortion which would most likely preserve the life and health of the unborn child would present a greater risk to the life and health of the woman than another available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the

available method or techniques considered and the reasons for choosing the method or technique employed.

C. An abortion of a viable unborn child shall be performed or induced only when there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for an infant born alive as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the physician required by this Section to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the viable unborn child and born-alive infant, respectively, provided that it does not pose an increased risk to the life or health of the woman.

D. The provisions of this Section shall apply to an infant born alive, and the infant born alive shall be given immediate medical care regardless of whether the abortion was considered legal or illegal under the law at the time the abortion was performed.

E. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.14 — Minors

he physician or a qualified person acting as agent of the physician pursuant to R.S. 40:1061.17(B)(4)(c) has received those documents provided for in either Paragraph (1) or (2) of this Subsection:

(1)(a) A notarized statement signed by the mother, father, legal guardian, or tutor of the unemancipated minor declaring that the affiant has been informed that the minor intends to seek an abortion and that the affiant consents to the abortion. The affiant shall provide sufficient evidence of identity that shall be expressly specified in the affidavit to establish an articulable basis for a reasonably prudent person to believe that the affiant is one of the following:

(i) The lawful mother.

(ii) The lawful father.

(iii) The legal guardian.

(iv) The lawful tutor of the minor.

(b) A copy of a valid and unexpired driver's license or a government-issued identification card of the individual giving consent on behalf of the unemancipated minor as provided for in Subparagraph (a) of this Paragraph.

(2) A court order as provided in Subsection B of this Section.

B. The following provisions shall apply to all applications for court orders by minors seeking abortions and appeals from denials of applications:

(1) Jurisdiction to hear applications shall be in the court having juvenile jurisdiction in the parish in which the minor is domiciled. Jurisdiction to hear an application or appeal shall be extended to a court having juvenile jurisdiction in a contiguous parish if either of the following conditions is met:

(a) The minor's parent or guardian is a presiding judge of the juvenile court in the parish in which the minor is domiciled.

(b) The parish in which the minor is domiciled has a population of less than ten

thousand persons according to the latest federal decennial census.

(2) Each clerk of each court which has jurisdiction to hear such applications shall prepare application forms in clear and concise language which shall provide step-by-step instructions for filling out and filing the application forms. All application forms shall be submitted to the attorney general for his approval. Each clerk shall assist each minor who requests assistance in filling out or filing the application forms.

(3)(a) Each application shall be heard in chambers, anonymously, in a summary manner, within four days, excluding legal holidays, of the filing thereof.

NOTE: Item (B)(3)(b)(i) eff. until October 1, 2027. See Acts 2025, No. 477.

(b)(i) Prior to such ex parte hearing, the court may require the minor to participate in an evaluation and counseling session with a mental health professional from the Louisiana Department of Health, office of behavioral health, or a staff member from the Department of Children and Family Services, office of children and family services, or both. The court may refer the petitioner, if necessary, to the appropriate Louisiana Department of Health, office of behavioral health regional office to arrange the evaluation and counseling session within the four-day period prior to the ex parte hearing, as provided in this Paragraph. This referral may be made by the clerk upon the minor's filing the application when the court has issued a standing order authorizing same and the circumstances fit the criteria of the standing order therefor.

NOTE: Item (B)(3)(b)(i) as amended by Acts 2025, No. 477, eff. October 1, 2027.

(b)(i) Prior to such ex parte hearing, the court may require the minor to participate in an evaluation and counseling session with a mental health professional from the Louisiana Department of Health, office of behavioral health, or a staff member from the Department of Children and Family Services, office of child welfare, or both. The court may refer the petitioner, if necessary, to the appropriate Louisiana Department of Health, office of behavioral health regional office to arrange the evaluation and counseling session within the four-day period prior to the ex parte hearing, as provided in this Paragraph. This referral may be made by the clerk upon the minor's filing the application when the court has issued a standing order authorizing same and the circumstances fit the criteria of the standing order therefor.

(ii) Such evaluation and counseling session shall be for the purpose of developing trustworthy and reliable expert opinion concerning the minor's sufficiency of knowledge, insight, judgment, and maturity with regard to her abortion decision in order to aid the court in its decision and to make the state's resources available to the court for this purpose. Persons conducting such sessions shall employ the information and printed materials referred to in R.S. 40:1061.17 in examining how well the minor interviewed is informed about pregnancy, fetal development, abortion risks and consequences, the indicators of human trafficking, and abortion alternatives, and shall also endeavor to verify that the minor is seeking an abortion of her own free will and is not acting under intimidation, threats, abuse, undue pressure, or extortion by any other persons and is not a victim of a coerced abortion as defined in Children's Code Article 603.

(iii) For purposes of providing screening to protect the safety and well-being of the

minor, such evaluation and counseling session shall also endeavor to ascertain whether the minor is pregnant as a result of sexual activity constituting a crime under the laws of this state, or as a result of commercial sexual exploitation of the minor, and shall inform the minor of resources available for her protection.

(iv) The results of such evaluation and counseling shall be reported to the court by the most expeditious means, commensurate with security and confidentiality, to assure receipt by the court prior to or at the ex parte hearing.

(4)(a) If the minor has not been interviewed in such evaluation and counseling session prior to the ex parte hearing, such that the court does not have the benefit of the required report, then the court may appoint a certified child advocate attorney to be present with the minor at the ex parte hearing for the purpose of assisting the minor in communicating to the court whether her abortion decision is made with sufficient maturity and free and informed consent, commensurate with the duty of confidentiality. A certified child advocate attorney shall be given sufficient time on the same day as the ex parte hearing to review with the minor the information and printed materials referred to in R.S. 40:1061.17, in evaluating how well the minor is informed about pregnancy, fetal development, abortion risks and consequences, the indicators of human trafficking, and abortion alternatives. The certified child advocate attorney shall also endeavor to assist in the court's determination of whether the minor is seeking the abortion of her own free will and is not acting under intimidation, threats, undue pressure, or extortion by other persons, is not a victim of coerced abortion as defined in Children's Code Article 603, and is not in need of assistance or protective orders if the minor is a victim of commercial sexual exploitation as defined in Children's Code Article 603, or any crime against the child as defined in Children's Code Article 603.

(b) If the court, using reasoned judgment and evidentiary evaluation, finds, by clear and convincing evidence, that the minor is sufficiently mature and well enough informed to make the decision concerning the abortion on her own, and further finds that the minor is not a victim of coerced abortion, and is seeking the abortion of her own free will, the court shall issue an order authorizing the minor to act on the matter without parental consultation or consent.

(c) Whether or not the court authorizes the abortion, if the court finds by a preponderance of the evidence that the minor is a victim of commercial sexual exploitation as defined in Children's Code Article 603, or any crime against the child as defined in Children's Code Article 603, the court may issue any appropriate protective orders or afford the minor the continued services of a court-appointed special advocate, or both.

(5) If the court finds that the minor is not sufficiently mature and well enough informed to make a decision intelligently among the alternatives, the court shall decide whether or not it would be in the best interest of the minor to notify her parents or guardian of the proceedings. If the court finds that it is in the minor's best interest to notify her parents or guardian, the court shall so notify and reconvene the proceedings within forty-eight hours with the parents or guardian present to advise and counsel the minor and aid the court in making its determination whether or not the abortion would be in the best interest of the minor.

(6) If the court finds that the minor is not sufficiently mature and well enough informed to make the decision concerning the abortion and further finds that it would not be in the minor's best interest to notify her parents or guardian, the court shall issue an order authorizing the abortion if the court finds, by clear and convincing evidence, that the abortion would be in the best interest of the minor. However, as stated in *Bellotti v. Baird*, 443 U.S. 622, 647 (1979), "the court may deny the abortion request of an immature minor in the absence of parental consultation if it concludes that her best interests would be served thereby."

(7) In all cases, the court shall issue its final judgment and order immediately upon completion of the reconvened hearing, if there is one, or immediately upon completion of the original ex parte hearing, if there is no reconvened hearing, and in any case where unusual justification exists for taking the matter under advisement, the court shall report taking the matter under advisement to the Supreme Court of Louisiana and to the court of appeal for the circuit to which appeals lie from the court and shall issue its final judgment and order within forty-eight hours after taking the matter under advisement at the completion of such hearing. Appeals from decisions of the court hearing the application shall be by trial de novo in the court of appeal.

(8) Each clerk of each court of appeal shall prepare appeal forms in clear and concise language which shall provide step-by-step instructions for filling out and filing the appeal forms. All appeal forms shall be submitted to the attorney general for his approval. Each clerk shall assist each minor who requests assistance in filling out or filing the appeal forms.

(9) Each appeal shall be heard in chambers, anonymously, in a summary manner, and within forty-eight hours of the filing thereof.

(10) The decision of the court of appeal shall be based on the criteria provided in Paragraphs (4), (5), and (6) of this Subsection, and such court shall issue its final judgment and order within forty-eight hours of its hearing.

(11) Each minor who declares to the clerk of the court hearing the application or appeal that she does not have sufficient funds to pay for the costs of the application or the appeal shall be allowed to proceed in forma pauperis.

(12) Each minor who files an application or an appeal shall be entitled to an initial hearing and a determination by the court independently of any notice to or consultation with her parents, tutor, or guardian.

(13) Except as otherwise provided in this Section, or as otherwise provided by rule of court, hearings of applications and appeals shall be conducted in accordance with the provisions of the Louisiana Children's Code.

C.(1) Nothing in this Section shall be construed as creating or recognizing a right to abortion.

(2) It is not the intention of this Section to make lawful an abortion that is unlawful on July 10, 1997, or which later becomes unlawful.

D. Nothing in this Section shall be deemed or construed to affect or alter existing law on the confidentiality of proceedings and records related thereto, except to the extent specifically contained in this Section.

E. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.14.1 — Fraudulent interference with parental consent

subject to R.S. 14:70.7 providing

penalties for the unlawful production, manufacturing, distribution, or possession of fraudulent documents for identification purposes.

B. Any employee of a licensed outpatient abortion facility who knowingly aids and abets a person who is not the mother, father, legal guardian, or tutor of a minor on whom an abortion was performed in the execution or acceptance of the parental consent requirements as required by R.S. 40:1061.14(A)(1), shall be subject to the penalties in R.S. 40:1061.29.

C. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.15 — Prevention of forced abortion; signage in abortion facilities

licensed outpatient abortion facility as defined by R.S. 40:2175.3 shall

conspicuously post a sign in a location defined in Subsection D of this Section which is clearly visible to patients, and which features the text contained in Paragraph (1) of this Subsection and the information contained in Paragraph (2) of this Subsection.

(1) The sign shall feature the following text:

"Notice: Women's Rights and Pregnancy Resources

You can't be forced.

* It is unlawful for anyone to make you have an abortion against your will, even if you are a minor.

You and the father.

* The father of your child must provide support of the child, even if he has offered to pay for an abortion.

You and adoption.

* The law allows adoptive parents to pay costs of prenatal care, childbirth and newborn care.

You are not alone.

* Many agencies are willing to help you to carry your child to term, and to assist after your child's birth."

(2) The sign shall feature the web address of the pregnancy resources website maintained by the department pursuant to R.S. 40:1061.17, which shall be shown on the sign in a large, bold font designed to be clearly visible to patients, along with any additional information which is deemed necessary by the department and is in accordance with the provisions of R.S. 40:1061.17.

C. The department shall cause the sign provided for in this Section to be designed and produced. All signs produced shall incorporate color graphics and shall be printed on durable signage material measuring sixteen inches by twenty inches with lettering presented in a size and style of font designed to be clearly visible to the patient.

D. The sign provided for in this Section shall be conspicuously posted in each patient admission area, waiting room, and patient consultation room used by patients on whom abortions are performed, induced, prescribed for, or who are provided with the means for an abortion.

E. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.16 — Information on psychological impacts, illegal coercion, abuse, and human

that women of this state have a right to know that

undergoing an abortion may have serious psychological impacts, including severe emotional distress and mental and behavioral health afflictions.

B.(1) Except as provided in Paragraph (2) of this Subsection, at least seventy-two hours prior to undergoing an elective abortion, and as a condition for consent to the abortion to be deemed voluntary and informed, the woman or minor female considering abortion shall be given a copy of the printed materials described in this Section by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency as provided in R.S. 40:1061.23.

(2) If the woman or minor female considering abortion certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then she shall be given a copy of the printed materials described in this Section at least twenty-four hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency as provided in R.S. 40:1061.23.

C.(1) The physician or qualified person shall provide to the woman or minor female seeking an abortion the printed materials required by this Section individually and in a private room for the purpose of ensuring that she has an adequate opportunity to ask questions and discuss her individual circumstances.

(2) The physician or qualified person shall obtain the signature of the woman or minor female seeking an abortion on a form certifying that the printed materials were given to the woman or minor female.

(3) In the case of a minor female considering an abortion, if a parent accompanies the minor female to the appointment with the physician or qualified person described in Subsection B of this Section, then the physician or qualified person shall provide to the parent copies of the materials given to the female in accordance with Paragraph (1) of this Subsection.

(4) The signed certification form provided for in Paragraph (2) of this Subsection shall be kept within the medical record of the woman or minor female upon whom the abortion procedure was performed for a period of at least seven years.

D. The department shall create printed materials and printable Internet-based resources that provide all of the following:

(1)(a) Information, telephone numbers, and links to Internet websites of nonprofit organizations that offer free and confidential access to mental health professionals, social workers, and other trained counselors who serve women and minor females who may experience psychological distress or other mental, emotional, or behavioral health afflictions prior to undergoing an abortion.

(b) The department shall take such actions as are necessary to ensure that any mental or behavioral health professional or other counselor to whom a woman or minor female may

be referred through the organizations listed in the materials developed pursuant to this Paragraph meets all of the following criteria:

(i) Provides counseling services that objectively address the mental, emotional, and behavioral health effects that may occur prior to an abortion.

(ii) Is not affiliated with an abortion provider.

(2)(a) Information, telephone numbers, and links to Internet websites of nonprofit organizations that offer free and confidential access to mental health professionals, social workers, and other trained counselors who serve women and minor females who may experience psychological distress or other mental, emotional, or behavioral health afflictions after undergoing an abortion.

(b) The department shall take such actions as are necessary to ensure that any mental or behavioral health professional or other counselor to whom a woman or minor female may be referred through the organizations listed in the materials developed pursuant to this Paragraph meets all of the following criteria:

(i) Provides counseling services that objectively address the mental, emotional, and behavioral health effects that may result from undergoing the abortion procedure.

(ii) Is not affiliated with an abortion provider.

(3)(a) Information, telephone numbers, and links to Internet websites of nonprofit organizations that offer free and confidential access to mental health professionals, social workers, and other trained counselors who are trained in counseling women and minor females who experience coercion to obtain an abortion concerning the psychological impacts or other mental, emotional, or behavioral health afflictions that may result from experiencing coercion to obtain an abortion.

(b) The department shall take such actions as are necessary to ensure that any mental or behavioral health professional or other counselor to whom a woman or minor female may be referred through the organizations listed in the materials developed pursuant to this Paragraph meets all of the following criteria:

(i) Provides counseling services that objectively address the mental, emotional, and behavioral health effects that may result from experiencing coercion to obtain an abortion.

(ii) Is not affiliated with an abortion provider.

(c) The materials developed pursuant to this Paragraph shall clearly indicate that coerced abortion is defined in Louisiana law, Children's Code Article 603, as a form of abuse that seriously endangers the physical, mental, and emotional health and safety of a child.

(4)(a) Information, telephone numbers, and links to Internet websites of nonprofit organizations that offer free and confidential access to mental health professionals, social workers, and other trained counselors for women and minor females who are victims of the crime of human trafficking or the crime of trafficking of children for sexual purposes.

(b) The department shall take such actions as are necessary to ensure that any mental or behavioral health professional or other counselor to whom a woman or minor female may be referred through the organizations listed in the materials developed pursuant to this Paragraph meets all of the following criteria:

(i) Provides counseling services that objectively address the mental, emotional, and

behavioral health effects that may result from being a victim of human trafficking or a victim of trafficking of children for sexual purposes.

(ii) Is not affiliated with an abortion provider.

(c) The materials developed pursuant to this Paragraph shall clearly indicate all of the following:

(i) That victims of trafficking can be safe after their rescue from being trafficked.

(ii) That Louisiana provides for assistance to victims of human trafficking, as required by R.S. 46:2162 et seq.

(iii) That there are public and private agencies providing valuable assistance to women and minor females who have been commercially and sexually exploited; and that help available to victims of trafficking and other exploitation includes housing assistance, education, job training, and drug addiction counseling.

(iv) That legal assistance is available to women and minor females seeking to escape the sex trade, including assistance in vacating prior prostitution convictions.

(v) That the crime of trafficking of children for sexual purposes is subject to the mandatory reporting laws set forth in Children's Code Articles 603, 609, and 610.

(d) Any pamphlet developed pursuant to this Paragraph shall be known as the "Point of Rescue" pamphlet.

E. The materials provided for in Subsection D of this Section shall be printed in a typeface large enough to be clearly legible and shall be available at no cost from the department upon request and in appropriate number to any person, facility, or hospital. The department's website shall contain the content of the printed material, a printable electronic image of the printed material, and information on ordering printed materials. The department shall promulgate rules and regulations relative to the methods of distribution of printed materials.

F. The provisions of R.S. 40:1061.1 shall apply to this Section.

G. Nothing in this Section shall be construed to conflict with or supersede the requirement for mandatory reporting of child abuse provided in Children's Code Article 603 et seq.

RS 40:1061.17 — Woman's right to know

required the obtaining

of the informed consent of a pregnant woman to the performance of an abortion. This law was declared unconstitutional in the cases of

Margaret S. v. Edwards

, and in

Margaret S. v.

Treen

.

(2) By Act No. 435 of the 1978 Regular Session of the Legislature (R.S. 40:1061.18) a twenty-four-hour waiting period was required between the signing of an informed consent and the performance of an abortion. This law was repealed by Act No. 418 of the 1980 Regular Session of the Legislature because of the decision of the federal court in

Margaret

S. v. Edwards

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(3) Subsequent to the above-referenced court decisions and legislative enactments, the United States Supreme Court has rendered a decision in the case of Planned Parenthood

of Pennsylvania v. Casey

, which upheld the constitutionality of the Pennsylvania law which required informed consent, parental consent, and a twenty-four-hour waiting period prior to an abortion, and which decision has therefore impliedly overruled the decisions in the Margaret S. cases.

(4) The judicial obstacles to such legislation now having been removed by virtue of the Casey decision, the legislature finds that it is in the public interest and in furtherance of the general health and welfare of the citizens of this state to reenact provisions of law similar to those heretofore either declared unconstitutional or repealed for the following reasons:

(a) It is essential to the psychological and physical well-being of a woman considering an abortion that she receive complete and accurate information regarding her alternatives.

(b) The knowledgeable exercise of a woman's decision to have an abortion depends on the extent to which the woman receives sufficient information to make an informed choice between two alternatives, giving birth or having an abortion.

(c) The vast majority of all abortions are performed in clinics devoted solely to providing abortions and family planning services. Most women who seek abortions at these facilities do not have any relationship with the physician who performs the abortion, before or after the procedure. They do not return to the facility for postsurgical care. In most instances, the woman's only actual contact with the physician occurs simultaneously with the abortion procedure, with little opportunity to receive counseling concerning her decision.

(d) The decision to abort "is an important, and often a stressful one, and it is desirable and imperative that it be made with full knowledge of its nature and consequences", Planned Parenthood v. Danforth

.

(e) "The medical, emotional, and psychological consequences of an abortion are serious and can be lasting...",

H. L. v. Matheson

.

(f) Abortion facilities or providers offer only limited and/or impersonal counseling opportunities.

(g) Many abortion facilities or providers hire untrained and unprofessional "counselors" whose primary goal is to sell abortion services.

(5) Based on the above findings, it is the purpose of this Act to:

(a) Ensure that every woman considering an abortion receive complete information

on her alternatives and that every woman submitting to an abortion do so only after giving her voluntary and informed consent to the abortion procedure.

(b) Protect unborn children from a woman's uninformed decision to have an abortion.

(c) Reduce "the risk that a woman may elect an abortion only to discover later, with devastating psychological consequences, that her decision was not fully informed",

Planned

Parenthood v. Casey

(d) Ensure that every woman considering an abortion receive complete information regarding the availability of anesthesia or analgesics that would eliminate or alleviate organic pain to the unborn child that could be caused by the particular method of abortion to be employed.

B. Informed consent; requirements. After a woman is determined to be pregnant, no abortion shall be performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

(1) The provisions of R.S. 40:1061.10 requiring an ultrasound test and determination of viability are met.

(2) The information required by this Section to be communicated orally and in person to the woman is provided to her individually and in a private room to protect her privacy, for the purpose of ensuring that the information focuses on her individual circumstances and that she has an adequate opportunity to ask questions.

(3)(a) Written information from the physician. Except as provided in Subparagraph (c) of this Paragraph, at least seventy-two hours before the abortion, the physician who is to perform the abortion or the referring physician has informed the woman, in writing and read orally and in person of:

(i) The name of the physician who meets the requirements of R.S. 46:1061.10(A) and who will perform the abortion, which shall be listed in the same manner as the name appears on the membership roll of the Louisiana State Board of Medical Examiners.

(ii) The location and specialty of the physician's residency and whether the residency of the physician has been completed.

(iii) Whether the physician is currently board-certified and, if so, the medical specialty and the certifying organization.

(iv) Whether the physician has active admitting privileges at any hospital that provides obstetrical or gynecological healthcare services and, if so, the name of the hospital or hospitals. For purposes of this Subparagraph, "active admitting privileges" means that the physician is a member in good standing of the medical staff of a hospital that is currently licensed by the Louisiana Department of Health, with the ability to admit a patient and to provide diagnostic and surgical services to such patient.

(v) Whether the physician has malpractice insurance that would cover the abortion procedure.

(vi) Whether in the last ten years the physician has ever been placed on probation,

reprimanded, or had his license suspended or revoked by any professional licensing organization and, if so, the jurisdiction in which the professional discipline was ordered. For purposes of this Subsection, the professional discipline action must be disclosed even if it was stayed or suspended. Disclosure of disciplinary action shall include but not be limited to action taken by the Louisiana State Board of Medical Examiners and the Louisiana Board of Pharmacy.

(vii) The internet address for disciplinary records of the Louisiana State Board of Medical Examiners.

(b) Oral information from the physician. Except as provided in Subparagraph (c) of this Paragraph, and in the same period of time provided for in the introductory paragraph of Subparagraph (a) of this Paragraph, the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person of:

(i) A description of the proposed abortion method and of those risks (including risks to the woman's reproductive health) and alternatives to the abortion that a reasonable patient would consider material to the decision of whether or not to undergo the abortion.

(ii) The probable gestational age of the unborn child at the time the abortion is to be performed; and, if the unborn child is viable or has reached the gestational age of twenty-four weeks and the abortion may be otherwise lawfully performed under existing law, that:

(aa) The unborn child may be able to survive outside the womb.

(bb) The woman has the right to request the physician to use the method of abortion that is most likely to preserve the life of the unborn child.

(cc) If the unborn child is born alive, that attending physicians have the legal obligation to take all reasonable steps necessary to maintain the life and health of the child.

(iii) The probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed.

(iv) The medical risks associated with carrying her child to term.

(v) Any need for anti-Rh immune globulin therapy, if she is Rh negative, the likely consequences of refusing such therapy, and a good faith estimate of the cost of the therapy.

(vi) The availability of anesthesia or analgesics to alleviate or eliminate organic pain to the unborn child that could be caused by the method of abortion to be employed.

(vii) The requirement that at least seventy-two hours prior to the woman's having any part of an abortion performed or induced, the physician, referring physician, or qualified person working in conjunction with either physician must perform an obstetric ultrasound under the provisions of R.S. 40:1061.10.

(viii) The inclusion in her printed materials of a comprehensive list, compiled by the department, of facilities that offer obstetric ultrasounds free of charge.

(c) If the woman certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then the physician who is to perform the abortion or the referring physician shall comply with all of the requirements of Subparagraphs (a) and (b) of this Paragraph at least twenty-four hours prior to the abortion.

(4) Oral information from a physician or qualified person.

(a) In the initial contact with an abortion provider by any person seeking to schedule an abortion for a minor or adult woman or for herself, whether such initial contact is by telephone, by internet communication, in person, or by any other means, the physician who is to perform the abortion or any person acting on behalf of the physician informs the person of the internet address of the department's abortion alternatives and informed consent website provided for in this Section.

(b)(i) Except as provided in Item (ii) of this Subparagraph, at least seventy-two hours before a scheduled abortion, the physician who is to perform the abortion, the referring physician, or a qualified person has informed the woman, orally and in person, that:

(aa) Medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of such assistance is contained on the department's website and in the printed materials which shall be given to her as provided in this Section.

(bb) The department's website and printed materials describe the unborn child and list agencies which offer alternatives to abortion.

(cc) The father of the unborn child is liable to assist in the support of her child, even in instances where he has offered to pay for the abortion. In the case of rape, this information may be omitted.

(dd) She is free to withhold or withdraw her consent to the abortion at any time before or during the abortion without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.

(ii) If the woman certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then the physician who is to perform the abortion, the referring physician, or a qualified person shall comply with all of the requirements of Item (i) of this Subparagraph at least twenty-four hours before a scheduled abortion.

(c) For purposes of this Paragraph, "qualified person" shall mean an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, registered nurse, or physician.

(5)(a) Provision of printed materials. Except as provided in Subparagraph (b) of this Paragraph, at least seventy-two hours before the abortion, the woman is given a copy of the printed materials described in this Section by the physician who is to perform the abortion, the referring physician, or a qualified person as defined in Subparagraph (4)(c) of this Subsection. If the woman is unable to read the materials, they shall be read to her. If the woman asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

(b) If the woman certifies in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence, then the woman shall be given a copy of the printed materials described in this Section by the physician who is to perform the abortion, the referring physician, or a qualified person as defined in Subparagraph (4)(c) of this Subsection at least twenty-four hours before the

abortion. If the woman is unable to read the materials, they shall be read to her. If the woman asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

(6) Certification and reporting. The woman certifies in writing on a form provided by the department, prior to the abortion, that the information and materials required to be provided under this Section have been provided at least seventy-two hours prior to the abortion; or, if applicable, at least twenty-four hours prior to the abortion in the case of a woman who has given prior certification in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence. All physicians who perform abortions shall report the total number of certifications received monthly to the department. The department shall make the number of certifications received available to the public on an annual basis.

(7) Prior to the performance of the abortion, the physician who is to perform the abortion or his agent receives a copy of the written certification required by this Section.

(8) The woman is not required to pay any amount for the abortion procedures until the seventy-two-hour period has expired; or until expiration of the twenty-four-hour period applicable in the case of a woman who has given prior certification in writing that she currently lives one hundred fifty miles or more from the nearest licensed outpatient abortion facility to her residence.

C. Publication of abortion alternatives and informed consent website.

(1) The department shall cause to be published in English, within one hundred twenty days after enactment of this Act, and shall update on an annual basis, or as needed, the following easily comprehensible information on a stable internet website that shall be developed and maintained by the department to inform the public of the public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while her child is dependent, including but not limited to the following information that shall indicate the agency's or service's physical address, telephone number, and web address if available:

(a) Information about public and private agencies which provide medical assistance benefits that may be available for prenatal care, childbirth, and neonatal care, and easily comprehensible information on how to apply for such benefits.

(b) Public and private pregnancy resource centers that provide information and services such as free abortion alternatives counseling, prenatal care, pantry services and parenting skills, and that do not refer, counsel, perform, induce, prescribe, or provide any means for abortion.

(c) Information about the support obligations of the father of a child who is born alive and information about the judicial enforcement of child support.

(d) Information on a separate and featured subpage of the department's website that lists facilities that provide free obstetric ultrasound services under the provisions of R.S. 40:1061.10 and this Section.

(e) Information on a separate and featured webpage created and maintained by the Department of Children and Family Services linked on the department's website, accessible

by redirecting from the domain name AdoptionOption.La.Gov, that lists public and private nonprofit adoption agencies that are not affiliated with an abortion provider, along with easily comprehensible first steps to aid a pregnant woman seeking to confidentially explore the option of placing her child for adoption, and indicating whether the adoption agency allows the woman to choose the adoptive parents.

(f) Information on the anatomical and physiological characteristics of the unborn child pursuant to the provisions of this Section, including color photographs or images consistent with the most current technology depicting the unborn child at two-week gestational increments or closer.

(g) Information describing the various methods of abortion procedures, the short-term and long-term medical risks associated with abortion, and the medical risks associated with carrying a child to term.

(h) Information on the unborn child's ability to experience pain.

(i) Video clips that convey objective and medically accurate information about abortion procedures, abortion risks, abortion alternative resources, and medically accurate information on the development of an unborn child. Video clips may be produced with the in-house resources of the department, or acquired for no cost to the state from third parties if the video is approved by the secretary as providing objective and medically accurate information.

(j) Information that helps women identify unlawful abortion coercion, including but not limited to resources or hotlines that a minor or adult woman may call if she is experiencing actual or threatened physical abuse or violence, loss of employment or employment privileges, loss of eligible social assistance, loss of educational scholarship, or loss of legally protected financial support or housing.

(k) Information to assist minors who are considering abortion, including parental consent information, and resources to help minors seek the protection of state child welfare services, temporary guardianship, or law enforcement authorities to report abuse as defined in Children's Code Article 603. The information designed to assist minors shall also include a link to pregnancy resource centers as defined in Subparagraph (1)(b) of this Subsection.

(2) The home page of the department's main website shall feature a button or other link which accesses the department's abortion alternatives and informed consent website, and the home page of such website shall feature user-friendly buttons that link to the information required in this Section. The department shall ensure that the resources described in this Section are comprehensive and user-friendly, and that they do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this Section.

(3) No information regarding who uses the website shall be collected or maintained.

The department shall monitor the website to prevent and correct tampering and shall immediately notify abortion providers of any change of the website address.

(4) The search capabilities on the department's main website shall ensure that entering the term "abortion" yields the website and information required by this Section, regardless of how the information is labeled.

(5) The information on the department's abortion alternatives and informed consent

website shall be printable. The printed materials required in Subsection D of this Section shall be available to download from the website in a portable document format without cost. The download of such information shall not be deemed to satisfy the requirements of Subsection B of this Section.

(6) The department's abortion alternatives and informed consent website shall be accessible to the public without requiring registration or use of a user name, a password, or any user identification.

(7) The department's abortion alternatives and informed consent website shall have the capability of detecting when it is being accessed by a mobile device and shall have the capability of converting to a platform designed to be easily viewable on mobile devices.

(8) If an abortion provider has a website, the abortion provider's internet website home page shall include a prominent link to the department's abortion alternatives and informed consent website.

D. Publication of printed materials. The department shall cause to be published, within one hundred twenty days after enactment of this Act and shall update on an annual basis or as needed, the following printed materials, which shall also be included as printable portable document format documents from the department's website:

(1) The signs provided for in the Forced Abortion Prevention Sign Act, R.S. 40:1061.15.

(2)(a) A list arranged geographically of Louisiana-based public or private nonprofit agencies, including the name, physical address, website address if available, and telephone number of each of the following:

(i) Entities that offer obstetric ultrasounds free of charge.

(ii) Entities that offer free and confidential counseling to a woman considering placing her child for adoption, along with the information provided pursuant to Subparagraph (C)(1)(e) of this Section.

(b) The lists provided for in this Subsection shall not include any facility that counsels, refers, performs, induces, prescribes, or provides any means for abortion.

(3) A printed booklet that features the web address of the department's dedicated pregnancy resource website printed in a bold large typeface. The booklet shall contain an outline of the various topics on the website as provided in Subsection C of this Section along with an explanation that more detailed information can be found at the department's website. The printed booklet shall state that it is unlawful for any individual to coerce a minor or adult woman to undergo an abortion, that any physician who performs an abortion upon a woman without her informed consent may be liable to her for damages in a civil action at law, and that the law permits adoptive parents to pay costs of prenatal care, childbirth, and neonatal care.

(a) The department's website and printed booklet shall include the following statements:

(i) "There are many public and private agencies willing and able to help you to carry your child to term, and to assist you and your child after your child is born, whether you choose to keep your child or to place her or him for adoption. The state of Louisiana strongly

urges you to consult an independent physician about the risks of abortion to your physical and psychological well-being and to contact the resources provided on our website before making a final decision about abortion. The law requires that the abortion provider give you the opportunity to contact agencies like these before you undergo an abortion."

(ii) "By twenty weeks gestation, the unborn child has the physical structures necessary to experience pain. There is evidence that by twenty weeks gestation unborn children seek to evade certain stimuli in a manner which in an infant or an adult would be interpreted to be a response to pain. Anesthesia is routinely administered to unborn children who are twenty weeks gestational age or older who undergo prenatal surgery."

(b) The printed booklet shall include materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the unborn child at a minimum of two-week gestational increments from fertilization to full term, including color photographs or medical images consistent with the most current technology depicting the development of unborn children, and any relevant information on the possibility of the unborn child's survival; provided that any such color photographs or images shall contain the dimensions of the unborn child and shall be medically accurate. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages. The material shall also contain objective information describing the methods of abortion procedures, the short-term and long-term medical risks associated with abortion as supported by peer-reviewed medical journals, and the medical risks associated with carrying a child to term.

(4) A certification form to be used by physicians or their agents as provided in this Section, which will list all the items of information which are to be given to women by physicians or their agents as required by this Section.

E. The materials provided for in Subsection D of this Section shall be printed in a typeface large enough to be clearly legible, and shall be available at no cost from the department upon request and in appropriate number to any person, facility, or hospital. The department's abortion alternatives and informed consent website shall contain information on ordering printed materials. The department shall promulgate rules and regulations relative to the methods of distribution of printed materials.

F. Medical emergency. Where a medical emergency compels the performance of an abortion, the physician shall orally inform the woman, before the abortion, if possible, of the medical indications supporting his judgment that an abortion is necessary to avert her death or to avert substantial and irreversible impairment of a major bodily function.

G. Reporting requirements. Any physician who has provided the information and materials to any woman in accordance with the requirements of this Section shall provide to the department:

(1) With respect to a woman upon whom an abortion is performed, all information as required by R.S. 40:1061.21 as well as the date upon which the information and materials required to be provided under this Section were provided, as well as an executed copy of the certification form required by this Section.

(2) With respect to any woman to whom the printed and oral information and

materials have been provided in accordance with this Section, but upon whom the physician has not performed an abortion, the name and address of the facility where the required information was provided and if executed by the woman, a copy of the certification form required by this Section.

H. Criminal penalties.

(1) Any person who intentionally, knowingly, or recklessly fails to comply with all the requirements of this Section shall be subject to the penalties provided in R.S. 40:1061.29.

(2) No physician shall be guilty of violating this Section if he or she can demonstrate, by a preponderance of the evidence, that he or she reasonably believed that furnishing the required information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman, provided that the pregnancy is terminated in a licensed hospital and that it is necessary, as certified with supporting medical reasons by the physician in the woman's medical record, to avert the woman's death or avoid serious risk of substantial and irreversible impairment of a major bodily function, or to induce the premature delivery of an unborn child who is eighteen weeks gestational age or greater when the physician has made a good faith medical judgment that the unborn child's medical condition is such that there is no realistic possibility of maintaining the life of the unborn child outside the womb even if the unborn child were to be delivered after a full-term pregnancy.

I. Limitation on civil liability. Any physician who complies with the provisions of this Section may not be held civilly liable to his patient for failure to obtain informed consent to the abortion under this Section. Any and all other rights and remedies are preserved to the patient.

J. Construction.

(1) Nothing in this Section shall be construed as creating or recognizing a right to abortion.

(2) It is not the intention of this Section to make lawful an abortion that is unlawful upon the effective date of this Act, or which later becomes unlawful.

(3) The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.17.1 — Development of AdoptionOption.La.Gov website; task force

ment concerning the preparation of the printed and internet materials provided for in R.S. 40:1061.17(C)(1)(e) and (D), and to develop public education initiatives to publicize the information in a manner consistent with state law. The task force shall be composed of the following members:

(1) Not more than two licensed clinical social workers licensed by the Louisiana State Board of Social Work Examiners, each of whom shall have experience in assisting birth mothers in navigating the adoption process, appointed by the governor.

(2) Not more than two Louisiana residents who provide pre-abortion or post-abortion counseling in association with a nonprofit organization that does not counsel for or provide abortion, appointed by the governor.

(3) Not more than two attorneys licensed in Louisiana and employed by nonprofit organizations who specialize in advocacy for women at risk of being coerced into abortion, or who specialize in navigating the adoption process, appointed by the governor.

- (4) Not more than two Louisiana residents who are employed by public or private nonprofit adoption agencies, appointed by the governor.
- (5) Not more than two executive directors of Louisiana nonprofit organizations that promote adoption as an alternative to abortion, or their designees.
- (6) Two members of the Senate appointed by the president.
- (7) Two members of the House of Representatives appointed by the speaker.
- (8) The secretary of the Louisiana Department of Health or his designee, who shall serve as a co-chairperson of the task force.
- (9) The secretary of the Department of Children and Family Services or his designee, who shall serve as a co-chairperson of the task force.

RS 40:1061.18 — Abortion sought due to rape or certain acts of crime against nature; reporting and
gnancy resulting from an alleged act of rape, prior to the abortion all of the following requirements shall be met:

- (1) The rape victim shall report the rape to a law enforcement official unless the treating physician certifies in writing that in the physician's professional opinion, the victim was too physically or psychologically incapacitated to report the rape.
- (2) The victim certifies that the pregnancy is the result of rape, which certificate shall be witnessed by the treating physician.

B. Whenever an abortion is being sought pursuant to R.S. 40:1061.6 to terminate a pregnancy resulting from an alleged act of crime against nature as defined by R.S. 14:89(A)(2), prior to the abortion all of the following requirements shall be met:

- (1) The victim of crime against nature as defined by R.S. 14:89(A)(2) shall report the act to a law enforcement official unless the treating physician certifies in writing that in the physician's professional opinion the victim was too physically or psychologically incapacitated to report the act.
- (2) The victim certifies that the pregnancy is the result of crime against nature as defined by R.S. 14:89(A)(2), which certificate shall be witnessed by the treating physician.

C. The failure of the victim to comply with Subsection A or B, as applicable, shall not subject the victim to the provisions of R.S. 40:1061.28.

D. Whenever an abortion is being sought pursuant to R.S. 40:1061.6 to terminate a pregnancy resulting from an alleged act of rape or crime against nature as defined by R.S. 14:89(A)(2), the victim may request spiritual counseling and shall be offered the same informed consent information, without the seventy-two-hour or twenty-four-hour delay, whichever may be applicable pursuant to R.S. 40:1061.17(B), prior to the performance of the abortion.

RS 40:1061.19 — Records

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abortion is performed or induced, the administrator of an abortion facility, each abortion facility, and each owner of an abortion facility shall have an independent duty to ensure that a designated custodian of records for the facility obtains, retains, and makes part of the medical record of each pregnant woman upon whom an abortion is performed or induced at least one copy of each of the following documents:

- (1) The certificate required by R.S. 40:1061.13.
- (2) If the pregnant woman is an unemancipated minor, one of the following:
 - (a) A notarized consent form and copies of identification as provided for in R.S. 40:1061.14(A)(1).
 - (b) A court order required by R.S. 40:1061.14(B), if applicable.
- (3) The consent form required by R.S. 40:1061.17.
- (4) The reports required by R.S. 40:1061.21.
- (5) The certificate required by R.S. 40:1061.23, if applicable.
- (6) The signed certification form provided for in R.S. 40:1061.16(C) indicating that the woman or minor female acknowledged receipt of informational materials concerning psychological impacts, illegal coercion, abuse, and human trafficking.
- (7) Any report made pursuant to Title VI of the Children's Code and any other report made to law enforcement in relation to the patient.

B. The individuals listed in Subsection A of this Section and the abortion facility shall each have an independent duty to ensure that the custodian of records for the abortion facility where the abortion was performed or induced retains the documents required in Subsection A of this Section for not less than seven years for adult patients and not less than ten years from the age of majority for minor patients. The ten-year period for minors shall begin to run when the patient attains the age of eighteen; provided, however, that in any case where the patient has reported facts that would require reporting under Title VI of the Children's Code, the retention period shall be thirty years.

C. For purposes of this Section, "owner" shall include each person with an ownership interest totaling five percent or more in an abortion facility.

D.(1) Any person who intentionally or negligently fails to comply with the requirements of this Section or any duty recognized therein shall be subject to the penalties provided for in R.S. 40:1061.29.

(2) Any abortion facility that fails to comply with the requirements of this Section or any duty recognized therein shall be subject to the penalties provided for in R.S. 40:1061.29.

(3) Each medical record that does not include the documents identified in Subsection A of this Section, or which is not retained for the time specified in Subsection B of this Section, shall constitute a separate incidence or occurrence for purposes of R.S. 40:1061.29, and shall constitute a continuing violation until the relevant retention period specified in Subsection B of this Section has expired.

E.(1) In addition to the remedies provided in this Section and any other remedies available under the laws of this state, a person listed in Subsection A of this Section who, either intentionally or with negligence, fails to obtain, make part of a medical record, or retain any document in compliance with this Section may be temporarily or permanently disqualified from performing or inducing an abortion, applying for a medical facility license, or otherwise operating or managing a medical facility in this state.

(2) For purposes of this Subsection, "operating" or "managing" shall include acting as an owner, governing board member, physician, medical director, administrator, or in any

comparable role or title in which the individual has executive responsibility for the medical facility or has professional medical responsibility for patient care.

F. Each abortion facility, as a condition of obtaining and maintaining a license under R.S. 40:2175.1 et seq., shall establish a written record retention and archiving policy, which shall be submitted within thirty days of June 22, 2019, to the department. The department shall review and approve the policy within ninety days of its receipt. During the pendency of the ninety days, the facility shall be deemed in compliance with this Section and if the department fails to act within ninety days of receipt of the proposed policy, the policy shall be deemed approved. The policy shall be signed by the individuals identified in Subsection A of this Section who shall acknowledge their legal obligations and acknowledge receiving a copy of the policy.

G. A person may comply with this Section by depositing a copy of each document required by Subsection A of this Section with the department in an organized and readily accessible format. The department shall have a cause of action against the persons identified in Subsection A of this Section for the reasonably anticipated cost of storing the documents for the required period of time, for which those persons shall be liable in solido.

H. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.20 — Conscience in health care protection; definitions

violates his conscience to the extent that patient

access to health care is not compromised. No person shall be held civilly or criminally liable, discriminated against, dismissed, demoted, or in any way prejudiced or damaged for declining to participate in any health care service that violates his conscience.

(2) This Section shall not prevent an inquiry by an employer or patient regarding whether a person declines to participate in any health care service that violates its conscience.

When a patient requests health care services, a person shall identify, in writing, as soon as practicable, his declination to provide a service in accordance with the provisions of this Section. All persons who have a sincerely held religious belief or moral conviction and who seek employment at a health care facility shall notify the prospective employer of the existence of any sincerely held religious belief or moral conviction. Any health care facility that employs a person with a sincerely held religious belief or moral conviction shall ensure that the health care facility has sufficient staff to provide patient care in the event an employee declines to participate in any health care service that violates his conscience.

(3) The provisions of this Section shall not be construed to relieve any health care provider from providing emergency care as required by state or federal law.

(4) A person shall notify his employer in writing as soon as practicable of any health care service that violates his conscience. A person shall notify any patient before such person provides any consultation or service to the patient of the existence of a health care service that he will decline to provide because the health care service violates his conscience.

B. For purposes of this Section:

(1) "Conscience" means sincerely held religious belief or moral conviction.

(2) "Health care service" is limited to abortion, dispensation of abortifacient drugs, human embryonic stem cell research, human embryo cloning, euthanasia, or physician-assisted suicide.

C. A suit alleging a violation of this Section shall be brought in a district court in accordance with R.S. 23:303.

D. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.21 — Reports

the name or address of the woman. The report shall include all of the following:

(1) Patient number.

(2) Name and address of the facility at which the abortion was performed or induced.

(3) Date of abortion.

(4) The parish and zip code, if any, in which the pregnant woman resides.

(5)(a) Age of pregnant woman.

(b) If the pregnant woman is a minor, the report shall include all of the following:

(i)(aa) A notation of whether the abortion was performed pursuant to either notarized parental consent or a judicial bypass order as provided for in R.S. 40:1061.14.

(bb) If the abortion was performed pursuant to a judicial bypass order as provided for in R.S. 40:1061.14, the report shall indicate the judicial district of the court that issued the order.

(ii) A notation indicating whether or not the physician or any other staff member of the abortion facility suspected that the minor was the victim of any form of child abuse or neglect and filed a report of such abuse or neglect in accordance with Children's Code Article 610.

(c) If the pregnant woman is a minor and the abortion was performed pursuant to a judicial bypass order as provided for in R.S. 40:1061.14, the report shall include all of the following:

(i) A notation indicating whether or not the minor was required to participate in an evaluation and counseling session with a mental health professional from the Louisiana Department of Health or a staff member from the Department of Children and Family Services as provided for in R.S. 40:1061.14(B)(3)(b).

(ii) A notation indicating whether or not the court issued a protective order for the minor, afforded her the continued services of a court-appointed special advocate, or did both, as authorized in R.S. 40:1061.14(B)(4)(c).

(iii) A notation of whether the judicial bypass was granted because of a finding that the minor girl was mature and capable of giving informed consent, as provided for in R.S. 40:1061.14(B)(4)(b).

(iv) A notation of whether the judicial bypass was granted because of a finding that the performance of the abortion without parental notification and consent was in the best interest of the minor, as provided for in R.S. 40:1061.14(B)(6).

(v) A notation of whether or not the physician or any other staff member of the abortion facility referred the woman to any licensed professional for post-abortion counseling.

(vi) A notation of whether or not the physician or any other staff member of the abortion facility referred the woman to the Louisiana Department of Health or the Department of Children and Family Services for any health services or other human services.

- (6) Race.
- (7) Marital status.
- (8) Number of previous pregnancies.
- (9) Educational background.
- (10) Number of living children.
- (11) Number of previous induced abortions.
- (12) Date of last induced abortion.
- (13) Date of live birth.
- (14) Method of contraception at time of conception, if any.
- (15) Date of beginning of last menstrual period.
- (16) Medical condition of woman at time of abortion.
- (17) Rh type of pregnant woman.
- (18) A photographic print or image produced as the result of the ultrasound test required by R.S. 40:1061.10(D).
- (19) Type of abortion procedure.
- (20) Reason for abortion.
- (21) Complications by type.
- (22) Type of procedure done after the abortion.
- (23) Type of family planning recommended.
- (24) Type of additional counseling given.
- (25) Signature of attending physician.
- (26) Copies, with the name and address obliterated, of the election forms, certificates, and consent forms required pursuant to the provisions of this Chapter.

B. An individual complication report for any post-abortion care performed upon a woman shall be completed by the physician providing such post-abortion care. The report shall include:

- (1) The date of the abortion.
- (2) The name and address of the facility where the abortion was performed or induced.
- (3) The nature of the abortion complication diagnosed or treated.
- (4) The name and address of the facility where the post-abortion care was performed.

C. All abortion reports shall be signed by the attending physician and submitted to the Louisiana Department of Health within thirty days after the date of the abortion. All complication reports shall be signed by the physician providing the post-abortion care and submitted to the Louisiana Department of Health within thirty days after the date of the completion of the post-abortion care.

D.(1) The Louisiana Department of Health shall be responsible for collecting all abortion reports and complication reports and collating and evaluating all data gathered therefrom, and shall annually publish a statistical report based on such data from abortions performed in the previous calendar year.

(2) The annual report required by this Subsection shall include a special section addressing abortions performed on minors. This section of the report shall feature, at

minimum, a compilation of the information required by the provisions of Paragraph (A)(5) of this Section to be included in individual abortion reports.

E. The Louisiana Department of Health shall, on a quarterly basis, provide to the Department of Children and Family Services and to the attorney general copies of all abortion reports in which a minor pregnant woman under the age of thirteen received an abortion.

F. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.22 — Forms

the provisions of this Chapter.

B. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.23 — Emergency

immediate threat and grave risk to the life or serious health risk to the unborn child's mother. Within twenty-four hours, the attending physician shall certify to the medical emergency for the abortion and shall enter such certification in the medical record of the pregnant woman.

RS 40:1061.24 — Experimentation

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is therapeutic to the unborn child or child.

B. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.25 — Remains; disposal in accordance with applicable regulations; post-abortion

ich does not result in

a live birth shall ensure that the remains of the child are disposed of by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq., except in the case of an abortion induced by the administration of medications when the evacuation of any human remains occurs at a later time, neither in the presence of the inducing physician nor at the facility in which the physician administered the inducing medications.

(2) The department shall promulgate in accordance with the Administrative Procedure Act all rules as are necessary to facilitate the transfer and burial of aborted human remains in a manner consistent with the transfer and burial of unclaimed human remains.

B. With respect to post-abortion harvesting of fetal organs, tissues, and cells, the legislature hereby finds the following:

(1) The United States Supreme Court decision of

Roe v. Wade, 410 U.S. 113, 93

S.Ct. 705, 35 L.Ed. 2d 147 (1973)

, and its progeny establish a constitutionalized right of a

woman to choose to terminate her pregnancy. However, the court has never endorsed a right to harvest the body parts of unborn human beings, whether for profit or donation.

(2) The protocol known commonly as the "dead donor rule" is a longstanding ethical norm that protects the integrity of human organ donation by providing that organ donors must be dead before procurement of organs begins, and that organ procurement itself must not cause the death of the donor. The harvesting of organs, tissues, and cells from unborn

children whose deaths are directly caused by induced abortion violate the dead donor rule in both respects due to the following conditions:

- (a) The unborn children are alive when the fetal repositioning and crushing point decisions are made by the abortion provider with the goal of procuring intact fetal hearts, lungs, livers, brains, and other organs and tissues.
- (b) The repositioning of the fetus and crushing above and below the thorax to procure intact fetal organs, tissues, and cells is itself the cause of death of the human being from whom the organs are then harvested.
- (c) The human being whose fetal organs are procured does not have the capacity to consent to organ donation, and proxy consent for donation by the unborn child's mother is invalid given that the unborn child is alive at the time the consent forms are signed.
- (3) The practice of presenting fetal organ donation forms to pregnant women considering their options constitutes unethical undue influence and coercion, and amounts to an incentive to actively participate in the killing of a living human being for the speculative and attenuated benefit of helping researchers.
- (4) Regardless of whether prior proxy consent obtained from the mother is ethical and proper for an unborn child whose death is imminent due to natural miscarriage, it is a gross violation of ethical norms to unduly coerce a mother who is considering pregnancy options to directly participate in the decision to cause the death of her living unborn child for the speculative and attenuated benefit that may come from scientific experimentation.
- (5) States are free to ban the practice of selling or donating the bodies of human beings killed by abortion because federal law does not preempt that area of law. Particularly, 42 U.S.C. 289g-1(e) allows for the conduct of fetal tissue transplantation only in accordance with applicable state and local law.

C.(1) Except as provided in Subsection D of this Section, it shall be unlawful for any person or entity to buy, sell, donate, accept, distribute, or otherwise transfer or use for any purpose the intact body of a human embryo or fetus whose death was knowingly caused by an induced abortion, or the human organs, tissues, or cells obtained from a human embryo or fetus whose death was knowingly caused by an induced abortion.

(2) Whoever violates the provisions of this Subsection shall be subject to civil penalties relative to abortion, generally, provided in R.S. 40:1061.29.

D.(1) Nothing in this Section shall be construed to prohibit final disposition of the bodily remains of the aborted human being in accordance with state law, or to prohibit any conduct permitted under state law that is undertaken with any of the following purposes:

- (a) The purpose of providing knowledge solely to the mother, such as for pathological or diagnostic purposes.
- (b) The purpose of providing knowledge solely to law enforcement officers, such as the case of an autopsy following a feticide.

(2) Nothing in this Section shall be construed to prohibit any transaction related to the donation of bodily remains from a human embryo or fetus whose death was caused by a natural miscarriage or stillbirth, in accordance with the guidelines and prohibitions provided in applicable state and federal law.

E. Nothing in this Section shall be construed to alter generally accepted medical standards, affect existing federal or state law regarding the practice of abortion, or to create or recognize a right to abortion.

F. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.26 — Instructions to be provided subsequent to abortion

atient with specific oral and written

medical instructions to be followed by that patient in order to ensure her safe recovery from the abortion.

B. The provisions of R.S. 40:1061.1 shall apply to this Section.

RS 40:1061.27 — Repealed by Acts 2022, No. 545, §4.

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RS 40:1061.28 — Partial birth abortion; civil action against abortionist

is necessary because of a medical emergency or

to save the life of the mother.

B. Repealed by Acts 2022, No. 545, §4.

C. Any person who is not a physician or not otherwise legally authorized by the state to perform abortions, but who nevertheless directly performs a partial birth abortion, shall be subject to the provisions of this Section.

D. There is hereby created a cause of action for civil damages for injuries and wrongful death as more fully set forth in Louisiana Civil Code Articles 2315.1 and 2315.2, except that such causes of action shall only be maintained by the following persons:

(1) The natural or biological father of the aborted infant or fetus, unless such father's criminal conduct caused the pregnancy.

(2) The mother of the aborted infant or fetus, unless the mother is a person of the full age of majority and consented to the partial birth abortion.

(3) The parents or guardian on behalf of the mother of the aborted infant or fetus if the mother was a minor at the time of the abortion, unless the parents or guardian consented to the partial birth abortion.

E.(1) A physician charged with an offense under this Section may seek a hearing before the Louisiana State Board of Medical Examiners on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings on that issue are admissible on that issue at the trial of the physician.

Upon motion of the physician, the court shall delay the beginning of the trial for not more than thirty days to permit such hearing to take place.

RS 40:1061.29 — Penalties

or

both.

B. Whoever violates the provisions of this Chapter shall be subject to a civil fine of one thousand dollars per incidence or occurrence. In addition to any other authority granted

by the constitution and laws of this state, the attorney general shall have the authority to pursue the civil fines provided for in this Section.

C. In addition to whatever remedies are otherwise available under the law of this state, failure to comply with the provisions of this Chapter shall:

(1) Provide a basis for a civil malpractice action. Such an action may be brought by the woman upon whom the abortion was performed. Any intentional violation of this Chapter shall be admissible in a civil suit as prima facie evidence of a failure to comply with the requirements of this Chapter. When requested, the court shall allow a woman to proceed using solely her initials or a pseudonym and may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed.

(2) Provide a basis for professional disciplinary action, including but not limited to any action authorized under R.S. 37:1261 et seq.

(3) Provide a basis for recovery for the woman for the death of her unborn child under Civil Code Article 2315.2, whether or not the unborn child was viable at the time the abortion was performed, or was born alive.

(4) Provide a basis for the attorney general, the district attorney in whose jurisdiction the violation occurred, or the secretary of the department to obtain a writ of injunction, which shall not be subject to being released upon bond. The trial of the proceeding shall be summary and by the judge without a jury.

RS 40:1061.30 — Suspension or revocation of license; grounds; action to close outpatient abortion
patient abortion facilities to the provisions of R.S. 40:2175.6 regarding license suspension or revocation:

(1) Systematically, intentionally, or deliberately falsifying or destroying patient files or records in violation of R.S. 40:1061.17.

(2) Completing in advance of an appointment with a woman seeking abortion any portion of patient records or forms required by R.S. 40:1061.17 to include patient-specific data or a physician's signature.

B. The provisions of R.S. 40:2175.9 and R.S. 40:2175.10 shall apply to this Chapter.

RS 40:1061.31 — Compatible with Love Empowerment Act

der who gave the

diagnosis shall provide to the woman an informational document that includes resources, programs, and services for pregnant women and resources, programs, and services for infants and children born with disabilities.

B. The Louisiana Department of Health shall develop an informational document to comply with the mandate established in this Section to include resources, programs, and services for a pregnant woman whose unborn child has been diagnosed with a fetal abnormality and resources, programs, and services for infants and children born with disabilities and shall make such information available to any requesting provider of women's health care services and shall maintain the information on a link on the department's website. The information shall include the availability of perinatal hospice and palliative care and pediatric hospice and palliative care services located in Louisiana, nonprofit organizations

that provide support to women who carry a child to term in these situations, and mental health services in Louisiana to support the mother and father of the child. The informational document provided for in this Section may be merged with the informational document mandated by R.S. 40:1061.1.4.

C. The provisions set forth in Subsection B of this Section shall include specific instructions on how and where families of children with disabilities may apply for financial assistance and financial benefits made available via the Medicaid program in this state and similar programs.

RS 40:1071 — Statement of purpose

provide leadership

in the development and implementation of systems of care for the provision of medical, surgical, corrective, social, and other services and facilities for the diagnosis, hospitalization, and follow-up care which are family-centered, community-based, coordinated, and culturally competent for children with special health care needs, the Louisiana Department of Health, office of public health, is designated the agency of the state, through a program known as "Children's Special Health Services", to cooperate with the United States under the terms of Title V of the Social Security Act or any amendment thereof relating to services to these children, and to receive and expend federal monies for such services.

B.(1) The legislature hereby declares that one of the most serious problems facing medicine and the public health and welfare today is the absence of an adequate program to assist in the treatment, habilitation, and rehabilitation of persons suffering from spina bifida and other congenital or acquired spinal cord dysfunctions. Furthermore, it has been found that a fully coordinated approach to early identification is presently lacking, and yet is essential for guaranteeing the minimization of permanent disability.

(2) Therefore, in order to afford each citizen of the state of Louisiana every opportunity to develop his or her fullest human potential, it is a purpose of this Part to provide a comprehensive, coordinated approach to the care and treatment of spinal cord dysfunctions.

RS 40:1071.1 — Definitions

which require services beyond routine and basic care. This includes children with disabilities, handicapping conditions, and chronic illnesses of sufficient severity to cause or to be likely to cause impairments which could significantly limit major life activities.

(2) "Department" means the Louisiana Department of Health.

(3) "Multidisciplinary team" means a coordinated group of various professionals who meet jointly to provide care and treatment for persons with spinal cord dysfunction.

(4) "Spinal cord disabled" means any individual under the age of twenty-one who has a spinal cord disease, injury, neural tube defect, or hydrocephalus, whether congenital or acquired, which results in partial or total loss of motor or sensory functions, or both, and which results in partial or total disability, whether such disability is temporary or permanent. This definition shall include spina bifida and other diseases of the spinal column.

RS 40:1071.2 — Program for combating spinal cord disabilities; establishment

promulgate any such rules and regulations as may be

necessary to place the plan into effect. Any such plan may provide for:

- (1) The administration of the plan by the office of public health.
- (2) The office of public health to make any reports as may be required by the federal government.
- (3) Accomplishing the purposes provided in R.S. 40:1071.
- (4) Cooperation with medical, health, nursing, social work, and welfare groups and organizations which provide services to children with physical disabilities.
- (5) Such other provisions as may be deemed necessary to carry out the purposes of this Part.

B. The secretary of the Louisiana Department of Health shall establish within the office of public health a comprehensive program designed to provide for the coordinated treatment, habilitation, and rehabilitation of persons suffering from congenital or acquired spinal cord dysfunctions. The secretary shall promulgate rules and regulations necessary to carry out the provisions of this Part in accordance with the Administrative Procedure Act.

RS 40:1071.3 — Program functions and responsibilities

- (1) Provide for the oversight of the regional multidisciplinary teams established pursuant to R.S. 40:1071.4, the coordination of statewide care, and which shall serve as an avenue for communication among the teams.
- (2) Collect and disseminate information concerning the latest proven advances in treatment methods for spinal cord dysfunctions.
- (3) Work with all appropriate agencies, organizations, and individuals throughout the state to develop a fully integrated statewide network of coordinated services for persons with spinal cord disabilities, providing for all needed services, including but not limited to early detection, all phases of emergency care, habilitation, rehabilitation, and follow-up care.
- (4) Identify all possible and existing funding sources and other resources for each service identified in the treatment plan for an individual for which he may be eligible and assist such individual in obtaining the necessary funds from existing sources.
- (5) Assist appropriate public and private agencies and individuals in development of proposals for submission to the proper authorities for obtaining all available federal, state, and private monies which could be applied towards the objectives of the program.
- (6) Develop and implement a system for the early identification of persons with congenital spinal cord disabilities and for referral of such persons for assistance, including establishment of a voluntary central registry of such persons; and develop and implement a system for the early identification of persons with acquired spinal cord disabilities, for the referral of such persons for assistance, and for the mandatory reporting of spinal cord injuries to a central registry without regard to the age of the injured person.
- (7) Develop standards for determining financial eligibility for assistance in defraying the cost of care and treatment of spinal cord dysfunctions.
- (8) Inform parents of children with spinal cord disabilities, citizens, families, and agencies of the availability of programs and services.
- (9) Identify and cooperate with existing agencies, organizations, and individuals

offering services to persons with spinal cord disabilities.

(10) Identify service needs which cannot be adequately met by existing agencies.

(11) Repealed by Acts 1993, No. 468, §2, eff. June 9, 1993.

RS 40:1071.4 — Multidisciplinary teams; establishment; personnel

each team having a designated area of

responsibility within the state. Each such team shall constitute a regional spinal cord disabilities treatment center. Each team shall develop channels of referral using local community services within its respective area, so that each local physician and the families of individuals with spinal cord dysfunctions within each region can be made aware of the availability of the team, its goals, and its methods.

B. Each multidisciplinary team shall include but not be limited to the following:

(1) A medical coordinator, preferably a pediatrician.

(2) A neurosurgeon.

(3) An orthopedist.

(4) A urologist.

(5) A registered nurse.

(6) A social worker.

(7) A physical therapist.

C. The team may also consist of such other professionals as geneticists, stoma therapists, occupational therapists, nutritionists, psychologists, a special educator, and a vocational rehabilitation counselor. Other specialists may, from time to time, be called upon from other areas of expertise as needed, but need not be team members.

RS 40:1071.6 — Obesity; criteria for classification as a disease

here a person's body mass index (BMI) is

27 kg/m

2

or greater and the person suffers from one or more of the following conditions or diseases:

(1) Type II diabetes.

(2) Impaired glucose tolerance.

(3) Hyperinsulinemia.

(4) Dyslipidemia.

(5) Hypertension.

(6) Cardiovascular disease.

(7) Gastric reflux disease.

(8) Gall bladder disease.

(9) Osteoarthritis of the hips or knees.

(10) Sleep apnea.

(11) Cerebrovascular disease.

RS 40:1073.1 — Definitions

(2) "Early intervention services" means services that are designed to meet the

developmental needs of an infant or toddler with a disability, in any one or more of the following areas:

- (a) Physical development.
 - (b) Cognitive development.
 - (c) Communication development.
 - (d) Social or emotional development.
 - (e) Adaptive development.
- (3) "Early intervention services provider" means any provider of early intervention services to infants and toddlers with disabilities and their families. "Early intervention services provider" includes but is not limited to the following:
- (a) Special educators.
 - (b) Speech-language pathologists and audiologists.
 - (c) Occupational therapists.
 - (d) Physical therapists.
 - (e) Psychologists.
 - (f) Social workers.
 - (g) Nurses.
 - (h) Registered dietitians.
 - (i) Family therapists.
 - (j) Vision specialists, including ophthalmologists and optometrists.
 - (k) Orientation and mobility specialists.
 - (l) Pediatricians and other physicians.

RS 40:1073.2 — Velocardiofacial syndrome and 22q11.2 deletion syndrome; dissemination of
ofacial

syndrome and 22q11.2 deletion syndrome to each early intervention services provider in this state.

B. Each early intervention services provider may offer the materials to parents of a child who is known by the provider to have at least two of the following conditions:

- (1) Hypotonicity.
- (2) Communication delay.
- (3) Articulation disorder.
- (4) Resonance disorder.
- (5) Nasal regurgitation during feeding as an infant with no history of a cleft palate.
- (6) Recurrent ear infections as well as diagnosis of cardiac anomaly, feeding disorder, cleft palate, or submucosal cleft palate.
- (7) Fine motor or gross motor skills delay.

C.(1) The department shall develop the materials required pursuant to this Section using medically accurate, peer-reviewed literature.

(2) The materials made available by the department pursuant to this Section shall include, at a minimum, all of the following:

- (a) An explanation of velocardiofacial syndrome and 22q11.2 deletion syndrome symptoms, diagnosis, and treatment options.

(b) Information on relevant state agency and nonprofit resources, parent support groups, and available Medicaid waiver programs.

(c) A recommendation for follow-up with a healthcare provider for evaluation of the underlying etiology and an explanation that the existence of any of the conditions listed in Subsection B of this Section will not necessarily result in a diagnosis of velocardiofacial syndrome or 22q11.2 deletion syndrome.

D. The department may adopt, in accordance with the Administrative Procedure Act, any rules and regulations necessary to implement this Section.

E. In developing the materials required by this Section, the department may utilize any available resources for the purposes of minimizing costs to the department.

RS 40:1075.1 — Short title

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RS 40:1075.2 — Legislative intent

most common cause of death in children over the age of one, and children have a high death rate in these emergency situations.

(2) Children react differently than adults to stress, metabolize drugs differently, and suffer different illnesses and injuries. Because of these differences, children's emergency medical needs should be recognized.

(3) Emergency medical services training programs focus on adults and, therefore, offer fewer hours of pediatric training. In addition, many emergency medical services personnel have no clinical experience with children, indicating the need to improve training of these personnel in pediatric emergencies.

(4) It is the public policy of this state that children are entitled to comprehensive emergency medical services, including pre-hospital, hospital, and rehabilitative care.

RS 40:1075.3 — Definitions

fe support functions, cardiac monitoring, cardiac defibrillation, telemetered electrocardiography, administration of antiarrhythmic agents, intravenous therapy, administration of specific medications, drugs and solutions, use of adjunctive ventilation devices, trauma care, and other techniques and procedures authorized in writing by the secretary pursuant to department regulations.

(2) Repealed by Acts 2013, No. 184, §4(B).

(3) "Basic life support" means a basic level of pre-hospital care which includes patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization, and other techniques and procedures authorized by the secretary.

(4) "Coordinator" means the person coordinating the EMSC program.

(5) "Department" means the Louisiana Department of Health.

(6) "EMSC program" means the Emergency Medical Services for Children Program.

(7) "Emergency medical services personnel" means persons trained and certified or licensed to provide emergency medical care, whether on a paid or volunteer basis, as part of

a basic life support or advanced life support pre-hospital emergency care service or in an emergency department or pediatric critical care or specialty unit in a licensed hospital. Nothing in this Paragraph shall be deemed or construed to expand the duties or functions of emergency medical services personnel as established by other provisions of law.

(8) "Pre-hospital care" means the provision of emergency medical care or transportation by trained and certified or licensed emergency medical services personnel at the scene of an emergency and while transporting sick or injured persons to a medical care facility or provider.

(9) "Secretary" means the secretary of the Louisiana Department of Health.

RS 40:1075.4 — Emergency Medical Services for Children Program; establishment; administration; vices for Children Program.

B. The secretary shall hire a full-time coordinator for the EMSC program who:

(1) Shall implement the EMSC program.

(2) May employ professional, technical, research, and clerical staff as necessary within the limits of available appropriations.

(3) May solicit and accept grants of funds from the federal government and from other public and private sources.

C. The EMSC program shall include, but not be limited to, the establishment of the following:

(1) Initial and continuing education programs for emergency medical services personnel that include training in the emergency care of infants and children.

(2) Guidelines for referring children to the appropriate emergency treatment facility.

(3) Pediatric equipment guidelines for pre-hospital care.

(4) Guidelines for hospital-based emergency departments appropriate for pediatric care to assess, stabilize, and treat critically ill infants and children, either to resolve the problem or to prepare the child for transfer to a pediatric intensive care unit or a pediatric trauma center.

(5) Guidelines for pediatric intensive care units, pediatric trauma centers, and intermediate care units fully equipped and staffed by appropriately trained critical care pediatric physicians, surgeons, nurses, and therapists.

(6) An inter-hospital transfer system for critically ill or injured children.

(7) Pediatric rehabilitation units staffed by rehabilitation specialists and capable of providing any service required to assure maximum recovery from the physical, emotional, and cognitive effects of critical illness and severe trauma.

RS 40:1075.5 — Implementation; rules and regulations

ts 1995, No. 1306, §1; Redesignated from R.S. 40:1300.106 by HCR 84 of 2015
R.S.

RS 40:1075.6 — Costs

signed from R.S. 40:1300.107 by HCR 84 of 2015
R.S.

RS 40:1077.1 — Definitions

verage, Louisiana Children's Health Insurance Program coverage, or coverage under a Louisiana Medicaid waiver program or Louisiana Medicaid managed care program.

(2) "Unique provider of health services for catastrophically ill children" means an institution designated by the National Cancer Institute as a Comprehensive Cancer Center focused solely on pediatrics and that is a children's hospital dedicated to caring for children with catastrophic illness and conducting basic and advanced research into catastrophic childhood diseases such as cancers, acquired and inherited immunodeficiencies, and genetic disorders.

RS 40:1077.2 — Reimbursement

to the

same extent that it would provide coverage for services for those children furnished within the boundaries of the state and shall ensure that reimbursement to such institution shall be equal to the reimbursement rate of in-state children's hospitals for pediatric care. Such reimbursements shall be less than five hundred thousand dollars in total expenditures in any state fiscal year.

B. Implementation of the provisions of this Part shall be subject to the appropriation of funds by the legislature for this purpose.

RS 40:1077.3 — Rules and regulations

necessary to implement the provisions of this Part. The Louisiana Department of Health shall submit to and obtain approval from the Centers for Medicare and Medicaid Services of a Medicaid State Plan Amendment that contains a reimbursement methodology that restricts payments to the annual maximum established in this Part prior to implementation of the provisions of this Part.

RS 40:1079.1 — Medical treatment

by a physician,

licensed to practice medicine in this state, when executed by a minor who is or believes himself to be afflicted with an illness or disease, shall be valid and binding as if the minor had achieved his majority. Any such consent shall not be subject to a later disaffirmance by reason of his minority.

(2) A minor may consent to medical care or the administration of medication by a hospital licensed to provide hospital services or by a physician licensed to practice medicine in this state for the purpose of alleviating or reducing pain, discomfort, or distress of and during labor and childbirth. The manner of administration of medications includes but is not limited to intravenous, intramuscular, epidural, and spinal. This consent shall be valid and binding as if the minor had achieved her majority, and it shall not be subject to a later disaffirmance by reason of her minority.

B. The consent of a spouse, parent, guardian, or any other person standing in a fiduciary capacity to the minor shall not be necessary in order to authorize such hospital care or services or medical or surgical care or services, or administration of drugs to be provided by a physician licensed to practice medicine to such a minor.

C. Upon the advice and direction of a treating physician, or, in the case of a medical

staff, any one of them, a physician or member of a medical staff may, but shall not be obligated to, inform the spouse, parent or guardian of any such minor as to the treatment given or needed, and such information may be given to, or withheld from the spouse, parent or guardian without the consent and over the express objection of the minor.

D. No hospital and no physician licensed to practice medicine in this state shall incur civil or criminal liability in connection with any examination, diagnosis and treatment authorized by this Section except for negligence.

RS 40:1079.2 — Treatment for drug abuse

ces by a physician,

licensed to practice medicine in this state, when executed by a minor who is or believes himself to be addicted to a narcotic or other drug, shall be valid and binding as if the minor had achieved his majority. Any such consent shall not be subject to a later disaffirmance by reason of his minority.

B. The consent of a spouse, parent, guardian or any other person standing in a fiduciary capacity to the minor shall not be necessary in order to authorize such hospital care or services or medical or surgical care or services to be provided by a physician licensed to practice medicine to such a minor.

C. Upon the advice and direction of a treating physician, or, in the case of a medical staff, any one of them, a physician or member of a medical staff may, but shall not be obligated to, inform the spouse, parent or guardian of any such minor as to the treatment given or needed, and such information may be given to, or withheld from the spouse, parent or guardian without the consent and over the express objection of the minor.

D. No hospital and no physician licensed to practice medicine in this state shall incur civil or criminal liability in connection with any examination, diagnosis and treatment authorized by this Section except for negligence.

RS 40:1079.3 — Donation of blood

necessary to

accomplish such donation if either of the following criteria is satisfied:

(1) The minor has reached the age of sixteen years and the written consent of the parents, legal guardian, or person who has legal authority to consent on behalf of the minor has been obtained.

(2) The minor has reached the age of seventeen years. The consent of the parents or guardian of a minor who has reached the age of seventeen years shall not be required.

B. No minor shall be compensated for the donation of his blood.

C. Consent which is obtained pursuant to this Section shall not be subject to deferments because of minority.

RS 40:1079.11 — Statement of purpose

children.

RS 40:1079.12 — Definitions

(2) "Facility" means an entity licensed by the Louisiana Department of Health that provides a broad range of diagnostic, treatment, and rehabilitation services on both a

scheduled and nonscheduled basis in an accessible residential or nonresidential setting by qualified professionals to persons and their families in need of counseling or treatment related to alcohol abuse and alcoholism, or drug abuse, or both.

(3) "Parent" shall be defined as provided in Children's Code Article 116.

(4) "Preventive alcoholism and addiction counseling", hereinafter referred to as "preventive counseling", means services, general guidance and support, or service coordination, including but not limited to individual and group counseling, support services, and education about alcohol and other drugs and their effects, which are provided by a qualified professional to prevent a child from developing or suffering from alcoholism, alcohol or drug addiction, alcohol or drug abuse, or related physical, emotional, or mental health problems.

(5) "Qualified professional" shall include:

(a) A certified substance abuse counselor or certified prevention counselor.

(b) A licensed clinical social worker, psychologist licensed under R.S. 37:2351 et seq., medical psychologist licensed under R.S. 37:1360.51 et seq., physician licensed to practice medicine by the Louisiana State Board of Medical Examiners, or licensed professional counselor.

(c) A substance abuse counselor in training or prevention counselor in training with approved supervision from a certified substance abuse counselor, licensed clinical social worker, licensed professional counselor, or certified prevention counselor.

(d) A teacher or other educational professional with specialized training in substance abuse, as outlined by the office of alcohol and drug abuse.

(e) A registered nurse who has at least one year of experience in the treatment of alcoholism, addiction, or other alcohol and drug-related problems.

(6) "School" means any public elementary or secondary school in the state of Louisiana operated by a city or parish school board or any nonpublic school approved by the State Board of Elementary and Secondary Education.

(7) "Treatment" means an active effort to accomplish an improvement in the mental condition or behavior of a child or to prevent deterioration in his condition or behavior as it relates to drug or alcohol abuse. Treatment includes but is not limited to hospitalization, partial hospitalization, outpatient services, examination, diagnosis, training, the use of pharmaceuticals, and other services as necessary to treat such abuse.

RS 40:1079.13 — Consent requirements

(1) The child requests such preventive counseling or treatment.

(2) The child withholds permission to contact a parent or parents to seek consent.

(3) A qualified professional reasonably determines in good faith and based on independent evidence that seeking parental consent would not be helpful and would be harmful to the child.

(4) The child provides a statement of his or her reason for seeking preventive counseling or treatment and provides written consent for such services.

B. When requesting a child's written consent for providing preventive counseling or treatment, the school or facility shall comply with all of the following:

- (1) Advise the child of the purpose and nature of the preventive counseling or treatment.
- (2) Inform the child that the school or facility will maintain a confidential written record of the services provided.
- (3) Inform the child that he or she may withdraw consent and cease participating in the preventive counseling or treatment at any time.

RS 40:1079.14 — Facility requirements

- maintain a written record of the reason for the preventive counseling or treatment without parental consent and a record of the attempts, if any, made to obtain such consent.
- (2) Conduct an initial assessment and evaluation of the child to determine the extent of preventive counseling or treatment services needed.
 - (3) Prepare a written plan for the provision of preventive counseling or treatment based on the individual assessment and evaluation of the child's needs.
 - (4) Provide preventive counseling or treatment in accordance with the written plan.
 - (5) Maintain a written record of the services provided to the child including periodic notes relating to the child's progress.
 - (6) When it has been determined such services are no longer necessary or the child withdraws from the program, prepare a written summary of the preventive counseling or treatment provided to the child and a statement of the child's progress and maintain such summary and statement as part of the child's records.

RS 40:1079.15 — Parental involvement in counseling

involvement of a parent, family member, or other individual close to the child. Such involvement shall be in conformity with the confidentiality requirements of R.S. 40:1079.18.

RS 40:1079.16 — Limitation of liability

Persons shall

be presumed to be acting in good faith.

B. Any qualified professional found to be acting in good faith and in compliance with the provisions of this Subpart, and absent willful and wanton misconduct, shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of action taken pursuant to this Subpart.

RS 40:1079.17 — Authorized resources

, or

volunteer services, for the purpose of providing preventive counseling services or treatment for alcohol or drug abuse.

RS 40:1079.18 — Confidentiality

regarding the provision of preventive counseling or treatment shall be confidential. No qualified professional or employee of a school or facility providing preventive counseling or treatment shall disclose any records or information in such records containing the identity of any child receiving preventive counseling or treatment except in compliance with state and federal laws and regulations.

RS 40:1081.1 — Programs for combating phenylketonuria, congenital hypothyroidism,

of Health is hereby authorized and directed to

establish, maintain, and carry out programs designed to reduce mortality and morbidity from sickle cell disease and to prevent central nervous system damage in children with phenylketonuria, congenital hypothyroidism, biotinidase deficiency, galactosemia and genetic conditions tested under the authority of R.S. 40:1081.2(B).

B.(1) The Louisiana Department of Health shall establish and maintain a diagnostic laboratory for each of the following purposes:

- (a) Conducting experiments, projects, and other undertakings as may be necessary to develop tests for the early detection of phenylketonuria, congenital hypothyroidism, galactosemia, sickle cell diseases, biotinidase deficiency, and other genetic conditions.
- (b) Developing ways or discovering methods to be used for the prevention and treatment of these diseases.

(c) Such other purposes as may be deemed necessary by the department to carry out any program adopted under the authority of this Subpart, including conducting experiments, projects, and other undertakings as may be necessary to develop tests for genetic conditions made part of the battery of tests by the Louisiana Department of Health under R.S. 40:1081.2(B).

(2) Notwithstanding the foregoing, the term "prevention" as used with respect to sickle cell anemia shall not mean mandatory sterilization or abortion.

C. The department is authorized to adopt rules and regulations necessary to carry out any program which may be established.

D. The Louisiana Department of Health shall establish a program for informing physicians and hospitals of the current medical standards for diagnosing and treating children who exhibit clinical symptoms which suggest the existence of galactosemia. This program shall be established in consultation with and shall be based on the recommendations of the Louisiana Hospital Association and the Louisiana State Medical Society.

RS 40:1081.2 — Tests

ection, cause the child to be subjected to tests for all genetic or other congenital conditions listed in the rule promulgated by the Louisiana Department of Health pursuant to Subsection B of this Section; however, no such tests shall be given to any child whose parents or guardians object thereto.

(2) If any of the tests are positive, the attending physician or person shall notify the Louisiana Department of Health.

(3) The department shall follow up all positive tests with the attending physician who notified the department thereof and with the parents of the newborn child when such notification was made by a person other than a physician, and, when confirmed, shall inform either the physician or parents or both of the services and facilities that are available from the Louisiana Department of Health and from other state boards, departments, and agencies that are cooperating with the department in carrying out the programs authorized by this Subpart. Such follow-up shall include the availability of board eligible or board certified geneticists and appropriate ancillary personnel including genetic counselors and laboratory technicians

trained to operate clinical biochemical genetics laboratory equipment. In the event there is an insufficient amount of counselors, the department shall determine which genetic tests shall be suspended until the proper number of genetic counselors are available.

(4) These services and facilities shall be made available to the extent needed by the family and physician. The Louisiana Department of Health and the other state departments and agencies cooperating with it shall, in cooperation with the attending physician, provide for the continued medical care, dietary, and other related needs of such children where necessary or desirable.

(5) The laboratory established by the Louisiana Department of Health pursuant to R.S. 40:1081.1(B) shall provide testing for each condition listed in the rule promulgated by the Louisiana Department of Health pursuant to Subsection B of this Section; however, such testing and the services and facilities required by Paragraphs (3) and (4) of this Subsection shall be subject to available funding.

B.(1) Pursuant to the rule adopted in accordance with the Administrative Procedure Act, the Louisiana Department of Health shall set forth a list of genetic or other congenital conditions for which a newborn shall be tested; however, no approved test for any genetic or other congenital condition added shall be given to any child whose parents or guardians object thereto.

(2) At least annually, the list shall be reviewed by the state health officer, in consultation with departmental genetic disease advisory subject matter experts, to determine whether additional conditions, including conditions added to the United States Department of Health and Human Services' Recommended Uniform Screening Panel (RUSP), should be recommended to the secretary of the department for inclusion therein.

(3) After adding a condition to the list by rulemaking, the Louisiana Department of Health shall request a legislative appropriation for any funding necessary for conducting the test and providing the services required in accordance with Subsection A of this Section.

(4) The department shall provide an annual report to the legislature, beginning March 1, 2024, of any condition added to the RUSP and the department's review and determination on the condition.

RS 40:1081.3 — Cooperation with the Louisiana Department of Health

visions capable of assisting or having

services and facilities for assisting the Louisiana Department of Health in carrying out any program established under the authority of this Subpart may cooperate with the Louisiana Department of Health and may furnish any such services and facilities in aid of any such program.

RS 40:1081.4 — Cooperation of physicians and hospitals

infant care to participate in any

program established by the department under the authority of this Subpart.

RS 40:1081.9 — Hemophilia; state treatment program; advisory committee

(2) "Hemophilia" shall mean a bleeding tendency resulting from a genetically determined deficiency factor in the blood.

(3) "Hemophiliac" shall mean a person suffering from hemophilia.

(4) "Secretary" shall mean the secretary of the Louisiana Department of Health, or his designated representative.

B. The Louisiana Department of Health shall establish a program for the care and treatment of persons suffering from hemophilia. This program shall assist persons who require continuing treatment with blood and blood derivatives to avoid crippling, extensive hospitalization and other effects associated with the critical, chronic bleeding condition called hemophilia, but who are unable to pay for the entire cost of such services on a continuing basis despite the existence of various types of hospital coverages, Medicare, Medicaid, other government assistance programs, and private charitable assistance programs.

C. The department shall:

(1) Develop standards for determining eligibility for care and treatment under this program.

(2) Extend financial assistance to hemophiliacs in obtaining blood and blood derivatives and concentrates, and other efficacious agents for use in hospitals, medical and dental facilities, and at home, or participate in the cost of blood processing to the extent that such support will facilitate the supplying of blood, blood derivatives and concentrates, and other efficacious agents to hemophiliac patients at an economical cost, thus increasing the effectiveness of the monies appropriated to carry out the provisions of this Section.

(3) Institute and maintain educational programs among physicians, dentists, hospitals, public health departments, schools, and the public concerning hemophilia, including dissemination of information and the conducting of educational programs concerning the methods of care and treatment of persons suffering from hemophilia.

(4) Promulgate all rules and regulations necessary to effectuate the purposes of this Section.

D. Funds shall be made available under this program without regard to race or age.

RS 40:1081.10 — Privacy of genetic information

tial medical information and

shall be excluded from reporting requirements. The results of such genetic tests shall become part of the medical record of the person tested and shall be confidential unless express written consent to their release is granted by the person tested.

RS 40:1081.11 — Krabbe disease; public information

tion provided by the department pursuant to this Section shall

include, at a minimum, all of the following:

(1) An explanation of Krabbe disease symptoms, diagnosis, and treatment options.

(2) Information on relevant state agency and nonprofit resources, parent support groups, and available Medicaid waiver services.

RS 40:1081.12 — Medicaid coverage; genetic testing of critically ill infants

shall include coverage on a fee-for-service basis for

rapid whole genome sequencing testing of an infant who is enrolled in a Medicaid managed care plan and meets all of the following criteria:

(a) Is one year of age or younger.

(b) Has a complex illness of unknown etiology.

(c) Is receiving inpatient hospital services in an intensive care unit or in a pediatric care unit.

(2) Coverage provided for the infant pursuant to this Section shall include individual sequencing, trio sequencing of the parents of the infant, and ultra-rapid sequencing.

B. The secretary of the Louisiana Department of Health shall take all actions necessary to implement the provisions of this Section, including but not limited to both of the following:

(1) Promulgation of rules and regulations in accordance with the Administrative Procedure Act to provide for Medicaid coverage pursuant to this Section.

(2) Submission to the Centers for Medicare and Medicaid Services of any new waiver application, amendment to an existing waiver, or Medicaid state plan amendment to provide for Medicaid coverage pursuant to this Section.

RS 40:1081.13 — Medicaid coverage; amino acid-based elemental formulas

the Social Security Act, 42 U.S.C. 1396 et

seq., coverage for amino acid-based elemental formulas, regardless of the formula delivery method, to treat a child aged two years or younger. Coverage applies pursuant to this Section if the child has been diagnosed by a board-certified allergist or board-certified gastroenterologist and the treating physician issues a written order stating that the amino acid-based elemental formula is medically necessary to treat the child for any of the following:

(1) Immunoglobulin E and non-immunoglobulin E mediated allergies to multiple food proteins.

(2) Severe food protein-induced enterocolitis syndrome.

(3) Eosinophilic disorders, as evidenced by the results of a biopsy.

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, functional length, and motility of the gastrointestinal tract.

B. Coverage provided pursuant to this Section may be subject to copayments, deductibles, or other cost-sharing mechanisms.

C.(1) A health maintenance organization, health insurance organization, or managed care organization that contracts with the state to provide or coordinate healthcare services to any person eligible for Medicaid shall provide coverage on a basis no less favorable than the basis on which prescription drugs and other medications and related services are covered by the organization, and to the same extent that the organization provides coverage for drugs that are available only on the orders of a physician.

(2) A utilization review agent acting on behalf of an organization listed in this Subsection may review a treating physician's determination of the medical necessity of the use of an amino acid-based elemental formula for the treatment of a covered infant or child who is diagnosed with a disease or disorder listed in Subsection A of this Section.

RS 40:1083.1 — Definitions

s.

B. "Congenital heart defects" (CHD) means structural abnormalities of the heart that are present at birth and range in severity from simple problems, such as holes between chambers of the heart, to severe malfunctions, such as the complete absence of one or more chambers or valves. CHD is the most common birth defect and is the number one cause of infant death from birth defects.

C. "Critical congenital heart disease" (CCHD) means a heart defect that causes severe, life-threatening symptoms and requires intervention, such as surgery, in the first few hours, days, or months of life. CCHD accounts for about twenty-five percent of all CHD.

D. "Pulse Oximetry Screening" means a noninvasive test that estimates the percentage of hemoglobin in blood that is saturated with oxygen to detect CHDs.

RS 40:1083.2 — Legislative intent

first days of life. Early detection of CCHD and timely

intervention can decrease morbidity and mortality and lead to better outcomes for affected children.

(2) According to the Centers for Disease Control and Prevention (CDC), CHDs occur in approximately one in one hundred ten births in the United States. About twenty-five percent of CHDs are considered CCHDs.

(3) Current methods for detecting CCHDs generally include prenatal ultrasound screening and repeated clinical examinations. Defects are also often not detected during routine clinical exams performed prior to a newborn baby's discharge from a birthing facility.

(4) When a screening for CCHD, such as pulse oximetry screening, is performed on a newborn in a birthing facility, it is effective in detecting life-threatening CHDs, which otherwise go undetected by current screening methods. The use of pulse oximetry in newborn nurseries is standard in most hospitals.

(5) Newborns with abnormal pulse oximetry results require immediate testing to confirm a defect and allow intervention. Many newborns could be saved by earlier detection and treatment of CCHD if birthing facilities in the state of Louisiana were required to perform this simple, noninvasive newborn screening in conjunction with current CCHD screening methods.

RS 40:1083.3 — Critical congenital heart disease screening

ts care prior to discharge from the

birthing facility, unless prohibited by the parent or guardian of the newborn.

RS 40:1085.1 — Ophthalmia neonatorum defined

m the eye or eyes,

occurring within two weeks after the birth of the infant, shall be known as ophthalmia neonatorum, independent of the nature of the infection.

RS 40:1085.2 — Duty to report disease to local health officer

ends a child within two weeks after

childbirth, shall within six hours after obtaining knowledge of the condition defined in R.S.

40:1085.1 report this condition, as directed by the Louisiana Department of Health,

hereinafter referred to as the "department", to the local health officer at the residence of the

mother.

RS 40:1085.3 — Use of prophylactic directed by department

ny prophylactic which the department

directs for the prevention of ophthalmia neonatorum, whether or not ophthalmia neonatorum is indicated, and to do so in the manner that the department directs. The provisions of this Section shall be inoperative in those instances where:

- (1) There are no indications of the existence of ophthalmia neonatorum; and
- (2) The mother states in writing that she objects to the application of such prophylactic on religious grounds.

B. Liability arising from the lack of use of the approved prophylactic shall not attach to any person or institution who, on the written instruction of the mother, withholds the application of the approved prophylactic.

RS 40:1085.4 — Duties of health officer

s attention.

- (2) Report all cases of ophthalmia neonatorum and the result of his investigations thereon, as directed by the department.
- (3) Conform to any other rules and regulations on this subject that the secretary of the department promulgates for his further guidance.

RS 40:1085.5 — Duties of the Louisiana Department of Health

as are necessary for purposes of this

Subpart and as it thinks necessary for the further and proper guidance of local health officers.

- (3) Provide for the gratuitous distribution of a scientific prophylactic for ophthalmia neonatorum, together with proper directions for the use and administration thereof, to all physicians, midwives, and the like engaged in the practice of obstetrics or assisting at childbirth.
- (4) Print and publish any further advice and information concerning the danger of ophthalmia neonatorum and the necessity for prompt and effective treatment thereof as it thinks proper.
- (5) Furnish copies of the provisions of this Subpart to all physicians, midwives, and the like engaged in the practice of obstetrics or assisting at childbirth.
- (6) Keep a proper record of all cases of ophthalmia neonatorum filed in its office in pursuance of this Subpart or which come to its attention in any way. It shall make these records a part of its annual report to the governor and the legislature.
- (7) Report all violations of this Subpart which come to its attention to the proper district attorney and assist him in any way possible in connection therewith.

RS 40:1085.6 — Duties of maternity homes and hospitals to keep records

onatorum as the department directs.

RS 40:1085.7 — Collusion to hide facts prohibited

this Subpart, is essential.

RS 40:1085.8 — Penalty; revocation of charter

e second offense, and

not more than two hundred dollars for each subsequent offense.

If the accused is a physician, midwife, or the like, the court may also order a revocation of his license. If the accused is a maternity home or the like, incorporated under the laws of this state, the court may order a revocation of its charter.

RS 40:1086.1 — Definitions

se of which is the

performance of low-risk deliveries, where births are planned to occur away from the mother's usual residence following a low-risk pregnancy. For purposes of this Subpart, the term "birthing center" shall not include a hospital or a facility licensed as part of a hospital.

(2) "Department" means the Louisiana Department of Health.

(3) "Hospital" means a facility that is licensed as a hospital in accordance with the provisions of the Hospital Licensing Law, R.S. 40:2100 et seq.

(4) "Licensed midwife" means a midwife who is licensed in accordance with the provisions of the Midwife Practitioners Act, R.S. 37:3240 et seq.

(5) "Postneonatal death" means the death of a child aged twenty-eight days to three hundred sixty-four days.

(6) "Shaken baby syndrome" means the condition known also as abusive head trauma which is characterized by injuries resulting from violent shaking or shaking and impacting of the head of an infant or small child.

(7) "Sudden unexpected infant death" means the death of an infant of less than one year of age, the cause of which is not immediately obvious before investigation, that occurs suddenly and unexpectedly. A sudden unexpected infant death requires the performance of a thorough postmortem investigation that includes a complete autopsy, an examination of the death scene, and a review of the clinical history of the deceased child. The term includes ill-defined and unknown causes of mortality, sudden infant death syndrome, and accidental suffocation and strangulation in bed.

RS 40:1086.2 — Legislative findings; declaration

tttern of abuse, or because

an adult has momentarily succumbed to the frustration of responding to a crying infant or child. The legislature further finds that the effects of shaken baby syndrome can include brain swelling and damage, subdural hemorrhage, intellectual disability, and death.

B. With respect to sudden infant death syndrome, which is a form of sudden unexpected infant death, the legislature finds all of the following:

(1) Sudden infant death syndrome was the leading cause of postneonatal death in each year of the most recent ten-year period for which complete child mortality data is available (2002 through 2012).

(2) Even after a thorough investigation, it is difficult to distinguish sudden infant death syndrome from other sleep-related infant deaths such as from overlay or suffocation in soft bedding.

(3) Parents and caregivers can take simple steps to reduce the risk of sudden unexpected infant deaths.

C. The legislature hereby declares that prevention of shaken baby syndrome and

prevention of sudden unexpected infant death are major public health priorities of this state.

RS 40:1086.3 — Information for parents of newborns; birthing center requirements

of a newborn child, if available, regarding shaken baby syndrome and sudden unexpected infant death.

B.(1) The department shall promulgate all rules in accordance with the Administrative Procedure Act as are necessary to implement the provisions of this Subpart. At minimum, the rules of the department shall designate the compendium of resources approved for use by birthing centers, hospitals, and licensed midwives to meet the requirements of Subsection A of this Section. The compendium of resources shall, collectively, address all of the following:

- (a) The dangers of shaking infants and children.
- (b) The symptoms of shaken baby syndrome.
- (c) The dangers associated with rough handling or striking of an infant.
- (d) Safety measures which can be taken to prevent sudden unexpected infant death.
- (e) The risks associated with infants sleeping in the same bed with other children or adults.

(2) The department shall ensure that all approved resources provided for in this Subsection are publicly available, through the department's website or any other means, to birthing centers, hospitals, and licensed midwives.

RS 40:1086.4 — Public awareness activities authorized

ion of sudden unexpected infant death. The public awareness activities may include but shall not be limited to public service announcements, information kits and brochures, promotion of relevant telephone hotlines, and provision of information concerning shaken baby syndrome and sudden unexpected infant death on an internet website.

RS 40:1086.11 — Physician notification

due to the use

of a controlled dangerous substance, as defined by R.S. 40:961 et seq., in a lawfully prescribed manner by the mother during pregnancy, the physician shall make a notification to the Department of Children and Family Services on a form developed by the department. Such notification shall not constitute a report of child abuse or prenatal neglect, nor shall it require prosecution for any illegal action.

B. A healthcare provider shall be authorized to share any protected health information, as defined in 45 CFR 160.103, with the Department of Children and Family Services for the purpose of complying with the notification requirement of this Subpart.

C. The Department of Children and Family Services shall promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Subpart. Such rules shall include, at minimum, all of the following:

- (1) The manner in which the notification shall be made to the department.
- (2) The form and minimum required contents of the notification.
- (3) The plan to monitor the statewide system regarding the availability and delivery

of appropriate services for newborns and affected families and caretakers.

D. A physician who in good faith makes a notification to the Department of Children and Family Services in compliance with this Section shall have no civil or criminal liability for damage or injury arising from that notification, unless the damage or injury was caused by the physician's willful or wanton misconduct or gross negligence.

RS 40:1086.12 — Neonatal opiate withdrawal syndrome pilot project

f Health.

(2) "Infant" includes both a newborn and an infant.

(3) "Neonatal opiate withdrawal syndrome" means the postnatal opioid withdrawal experienced by an infant who is exposed in utero to prescribed or illicit opioids or agents used to treat maternal opioid addiction.

B.(1) The department shall establish an evidence-based pilot project conducted by a multi-disciplinary team to treat infants with neonatal opiate withdrawal syndrome by providing care options that are safe alternatives to the intensive care unit in existing community or hospital settings for eligible mother-infant dyads. This pilot shall prioritize co-location of the mother-infant dyad, maternal access to evidence-based treatment of substance use disorder, and promotion of practices that minimize harm and improve outcomes in infants, in keeping with up-to-date clinical evidence.

(2) In order to scale evidence-based best practices statewide, the department, in coordination with Department of Children and Family Services, shall convene stakeholders and providers from around the state, including but not limited to the Louisiana Commission on Perinatal Care and Prevention of Infant Mortality and the Louisiana Perinatal Quality Collaborative, in order to promote evidence-based care of infants with neonatal opiate withdrawal syndrome.

C. The department shall study comparative outcomes, risks, benefits, and cost differentials for the treatment of infants with neonatal opiate withdrawal syndrome in hospital and community settings included in this pilot program.

D. The department may provide access to United States Food and Drug Administration approved medication-assisted treatment including agonist, partial-agonist, and antagonist medications for the treatment of opioid use disorders, in conjunction with detoxification services for females with a history of giving birth to neonatal abstinence syndrome affected infants.

E. The department shall take all steps necessary to implement this Section, including but not limited to the promulgation of rules and regulations in accordance with the Administrative Procedure Act, and may seek a waiver from the Centers for Medicare and Medicaid Services if needed.

F. The pilot project may be administered consistent with the Controlled Substance Act, as amended by Section 303 of the Comprehensive Addiction and Recovery Act of 2016.

G. This pilot project is subject to specific appropriation by the legislature.

RS 40:1086.21 — Cytomegalovirus; point of care testing; reporting

orn hearing screen and, in the exercise of

professional judgment, the healthcare provider believes that the testing would be in the best

interest of the newborn. Any testing for cytomegalovirus provided in accordance with the provisions of this Section shall be considered medically necessary and shall not be denied on the basis for failing to meet any applicable medically necessary standards or requirements by any health insurance issuer which otherwise provides coverage for the testing. The Louisiana Department of Health shall provide payment to all Medicaid providers for the costs incurred as a result of the administration of testing pursuant to the provisions of this Section. Payment shall be made by the department within thirty days of receiving a claim for payment from a healthcare provider.

RS 40:1087.1 — Comprehensive sports injury management program for student athletics

ting student to regularly practice or train and compete, is subject to the terms of the injury management program provided for in Subsections B through F of this Section.

B. The injury management program shall:

(1)(a) Establish a comprehensive emergency action plan for each sport located on the school's campus.

(b) The emergency action plan shall be reviewed annually prior to each sport season with all appropriate personnel who are designated by the athletic director's office.

(c) The comprehensive emergency action plan shall follow the best practices of the American College of Sports Medicine and the National Athletic Trainers' Association.

(2) Require that any coach, game official, on-field licensed healthcare provider, or licensed athletic trainer remove a student from practice, training, or competition if any of the following circumstances occur:

(a) The student reports any defined sign or symptom of a serious sports injury.

(b) The coach or licensed athletic trainer determines that the student exhibits any defined sign or symptom of a serious sports injury.

(c) The coach is notified that the student has reported or exhibited any defined sign or symptom of a serious sports injury by any of the following persons:

(i) A licensed, registered, or certified medical practitioner operating within their respective scope of practice.

(ii) A licensed athletic trainer.

(iii) Any other licensed, registered, or certified individual whose scope of practice includes the recognition of symptoms associated with serious sports injuries.

(iv) An official responsible for judging or supervising the athletic competition.

(3) Ensure that any student who, in accordance with the provisions of this Subpart, is safely removed from practice, training, or competition:

(a) Shall, as soon as practicable after reporting or exhibiting any sign or symptom of a serious sports injury, be examined by a health professional duly licensed in this state to provide healthcare services or medical treatment.

(b) May be allowed to return to practice, training, or competition only after the student provides to the coach and a licensed athletic trainer written authorization from a health professional duly licensed in this state to provide healthcare services or medical treatment.

(4) Require that for the purpose of serving the students, school, community, and protecting public safety, each coach certified by the Coaches Education and Certification Program receive annual documented training regarding the nature and risks of serious sports injuries in accordance with the National High School Coaches Association and the Louisiana High School Coaches Association.

(5) Subject to availability of financial resources and supply of the necessary workforce, rely to the greatest possible extent on athletic trainers licensed by the Louisiana State Board of Medical Examiners to provide athletic health care at high school athletic competitions.

(6) Require that each school participating in interscholastic athletics follow best practices for any activity that does not occur in a climate-controlled facility. These practices shall follow the modified guidelines of the American College of Sports Medicine and the National Athletic Trainers' Association regarding the heat acclimatization and wet bulb globe temperature policy. These policies shall apply to all school campuses where summer conditioning, preseason and regular season practices, or fall or spring sports take place, or when a coach is present. Football jamborees and regular season games shall be exempt from the provisions of this Paragraph.

(7) Include a protocol for licensed athletic trainers, if utilized by the school or school system, to be available for practices or games to assist in the management of emergency and nonemergency care for participants.

C. The school shall ensure that before a student is allowed to participate in any school-sponsored or school-sanctioned athletic activity, the student and the parent or guardian of the student shall document that they have viewed information, provided in written or verifiable electronic form by the school or school district, regarding risks of serious sports injuries.

D. This Section does not create any liability for, or create a cause of action against, a school, its officers, or its employees.

E. To carry out the duties prescribed in this Subpart, a school may contract for and accept private contributions, gifts, and grants, or in-kind aid from the federal government, the state, or any other source.

F. The Board of Elementary and Secondary Education (BESE) shall promulgate, in accordance with the Administrative Procedure Act, any rules necessary to implement the sports injury management program provided for in this Subpart. In developing such rules, BESE may engage and solicit input from the Louisiana State Board of Medical Examiners and the Sports Medicine Advisory Committee of the Louisiana High School Athletic Association, and may incorporate recommendations of those groups in any final rules providing for a comprehensive sports injury management program.

G. No school or school system shall be required to incur any financial cost related to the implementation of this Section, unless funds are appropriated by the legislature for such purpose.

H. The provisions of this Subpart shall not apply to concussions, as the protocols specific to these injuries shall be governed by the Louisiana Youth Concussion Act.

I. As used in this Subpart, the following terms have the meaning ascribed to them in this Section:

- (1) "Heat acclimatization" means a series of changes or adaptations that occur in response to heat stress in a controlled environment over the course of seven to fourteen days. These adaptations are beneficial to exercise in the heat and allow the body to cope with heat stress.
- (2) "Interstate game" means any regular season game played out of state.
- (3) "Intrastate game" means any regular season game played in the state.
- (4) "Jamboree" means a preseason football contest that serves as an official rehearsal for the upcoming regular season where teams compete against regular season opponents.
- (5) "Regular season game" means any intrastate or interstate game played during the regular sports season.
- (6) "Wet bulb globe temperature" means a measure of the heat stress in direct sunlight which takes into account temperature, humidity, wind speed, sun angle, and solar radiation.

RS 40:1089.1 — Legislative intent

sease

Control and Prevention estimate that as many as three million nine hundred thousand sports-related and recreation-related concussions occur in the United States each year. A

concussion is caused by a blow or motion to the head or body that causes the brain to move rapidly inside the skull. The risk for long-term, chronic cognitive, physical, and emotional symptoms associated with the development of post-concussion syndrome and chronic traumatic encephalopathy, as well as the risk for catastrophic injuries or even death, is significant when a concussion or head injury is not properly recognized, evaluated, and managed.

B. Continuing to play with a concussion or symptoms of head injury leaves the young athlete especially vulnerable to greater injury and even death. The Legislature of Louisiana recognizes that, despite having generally recognized return-to-play standards for concussions and head injury, some affected youth athletes are prematurely returned to play resulting in actual or potential physical injury or death to youth athletes in the state of Louisiana.

C. The Legislature of Louisiana further recognizes that it is in the best interest of the state to create a uniform education, training, and return-to-play protocol to be followed throughout the state.

RS 40:1089.2 — Definitions

nt, or a licensed psychologist, which person

has received training in neuropsychology or concussion evaluation and management.

- (2) "Public recreation facility" means a recreation facility owned or leased by the state of Louisiana or a political subdivision thereof.
- (3) "Youth athletic activity" means an organized athletic activity where the majority of the participants are seven years of age or older and under nineteen years of age, and are engaging in an organized athletic game or competition against another team, club, or entity

or in practice or preparation for an organized game or competition against another team, club, or entity. "Youth athletic activity" shall not include college or university activities or an activity which is entered into for instructional purposes only, an athletic activity that is incidental to a nonathletic program, or a lesson.

RS 40:1089.3 — Louisiana youth athlete concussion education requirements
shall:

- (1) Prior to beginning of each athletic season, provide pertinent information to all coaches, officials, volunteers, youth athletes, and their parents or legal guardian which informs of the nature and risk of concussion and head injury, including the risks associated with continuing to play after a concussion or head injury.
- (2) Require each coach, whether such coach is employed or a volunteer, and every official of a youth athletic activity that involves interscholastic play to complete an annual concussion recognition education course which is in accordance with the provisions of Subsection C of this Section.
- (3) Require as a condition of participation in any athletic activities that the youth athlete and the youth athlete's parents or legal guardian sign a concussion and head injury information sheet which provides adequate notice of the statutory requirements which must be satisfied in order for an athlete who has or is suspected to have suffered a concussion or head injury to return to play.

B. Each private club or public recreation facility and each athletic league which sponsors youth athletic activities shall:

- (1) Prior to beginning of each athletic season, provide pertinent information to all coaches, officials, volunteers, youth athletes, and their parents or legal guardian which informs of the nature and risk of concussion and head injury, including the risks associated with continuing to play after a concussion or head injury.
- (2) Require each volunteer coach for a youth athletic activity and each coach with whom the club, facility, or league directly contracts with, formally engages, or employs who coaches a youth athletic activity and each official to complete an annual concussion recognition course which is in accordance with the provisions of Subsection C of this Section.
- (3) Require as a condition of participation in any athletic activities that the youth athlete and the youth athlete's parents or legal guardian sign a concussion and head injury information sheet which includes but is not limited to adequate notice of the statutory requirements which must be satisfied in order for an athlete who has or is suspected to have sustained a concussion or head injury to return to play.

C.(1) The concussion recognition education course required by this Section shall include the following information:

- (a) How to recognize the signs of and symptoms of a concussion.
- (b) The necessity of obtaining proper medical attention for a person suspected of having sustained a concussion.
- (c) The nature and risk of concussions, including the danger of continuing to play after sustaining a concussion and the proper method and statutory requirements which must

be satisfied in order for a youth athlete to return to play in the athletic activity.

(2)(a) An organization or association of which a school or school district is a member may designate specific education courses as sufficient to meet the requirements of Subsection A of this Section.

(b) Training materials made available by the United States Centers for Disease Control and Prevention (CDC) entitled, "Heads Up: Concussion in Youth Sports" and any amendments or updates thereto, training materials made available by the National Federation of High Schools for the Louisiana High School Athletic Association and any amendments or updates thereto, or other training materials substantively and substantially similar to the CDC materials, along with dissemination of a copy of the statutory requirements which must be satisfied in order for a youth athlete who has or is suspected to have sustained a concussion to return to play in the athletic activity, shall be deemed to satisfy the education requirements provided for in this Section.

RS 40:1089.4 — Removal from and return to play

, competition, or

practice if any of the following occurs:

(1) The youth athlete reports any defined sign or symptom of a concussion and is reasonably suspected of having sustained a concussion.

(2) The coach, athletic trainer, or official determines that the youth athlete exhibits any defined sign or symptom of a concussion and he reasonably suspects that the youth athlete has sustained a concussion.

(3) The coach or official is notified that the youth athlete has reported or exhibited any defined sign or symptom of a concussion and is reasonably suspected of sustaining a concussion by any of the following persons:

(a) A licensed, registered, or certified medical healthcare provider operating within his scope of practice. The medical healthcare provider performing an evaluation, for the purposes of this Subsection, upon a youth athlete suspected of sustaining a concussion or brain injury may be a volunteer.

(b) Any other licensed, registered, or certified individual whose scope of practice includes the recognition of concussion symptoms. The individual performing an evaluation, for the purposes of this Subsection, upon a youth athlete suspected of sustaining a concussion or brain injury may be a volunteer.

B. If a youth athlete is removed from play pursuant to this Section and the signs and symptoms cannot be readily explained by a condition other than concussion, the coach shall notify the athlete's parent or legal guardian and shall not permit the youth athlete to return to play or participate in any supervised team activities involving physical exertion, including games, competitions, or practices, until the youth athlete is evaluated by a healthcare provider and receives written clearance from the healthcare provider for a full or graduated return to play.

C. After a youth athlete who has sustained a concussion or head injury has been evaluated and received clearance for a graduated return to play from a healthcare provider, an organization or association of which a school or school district is a member, a private or

public school, a private club, a public recreation facility, or an athletic league may allow a licensed athletic trainer with specific knowledge of the athlete's condition to manage the athlete's graduated return to play.

D. This Section does not create any liability for, or create a cause of action against, a school, its officers, or its employees, an organization or association of which a school or school district is a member, a private or public school, a private club, a public recreation facility, or an athletic league when such person or entity has complied with the provisions of this Subpart.

RS 40:1089.5 — Concussion information

chools,

and high schools, private clubs, public recreation facilities, and each athletic league which sponsors youth athletic activities information which informs of the nature and risk of concussion and head injury, including the risks associated with continuing to play after a concussion or head injury.

RS 40:1091 — Autism spectrum disorder; screening of children

the periodicity schedule of the Bright

Futures initiative of the American Academy of Pediatrics shall promote age-appropriate screenings including, unless otherwise medically indicated, a standardized screening for autism spectrum disorder at any routine well child visit.

B. No primary care provider shall be liable for any civil damages or be subject to any disciplinary action by his licensing board as a result of any act or omission in connection with delivering or not delivering any service provided for in this Part.

RS 40:1098.1 — Definitions

ional" shall have the same meaning as the term is defined in

R.S. 14:34.8.

(2) "Minor" means any natural person who has not reached the age of majority as provided in Civil Code Article 29 and who has not been emancipated pursuant to Title V of Book VII of the Code of Civil Procedure.

(3) "Sex" means the biological indication of male or female as evidenced by a medical examination of all of the following:

(a) Sex chromosomes.

(b) Naturally occurring sex hormones.

(c) Gonads.

(d) As well as nonambiguous internal and external genitalia present at birth.

RS 40:1098.2 — Healthcare professionals; restrictions

validate a minor's perception of the

minor's sex, if the minor's perception is inconsistent with the minor's sex:

(1) The prescription or administration of gonadotropin-releasing hormone analogues or other synthetic drugs used to stop luteinizing hormone and follicle stimulating hormone secretion, synthetic antiandrogen drugs used to block the androgen receptor, or any drug to suppress or delay normal puberty.

(2) The prescription or administration of testosterone, estrogen, or progesterone in amounts greater than would normally be produced endogenously in a healthy individual of the same age and sex.

(3) The performance of any sterilizing surgery, including but not limited to castration, hysterectomy, oophorectomy, orchiectomy, penectomy, and vasectomy.

(4) The performance of any surgery that artificially constructs tissue having the appearance of genitalia differing from the minor's sex, including metoidioplasty, phalloplasty, and vaginoplasty.

(5) The removal of any healthy or nondiseased body part or tissue.

(6) The performance of augmentation mammoplasty, facial feminization surgery, liposuction, lipofilling, pectoral implants, voice surgery, thyroid cartilage reduction, gluteal augmentation, hair reconstruction, or any aesthetic surgical procedure.

B. The prohibited acts listed in Subsection A of this Section shall not be considered healthcare services.

C. The prohibitions listed in Subsection A of this Section shall not limit or restrict the provision of health care to:

(1) A minor born with a medically verifiable disorder of sex development, including but not limited to external sex characteristics that are irresolvably ambiguous.

(2) A minor diagnosed with a disorder of sexual development, if a healthcare professional has determined, through genetic or biochemical testing, that the minor does not have a sex chromosome structure, sex steroid hormone production, or sex steroid hormone action that is normal for a biological male or biological female.

(3) A minor needing treatment for an infection, injury, disease, or disorder that has been caused or exacerbated by any action or procedure prohibited by this Part.

(4) A minor suffering from a physical disorder, physical injury, or physical illness that is certified by a healthcare provider and that would place the individual in imminent danger of death or impairment of major bodily function unless surgery is performed.

D. If, prior to January 1, 2024, a healthcare professional has initiated a course of treatment for a minor which includes the prescription or administration of any drug or hormone prohibited by this Part, and if the healthcare professional determines and documents in the minor's medical record that immediately terminating the minor's use of the drug or hormone would cause harm to the minor, the healthcare professional may institute a period during which the minor's use of the drug or hormone is systematically reduced and discontinued. The period may not extend beyond December 31, 2024.

RS 40:1098.3 — Healthcare professionals; disciplinary actions

tified by the board has violated the

provisions of this Part, the board shall revoke any professional or occupational license or certificate held by the healthcare professional for a minimum of two years.

RS 40:1098.4 — Minors' lack of consent

r services that

are prohibited in R.S. 40:1098.2(A).

B. The provisions of this Section shall not apply to a minor who is subject to the

provisions of R.S. 40:1098.2(D).

RS 40:1098.5 — Civil actions; remedies

en subjected

to acts which are prohibited by this Part with or without consent shall have a cause of action for damages in a court of competent jurisdiction.

B. The cause of action for damages shall be commenced before the later of either of the following:

(1) The lapse of a twelve-year liberative prescription once the minor reaches the age of majority.

(2) Within three years from the time the person discovered or reasonably should have discovered that the injury or damages were caused by the violation.

C. Venue pursuant to this Section may be brought pursuant to Code of Civil Procedure Article 42 or in the parish of domicile of the petitioner.

D.(1) If a court finds that a person is entitled judgment pursuant to this Section, the court shall award damages, attorney fees, and all costs of the proceeding against the defendant for violation of this Part.

(2) Damages awarded by the court pursuant to this Section may include but are not to be limited to damages for infertility or sterility that is suffered by the minor as a result of the acts prohibited by this Part.

E. Consent shall not operate as a defense to a petitioner's claim that is filed pursuant to this Section.

RS 40:1098.6 — Attorney general; injunctive or declaratory relief

B. The attorney general may seek injunctive or declaratory relief and any other appropriate remedy in order to protect a minor from those harms resulting from conduct that is prohibited pursuant to this Part.

C. Venue pursuant to this Section shall be that same venue which is provided in R.S. 40:1098.5.

D. If the court grants relief pursuant to this Section, the court shall award attorney fees and all costs of the proceeding against the defendant for violation of this Part.

E. Nothing in this Part shall be construed to deny, impair, or otherwise affect any right or authority of the attorney general, the state, or any agency, officer, or employee of the state to institute or intervene in any proceeding.

RS 40:1101 — Short title

. 40:1300.121 by

HCR 84 of 2015 R.S.

NOTE: Former R.S. 40:1101 redesignated to R.S. 40:1085.1 by HCR 84 of 2015 R.S.

RS 40:1101.1 — Legislative intent

ult congregate living facilities, home health agencies, home- and community-based service providers which provide adult day care services, hospices, and continuing care retirement communities are presently known to offer to provide or provide

a special program or special unit for persons who have Alzheimer's disease or a related disorder.

(2) It is in the public interest to provide for the protection of consumers regarding the accuracy and authenticity of such claims.

(3) It is the public policy of this state to require such facilities to disclose the reasons for those claims, to require records of such disclosures to be kept, and to require the examination of such records.

RS 40:1101.2 — Definitions

ility, home health agency, home- and

community-based service provider which provides adult day care services, hospice, or continuing care retirement community that segregates or provides a special program or special unit for residents with a diagnosis of probable Alzheimer's disease or a related disorder so as to prevent or limit access by a resident to areas outside the designated or separated area; and that advertises, markets, or otherwise promotes the facility as providing specialized Alzheimer/dementia care services.

(2) "Department" means the Louisiana Department of Health.

RS 40:1101.3 — Disclosure; content

disease or a

related disorder by means of an Alzheimer's special care unit shall disclose the form of care or treatment provided that distinguishes it as being especially applicable to or suitable for such persons. The disclosure shall be made to the state licensing agency and to any person seeking placement on behalf of a person with Alzheimer's disease or a related disorder within an Alzheimer's special care unit. Disclosure may also be made to the state ombudsman. The department shall examine all such disclosures in the department's records as part of the facility's licensing renewal procedure to verify accuracy. The disclosure shall be made prior to the facility or entity entering into any agreement to provide care.

B. The information disclosed shall explain the additional care provided in each of the following areas:

(1) Philosophy: the Alzheimer's special care unit written statement of its overall philosophy and mission which reflects the needs of residents afflicted with dementia.

(2) Pre-admission, admission, and discharge: the process and criteria for placement in, transfer, or discharge from the unit.

(3) Assessment, care planning, and implementation: the process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition.

(4) Staffing patterns and training: staff training and continuing education practices.

(5) Physical environment: the physical environment and design features appropriate to support the functioning of cognitively impaired adult residents.

(6) Resident activities: the frequency and types of resident activities.

(7) Family role in care: the involvement of families and the availability of family support programs.

(8) Program fees: the fees for care and any additional fees.

C. The department, with input from consumer and provider representatives, shall develop a standardized disclosure form and shall review the information submitted on the disclosure form by the facility or other entity to verify the accuracy of the information reported. Any significant change in the information initially submitted by the facility or other entity shall be reported to the department at the time the change is made.

D. Nothing herein shall be interpreted to preclude a nursing facility without an Alzheimer's special care unit from admitting a person with Alzheimer's disease or a related disorder.

E. As soon as practicable after July 10, 1997, the department shall promulgate rules and regulations to effectuate the provisions of this Section.

RS 40:1101.4 — Rules

909, §1, eff. July 10, 1997; Redesignated from R.S. 40:1300.125 by HCR 84 of 2015 R.S.

RS 40:1103.1 — Short title

y Information Law".

RS 40:1103.2 — Definitions

alth.

RS 40:1103.3 — Standard written summary of breast cancer alternatives

ancer Advisory Board, shall develop a

standard written summary of the advantages, disadvantages, risks, and descriptions of the procedures regarding medically viable and efficacious alternative methods of treatment for breast cancer including surgical, radiological, or chemotherapeutic treatments or combinations thereof. Thereafter, the department shall review and, if necessary, revise the summary every three years; however, the department shall revise the summary prior to the three-year review if the department determines that new or revised information should be included in the summary.

B. At a minimum, the summary shall incorporate all of the following:

(1) Information regarding any method of treatment for breast cancer that is in the investigational or clinical trial stage and is recognized for treatment by the Physician's Data Query of the National Cancer Institute.

(2) Available telephone numbers, including but not limited to, toll-free numbers for the National Cancer Institute and the American Cancer Society, to allow a breast cancer patient to obtain current information.

(3) A discussion of breast cancer reconstruction surgery, including but not limited to problems, benefits, and alternatives.

(4) Statistics on the incidence of breast cancer.

C.(1) The summary shall be developed using layman's terminology and shall be written in generally understandable language.

(2) The board shall have the summary printed and the printed copies made available to physicians and surgeons upon their request. Furthermore, the board shall establish a distribution system for the summary that is linked to the renewal of a physician's license.

RS 40:1103.4 — Requirement of notification; recordation

tive efficacious methods of treatment

by discussing such alternative methods of treatment with his patient and by providing his patient with the summary as provided in this Part. If the treating physician or surgeon informs his patient of the alternative methods of treatment and provides his patient with the summary prior to the performance of a biopsy to determine whether or not his patient has breast cancer, the requirement to inform and to provide the summary to a patient diagnosed with breast cancer shall be deemed to have been met.

B. On and after July 1, 2000, the failure of a physician or surgeon to discuss such alternative methods of treatment with his patient or to provide the summary to his patient prior to beginning treatment for any form of breast cancer shall be considered unprofessional conduct and cause for the board to take action as provided by R.S. 37:1285.

C. The treating physician or surgeon shall indicate on his patient's medical chart the date and time that he has discussed alternative methods of treatment with his patient and has given his patient the summary as required by this Section.

RS 40:1103.5 — Information and access to breast reconstructive surgery

o provides mastectomy surgery, lymph

node dissection, or a lumpectomy, shall provide information to the patient concerning the option of reconstructive surgery following such procedures, including the availability of coverage for reconstructive surgery, in accordance with the state insurance law and applicable provisions of federal law. The information shall be provided to the patient in writing and in advance of obtaining consent to the surgical procedure. At a minimum, the information provided shall include the following:

- (1) A description of the various reconstructive options and the advantages and disadvantages of each.
- (2) A description of the provisions assuring coverage by public and private insurance plans of the costs related to reconstructive surgery under federal and state law.
- (3) A description of how a patient may access reconstructive care, including the potential of transferring care to a facility that provides reconstructive care or choosing to pursue reconstruction after completion of breast cancer surgery and chemotherapy or radiotherapy, if warranted.
- (4) Other information as may be required by the secretary of health, consistent with information developed by the Louisiana Department of Health and the Louisiana Cancer Advisory Board and circulated to providers and patients by the Louisiana State Board of Medical Examiners.

RS 40:1104 — Uterine Fibroids Commission

B. The commission shall be comprised of the following members:

- (1) One member from the Louisiana State Nurses Association.
- (2) One member from the Louisiana Primary Care Association.
- (3) One member from the Christus Health System.
- (4) One member from the Southern University and Agricultural and Mechanical College School of Nursing.

- (5) One member from the Tulane University School of Public Health.
- (6) One member from the Our Lady of the Lake Health System.
- (7) One member from the Louisiana Hospital Association.
- (8) Two members who are individuals living with uterine fibroids, polycystic ovary syndrome, or endometriosis.
- (9) One member from the Louisiana House of Representatives.
- (10) One member from the Louisiana Senate.
- (11) One member who is the executive director of the governor's office on women's policy.
- (12) One member from the Ochsner Health System.
- (13) One member from Woman's Hospital of Baton Rouge.

C.(1) The members listed in Paragraphs (B)(1) through (7) and (12) and (13) of this Section shall be appointed by the governor from a list of qualified candidates nominated by the respective organizations.

(2) The members listed in Paragraph (B)(8) of this Section shall be appointed by the governor from a list of self-identified individuals interested in serving on the commission.

(3) The members listed in Paragraphs (B)(9) and (10) of this Section shall be appointed by the speaker of the House of Representatives and the president of the Senate, respectively.

D. Each member shall serve at the pleasure of the appointing authority. Each member appointed by the governor shall be subject to Senate confirmation.

E.(1) The commission shall adopt rules and regulations to provide for the governance of the commission. Such rules and regulations shall include but not be limited to procedures and grounds for the removal of any commission member.

(2) Procedures for filling a vacancy created by the removal, resignation, or death of any commission member prior to the end of the commission member's term shall follow those used for initial appointments.

F. Each commission member shall serve without compensation. Legislators shall receive the same per diem and travel reimbursement for attending a meeting of the commission as is normally provided for members of the legislature. Nonlegislative commission members may receive reimbursement for expenses in accordance with the guidelines of the entity they represent.

G. The chairman shall be elected by the commission for a term to be determined by the commission.

H. The domicile of the commission shall be Baton Rouge.

I. The commission shall hold quarterly public meetings unless decided by a vote of the commission or by order of the chairman.

J. The number of commission members necessary to constitute a quorum for the transaction of business shall be one half of the entire membership of the commission. A majority vote of the commission members constituting a quorum shall be necessary for any action taken by the commission.

K. The Louisiana Department of Health shall provide administrative assistance and

serve as staff for the commission.

L. The functions of the commission shall be to:

- (1) Evaluate functions and activities of existing groups focused on uterine fibroids and other related conditions to collaborate with and engage stakeholders.
- (2) Support and contextualize reporting on uterine fibroids and other related conditions.
- (3) Serve as an advisory body to the governor and the Louisiana Department of Health on matters relating to uterine fibroids, polycystic ovary syndrome, and endometriosis.
- (4) Research and review all state regulations, guidelines, policies, and procedures relative to prevention, treatment, and care of women living with uterine fibroids and other related conditions and, when appropriate, make recommendations to the governor, the secretary of the Louisiana Department of Health, and the legislature.
- (5) Provide a forum for an annual public hearing on matters relating to uterine fibroids and other related conditions and provide for other public comment and peer review on federal and state-funded programs related to uterine fibroids and other related conditions.
- (6) Make recommendations on policy to ensure that the state establishes public health monitoring, advances research, and provides solutions for women battling uterine fibroids and other related conditions.

M. The commission shall submit an annual written report to the Senate and House committees on health and welfare at least sixty days prior to each regular session. The report shall include a summary of the data relevant to the functions set forth in Subsection L of this Section.

RS 40:1105.1 — Definitions

care facility and licensed

health care provider, as defined in R.S. 40:1231.1(A), in the state of Louisiana.

- (3) "Office" shall mean the office of the president.
- (4) "Participating hospital" shall mean every hospital operating as such in the state of Louisiana.
- (5) "Pathology laboratory" shall mean every pathology laboratory located or doing business in the state of Louisiana.
- (6) "President" shall mean the president of the Louisiana State University System or his designee.
- (7) "Radiation center" shall mean every freestanding radiation diagnostic and treatment facility in the state of Louisiana.
- (8) "Tumor registry", "cancer registry program", and "statewide registry program" shall mean the Louisiana Tumor Registry.

RS 40:1105.2 — Cancer registry program; data; statewide

g cancer cases for the purpose of

gathering statistical data to aid in the assessment of cancer incidence, survival rates, possible causes of specific cancers, and other related aspects of cancer in Louisiana. The program shall collect and disseminate cancer incidence data on a statewide level in accordance with the provisions of this Part.

RS 40:1105.3 — Powers; duties

statewide registry system for collecting cancer

incidence data and shall promulgate rules and regulations therefor in accordance with policies established by the board.

(2) Establish quality control programs and a training program for health care providers and the personnel of the participating radiation centers.

(3) Cooperate with the National Cancer Institute, the United States Centers for Disease Control and Prevention, and other national and international cancer surveillance programs designated by the Louisiana Tumor Registry in providing cancer data.

(4) Comply with reporting procedures and requirements established by the state, the Centers for Disease Control and Prevention, and the National Cancer Institute.

(5) Collaborate in studies with clinicians and epidemiologists and publish reports on the results of such studies, and

(6) Establish, in accordance with policies of the board, rules and regulations to provide for the confidentiality of a patient's records.

(7) Establish and promulgate, in accordance with policies established by the board, the rules and regulations necessary to effectuate the purposes of this Part.

(8) Contract with private tumor registries for the collection and furnishing of data to the statewide registry and for the necessary planning and coordination incident thereto.

RS 40:1105.4 — Authority

of this Part.

(2) Accept on behalf of the state funds from any private agency, such as the American Cancer Society, to assist in the cost of carrying out the purposes of this Part.

(3) Repealed by Acts 1985, No. 345, §1, eff. July 9, 1985.

RS 40:1105.5 — Participation in program

the president within

six months of admission or diagnosis and shall furnish the data, including but not limited to follow-ups, medical history, risk factors, and cancer screening, on each cancer patient when requested. If the facility fails to report in a format prescribed by the president, the president may enter the facility and obtain the information. In these cases, the facility shall reimburse the Louisiana Tumor Registry for the cost of obtaining and reporting the information. The Louisiana Tumor Registry and participating hospitals may enter into agreements to allow remote electronic access to medical records of cancer patients.

B. Pathology laboratories, radiation centers, surgery centers, physicians and other licensed healthcare facilities and providers shall report cancer cases in the required electronic format to the statewide registry program and grant access to cancer patient records. These facilities and providers shall allow access to all records which would identify cases of cancer to ascertain and abstract reportable cancer cases by the statewide cancer registry program.

C. Any healthcare provider which provides diagnostic or treatment services to patients with cancer shall report any additional demographic, diagnostic, or treatment information requested by the president concerning any person presently or previously receiving services who has or had a malignant tumor. Additionally, the president shall have

access to all records which would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified cancer patient.

RS 40:1105.6 — Reports; liability for

of any

person, who participates in good faith in the reporting of cancer registry data or data for cancer morbidity or mortality studies in accordance with this Part.

B. No license of a health care provider may be denied, suspended, or revoked for good faith disclosure of confidential or privileged information or the reporting of cancer registry data or data for cancer morbidity studies in accordance with this Part.

C. Nothing in this Part shall be construed to apply to the unauthorized disclosure of confidential or privileged information when such disclosure is due to gross negligence or willful misconduct.

D. All information reported pursuant to this Part shall be confidential and privileged.

The president shall take strict measures to ensure that all identifying information is kept confidential.

E. All information regarding case-specific data, as distinguished from group, tabular, or aggregate data concerning patients or health care providers contained in records of interviews, written reports, and statements procured by the president or by any other person, agency, or organization acting in connection with cancer morbidity and mortality studies shall be confidential and privileged and shall be used solely for the purposes of the study. Nothing in this Section shall prevent the president from publishing compilations relating to morbidity and mortality studies which do not identify case-specific data or sources of information.

RS 40:1105.7 — Advisory functions

es for the development, accumulation, and distribution of data obtained under this Part.

C. The board shall exercise its powers, duties, functions, and responsibilities in the manner provided for agencies transferred in accordance with R.S. 36:802. The terms "secretary" and "undersecretary" as used in such Section and as applicable to the board shall mean the president or the president's designee.

RS 40:1105.8 — Disclosure of medical records to cancer registries

ract of the patient's record reflecting the

past or present physical condition of a patient upon request of the Louisiana cancer registry program established pursuant to the provisions of this Part. The cancer registry shall take strict measures to assure that all identifying information contained in patient record abstracts will be kept confidential.

B. The president may enter into agreements to exchange confidential information with other cancer registries in order to obtain complete reports of Louisiana residents diagnosed or treated in other states and to provide information to other states regarding their residents diagnosed or treated in Louisiana. However, before releasing confidential information the president shall obtain from such state registries, agencies, or researchers an

agreement in writing to keep nonaggregate, case-specific information confidential and privileged. In no event shall either cancer registry bear liability for loss, expense, attorney fees, or claims for injury or damages arising out of acts or omissions in the performance of this agreement on the part of the other registry.

C. The office of the president shall promulgate rules and regulations in accordance with the Administrative Procedure Act to specify the extent to which confidential data may be disclosed to other local, state, or federal public health or environmental agencies, or to corroborating medical researchers, when the confidential information is necessary to carry out the duties of the agency or researchers in the investigation, control, or surveillance of disease, as determined by the office of the president. Before releasing confidential information to the researchers, the president shall obtain an agreement in writing from the researchers that they will keep nonaggregate, case-specific information confidential and privileged and that neither the office of the president nor the other entity shall bear liability for loss, expense, attorney fees, or claims for injury or damages arising out of acts or omissions in the performance of this agreement on the part of the other.

D. Any disclosure authorized by this Part shall include only the information necessary for the stated purpose of the requested disclosure, and shall be made only upon written agreement that the information will be kept confidential and will not be further disclosed without written authorization of the office of the president.

E. The furnishing of confidential data in accordance with this Part shall not expose any person, agency, or entity furnishing data to liability and shall not be considered to be in violation of any privileged or confidential relationship, provided the participant has acted in good faith in the reporting as required in this Part.

F. No case-specific data shall be available for subpoena nor shall it be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason. Nothing in this Section shall supersede the provisions of R.S. 40:3.1(A) through (H).

G. Nothing in this Part shall be construed to apply to the unauthorized disclosure of confidential or privileged information when such disclosure is due to gross negligence or willful misconduct.

RS 40:1105.8.1 — Louisiana Tumor Registry; research committee; disclosure of registry data

diagnostic, treatment, and follow-up information concerning a patient, if requested, to a physician or medical facility diagnosing or treating the case as authorized pursuant to 45 CFR 164.506.

B.(1) The tumor registry shall collaborate with the National Cancer Institute, the United States Centers for Disease Control and Prevention, the North American Association of Central Cancer Registries, the International Agency for Research on Cancer, and any other national or international cancer surveillance program it may designate in providing cancer data and participating in cancer studies.

(2) The tumor registry shall cooperate with the office of public health of the Louisiana Department of Health, referred to hereafter in this Section as the "office of public

health", in evaluating programs and investigating cancer concerns and other cancer-related issues through activities including, without limitation, cooperating with the office of public health in implementing the program of cancer investigation and intervention provided for in R.S. 40:5.12. Because the tumor registry data are an integral part of national and state cancer prevention and control programs, the use of registry data by office of public health officials and registry-designated national cancer surveillance programs shall be considered an in-house activity and shall be processed expeditiously.

(3) Requests by the office of public health for case-specific data shall require annual approval by the institutional review board of the Louisiana State University Health Sciences Center-New Orleans, referred to hereafter in this Section as the "LSUHSC-New Orleans". Additionally, the office of public health shall comply with all applicable confidentiality standards of the tumor registry.

C.(1) Subject to the limitations of Subsection F of this Section, the tumor registry shall release case-specific data to persons or organizations for the purposes of cancer prevention, control, and research in accordance with Paragraph (2) of this Subsection. However, no such data shall include information collected for special studies or other research projects. The tumor registry shall have and shall reserve the right to prioritize its responses to data requests.

(2) Requests from persons or organizations for case-specific tumor registry incidence data, including data linkages, shall be submitted in writing and shall be reviewed and approved by the tumor registry research committee following the established policies of the registry. These policies shall require, without limitation, all of the following:

(a) Approval from the LSUHSC-New Orleans institutional review board and compliance with the LSUHSC-New Orleans HIPAA research policy.

(b) Approval from the researcher's institutional review board and compliance with that institution's HIPAA research policy.

(c) Execution of the tumor registry's form entitled "Agreement to Maintain Confidentiality of Data", or any successor form, by each investigator who will have access to the data indicating agreement by the investigator to adhere to the tumor registry confidentiality provisions and prohibiting the disclosure of tumor registry data in any civil, criminal, administrative, or other proceeding.

(d) Provision of a copy of the complete protocol for the project.

(e) Completion of all requirements provided in the document entitled "Louisiana Tumor Registry: Researchers' Requests for Data", or any successor document.

(f) Prior to contacting a patient or his next of kin, notification to the patient's physician, if required.

(g) Destruction or return of data once the research is completed.

(3) If a request for data submitted in accordance with the provisions of this Subsection is denied by the LSUHSC-New Orleans institutional review board, the institutional review board shall provide to the requestor notice in writing of the reason for the denial electronically or by postal mail.

D.(1) The director of the tumor registry or his designee shall coordinate the research

committee of the tumor registry. The research committee shall include, without limitation, the following members:

(a) The director of the tumor registry.

(b) A qualified representative selected from each of the following entities:

(i) The LSUHSC-New Orleans.

(ii) The office of public health.

(iii) The Louisiana Cancer Advisory Board.

(2) The research committee shall verify that the researchers are able to execute the proposal, in terms of both financial support and professional qualifications; that the study has scientific and ethical merit; and that the researchers will obtain appropriate consent.

E.(1) In determining the order of processing requests for data, the tumor registry shall give priority to requests for data from the office of public health for use in responding to concerns about threats to the public health.

(2) Subject to the provisions of the Public Records Law, R.S. 44:1 et seq., the tumor registry shall process requests for aggregate data other than those provided for in Paragraph (1) of this Subsection in the order of receipt. The tumor registry shall respond to any public request in a timely manner, as resources permit, if the request meets the applicable requirements of R.S. 40:3.1 and 1105.8.

(3) The tumor registry may assess a charge to a requestor of data for actual costs of compiling and providing the data, and may require payment before proceeding to fulfill the data request.

(4) The tumor registry shall not be required in any instance to perform original work to create data not currently in existence.

F.(1) The tumor registry shall not release data in cases in which such data would disclose the identity of any person to whom the data relate and thus violate the requirements of the Health Insurance Portability and Accountability Act relating to uses and disclosure of protected health information (45 CFR 164.514). In such situations, the tumor registry may combine more years of cancer data together at the census tract level or suppress the data according to the suppression rule of the United States Cancer Statistics program.

(2) In considering for approval or denial a request for aggregate data, the research committee of the tumor registry shall determine whether the request complies with applicable state and federal laws relating to privacy of health information. If the research committee finds that disclosure of data in response to the request would violate any such law, then the committee shall collaborate with the requestor to revise the request in order to preclude such violation.

(3) In collaborating with a requestor as provided in Paragraph (2) of this Subsection, the research committee shall employ methods for de-identifying case-specific data as defined by the United States Centers for Disease Control and Prevention and any other de-identification or statistical methods for disclosure protection.

(4) The research committee of the tumor registry shall not deny any request for aggregate data for any reason that is unrelated to compliance with state or federal privacy laws.

G. The tumor registry shall annually prepare a statistical report concerning cancer rates and counts which includes data at the census tract level and shall submit the report to the office of the president for inclusion with the annual cancer report required by R.S.

40:1105.10. The tumor registry shall also provide the statistical report required by this Subsection to the Louisiana State University Health Sciences Center at New Orleans, the Louisiana State University Health Sciences Center at Shreveport, the Louisiana Cancer Advisory Board, and each participating hospital.

RS 40:1105.8.2 — Cancer data; electronic notifications and reports

nic format notifications and reports

issued by the tumor registry.

RS 40:1105.9 — Louisiana Cancer Advisory Board

or, to serve at his

pleasure, upon recommendation of each institution and organization represented:

- (a) A representative from the Tulane University School of Medicine.
- (b) A representative from the Louisiana State University Health Sciences Center - New Orleans.
- (c) A representative from the Louisiana State University Health Sciences Center - Shreveport.
- (d) A representative from Ochsner Health.
- (e) A representative of the Louisiana Department of Health.
- (f) A representative of the Louisiana Cancer Prevention and Control Programs.
- (g) A representative of the Louisiana Children's Medical Center.
- (h) A representative of the Mary Bird Perkins Cancer Center.
- (i) A representative of Xavier University of Louisiana.
- (j) A representative of the Louisiana State Medical Society.
- (k) A representative of the Acadiana Medical Research Foundation.
- (l) A representative of the Louisiana Cancer Registrars Association.
- (m) A representative of Willis Knighton Health System.
- (n) A representative of the Franciscan Missionaries of Our Lady Health System.
- (o) A representative from Woman's Hospital.

(2) Each appointment by the governor shall be subject to Senate confirmation.

B. Sufficient funds shall be allocated annually to the statewide registry program for reporting cancer cases under the provisions of R.S. 40:1105.1 et seq. Administration of funds shall be exercised by the office of the president.

C.(1) The board shall establish rules and regulations for its own procedures, establish policies for the operation of the statewide registry program for reporting cancer cases established under the provisions of R.S. 40:1105.1 et seq., and establish procedures for the allocation of any monies collected pursuant to R.S. 47:120.63 for the purposes of cancer prevention, control, or surveillance in Louisiana. Any member of the board with a direct conflict of interest shall recuse himself from voting on the allocation of monies.

(2) The board shall elect from among its members a chairman, a vice chairman, a secretary, and a treasurer. Any member may hold two of these positions. In the absence of

the chairman, the vice chairman shall preside and in the absence of the chairman and vice chairman, the secretary shall preside.

(3) The members shall not receive compensation for their services but shall be entitled to reimbursement for expenses, including travel expenses, incurred in the discharge of their duties.

(4) Six members shall constitute a quorum for the transaction of business; however, no board action shall be taken by a vote of less than a majority of the full board.

(5) The secretary shall keep complete and accurate records of all meetings and actions taken by the board.

(6) The treasurer shall keep full and accurate financial records, make periodic reports to the board, and submit a complete annual report, in written form, to the secretary.

(7) Meetings of the board shall be held at regular intervals as provided in the bylaws. Emergency meetings may be held upon twenty-four hours actual notice and business transacted, provided that not less than a majority of the full board concurs in the proposed action.

D. A current report on the programs funded shall be made to the House Committee on Ways and Means and to the Senate Committee on Revenue and Fiscal Affairs, meeting jointly, prior to each regular session of the legislature.

E. Any member of the board or of a review panel, whether or not such member is compensated by the institution or organization that the member represents, shall recuse himself from participating in any discussion or voting regarding any matter relating to awarding a grant or contracting with the institution or organization that the member is appointed to represent. No member of the board or of a review panel who complies with the recusal provisions contained in this Subsection shall be deemed to have violated the Code of Governmental Ethics. The appointment of a compensated employee as a representative of a designated institution or organization shall not constitute a prohibited relationship under the provisions of the Code of Governmental Ethics.

RS 40:1105.10 — Annual cancer report

ss made in

reducing or eliminating the high cancer rates in Louisiana.

B. The office of the president shall cause the report to be submitted by March thirty-first of each year to the governor, the speaker of the House of Representatives, the president of the Senate, the House and Senate committees on health and welfare, and the governing body of each parish in the state of Louisiana.

C. Repealed by Acts 2022, No. 252, §3.

RS 40:1105.12 — Louisiana Advisory Committee on Populations and Geographic Regions With Excessive Cancer Rates

is hereby created and shall be composed of the following members:

(1) One member appointed by the Gulf South Tenants Association from the membership of the Louisiana chapter.

(2) One member appointed by the Louisiana Medical Association from its

membership.

(3) One member appointed by the Louisiana Association of Black Social Workers from its membership.

(4) Four persons appointed by the governor from the state at large who have demonstrated an interest in efforts to combat and reduce the cancer rate in populations and regions with excessive cancer rates, subject to Senate confirmation.

(5) One member of the House of Representatives appointed by the speaker of the House.

(6) One member of the Senate appointed by the president of the Senate.

B. Members shall serve four-year terms, except that of the initial members, three members shall be appointed for four-year terms, two members shall be appointed for three-year terms, two members shall be appointed for two-year terms, and two members shall be appointed for a one-year term. Terms of office of the initial members shall be determined by lot at the initial meeting. Each nonlegislative member shall serve without compensation. Each legislative member shall receive per diem and be reimbursed for expenses as provided by the rules of the appropriate house. A vacancy in an unexpired term shall be filled in the manner of the original appointment.

C. A majority of the members of the committee shall constitute a quorum for the transaction of all business.

D. The members of the committee shall elect from their membership a chairman and a vice chairman.

E. The members shall be appointed and the initial meeting shall be held, on the call of the committee member appointed from the House of Representatives, not later than October 1, 1990.

F.(1) The committee shall review and study the current health status of populations and residents of regions with excessive cancer rates, review the ability of such persons to gain access to and utilize the health care system for cancer treatment, advise and consult with the tumor registry in its efforts to gather data relative to and to assess factors contributing to disparities in the health status of such populations and residents and other persons relative to cancer, review existing research and service programs relative to cancer among Louisiana residents, recommend strategies to redirect federal, state, local, and private resources and programs to narrow the health differences between select populations and residents of certain regions as related to cancer, suggest strategies by which the public and private sectors can cooperate to bring about improvements in health status of Louisiana residents relative to cancer, and encourage expanded participation in the tumor registry, cancer programs, and cancer research.

(2) The committee may accept federal funds and funds from any private agency to assist in carrying out the purposes of this Section.

(3) The committee shall make recommendations to and advise the secretary of the Louisiana Department of Health and other appropriate department agencies and officers with respect to the findings and recommendations of its studies as provided in this Subsection.

(4) The committee shall seek comment and review of its conclusions and findings

from appropriate scientific, medical, or health panels established by local chapters or affiliates of national groups that may include but should not be limited to the following: the Louisiana State Medical Society, the Louisiana Cancer Consortium, the Louisiana Cancer Advisory Board, the National Cancer Institute, the American College of Epidemiology, the U.S. Public Health Service, the Louisiana State University Health Sciences Center, the American Cancer Society, etc. Final recommendations will be sent to the secretary of the Louisiana Department of Health and other appropriate department agencies and officers as provided in this Subsection.

(5) This committee shall not undertake to create new information or add original research to the existing literature for this topic. Rather, the committee using all currently available existing information systems, data bases, published and unpublished reports, manuscripts, papers, and other documents shall make its nonbinding recommendations on the basis of such previously existing information.

RS 40:1105.13 — Breast Cancer Control Program

tive, health, and

medical care that concentrates on breast cancer detection, prevention, and treatment. The purpose of this program is to supplement and maximize current resources and to expand and increase the services presently offered. This program shall provide mammography examinations and shall provide services and education necessary to prevent or reduce the occurrence of breast cancer and increase the statewide mammography utilization rate, subject to available funding derived from any available source.

B.(1) In this Section, "mammography examination" means mammographic examinations, including but not limited to digital breast tomosynthesis, performed routinely according to age requirements as set forth by department regulations, or performed no less frequently than required by a treating physician.

(2) In this Section, "digital breast tomosynthesis" means a radiologic procedure that involves the acquisition of projection images over the stationary breast to produce cross-sectional digital three-dimensional images of the breast.

C. To implement the provisions of this Section, there shall be a breast cancer control agent in each of the Louisiana Department of Health regions, and all agents shall provide individual annual reports to the Louisiana Cancer Advisory Board. The breast cancer control agents will be responsible for increasing the statewide mammography utilization rate by launching a statewide initiative and community outreach program to educate the public about the benefits of early detection and treatment of breast cancer. The breast cancer control agents shall seek additional sources of funding, both public and private, including federal grants made available to states through 42 U.S.C. 300(k) et seq.

D. All health care facilities providing mammography examinations under this program shall be certified in accordance with 42 U.S.C. 263(b).

E. The department shall adopt all regulations necessary to implement the provisions of this Section.

F. The Breast Cancer Control Program established by this Section shall be funded through the Health Excellence Fund created by Article VII, Section 10.8(A)(2) of the

Constitution of Louisiana and the Louisiana Fund created by Article VII, Section 10.9(A) of the Constitution of Louisiana, both of which allow appropriations for the provision of comprehensive chronic disease management services.

RS 40:1107.1 — Purpose

er bodily functions which requires medical treatment and care on a continuing basis.

(2) The cost and expense associated with the care and treatment of cystic fibrosis imposes severe hardships and burdens upon individuals suffering from cystic fibrosis and upon those responsible for the cost of such care and treatment, which without some form of public or private medical and financial assistance can and does result in the inability and failure of affected individuals to obtain proper and adequate medical care essential to the treatment of this condition.

(3) One of the serious problems facing medicine and the public health and welfare today is that while assistance and services are available to individuals with cystic fibrosis under the age of twenty-one through the Children's Special Health Services program, such services are not available to individuals with cystic fibrosis who are twenty-one years of age or older, and for many such individuals there are no other sources of public or private aid available for obtaining needed medical care and treatment.

(4) The legislature recognizes that recent medical advances and improvements in the care and treatment of cystic fibrosis have resulted in increases in life span of affected individuals and in a growing population of persons suffering from cystic fibrosis who are twenty-one years of age or older, and that there is an immediate need to make proper and adequate medical treatment and care available to such individuals in order to afford them every opportunity to develop and realize their fullest human potential and to enhance the quality of life.

RS 40:1107.2 — Programs for individuals with cystic fibrosis who are twenty-one years of age or ervices program in the office of public health established pursuant to R.S.

40:1071 et seq., shall make available and provide services and assistance to individuals with cystic fibrosis who are twenty-one years of age or older under the same terms, conditions, requirements, and criteria as are applied under the program to persons with cystic fibrosis under twenty-one years of age, to the extent that funds are appropriated by the legislature for the purpose of providing such services.

B. The secretary is authorized to promulgate such rules and regulations as are necessary and appropriate to carry out the provisions of this Part.

RS 40:1109.1 — Definitions

(2) "Down syndrome" means a chromosomal condition caused by the presence of an extra whole or partial copy of chromosome 21.

(3) "Healthcare facility" means a facility, including but not limited to a hospital, or an office where a healthcare provider furnishes care to patients for health needs or medical conditions.

(4)(a) "Healthcare provider" means a person who is licensed, certified, or otherwise

authorized by the laws of this state to provide health care or medical treatment in the ordinary course of business or practice of a profession.

(b) "Healthcare provider" includes a genetic counselor.

(5) "Hospital" means a facility that is duly licensed as a hospital in accordance with the provisions of the Hospital Licensing Law, R.S. 40:2100 et seq.

RS 40:1109.2 — Public information concerning Down syndrome

eria:

(1) Has been reviewed by medical experts and national and local Down syndrome organizations.

(2) Is designed for use by an expectant parent who receives a prenatal test result for Down syndrome or a parent of a child who receives a diagnosis of Down syndrome.

(3) Does not engage in discrimination based on disability or genetic variation by explicitly or implicitly presenting pregnancy termination as a neutral or acceptable option when a prenatal test indicates a probability or diagnosis that the unborn child has Down syndrome or any other health condition.

(4) Is culturally and linguistically appropriate for potential recipients of the information and includes all of the following:

(a) Information addressing physical, developmental, educational, and psychosocial outcomes, life expectancy, clinical course, and intellectual and functional development and treatment options for individuals with Down syndrome.

(b) Contact information for national and local Down syndrome education and support programs and services, including information hotlines, resource centers, and clearinghouses.

B. With respect to public information concerning Down syndrome, the department shall do all of the following:

(1) Provide the information identified pursuant to Subsection A of this Section to healthcare facilities and healthcare providers that furnish prenatal care, postnatal care, or genetic counseling to expectant parents who receive a prenatal test result for Down syndrome and parents of a child diagnosed with Down syndrome.

(2) Make available the information identified pursuant to Subsection A of this Section on its Internet website.

C.(1) Upon receipt of a positive result from a test for Down syndrome, a healthcare facility or healthcare provider shall provide to the expectant parent or the parent of the child diagnosed with Down syndrome the written information provided or made available by the department pursuant to Subsection B of this Section.

(2) All information provided pursuant to the provisions of this Section shall be culturally and linguistically appropriate for the recipient of the information, and shall not engage in discrimination based on disability or genetic variation by explicitly or implicitly presenting pregnancy termination as a neutral or acceptable option when a prenatal test indicates a probability or diagnosis that the unborn child has Down syndrome or any other health condition.

RS 40:1111.1 — Short title

0, §1; Redesignated from R.S.

40:1300.161 by HCR 84 of 2015 R.S.

RS 40:1111.2 — Legislative findings; purpose

A severe liver damage has occurred.

(2) Hepatitis C has been characterized by the World Health Organization as a disease of primary concern to humanity.

(3) Studies indicate that one and eight tenths percent of the population, nearly four million Americans, carry the virus HCV that causes hepatitis C.

(4) The National Institutes of Health (NIH) estimated that thirty thousand acute new infections occur each year in the United States and only twenty-five to thirty percent of those are diagnosed.

(5) Current data sources indicate that eight to ten thousand Americans die from hepatitis C each year.

B. It is the intent of the legislature to provide education, heighten awareness, and enhance knowledge and understanding of hepatitis C in order to promote prevention and early detection of the disease and to prevent the transmission thereof.

RS 40:1111.3 — Protocols and guidelines; supply to healthcare and community service providers;

partment of Health shall make available protocols and

guidelines developed by the National Institutes of Health on hepatitis C for educating physicians and health professionals and training community service providers on the most recent scientific and medical information on hepatitis C prevention, detection, diagnosis, treatment, and therapeutic decisionmaking.

B. The guidelines provided in Subsection A of this Section may include but need not be limited to guidelines for the following:

(1) Tracking and reporting of both acute and chronic cases of hepatitis C by public health officials.

(2) A cost-efficient plan to screen the prison population and the medically indigent population in the state.

(3) Protocols within the Department of Public Safety and Corrections to enable that department to provide appropriate treatment to prisoners with hepatitis C.

(4) Protocols for the education of correctional officers and other correctional workers who work with prisoners with hepatitis C.

(5) Protocols for public safety and healthcare workers who come in contact with hepatitis C patients.

(6) Surveillance programs to determine the prevalence of hepatitis C in ethnic and other high-risk populations.

(7) Education programs for high-risk individuals, including but not limited to individuals who received blood transfusions prior to 1992, hemophiliacs, veterans, students, and minority communities. Education programs may provide information and referral on hepatitis C and the prevention thereof, including but not limited to education materials developed by health-related companies, community-based or national advocacy organizations, counseling, patient support groups, and existing hotlines for consumers.

C. The department shall develop a program to heighten awareness and enhance knowledge and understanding of hepatitis C. The department shall:

- (1) Conduct health education, public awareness, and community outreach activities to promote public awareness and enhance knowledge about the risk factors, the value of early detection, available screening services, and the options available for the treatment of hepatitis C.
- (2) Provide training to public health clinic staff regarding the treatment, detection, and methods of transmission of hepatitis C.
- (3) Identify to healthcare providers and employers the benefits of disease awareness and prevention.
- (4) Develop a prevention program to reduce the risk of transmission of hepatitis C.

D.(1) As additional funding is made available for this purpose, and based on existing epidemiological data, the department may establish a voluntary hepatitis C testing program in high-risk areas. In addition to the tests, such program shall include confidential counseling regarding the nature and treatment of the disease and its possible psychosocial effects.

(2) The department may contract with public and private entities to perform the screening, laboratory testing, and training, as necessary, according to local circumstances and as additional funding is made available for this purpose.

(3) The results of a test conducted in accordance with this Section shall be kept confidential and shall not be used for insurance purposes, for screening or determining suitability for employment, or for discharging a person from employment. Each disclosure is considered a separate violation hereunder.

(4) A person who intentionally violates Paragraph (3) of this Subsection is liable to a person injured by such violation. The injured party may bring a civil suit for damages and may recover, for each violation from the person violating Paragraph (3) of this Subsection, the greater of one thousand dollars or actual damages and reasonable attorney fees.

(5) In addition to the remedies provided by Paragraph (4) of this Subsection, the injured person may bring an action to restrain or to enjoin a violation of Paragraph (3) of this Subsection.

E. The department shall develop and offer a training course for people who provide hepatitis C counseling, including that required in Paragraph (D)(1) of this Section. The training course must include information relating to the special needs of people with positive hepatitis C test results, including the importance of early intervention and treatment and recognition of psychosocial needs.

F. Specifically regarding the increased risk to veterans, the department shall make available to all veterans, physicians, other healthcare providers, and other persons at high risk for hepatitis C, educational materials, in written and electronic forms, on the diagnosis, treatment, and prevention of hepatitis C. Such materials shall include the recommendations of the United States Centers for Disease Control and Prevention, United States Department of Health and Human Services, and any other entity having knowledge on hepatitis C, including the American Liver Foundation.

RS 40:1113.1 — Definitions

hat patient's own future use.

(2) "Health care provider" means a person, partnership, corporation, facility, or institution licensed by the state or federal government to provide health care or professional services as a physician, osteopath, hospital, blood bank or tissue bank and/or an officer, employee, or agent thereof acting in the course and scope of his employment.

(3) "HIV test" means a laboratory test approved by the Louisiana Department of Health to detect antibodies to the human immunodeficiency virus.

(4) "Patient" means a natural person who receives health care from a health care provider.

(5) A "positive reaction" means a positive HIV test with a positive confirmatory test, including, but not limited to the western blot.

RS 40:1113.2 — Blood and tissue storage facilities; test for HIV

s or cause such test to be performed. A blood

or tissue storage facility shall not accept a blood or tissue donation from a donor whose HIV test results in a positive reaction unless:

(1) The secondary, corroborative HIV test provides evidence that the first HIV test was a false positive reaction.

(2) The blood, tissue, or a product of the blood of the donor will only be used for research purposes.

B. The results of the tests performed pursuant to this Section shall be released only to:

(1) The subject of the test;

(2) The subject's or patient's treating physician;

(3) A health care provider who procures, processes, distributes, or uses an anatomical gift for the sole purpose of ascertaining the medical acceptability of the anatomical gift;

(4) The coroner, funeral director, or other person who examines or prepares the body of a decedent for burial or other disposition; or

(5) The office of public health of the Louisiana Department of Health for the restricted purpose of controlling the spread of communicable diseases as authorized by Title 36 and Title 40 of the Louisiana Revised Statutes and by the Louisiana State Sanitary Code.

RS 40:1113.3 — Administration of blood, tissue, fluids to patient

ed by law to administer blood, tissue, or

fluids shall administer to a patient blood, blood products, body tissue, or body fluids donated by another individual unless:

(1) The donated blood, blood products, body tissue, or body fluids have been subjected to an HIV test; and

(2) The HIV test performed produced a negative result.

RS 40:1113.4 — Emergencies

is in

imminent danger of death or great bodily harm and blood or tissue screened pursuant to this

Part is not available.

RS 40:1113.5 — Penalty

R 84 of 2015

R.S.

RS 40:1113.6 — Rules and regulations

he

Administrative Procedure Act.

RS 40:1113.7 — Autologous donations

onations of blood,

blood products, body tissue, or body fluids for the intended purpose of transfusions or reimplantation into the original donor.

RS 40:1115.1 — Clinical laboratories; estimated glomerular filtration rate (eGFR)

serum creatinine level of a patient eighteen years of age or

older, as ordered or prescribed by a health care professional authorized to make such an order or prescription, shall calculate the patient's estimated glomerular filtration rate (eGFR).

B. The estimated glomerular filtration rate shall be determined by using information as is provided by the health care professional or patient, as applicable. The testing laboratory shall only be required to provide the eGFR if necessary information is provided by the patient or patient's health care professional.

C. The laboratory shall include the patient's estimated glomerular filtration rate with its report to the health care professional.

D. The requirements of this Section shall not apply to any specimen that is being tested in accordance with a clinical trial or research or to any specimen that is being tested for a patient admitted as an inpatient.

RS 40:1117.1 — Persons admitted and committed to sanatoria

upon the handwritten

recommendation of any registered physician and upon being found a fit subject entitled to such admission after investigation under regulations made by the Louisiana Department of Health. Except as hereinafter provided, these regulations shall govern all such admissions without distinction and nothing in this Section empowers the Louisiana Department of Health to make special rules or exceptions governing individual specific cases. All regulations as to admission shall be general in character.

B. The Louisiana Department of Health shall also admit to any state-operated hospital any person having tuberculosis who has been sentenced by any district court in the state for violating those provisions of the state sanitary code dealing with isolation or quarantine of communicable disease and who at the discretion of the court has been specifically committed to serve his sentence at such a hospital. This provision shall not be construed to mean that the Louisiana Department of Health must provide security measures at the hospital for retaining these offenders. Furthermore, if any person committed to a state-operated hospital by court order for violating those provisions of the sanitary code dealing with isolation or quarantine of communicable disease creates a grave disciplinary problem

and tends to disrupt the efficient operation of that institution, or leaves without completing his sentence and without authority, the superintendent of the hospital shall petition the court which committed the person to transfer that person to the hospital section of the state penitentiary or to order that person to be apprehended and committed to that institution for the remainder of his sentence.

RS 40:1119.1 — Tuberculosis testing for admission to nursing homes

abolished by the Louisiana

Department of Health, for tuberculosis prior to admission. If the results of the screening are positive, the person shall consult with his treating physician and the nursing home administrator of the nursing home that he is applying to to determine if admission to such nursing home is in the best interest of the applicant as well as other patients residing in such nursing home.

RS 40:1121.1 — Definition

al act.

RS 40:1121.2 — Infection of others prohibited

noculation or infection with
a venereal disease.

RS 40:1121.3 — Testing of donors of semen specimens; use of specimens; penalties

on an anonymous basis shall use fresh semen specimens. The provisions of this Section shall not be construed or interpreted in any way to prohibit the use of a wife's spouse's semen for artificial insemination purposes.

B. A health facility, agency, or physician which provides human artificial insemination services on an anonymous basis using frozen semen shall test each semen donor for the presence in the donor of HIV-1 antibodies, which have been associated with acquired immune deficiency syndrome (AIDS). The donated semen shall be stored and quarantined until the HIV-1 antibodies test and a second test six months from the date of donation are completed. A regular donor may be tested for the presence of HIV-1 antibodies on a regular basis, but shall be tested at least once every six months. A health facility, agency, or physician shall not accept or use for artificial insemination purposes:

- (1) Any semen specimen, except that of a wife's spouse, from a donor who has not been subjected to an initial HIV-1 antibodies test which produced a negative result and subjected to a second test six months later which produced a negative result; or
- (2) Any semen specimen from a donor whose first or subsequent HIV-1 antibodies test result is positive, unless a corroborative HIV-1 test provides evidence that the positive HIV-1 test result was a false positive reaction.

C. The results of the tests performed pursuant to this Section shall be released only to the subject of the test; the subject's treating physician; or the office of public health of the Louisiana Department of Health for the limited purpose of statistical summary and analysis.

D. The Louisiana Department of Health shall promulgate rules to implement the provisions of this Section.

E. A health facility, agency, or physician which violates any of the provisions of this

Section shall be fined not more than two thousand dollars, and shall be liable for damages in a civil action.

RS 40:1121.4 — Examination of persons suspected of being infected

ed for that purpose, may give a physical

examination to any person suspected of being infected with a venereal disease. The examination shall be given under conditions thought reasonable by the department. No person shall fail or refuse to submit to this examination.

RS 40:1121.5 — Isolation, quarantine, or internment of persons affected

and shall submit to any treatment for such a time

and under such restrictions as seems reasonable and proper to the department.

RS 40:1121.6 — Expedited partner therapy

any advanced

practice registered nurse who is licensed to practice nursing in this state, or any physician assistant, who is licensed to practice in this state, provided such physician or nurse or physician assistant has the authority to write prescriptions in this state, to individuals who may have been exposed to gonorrhea or chlamydia. Expedited partner therapy is hereby authorized absent a doctor-patient relationship and absent clinical assessment.

B. Notwithstanding any other provisions of law to the contrary, any physician or any advanced practice registered nurse who diagnoses or does a nurse clinical assessment or any physician assistant who performs an examination of a case of chlamydia or gonorrhea in an individual patient may prescribe, furnish, or otherwise provide prescription antibiotic drugs to that patient's sexual partner or partners absent a doctor-patient relationship or absent an advanced practice registered nurse-patient relationship and without examination or nurse clinical assessment or physician assistant examination of that patient's sexual partner or partners.

C. If expedited partner therapy is chosen as an alternative, the patient with a case of chlamydia or gonorrhea will be given a written document that he agrees to give to his sexual contact. The document will contain, but will not be limited to, the following information:

(1) The sexual contact should be examined and treated by a physician, advanced practice registered nurse or physician assistant, if at all possible.

(2) The medicine or prescription for medicine given to the sexual contact by the patient should not be taken by the contact if the contact has a history of allergy to the antibiotic or to the pharmaceutical class of antibiotic in which case the sexual contact should be examined and treated by a physician, advanced practice registered nurse or physician assistant and offered another type of antibiotic treatment.

(3) The medicine or prescription for medicine given to the sexual contact by the patient should not be taken by the contact if the contact is pregnant, in which case the sexual contact should be examined by the prenatal care health care provider.

D. Any pharmacist licensed to practice pharmacy in this state may recognize a prescription authorized by this Section as valid notwithstanding any other provision of law or administrative rule to the contrary.

E. The provisions of this Section which relate to expedited partner therapy shall be implemented according to rules promulgated by the secretary of the Louisiana Department of Health in accordance with the Administrative Procedure Act.

RS 40:1121.7 — Report of cases

venereal

disease which he attends or examines or for which he prescribes or gives treatment in accordance with the requirements of the Louisiana Sanitary Code. This report shall be made within the time period prescribed in the Louisiana Sanitary Code. The report shall be made on, or in substantial conformity with, a form provided for that purpose by the office. The report shall contain the identifying information required by the Louisiana Sanitary Code.

B. If the person affected with the venereal disease fails or refuses, for a period of ten days or more after the diagnosis as a venereal disease, to submit to proper treatment or if he exposes any other person to infection with the venereal disease, the attending physician shall make a supplementary report regarding these facts to the department.

RS 40:1121.8 — Minor's consent for treatment of venereal diseases

or surgical care or services by a physician,

licensed to practice medicine in this state, when executed by a minor who is or believes himself to be afflicted with a venereal disease, shall be valid and binding as if the minor had achieved his majority. Any such consent shall not be subject to a later disaffirmance by reason of his minority.

B. The consent of a spouse, parent, guardian or any other person standing in a fiduciary capacity to the minor shall not be necessary in order to authorize such hospital care or services or medical or surgical care or services to be provided by a physician licensed to practice medicine to such a minor.

C. Upon the advice and direction of a treating physician, or, in the case of a medical staff, any one of them, a physician or member of a medical staff may, but shall not be obligated to, inform the spouse, parent or guardian of any such minor as to the treatment given or needed, and such information may be given to, or withheld from the spouse, parent or guardian without the consent and over the express objection of the minor.

D. No physician licensed to practice medicine in this state shall incur civil or criminal liability in connection with any examination, diagnosis and treatment authorized by this Section except for negligence.

RS 40:1121.9 — Sale of drug as cure or treatment

the prescription of a

licensed physician.

RS 40:1121.10 — Rules and regulations

les and

regulations shall be printed in pamphlet or folder form in sufficient numbers for free distribution among physicians, sanitariums, and the general public.

RS 40:1121.21 — Blood samples; standard test

syphilis blood tests

to the pregnant woman during the pregnant woman's initial prenatal care visit with that healthcare provider during the woman's first trimester and the pregnant woman's first prenatal care visit in the third trimester with that healthcare provider or as soon as possible thereafter.

(b) Any admitting healthcare provider who attends any pregnant woman during labor and delivery shall provide HIV and syphilis blood tests to the pregnant woman at that time. The pregnant woman shall be informed that the testing will be performed unless the woman declines the testing.

(c) A blood sample shall be taken and submitted to any approved laboratory for a standard test for syphilis as approved by the American Board of Pathology and a standard diagnostic HIV test approved by the Food and Drug Administration, unless the pregnant woman has declined the testing.

(2) In addition to the tests required in this Section, the pregnant woman shall be tested for chlamydia and gonorrhea at the first prenatal visit, and if a pregnant woman tests positive or it is deemed necessary by the healthcare provider, he shall offer testing in the third trimester.

B. For purposes of this Section, "healthcare provider" means a licensed physician, licensed advanced practice registered nurse or nurse practitioner, licensed physician assistant, or licensed or certified midwife.

C. All testing that is provided by a healthcare provider pursuant to the provisions of this Section shall be considered a medically necessary covered service by any health insurance issuer as defined in R.S. 22:1005 and by any managed care organization as defined in R.S. 46:460.51. In addition, health insurance issuers and managed care organizations shall be prohibited from requiring prior authorization or imposing any utilization management requirements as a condition of payment for any testing provided pursuant to the provisions of this Section.

RS 40:1121.22 — Nature of standard test

y a duly licensed

physician and pathologist as recognized by the American Board of Pathology or in a laboratory in a hospital approved by the American College of Surgeons as unconditionally meeting its minimum standards. A standard diagnostic HIV test is a test approved by the Food and Drug Administration and may include tests performed by a duly licensed physician or by other approved staff.

RS 40:1121.23 — Reports on birth and stillbirth certificates

rd test for syphilis has been made upon

a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed.

RS 40:1121.24 — Use of controlled dangerous substances while pregnant; multidisciplinary team

than thirty thousand, a parish with a population of not less than one

hundred fifty thousand and not more than one hundred sixty thousand, and a parish with a population of not less than three hundred thousand and not more than four hundred thousand

according to the most recent federal decennial census may convene a multidisciplinary team to assist in making a determination of the appropriate disposition of a case where a pregnant woman under arrest tests positive for controlled dangerous substances for which she does not have a valid, legal prescription, as provided for in the Uniform Controlled Dangerous Substances Law. Each member of the multidisciplinary team shall serve a term of two years.

B. The multidisciplinary team may include but is not limited to the following persons:

- (1) A Louisiana board-certified physician trained in obstetrics and gynecology.
- (2) A licensed nurse with experience in caring for drug- or alcohol-exposed newborn infants.
- (3) A law enforcement officer employed by a local or state law enforcement agency.
- (4) An employee of the Department of Children and Family Services with a background and experience with federal and state benefits, such as Medicaid.
- (5) An individual associated with a nonprofit organization with a background and experience in charitable and faith-based resources for treatment of alcohol and drug abuse or addiction.
- (6) A licensed social worker or counselor with training and experience in the treatment of drug or alcohol addiction.

C. As used in this Section, "appropriate disposition" may include but shall not be limited to filing a petition for involuntary commitment as provided for in R.S. 28:53 and 53.2 to a public facility or a private facility willing to accept the pregnant woman for treatment.

D. The authority provided by the provisions of this Section shall exist from the time of arrest to the time of dismissal, acquittal, or conviction.

RS 40:1122 — Repealed by Acts 1980, No. 299, §1

on Rouge, Louisiana 70804-9062

RS 40:1122.1 — Louisiana Rare Disease Advisory Council

Review board established by the Louisiana
Department of Health.

- (2) "Department" means the Louisiana Department of Health.
- (3) "Rare disease" means any disease or condition that affects fewer than two hundred thousand persons in the United States. Rare disease shall also mean sickle cell disease and sarcoidosis.

B.(1) The Louisiana Rare Disease Advisory Council is hereby created within the Louisiana Department of Health.

(2) The Louisiana Rare Disease Advisory Council, referred to hereafter in this Part as the "advisory council", shall serve only in a resource capacity to any public and private agency located in this state that provides services for a person who has been diagnosed with a rare disease.

(3) The advisory council shall be composed of the following members:

- (a) One member appointed by the president of the Senate.
- (b) One member appointed by the speaker of the House of Representatives.
- (c) Members appointed by the governor as follows:

- (i) One representative from the department.
 - (ii) Two representatives from academic research institutions in this state that conduct rare disease research.
 - (iii) Two physicians who are licensed and practicing in this state with experience in researching, diagnosing, or treating rare diseases.
 - (iv) One geneticist who is licensed and practicing in this state.
 - (v) One registered nurse or advanced practice registered nurse who is licensed and practicing in this state and has experience treating rare diseases.
 - (vi) Two residents of this state who are eighteen years of age or older and who have either been diagnosed with a rare disease or is a caregiver for a person who has been diagnosed with a rare disease.
 - (vii) One representative of a rare disease patient organization operating in this state.
- (4) The governor shall determine who serves as the chair and vice chair of the advisory council.
- (5) To the extent practicable, every organization or entity that provides a nomination to the advisory council shall strive for diversity in its appointment on the basis of race, ethnicity, sex, professional or educational background, and geographic residency.
- C. The advisory council shall hold its initial meeting no later than October 1, 2021. The advisory council shall meet at least quarterly in a calendar year and at any other time as it deems necessary.
- D. The purposes of the advisory council include all of the following:
- (1) To provide input and feedback to the department and any other state agency on matters that affect a person who has been diagnosed with a rare disease, including but not limited to all of the following:
 - (a) Pandemic preparedness and response and its impact on a person living with a rare disease.
 - (b) Research, education, diagnosis, and treatment relating to rare diseases within this state.
 - (c) Rare diseases in general, the severity of rare diseases, and unmet medical needs associated with rare diseases.
 - (d) The demographics and clinical description of patient populations.
 - (e) Timely access to screening, care, insurance or Medicaid coverage, specialists, and other needed services for a patient who has been diagnosed with a rare disease.
 - (f) The impact that coverage, cost-sharing, tiering, and any other utilization management procedure has on providing treatment and services to a patient who has been diagnosed with a rare disease.
 - (2) To provide expert and clinical advice to the board in its review of treatments for a rare disease. The treatments may include drugs or biological products emerging from fields of personalized medicine and non-inheritable gene editing therapeutics.
 - (3) To provide a report to the governor, the Legislature of Louisiana, the department, and any other relevant agency of both of the following:
 - (a) Any findings, activities, and progress of the advisory council pursuant to the

provisions of Paragraphs (1) and (2) of this Subsection.

(b) Any recommendations for addressing the needs of a person living with a rare disease in this state.

E. The advisory council shall not have authority on any matter relating to the department or the board.

F. Nothing in this Section shall require the board to follow the recommendations of the advisory council.

G. Nothing in this Section shall require the advisory council, the board, or any state agency to consult with a person on any matter or be required to meet with any specific expert or stakeholder.

H. An advisory council member shall not receive any compensation for serving on the advisory council.

RS 40:1123.1 — Short title

3.1 redesignated as R.S. 40:1300.41 by Acts 2022, No. 271, §9A.

RS 40:1123.2 — Awareness

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their family members information about perinatal mood and anxiety disorders, including the symptoms, treatment, and available resources. The Louisiana Department of Health bureau of family health, in cooperation with the office of behavioral health, shall make such information available to hospitals and birthing centers and shall include this information on the department's website.

RS 40:1123.3 — Screening for postpartum or related mental health disorders

gns and symptoms of postpartum depression or related mental health disorders through a validated screening tool in accordance with the recommendations from the American College of Obstetricians and Gynecologists if in the exercise of their professional medical judgment the healthcare providers believe that such screening would be in the best interest of the patient.

B. Upon the consent of the caregiver, a healthcare provider who is providing pediatric care to an infant shall screen the caregiver for postpartum depression or related mental health disorders in accordance with the recommendations of the American Academy of Pediatrics if in the exercise of his professional medical judgment the healthcare provider believes that such screening would be in the best interest of the patient. Screenings pursuant to this Subsection shall not create either a physician-patient relationship between the healthcare provider and the caregiver or any continuing obligation to provide medical services or referral by the healthcare provider.

RS 40:1123.4 — Treatment; access to perinatal mental health providers

) Identify providers who specialize in pregnancy-related and postpartum depression or related mental health disorders and pregnancy-related and postpartum substance use disorders, which are searchable by location.

(2) Develop network adequacy standards for treatment of pregnant and postpartum

women with depression or related mental health disorders and pregnant and postpartum women with substance use disorders.

RS 40:1123.5 — Prenatal screening for substance use disorder

he first trimester of pregnancy or

at the time of first examination after confirming pregnancy, if the provider utilizing his professional medical judgment believes that the screening would be in the best interest of the patient and such screening has not already occurred. The healthcare provider providing such screening shall utilize a validated verbal screening tool for substance use disorder that aligns with standards of the American College of Obstetricians and Gynecologists. The Louisiana Department of Health, office of public health, shall post a list of approved validated verbal screening tools on its website. For purposes of this Section, "licensed healthcare provider" means a physician, advanced practice registered nurse, or physician assistant.

B. After administering the screening provided for in Subsection A of this Section, a licensed healthcare provider who determines that a pregnant woman is at risk for substance use disorder shall refer the woman for appropriate treatment.

RS 40:1124.1 — Screening for prenatal and postpartum health disorders

d preeclampsia through a validated

screening tool in accordance with the recommendations from the American College of Obstetricians and Gynecologists if, in the exercise of their professional medical judgment, the healthcare providers believe that such screening would be in the best interest of the patient.

RS 40:1124.2 — Discharge information; hospital and birthing center requirements

th, provide the mother and her family members information

about post-birth warning signs, including symptoms and available resources.

B. The Louisiana Department of Health shall make the information available to hospitals and birthing centers and shall include the information on the department's website.

RS 40:1125.1 — Louisiana Sickle Cell Commission

venteen

members as provided in Subsection B of this Section. No organization, entity, or individual shall be a member unless expressly provided for in Subsection B of this Section.

B.(1) Thirteen members shall be appointed by the governor, subject to Senate confirmation, as follows:

(a) One member from a list of nominees submitted by the Sickle Cell Center of Southern Louisiana, Tulane University School of Medicine, which has provided health care to patients with sickle cell disease since 1979 and houses the only life span clinic, which provides care to patients from birth to death, and a transition clinic, which provides a seamless transition during the high risk death gap period from pediatric to adult care.

(b) One member from a list of nominees submitted by Children's Hospital, New Orleans, which is the only hospital in this state to provide stem cell and gene therapies to patients with sickle cell disease and focuses on sickle cell pediatric hematology.

(c) One member from a list of nominees submitted by the Louisiana Primary Care

Association.

(d) One member from a list of nominees submitted by the Sickle Cell Association of South Louisiana, which has served eleven parishes in south Louisiana since 1974 and has the historical and institutional knowledge of patient care within the community.

(e) One member from a list of nominees submitted by the Northeast Louisiana Sickle Cell Anemia Technical Resource Foundation, Inc, which has served northeast Louisiana since 1979 and has the historical and institutional knowledge of patient care within the community.

(f) One member from a list of nominees submitted by the Sickle Cell Disease Association of America, Inc., Northwest Louisiana Chapter, which has served northwest Louisiana since 1974 and has the historical and institutional knowledge of patient care within the community.

(g) One member from a list of nominees submitted by the Sickle Cell Anemia Research Foundation, Alexandria, which has served twelve parishes in central Louisiana since 1974 and has the historical and institutional knowledge of patient care within the community.

(h) One member from a list of nominees submitted by Southwest Louisiana Sickle Cell Anemia, Inc., which has served southwest Louisiana and has the historical and institutional knowledge of patient care within the community.

(i) Five members from a list of nominees submitted by the Louisiana Department of Health, two of whom shall be persons diagnosed with sickle cell disease, one of whom shall be a parent of a person diagnosed with sickle cell disease, and two of whom shall be medical professionals who provide treatment and care to patients diagnosed with sickle cell disease.

(2) Two of the members shall be as follows:

(a) The secretary of the Louisiana Department of Health or his designee.

(b) The Medicaid director of the Louisiana Department of Health or his designee.

(3) Two members shall be appointed as follows:

(a) One member of the Louisiana Senate appointed by the president of the Senate.

(b) One member of the Louisiana House of Representatives appointed by the speaker of the House of Representatives.

(4) Each appointment by the governor shall serve at his pleasure. The legislative members shall serve at the pleasure of the presiding officer of the respective legislative body.

(5) The term of an appointee shall be four years. Any vacancy occurring in board membership shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(6) Nonlegislative members of the commission shall not be entitled to a per diem or any other compensation for their service but shall be entitled to reimbursement of any necessary and reasonable expense incurred in the performance of their duties on the panel, including travel expenses. Each legislative member of the commission shall receive a per diem and travel expenses equal to the per diem and travel expenses provided by law for members of the legislature.

(7) Meetings of the commission shall be held at the call of the chairman or on a

petition of at least five members of the commission.

(8) At the first meeting of the commission, each year after its members assume their positions, the members shall select one of the commission members to serve as chairman and one of the commission members to serve as vice chairman, and each shall serve for a term of one year. The chairman shall preside at meetings of the commission, and in his absence, the vice chairman shall preside.

(9) The commission shall hold at least four regular meetings each year. The commission shall meet at locations that rotate throughout the state, as determined by the chairman, to provide ease of travel for the members of the commission.

(10) The appointment of the initial members of the commission shall take place no later than October 1, 2013, and the commission shall convene its first meeting no later than November 1, 2013.

C. The Louisiana Department of Health shall provide administrative assistance to and serve as staff for the commission.

D. The functions of the commission shall be to:

- (1) Ensure the delivery of sickle cell services to affected persons in all parishes in Louisiana and assist in establishing geographical service delivery boundaries.
- (2) Promulgate guidelines for creating uniformity in the delivery of services and the management of statewide programs.
- (3) Submit budget recommendations to the legislature and the governor.
- (4) Prepare and publish an annual report on sickle cell that includes:
 - (a) An assessment of the programs and activities aimed at sickle cell.
 - (b) A description of the level of coordination existing between the state and private stakeholders in the management and treatment of sickle cell.
 - (c) The development of a detailed action plan for battling sickle cell.
- (5) Direct the Sickle Cell Patient Navigator Program established by the provisions of R.S. 40:1125.21.
- (6) Apply for grants and donations from any public or private source to implement the provisions of this Subsection.

RS 40:1125.11 — Definitions

(2) "Registry" means the sickle cell disease registry established by the provisions of this Subpart.

RS 40:1125.12 — Sickle cell disease registry; purpose

e cell disease which shall be

known as the "Skylar-Cooper Database". The purpose of the registry shall be to function as a single repository of accurate, complete records to aid in the cure and treatment of sickle cell disease in this state.

B. The registry shall encompass, without limitation, all of the following:

- (1) A record of individuals in this state who have been diagnosed with sickle cell disease.
- (2) All data and other information associated with individuals who have been diagnosed with sickle cell disease that the secretary of the department deems necessary and

appropriate for inclusion in the registry.

RS 40:1125.13 — Healthcare facilities; reporting of data

been diagnosed with the

disease. The form and manner of the data shall be prescribed by the department by rule duly promulgated in accordance with the Administrative Procedure Act.

B. The Louisiana Department of Health shall facilitate an agreement between sickle cell clinics as provided for in R.S. 40:1125.31 et seq. and an association that is part of the Louisiana Sickle Cell Commission that provides information and assistance to patients diagnosed with sickle cell disease. The agreement shall allow for the transfer of sufficient contact information from the sickle cell clinics to allow an association to contact the patient.

RS 40:1125.14 — Use of registry data

of law to the contrary, the department or its

agent may access medical and vital records in the custody of physicians, hospitals, clinics, other healthcare providers, and the office of public health in order that it may conduct sickle cell disease studies. The data contained in the registry as well as all such medical and vital records obtained by the department or its agent in accordance with the provisions of this Subsection, as well as the results of any sickle cell disease study, shall be confidential and shall not be available for subpoena, nor shall such information be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason. Nothing in this Subsection shall prohibit the publishing by the department of statistical compilations relating to sickle cell disease which do not identify individual cases or individual physicians, hospitals, clinics, or other healthcare providers.

RS 40:1125.15 — Healthcare needs of persons with sickle cell disease; legislative findings; use of

re for sickle cell

disease and other health conditions often face lengthy wait times for that care, and that these wait times contribute to poor health outcomes and excess morbidity and mortality among populations that are impacted by sickle cell disease. The legislature further finds that sickle cell patients may face greater barriers in accessing the necessary care for their disease after reaching the age of majority or aging out of health coverage furnished through the Louisiana Children's Health Insurance Program. Therefore, the secretary of the department shall take such actions as are necessary to support the facilitation of care coordination for sickle cell patients, assist in reducing the wait times to access healthcare services, and assist in promoting continuity of care for young people who age out of Louisiana Children's Health Insurance Program coverage.

RS 40:1125.16 — Administrative rules

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B. The rules required by this Section shall include but not be limited to the following:

(1) Data elements to be included in the registry.

(2) Guidelines and procedures for obtaining from healthcare providers information regarding individuals diagnosed with sickle cell disease.

(3) Standards for ensuring that the registry is developed and operated in a manner that comports with all applicable requirements of the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191; regulations adopted pursuant to that Act including but not limited to the HIPAA Privacy Rule, 45 CFR Part 164; and other applicable laws and regulations governing disclosure of health information.

RS 40:1125.21 — Sickle cell patient navigator program

n this state are

not in specialty care, even though the health consequences of going without such care may be fatal.

(2) Insufficient access to specialty care is a major barrier to overall health care for persons suffering from sickle cell disease.

(3) The purpose of this Section is to provide for a program to increase statewide access to the types of specialty care that are critical to the health and well-being of sickle cell patients.

B. The Sickle Cell Patient Navigator Program, referred to hereafter in this Section as "the program", is hereby established. The program shall operate in accordance with the provisions of this Section.

C. The functions of the program shall include, without limitation, all of the following:

(1) Training of patient navigators to serve as outreach coordinators, coordinators of family educational sessions, and patient case managers.

(2) Establishing and strengthening a continuum of care for each sickle cell patient served by the program and for the families of those patients.

(3) Identifying and contacting sickle cell patients, conducting home visits with patients and their family members, and coordinating patient care.

(4) Facilitating collaboration among healthcare providers that serve sickle cell patients.

(5) Delivering public health education on sickle cell disease and treatment.

D. The Louisiana Department of Health shall administer the program under the direction of the Louisiana Sickle Cell Commission placed within the department by the provisions of R.S. 36:259(B)(11).

E. This Section and the Sickle Cell Patient Navigator Program shall not be implemented or operational until monies have been appropriated by the legislature sufficient to fully fund these provisions.

RS 40:1125.31 — Sickle cell anemia; clinic established

Louisiana State University and

Tulane University for the treatment of sickle cell anemia, in Charity Hospital of Louisiana in New Orleans and in Louisiana State Medical Center in Shreveport. The clinics shall be maintained for the treatment of victims of sickle cell anemia regardless of geographic and economic family situation without regard to the standard eligibility requirements of charity

hospitals and for the training of physicians and medical students in methods of treatment and for research into the causes of the disease and its cure.

RS 40:1125.32 — Sickle cell anemia; clinics established statewide

throughout the state if and when one

hundred percent federal funding becomes available for this purpose.

B. The clinics shall be established in cooperation with the medical schools of Louisiana State University and Tulane University, the state medical centers, the sickle cell anemia foundations, and the National Research Center for Sickle Cell Anemia at Southern University and Agricultural and Mechanical College at Baton Rouge and shall be located in Monroe, Shreveport, Alexandria, Lake Charles, Lafayette, Baton Rouge, and New Orleans.

C.(1) The clinics shall be maintained for the treatment of victims of sickle cell anemia and shall also provide holistic care and counseling for families of victims of sickle cell anemia. Fees for treatment shall be provided in accordance with the provisions of R.S. 46:6.

(2) For purposes of this Section, "holistic care" includes educational literature, screening, testing, treatment, and referral to appropriate persons or facilities.

D. The clinics shall develop a working rapport with the state public health clinics and substance abuse centers and the sickle cell anemia foundations and shall organize support groups within the parish and surrounding parishes where they are located.

E. Each clinic shall be staffed by a physician, nurse, and any other staff as necessary to provide treatment and other services and shall contract with at least one hematologist to serve the clinic and may cooperate and interact with other state and private institutions in order to staff the clinic.

RS 40:1125.33 — Sickle cell anemia; local programs

Inc., the

Alexandria Sickle Cell Program, the Eighth Regional Sickle Cell Foundation, and the Baton Rouge Sickle Cell Program, hereinafter referred to as "program", shall be maintained for the treatment of victims of sickle cell anemia regardless of geographic and economic family situation and without regard to the standard eligibility requirements of charity hospitals. In addition, the programs shall implement policies and plans to convert their individual facility into regionalized facilities, whereby each facility is responsible for sickle cell anemia patients in parishes surrounding the main facility.

B. Each program shall provide holistic care, which shall include but not be limited to educational literature, screening, testing, treatment, and referrals. If funds are available, each program shall:

(1) Provide a physician or nurse to provide proper health care.

(2) Provide a hematologist to provide proper testing to sickle cell anemia patients.

(3) Provide counseling for families of those who are affected by sickle cell anemia and which fatality appears imminent.

(4) The executive director of each regional sickle cell anemia clinic shall possess the minimum qualifications established by rules promulgated by the Louisiana Department of Health.

C. The provisions of this Section shall not relieve or remove any responsibilities of the Louisiana Department of Health from implementing and complying with the provisions of R.S. 40:1125.31.

D. The provisions of this Section shall be implemented if and when one hundred percent federal funds are made available for the purposes set forth in this Section.

RS 40:1125.41 — Annual review of Medicaid coverage for sickle cell disease

Il disease and services for enrollees with a diagnosis of sickle cell disease that are eligible for coverage under the Louisiana Medicaid program. The department shall determine if the available covered medications, treatments, and services are adequate to meet the needs of enrollees with a diagnosis of sickle cell disease and whether the department should seek to add additional medications, treatments, or services.

B. When conducting the annual review required by Subsection A of this Section, the Louisiana Department of Health shall solicit and consider input from the general public with specific emphasis on attempting to receive input from persons or groups with knowledge and experience in the area of sickle cell disease treatment.

C. On or before January 15, 2023, and on or before January fifteenth each year thereafter, the Louisiana Department of Health shall submit a report to the Senate Committee on Finance, the House Committee on Appropriations, and the Senate and House committees on health and welfare that details the department's findings from the annual review required by this Section, as well as any recommendations to the legislature based upon those findings. The department shall publish the annual report required by this Subsection on its website in a manner accessible by the general public.

RS 40:1131 — Definitions

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supplies and services by EMS practitioners who are licensed at least to the level of advanced emergency technician or equivalent.

(2) "Air ambulance" means any aircraft, either fixed-wing or rotary-winged, designed and operated as a part of a regular course of conduct or business to transport a sick or injured individual or which is advertised or otherwise held out to the public as such.

(3) "Air ambulance service" means any person, firm, association, or government entity owning, controlling, or operating any business or service which furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in the business or service of transporting, in air ambulances, individuals who may need medical attention during transport.

(4) "Ambulance" means any authorized emergency vehicle, equipped with warning devices, designed and operated as a part of a regular course of conduct or business to transport a sick or injured individual or which is advertised or otherwise held out to the public as such. "Ambulance" shall not mean a hearse or other funeral home vehicle utilized for the transportation of the dead.

(5)(a) "Ambulance service" or "ambulance provider" means any person, firm, association, or government entity owning, controlling, or operating any business or service

which furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in the business or service of transporting, in ambulances, individuals who may need medical attention during transport. Such transport may be made, based on approved protocols, to an alternative destination when the individual's condition does not meet the definition of emergency medical condition pursuant to R.S.

22:1821(D)(2)(g)(i). However, no person shall be transported to an alternative destination unless he consents to being transported to that destination, and no ambulance service shall transport a person to an alternative destination in which the ambulance service has a financial interest.

(b) For purposes of this Chapter, "ambulance service" and "ambulance provider" shall not include any of the following:

(i) An agency of the federal government.

(ii) A volunteer nonprofit organization or municipal nonprofit organization operating an invalid coach or coaches.

(iii) An entity rendering assistance to a licensed ambulance or ambulances in the case of a major disaster.

(iv) A licensed hospital providing nonemergency, noncritical interhospital transfer and patient transportation for diagnostic and therapeutic purposes when such transportation originates at a licensed hospital.

(v) An entity operating an ambulance or ambulances from a location outside of the state to transport patients from a location outside of the state to a location inside the state or to transport a patient or patients from a medical facility inside of the state to a location outside of the state.

(vi) An entity providing transportation to employees who become sick or injured during the course of their employment from a job site to the nearest appropriate medical facility.

(6) "Auto-injector" means a portable, disposable drug delivery device that contains a measured, single dose of epinephrine that is used to treat a person suffering a potentially life-threatening anaphylactic reaction.

(7) "Basic life support" or "BLS" means the provision of medically necessary supplies and services by EMS practitioners who are licensed at least to the level of emergency medical technician.

(8) "Bureau" means the Louisiana Department of Health, bureau of emergency medical services.

(9) "Certified ambulance operator" means an individual who is certified by the bureau as a certified ambulance operator. The term shall not include any individual employed by a fire department of any municipality, parish, or fire protection district or any volunteer firefighter of the state of Louisiana.

(10) "Commission" means the Louisiana Emergency Medical Services Commission.

(11) "Department" means the Louisiana Department of Health.

(12) "Emergency medical personnel" means EMS practitioners and certified ambulance operators.

(13) "Emergency medical response vehicle" means a marked emergency vehicle with fully visual and audible warning signals operated by a certified ambulance service, the primary purpose of which is to respond to the scene of a medical emergency to provide emergency medical stabilization or support, or command, control, and communications, but which is not an ambulance designed or intended for the purpose of transporting a victim from the scene to a medical facility regardless of its designation. Included are such vehicles referred to but not limited to the designation as "sprint car", "quick response vehicle", "special response vehicle", "triage trucks", "staff cars", "supervisor units", and other similar designations. Emergency medical response vehicles shall not include fire apparatus and law enforcement patrol vehicles which carry first aid or emergency medical supplies and which respond to medical emergencies as part of their routine duties.

(14) "Emergency medical services" or "EMS" means a system that represents the combined efforts of several professionals and agencies to provide out-of-hospital emergency, urgent, preventive, and nonemergent care to the sick and injured.

(15) "EMS medical director" means a physician licensed by the Louisiana State Board of Medical Examiners who has responsibility and authority to ensure quality of care and provide guidance for all medical aspects of EMS and who specializes in any of the following areas:

- (a) Family practice.
- (b) Internal medicine.
- (c) General surgery.
- (d) Emergency medicine.
- (e) Emergency medical services.
- (f) Pediatrics.
- (g) General practice.

(16) "EMS practitioner" means an individual who is a licensed emergency medical responder, licensed emergency medical technician, licensed advanced emergency medical technician, or a licensed paramedic.

(17) "EMS task force" means the Emergency Medical Services Task Force, composed of individuals subject to the approval of the secretary of the department, which advises and makes recommendations to the bureau of emergency medical services and the department on matters related to emergency medical services.

(18) "Industrial ambulance" means any vehicle owned and operated by an industrial facility and used for transporting any employee who becomes sick, injured, or otherwise incapacitated in the course and scope of his employment from a job site to an appropriate medical facility.

(19) "Licensed emergency medical responder" means any individual who has successfully completed an emergency medical responder education program based on National EMS Education Standards approved by the bureau and who is licensed by the bureau.

(20) "Licensed emergency medical services practitioner" means an individual who is a licensed emergency medical responder or who is nationally registered, who has

successfully completed an emergency medical services practitioner education program based on national EMS education standards, and who is licensed as any one of the following:

(a) A licensed emergency medical technician.

(b) A licensed advanced emergency medical technician.

(c) A licensed paramedic.

(21) "Moral turpitude" means an act of baseness, vileness, or depravity in the duties which one person owes another, or to society in general, which is contrary to the usual, accepted, and customary rule of right and duty which a person should follow.

(22) "Municipal nonprofit organization" means an organization owned by a parish, municipality, or entity of a parish or municipality which in its regular course of business responds to a call for help and renders medical treatment and whose attendants are emergency medical personnel, a registered nurse, or a physician.

(23) "National EMS education standards" means the document that outlines current nationally recognized EMS education standards, has been adopted by the bureau, and defines terminal objectives for each nationally defined EMS licensing level.

(24) "Physician" means a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners.

(25) "Public safety agency" means a functional division of a public or private agency which provides firefighting, police, medical, or other emergency services.

(26) "Public safety telecommunicator" means an individual answering 911 emergency medical condition calls on behalf of a public safety agency who has authority, based on a protocol adopted by the agency, to provide telephone cardiopulmonary resuscitation (T-CPR) instructions to a caller before arrival of professional medical assistance by first responders.

(27) "Volunteer nonprofit organization" means an organization which in its regular course of business responds to a call for help and renders medical treatment and whose attendants are emergency medical personnel, a registered nurse, or a physician and which is chartered as a nonprofit organization under Section 501(c) of the Internal Revenue Code, as a volunteer fire department by the Louisiana state fire marshal's office, or as a nonprofit organization by the Louisiana secretary of state.

RS 40:1131.1 — Emergency medical services program; cooperation of other state departments

ical services in the state. The responsibility for implementation

and conduct of this program shall be vested in the bureau of emergency medical services.

B. The bureau shall develop a state plan for the prompt and efficient delivery of adequate emergency medical services to acutely sick and injured individuals.

C. The bureau shall serve as the primary agency for participation in any federal program involving emergency medical services and may receive and, pursuant to legislative appropriation, disburse available federal funds to implement any service program.

D. The bureau shall identify all public and private agencies, institutions, and individuals that are or may be engaged in emergency medical services training and set minimum standards for course approval, instruction, and examination. Public safety telecommunicators shall at a minimum successfully complete the telephone cardiopulmonary

resuscitation training required by R.S. 40:1133.16.

E. The department shall promulgate and enforce such rules, regulations, and minimum standards as needed to carry out the provisions of this Section.

RS 40:1131.2 — Immunity from civil damages

hout compensation

or gratuitously participates in an emergency services system, nor any committee of such parish, specialty, component, or state medical society or organization, including the individual members of such committee, or its designee, shall be liable for any civil damages as a result of any act or omission in the performance of their administrative duties or donated services with such emergency services system, including, without limitation, advice, instructions, or other duties regarding policy, protocol, administration, and efficiency of the emergency medical services system. The immunity extended to a parish, specialty, component, or state medical society or organization, or any committee thereof, including the individual members of such committee, including their insurers, or its designee, shall not be applicable for willful or wanton acts or omissions. The immunity extended herein shall be applicable only to an action brought by the person damaged as a result of the performance of any administrative duties or donated services rendered pursuant to the provisions of this Section.

RS 40:1131.3 — Medical assistance program; ground ambulance transportation to alternative

ent methodology to cover alternative destination transport by a ground

ambulance service provider to ensure that reimbursement rates are reasonable and adequate.

RS 40:1132 — Repealed by Acts 1990, No. 281, §1.

aton Rouge, Louisiana 70804-9062

RS 40:1133.1 — Emergency medical personnel training; licensure

(1) To define and authorize appropriate education programs based on national EMS education standards for emergency medical services practitioners. All such education programs shall meet or exceed national EMS education standards.

(2) To specify minimum operational requirements which will ensure medical direction, supervision, and control over emergency medical services.

(3) To specify minimum examination and continuing education requirements for all emergency medical services practitioners.

(4) To provide for the issuance of licenses, renewals of licenses, and requirements for emergency medical services practitioners.

(5) To establish fees for licensure and license renewal.

B. An individual petitioning for licensure or license renewal as an emergency medical services practitioner shall submit an application to the bureau on forms provided by the bureau. The application shall be accompanied by the appropriate fee.

C. The bureau shall affirmatively provide that there is no discrimination toward any individual in the licensure process on the basis of race, religion, creed, national origin, sex, or age.

D. The bureau shall ensure that Alzheimer's and dementia training are incorporated

within their education programs.

E.(1) The commission and bureau shall be entitled to the criminal history record and identification files of the Louisiana Bureau of Criminal Identification and Information, located within the Department of Public Safety and Corrections, of any person who is seeking to be licensed as an EMS practitioner or certified as an ambulance operator. Fingerprints and other identifying information of the applicant shall be submitted to the Louisiana Bureau of Criminal Identification and Information for qualification and registry, and the Louisiana Bureau of Criminal Identification and Information shall, upon request of the bureau and after receipt of such fingerprint card and other identifying information from the applicant, make available to the bureau all arrest and conviction information contained in the Louisiana Bureau of Criminal Identification and Information's criminal history record and identification files which pertain to the applicant for licensure. In addition, the fingerprints shall be forwarded by the Louisiana Bureau of Criminal Identification and Information to the Federal Bureau of Investigation for a national criminal history record check.

(2) In accordance with the authority provided for in this Chapter, the costs of providing the information required under this Section shall be charged by the Louisiana Bureau of Criminal Identification and Information, as specified in R.S. 15:587(B) to the bureau for furnishing information contained in the Louisiana Bureau of Criminal Identification and Information's criminal history record and identification files, including any additional cost of providing the national criminal history records check, which pertains to the applicant. The bureau may impose any or all such fees or costs on the applicant.

RS 40:1133.2 — Fee schedule; fees for license prohibited

sonnel who serve in their capacity on a

voluntary basis and who receive no compensation of any kind for such services:

(a) Emergency medical services practitioners.

(b) Ambulance operators.

(2) The bureau shall not set the fee for licensure of an emergency medical technician to exceed fifteen dollars for any individual who is an employee or volunteer of the state of Louisiana or another public entity, a municipal fire department, a fire protection district, a volunteer fire department, or a municipal law enforcement agency who does not perform emergency medical services outside of the individual's official governmental responsibilities for any form of compensation.

(3) The bureau shall not set the fee for license renewal of an emergency medical technician to exceed ten dollars for any individual who is an employee or volunteer of the state of Louisiana or another public entity, a municipal fire department, a fire protection district, a volunteer fire department, or a municipal law enforcement agency who does not perform emergency medical services outside of the individual's official governmental responsibilities for any form of compensation.

B. Except as provided in Subsection A of this Section, the bureau shall assess fees for testing, licenses, and certifications based on the following schedule:

(1) Test fees:

Fee

(a) Emergency medical technician initial psychomotor exam

\$

60.00

(b) Emergency medical technician partial psychomotor exam

15.00

(2) License fees

(a) Emergency medical responder

10.00

(b) Emergency medical technician

30.00

(c) Advanced emergency medical technician

40.00

(d) Paramedic

50.00

(3) License renewal

(a) Emergency medical responder

5.00

(b) Emergency medical technician

25.00

(c) Advanced emergency medical technician

35.00

(d) Paramedic

45.00

(4) Reciprocity

(a) Emergency medical technician

60.00

(b) Advanced emergency medical technician

80.00

(c) Paramedic

100.00

(5) Ambulance operator certification

10.00

C. The department may adopt rules and regulations in accordance with the Administrative Procedure Act to provide for the collection of fees required by the fee schedule provided in this Section.

RS 40:1133.3 — Louisiana Emergency Medical Services Commission; creation; membership;

Services Commission is hereby created within the Louisiana Department of Health.

B.(1) The commission shall be composed of twelve voting members appointed by the governor as follows:

(a) Two emergency medical services administrators, including one representing the

private sector and one representing the public sector.

(b) Two licensed paramedics and one licensed emergency medical technician who are approved as emergency medical services educators by the bureau. At least one of the members as provided in this Subparagraph shall be appointed by the Louisiana Fire Chiefs Association.

(c) Four physicians, one from each of the following organizations:

(i) The American College of Emergency Physicians.

(ii) The American College of Surgeons.

(iii) The Louisiana State Medical Society.

(iv) The American Academy of Pediatrics.

(d) One member who is, at a minimum, a state-certified emergency medical technician nominated by the Louisiana Municipal Association.

(e) One member nominated by the Professional Firefighters Association of Louisiana.

(f) One member who is a registered nurse and who is a state-licensed paramedic to be nominated by the Louisiana State Nurses Association from a list of two names submitted by the Louisiana Emergency Nurses Association.

(2) Repealed by Acts 2024, No. 171, §2, eff. May 23, 2024.

C. Each member of the commission shall be a resident of Louisiana for at least one year, have had three years experience in his respective field of practice, and be actively engaged in the practice of emergency medical services at the time of his appointment.

D.(1) The initial voting members of the commission shall be appointed no later than October 1, 1997, from a list of two nominees for each appointment submitted by the task force. If the task force fails to submit a list of nominees to the governor by September 1, 1997, the governor shall appoint the respective members of the commission without the nomination list required by this Section.

(2) The nonvoting member shall be appointed to serve terms of three years. The initial member shall be appointed by the governor to an initial term of three years by October 1, 1997 or within thirty days of receipt of the list from the Louisiana State Nurses Association, whichever is later.

E. Each appointment by the governor shall be submitted to the Senate for confirmation.

F.(1) The voting members appointed to the commission shall serve as follows: three members shall be appointed to serve an initial term of one year; three members shall be appointed to serve an initial term of two years; and three members shall be appointed to serve an initial term of three years. Thereafter, each member shall be appointed to serve a term of three years.

(2) No individual shall serve more than two consecutive terms.

G. Subsequent to the appointment of the initial members, the voting members shall be appointed from a list of two nominees for each appointment submitted by the task force. No later than thirty days prior to the termination date of a member's term, the task force shall submit a list of nominees to the governor. If the Louisiana State Nurses Association or the

task force fails to submit the required list of nominees to the governor within thirty days, the governor shall appoint the respective member to fill the vacancy without the nomination list required.

H. The governor shall call the first meeting of the commission no later than November 30, 1997. At a minimum, the commission shall meet on a quarterly basis and, in addition, shall meet when called by the chairman or upon the written request of at least four voting members of the commission.

I. The commission shall annually elect a chairman, vice chairman, and secretary from among its voting membership and shall maintain a record of the attendance of its members at commission meetings.

J. For each day while performing his official duties, a member of the commission may be reimbursed for expenses and mileage at the same rate set by the division of administration for state employees under the provisions of R.S. 39:231.

K. The commission shall be domiciled in Baton Rouge.

L. The governor shall remove a member of the commission after a hearing by the commission during which charges for removal have been established and provided that a majority of the members have recommended removal.

RS 40:1133.4 — Powers and duties of the commission; exceptions

be licensed or certified under this Part.

(2) Approve requirements and standards of practice submitted by the bureau for emergency medical personnel consistent with this Part.

(3) Recommend continuing education requirements and standards to the bureau in accordance with criteria established by the National Registry of Emergency Medical Technicians for individuals seeking to renew a license.

(4) Conduct disciplinary hearings for emergency medical personnel.

(5) Request that the bureau conduct investigations as necessary.

(6) Cause the prosecution of any individual who violates any provision of this Part.

(7) Maintain a record of all commission proceedings.

(8) Adopt rules and regulations to implement the provisions of this Part in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

B. Except as they relate to scope of practice or patient care issues, Paragraphs (A)(4), (5), and (6) of this Section shall not apply to anyone who is a volunteer of or employed by the state of Louisiana or another public entity, a municipal fire department, a fire protection district, or a volunteer fire department who has successfully completed an education program based on national EMS education standards and who possesses a current national certification and state license, until the commission has forwarded the nonmedical practice complaint to the local governing body and received a response with investigative results and any disciplinary disposition. In the event that the local governing body does not send a response or request for extension to the commission within sixty days after receipt of the complaint, the commission may proceed with the powers and duties as defined in Subsection A of this Section. Notwithstanding any law to the contrary, in the event the commission determines by a two-thirds vote of the membership of the commission that public health and

safety would be jeopardized by waiting for a response from the local governing authority, the commission shall have the right to exercise its powers and duties as provided in Subsection A of this Section without receipt of an investigative report from the local governing authority or the expiration of the sixty-day period as provided in this Subsection.

RS 40:1133.5 — Powers and duties of the bureau

ncy medical services practitioner.

- (2) Prescribe application forms for emergency medical practitioner licensure and license renewal and ambulance operator certification.
- (3) Adopt requirements and standards of practice approved by the commission for emergency medical personnel.
- (4) Conduct investigations as requested by the commission.
- (5) Deny, withhold, revoke, restrict, probate, or suspend a license as directed by the commission under the provisions of R.S. 40:1133.7.
- (6) Prepare, publish, and update a roster of all emergency medical personnel, including the name and address of each individual.
- (7) Adopt continuing education requirements and standards for individuals seeking to renew a license.
- (8) Prepare an annual report detailing the activities of the commission during the past fiscal year including the number and nature of the hearings conducted under the provisions of R.S. 40:1133.8.
- (9) Adopt rules and regulations to implement the provisions of this Part in accordance with the Administrative Procedure Act.
- (10) Adopt and amend the title and the definition of licensed emergency medical services practitioners.
- (11) Issue a certification to any duly qualified applicant for certification as an ambulance operator.
- (12) Deny, withhold, revoke, restrict, probate, or suspend an ambulance operator certification as directed by the commission in accordance with the provisions of R.S. 40:1133.18.

RS 40:1133.6 — License; requirements; renewal

ompletion of the required approved educational program.

- (2) Documentation that the applicant meets the qualifications and requirements as established by the bureau.

B. In lieu of the evidence required by Subsection A of this Section, an applicant may submit evidence that he has been duly licensed or certified in another state, territory, or country or has received military training and certification or license as emergency medical services practitioner as defined in R.S. 40:1131, and meets the qualifications and requirements established by the bureau.

C.(1) The license shall be renewed every two years provided the applicant seeking renewal completes the application and meets the requirements for renewal established by the bureau prior to the expiration date on his current license.

- (2) An individual whose license expires by his failure to renew as provided may be

reinstated provided the applicant submits a completed application and meets any additional requirements established by the bureau for an individual who has failed to timely renew his license.

RS 40:1133.7 — Grounds for disciplinary proceedings

pend a license to

practice as an emergency medical services practitioner, impose fines and assess costs, or otherwise discipline an emergency medical services practitioner, and the commission may direct the bureau to limit, restrict, or deny a student emergency medical services practitioner from entering or continuing the clinical phase of EMS education for the following causes:

- (1) Conviction of selling or attempting to sell, falsely obtaining, or furnishing to a person a licensed emergency medical services practitioner document.
- (2) Conviction of a crime or offense which reflects the inability of an emergency medical services practitioner to provide emergency medical services with due regard for the health and safety of clients or patients or enters a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding, including but not limited to expungement or nonadjudication.
- (3) Is unfit or incompetent by reason of negligence, habit, or other cause.
- (4) Is habitually intemperate in the use of or abuses alcohol or habit-forming drugs.
- (5) Is guilty of aiding or abetting another person in the violation of this Part.
- (6) Is mentally incompetent.
- (7) Endeavors to deceive or defraud the public.
- (8) Professional or medical incompetency.
- (9) Unprofessional conduct.
- (10) Continuing or recurring practices which fail to meet the standards of EMS care in this state.
- (11) Abandonment of a patient.
- (12) Has had a certification or license to practice as an emergency medical services practitioner or to practice as another health care provider denied, revoked, suspended, or otherwise restricted.
- (13) Is guilty of moral turpitude.
- (14) Has violated any rules and regulations of the commission or the bureau or any provision of this Part.
- (15) Intentional falsification of any document related to license, emergency medical services education, or related to the care of the patient.

RS 40:1133.8 — Hearings of the commission; appeal of decision

bureau, the chairman of the

commission shall set a time and place for a hearing. No later than ten days prior to the date set for the hearing, the commission shall send notice of the time and place for the hearing and an explanation of the grounds for the disciplinary proceedings to the individual by registered mail, return receipt requested, at his last known address as it appears on the records of the bureau.

B. The commission may compel or subpoena the attendance of witnesses, the

production of books, papers, and documents, and administer oaths at the hearing. Subpoenas shall be issued in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The commission shall not be bound by strict rules of procedure or other laws of evidence in the conduct of its proceedings. The individual under investigation may appear personally, by counsel, or personally and by counsel, produce witnesses and evidence on his own behalf, and cross-examine witnesses. Such proceedings shall be closed to the general public and the records of the proceeding shall be confidential.

C. Notwithstanding any privilege of confidentiality recognized by law, a physician or health care agency with which the individual under investigation is associated shall not assert such privilege by failing or refusing to respond to a lawfully issued subpoena of the commission for any medical information, testimony, records, data, reports, or other documents, tangible items, or information relative to any patient cared for or assigned to the individual under investigation. Any such items obtained pursuant to a subpoena shall be confidential. Furthermore, the transcript of testimony from the hearing shall be altered to prevent the disclosure of the identity of the patient to whom such records relate.

D. Notice of the commission's decision to revoke, restrict, suspend, or deny a license or certification shall be sent to the individual under investigation by registered mail, return receipt requested, at his last known address as it appears on the records of the bureau.

E. An individual whose license or certification has been revoked, restricted, suspended, placed in probation, or denied may have the proceedings of the commission reviewed by a court of competent jurisdiction, provided that an appeal is made no later than thirty days after the date indicated on the registered mail receipt of the notice required by Subsection D of this Section. The decision of the commission shall remain in force until an appeal is granted unless the court orders a stay. If an appeal is granted, the decision of the commission shall be suspended until a final disposition of the matter is ultimately rendered by the court affirming the decision of the commission.

F. The commission may maintain the confidentiality of an individual under investigation whenever the commission determines the public interest will be best served by alternatives to the disciplinary hearing process.

RS 40:1133.9 — Injunction

This injunction shall not be subject to release upon bond.

RS 40:1133.10 — Violations

ces practitioner diploma, license document, or record, or aid or abet therein.

(2) Practice as an emergency medical services practitioner under any diploma, certificate, or license illegally obtained or signed or issued unlawfully.

(3) Practice as an emergency medical services practitioner unless licensed to do so under the provisions of this Part.

(4) Use in connection with his name any designation tending to imply that he is an emergency medical services practitioner unless duly authorized to practice under the provisions of this Part.

(5) Practice as an emergency medical services practitioner during the time the license issued under the provisions of this Part is suspended or revoked.

- (6) Practice as an emergency medical services practitioner during the time his license has lapsed by reason of his intentional failure to renew the license.
- (7) Conduct or serve as an educator in conducting any course claiming to prepare students for licensure as emergency medical services practitioner under the provisions of this Part, unless both the course and the educator have been approved by the bureau.
- (8) Knowingly aid or abet another person in the violation of this Part.
- (9) Operate as an ambulance operator unless certified to do so in accordance with the applicable provisions of this Part.

RS 40:1133.11 — Prosecution

Provisions of this Part shall not prevent or interfere with a prosecution brought by the district attorney of a parish when a prosecution or a pre-prosecution proceeding has been initiated by the district attorney.

B. Whoever is found guilty of violating any provision of R.S. 40:1133.10 shall, upon a first conviction, be fined not more than five hundred dollars or imprisoned for not more than six months, or both. Upon a second or subsequent conviction, the offender shall be imprisoned with or without hard labor for not more than two years and fined not more than five thousand dollars.

RS 40:1133.12 — Exceptions

government, or by any bureau, division, or agency thereof, while in the discharge of his official duties.

RS 40:1133.13 — Civil immunity

Provisions of

this Part, who renders emergency medical care to an individual while in the performance of his medical duties and following the instructions of a physician shall not be individually liable to the individual for civil damages as a result of acts or omissions in rendering the emergency medical care, except for acts or omissions intentionally designed to harm, or for grossly negligent acts or omissions which result in harm to the individual. Nothing in this Subsection shall relieve the driver of the emergency vehicle from liability arising from the operation or use of the vehicle.

(2) The immunity granted to emergency medical services practitioners by the provisions of this Part shall extend to parish governing authorities, police departments, sheriffs' offices, fire departments, or other public agencies engaged in rendering emergency medical services and its insurers with respect to such emergency medical services unless the emergency medical services practitioner employed by such agencies would be personally liable under the provisions of Paragraph (1) of this Subsection.

B. Any physician who provides instructions to any emergency medical services practitioner by use of electronic or other means of transmission in connection with the rendering of emergency medical services to an individual shall not be liable unto such practitioner or to an individual or both for civil damages arising from his opinion, judgments, actions, or duties, except for acts or omissions intentionally designed to harm, or for grossly negligent acts or omissions which result in harm to the individual, while exercising that

degree of skill and care ordinarily employed by members of his profession in good standing.

C. No hospital facility which allows the use of telemetry or other equipment to maintain contact between an emergency medical services practitioner and a physician shall be liable for any civil damages arising out of the use of such equipment except for acts or omissions by hospital personnel that are grossly negligent which result in harm to an individual.

D. No registered nurse, licensed emergency medical services practitioner, or other health professional licensed in Louisiana who supervises, instructs, or trains emergency medical services practitioners in accordance with curricula developed or adopted by the bureau shall be liable for any civil damages arising out of the actions or negligence of the emergency medical personnel whom he supervised, educated, or trained.

E. There shall be no cause of action or civil liability, and no license or certification holder or applicant shall have any cause of action or any claim for damages against any individual, person, or institution providing information to the commission or its agents or employees when that individual, person, or institution acts without malice and when there is a reasonable belief that such information is accurate.

F. No public safety telecommunicator who instructs a caller on telephone cardiopulmonary resuscitation shall be liable for any civil damages arising out of the instruction provided to the caller, except for acts or omissions intentionally designed to harm, or for grossly negligent acts or omissions that result in harm to an individual. A caller may decline to receive instruction on cardiopulmonary resuscitation. When a caller declines cardiopulmonary resuscitation instruction the public safety telecommunicator has no obligation to provide the instruction.

G. No public safety agency shall be liable for any civil damages for employing individuals to answer 911 emergency calls who are not designated as public safety telecommunicators. Individuals who are not public safety telecommunicators, as defined in R.S. 40:1131, shall not be required to complete the telephone cardiopulmonary resuscitation training required by R.S. 40:1133.16 and shall have no obligation to offer and provide telephone cardiopulmonary resuscitation instruction to a caller.

RS 40:1133.14 — Duties of emergency medical services practitioners

reatment, and procedures consistent with national EMS education standards that have been approved and adopted by the bureau, and to the extent that he has been trained to perform such services.

(b) Administration of other drugs or procedures for which the licensed emergency medical services practitioner has received training, license, and approval by the commission and which may be considered necessary by the ordering physician.

(c) Determine based on approved protocols whether it is appropriate for a person to be transported by ground ambulance to an alternative destination when the individual's condition does not meet the definition of emergency medical condition pursuant to R.S. 22:1821(D)(2)(g)(i). However, no person shall be transported to an alternative destination unless he consents to being transported to that destination, and no emergency medical services practitioner shall transport a person to an alternative destination in which he or his

employer has a financial interest.

(2) The functions authorized by Paragraph (1) of this Subsection may be performed by the licensed emergency medical services practitioner while caring for a patient or at the scene of a medical or other emergency, or during the transport of a patient under a protocol that has been approved by the emergency medical services practitioner's medical director.

B. An emergency medical services practitioner student may, while he is enrolled in good standing in a state-approved clinical or field internship program under the direct supervision of a physician, registered nurse, paramedic, or other preceptor recognized by the bureau:

(1) Perform services, treatments, and procedures consistent with national EMS education standards that have been approved and adopted by the bureau, and to the extent that he has been trained to perform such services.

(2) Administer automated cardiac defibrillation in accordance with rules and regulations promulgated by the bureau in accordance with the Administrative Procedure Act and a protocol that shall be approved by the local parish medical society, a designee of the local parish medical society, or the EMS medical director.

C. In a case of a life-threatening situation as determined by a licensed emergency medical services practitioner, such a person may render services in accordance with one of the following protocols:

(1) A protocol approved by the EMS medical director who is a board-certified or board-eligible emergency medicine physician.

(2) A protocol established by the emergency medical services committee or the executive committee of the parish or component medical society, or its designee.

D. Any individual, education organization, organization, or other entity violating the provisions of this Section shall be guilty of a misdemeanor, conviction of which shall subject the offender to a fine of not less than five hundred dollars nor more than one thousand dollars for each separate offense.

E. In the event that there is no organized or functional local parish medical society in a parish of the state, the functions provided for in Paragraph (C)(2) of this Section may be performed by the EMS medical director.

F. The department shall promulgate rules and regulations establishing basic guidelines for statewide emergency medical service protocols.

RS 40:1133.15 — Hazardous substance transportation emergencies; payment for emergency medical

or contributes to a discharge of a hazardous substance or material that causes an emergency condition shall be obligated to pay the reasonable costs of any emergency medical services provider whose presence or service, including standby, is requested at such hazardous substance emergency by any person authorized by the Department of Public Safety and Corrections or the Department of Environmental Quality to respond to a hazardous substance transportation emergency. Nothing in this Section shall affect the rights of any party to recover under any other provision of law.

RS 40:1133.16 — Public safety telecommunicator; instruction

exceeds nationally

recognized emergency cardiovascular care guidelines adopted by the bureau every two years. At a minimum, this training shall incorporate recognition protocols for out-of-hospital cardiac arrest, compression-only CPR instructions for callers, and continuing education as appropriate.

(2) On or before January 1, 2019, each public safety telecommunicator in a parish with a population greater than one hundred thousand, according to the latest federal decennial census, shall complete the T-CPR training required by this Section.

(3) On or before January 1, 2020, each public safety telecommunicator in a parish with a population between fifty thousand and one hundred thousand, according to the latest federal decennial census, shall complete the T-CPR training required by this Section.

(4) On or before January 1, 2021, each public safety telecommunicator in a parish with a population less than fifty thousand, according to the latest federal decennial census, shall complete the T-CPR training required by this Section.

B. A public safety agency may enter into a reciprocal agreement with another public safety agency to provide T-CPR, provided that the agency that accepts the call has a public safety telecommunicator who is trained in T-CPR as provided by this Section.

C. The bureau shall identify all public and private agencies, institutions, and individuals that are or may be engaged in T-CPR training and set minimum standards for course approval, instruction, and examination, including online training modules based on nationally recognized guidelines. The bureau shall implement an efficient means for each public safety agency employing public safety telecommunicators to transmit identifying information for the public safety telecommunicators in their employ and an efficient means for either the public safety agency or the public safety telecommunicator to provide a certificate of completion of the T-CPR training required by this Section.

D. The department shall adopt rules in accordance with the provisions of the Administrative Procedure Act as are necessary to implement the provisions of this Section.

RS 40:1133.17 — Ambulance operators; requirements for certification; duties authorized

(1) A copy of the applicant's valid, unrestricted driver's license at the appropriate level required by law.

(2) A copy of a current and valid defensive driving certificate issued by the National Safety Council or its equivalent as determined by the department.

(3) A copy of a current and valid American Heart Association Health Care Provider credential, American Red Cross Professional Rescuer credential, or an equivalent cardio-pulmonary resuscitation certification approved by the department.

(4) A copy of the applicant's current official driving record from the Department of Public Safety and Corrections.

B. Each applicant for certification in accordance with this Section shall be at least eighteen years of age.

C. An ambulance operator certification shall expire one year after it is issued and shall not be renewable.

D. A certified ambulance operator may perform any of the following functions:

(1) Operate an ambulance in compliance with federal, state, and local law.

(2) Assist with the handling and movement of a sick, injured, or disabled individual if a licensed emergency medical services practitioner, registered nurse, physician assistant, or physician directly supervises the operator. No ambulance operator may administer care procedures that a licensed emergency medical services practitioner is authorized to administer unless he is trained and certified or licensed to do so.

E. No licensed emergency medical services practitioner shall be required to hold a certification as an ambulance operator in order to operate an ambulance.

RS 40:1133.18 — Certified ambulance operators; grounds for discipline

thold, revoke, restrict, probate, or

suspend a certification to operate as an ambulance operator; imposing fines and assessing costs; or otherwise sanctioning the ambulance operator:

- (1) Fraud or any misstatement of fact in the procurement of any certification or in any other statement or representation to the bureau or its representatives.
- (2) Conviction of a crime or offense which reflects the inability of the individual to carry out his duties with due regard for the health and safety of clients or patients.
- (3) Entering a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding, including but not limited to expungement or nonadjudication.
- (4) Is unfit or incompetent by reason of negligence, habit, or other cause.
- (5) Is mentally incompetent.
- (6) Is habitually intemperate in the use of or abuses alcohol or habit-forming drugs.
- (7) Is guilty of aiding or abetting another person in violating any provision of this Part.
- (8) Continuing or recurring practices which fail to meet the standards of ambulance operators in this state.
- (9) Endeavors to deceive or defraud the public.
- (10) Is guilty of moral turpitude.
- (11) Has violated any rules and regulations of the commission or the bureau or any provision of this Part.
- (12) Intentional falsification of any document related to the procurement of any certification or license.
- (13) Operating any vehicle in violation of state or local traffic laws.
- (14) Revocation, suspension, or any restriction of the ambulance operator 's driver's license.
- (15) Failure to maintain all current ambulance operator training standards as required by the bureau.
- (16) Has had a certification or license to practice as an ambulance operator denied, revoked, suspended, or otherwise restricted in Louisiana or any other state or territory of the United States.

RS 40:1134 — Ambulance Patient Offload Delay Collaborative

and their

emergency departments are critical components of Louisiana's emergency healthcare delivery

system.

(2) Ambulances throughout the United States and in many other countries are experiencing significant delays in offloading patients into hospital emergency departments.

(3) The cause of the delay is multifaceted and may include factors such as high demand on emergency departments, hospital staffing challenges, hospital throughput procedures, and hospital administrative policies.

(4) Extended ambulance patient offload times are disruptive to the EMS system by taking the ambulance out of service and decreasing advanced life support services in the community, which increases healthcare costs and can back up the entire continuum of emergency health care.

(5) Hospitals and EMS personnel are all acting in the best interest of the patient and agree that providing the best possible patient care is the goal despite offload delay challenges.

(6) It is imperative that ambulance providers and hospitals collaborate to develop statewide, regional, or local plans to address the problem of ambulance patient offload delays.

B.(1) There is hereby created within the Louisiana Department of Health, bureau of emergency medical services, the Ambulance Patient Offload Delay Collaborative which shall analyze and develop solutions to the problem of ambulance patient offload delays.

(2) The bureau of emergency medical services shall facilitate discussions and meetings of a statewide collaborative to include the bureau, the Louisiana Hospital Association, the Louisiana Ambulance Alliance, and other appropriate stakeholders as considered necessary by the collaborative.

(3) The collaborative shall hold its first meeting on or before October 1, 2024, and shall meet as often as is necessary to fulfill the requirement of this Section.

(4) The collaborative shall be responsible for all of the following:

(a) Reviewing the Emergency Medical Treatment and Active Labor Act (EMTALA) to clearly understand the rights and responsibilities of ambulance service providers and hospitals.

(b) Collecting and reviewing currently available data from emergency medical services and hospitals concerning ambulance patient offload times.

(c) Developing a set of data collection guidelines and performance measures, as well as a standardized reporting process, to identify and track hospitals that exceed the established industry standards for patient offload delays. These standards should be based on best practices and prioritize patient welfare and safety.

(d) Exploring enacted legislation and best practices and policies in other states and countries that have been successful and promising in resolving or improving ambulance patient offload delays through processes that may be implemented locally or on a regional or statewide scale.

(e) Exploring and researching options for reducing demand on hospital emergency departments from individuals transported by ambulance services, specifically treatment-in-place ambulance services and ambulance transports to alternative destinations other than hospital emergency departments for low acuity patients utilizing the 911 system.

Research shall include payment mechanisms and funding options for services provided to patients which reduce emergency department demands.

(f) Proposing a format for facilitating local collaborative communications between ambulance service providers and hospital administrators.

C.(1) The collaborative shall prepare a report summarizing its findings and recommendations, including any data collected in accordance with this Section, for submission by the department to the House and Senate committees on health and welfare by February 1, 2025.

(2) The collaborative may continue to meet as necessary after submitting the final report required in Paragraph (1) of this Subsection. If the collaborative continues to meet, it shall submit an annual report to the House and Senate committees on health and welfare by February first of each year.

D. The department may promulgate rules in accordance with the Administrative Procedure Act to carry out the provisions of this Section.

RS 40:1135 — Repealed by Acts 1990, No. 281, §1.

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RS 40:1135.1 — Qualifications to operate ambulances; equipment; penalty

the state unless the ambulance is staffed with a minimum of two persons, one of whom shall be a licensed emergency medical technician.

(2)(a) No person or individual shall provide services in any capacity on any ambulance unless he is a licensed emergency medical responder, a licensed emergency medical technician, a licensed advance emergency medical technician, a licensed paramedic, a licensed respiratory therapist, a licensed nurse practitioner, a licensed physician assistant, a licensed occupational therapist, a licensed registered or practical nurse, or a physician.

(b) Except as provided in R.S. 40:1135.3(A) of this Part, no individual shall transport any ill or injured person on a stretcher in a vehicle that is not staffed, equipped, insured, and licensed as an ambulance under this Part.

(c) No individual shall provide services in any capacity on any ambulance without holding an American Heart Association Health Care Provider, or American Red Cross Professional Rescuer, or the equivalent cardio-pulmonary resuscitation certification that has been approved by the Louisiana Department of Health.

(d) No individual shall transport any ill or injured person by ambulance unless the sick or injured person is attended by a licensed emergency medical technician, a licensed advance emergency medical technician, a licensed paramedic, a registered nurse, or a physician in the patient compartment.

(e) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, a certified ambulance operator who is not a licensed emergency medical services practitioner may operate an ambulance in compliance with federal, state, and local law and assist with the handling and movement of a sick, injured, or disabled individual if a licensed emergency medical technician, a licensed advance emergency medical technician, a licensed paramedic, a registered nurse, or a physician directly supervises the certified ambulance operator. No ambulance operator may administer care procedures that a licensed emergency medical

services practitioner is authorized to administer unless he is trained and certified or licensed to do so.

(3) No person shall conduct, maintain, or operate an ambulance which does not carry with it, in fully operational condition, equipment consistent with the scope of practice for emergency medical technicians established in R.S. 40:1133.14. Each ambulance service provider shall develop and maintain a written policy identifying the equipment required to comply with the provisions of this Paragraph. At a minimum, the policy shall identify the basic trauma equipment, drugs, suction and oxygen equipment, cardiopulmonary resuscitation equipment, and any other equipment required by law that shall be maintained on the ambulance.

(4) Repealed by Acts 2013, No. 184, §2(B).

(5) Nothing herein shall prohibit the transportation of an injured or ill person in an ambulance or industrial ambulance staffed by persons with less than the required qualifications in an emergency situation where there is no reasonable expectation of the prompt response by an ambulance staffed by persons with the required qualifications.

(6) Nothing herein shall prohibit a firefighter, law enforcement officer, or good Samaritan from assisting an ambulance at the scene of an emergency or while transporting a patient to a medical facility at the request of the emergency medical technician.

(7) Nothing herein shall prohibit an individual without the required qualifications from riding in an ambulance for the purpose of training, observation, or continuing education.

(8) Advanced life support ambulances shall be staffed by not less than two people, at least one of which shall be licensed at a minimum to the level of advanced emergency medical technician.

B.(1) Repealed by Acts 2001, No. 625, §2.

(2) Nothing in this Part shall be construed to prohibit the transportation of an injured or ill individual in an invalid coach in an emergency situation where there is no reasonable expectation of the prompt response of an ambulance or industrial ambulance.

C. The department shall conduct or may authorize another public agency to conduct an inspection of any ambulance service provider or invalid coach provider and to report any violation to the appropriate district attorney's office.

D.(1) The provisions of this Section shall not apply:

(a) To ambulances operated by a federal agency of the United States government.

(b) Repealed by Acts 2001, No. 625, §2.

(c) To ambulances which are rendering assistance to licensed ambulances in the case of a major disaster, be it natural or manmade, in which the licensed ambulances are insufficient or otherwise not capable of coping.

(d) Repealed by Acts 2001, No. 625, §2.

(e) To ambulances which are operated from a location outside of the state to transport patients from a location outside of the state to a location inside the state or to transport patients from a medical facility inside to a point outside the state, but no such ambulance shall transport any patient point to point within the state except in the case of

disaster as outlined in this Part.

(2) This provision shall not apply to individuals who are employed to function on licensed air ambulances solely to act as pilots.

(3) The provisions of this Section shall not apply to industrial ambulances providing transportation to employees who become sick or injured during the course of their employment from a job site to the nearest appropriate medical facility.

E. The provisions of this Section shall apply to all parishes or municipalities except those electing not to comply as expressed to the department in a written resolution by the governing body of such parish or municipality. If any parish or municipality elects to be excluded from this Section, it may later elect to be included by resolution. The election of any parish to be included or excluded from this Section shall in no way affect the election of any municipality to be included or excluded.

F. Whoever violates this Section shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than thirty days or both. The penalty prescribed by this Section shall be doubled for any subsequent offense.

RS 40:1135.2 — Qualifications to operate emergency medical response vehicles; vehicle onse

vehicle as an emergency vehicle on any street, alley, or public way or place in the state unless the vehicle is staffed with at least one individual who is a licensed emergency medical responder.

(2) No person shall provide services in any capacity on an emergency medical response vehicle unless he is at least a licensed emergency medical responder, or a holder of a certificate of licensure as a registered nurse or licensed practical nurse, or is a physician or surgeon licensed to practice medicine by the Louisiana State Board of Medical Examiners, a licensed respiratory therapist, a licensed nurse practitioner, a licensed physician assistant, or a licensed occupational therapist. No person shall provide services in any capacity on these vehicles without holding an American Heart Association Health Care Provider, or American Red Cross Professional Rescuer, or the equivalent cardio-pulmonary resuscitation certification that has been approved by the Louisiana Department of Health.

B. No person shall conduct, maintain, or operate an emergency medical response vehicle as an emergency vehicle which:

(1) Does not carry with it equipment, in fully operational condition, for emergency medical response consistent with the scope of practice for emergency medical technicians established in R.S. 40:1133.14. Each emergency medical response vehicle provider shall develop and maintain a written policy identifying the equipment required to comply with the provisions of this Paragraph. At a minimum, the policy shall identify the basic trauma equipment, drugs, suction and oxygen equipment, cardiopulmonary resuscitation equipment, and any other equipment required by law that shall be maintained on the emergency medical response vehicle.

(2) Is not marked with the company name or logo on both sides and the rear and does not have fully visible and audible warning signals in accordance with rules and regulations

promulgated by the Louisiana Department of Health.

(3) Does not meet the minimum motor vehicle safety standards as prescribed in the rules and regulations promulgated pursuant to the Motor Vehicle Inspection Act, R.S. 32:1302 et seq.

(4) Is not insured in accordance with the provisions of R.S. 40:1135.9.

(5) Is not owned or leased by the certified ambulance service operating the vehicle.

C.(1) The Louisiana Department of Health or its designee shall be empowered to conduct inspections of emergency medical response vehicles. The department shall certify such vehicles and shall have the authority to deny, probate, suspend, or revoke certifications. The department shall also have the authority to report any violations to the appropriate district attorney's office.

(2) Certification issued by the Louisiana Department of Health shall serve as authorization of the ambulance service to operate the emergency medical response vehicle pursuant to the provisions of this Section.

D. Whoever violates the provisions of this Section shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both. The penalty prescribed by this Subsection shall be doubled for any subsequent offense.

RS 40:1135.3 — Ambulance providers; licensure

a valid current

license from the department, except that no license shall be required for any hospital that operates a vehicle solely for the purpose of moving its own patients between parts of its own campus, provided that all of the following conditions are met:

(1) The parts of the hospital's campus are not more than ten miles apart. For the purposes of this Section, "campus" means the grounds and facilities of any licensed hospital operating under the same provider number.

(2) At the time of transport, the patient is attended by at least two individuals who are an emergency medical technician, a licensed practical or registered nurse, or a physician.

(3) The vehicle utilized by the hospital for transport contains the same equipment as is required for a licensed ambulance and successfully completes an inspection by the department to determine that it is in a safe and working order.

B. The application for such license shall be submitted to the department on forms provided for that purpose. The application shall provide documentation that the applicant meets the appropriate requirements for an ambulance provider as specified by regulations promulgated by the department under the Administrative Procedure Act.

C. An applicant seeking licensure as an ambulance provider shall:

(1) Submit a completed application to the department on such forms and including such information and supporting documentation as required by the department. Such information shall include:

(a) A notarized certificate of insurance verifying that the provider has the legally mandated insurance coverage.

(b) Proof that the provider has a medical director and that such director is a physician

licensed to practice medicine by the Louisiana State Board of Medical Examiners.

(c) All medical protocols signed by the EMS medical director or by the parish or component medical society.

(d) Copies of personnel licenses and certifications. However, the department may provide for inspection and review of these certifications at an applicant's offices by prior agreement between the applicant and the department.

(e) For those providers providing advanced life support, verification that the provider possesses a Louisiana Controlled Substance License and a United States Drug Enforcement Administration Controlled Substance Registration.

(2) Submit to a background investigation which includes but is not limited to fingerprinting and a criminal history check by the Department of Public Safety and Corrections, office of state police.

(3) Successfully complete an inspection by the department which includes the following:

(a) An inspection of all vehicles to determine that they are in safe and working order and that they are equipped with all of the prescribed medical equipment as required by this Section and R.S. 40:1135.1 and 1135.2. What is safe and working order shall be determined pursuant to provisions of Title 32 of the Louisiana Revised Statutes of 1950 and the Louisiana Motor Vehicle Inspection Manual in addition to the provisions of this Section and R.S. 40:1135.1 and 1135.2. Each vehicle successfully completing the inspection shall receive a permit authorizing it to be operated as part of the applicant's service.

(b) An inspection of all personnel licenses and certifications to verify that they meet the requirements of law.

(c) Inspection and, when deemed necessary by the department, verification of the information provided as required by Paragraph (1) of this Subsection and that such information remains current.

(d) Verification that the provider has complied with all applicable federal, state, and local statutes, rules, and regulations, and that the provider has obtained all necessary and applicable licenses, permits, and certifications, including certificates of need or certificates of public convenience and necessity.

(e) For those providers providing advanced life support, verification that the provider possesses a Louisiana Controlled Substance License and a United States Drug Enforcement Administration Controlled Substance Registration.

D. If an applicant's background investigation indicates that the applicant has a felony conviction or has had any license pertaining to the provision of emergency medical services revoked in another jurisdiction, then the license may be denied.

E. In order to renew an ambulance provider license, the applicant shall:

(1) Submit a renewal application to the department not more than thirty days prior to expiration of the license.

(2) Provide any required documentation.

(3) Successfully complete a review of any required documentation and any inspection or verification of any documentation of any vehicle as deemed appropriate by the

department.

F. Intentional falsification of material information provided pursuant to this Section shall be grounds for immediate revocation of any license granted pursuant to this Section.

G. Failure to comply with any of the provisions of this Section shall constitute grounds for probation or license suspension or revocation in accordance with rules and regulations established pursuant to the Administrative Procedure Act.

H. Any person whose license has been revoked, suspended, or denied by the department shall have the right to have the proceedings of the department reviewed by a court of competent jurisdiction, provided that such appeal is made within thirty days after the notice of the decision of the department. If an appeal is granted, the decision of the department shall not be implemented until a decision affirming the department decision is rendered on judicial review. The department's decision shall remain in force until an appeal is granted unless the court orders a stay. Judicial review shall be by trial de novo.

I. Any entity currently certified to provide ambulance services in Louisiana shall not be required to be licensed by the state in order to maintain certification for a period of one year after July 15, 1999, in order to continue providing such services.

RS 40:1135.4 — Ambulance services; fees

pay the following fees

to the department, as applicable:

- (1) An initial licensing fee of one hundred fifty dollars, to be submitted with the initial application for a license.
- (2) An annual license renewal fee of one hundred dollars, to be submitted with each annual application for renewal of a license.
- (3) A delinquent fee of one hundred dollars for failure to timely pay an annual license renewal fee. Such delinquent fee shall be assessed and shall become due and payable at 12:01 a.m. on the thirty-sixth day following the date of the invoice by which the department bills the applicant or licensee for the annual license renewal fee.
- (4) A vehicle inspection fee of seventy-five dollars for each ambulance or emergency medical response vehicle, which shall be submitted with the initial application for a license, with each annual application for renewal of a license, and with each application for a permit for a vehicle added to service by the applicant.
- (5) A delinquent fee of one hundred dollars for each ambulance and emergency medical response vehicle, for failure to timely pay a vehicle inspection fee. Such delinquent fee shall be assessed and shall become due and payable at 12:01 a.m. on the thirty-sixth day following the date of the invoice by which the department bills the applicant or licensee for the vehicle inspection fee.
- (6) A change of address fee of ten dollars for each change of address.
- (7) A duplicate license fee of ten dollars for each duplicate license.

RS 40:1135.5 — Ambulance services; violations; penalties; fines; notices; hearings; appeals

nor, punishable upon conviction by a fine of not less than one thousand dollars and not more than five thousand dollars. Each day's violation shall constitute a separate offense.

B.(1) Any person or entity violating the provisions of this Chapter when such violation poses a threat to the health, safety, rights, or welfare of a patient or client may be liable to civil fines and other penalties, to be assessed by the department, in addition to any criminal action which may be brought under other applicable laws. The department shall adopt rules, in accordance with the Administrative Procedure Act, which define specific classifications of violations, articulate factors in assessing civil fines including mitigating circumstances, and explain the treatment of continuing and repeat deficiencies.

(2) The schedule of civil fines and other penalties by class of violation is as follows:

(a) Class A violations: If an ambulance or emergency medical response vehicle is found to have been operated in violation of any of the requirements of this Chapter concerning the number or qualifications of personnel, the ambulance or emergency medical response vehicle shall be immediately taken out of service until it meets those requirements, and the ambulance service operating it shall be subject to a civil fine of not more than five hundred dollars for the first violation and not more than one thousand dollars per day for each repeat violation.

(b) Class B violations: If an ambulance service is found to have been operating in violation of any of the requirements of this Chapter concerning insurance coverage, its license shall be immediately suspended until it meets those requirements, and it shall be subject to a civil fine of not more than five hundred dollars for the first violation and not more than one thousand dollars per day for each repeat violation.

(c) Class C violations: If an ambulance or emergency medical response vehicle is found to have been operated without undergoing any inspection required under the provisions of this Chapter, the ambulance or emergency medical response vehicle shall be immediately taken out of service until it meets those requirements, and the ambulance service operating it shall be subject to a civil fine of not more than five hundred dollars for the first violation and not more than one thousand dollars per day for each repeat violation.

(d) Class D violations: If an ambulance or emergency medical response vehicle is found to have been operated in violation of any of the requirements of this Chapter concerning medical and safety equipment, the ambulance or emergency medical response vehicle shall be immediately taken out of service until it meets those requirements, and the ambulance service operating it shall be subject to a civil fine of not more than one hundred dollars for the first violation and not more than five hundred dollars per day for each repeat violation.

(e) Class E violations: If an ambulance or emergency medical response vehicle is found to have been operated in violation of any of the requirements of Chapter 7 of Title 32 of the Louisiana Revised Statutes of 1950, the ambulance or emergency response vehicle shall be immediately taken out of service until it meets those requirements, and the ambulance service operating it shall be subject to a civil fine of not more than one hundred dollars for the first violation and not more than five hundred dollars per day for each repeat violation.

C. The department shall adopt rules and regulations, in accordance with the Administrative Procedure Act, to provide notice to the ambulance service of any violation,

of its right to an informal reconsideration process, and of the available appeal procedure, including judicial review. Such appeal shall be suspensive.

D. The ambulance service shall furnish, with an appeal, bond in the minimum amount of one and one-half times the amount of the fine imposed by the department. The bond shall provide in substance that it is furnished as security that the ambulance service will prosecute its appeal and that any judgment against it, including court costs, will be paid or satisfied from the amount furnished. The appeal shall be heard as a summary proceeding which shall be given precedence over other pending matters.

E. The department may institute all necessary civil court action to collect fines imposed and not timely appealed. No ambulance service may claim imposed fines as reimbursable costs, nor increase charges to patients or clients as a result of such fines. Interest shall begin to accrue on any fine at the current judicial rate on the day following the date on which the fine becomes due and payable.

RS 40:1135.6 — Advanced emergency medical technicians

conduct a program utilizing

any emergency medical services practitioner to supervise and direct the delivery of emergency medical care to the sick and injured at the scene of an emergency during transport to a hospital, while in the hospital emergency department, and until care responsibility is assumed by the regular hospital staff.

RS 40:1135.7 — Unauthorized response by commercial ambulances; penalties

on scanner or similar device except

in cases where human life is threatened, unless that commercial ambulance has been specifically requested to respond to such emergency. Nothing in this Section shall be construed to prohibit service to a subscriber of a commercial ambulance service. No person certified under this Chapter or certified or licensed pursuant to any provision of Louisiana law shall operate a commercial ambulance in violation of this Section.

B. The certificate or license of any person certified under this Chapter or certified or licensed pursuant to Louisiana law who violates the provisions of this Section shall be suspended by the appropriate certification or licensing authority for not less than thirty days, nor more than six months.

C. Proceedings to enforce the provisions of this Section shall be conducted in accordance with the Administrative Procedure Act.

RS 40:1135.8 — Air ambulance services; licensure

e without a valid current

license from the department.

B. The application for such license shall be submitted to the department on forms provided for this purpose. The application shall provide documentation that the applicant meets the appropriate requirements for an air ambulance service as specified by regulations promulgated by the department in accordance with the Administrative Procedure Act.

C. An applicant seeking licensure as an air ambulance service shall:

(1) Submit a completed application to the department on such forms and including

such information as specified by the department.

(2) Submit the appropriate initial license fee as provided in this Chapter.

(3) Submit to a background investigation which includes but is not limited to fingerprinting and a criminal history check by the Department of Public Safety and Corrections, office of state police.

(4) Submit to and successfully complete an inspection by the department to include the following:

(a) An inspection of all aircraft utilized as air ambulances to ensure that all required medical and safety equipment is present and operational. The medical and safety equipment shall conform to local protocol as established by the medical director of the air ambulance service. The list of required medical and safety equipment shall be established under rules promulgated by the department and shall be based upon the recommendations of an advisory committee to be composed of the following persons:

(i) The medical director of the department.

(ii) The director of the bureau.

(iii) One representative of the health standards section of the department's office of the secretary, bureau of health services financing.

(iv) One representative of the Governor's Emergency Medical Services for Children Advisory Council.

(v) One representative of the Department of Transportation and Development, office of engineering, aviation section.

(vi) One representative of each air ambulance service certified or licensed in accordance with this Chapter.

(b) Verification that all aircraft meet the appropriate Federal Aviation Administration requirements.

(c) Review of licenses and certifications of all personnel to ensure that they meet all Federal Aviation Administration requirements and local pilot and medical personnel staffing protocols.

(d) Verification that the applicant is in receipt of an original notarized certificate of insurance for the following coverage:

(i) Five hundred thousand dollars of aircraft liability insurance.

(ii) Five hundred thousand dollars of medical malpractice insurance or proof of participation in the Patient's Compensation Fund.

(iii) Five hundred thousand dollars of commercial general liability insurance.

(e) Verification that the service has a medical director and that such director is a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners.

(f) A review of medical protocols signed by the EMS medical director of the air ambulance service or the president or designee of the parish or component medical society in the service's parish of domicile.

(g) Verification that the service has complied with all applicable federal, state, and local statutes, rules, and regulations, and that the service has obtained all necessary and applicable licenses, permits, and certifications, including certificates of need or certificates

of public convenience and necessity.

(5) Certify that all aircraft and crew members meet applicable Federal Aviation Administration regulations.

(6) Specify if the service uses either fixed-wing or rotary-winged aircraft, or both.

D. If a service provides interhospital air transport, air transport from hospital to another facility, air transport from hospital to home, or similar air transport, the service must certify that a medical director is employed to advise the service on the appropriate staffing, equipment, and supplies to be used for the transport of patients aboard an air ambulance.

E. In order to renew a license for an air ambulance service, the applicant shall:

(1) Submit a renewal application to the department not more than ninety days before the expiration of the license.

(2) Submit the appropriate fee as provided herein in Subsection B.

(3) Provide documentation that current standards for issuance of a license are met.

(4) Successfully complete a review of any required documentation and any inspection or verification of any documentation of any airplane deemed appropriate by the department.

F. Intentional falsification of information provided pursuant to this Section or failure to comply with any provisions hereof shall be grounds for immediate revocation of any license granted pursuant to this Section.

G.(1) Nothing in this Section shall be construed to prohibit, limit, or regulate random mercy flights made by a person or corporation in privately or publicly owned aircraft who may on occasion transport individuals who may need medical attention during transport, or human organs, intended for transplantation, including but not limited to the heart, lungs, kidneys, liver, and other soft tissue and bones, on either a not-for-profit basis or gratuitously.

(2) Failure to comply with any of the provisions of this Section shall constitute grounds for probation, suspension, revocation of license, or other administrative sanction in accordance with rules and regulations established by the department.

(3) Any person whose license has been revoked, suspended, or denied by the department shall have the right to have the proceedings of the department reviewed by a court of competent jurisdiction, provided that such appeal is made within thirty days after the notice of the decision of the department. If an appeal is granted, the decision of the department shall not be implemented until a decision affirming the department decision is rendered on judicial review. The department's decision shall remain in force until an appeal is granted unless the court orders a stay. Judicial review shall be by trial de novo.

H. Any entity currently certified to provide ambulance service in Louisiana shall not be required to be licensed by the state in order to maintain certification for a period of one year after July 15, 1999, in order to continue providing such services.

RS 40:1135.9 — Required insurance coverage

allowing minimum

amounts of insurance:

(1) Medical malpractice liability insurance in the amount of five hundred thousand dollars.

(2) Automobile liability insurance in the amount of five hundred thousand dollars in combined single limits and five hundred thousand dollars in the aggregate.

(3) General liability insurance in the amount of five hundred thousand dollars per occurrence and five hundred thousand dollars in the aggregate.

(4) Repealed by Acts 1999, No. 1113, §2.

B. Each ambulance provider shall submit a certificate of insurance issued by its insurance carrier to the Louisiana Department of Health as proof of the minimum insurance coverage required by this Section. Each ambulance provider shall also be required to notify the department in writing at least thirty days prior to any material change in or cancellation of such coverage.

C. For purposes of this Section, "ambulance provider" shall mean any entity owning, controlling, or operating any business or service which, as a substantial portion of its business, furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in the business or service of transporting persons who may need medical attention during transport. However, "ambulance provider" shall not include:

(1) Agencies of the federal government;

(2) Volunteer nonprofit organizations or municipal nonprofit organizations operating invalid coaches, as defined in R.S. 40:1131(7);

(3) Entities rendering assistance to licensed ambulances in the case of a major disaster;

(4) Licensed hospitals providing nonemergency, noncritical interhospital transfer and patient transportation for diagnostic and therapeutic purposes when such transportation originates at a licensed hospital;

(5) Entities operating ambulances from a location outside of the state to transport patients from a location outside of the state to a location inside the state or to transport patients from a medical facility inside to a point outside of the state; or

(6) Entities providing transportation to employees who become sick or injured during the course of their employment from a job site to the nearest appropriate medical facility.

RS 40:1135.10 — Emergency Medical Technician Dedicated Fund Account
d Account, hereafter referred to as

"account", which shall consist of monies generated by the fees collected from the purchase of prestige license plates for certified emergency medical technicians as provided in R.S. 47:463.47. In addition, the legislature may make annual appropriations to the account for the purposes set forth in this Section.

B. All monies collected pursuant to R.S. 47:463.47 shall be deposited in the Bond Security and Redemption Fund as required by Article VII, Section 9(B) of the Constitution of Louisiana and thereafter shall be credited to a special agency account. Funding deposited into the account shall be considered fees and self-generated revenues and shall be available for annual appropriations by the legislature.

C. The monies in the account shall be appropriated to the Louisiana Department of Health solely for purchasing equipment for the testing of applicants for certification as an emergency medical technician and to cover other testing-related costs. All unexpended and

unencumbered monies remaining in the account at the close of each fiscal year shall remain in the account.

RS 40:1135.11 — Air ambulance services; fees

e shall pay the

following fees to the department, as applicable:

- (1) An initial licensing fee of one hundred fifty dollars, which shall be submitted with the initial application for a license.
- (2) An annual license renewal fee of one hundred dollars, which shall be submitted with each annual application for renewal of a license.
- (3) A delinquent fee of one hundred dollars for failure to timely pay an annual license renewal fee. Such delinquent fee shall be assessed and shall become due and payable at 12:01 a.m. on the thirty-sixth day following the date of the invoice by which the department bills the applicant or licensee for the annual license renewal fee.
- (4) An aircraft inspection fee of seventy-five dollars for each aircraft, which shall be submitted with the initial application for a license, with each annual application for renewal of a license, and with each application for a permit for an aircraft added to the service by the applicant.
- (5) A delinquent fee of twenty-five dollars for each aircraft for failure to timely pay an aircraft inspection fee. Such delinquent fee shall be assessed and shall become due and payable at 12:01 a.m. on the thirty-sixth day following the date of the invoice by which the department bills the applicant or licensee for the aircraft inspection fee.
- (6) A change of address fee of ten dollars for each change of address.
- (7) A duplicate license fee of ten dollars for each duplicate license.

RS 40:1135.12 — Air ambulance services; violations; penalties; fines; notice; hearings; appeal

sdemeanor, punishable upon conviction by a fine of not less than one thousand dollars and not more than five thousand dollars, and each day's violation shall constitute a separate offense.

B.(1) Any person or entity violating the provisions of this Chapter when such violation poses a threat to the health, safety, rights, or welfare of a patient or client may be liable to civil fines and other penalties, to be assessed by the department, in addition to any criminal action which may be brought under other applicable laws. The department shall adopt rules in accordance with the Administrative Procedure Act which define specific classifications of violations, articulate factors in assessing civil fines including mitigating circumstances, and explain the treatment of continuing and repeat deficiencies.

(2) The schedule of civil fines and other penalties by class of violation is as follows:

- (a) Class A Violations: If an air ambulance is found to have been operated in violation of any of the requirements of this Chapter concerning the number or qualifications of personnel, the air ambulance shall be immediately taken out of service until it meets those requirements, and the air ambulance service operating it shall be subject to a civil fine of not more than five hundred dollars for the first violation and not more than one thousand dollars per day for each repeat violation.
- (b) Class B Violations: If an air ambulance service is found to have been operating

in violation of any of the requirements of this Chapter concerning insurance coverage, its license shall be immediately suspended until it meets those requirements, and it shall be subject to a civil fine of not more than five hundred dollars for the first violation and not more than one thousand dollars per day for each repeat violation.

(c) Class C Violations: If an air ambulance is found to have been operated without undergoing any inspection required under the provisions of this Chapter, the air ambulance shall be immediately taken out of service until it meets those requirements, and the air ambulance service operating it shall be subject to a civil fine of not more than five hundred dollars for the first violation and not more than one thousand dollars per day for each repeat violation.

(d) Class D Violations: If an air ambulance is found to have been operated in violation of any of the requirements of this Chapter concerning medical and safety equipment, the air ambulance shall be immediately taken out of service until it meets those requirements, and the air ambulance service operating it shall be subject to a civil fine of not more than one hundred dollars for the first violation and not more than five hundred dollars per day for each repeat violation.

C. The department shall adopt rules and regulations in accordance with the Administrative Procedure Act to provide notice to the air ambulance service of any violation, of its right to an informal reconsideration process, and of the available appeal procedure, including judicial review. Such appeal shall be suspensive.

D. The air ambulance service shall furnish, with an appeal, bond in the minimum amount of one and one-half times the amount of the fine imposed by the department. The bond shall provide in substance that it is furnished as security that the air ambulance service will prosecute its appeal and that any judgment against it, including court costs, will be paid or satisfied from the amount furnished. The appeal shall be heard as a summary proceeding which shall be given precedence over other pending matters.

E. The department may institute all necessary civil court action to collect fines imposed and not timely appealed. No air ambulance service may claim imposed fines as reimbursable costs, nor increase charges to patients and clients as a result of such fines. Interest shall begin to accrue on any fine at the current judicial rate on the day following the date on which the fine becomes due and payable.

RS 40:1136 — Repealed by Acts 1990, No. 281, §1.

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RS 40:1137 — Repealed by Acts 1990, No. 281, §1.

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RS 40:1137.1 — Legislative findings

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percent of these Americans die, in many cases because a lifesaving defibrillator did not arrive at the scene of the emergency in time.

B. The American Heart Association estimates that more than twenty thousand deaths may be prevented each year if defibrillators were more widely available to designated

responders.

C. Many communities throughout the state and nation have invested in 911 emergency response systems, emergency personnel, and ambulance vehicles. However, many of these communities do not have enough defibrillators in their community.

D. It is therefore the intent of the legislature to encourage greater acquisition, deployment, and use of automated external defibrillators in communities throughout the state.

RS 40:1137.2 — Definitions

ts pre-market notification filed pursuant to 21 U.S.C.

360(k) from the United States Food and Drug Administration.

(2) Is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and is capable of determining whether defibrillation should be performed.

(3) Upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart.

(4) Is capable of delivering the electrical impulse to an individual's heart.

RS 40:1137.3 — Persons in possession of AEDs; training, testing, and notification requirements;

erson or entity that possesses an

AED shall ensure that:

(1) The AED is maintained and tested according to the manufacturer's guidelines.

(2) A licensed physician or advanced practice registered nurse who is authorized to prescribe is involved in the possessor's program to ensure compliance with the requirements for training, emergency medical service (EMS) notification, and maintenance.

(3)(a) Expected AED users regularly, on the premises of a particular entity, such as a work site or users who carry an AED in a private security patrol vehicle, receive appropriate training in cardiopulmonary resuscitation (CPR) and in the use of an AED from any nationally recognized course in CPR and AED use.

(b) For purposes of this Paragraph, "expected AED users" shall be any person designated by the possessor to render emergency care.

(4) The emergency medical services system is activated as soon as possible when an individual renders emergency care to an individual in cardiac arrest by using an AED.

(5) Any clinical use of the AED is reported to the licensed physician or advanced practice registered nurse involved in the possessor's program.

B. Any person or entity that possesses an AED shall notify a local provider of emergency medical services, such as a 911 service, local ambulance service, or fire department of the acquisition, location, and type of AED.

C. Any manufacturer, wholesale supplier, or retailer of an AED shall notify purchasers of AEDs intended for use in the state of the requirements of this Section.

D.(1) The owner of or the entity responsible for a physical fitness facility shall keep an AED on its premises.

(2) As used in this Subsection:

(a) "Physical fitness facility" means a facility for profit or nonprofit with a

membership of over fifty persons that offers physical fitness services. This term includes but is not limited to clubs, studios, health spas, weight control centers, clinics, figure salons, tanning centers, athletic or sport clubs, and YWCA and YMCA organizations.

(b) "Physical fitness services" means services for the development of physical fitness through exercise or weight control. It shall not include a business limited solely to the practice of physical therapy, as defined in R.S. 37:2401, by a therapist licensed by the Louisiana State Board of Medical Examiners, nor shall it apply to medically related services performed by a physician licensed by the Louisiana State Board of Medical Examiners in a private office, clinic, or hospital.

E.(1)(a) Each postsecondary education institution shall have an AED on its premises in an easily accessible location within its athletic department.

(b) Any postsecondary education institution that sponsors an intercollegiate athletic event shall have an AED and a trained AED user who is also trained in first-aid CPR at the event.

(c) Each postsecondary education institution shall have a "cardiac emergency response plan". For purposes of this Subparagraph, a "cardiac emergency response plan" means a written document that establishes the specific steps to reduce death from cardiac arrest at an intercollegiate athletic event.

(i) An institution cardiac emergency response plan shall be prepared by each president or chancellor jointly with local emergency responders.

(ii) The plan, which shall focus on preventing the loss of life, shall integrate at a minimum the following guidelines:

(aa) Establishing a cardiac emergency response team.

(bb) Activating the team in response to a sudden cardiac arrest.

(cc) Implementing AED placement and routine maintenance within the institution.

(dd) Maintaining ongoing staff training in CPR and AED use.

(ee) Practicing using drills.

(ff) Integrating local EMS with the plan.

(gg) Annually reviewing and evaluating the plan.

(2)(a) Each elementary, middle, and high school shall have an AED on its premises in an easily accessible location. Each school shall have the authority to accept donations of AEDs or funds to acquire AEDs.

(b) Any elementary, middle, or high school that sponsors an interscholastic athletic event shall have an AED and a trained AED user who is also trained in first-aid CPR at the event.

(c) Each elementary, middle, and high school shall have a "cardiac emergency response plan". For purposes of this Subparagraph, a "cardiac emergency response plan" means a written document that establishes the specific steps to reduce death from cardiac arrest at an interscholastic athletic event.

(i) A school cardiac emergency response plan shall be prepared by each principal jointly with local emergency responders.

(ii) The plan, which shall focus on preventing the loss of life, shall integrate at a

minimum the following guidelines:

- (aa) Establishing a cardiac emergency response team.
- (bb) Activating the team in response to a sudden cardiac arrest.
- (cc) Implementing AED placement and routine maintenance within the school.
- (dd) Maintaining ongoing staff training in CPR and AED use.
- (ee) Practicing using drills.
- (ff) Integrating local EMS with the plan.
- (gg) Annually reviewing and evaluating the plan.

F. The Louisiana Department of Health shall promulgate all necessary rules and regulations to implement the provisions of this Section. Such rules and regulations shall, at a minimum, provide for:

- (1) Compliance, enforcement, and penalties.
- (2) Periodic maintenance and testing of each AED to ensure each AED is in working order.
- (3) Appropriate training for persons designated to use and maintain an AED.

G.(1) There is hereby created in the state treasury, as a special fund, the Jump Start Your Heart Fund, hereinafter referred to in this Section as the "fund". The fund shall consist of any monies appropriated, allocated, donated, or transferred to the fund and shall be deposited by the state treasurer after compliance with the provisions of Article VII, Section 9(B) of the Constitution of Louisiana.

(2) All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. Monies in the fund shall be invested in the same manner as monies in the state general fund. Interest earned on the investment of monies in the fund shall be deposited in and credited to the fund.

(3) Monies in the fund shall be appropriated by the legislature and shall be utilized to purchase automated external defibrillators for use at each postsecondary, high, middle, and elementary school in the state under the provisions of all necessary rules and regulations as promulgated by the Louisiana Department of Health.

RS 40:1137.4 — Limitation of liability

d R.S.

40:1131.2, any prescribing advanced practice registered nurse or physician who authorizes the purchase of the AED, any physician or advanced practice registered nurse involved in the possessor's program, any individual or entity which provides training in cardiopulmonary resuscitation and in the use of an AED, any purchaser of an AED, any person or entity who owns or who is responsible for the site or the private security patrol vehicle where an AED is located, and any expected user regularly on the premises or in the vehicle shall not be liable for any civil damages arising from any act or omission of acts related to the operation of or failure to operate an AED that do not amount to willful or wanton misconduct or gross negligence.

RS 40:1139.1 — Legislative findings

stem of Louisiana and are an essential element of Louisiana's emergency preparedness system.

- (2) Emergency medical services will be a key element in any healthcare reform initiative.
- (3) Emergency medical services are a key component of any economic development program as they are essential to recruiting and retaining industry.
- (4) The cost of funding the Medicaid program and healthcare for the poor and uninsured in the state must be carefully managed in a manner which recognizes the challenges associated with appropriate reimbursement for services under the program.
- (5) Emergency medical service providers want to assure that emergency medical services are available to all residents of Louisiana.
- (6) It is in the best interest of the state that there exist sufficient resources to assure the availability of emergency ambulance services to the citizens of Louisiana and the creation of a statewide ambulance service district will help to ensure this goal.
- (7) The Louisiana Ambulance Alliance and the Louisiana Department of Health are interested in exploring the use of local revenues to enhance the delivery of emergency ambulance services through the use of certified public expenditures, intergovernmental transfers or other financing mechanisms that are in accordance with the applicable state and federal regulations.

RS 40:1139.2 — Short title

designated from R.S. 40:1236.22. by
HCR 84 of 2015 R.S.

RS 40:1139.3 — Statewide ambulance service district; creation

he legislature does hereby establish a
statewide ambulance service district. The boundaries of the district shall be coterminous with the boundaries of the state. The ambulance service district thus created shall constitute a body corporate in law with all powers of a corporation, shall have perpetual existence, shall have the power and right to contract obligations, to sue and be sued, and to do and perform any and all acts in its corporate capacity and its corporate name necessary and proper for the carrying out of the objects and purposes for which the ambulance service district was created. It shall have the power and authority to acquire any and all necessary equipment and buildings for the purpose of performing the objects for which it is formed and shall own all sites and physical facilities which are acquired either by donation, purchase, exchange, and otherwise in full ownership.

RS 40:1139.4 — Object and purpose of the district

sement and financial
stability of ambulance providers. The Louisiana Department of Health, hereafter referred to as the "department", may submit waivers or state plan amendments to the Centers for Medicare and Medicaid Services in order to secure federal financial participation in relation to any such payments or reimbursement. Payments shall be made only in accordance with an approved waiver or state plan amendment. The department and the statewide ambulance district may enter into an agreement, in accordance with state and federal law, to develop funding methodologies in a way that is consistent with the legislative intent set forth herein.

The methodology shall be created with the intent to maximize, to the fullest extent possible, the return to the providers located within the jurisdiction of the local governing body which subsidized the delivery of services. Any licensed provider of ambulance services shall be eligible to participate in the district. Participation is on a strictly voluntary basis.

RS 40:1139.5 — Ambulance service district commission; qualifications, appointment, vacancies,
It be governed by

the Ambulance Service District Commission, hereafter referred to as the "commission". The commission shall be composed of seven members, one member from each congressional district and the remaining member or members from the state at large, appointed by the governor, subject to confirmation by the Senate, from a list of names submitted by the Louisiana Ambulance Alliance. The nomination list submitted to the governor shall include at least three nominees from each congressional district and at least three nominees for each position to be appointed from the state at large. Members of the commission shall be citizens and qualified electors of this state. Initially, three members of the commission shall be appointed for a two-year term, and the remaining members for four-year terms. Thereafter, all members shall be appointed for four years. Any vacancy on the board caused by death, resignation, removal, or disability of a member shall be filled for the unexpired term in the same manner as the original appointment.

B. Any member of the commission whose term expires shall continue to serve on the commission until such time that a successor is appointed.

C. Any member of the commission may be removed from office for cause and his appointment rescinded by a two-thirds vote of the membership of the governing authority.

D. The commission annually shall elect one of its members chairman, and one vice-chairman. The meetings shall be held at the domicile of the district established by the commission. At least four regular meetings shall be held annually. Special meetings may be held at such times and places as shall be specified, by call of the chairman or by a simple majority of the commission.

E. A majority of the members shall constitute a quorum of the board for all purposes and functions of the board.

F. Each member of the board shall receive a certificate or commission from the governor and before beginning his term of office shall file with the secretary of state a written oath or affirmation of faithful discharge of his official duties.

G. The members of the commission and all employees of the corporation shall be subject to the Code of Governmental Ethics. They shall be considered public employees as defined by R.S. 42:1102(18) and the corporation shall be considered an agency as defined by R.S. 42:1102(2) for purposes of the Code of Governmental Ethics only. All meetings of the board shall be open and subject to the provisions of R.S. 42:11 et seq. A record of all proceedings at regular and special meetings of the board shall be kept and shall be open to public inspection, except as otherwise provided by this Title or in R.S. 42:17.

H. No member of the board shall receive a per diem or shall be reimbursed for expenses incurred when attending a meeting of the board or any of its committees or for the time spent on behalf of the board on official business.

RS 40:1139.6 — Powers and duties of the commission

in facilitating ambulance care in the state.

- (2) To pursue grant funds to advance first responder services.
- (3) To enter into cooperative agreements with other public and private entities.
- (4) To assist ambulance providers in obtaining lowest possible cost for equipment and supplies through group purchasing.
- (5) To appoint a director of the ambulance service district and to perform such other duties as may now or hereafter be required by law.
- (6) To appoint the necessary standing and special committees which may be necessary to carry out the purposes of this Part.
- (7) To establish rates of pay for the use of facilities provided by the district.
- (8) To enter into contractual arrangements with recognized and duly constituted ambulance providers which are primarily engaged in the operation of ambulance-related functions in order to enhance Medicaid funding and reimbursement, and for related matters.
- (9) To designate a bank to act as agent for depositing funds.
- (10) To designate rules and regulations for safekeeping of the funds acquired, collected, or loaned by or to the district, and to provide for regular audits of the accounts of the district.

RS 40:1139.7 — Procedure for organizing the ambulance service district

ce for the first meeting of the commission. The

first meeting shall take place within sixty days from the date of the initial appointments. At the first meeting of the commission, the commission shall proceed to organize by electing a chairman and a vice-chairman.

B. It shall be the duty of the chairman to preside over the meetings of the commission and to perform such other duties as are usually required of the chairman of a corporate board. It shall be the duty of the vice-chairman to act in the absence of the chairman and in case of the disability of the chairman.

RS 40:1139.8 — Domicile; service of process

ict shall be kept at the
domicile.

B. Service of process shall be made upon the director, and in his absence, upon the chairman of the commission, and in his absence or their absence, then upon the vice-chairman of the commission.

RS 40:1139.9 — District as a political subdivision; power to incur debt and issue general bonds

ying out the purposes of the ambulance service district as provided in this Part, the district, pursuant to the provisions of the Louisiana Constitution of 1974, shall have the power to incur debt and issue general obligation bonds or revenue.

RS 40:1139.10 — Federal and state aid

ncy or

instrumentality as may be necessary to procure aids and grants to assist such districts in carrying out the purpose for which they are created.

RS 40:1139.11 — Rules and regulations

disbursement of funds to participating providers. Such rules and regulations shall be submitted to the Senate and House committees on health and welfare and such committees shall have jurisdiction for purposes of the Administrative Procedure Act.

RS 40:1141 — Recognition of Emergency Medical Services Personnel Licensure Interstate Compact

ct (REPLICA) is hereby recognized and enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE

INTERSTATE COMPACT (REPLICA)

SECTION 1. PURPOSE

In order to protect the public through verification of competency and ensure accountability for patient care related activities all states license emergency medical services (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs, and paramedics. This compact is intended to facilitate the day-to-day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel licensed in a member state. This compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public health and safety. This compact is designed to achieve the following purposes and objectives:

- (1) Increase public access to EMS personnel.
- (2) Enhance the states' ability to protect the public's health and safety, especially patient safety.
- (3) Encourage the cooperation of member states in the areas of EMS personnel licensure and regulation.
- (4) Support licensing of military members who are separating from an active duty tour, and their spouses.
- (5) Facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action, and significant investigatory information.
- (6) Promote compliance with the laws governing EMS personnel practice in each member state.
- (7) Invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

SECTION 2. DEFINITIONS

In this compact:

- A. "Advanced Emergency Medical Technician (AEMT)" means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.
- B. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which may be imposed against licensed EMS personnel by a state EMS authority or state court, including but not limited to actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring, or other

limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions, and state court judgments enforcing adverse actions by the state EMS authority.

C. "Alternative program" means a voluntary, nondisciplinary substance abuse recovery program approved by a state EMS authority.

D. "Certification" means the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated, and legally defensible examination.

E. "Commission" means the national administrative body of which all states that have enacted the compact are members.

F. "Emergency Medical Technician (EMT)" means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

G. "Home state" means a member state where an individual is licensed to practice emergency medical services.

H. "License" means the authorization by a state for an individual to practice as an EMT, AEMT, paramedic, or a level in between EMT and paramedic.

I. "Medical director" means a physician licensed in a member state who is accountable for the care delivered by EMS personnel.

J. "Member state" means a state that has enacted this compact.

K. "Privilege to practice" means an individual's authority to deliver emergency medical services in remote states as authorized under this compact.

L. "Paramedic" means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

M. "Remote state" means a member state in which an individual is not licensed.

N. "Restricted" means the outcome of an adverse action that limits a license or the privilege to practice.

O. "Rule" means a written statement by the interstate commission promulgated pursuant to Section (12) of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact; or is an organizational, procedural, or practice requirement of the commission and has the force and effect of statutory law in a member state and includes the amendment, repeal, or suspension of an existing rule.

P. "Scope of practice" means defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute, or court decision, it tends to represent the limits of services an individual may perform.

Q. "Significant investigatory information" means:

(1) Investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or

(2) Investigative information that indicates that the individual represents an immediate threat to public health and safety regardless of whether the individual has been notified and had an opportunity to respond.

R. "State" means any state, commonwealth, district, or territory of the United States.

S. "State EMS authority" means the board, office, or other agency with the legislative mandate to license EMS personnel.

SECTION 3. HOME STATE LICENSURE

A. Any member state in which an individual holds a current license shall be deemed a home state for purposes of this compact.

B. Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.

C. A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:

(1) Currently requires the use of the National Registry of Emergency Medical Technicians (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels.

(2) Has a mechanism in place for receiving and investigating complaints about individuals.

(3) Notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding an individual.

(4) No later than five years after activation of the compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation with the exception of federal employees who have suitability determination in accordance with 5 CFR 731.202 and submit documentation of such as promulgated in the rules of the commission.

(5) Complies with the rules of the commission.

SECTION 4. COMPACT PRIVILEGE TO PRACTICE

A. Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with Section (3).

B. To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

(1) Be at least eighteen years of age.

(2) Possess a current unrestricted license in a member state as an EMT, AEMT, paramedic, or state recognized and licensed level with a scope of practice and authority between EMT and paramedic.

(3) Practice under the supervision of a medical director.

C. An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state as may be defined in the rules of the commission.

D. Except as provided in Section (4), Subsection (C), an individual practicing in a remote state will be subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend, or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action it shall promptly notify the home state and the commission.

E. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

F. If an individual's privilege to practice in any remote state is restricted, suspended, or revoked the individual shall not be eligible to practice in any remote state until the individual's privilege to practice is restored.

SECTION 5. CONDITIONS OF PRACTICE IN A REMOTE STATE

An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the commission, and under the following circumstances:

- (1) The individual originates a patient transport in a home state and transports the patient to a remote state.
- (2) The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state.
- (3) The individual enters a remote state to provide patient care and/or transport within that remote state.
- (4) The individual enters a remote state to pick up a patient and provide care and transport to a third member state.
- (5) Other conditions as determined by rules promulgated by the commission.

SECTION 6. RELATIONSHIP TO EMERGENCY MANAGEMENT ASSISTANCE COMPACT

Upon a member state's governor's declaration of a state of emergency or disaster that activates the Emergency Management Assistance Compact (EMAC), all relevant terms and provisions of EMAC shall apply and to the extent any terms or provisions of this compact conflicts with EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the remote state in response to such declaration.

SECTION 7. VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE DUTY MILITARY, AND THEIR SPOUSES

A. Member states shall consider a veteran, active military service member, and member of the National Guard and Reserves separating from an active duty tour, and a spouse thereof, who holds a current valid and unrestricted NREMT certification at or above the level of the state license being sought as satisfying the minimum training and examination requirements for such licensure.

B. Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the National Guard and

Reserves separating from an active duty tour, and their spouses.

C. All individuals functioning with a privilege to practice under this Section remain subject to the Adverse Actions provisions of Section (8).

SECTION 8. ADVERSE ACTIONS

A. A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

B. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

(1) All home state adverse action orders shall include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state and remote state's EMS authority.

(2) An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and remote state's EMS authority.

C. A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended, or revoked to the commission in accordance with the rules of the commission.

D. A remote state may take adverse action on an individual's privilege to practice within that state.

E. Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing such adverse action.

F. A home state's EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if such conduct had occurred within the home state. In such cases, the home state's law shall control in determining the appropriate adverse action.

G. Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

SECTION 9. ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S EMS AUTHORITY

A member state's EMS authority, in addition to any other powers granted under state law, is authorized under this compact to:

(1) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's EMS authority for the attendance and testimony of witnesses, and/or the production of evidence from another member state, shall be enforced in the remote state by any court of

competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located.

(2) Issue cease and desist orders to restrict, suspend, or revoke an individual's privilege to practice in the state.

SECTION 10. ESTABLISHMENT OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE

A. The compact states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice.

(1) The commission is a body politic and an instrumentality of the compact states.

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

B. Membership, voting, and meetings

(1) Each member state shall have and be limited to one delegate. The responsible official of the state EMS authority or his designee shall be the delegate to this compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one board, office, or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the governor of the state will determine which entity will be responsible for assigning the delegate.

(2) Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(3) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(4) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section (12).

(5) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

(a) Noncompliance of a member state with its obligations under the compact.

(b) The employment, compensation, discipline, or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures.

(c) Current, threatened, or reasonably anticipated litigation.

- (d) Negotiation of contracts for the purchase or sale of goods, services, or real estate.
 - (e) Accusing any person of a crime or formally censuring any person.
 - (f) Disclosure of trade secrets or commercial or financial information that is privileged or confidential.
 - (g) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.
 - (h) Disclosure of investigatory records compiled for law enforcement purposes.
 - (i) Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact.
 - (j) Matters specifically exempted from disclosure by federal or member state statute.
- (6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.
- C. The commission shall, by a majority vote of the delegates, prescribe bylaws and/or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including but not limited to:
- (1) Establishing the fiscal year of the commission.
 - (2) Providing reasonable standards and procedures:
 - (a) For the establishment and meetings of other committees.
 - (b) Governing any general or specific delegation of any authority or function of the commission.
 - (3) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed.
 - (4) Establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the commission.
 - (5) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws shall exclusively govern the personnel policies and programs of the commission.
 - (6) Promulgating a code of ethics to address permissible and prohibited activities of

commission members and employees.

(7) Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment and/or reserving of all of its debts and obligations.

(8) The commission shall publish its bylaws and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any.

(9) The commission shall maintain its financial records in accordance with the bylaws.

(10) The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

D. The commission shall have the following powers:

(1) The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states.

(2) To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected.

(3) To purchase and maintain insurance and bonds.

(4) To borrow, accept, or contract for services of personnel, including but not limited to employees of a member state.

(5) To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.

(6) To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the commission shall strive to avoid any appearance of impropriety and/or conflict of interest.

(7) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed, provided that at all times the commission shall strive to avoid any appearance of impropriety.

(8) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed.

(9) To establish a budget and make expenditures.

(10) To borrow money.

(11) To appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws.

(12) To provide and receive information from, and to cooperate with, law enforcement agencies.

(13) To adopt and use an official seal.

(14) To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of EMS personnel licensure and practice.

E. Financing of the commission

(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(3) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(5) The commission shall keep accurate accounts of all receipts and disbursements.

The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

F. Qualified immunity, defense, and indemnification

(1) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this Paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the gross negligence or intentional or willful or wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged

act, error, or omission did not result from that person's gross negligence or intentional or willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the gross negligence or intentional or willful or wanton misconduct of that person.

SECTION 11. COORDINATED DATABASE

A. The commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action, and significant investigatory information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this compact is applicable as required by the rules of the commission, including:

- (1) Identifying information.
- (2) Licensure data.
- (3) Significant investigatory information.
- (4) Adverse actions against an individual's license.
- (5) An indicator that an individual's privilege to practice is restricted, suspended, or revoked.
- (6) Nonconfidential information related to alternative program participation.
- (7) Any denial of application for licensure, and the reason(s) for such denial.
- (8) Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

C. The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.

D. Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.

E. Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.

SECTION 12. RULEMAKING

A. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall

have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

D. Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) On the website of the commission.

(2) On the website of each member state EMS authority or the publication in which each state would otherwise publish proposed rules.

E. The notice of proposed rulemaking shall include:

(1) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon.

(2) The text of the proposed rule or amendment and the reason for the proposed rule.

(3) A request for comments on the proposed rule from any interested person.

(4) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) At least twenty-five persons.

(2) A governmental subdivision or agency.

(3) An association having at least twenty-five members.

H. If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This Subsection shall not preclude the commission from making a transcript or recording of the hearing if it so chooses.

(4) Nothing in this Section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this Section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

J. The commission shall, by majority vote of all members, take final action on the

proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this Section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

- (1) Meet an imminent threat to public health, safety, or welfare.
- (2) Prevent a loss of commission or member state funds.
- (3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.
- (4) Protect public health and safety.

M. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

SECTION 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

(1) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.

(3) The commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes.

Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

B. Default, technical assistance, and termination

(1) If the commission determines that a member state has defaulted in the

performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

- (a) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and/or any other action to be taken by the commission.
- (b) Provide remedial training and specific technical assistance regarding the default.
- (2) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
- (3) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
- (4) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
- (5) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.
- (6) The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

C. Dispute resolution

- (1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.
- (2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

- (1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.
- (2) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.
- (3) The remedies herein shall not be the exclusive remedies of the commission. The

commission may pursue any other remedies available under federal or state law.

SECTION 14. DATE OF IMPLEMENTATION OF THE
INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE
AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

B. Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

C. Any member state may withdraw from this compact by enacting a statute repealing the same.

(1) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's EMS authority to comply with the investigative and adverse action reporting requirements of this Act prior to the effective date of withdrawal.

D. Nothing contained in this compact shall be construed to invalidate or prevent any EMS personnel licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

E. This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 15. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any member state thereto, the compact shall remain in full force and effect as to the remaining member states. Nothing in this compact supersedes state law or rules related to licensure of EMS agencies.

RS 40:1146 — Allowance to stock emergency medication; definitions

medication recognized by the Louisiana

Department of Health as a medication that can be administered to treat a life-threatening condition.

(b) Such medications may include but not be limited to the following:

(i) Epinephrine.

(ii) Naloxone.

(iii) Albuterol.

(iv) Glucagon.

(2) "Qualified entity" means any public or private entity that is associated with a location where a medical emergency can occur, including licensed early learning centers,

colleges and universities, places of employment, restaurants, amusement parks, recreation camps, after-school programs, sports playing fields and arenas, and other similar locations, except that "qualified entity" does not include public or nonpublic elementary or secondary schools.

(3) "Trained personnel" means an employee, agent, or volunteer of an entity who has received training on the medications that include but are not limited to the following:

(a) Techniques on how to recognize signs of life-threatening emergency standards and procedures for the storage and administration of life-saving medication.

(b) Emergency follow-up procedures including the requirement to summon emergency services either immediately before or immediately after administering life-saving medication.

B. Notwithstanding any other provision of law to the contrary, licensed healthcare professionals authorized to prescribe such medication may prescribe life-saving medications maintained in the name of a qualified entity for use in accordance with this Section.

C. Notwithstanding any other provision of law to the contrary, licensed pharmacists and physicians may dispense life-saving medications in accordance with a prescription issued pursuant to this Section.

D. Notwithstanding any other provision of law to the contrary, a qualified entity may maintain a stock supply of life-saving medications in accordance with a prescription issued pursuant to this Section.

E.(1) The qualified entity may authorize trained personnel to administer life-saving medications to an individual on the qualified entity's premises or during a qualified-entity-affiliated activity with whom the trained personnel as defined in this Section believes in good faith is experiencing a medical emergency, in accordance with this Section. There shall be a standing protocol for a licensed healthcare professional authorized to dispense or prescribe the necessary medication, regardless of whether the individual has a prescription for a life-saving medication.

(2) Training may be performed by a medical emergency training organization, a registered nurse, or a licensed physician.

F. The qualified entity may enter into arrangements with manufacturers of life-saving medications or third-party suppliers of life-saving medications to obtain life-saving medications at fair-market, free, or reduced prices.

G. A person or entity shall not be liable for damages in a civil action for injury, death, or loss to person or property that allegedly arises from an act or omission associated with administration or self-administration of a life-saving medication, unless the act or omission constitutes willful or wanton misconduct. The limitation of liability provided for in this Subsection shall apply to the following:

(1) A qualified entity.

(2) A qualified entity's employee, agent, or volunteer.

(3) A licensed healthcare professional authorized to prescribe or dispense life-saving medications.

(4) A training organization and its personnel.

H. The administration of life-saving medications pursuant to this Section is not the practice of medicine or nursing.

I.(1) Notwithstanding any other provision of law to the contrary, the secretary of the Louisiana Department of Health is authorized to issue a standing order for the prescription of life-saving medications on a statewide basis under certain conditions that the secretary shall determine to be in the best interest of the people in this state.

(2) If the secretary of the department is not a physician, the secretary may appoint a designee who is a physician employed by the department to issue the standing order provided for in this Subsection.

J. The Louisiana Department of Health shall promulgate rules in accordance with the Administrative Procedure Act to implement the provisions of this Section. The rules shall include the list of life-saving medications that can be prescribed, dispensed, and maintained pursuant to the provisions of this Section.

RS 40:1151 — Legislative purpose, findings and intent

n medical care, including the

decision to have life-sustaining procedures withheld or withdrawn in instances where such persons are diagnosed as having a terminal and irreversible condition.

(2) The legislature further finds that the artificial prolongation of life for a person diagnosed as having a terminal and irreversible condition may cause loss of individual and personal dignity and secure only a precarious and burdensome existence while providing nothing medically necessary or beneficial to the person.

(3) In order that the rights of such persons may be respected even after they are no longer able to participate actively in decisions concerning themselves, the legislature hereby declares that the laws of the state of Louisiana shall recognize:

(a) The right of such a person to make a declaration instructing his physician to withhold or withdraw life-sustaining procedures or designating another to make the treatment decision and make such a declaration for him, in the event he is diagnosed as having a terminal and irreversible condition; and

(b) The right of certain individuals to make a declaration pursuant to which life-sustaining procedures may be withheld or withdrawn from an adult patient who is comatose, incompetent, or otherwise physically or mentally incapable of communication, or from a minor, in the event such adult patient or minor is diagnosed and certified as having a terminal and irreversible condition.

(4) In furtherance of the rights of such persons, the legislature finds and declares that nothing in this Subpart shall be construed to be the exclusive means by which life-sustaining procedures may be withheld or withdrawn, nor shall this Subpart be construed to require the application of medically inappropriate treatment or life-sustaining procedures to any patient or to interfere with medical judgment with respect to the application of medical treatment or life-sustaining procedures.

B. Intent. (1) The legislature intends that the provisions of this Subpart are permissive and voluntary. The legislature further intends that the making of a declaration pursuant to this Subpart merely illustrates a means of documenting a patient's decision

relative to withholding or withdrawal of medical treatment or life-sustaining procedures.

(2) It is the intent of the legislature that nothing in this Subpart shall be construed to require the making of a declaration pursuant to this Subpart .

(3) It is the intent of the legislature that nothing in this Subpart shall be construed to be the exclusive means by which life-sustaining procedures may be withheld or withdrawn, nor shall this Subpart be construed to require the application of medically inappropriate treatment or life-sustaining procedures to any patient or to interfere with medical judgment with respect to the application of medical treatment or life-sustaining procedures.

RS 40:1151.1 — Definitions

means the physician who has primary responsibility for the treatment and care of the patient.

(2) "Cardiopulmonary resuscitation" means those measures used to restore or support cardiac or respiratory function in the event of a cardiac or respiratory arrest.

(3) "Declarant" means a person who has executed a declaration as defined herein.

(4) "Declaration" means a witnessed document, statement, or expression voluntarily made by the declarant, authorizing the withholding or withdrawal of life-sustaining procedures, in accordance with the requirements of this Subpart. A declaration may be made in writing, orally, or by other means of nonverbal communication.

(5) "Do-not-resuscitate identification bracelet" means a standardized bracelet as described in R.S. 40:1151.2(D)(1)(b).

(6) "Health care provider" means any health maintenance organization, home health agency, hospice, hospital, nursing facility, or any entity listed in R.S. 40:1231.1(A)(10).

(7) "Licensed emergency medical services practitioner" means a licensed emergency medical services practitioner as defined in R.S. 40:1131.

(8) "Life-sustaining procedure" means any medical procedure or intervention which, within reasonable medical judgment, would serve only to prolong the dying process for a person diagnosed as having a terminal and irreversible condition, including such procedures as the invasive administration of nutrition and hydration and the administration of cardiopulmonary resuscitation. A "life-sustaining procedure" shall not include any measure deemed necessary to provide comfort care.

(9) "Minor" means a person under eighteen years of age.

(10) "Physician" means a physician or surgeon licensed by the Louisiana State Board of Medical Examiners or by the official licensing authority of another state.

(11) "Qualified patient" means a patient diagnosed and certified in writing as having a terminal and irreversible condition by two physicians who have personally examined the patient, one of whom shall be the attending physician.

(12) "Registry" means a registry for declarations established and maintained by the secretary of state pursuant to this Subpart.

(13) "Spouse" means a person who is legally married to the qualified patient but does not include a spouse who is judicially separated from the patient, is cohabited with another person in the manner of married persons, or who has been convicted of any crime of violence as defined in R.S. 14:2(B) against the other spouse, that has resulted in the terminal and

irreversible condition as defined in Paragraph (15) of this Section, or who has violated any domestic abuse protective order affecting the other spouse.

(14) "Terminal and irreversible condition" means a continual profound comatose state with no reasonable chance of recovery or a condition caused by injury, disease, or illness which, within reasonable medical judgment, would produce death and for which the application of life-sustaining procedures would serve only to postpone the moment of death.

(15) "Witness" means a competent adult who is not related to the declarant or qualified patient, whichever is applicable, by blood or marriage and who would not be entitled to any portion of the estate of the person from whom life-sustaining procedures are to be withheld or withdrawn upon his decease.

RS 40:1151.2 — Making of declaration; notification; illustrative form; registry; issuance of do-not-resuscitate identification bracelets

ation directing the

withholding or withdrawal of life-sustaining procedures in the event such person should have a terminal and irreversible condition.

(2) A written declaration shall be signed by the declarant in the presence of two witnesses.

(3) An oral or nonverbal declaration may be made by an adult in the presence of two witnesses by any nonwritten means of communication at any time subsequent to the diagnosis of a terminal and irreversible condition.

B.(1) It shall be the responsibility of the declarant to notify his attending physician that a declaration has been made.

(2) In the event the declarant is comatose, incompetent, or otherwise mentally or physically incapable of communication, any other person may notify the physician of the existence of the declaration. In addition, the attending physician or health care facility may directly contact the registry to determine the existence of any such declaration.

(3) Any attending physician who is so notified, or who determines directly or is advised by the health care facility that a declaration is registered, shall promptly make the declaration or a copy of the declaration, if written, or a notation of the existence of a registered declaration, a part of the declarant's medical record.

(4) If the declaration is oral or nonverbal, the physician shall promptly make a recitation of the reasons the declarant could not make a written declaration and make the recitation a part of the patient's medical records.

C.(1) The declaration may, but need not, be in the following illustrative form and may include other specific directions including but not limited to a designation of another person to make the treatment decision for the declarant should he be diagnosed as having a terminal and irreversible condition and be comatose, incompetent, or otherwise mentally or physically incapable of communications:

DECLARATION

Declaration made this _____ day of _____ (month, year).

I, _____, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances

set forth below and do hereby declare:

If at any time I should have an incurable injury, disease or illness, or be in a continual profound comatose state with no reasonable chance of recovery, certified to be a terminal and irreversible condition by two physicians who have personally examined me, one of whom shall be my attending physician, and the physicians have determined that my death will occur whether or not life-sustaining procedures are utilized and where the application of life-sustaining procedure would serve only to prolong artificially the dying process, I direct

(initial one only):

___ That all life-sustaining procedures, including nutrition and hydration, be withheld or withdrawn so that food and water will not be administered invasively.

___ That life-sustaining procedures, except nutrition and hydration, be withheld or withdrawn so that food and water can be administered invasively.

I further direct that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care.

In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this declaration shall be honored by my family

and physician(s) as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal.

I understand the full import of this declaration and I am emotionally and mentally competent to make this declaration.

Signed _____

City, Parish, and State of Residence _____

The declarant has been personally known to me and I believe him or her to be of sound mind.

Witness _____

Witness _____

(2) Should any of the other specific directions be held to be invalid, such invalidity shall not affect other directions of the declaration which can be given effect without the invalid direction, and to this end the directions in the declaration are severable.

(3)(a) Any declaration executed prior to January 1, 1992, which does not contain directions regarding life-sustaining procedures in the event that the declarant is in a continual profound comatose state shall not be invalid for that reason. Such declaration shall be applicable to any terminal and irreversible condition, as defined in this Subpart, unless it clearly provides to the contrary.

(b) Any declaration executed prior to August 15, 2005, which does not contain an option to specifically initial a choice regarding nutrition and hydration shall not be invalid for that reason nor presumed to mean that the declarant desires the invasive administration of nutrition or hydration.

D.(1)(a) The secretary of state shall establish a declaration registry in which a person, or his attorney, if authorized by the person to do so, may register the original, multiple original, or a certified copy of the declaration.

(b) The secretary of state shall issue a do-not-resuscitate identification bracelet to

qualified patients listed in the registry. The do-not-resuscitate identification bracelet must include the patient's name, date of birth, and the phrase "DO NOT RESUSCITATE".

(2) Any attending physician or health care facility may, orally or in writing, request the secretary of state to confirm immediately the existence of a declaration and to disclose the contents thereof for any patient believed to be a resident of Louisiana. A copy of the declaration or a facsimile thereof transmitted from the office of the secretary of state shall be deemed authentic. However, nothing herein requires a physician or health care facility to confirm the existence of such declaration or obtain a copy thereof prior to the withholding or withdrawal of medical treatment or life-sustaining procedures.

(3) The secretary of state may charge a fee of twenty dollars for registering a declaration and issuing a do-not-resuscitate identification bracelet and a fee of five dollars for filing a notice of revocation. No charge shall be made for the furnishing of information concerning the existence of a declaration, the disclosure of its contents, or the providing of a copy or facsimile thereof.

RS 40:1151.3 — Revocation of declaration

(1) By being cancelled, defaced, obliterated, burned, torn, or otherwise destroyed by the declarant or by some person in the presence of and at the direction of the declarant.

(2)(a) By a written revocation of the declarant expressing the intent to revoke, signed and dated by the declarant.

(b) The attending physician shall record in the patient's medical record the time and date when notification of the written revocation was received.

(3)(a) By an oral or nonverbal expression by the declarant of the intent to revoke the declaration.

(b) Such revocation by any method enumerated in this Section shall become effective upon communication to the attending physician.

(c) The attending physician shall record in the patient's medical records the time and date when notification of the revocation was received.

B. A declaration registered with the secretary of state's office may be revoked by the filing of a written notice of revocation in that office. The secretary of state shall indicate on the declaration the date and time the notice of revocation was received in his office. Until the notation has been indicated on the declaration, any physician or health care facility acting in good faith may rely upon the validity of the declaration.

RS 40:1151.4 — Procedure for making a declaration for a qualified patient who has not previously

holding or the withdrawal of life-sustaining procedures from a qualified patient with a terminal and irreversible condition who is comatose, incompetent, or otherwise physically or mentally incapable of communication and has not made a prior declaration in accordance with this Subpart .

(2) When a comatose or incompetent person or a person who is physically or mentally incapable of communication has been certified as a qualified patient and has not previously made a declaration, any of the following individuals in the following order of priority, if there is no individual in a prior class who is reasonably available, willing, and competent to act, may make a declaration on the qualified patient's behalf:

(a) The judicially appointed tutor or curator of the patient if one has been appointed.

This Subparagraph shall not be construed to require such appointment in order that a declaration can be made under this Section.

(b) Any person or persons previously designated by an adult patient by written instrument signed by the patient in the presence of at least two witnesses, to have the authority to make a declaration for the patient in the event of the patient's inability to do so. If the instrument so authorizes more than one person, it may include the order in which the persons designated shall have authority to make the declaration.

(c) The patient's spouse not judicially separated.

(d) An adult child of the patient.

(e) The parents of the patient.

(f) The patient's sibling.

(g) The patient's other ascendants or descendants.

(3) If there is more than one person within the above named class in Subparagraphs (2)(d) through (2)(g) of this Subsection, then the declaration shall be made by a majority of that class available for consultation upon good faith efforts to secure participation of all of that class.

B. In any case where the declaration is made by a person specified in Subparagraphs (A)(2)(b), (c), (d), (e), or (f), there shall be at least two witnesses present at the time the declaration is made.

C. The absence of a declaration by an adult patient shall not give rise to any presumption as to the intent to consent to or to refuse life-sustaining procedures.

RS 40:1151.5 — Making a declaration for the benefit of a terminally ill minor

o document the decision relative to withholding or

withdrawal of medical treatment or life-sustaining procedures on a minor's behalf:

(1) The spouse if he has reached the age of majority; or

(2) If there is no spouse, or if the spouse is not available, or is a minor, or is otherwise unable to act, then either the parent or guardian of the minor.

B. An individual named in Subsection A of this Section may not make a declaration:

(1) If he has actual notice of contrary indications by the minor who is terminally ill; or

(2) If, as a parent or guardian, he has actual notice of opposition by either another parent, or guardian, or a spouse who has attained the age of majority.

C. Nothing in this Section shall be construed to require the making of a declaration for a terminally ill minor. The legislature intends that the provisions of this Subpart are permissive and voluntary. The legislature further intends that the making of a declaration pursuant to this Subpart merely illustrates a means of documenting the decision relative to withholding or withdrawal of medical treatment or life-sustaining procedures on behalf of a minor.

RS 40:1151.6 — Physician, health care provider, and licensed emergency medical services

made under this Subpart or at the request of the proper person as provided in R.S. 40:1151.4

or R.S. 40:1151.5 upon diagnosis of a terminal and irreversible condition of the patient, or

who on his own determines the existence of a declaration on file in the registry, shall take necessary steps to provide for written certification of the patient's terminal and irreversible condition, so that the patient may be deemed to be a qualified patient as defined in R.S. 40:1151.1.

B. Any attending physician who refuses to comply with the declaration of a qualified patient or declaration otherwise made pursuant to this Subpart shall make a reasonable effort to transfer the patient to another physician.

C. No provision of this Subpart imposes a duty upon the physician or health care facility to make a search of the registry for the existence of a declaration.

D. If the policies of a health care provider preclude compliance with the declaration of a qualified patient under this Subpart or preclude compliance with the provisions pertaining to a representative acting on behalf of a qualified patient, then the provider shall take all reasonable steps to transfer the patient to a provider with which the provisions of this Subpart can be effectuated.

E. Licensed emergency medical services practitioners shall make a reasonable effort to detect the presence of a do-not-resuscitate identification bracelet on the patient.

RS 40:1151.7 — Immunity from liability

ility or be deemed to

have engaged in unprofessional conduct as a result of the withholding or the withdrawal of life-sustaining procedures from a qualified patient who has made a declaration or is wearing a do-not-resuscitate identification bracelet in accordance with the provisions of this Subpart.

(2) Any person, health care facility, physician, or other person acting under the direction of a physician who authorizes the withholding or withdrawal of life-sustaining procedures in accordance with a qualified patient's declaration or do-not-resuscitate identification bracelet, or as otherwise provided in this Subpart shall not be subject to criminal prosecution or civil liability for such action.

B. In instances where a patient diagnosed as having a terminal and irreversible condition or his representative utilized means other than those in accordance with the provisions of this Subpart to document or manifest the patient's intention and desire that medical treatment or life-sustaining procedures be withheld or withdrawn, any health care facility, physician, or other person acting under the direction of a physician shall not be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of the withholding or withdrawal of life-sustaining procedures when the health care facility, physician, or other person acting under the direction of a physician has acted in good faith reliance on the patient's or his representative's manifestations that medical treatment or life-sustaining procedures be withheld or withdrawn and the continued utilization of life-sustaining procedures would, within reasonable medical judgment, serve only to prolong the dying process.

C.(1) Inasmuch as the provisions of this Subpart are declared by the legislature to provide an alternative nonexclusive means by which life-sustaining procedures may be withheld or withdrawn, the provisions of this Section shall apply to any case in which life-sustaining procedures are withheld or withdrawn unless it is shown by a preponderance of

the evidence that the person authorizing or effectuating the withholding or withdrawal of life-sustaining procedures did not, in good faith, comply with the provisions of this Subpart or

did not act in good faith compliance with the intention of the terminal and irreversible patient that medical treatment or life-sustaining procedures be withheld or withdrawn.

(2) A declaration made in accordance with this Subpart shall be presumed to have been made voluntarily.

D.(1) A licensed emergency medical services practitioner shall not be subject to criminal prosecution or civil liability for withholding life-sustaining procedures from a qualified patient who is wearing a do-not-resuscitate identification bracelet.

(2) A licensed emergency medical services practitioner shall not be subject to criminal prosecution or civil liability for administering life-sustaining procedures to a qualified patient who is not wearing the do-not-resuscitate identification bracelet.

RS 40:1151.8 — Penalties

ellet,

without such declarant's consent or who falsifies or forges a revocation or the declaration of another shall be civilly liable.

B. Any person who falsifies or forges the declaration of another or willfully conceals or withholds personal knowledge of a revocation of a declaration with the intent to cause the withholding or withdrawal of life-sustaining procedures contrary to the wishes of the declarant, and thereby because of such act directly causes life-sustaining procedures to be withheld or withdrawn and death thereby to be hastened may be subject to prosecution under Title 14 of the Louisiana Revised Statutes of 1950.

RS 40:1151.9 — General application

r deliberate

act or omission to end life other than to permit the natural process of dying.

B.(1) The withholding or withdrawal of life-sustaining procedures from a qualified patient in accordance with the provisions of this Subpart shall not, for any purpose, constitute a suicide.

(2) Nor shall the making of a declaration pursuant to this Subpart affect the sale, procurement, or issuance of any life insurance policy, nor shall it be deemed to modify the terms of an existing policy.

(3) No policy shall be legally impaired or invalidated by the withholding or withdrawal of life-sustaining procedures from an insured, qualified patient, notwithstanding any term of the policy to the contrary.

(4) A person shall not be required to make a declaration as a condition for being insured or for receiving health care services.

(5) The removal of life support systems or the failure to administer cardio-pulmonary resuscitation under this Subpart shall not be deemed the cause of death for purposes of insurance coverage.

C. The provisions of this Subpart are cumulative with existing law pertaining to an individual's right to consent or refuse to consent to medical or surgical treatment.

D. A declaration properly executed in and under the laws of another state is deemed

to be validly executed for purposes of this Subpart.

E. It is the policy of the state of Louisiana that human life is of the highest and inestimable value through natural death. When interpreting this Subpart, any ambiguity shall be interpreted to preserve human life, including the life of an unborn child if the qualified patient is pregnant and an obstetrician who examines the woman determines that the probable postfertilization age of the unborn child is twenty or more weeks and the pregnant woman's life can reasonably be maintained in such a way as to permit the continuing development and live birth of the unborn child, and such determination is communicated to the relevant classes of family members and persons designated in R.S. 40:1151.4.

RS 40:1153.1 — Application; military personnel

assistance under the provisions of 10 U.S.C. 1044

or regulations of the Department of Defense.

B. "Military personnel" means members of any of the branches of the armed forces of the United States as defined by 10 U.S.C. 101(a)(4), the reserve components of the armed forces of the United States as defined by 10 U.S.C. 10101, or the Louisiana National Guard.

RS 40:1153.2 — Illustrative form; military advance medical directives

eligible persons who reside in the state of

Louisiana:

LOUISIANA'S MILITARY ADVANCE MEDICAL DIRECTIVE

STATE OF LOUISIANA

PARISH OF _____

This is a MILITARY ADVANCE MEDICAL DIRECTIVE prepared pursuant to Title 10, United States Code, Section 1044(c). It was prepared by an attorney who was authorized to provide legal assistance for an individual who was eligible to receive legal assistance. Federal law exempts this advance medical directive from any requirement of form, substance, formality, or recording that is provided for advance medical directives under the laws of a State. Federal law specifies that this advance medical directive shall be given the same legal effect as an advance medical directive prepared and executed in accordance with the laws of the State concerned. (This paragraph must be in bold type.)

Additionally, this form is specifically designed for use under Louisiana law. It is suggested for use by any person authorized to receive legal assistance from the military service in accordance with federal or state law, who by these presents represents and warrants that he is so eligible. Any person to whom this form is presented may conclusively rely on the authority purportedly granted hereunder.

BE IT KNOWN on this ____ day of _____, 19____, before me, an attorney authorized to render legal assistance to persons eligible for legal assistance under the provisions of 10 U.S.C. 1044 or the regulations of the Department of Defense, personally came and appeared _____, who declared that he is a member of the _____, a branch of the military designated in R.S. 40:1153.1, or is otherwise included thereunder, and did execute and sign the following declaration:

I, being of sound mind, willfully and voluntarily make known my desire that my

dying shall not be artificially prolonged under the circumstances set forth below and do hereby declare:

If at any time I should have an incurable injury, disease or illness, or be in a continual profound comatose state with no reasonable chance of recovery, certified to be a terminal and irreversible condition by two physicians who have personally examined me, one of whom shall be my attending physician, and the physicians have determined that my death will occur whether or not life-sustaining procedures are utilized and where the application of life-sustaining procedures would serve only to prolong artificially the dying process, I direct that such procedures, including hydration and sustenance, be withheld or withdrawn and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care.

[[Optional:] In the absence of my ability to give further directions regarding the use of such life-sustaining procedures, I authorize _____, caretaker, to make treatment decisions on my behalf and I have discussed my desires concerning terminal care with this person and I trust his/her judgment on my behalf.]

Should my caretaker be an absent person or cease or otherwise fail to act or if a caretaker has not been named in this declaration, it is my intention that this declaration be honored by my family and physician(s) as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal.

I understand the full import of this declaration and I am emotionally and mentally competent to make this advance medical directive.

Signed: _____

City, Parish, and State of Residence _____

(SIGNATURE OF ATTORNEY)

RS 40:1153.3 — Requirements for legally sufficient military advance medical directive

form, substance, formality, or recording that may be

required under the laws of Louisiana or any other state. Any such military advance medical directive shall be given the same legal effect as a declaration concerning life-sustaining procedures prepared and executed in accordance with the laws of the state of Louisiana.

B. For purposes of this Subpart, a military advance medical directive is any written declaration that:

- (1)(a) Sets forth directions regarding the provision, withdrawal, or withholding of life-prolonging procedures, including hydration and sustenance, for the declarant whenever the declarant has a terminal physical condition or is in a persistent vegetative state, or
- (b) Authorizes another person to make health care decisions for the declarant, under circumstances stated in the declaration, whenever the declarant is incapable of making informed health care decisions.
- (2) Contains a statement that sets forth the contents of the first undesignated paragraph of the form provided in R.S. 40:1153.2.
- (3) Is signed in accordance with 10 U.S.C. 1044(a) or other applicable state or federal law.

RS 40:1153.4 — Additional form of military advance medical directive; application of this Part

directive prepared and executed in accordance with

the provisions of 10 U.S.C. 1044(c), regardless of form, substance, formality, or recording.

(2) Any other form for a declaration concerning life-sustaining procedures authorized by Subpart A of this Part.

B. This Subpart provides an illustrative form for making an advance medical directive and, in the event of direct conflict with Subpart A of this Part, is governed by the provisions contained herein. However, for purposes of interpretation, application, intent, definitions, direction, voluntary registry, notification, immunity from liability, and penalties, the provisions of Subpart A of this Part shall apply.

RS 40:1153.5 — Short title

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R.S.

RS 40:1155.1 — Legislative purpose, findings, and intent

e a medical crisis

presents itself.

(2) Health care planning is a process, rather than a single decision, that helps individuals to consider the kind of care they would want if they become seriously ill or incapacitated, and encourages them to talk to their family members or legal representative about such issues.

(3) The Louisiana Physician Order for Scope of Treatment "LaPOST" form documents the wishes of a qualified patient in a physician order.

(4) The hallmarks of the LaPOST form are the following:

- (a) Immediately actionable, signed physician orders on a standardized form.
- (b) Orders that address a range of life-sustaining interventions as well as the patient's preferred treatment for each intervention.
- (c) A brightly colored, clearly identifiable form.
- (d) A form that is recognized, adopted, and honored across treatment settings.

B.(1) The legislature intends that the provisions of this Subpart are permissive and voluntary. The legislature further intends that the completion of the Louisiana Physician Order for Scope of Treatment form merely illustrates a means of documenting a decision of a patient relative to withholding or withdrawal of medical treatment or life-sustaining procedures.

(2) It is the intent of the legislature that nothing in this Subpart shall be construed to require the completion of a Louisiana Physician Order for Scope of Treatment form pursuant to this Subpart.

(3) It is the intent of the legislature that nothing in this Subpart shall be construed to be the exclusive means by which life-sustaining procedures may be withheld or withdrawn, nor shall this Subpart be construed to require the application of medically inappropriate treatment or life-sustaining procedures to any patient.

RS 40:1155.2 — Definitions

means the physician who has primary responsibility for the treatment and care of the patient.

(2) "Health care provider" means any home health agency, hospice, hospital, or nursing facility.

(3) "LaPOST" means Louisiana Physician Order for Scope of Treatment as provided in R.S. 40:1155.2.1.

(4) "Licensed emergency medical services practitioner" means a licensed emergency medical services practitioner as defined in R.S. 40:1131.

(5) "Life-limiting and irreversible condition" means a continual profound comatose state with no reasonable chance of recovery or a condition caused by injury, disease, or illness which within reasonable medical judgment would usually produce death within six months, for which the application of life-sustaining procedures would serve only to postpone the moment of death and for which the life-sustaining procedures would be a burden and not a benefit to the qualified patient, except as provided in the definition of "life-sustaining procedure" herein.

(6) "Life-sustaining procedure" means any medical procedure or intervention which, within reasonable medical judgment, would serve only to prolong the dying process of a qualified patient, including such procedures as the invasive administration of nutrition and hydration and the administration of cardiopulmonary resuscitation when the benefits of the procedure do not outweigh the burdens thereof. A "life-sustaining procedure" shall not include any measure deemed as comfort care. Notwithstanding any other provision of this Subpart, the administration of nutrition and hydration, whether orally or by invasive means, shall always occur except in the event another condition arises which is life-limiting and irreversible and in which nutrition and hydration by any means becomes a greater burden than benefit to the qualified patient.

(7) "Personal health care representative" means a person who has authority in accordance with Louisiana law to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care because of incapacity.

(8) "Physician" means a physician or surgeon licensed by the Louisiana State Board of Medical Examiners or by the official licensing authority of another state.

(9) "Qualified patient" means a patient diagnosed and certified in writing as having a life-limiting and irreversible condition by the attending physician or personal physician of the patient.

RS 40:1155.2.1 — LaPOST Form

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RS 40:1155.3 — Louisiana Physician Order for Scope of Treatment

and standards, in accordance with the

Administrative Procedure Act, to provide for the Louisiana Physician Order for Scope of Treatment "LaPOST" program.

B. The rules and regulations shall include the following:

(1) Promulgation of the LaPOST form.

(2) Requirements that shall be met in order for a LaPOST form to be valid, including

but not limited to situations in which the personal health care representative of a patient may execute the LaPOST form.

(3) Methods for revocation.

(4) Requirements which relate to a patient's informed consent upon executing a LaPOST form.

(5) Requirements for periodic review of the LaPOST form by the patient and his physician.

C. Nothing in this Subpart shall be construed in any manner to prevent the withholding or the withdrawal of life-sustaining procedures from an adult person who is comatose, incompetent, or otherwise physically or mentally incapable of communication and has not executed a prior LaPOST form in accordance with this Subpart.

D. The Louisiana Physician Order for Scope of Treatment or LaPOST form is not a declaration concerning life-sustaining procedures and therefore shall not have to comply with the provisions of R.S. 40:1151 through 1151.9 in order to be valid and enforceable.

RS 40:1155.4 — Physician, health care provider, and licensed emergency medical services

ecuted LaPOST form executed pursuant to this Subpart shall make a reasonable effort to transfer the patient to another physician.

B. No provision of this Subpart imposes a duty upon the physician or health care provider to make a search of whether a patient has executed a LaPOST form.

C. If the policies of a health care provider preclude compliance with the LaPOST form executed under this Subpart or preclude compliance with the provisions pertaining to a representative acting on behalf of a patient, then the health care provider shall take all reasonable steps to transfer the patient to a health care provider with which the provisions of this Subpart can be effectuated.

D. Licensed emergency medical services practitioners shall make a reasonable effort to detect the presence of an executed LaPOST form.

RS 40:1155.5 — Immunity from liability

ility or be deemed to

have engaged in unprofessional conduct as a result of the withholding or withdrawal of life-sustaining procedures from a patient who has duly executed a LaPOST form in accordance

with the provisions of this Subpart, or as a result of transferring a patient to a provider with which the provisions of this Subpart can be effectuated.

(2) Any person, health care provider, physician, or other person acting under the direction of a physician who authorizes the withholding or withdrawal of life-sustaining procedures in accordance with a duly executed LaPOST form, or as otherwise provided in this Subpart, shall not be subject to criminal prosecution or civil liability for such action.

(3) A duly executed LaPOST form made in accordance with this Subpart shall be presumed to have been made voluntarily.

B.(1) A licensed emergency medical services practitioner shall not be subject to criminal prosecution or civil liability for withholding life-sustaining procedures from a patient who has duly executed a LaPOST form.

(2) A licensed emergency medical services practitioner shall not be subject to

criminal prosecution or civil liability for administering life-sustaining procedures to a patient who has duly executed a LaPOST form when there is no reasonable means by which the licensed emergency medical services practitioner could know or should have known that the patient had executed such LaPOST form, or as a result of transferring a patient to a provider with which the provisions of this Subpart can be effectuated.

RS 40:1155.6 — General application

ion to end

life other than to permit the natural process of dying.

B.(1) The withholding or withdrawal of life-sustaining procedures from a patient who has duly executed a LaPOST form in accordance with the provisions of this Subpart shall not, for any purpose, constitute a suicide.

(2) The execution of a LaPOST form pursuant to this Subpart shall not affect the sale, procurement, or issuance of any life insurance policy, nor shall it be deemed to modify the terms of an existing policy.

(3) No policy shall be legally impaired or invalidated by the withholding or withdrawal of life-sustaining procedures from an insured who has duly executed a LaPOST form, notwithstanding any term of the policy to the contrary.

(4) A person shall not be required to execute a LaPOST form as a condition for being insured or for receiving health care services.

(5) The removal of life support systems or the failure to administer cardio-pulmonary resuscitation under this Subpart shall not be deemed the cause of death for purposes of insurance coverage or the denial of insurance coverage.

C. The provisions of this Subpart are cumulative with existing law pertaining to an individual's right to consent or refuse to consent to medical or surgical treatment.

D. It is the policy of the state of Louisiana that human life is of the highest and inestimable value through natural death. When interpreting this Subpart, any ambiguity shall be interpreted to preserve human life, including the life of an unborn child if the qualified patient is pregnant and an obstetrician who examines the woman determines that the probable postfertilization age of the unborn child is twenty or more weeks and the pregnant woman's life can reasonably be maintained in such a way as to permit the continuing development and live birth of the unborn child, and such determination is communicated to the relevant classes of family members and persons designated in R.S. 40:1151.4.

RS 40:1156.1 — Voluntary nonopioid directive; form; immunity

ve form and shall publish the form

prominently on the department's website for public use.

B. A patient may execute and file a voluntary nonopioid directive form with a prescribing practitioner when the patient does not wish to be issued a prescription or medication order for an opioid. Upon receipt of a voluntary nonopioid directive form, a prescribing practitioner shall date and affix his signature to the form in the presence of the patient as evidence of acceptance, document the receipt in the patient's medical record, and provide a signed copy of the form to the patient.

C. The voluntary nonopioid directive form established by the department shall allow

a patient or when the patient is unable to consent for himself, any person duly authorized and empowered to provide medical consent for the patient under the provisions of R.S.

40:1151.4, to revoke the directive, orally or in writing, for any reason, at any time.

D. An electronically transmitted prescription to a pharmacy shall be presumed to be valid for the purposes of this Section, and a pharmacist shall not be held in violation of this Section for dispensing a controlled substance in contradiction to a voluntary nonopioid form.

E. No prescribing practitioner who has signed and executed a nonopioid directive form with a patient acting with reasonable care shall be liable for damages in a civil action or subject to criminal prosecution or be deemed to have violated the standard of care for such prescribing practitioner for refusing to issue a prescription or medication order for an opioid pursuant to a voluntary nonopioid directive form.

F. No person acting in good faith as a duly authorized guardian or healthcare representative pursuant to Subsection C of this Section shall be liable for damages in a civil action or subject to criminal prosecution for revoking or overriding a voluntary nonopioid directive form.

G. No prescribing practitioner shall be liable for damages in a civil action, subject to criminal prosecution, or deemed to have violated the standard of care for a prescribing practitioner's profession for issuing a prescription for or administering a controlled substance containing an opioid to a patient when the patient and the prescribing practitioner have not executed and filed a voluntary nonopioid directive form under the provisions of this Subpart.

H. A prescribing practitioner who willfully fails to comply with a patient's voluntary nonopioid directive form may be subject to disciplinary action pursuant to rules promulgated by his health profession licensing board.

RS 40:1157.1 — Consent to medical treatment; methods of obtaining consent

atient, through signature, marking, or

affirmative action through electronic means pursuant to R.S. 40:1163.1, to any medical or surgical procedure or course of procedures which sets forth in general terms the nature and purpose of the procedure or procedures, together with the known risks, if any, of death, brain damage, quadriplegia, paraplegia, the loss or loss of function of any organ or limb, of disfiguring scars associated with such procedure or procedures; acknowledges that such disclosure of information has been made and that all questions asked about the procedure or procedures have been answered in a satisfactory manner; and is evidenced by a signature, marking, or affirmative action through electronic means, by the patient for whom the procedure is to be performed, or if the patient for any reason lacks legal capacity to consent, by a person who has legal authority to consent on behalf of such patient in such circumstances. Such consent shall be presumed to be valid and effective, in the absence of proof that execution of the consent was induced by misrepresentation of material facts.

B. Except as provided in Subsection A of this Section, no evidence shall be admissible to modify or limit the authorization for performance of the procedure or procedures set forth in such consent.

C. Where consent to medical treatment from a patient, or from a person authorized by law to consent to medical treatment for such patient, is secured other than in accordance

with Subsection A of this Section, the explanation to the patient or to the person consenting for such patient shall include the matters set forth in Subsection A of this Section, and an opportunity shall be afforded for asking questions concerning the procedures to be performed which shall be answered in a satisfactory manner. Such consent shall be valid and effective and is subject to proof according to the rules of evidence in ordinary cases.

D. In a suit against a physician or other health care provider involving a health care liability or medical malpractice claim which is based on the failure of the physician or other health care provider to disclose or adequately to disclose the risks and hazards involved in the medical care or surgical procedure rendered by the physician or other health care provider, the only theory on which recovery may be obtained is that of negligence in failing to disclose the risks or hazards that could have influenced a reasonable person in making a decision to give or withhold consent.

E. Consent to medical treatment may be evidenced according to the provisions of Subsections A and C of this Section or, as an alternative, a physician or other health care provider may choose to avail himself of the lists established by the Louisiana Medical Disclosure Panel pursuant to the provisions of R.S. 40:1157.2 as another method by which to evidence a patient's consent to medical treatment.

F. Notwithstanding the provisions of Subsection E of this Section, consent for dental treatment rendered by dentists not performing oral and maxillofacial surgery in a hospital setting shall be governed exclusively by the provisions of R.S. 40:1161.1.

RS 40:1157.2 — Louisiana Medical Disclosure Panel; creation; membership; powers; duties
a Department of Health.

(2) "Panel" means the Louisiana Medical Disclosure Panel.

B.(1) The Louisiana Medical Disclosure Panel is hereby created within the department to determine which risks and hazards related to medical care and surgical procedures must be disclosed by a physician or other health care provider to a patient or person authorized to consent for a patient and to establish the general form and substance of such disclosure.

(2) The panel shall be comprised of the following members who shall be appointed by the governor and submitted to the Senate for confirmation:

(a) Two members licensed to practice dentistry. One member who specializes in oral and maxillofacial surgery shall be selected from a list of nominees submitted to the governor by the Louisiana Society of Oral and Maxillofacial Surgeons. The other member shall be selected from a list of nominees submitted to the governor by the Louisiana Dental Association.

(b) Four members licensed to practice law in this state, of whom three shall be selected from a list of nominees submitted to the governor by the Louisiana Association for Justice, and one shall be selected from a list of nominees submitted to the governor by the Louisiana Association of Defense Counsel.

(c) Six members licensed to practice medicine in this state who shall be selected from a list of nominees submitted to the governor by the Louisiana State Medical Society. One of the six physicians shall be a hospital-employed physician.

(d) One member licensed to practice chiropractic in this state who shall be selected from a list of nominees submitted to the governor by the Chiropractic Association of Louisiana.

(e) One member licensed to practice podiatry in this state who shall be selected from a list of nominees submitted to the governor by the Louisiana Podiatric Medical Association.

(f) One member licensed to practice optometry in this state who shall be selected from a list of nominees submitted to the governor by the Optometry Association of Louisiana.

(g) One member licensed as a nurse practitioner in this state who shall be selected from a list of nominees submitted to the governor by the Louisiana Association of Nurse Practitioners.

C. The initial members of the panel shall have the following terms:

(1) The dentist who specializes in oral and maxillofacial surgery, the chiropractic physician, the podiatrist, the optometrist, the nurse practitioner, one attorney, and two physicians shall each serve a term of two years, or until a successor is appointed and qualified.

(2) Two attorneys, two physicians, and one dentist shall each serve a term of four years, or until a successor is appointed and qualified.

(3) One attorney and two physicians shall each serve a term of six years, or until a successor is appointed and qualified.

(4) Thereafter, at the expiration of the term of each member of the panel, the governor shall appoint a successor and such successor shall serve for a term of six years, or until his successor is appointed and qualified.

D. Any member of the panel who is absent for three consecutive meetings without the consent of a majority of the panel at each such meeting may be removed by the governor at the request of the panel present submitted in writing and signed by the chairman. Upon the death, resignation, or removal of any member, the secretary of the department shall fill the vacancy by selection, subject to confirmation by the Senate, for the unexpired portion of the term.

E. Members of the panel shall not be entitled to per diem or any other compensation for their service but shall be entitled to reimbursement of any necessary and reasonable expense incurred in the performance of their duties on the panel, including travel expenses.

F. Meetings of the panel shall be held at the call of the chairman or on petition of at least three members of the panel.

G. At the first meeting of the panel each year after its members assume their positions, the panelists shall select one of the panel members to serve as chairman and one of the panel members to serve as vice chairman, and each such officer shall serve for a term of one year. The chairman shall preside at meetings of the panel, and in his absence, the vice chairman shall preside.

H. The department shall provide administrative assistance to and serve as the staff for the panel.

I. The governor shall appoint the initial members of the panel no later than October

1, 2012, and the panel shall convene its first meeting no later than November 1, 2012.

J.(1) To the extent feasible, the panel shall identify and make a thorough examination of all medical treatments and surgical procedures in which physicians and other health care providers may be involved in order to determine which of those treatments and procedures do and do not require disclosure of the risks and hazards to the patient or person authorized to consent for the patient. The panel, initially, shall examine all existing medical disclosure lists and update and repromulgate those lists under the authority vested in this Section. The dentist member of the panel shall participate only in the panel's deliberation, determination, and preparation of lists of dental treatments and procedures that do and do not require disclosure.

(2) The panel shall prepare separate lists of those medical treatments and surgical procedures that do and do not require disclosure and for those treatments and procedures that do require disclosure shall establish the degree of disclosure required and the form in which the disclosure will be made.

(3) Lists prepared pursuant to the provisions of this Section together with written explanations of the degree and form of disclosure shall be promulgated in accordance with the provisions of the Administrative Procedure Act. The form of the disclosure and manner in which such disclosure will be made shall be subject to legislative oversight by the House and Senate health and welfare committees.

K. The lists compiled and published and rules promulgated relative to the form and manner of disclosure according to the provisions of this Section and evidence of such disclosures or failure to disclose by a physician or other health care provider as provided in this Section shall be admissible in a health care liability suit or medical malpractice claim involving medical care rendered or a surgical procedure performed.

L. At least annually, or at such other period as the panel may determine, the panel shall identify and examine any new medical treatments and surgical procedures that have been developed since its last determinations, shall assign them to the proper list, and shall establish the degree of disclosure required and the form in which the disclosure shall be made. The panel shall also review and examine such treatments and procedures for the purpose of revising lists previously published. These determinations shall be published in the same manner as described in Paragraph (J)(3) of this Section.

M. Before a patient or a person authorized to consent for a patient gives consent to any medical or surgical procedure that appears on the panel's list requiring disclosure, the physician or other health care provider shall disclose to the patient, or person authorized to consent for the patient, the risks and hazards involved in that kind of care or procedure. A physician or other health care provider may choose to utilize the lists prepared by the panel and shall be considered to have complied with the requirements of this Subsection if disclosure is made as provided in Subsection N of this Section.

N. Consent to medical care that appears on the panel's list requiring disclosure shall be considered effective pursuant to the provisions of this Section, if it is given in writing, signed by the patient or a person authorized to give the consent and by a competent witness, and if the written consent specifically states, in such terms and language that a layman would

be expected to understand, the risks and hazards that are involved in the medical care or surgical procedure in the form and to the degree required by the panel pursuant to the provisions of this Section.

O.(1) All the following requirements shall apply in a suit against a physician or other health care provider involving a health care liability or medical malpractice claim that is based on the negligent failure of the physician or other health care provider to disclose or adequately to disclose the risks and hazards involved in the medical care or surgical procedure rendered by the physician or other health care provider:

(a) Both the disclosure made as provided in Subsection M of this Section and the failure to disclose based on inclusion of any medical care or surgical procedure on the panel's list for which disclosure is not required shall be admissible in evidence and shall create a rebuttable presumption that the requirements of Subsections M and N of this Section have been complied with, and this presumption shall be included in the charge to the jury.

(b) The failure to disclose the risks and hazards involved in any medical care or surgical procedure required to be disclosed under Subsections M and N of this Section shall be admissible in evidence and shall create a rebuttable presumption of a negligent failure to conform to the duty of disclosure set forth in Subsections M and N of this Section, and this presumption shall be included in the charge to the jury. However, failure to disclose may be found not to be negligent, if there was an emergency as defined in R.S. 40:2113.6(C) or, if for some other reason, it was not medically feasible to make a disclosure of the kind that would otherwise have been negligence.

(2) If medical care is rendered or a surgical procedure performed with respect to which the panel has not made a determination regarding a duty of disclosure, the physician or other health care provider is under the general duty to disclose otherwise imposed by R.S. 40:1157.1.

P. In order to be covered by the provisions of this Section, the physician or other health care provider who will actually perform the contemplated medical or surgical procedure shall:

(1) Disclose the risks and hazards in the form and to the degree required by the panel.

(2) Disclose additional risks, if any, particular to a patient because of a complicating medical condition, either told to the physician or other health care provider by the patient or his representative in a medical history of the patient or reasonably discoverable by such physician or other health care provider.

(3) Disclose reasonable therapeutic alternatives and risks associated with such alternatives.

(4) Relate that he is obtaining a consent to medical treatment pursuant to the lists formulated by the Louisiana Medical Disclosure Panel.

(5) Provide an opportunity to ask any questions about the contemplated medical or surgical procedure, risks, or alternatives and acknowledge in writing that he answered such questions, to the patient or other person authorized to give consent to medical treatment, receipt of which shall be acknowledged in writing.

Q. The department shall maintain a searchable database of all current medical

disclosure lists and make such database available to the public on the website of the department.

R. Notwithstanding the provisions of the Open Meetings Law, R.S. 42:11 et seq., or any other law, if any member of the panel is physically present at a meeting, any number of the other members of the panel may attend the meeting by use of telephone conference call, videoconferencing, or other similar telecommunication methods for purposes of establishing a quorum or voting or for any other meeting purpose allowing a panel member to fully participate in any panel meeting. The provisions of this Subsection shall apply without regard to the subject matter discussed or considered by the panel at the meeting. A meeting held by telephone conference call, videoconferencing, or other similar telecommunication method:

- (1) Shall be subject to the notice requirements of R.S. 42:11 et seq.
- (2) Shall not be held unless the notice of the meeting specifies the location of the meeting at which a member of the panel will be physically present.
- (3) Shall be open to the public and audible to the public at the location specified in the notice.
- (4) Shall provide two-way audio communication between all panel members attending the meeting during the entire meeting, and, if the two-way audio communication link with any member attending the meeting is disrupted at any time, the meeting may not continue until the two-way audio communication link is reestablished.

S. The Louisiana Department of Health, its agents or employees, or any person serving as a member of the panel shall not be liable to any person, firm or entity, public or private, for any act or omission arising out of a health care provider attempting to obtain or obtaining informed consent pursuant to the provisions of this Section.

RS 40:1157.3 — Exception to obtaining informed consent; human immunodeficiency virus or other

whenever an agent or employee of a hospital, or a physician having privileges at the hospital, has been exposed to the blood or bodily fluids of a patient in such a manner as to create any risk that the agent, employee, or physician may become infected with the human immunodeficiency virus or other infectious agent if the patient is infected with the human immunodeficiency virus or other infectious agent, in accordance with the infectious disease exposure guidelines of the United States Centers for Disease Control and Prevention, or the infectious disease exposure standards of the healthcare facility where the exposure occurred, then the hospital shall, without the consent of the patient, conduct such tests on blood previously drawn or bodily fluids previously collected as are necessary to determine whether the patient is, in fact, infected with the virus or other agent believed to cause acquired immune deficiency syndrome or other infectious disease. If no previously drawn blood or collected bodily fluids are available or are suitable, the hospital shall order, without the consent of the patient, that blood, bodily fluids, or both be drawn and collected from the patient to conduct the necessary tests.

B. Notwithstanding the provisions of R.S. 40:1157.1 or any other law to the contrary, whenever it is determined by the infectious disease control officer of any law enforcement, fire service, or emergency medical service agency or organization that an agent or employee

of the agency or organization has been exposed to the blood or bodily fluids of a patient in the course and scope of his duties and in such a manner as to create any risk that the agent or employee may become infected with the human immunodeficiency virus or other infectious agent if the patient is infected with the human immunodeficiency virus or other infectious agent, in accordance with the infectious disease exposure guidelines of the United States Centers for Disease Control and Prevention, or the infectious disease exposure standards of the agency or organization, then the infectious disease control officer of the agency or organization shall request that the hospital, while the patient is in such hospital and without the consent of the patient, conduct a human immunodeficiency virus test approved by the United States Food and Drug Administration that can yield test results within no more than five hours of administering the test.

C. The results of the test shall not become a part of the patient's medical record and shall be confidential, except that the hospital shall inform the exposed employee, agent, or physician, or the infectious disease control officer of the law enforcement, fire service, or emergency medical service agency of the results of the test within one hour of receipt of the results.

D. In the event that the test is performed, and the results of the test are positive, the hospital shall inform the patient of the results and shall provide such follow-up testing and counseling as may be required according to the accepted standard of medical care.

E. The patient shall not be charged for any tests performed under this Section.

F. The law enforcement, fire service, or emergency medical service agency or organization shall ensure that an exposed employee or agent receives medically appropriate human immunodeficiency postexposure prophylaxis regimens, follow-up testing, and appropriate counseling.

RS 40:1159.1 — Short title

by HCR 84
of 2015 R.S.

RS 40:1159.2 — Subpart not applicable to abortion and sterilization

ts shall continue to be governed by
existing law independently of the terms and provisions of this Subpart.

RS 40:1159.3 — Subpart not applicable to care and treatment of persons with mental illness;

and treatment of persons with mental illness, which subject shall continue to be
governed by existing law independently of the terms and provisions of this Subpart.

RS 40:1159.4 — Persons who may consent to surgical or medical treatment

er of priority, if there is no person in a prior
class who is reasonably available, willing, and competent to act, is authorized and
empowered to consent, either orally or otherwise, to any surgical or medical treatment or
procedures including autopsy not prohibited by law which may be suggested, recommended,
prescribed, or directed by a duly licensed physician:

(1) Any adult, for himself.

(2) The judicially appointed tutor or curator of the patient, if one has been appointed.

(3) An agent acting pursuant to a valid mandate, specifically authorizing the agent to make health care decisions.

(4) The patient's spouse not judicially separated.

(5) An adult child of the patient.

(6) Any parent, whether adult or minor, for his child.

(7) The patient's sibling.

(8) The patient's other ascendants or descendants.

(9) Upon the inability of any adult to consent for himself and in the absence of any person listed in Paragraphs (2) through (8) of this Subsection, an adult friend of the patient.

For purposes of this Subsection to consent, "adult friend" means an adult who has exhibited special care and concern for the patient, who is generally familiar with the patient's health care views and desires, and who is willing and able to become involved in the patient's health care decisions and to act in the patient's best interest. The adult friend shall sign and date an acknowledgment form provided by the hospital or other health care facility in which the patient is located for placement in the patient's records certifying that he or she meets such criteria.

(10) Any person temporarily standing in loco parentis, whether formally serving or not, for the minor under his care and any guardian for his ward.

(11) A person chosen by the interdisciplinary team, as defined in R.S. 28:451.2, to make recommendations on behalf of an individual with a developmental disability, as defined in R.S. 28:451.2. The interdisciplinary team shall exercise discretion in choosing, by majority vote, the family member, friend, or other person most familiar with the individual or most capable of making the decision at issue.

(12) A person chosen by an ad hoc team assembled by any interested person for the purpose of addressing the medical decision at issue for an individual with a developmental disability.

(a) This team shall consist of at least three persons familiar with the circumstances and needs of the individual, and shall contain representatives from at least two different services, educational or advocacy agencies serving individuals with developmental disabilities.

(b) The team shall make decisions by majority vote, and no one agency shall provide a majority of the members.

(c) The team shall exercise discretion in choosing the family member, friend, or other person most familiar with the individual or most capable of making the decision at issue.

B. If there is more than one person within the above named class in Paragraphs

(A)(1) through (9), the consent for surgical or medical treatment shall be given by a majority of those members of the class available for consultation.

C. If none of the persons listed under Paragraphs (A)(1) through (10) of this Section are reasonably available, then the patient's attending physician shall have the discretion to provide or perform any surgical or medical treatment or procedures, including but not limited to an autopsy, and may also make decisions regarding continued services needed by the patient, including but not limited to approving the placement or transfer of the patient to

another facility, without the consent of the patient or other person authorized to consent for the patient. Prior to taking such action, the attending physician shall document in the patient's chart the facts that establish what medical decisions need to be made and why those decisions are needed without undue delay, as well as the steps taken to obtain consent from the patient or another person authorized by law to give consent and then obtain confirmation from another physician, preferably the patient's primary care physician if he is not the attending physician, of the patient's condition and the medical necessity for such action as is appropriate and consistent with the patient's condition and which cannot be omitted without adversely affecting the patient's condition or the quality of medical care rendered. The confirming physician shall personally examine the patient and document his assessment, findings and recommendations in the patient's chart prior to the proposed surgical or medical treatment or procedures being performed. This Subsection shall not apply to an emergency governed by the provisions of R.S. 40:1159.5.

D.(1) When no contact persons are included in the individual's records, in order to justify a finding that none of the authorized persons listed under Paragraphs (A)(1) through (9) of this Section are reasonably available, the patient's attending physician shall document the following in the patient's record:

(a) That he or a representative of the attending physician or facility has inquired of, or has made a documented good-faith effort to inquire of, the following entities regarding the existence of any advance directive made by the patient and the availability of information that would enable the physician to contact any person listed under Paragraphs (A)(2) through (9) of this Section:

(i) The Louisiana Secretary of State's Living Will Registry.

(ii) The patient's primary care physician or any known provider of medical treatment or services received by the patient in the previous one hundred and eighty days.

(iii) Any known facility in which the patient has resided in the last one hundred and eighty days.

(b) That no advance directive or other information that would enable the physician to contact an authorized individual to consent is available.

(2) When names of potentially authorized persons are listed in the individual's records or are obtained through efforts under this Subsection, in order to justify a finding that none of the authorized persons listed under Paragraphs (A)(1) through (9) of this Section are reasonably available, the patient's attending physician shall document in the patient's record the name of each potentially authorized person that he or a representative of the physician or facility attempted to contact, the manner and date of the attempted contact, and the result of the attempted contact.

E. For an individual with a developmental disability, competency to act for the purpose of this Section shall be determined in accordance with principles set forth in R.S. 28:454.3, including capacity to consent and legally adequate consent.

F. Consent to surgical or medical treatment for an individual with a developmental disability will be implied where an emergency, as defined in R.S. 40:1159.5, exists.

G. No hospital or other health care facility, physician, health care provider, or other

person or entity shall be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as to the issue of consent only, based upon the reliance in good faith on any direction or decision by any person reasonably believed to be authorized and empowered to consent under Paragraphs (A)(1) through (9) of this Section, even if death or injury to the patient ensues except for liability for medical malpractice as to the provision or performance of the surgical or medical treatment, not with regard to the question of consent under R.S. 40:1237.1 et seq., or R.S. 40:1231.1 et seq. Each hospital or other health care facility, physician, health care provider, or other person or entity, who acts in good-faith reliance on any such direction or decision shall be protected and released to the same extent as though such person had interacted directly with the patient as a fully competent person.

H. Any physician attending or confirming, who, in accordance with Subsection C of this Section, provides or performs any surgical or medical treatment or procedure, including but not limited to an autopsy, or who makes decisions regarding continued services, including but not limited to approving the transfer or placement of the patient, without the consent of the patient or other person authorized to consent for the patient, shall not be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of the decision to perform, or the actual performance of, such treatment or procedure, or with regard to any decisions pertaining to continued services, including but not limited to decisions regarding the transfer or placement of the patient as to the issue of consent only, even if death or injury to the patient ensues, except for liability for medical malpractice as to the provision or performance of the surgical or medical treatment, not with regard to the question of consent under R.S. 40:1237.1 et seq., or R.S. 40:1231.1 et seq. Furthermore, no hospital or other health care facility, health care provider or other person or entity acting under the direction of a physician shall be subject to criminal prosecution or civil liability, or be deemed to have engaged in unprofessional conduct as a result of any treatment, procedures, continued services, transfer, or placements that were performed in accordance with Subsection C of this Section, as to the issue of consent only, even if death or injury to the patient ensues, except for liability for medical malpractice as to the provision or performance of the surgical or medical treatment, not with regard to the question of consent under R.S. 40:1237.1 et seq., or R.S. 40:1231.1 et seq.

RS 40:1159.5 — Emergencies

rescribed, or directed by a duly licensed physician will be implied where an emergency exists. For the purposes hereof, an emergency is defined as a situation wherein: (1) in competent medical judgment, the proposed surgical or medical treatment or procedures are reasonably necessary; and (2) a person authorized to consent under R.S. 40:1159.4 is not readily available, and any delay in treatment could reasonably be expected to jeopardize the life or health of the person affected, or could reasonably result in disfigurement or impair faculties.

B. For purposes of this Section, an emergency is also defined as a situation wherein:

(1) a person transported to a hospital from a licensed health care facility is not in a condition to give consent; (2) a person authorized to give consent under R.S. 40:1159.4 is not readily available; and (3) any delay would be injurious to the health and well being of such person.

RS 40:1159.6 — Construction of Subpart; general application

, foster and step-relations as well as the

natural whole blood. A consent by one person so authorized and empowered shall be sufficient. Any person acting in good faith shall be justified in relying on the representations of any person purporting to give such a consent, including but not limited to his identity, his age, his marital status, his emancipation, and his relationship to any other person for whom the consent is purportedly given.

B. Nothing in this Subpart shall be construed to condone, authorize, or approve assistance to suicide, mercy killing, or euthanasia.

RS 40:1159.7 — Right of adult to refuse treatment as to his own person not abridged

se to consent to medical or surgical treatment as to his own person.

RS 40:1159.8 — Consent to medical arbitration agreements

provided therein are also authorized

and empowered, for and on behalf of such others, and without court approval, to enter into binding medical arbitration agreements.

RS 40:1159.9 — Consent to surgical or medical treatment for persons with developmental

hysician, the following persons

may consent to any surgical or medical treatment on behalf of any person with a developmental disability who is a recipient of service from a state-operated supported living program or home- and community-based service provider, or who is a resident of a state-operated residential facility, community, or group home for persons with developmental disabilities, state-supervised extended family living program, or a nonstate-operated residential facility, community, or group home for persons with developmental disabilities, or who is a resident of a state-operated nursing home:

- (1) For a resident of a state-operated residential facility, community, or group home for persons with developmental disabilities, the administrator of the residential facility, community, or group home.
- (2) For a resident of a state-supervised extended family living program, or a recipient of service from a state-operated supported living program or home- and community-based service provider, the office for citizens with developmental disabilities administrator or manager with administrative authority over the extended family living program, supported living program, or home- and community-based service provider for the region where the home is located or the program or service is being provided.
- (3) For a resident of a nonstate-operated residential facility, community, or group home for persons with developmental disabilities, the chief executive officer of the provider organization which administers or operates the facility or home.
- (4) For a resident of a state-operated nursing home, the administrator of the home or facility.

B. Consent for any surgical or medical treatment on behalf of a person with a developmental disability or a resident in a facility, home, or program as described in

Subsection A of this Section is authorized under the following circumstances:

- (1) When all reasonable efforts to contact the parent, family, or guardian of the resident have failed or
- (2) When the resident's record does not contain the name of the parent, family member, or guardian.

C. Consent given pursuant to this Section shall be in writing and shall comply with the provisions of R.S. 40:1157.1. A copy of the signed written consent form and of the physician's written recommendation shall be placed in the resident's permanent record.

D. Nothing contained in this Section shall be construed to authorize consent to surgical or medical treatment for a resident if the parent, family member, or guardian of the resident has been contacted and has refused to consent to medical treatment for the resident.

E. Consent to surgical or medical treatment for residents will be implied where an emergency, as defined in R.S. 40:1159.5, exists.

F. Notwithstanding anything else herein to the contrary, no person shall be authorized to make a medical decision for an individual with a developmental disability pursuant to this Section unless there is no decision maker reasonably available, competent, and willing to act pursuant to R.S. 40:1159.4.

G. Repealed by Acts 2008, No. 839, §5, eff. July 8, 2008.

RS 40:1160.1 — Title

technical difficulties navigating this website,

RS 40:1160.2 — Definitions

"Anesthesia" means a drug-induced loss of consciousness, by use of any anesthetic induction agent or otherwise, during which patients are not arousable even by painful stimulation, as defined by the Louisiana State Board of Medical Examiners.

(2) "Examination" means a pelvic or rectal examination.

(3) "Healthcare provider" means a physician or other healthcare practitioner licensed, certified, registered, or otherwise authorized to perform specified healthcare services consistent with state law.

(4) "Learner" means any person enrolled in a medical, nursing, or allied health education program. "Learner" shall also mean a medical resident, intern, or student undergoing a course of instruction or participating in a clinical training or residency program.

(5) "Patient" means a person who receives or has received medical treatment or services from an individual or institution licensed to provide medical treatment in this state.

(6) "Pelvic examination" means the physical examination of an individual's reproductive organs.

(7) "Personal healthcare representative" has the meaning as ascribed in R.S. 40:1155.2.

(8) "Rectal examination" means an examination relating to or affecting the rectum.

(9) "Teaching purposes" means a nondiagnostic or nontherapeutic examination that is solely for the education of the learner.

RS 40:1160.3 — Consent to medical examinations; anesthetized patients; penalties

ion, hereinafter referred to as "examination", on an

anesthetized or unconscious patient unless at least one of the following conditions is met:

- (1) The patient or the personal healthcare representative provides written consent to the examination, and the examination is necessary for instructional, preventive, diagnostic, or treatment purposes.
- (2) The patient or the personal healthcare representative has provided informed consent to a surgical procedure or examination to be performed on the patient, and the performance of an examination is within the scope of care ordered for the surgical procedure or examination.
- (3)(a) The patient is unconscious and incapable of providing consent, and the examination is medically necessary.
- (b) A healthcare provider who performs an examination pursuant to this Paragraph shall inform the patient that an additional examination was performed and the nature of the examination. The healthcare provider shall notify the patient of the examination at a reasonable time before the patient is discharged from his care.

B. Any violation of the provisions of this Section may constitute grounds for adverse licensure action by the applicable professional licensing board exercising jurisdiction over the healthcare provider.

RS 40:1160.4 — Requirement for examinations performed by learners

He perform an examination for teaching

purposes only when all of the following conditions are met:

- (1) The examination is explicitly consented to by the patient.
- (2) The examination is medically related to the planned or performed procedure.
- (3) The examination is performed by a learner who has been recognized by the patient as a part of his care team.
- (4) The examination is conducted under direct supervision by the educator.

B. Any violation of the provisions of this Section may constitute grounds for adverse action by the medical educational program for any learner and may constitute grounds for adverse licensure action by the appropriate professional licensing board for any licensed individual.

RS 40:1161.1 — Consent to dental treatment

"dentistry", as that term is defined in R.S. 37:751, except when performed by a physician or surgeon in the practice of his profession.

- (2) "Patient" means a natural person who receives dental treatment.
- (3) Notwithstanding the provisions of this Subpart, a dentist who performs oral or maxillofacial surgery in a hospital shall be subject to the provisions of R.S. 40:1157.1.

B. Notwithstanding any other law to the contrary, "informed consent" means consent to any dental treatment or course of dental treatment given by a patient:

- (1) After the patient has been informed in general terms of the nature and purpose of the dental treatment or course of dental treatment and those risks of death, brain damage, quadriplegia, paraplegia, the loss or loss of function of an organ or limb, or disfiguring scars, if any, associated with such dental treatment or course of dental treatment which would

ordinarily have been disclosed under the same or similar circumstances by dentists with the same or similar training and experience; and

(2) After the patient has been given an opportunity to ask questions concerning such dental treatment or course of dental treatment and his questions, if any, have been answered in a satisfactory manner.

C. Where the informed consent for dental treatment is obtained in writing, no evidence shall be admissible to modify or limit the authorization for performance of the dental treatment or course of dental treatment and such informed consent, in the absence of clear and convincing proof that execution of the consent was induced by fraudulent misrepresentation of material facts by the involved dentist, shall be conclusively presumed to be valid and effective. Where such written consent is employed it shall also be conclusively presumed that the patient, or his representative, is able to communicate effectively in spoken or written English or in any other language in which the consent form is written and that the patient, or his representative, has understood the information disclosed in the written consent, provided that such informed consent is documented in a writing which contains all of the following:

(1) Sets forth in general terms the nature and purpose of the dental treatment or course of dental treatment together with those risks described in Paragraph B(1) of this Section.

(2) Acknowledges that such disclosure of information has been made, that the patient has been given an opportunity to ask questions concerning such dental treatment or course of dental treatment, and that all questions asked have been answered in a satisfactory manner.

(3) Is signed by the patient for whom the dental treatment or course of dental treatment is to be performed, or if the patient for any reason lacks legal capacity to consent, by a representative of the patient as provided in the Louisiana Medical Consent Law, in R.S. 40:1159.1 et seq.

D. The responsibility for obtaining the informed consent of a patient shall be that of the dentist who is actually to provide or supervise the provision of the contemplated dental treatment or course of dental treatment. However, a lay or professional employee of a hospital or of the dentist, acting with the approval of the dentist, may validly perform the ministerial act of documenting such informed consent by securing the completion and execution of a written consent.

E. In any action for damages in which it is alleged that a patient underwent a dental treatment or a course of dental treatment without his informed consent, the plaintiff shall have the burden of proving, by a preponderance of the evidence, that:

(1) The defendant dentist failed to disclose a risk of death, brain damage, quadriplegia, paraplegia, the loss or loss of function of an organ or limb, or disfiguring scars associated with such dental treatment or course of dental treatment which would ordinarily have been disclosed under the same or similar circumstances by dentists with the same or similar training and experience;

(2) Such undisclosed risk did occur; and

(3) A reasonably prudent person in the patient's position would not have undergone

the dental treatment or course of dental treatment had he been properly informed.

F. It shall not be essential to the validity of any informed consent that the consent be obtained in writing. Where consent to dental treatment by the patient or consent to dental treatment from a person authorized by law to consent to dental treatment for the patient is secured other than in writing in accordance with Paragraph C of this Section, the explanation to the patient or person authorizing consent for the patient shall include the matters set forth in Paragraphs B(1) and B(2) of this Section, such consent shall be valid, effective, and subject to proof according to the rules of evidence of ordinary cases.

RS 40:1163.1 — Electronic health care transactions; electronic signature authentication and

(1) "Authorization" means a consent, an approval, or an authorization between persons.

(2) "Electronic signature authentication and identification" means the process of authenticating identification using a system of form, location, and endorsement pursuant to Subsections B and C of this Section.

B. Electronic signature authentication and identification may be used for an individual who participates in agreements, authorizations, contracts, records, or other transactions that involve individually identifiable health information, including medical records and recordkeeping, transfer of medical records, medical billing, health care proxies, health care directives, consent to medical treatment, medical research, and organ and tissue donation or procurement.

C. Electronic signature authentication and identification pursuant to Subsection B of this Section may be implemented by an interactive system of security procedures that include any of the following:

(1) A tamper-proof electric appliance that receives input of unique identification numbers, unique biometric identifiers, or location devices.

(2) A computerized authentication process for biometric identifiers that is linked to the appropriate identification numbers upon receipt of the identifiers.

(3) Transmission of verification of the identifiers to a securely maintained electronic repository.

D. The provisions of this Section shall not be construed to supersede or preempt applicable state and federal law, including the Louisiana Uniform Electronic Transactions Act, as established in R.S. 9:2601 et seq., the Health Insurance Portability and Accountability Act of 1996 and associated regulations, and 21 CFR Part 11.

RS 40:1165.1 — Healthcare information; records

ich the health care

provider has transmitted to any company, or any public or private agency, or any person.

(2)(a) Medical records of a patient maintained in a health care provider's office are the property and business records of the health care provider.

(b)(i) Except as provided in R.S. 44:17, a patient or his legal representative or a patient's life, health, disability, or long-term care insurance company or its counsel, with the patient's authorization as defined in R.S. 40:1163.1, or in the case of a deceased patient, the executor of his will, the administrator of his estate, the surviving spouse, the parents, or the

children of the deceased patient, or after a claim has been made, the insurance company or its counsel, or, after suit has been instituted, defense counsel or a defendant seeking any treatment record, including but not limited to any medical, hospital, laboratory, invoice or billing statement, or other record, including test results, relating to or generated as a result of or in connection to the patient's medical treatment, history, or condition, either personally or through an attorney, shall have a right to obtain a copy of the entirety of the records in the form in which they exist, except microfilm, upon furnishing a signed authorization. If the treatment records exist solely in paper form, paper or digital copies shall be provided upon payment of a reasonable copying charge, not to exceed one dollar per page for the first twenty-five pages, fifty cents per page for twenty-six to three hundred fifty pages, and twenty-five cents per page thereafter, a handling charge not to exceed twenty-five dollars for hospitals, nursing homes, and other health care providers, and actual postage. The charges set forth in this Section shall be applied to all persons and legal entities duly authorized by the patient to obtain a copy of their medical records. If treatment records exist in digital format, copies shall be provided in digital format if requested to be provided in digital format and charged at the rate provided by this Item; however, the charges for providing digital copies shall not exceed one hundred dollars, plus all postage charges actually incurred. If the treatment records exist in both digital form and paper form, the maximum limit of one hundred dollars shall apply only to the portion of records stored in digital form. If requested, the health care provider shall provide the requestor, at no extra charge, a certification page setting forth the extent of the completeness of records on file. In the event a hospital record is not complete, the copy of the records furnished shall indicate, through a stamp, coversheet, or otherwise, the extent of completeness of the records. Each request for records submitted by the patient or other person authorized to request records pursuant to the provisions of this Subparagraph shall be subject to only one handling charge, and the health care provider shall not divide the separate requests for different types of records, including but not limited to billing or invoice statements. The health care provider or person or legal entity providing records on behalf of the health care provider shall not charge any other fee which is not specifically authorized by the provisions of this Subparagraph, except for notary fees and fees for expedited requests as contracted by the parties.

(ii) The individuals authorized to obtain medical records pursuant to Item (i) of this Subparagraph shall also have the right to obtain copies of patient X-rays, and other imaging media, upon payment of reasonable reproduction costs and a handling charge of twenty dollars for hospitals and ten dollars for other health care providers. If the patient X-rays and other imaging media are stored in digital format, copies may be requested to be provided in digital format and charged at the rate provided by this Item; however, the charges for providing digital imaging media copies shall not exceed two hundred dollars, plus all postage charges actually incurred. If requested, the health care provider shall provide the requestor, at no extra charge, a certification page setting forth the completeness of the X-rays and other imaging media on file. In the event hospital patient X-rays and other imaging media are not complete, the copies furnished shall indicate, through a stamp, coversheet, or otherwise, the extent of the completeness of the records. Each request for copies of patient X-rays and

other imaging media submitted by the patient or other person authorized to request records pursuant to Item (i) of this Subparagraph shall not be considered a separate request and are subject to only one handling charge, and the health care provider shall not divide the requests for different types of X-rays and other imaging media. The health care provider shall not charge any other fee which is not specifically authorized by the provisions of this Subparagraph, except for notary fees and fees for expedited requests as contracted by the parties.

(iii) A health care provider shall be provided with written notice of any violation of Items (i) or (ii) of this Subparagraph and shall be given three days to correct the noticed violation. If the violation is based on a written communication from the health care provider or its agent, and the written communication includes contact information with a physical address for receipt of notices, the notice shall be sent by certified mail or commercial carrier. If the violation is not based on a written communication, or if no contact information, such as a physical address for receipt of notices, is provided, the notice shall be sent by certified mail or commercial carrier to the custodian of medical records of the health care provider. If the violation is not corrected within fifteen days of receipt of the certified mail or the commercial carrier notice, any violation of Items (i) or (ii) of this Subparagraph shall be subject to a civil penalty of five hundred dollars per violation, plus attorney fees and costs at the discretion of the court, payable to the requestor of the medical records.

(c) If a copy of the record is not provided within a reasonable period of time, not to exceed fifteen days following the receipt of the request and written authorization, and production of the record is obtained through a court order or subpoena duces tecum, the health care provider shall be liable for reasonable attorney fees and expenses incurred in obtaining the court order or subpoena duces tecum. Such sanctions shall not be imposed unless the person requesting the copy of the record has by certified mail notified the health care provider of his failure to comply with the original request, by referring to the sanctions available, and the health care provider fails to furnish the requested copies within five days from receipt of such notice. Except for their own gross negligence, such health care providers shall not otherwise be held liable in damages by reason of their compliance with such request or their inability to fulfill the request.

(d) A health care provider may deny access to a record if the health care provider reasonably concludes that knowledge of the information contained in the record would be injurious to the health or welfare of the patient or could reasonably be expected to endanger the life or safety of any other person.

(e) Nothing in this Section shall be construed to limit or prohibit access to the information contained in the records of a patient maintained by a health care provider in any legally permissible manner other than those delineated pursuant to R.S. 22:976 and in this Section, subject to the provisions of R.S. 13:3734.

(3)(a) Medical and dental records shall be retained by a physician or dentist in the original, microfilmed, or similarly reproduced form for a minimum period of six years from the date a patient is last treated by a physician or dentist.

(b) Graphic matter, images, X-ray films, and like matter that were necessary to

produce a diagnostic or therapeutic report shall be retained, preserved and properly stored by a physician or dentist in the original, microfilmed or similarly reproduced form for a minimum period of three years from the date a patient is last treated by the physician or dentist. Such graphic matter, images, X-ray film, and like matter shall be retained for a longer period when requested in writing by the patient.

(4)(a) Any person conducting or operating a clinical laboratory or medical facility shall report test results to the patient who is the subject of the test upon his request. Approval from a health care provider shall not be required prior to reporting test results in accordance with the provisions of this Paragraph.

(b) When a clinical laboratory or medical facility provides test results to a patient pursuant to this Paragraph, it shall also provide notice to the provider that the patient requested the test results and the results of the test to the health care provider ordering the test.

(c) Notwithstanding any other provision of law to the contrary, the clinical laboratory or medical facility shall deliver the requested test results to the patient after verifying the identification of the patient. Test results may be delivered by mail if the patient has executed a HIPAA form and a written authorization to that effect. In addition, the test results may be delivered to any other person authorized by the patient in writing to receive the results.

(d) The patient shall not have a right or cause of action against the clinical laboratory or medical facility for the release of test results in accordance with the provisions of this Paragraph.

(e) The clinical lab or medical facility shall only report the test results to the patient who is the subject of the test upon his request in a manner which is consistent and in accordance with all applicable federal laws.

(f) The clinical lab or medical facility shall only report the test results to the patient who is the subject of the test upon his request when the cost of the tests have been fully paid by the patient or applicable payor source.

B. As used in this Section:

(1) "Health care provider" means a "health care provider" as defined in R.S. 40:1231.1 or a "state health care provider" as defined in R.S. 40:1237.1 or a clinical laboratory or medical facility in accordance with Paragraph (A)(4) of this Section.

(2) "Patient" means a natural person who receives or should have received health care from a licensed health care provider, under a contract, express or implied.

C.(1) The provisions of this Section shall not be applicable to a health care provider who has evaluated or examined a patient at the request of any agency of the state or federal government in charge of the administration of any of the assistance or entitlement programs under the Social Security Act. The records of such evaluation or examination shall be retained for ninety days after mailing or upon proof of receipt of the records, whichever period is shorter. Nothing herein shall be construed as limiting or prohibiting the access to health care information and records of a patient that are retained by the Social Security Administration in any legally permissible manner under state law that is not contrary to federal law or regulation.

(2) A person or entity otherwise subject to the provisions of this Section who provides medical records to a nonprofit organization assisting with Social Security or Medicaid applications may waive or charge an amount less than the maximum charges set forth in Item (A)(2)(b)(i) of this Section.

RS 40:1165.2 — Health Care Information Technology and Infrastructure Advisory Collaborative;
ic health care information

technology for the residents of Louisiana in a coordinated, systematic, thoughtful, and focused manner. The legislature further recognizes that health care information technology plays a significant role in transforming the health care system and in supporting communities. Electronic health care records are rapidly evolving and becoming more standardized in order to better meet the needs of physicians, clinicians, and patients. The legislature desires to obtain information for the development and adoption of uniform standards for interoperable electronic health care records to better protect the privacy and confidentiality of personal health care information of Louisiana residents while advancing the use of electronic health care information technology.

(2) Pursuant to Senate Concurrent Resolution 35 of the 2007 Regular Session, the Louisiana Department of Health facilitated the establishment of the Louisiana Health Care Quality Forum as a nonprofit corporation, which was incorporated on July 6, 2007, and whose purpose is to plan, promote and conduct quality improvement initiatives within the state. The Louisiana Health Care Quality Forum has identified the promotion of health information technology as a major focus in its strategic work plan.

(3) In Act 203 of the 2007 Regular Session, the legislature provided a line item appropriation within the Louisiana Department of Health budget for the establishment of a network among Louisiana State University Health Sciences Center at Shreveport and the Rural Hospital Coalition, now known as the Louisiana Rural Health Information Exchange, hereinafter referred to in this Section as "LARHIX".

B. The legislature hereby establishes the Health Care Information Technology and Infrastructure Collaborative to be composed of LARHIX, the Health Information Technology Committee of the Louisiana Health Care Quality Forum and any other current or future regional health information exchange, hereinafter referred to in this Section as "collaborative." The collaborative shall advise the secretary of the Louisiana Department of Health on strategies for the advancement of the use of electronic health information technology through the identification of state laws and regulations that impede such advancement, including but not limited to those laws and regulations that concern the form of consent to medical treatment and authorization for other health care transactions, and matters related to facilitation of telehealth consultations.

C. The collaborative shall provide the secretary of the Louisiana Department of Health with its annual report on such matters no later than January thirtieth of each year. The collaborative shall submit its annual report to the House and Senate committees on health and welfare for approval by January thirtieth of each year.

RS 40:1165.3 — Contact lens prescription; contents; expiration; restrictions on filling; release;
t for use in correcting errors of refraction and restoring, as near as possible, normal

human vision shall be signed by the physician or optometrist and shall contain information specifying the physical design, material type, curvatures, diameters, pertinent measurements, and refractive power and an expiration date not to exceed eighteen months.

B. No owner, employer, or agent of any business establishment that buys, sells, offers to sell, dispenses, or gives away prescription contact lenses may fill a contact lens prescription unless the information provided in Subsection A of this Section is included on the prescription or after the expiration date of the prescription.

C. No person other than the prescribing physician, optometrist, or his designated employee may release to a patient a copy of his contact lens prescription. However, no such physician, optometrist, or his designated employee may deny, withhold, attempt to deny or withhold, or refuse to release to any patient his prescription, or a copy of his prescription, if requested by the patient.

D. Any person who violates the provisions of this Section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars. For each subsequent offense, the violator shall be fined not more than one thousand dollars.

E. For purposes of this Section, a spectacle prescription shall not be construed to be or substituted for a contact lens prescription.

RS 40:1167.1 — Short title

R.S. 40:1299.97.1 by

HCR 84 of 2015 R.S.

RS 40:1167.2 — Legislative findings; purpose

(HIT) and Health Information Exchange (HIE) are critical to improving and evaluating the quality of health care delivered to the citizens of Louisiana across the full spectrum of service delivery. The state has made significant investments in HIT that should be leveraged and built upon while continuing to address the low adoption rate of HIT by providers statewide.

(2) The state and federal governments have recognized that the use of an interoperable electronic health record (EHR) is the foundation of HIT adoption and can improve outcomes and reduce costs.

(3) In February of 2009, the United States Congress, in enacting the American Recovery and Reinvestment Act of 2009 (ARRA), made a substantial financial commitment to the national expansion of HIT by providing approximately seventeen billion dollars in funding for enhanced Medicare and Medicaid reimbursements to certain providers who demonstrate meaningful use of certified EHR technology, as well as an additional two billion dollars for competitive grants to the states to create regional infrastructure and to provide loans to providers for the purchase and implementation of an EHR.

(4) Under ARRA, many of Louisiana's providers will become eligible for enhanced Medicare reimbursement in the federal fiscal year beginning October 1, 2010, by becoming a meaningful user of certified EHR technology and will suffer financial consequences for failing to do so in the federal fiscal year beginning October 1, 2014. Additionally, enhanced Medicaid reimbursement will be available to certain providers who are engaged in efforts to adopt, implement, or upgrade certified EHR technology or who are meaningful users of such

technology, beginning on a date that has not yet been specified by the federal government.

(5) The ARRA's loan program competitive grant provisions are designed to facilitate the widespread adoption of certified EHR technology, thus achieving provider eligibility for the enhanced Medicare and Medicaid reimbursements. The application process requires that the state develop and submit a strategic plan that will be annually updated, and that must include a list of the projects to be assisted through the program, a description of the criteria and methods established for the distribution of funds, the financial status of the loan fund as of the date of submission of the plan and the short-term and long-term goals of the program.

(6) In 2007, the state authorized the secretary to enter into a Cooperative Endeavor Agreement ("CEA") with the Rural Hospital Coalition, Inc. (the "Coalition"), for the establishment of the Louisiana Rural Health Information Exchange (LARHIX), a multi-regional health care information exchange. With the funding provided, seven rural hospitals acquired EHR technology and were linked to Louisiana State University Health Sciences Center - Shreveport (LSUHSC-S) via a state-of-the-art integration engine, permitting a panel of specialists to access a rural patient's medical record in real time while consulting with the patient over the telehealth equipment located at the rural hospital. In 2008, the state entered into a five-year CEA with the Coalition and provided funding to expand the network to seven additional rural hospitals. LARHIX has been honored as a network model with multiple award nominations by national technology organizations.

(7) The state is required to meet federal match requirements to secure funding under the ARRA loan program provisions. Once such funding is secured, the state can establish the loan program and thereby make application for ARRA program funds. When established, the loan program will facilitate the expansion of current efforts, including LARHIX, to assist providers in acquiring certified EHR technology. By enacting this legislation, the legislature is providing the department and the secretary with specific authority to facilitate the state's application for ARRA loan program funding and to administer the state's EHR loan program.

RS 40:1167.3 — Definitions

" means a qualified electronic health record (as defined in Section 3000(13) of the Public Health Service Act) that is certified pursuant to Section 3001(c)(5) of such Act as meeting standards adopted under Section 3004 of such Act that are applicable to the type of record involved.

(2) "Department" means the Louisiana Department of Health or its successor in the role of designated state agency under Title XIX of the Social Security Act or any successor Act including, but not limited to, block grants or other funding for medical care of the poor.

(3) "Secretary" means the secretary of the Louisiana Department of Health.

RS 40:1167.4 — Establishment of the Electronic Health Records Loan Program

y is hereby authorized to establish the Electronic Health Records

Loan Program utilizing such sums that are made available through any one or more of the following:

(a) Annual appropriation.

(b) A public/private partnership involving financial institutions.

(c) Any other method authorized by law.

(2) Such funding shall be utilized by the state to satisfy the federal match requirements of the loan program provisions of ARRA.

(3) All loan program funds shall be administered by the department pursuant to the provisions of this Subpart.

C. To the extent permitted by law, the debt service associated with loans made to eligible providers shall be serviced from funds received by such providers as enhanced reimbursements under ARRA.

D. The department shall assist the state in the preparation of a competitive grant application and any other required submissions to secure funding made available under the ARRA loan program provisions.

E. The secretary is authorized to enter into CEAs to facilitate with any entity access to the ARRA loan program funding and to make loans to eligible providers to provide for the acquisition and implementation of certified EHR technology by eligible providers, and where integrated, telehealth technology.

F. To provide for the expansion and administration of LARHIX and other related matters, the secretary shall enter into a CEA with the Coalition, the terms of which shall govern the program's loans made available to rural hospitals, and with the secretary's approval, to other rural health care providers who have elected to partner with rural hospitals in the acquisition of certified EHR technology. For purposes of this Subsection and to the extent permitted by the ARRA, certified EHR technology will include telehealth technology which such technology is fully integrated with the certified EHR technology acquired by the hospital.

G. The secretary may consult with the Louisiana Healthcare Quality Forum in administering this program.

RS 40:1168.1 — Findings and purpose

upon evidence

derived from research and in a manner in which the physician bases clinical decisions upon such evidence.

B. The purpose of this Subpart is to promote the practice of evidence-based medicine in Louisiana through the creation of a system which facilitates the collection and analysis of information on health effects, events, and outcomes associated with the use of medical marijuana by patients in this state.

RS 40:1168.2 — Definitions

use of a drug prescribed or

recommended to a patient that may result in serious harm or injury to the patient or in the patient's death.

(2) "Authorized clinician" means all of the following licensed health professionals authorized pursuant to R.S. 40:1046 to recommend medical marijuana to patients:

(a) Any physician licensed by and in good standing with the Louisiana State Board of Medical Examiners to practice medicine in this state.

(b) Any nurse practitioner licensed by and in good standing with the Louisiana State

Board of Nursing to practice advanced practice registered nursing in this state and who has prescriptive authority conferred by the Louisiana State Board of Nursing.

(c) Any medical psychologist licensed by and in good standing with the Louisiana State Board of Medical Examiners to practice medical psychology in this state.

(3) "Board" means the Louisiana State Board of Medical Examiners.

(4) "Data system" means the system authorized and provided for in R.S. 40:1168.3.

(5) "Medical marijuana" means the therapeutic substance produced under the authority of and in accordance with R.S. 40:1046.

RS 40:1168.3 — Data system; components; reporting; design in collaboration with certain higher

tem for the collection and

analysis of clinical information associated with the use of medical marijuana by patients.

The system shall include, at minimum, the following components:

(1)(a) A component for the collection of data concerning adverse events experienced by patients which are associated with the use of medical marijuana.

(b) The board shall design and administer the data system such that any of the following persons may report an adverse event:

(i) The patient.

(ii) A family member of the patient.

(iii) An authorized clinician who prescribes or recommends medical marijuana to a patient.

(iv) Any physician, medical psychologist, or advanced practice registered nurse who treats a patient other than an authorized clinician who prescribes or recommends medical marijuana to the patient.

(2)(a) A component for the collection of data concerning health outcomes other than adverse events experienced by patients that are associated with the use of medical marijuana.

(b) The board shall design and administer the data system such that reporting of health outcomes is limited to authorized clinicians exclusively.

B. The board shall collaborate with the following institutions in designing and implementing the data system:

(1) The medical school of the Louisiana State University Health Sciences Center at New Orleans.

(2) The medical school of the Louisiana State University Health Sciences Center at Shreveport.

(3) The Tulane University School of Medicine.

(4) The Pennington Biomedical Research Center.

(5) The College of Nursing and Allied Health at Southern University and Agricultural and Mechanical College.

(6) The Xavier University of Louisiana College of Pharmacy.

C. Except in cases of disclosure of data authorized by R.S. 40:1168.4(B), all data in the data system shall be confidential and shall not be available for subpoena, nor shall such information be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding. The data maintained in the data system shall not be

subject to any public records request nor shall any such data be considered as a public record pursuant to R.S. 44:1 et seq.

RS 40:1168.4 — Protection of health information; limitations on data use

aws and regulations providing for the protection of health information.

B.(1) The board may authorize and facilitate access to data in the system to an outside party only if that party seeks the data for use in a bona fide medical research effort which has been authorized by the institutional review board of the organization conducting the research.

(2) The board shall have exclusive authority to determine whether an activity qualifies as a bona fide medical research effort in accordance with Paragraph (1) of this Subsection.

(3) Any disclosure of data in the system shall be subject to the approval of the board.

RS 40:1168.5 — Funding sources authorized for data system

include, without limitation,

funds appropriated by the legislature, including any appropriation of federal funds; funding provided by contract or other agreement with a governmental entity; and any public or private donations, gifts, or grants from governmental sources, individuals, corporations, nonprofit organizations, or other business entities.

RS 40:1168.6 — Rulemaking

ts 2019, No. 207, §1.

RS 40:1169.2 — Legislative findings

d

devices in the United States often takes many years.

(2) A patient who has a terminal illness does not have the luxury of waiting until an investigational drug, biological product, or device receives final approval from the United States Food and Drug Administration.

(3) The standards of the United States Food and Drug Administration for the use of investigational drugs, biological products, and devices may deny the benefits of potentially life-saving treatments or devices to terminally ill patients.

(4) A patient with a terminal illness has a fundamental right to attempt to preserve his own life by accessing available investigational drugs, biological products, and devices.

(5) Whether to use available investigational drugs, biological products, or devices is a decision that rightfully should be made by the patient with a terminal illness in consultation with his physician, and is not a decision to be made by the government.

RS 40:1169.3 — Definitions

lowing criteria apply:

(a) Has a terminal illness.

(b) As determined by the person's physician, has no comparable or satisfactory treatment options that are approved by the United States Food and Drug Administration and available to diagnose, monitor, or treat the person's disease or condition, and the probable

risk to the person from the investigational drug, biological product, or device is not greater than the probable risk from the person's disease or condition.

(c) Has received a prescription or recommendation from his physician for an investigational drug, biological product, or device.

(d)(i) Has given his consent in writing for the use of the investigational drug, biological product, or device; or, if he is a minor or lacks the mental capacity to provide consent, a parent or legal guardian has given consent in writing on his behalf.

(ii) A person who can understand and comprehend spoken English but is physically unable to talk or write may be deemed as meeting the criteria of this Subparagraph if he is competent and able to indicate consent by other means.

(e) Has documentation from his physician indicating that he has met the requirements provided in this Subpart.

(2)(a) "Investigational drug, biological product, or device" means a drug, biological product, or device that has successfully completed phase one of a United States Food and Drug Administration approved clinical trial, but has not been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial.

(b) Notwithstanding Subparagraph (a) of this Paragraph, for purposes of this Subpart, "investigational drug, biological product, or device" shall include any device possessing the following characteristics regardless of whether it has successfully completed phase one of a United States Food and Drug Administration approved clinical trial:

(i)(aa) If of a robotic nature, the device is designed such that any failure in a multitude of continuous tests of its internal subsystems should cause motion to stop, consistent with the Guidelines For Robotics Safety from the Occupational Safety and Health Administration of the United States Department of Labor (Directive Number STD 01-12-002).

(bb) For purposes of this Item, "robotic nature" shall mean capable of independent motion or moving the user.

(ii) The device has all of the following features for intentional control:

(aa) The motion of the device responds to specific controls from the user.

(bb) The device has no machine state in which motion continues without a specific command from the user.

(iii) The device has an emergency stop button which allows an assistant to force the motion of the device to stop.

(3) "Terminal illness" means a disease that, without life-sustaining procedures, will result in death in the near future or a state of permanent unconsciousness from which recovery is unlikely. This diagnosis shall be confirmed by a second independent evaluation by a board-certified physician in an appropriate speciality.

RS 40:1169.4 — Availability of drugs, biological products, and devices; costs; insurance coverage
ch drug, product, or device to eligible patients in accordance with the provisions of this Section.

(2) Nothing in this Section shall be construed to require a manufacturer to make

available any drug, product, or device.

B. A manufacturer may do any of the following:

- (1) Provide an investigational drug, biological product, or device to an eligible patient without receiving compensation.
- (2) Require an eligible patient to pay the costs of or associated with the manufacture of the investigational drug, biological product, or device.

C.(1) A health insurance issuer may choose to provide coverage for the cost of an investigational drug, biological product, or device.

(2) Nothing in this Section shall be construed to require a health insurance issuer to provide coverage for the cost of any investigational drug, biological product, or device.

RS 40:1169.5 — Limitation of liability; no cause of action created

device to an eligible patient pursuant to the

provisions of this Subpart shall be immune from civil liability, including but not limited to any cause of action arising under R.S. 40:1231.1 et seq., for any adverse action, condition, or other outcome resulting from the patient's use of the investigational drug, biological product, or device.

B. Nothing in this Section shall be construed as creating a cause of action by or on behalf of any person against a manufacturer of an investigational drug, biological product, or device, or against any person or entity involved in the care of an eligible patient using the investigational drug, biological product, or device, for any harm done to the eligible patient resulting from the investigational drug, biological product, or device.

RS 40:1169.6 — Action against physician license prohibited

e any other action against the

license of a physician issued pursuant to the provisions of R.S. 37:1261, et seq. based solely upon the recommendation of the physician to an eligible patient regarding, or prescription for, or treatment with, an investigational drug, biological product, or device when such recommendation, prescription, or treatment is undertaken in strict conformance with the provisions of this Subpart.

RS 40:1170.1 — Legislative findings; declaration

rson's

right to health care.

(2) The provisions of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101 et seq.), prohibit discrimination against persons with disabilities, yet many individuals with disabilities experience discrimination in accessing critical healthcare services.

(3) In some cases, persons with developmental, intellectual, or physical disabilities have been denied life-saving organ transplants based on beliefs or assumptions by healthcare providers that those persons are incapable of complying with post-transplant medical requirements, or that they lack adequate support systems to ensure compliance with those medical requirements.

(4) Although organ transplant centers must consider medical and psychosocial

criteria when determining whether a patient is suitable to receive an organ transplant, transplant centers that participate in Medicare, Medicaid, and other federally funded programs are required to use patient selection criteria that result in a fair and nondiscriminatory distribution of organs.

B. The legislature hereby declares that Louisiana residents in need of organ transplants shall be entitled to an assurance that they will not encounter discrimination on the basis of a disability.

RS 40:1170.2 — Definitions

f a human body that takes

effect after the death of the donor for the purpose of transplantation or transfusion.

(2) "Auxiliary aid or service" means an aid or service that is used to provide information to an individual with a cognitive, developmental, intellectual, neurological, or physical disability and is available in a format or manner that allows the individual to better understand the information. An auxiliary aid or service may include any of the following:

(a) Qualified interpreters or other effective methods of making aurally delivered materials available to persons who are deaf or hard of hearing.

(b) Qualified readers, taped texts, texts in accessible electronic format, or other effective methods of making visually delivered materials available to persons with visual impairments.

(c) Supported decision-making services, including all of the following:

(i) The use of a support individual to communicate information to the person with a disability, ascertain the wishes of the person, or assist the person in making decisions.

(ii) The disclosure of information to a legal guardian, authorized representative, or another individual designated by the person with a disability for such purpose. A person making such disclosure shall do so in conformance with all applicable requirements of state and federal law, including but not limited to those of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d et seq.) and any federal regulations promulgated by the United States Department of Health and Human Services for implementation of that law.

(iii) If an individual has a court-appointed guardian or other individual responsible for making medical decisions on behalf of the individual, any measures used to ensure that the individual is included in decisions involving the individual's health care and that medical decisions are in accordance with the individual's own expressed interests.

(iv) Any other aid or service that is used to provide information in a format that is easily understandable and accessible to individuals with cognitive, neurological, developmental, or intellectual disabilities, including assistive communication technology.

(3) "Covered entity" means any of the following entities:

(a) Any licensed provider of healthcare services, including licensed healthcare practitioners, hospitals, nursing facilities, laboratories, intermediate care facilities, psychiatric residential treatment facilities, institutions for individuals with intellectual or developmental disabilities, and prison health centers.

(b) Any entity responsible for matching anatomical gift donors to potential

recipients.

(4) "Disability" has the meaning ascribed in 42 U.S.C. 12102.

(5) "Organ transplant" means the transplantation or transfusion of a part of a human body into the body of another for the purpose of treating or curing a medical condition.

(6)(a) "Qualified recipient" means an individual who has a disability and meets the essential eligibility requirements for the receipt of an anatomical gift.

(b) An individual who has a disability and meets the essential eligibility requirements for the receipt of an anatomical gift shall be deemed to be a qualified recipient regardless of any of the following:

(i) Whether he has access to individuals or entities available to support and assist him with an anatomical gift or transplantation.

(ii) Whether he has access to auxiliary aids or services.

(iii) Whether reasonable modifications to the policies, practices, or procedures of a covered entity are implemented, including modifications to allow for either of the following:

(aa) Communication with one or more individuals or entities available to support or assist with the recipient's care and medication after surgery or transplantation.

(bb) Consideration of support networks available to the individual, including family, friends, and home- and community-based services, including home- and community-based services funded through Medicaid, Medicare, another health plan in which the individual is enrolled, or any program or source of funding available to the individual, when determining whether the individual is able to comply with post-transplant medical requirements.

RS 40:1170.3 — Discrimination against potential organ transplant recipients based on disability; ess.

B. It shall be unlawful for a covered entity to do any of the following solely on the basis of an individual having a disability:

(1) Consider the individual ineligible to receive an anatomical gift or organ transplant.

(2) Deny medical services or other services related to organ transplantation, including diagnostic services, evaluation, surgery, counseling, and post-operative treatment and services.

(3) Refuse to refer the individual to a transplant center or other related specialist for the purpose of being evaluated for or receiving an organ transplant.

(4) Refuse to place a qualified recipient on an organ transplant waiting list.

(5) Place a qualified recipient on an organ transplant waiting list at a lower priority position than the position at which the individual would have been placed if the individual did not have a disability.

(6) Refuse insurance coverage for any procedure associated with being evaluated for or receiving an anatomical gift or organ transplant, including post-transplantation and post-transfusion care.

C. Notwithstanding the provisions of Subsection B of this Section, a covered entity may consider an individual's disability when making treatment or coverage recommendations or decisions, but only to the extent that the disability has been found by a physician or

surgeon, following an individualized evaluation of the individual, to be medically significant to the provision of the anatomical gift.

D. If an individual has the necessary support system to assist him in complying with post-transplant medical requirements, a covered entity may not consider the individual's inability to independently comply with post-transplant medical requirements to be medically significant for the purposes of Subsection C of this Section.

E. A covered entity shall make reasonable modifications to its policies, practices, or procedures to allow individuals with disabilities access to transplantation-related services, including diagnostic services, surgery, coverage, post-operative treatment, and counseling, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such services.

F. A covered entity shall take all such actions as are necessary to ensure that an individual with a disability is not denied medical services or other services related to organ transplantation, including diagnostic services, surgery, post-operative treatment, or counseling due to the absence of auxiliary aids or services, unless the entity demonstrates that taking the actions would fundamentally alter the nature of such services or would result in an undue burden for the entity.

G. Nothing in this Section shall be deemed to require a covered entity to make a referral or recommendation for or to perform a medically inappropriate organ transplant.

RS 40:1170.4 — Enforcement; civil actions against covered entities; construction of Section

. 40:1170.3, the affected individual may commence a civil action for injunctive and other equitable relief against the covered entity for purposes of enforcing compliance with this Subpart. The action may be brought in the district court for the parish where the affected individual resides or resided or was denied the organ transplant or referral.

B. In an action brought under this Section, the court shall give the action priority on its docket and expedited review, and may grant injunctive or other equitable relief including by any of the following means:

- (1) Requiring auxiliary aids or services to be made available for a qualified recipient.
- (2) Requiring the modification of a policy, practice, or procedure of a covered entity.
- (3) Requiring that facilities be made readily accessible to and usable by a qualified recipient.

C. Nothing in this Section is intended to limit or replace available remedies under the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101 et seq.), or any other applicable law.

D. This Section shall not be construed as creating a right to compensatory or punitive damages against a covered entity.

RS 40:1171.1 — Purpose; intent; insurance and R.S. 40:1157.3 not affected

tion and acquired immunodeficiency syndrome (AIDS) is an essential public health measure. In order to retain the full trust and confidence of persons at risk, the state has an interest both in assuring that HIV test results are not improperly disclosed and in having clear and certain rules for the disclosure of such information. By providing additional protection for the confidentiality of HIV test results,

the legislature intends to encourage the expansion of voluntary confidential testing for HIV so that individuals may come forward, learn their health status, make decisions regarding the appropriate treatment, and change behaviors that put them and others at risk of infection. The legislature also recognizes that confidentiality protections can limit the risk of discrimination and the harm to an individual's interest in privacy that unauthorized disclosure of HIV test results can cause. It is not the intent of the legislature to create any new right, right of action, or cause of action or eliminate any right, right of action, or cause of action existing under current law. It is further not the intent of the legislature that this Chapter repeal, amend, or in any way affect the provisions of R.S. 40:1157.3 relative to the ability of a physician or employee of a hospital who may become infected with HIV to test the blood of a patient without the patient's consent. It is the intent of the legislature that in the case of a person applying for or already insured under an insurance policy, who will be or has been the subject of a test to determine infection for HIV, all facets of insurers' practices in connection with HIV-related testing and HIV test results and all facets of other entities' and individuals' interactions with insurers relating to HIV-related testing or HIV test results shall be governed exclusively by Title 22 of the Louisiana Revised Statutes of 1950 and any regulations promulgated pursuant thereto by the commissioner of insurance who shall have the authority to promulgate such regulations.

RS 40:1171.2 — Definitions

x-sharing or needle-sharing partner, a person who has had contact with blood or body fluids to which universal precautions apply through percutaneous inoculation or contact with an open wound, non-intact skin, or mucous membrane, or a person who has otherwise been exposed to an HIV-infected person in such a way that infection may have occurred as defined by the Louisiana Department of Health regulations based upon guidelines of the United States Centers for Disease Control and Prevention.

(2) "HIV-related test" is a test which is performed solely to diagnose infection with human immunodeficiency virus (HIV).

(3) "HIV test result" is the original document, or copy thereof, transmitted to the medical record from the laboratory or other testing site the result of an HIV-related test. The term shall not include any other note, notation, diagnosis, report, or other writing or document.

RS 40:1171.3 — HIV-related testing; consent; exceptions

a person as part of a routine medical screening in health care settings, substance abuse treatment facilities, mental health treatment facilities, and correctional settings, the patient shall be informed orally or in writing that HIV testing shall be performed unless the patient declines or "opts out" of the testing. Oral or written information shall include an explanation of HIV infection and the meanings of positive and negative test results, and the patient shall be offered an opportunity to ask questions. Consent for HIV testing shall be incorporated into the patient's general informed consent for medical care on the same basis as are other screening or diagnostic tests; a separate consent form for HIV testing shall not be necessary. If a patient declines testing, it shall be noted in the medical record.

B. Community-based organizations that are funded by the office of public health to conduct HIV testing services will be required to follow all HIV testing protocols established by the HIV/AIDS Program of the office of public health.

C. A patient requesting the performance of an HIV-related test shall be provided an opportunity to remain anonymous by the use of a coded system with no correlation or identification of the individual's identity to the specific test request or results. In these instances the identifying information otherwise required by the Louisiana State Sanitary Code shall not be required. A health care provider that is not able to provide HIV-related tests on an anonymous basis shall refer, at no extra charge to the individual seeking anonymity, such individual to a test site that provides anonymous testing. The provisions of this Subsection shall not apply to inpatients in hospitals.

D. If an individual tests positive for HIV infection, the individual shall be referred to a health care provider for appropriate HIV-related primary medical care.

E. The provisions of Subsections A through D of this Section shall not apply to the performance of an HIV-related test:

(1) By a health care provider or health care facility in relation to the procuring, processing, distributing, or use of a human body or human part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical research or therapy, or for transplantation to individuals, as provided in R.S. 40:1113.2.

(2) For purposes of accredited scientific or medical research. Any testing must be performed in such a manner that the identity of the test subject remains anonymous and may not be retrieved by any researcher unless specifically authorized.

(3) On a deceased person, when the HIV-related test is conducted to determine the cause of death or for epidemiological purposes.

(4) On any child taken into custody by the Department of Children and Family Services, where department officials have cause to believe that the child has been infected with HIV.

(5) On any child when the child's attending physician reasonably believes such test to be necessary in order to properly diagnose or treat the child's medical condition and documents such reason in the child's medical record, including all newborns whose mothers present for delivery without a diagnostic HIV test on record.

(6) On any person who has been arrested, indicted, or convicted for the crimes of aggravated or first degree rape, forcible or second degree rape, simple or third degree rape, or crime against nature as defined by R.S. 14:89(A)(2) when required by a court to undergo an HIV-related test.

F. Repealed by Acts 2007, No. 153, §2.

RS 40:1171.4 — Confidentiality of HIV test result; disclosure

course of providing any health or social

service or pursuant to a release of confidential HIV test results may disclose such information pursuant to a written authorization to release medical information when such authorization contains a refusal to release HIV test results.

B. Notwithstanding the provisions of Subsection A of this Section, HIV test results

may be released to the following:

- (1) Any person to whom disclosure of medical information is authorized by law without the consent of the patient.
- (2) Any agent or employee of a health facility or health care provider if:
 - (a) The agent or employee is permitted access to medical records.
 - (b) The health facility or health care provider is authorized to obtain the HIV test results.
 - (c) The agent or employee provides health care to the patient or maintains or processes medical records for billing or reimbursement purposes.
- (3) A health care provider or health facility, when knowledge of the HIV test results is necessary to provide appropriate care or treatment to the patient and afford the health care provider and the personnel of the health facility an opportunity to protect themselves from transmission of the virus.
- (4) A health facility or health care provider, in relation to the procurement, processing, distributing, or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical education, research, therapy, or transplantation.
- (5) Any health facility staff committees or accreditation or oversight review organizations authorized to access medical records, provided that the committee or organization shall only disclose confidential HIV test results:
 - (a) To the facility or provider of a health or social service.
 - (b) To a federal, state, or local government agency for the purposes of and subject to the conditions provided in Paragraph (6) of this Subsection.
 - (c) To carry out the monitoring evaluation, or service for which it was obtained.
- (6) A federal, state, parish, or local health officer when the disclosure is mandated by federal or state law.
- (7) An agency or individual in connection with the foster care programs of the Department of Children and Family Services or an agency or individual in connection with the adoption of a child.
- (8) Any person to whom disclosure is ordered by a court of competent jurisdiction.
- (9) An employee or agent of the committee on parole of the Department of Public Safety and Corrections to the extent that the employee or agent is authorized to access records containing HIV test results in order to implement the functions, powers, and duties with respect to the individual patient of the committee on parole, Department of Public Safety and Corrections.
- (10) An employee or agent of the office of probation and parole of the Department of Public Safety and Corrections, division of correction services, to the extent the employee or agent is authorized to access records containing HIV test results in order to carry out the functions, powers, and duties, with respect to patient of the office.
- (11) A medical director of a local correctional facility, to the extent the medical director is authorized to access records containing HIV test results in order to carry out the functions, powers, and duties with respect to the patient.

(12) An employee or agent of the Department of Public Safety and Corrections, to the extent the employee or agent is authorized to access records containing HIV test results in order to carry out the Department of Public Safety and Corrections functions, powers, and duties with respect to the patient.

(13) An employee or agent who is authorized by Louisiana Works to access records containing HIV test results in order to carry out Louisiana Works' vocational rehabilitative services functions, powers, and duties with respect to the protected patient.

(14) An insurer, insurance administrator, self-insured employer, self-insurance trust, or other person or entity responsible for paying or determining payment for medical services to the extent necessary to secure payment for those services.

C. A state, parish, or local health officer may disclose confidential HIV test results when:

- (1) Disclosure is specifically authorized or required by federal or state law.
- (2) Disclosure is made pursuant to a release of confidential HIV test results.
- (3) Disclosure is requested by a physician pursuant to Subsection E of this Section.
- (4) Disclosure is authorized by court order.

D. No person to whom confidential HIV test results have been disclosed pursuant to this Subpart shall disclose the information to another person except as authorized by this Subpart, provided, however, that the provisions of this Subsection shall not apply to the individual or to a natural person who is authorized by law to consent to health care for the individual.

E.(1) A physician may disclose confidential HIV test results under all of the following conditions:

- (a) Disclosure is made to a contact, or to a public health officer for the purpose of making the disclosure to said contact.
- (b) The physician reasonably believes disclosure is medically appropriate, and there is a significant risk of infection to the contact.
- (c) The physician has counseled the patient regarding the need to notify the contact, and the physician reasonably believes the patient will not inform the contact.
- (d) The physician has informed the patient of his or her intent to make such disclosure to a contact and has given the patient the opportunity to express a preference as to whether disclosure should be made by the physician directly or to a public health officer for the purpose of said disclosure. If the patient expresses a preference for disclosure by a public health officer or by the physician the physician shall honor such preference.

(2) When making such disclosures to the contact, the physician or public health officer shall provide or make referrals for the provision of the appropriate medical advice and counseling for coping with the emotional consequences of the knowledge of the information and for alteration of behavior to prevent transmission or contraction of HIV infection. The physician or public health officer shall not disclose the identity of the patient or the identity of any other contact. A physician or public health officer making a notification pursuant to this Subsection shall make such disclosure in person, except where circumstances reasonably prevent doing so.

(3) A physician shall have no obligation to identify or locate any contact.

(4) A physician may, upon the consent of a parent or guardian, disclose confidential HIV test results to a state, parish, or local health officer for the purpose of reviewing the medical history of a child to determine the fitness of the child to attend school.

(5) A physician may disclose confidential HIV test results pertaining to a patient to a person authorized by law to consent to health care for the patient when the physician reasonably believes that disclosure is medically necessary in order to provide timely care and treatment for the patient and, after appropriate counseling as to the need for such disclosure, the patient has not and will not inform the person authorized by law to consent to health care. The physician shall not make such disclosure if, in the judgment of the physician, the disclosure would not be in the best interest of the patient or of the individual authorized by law to consent to such care and treatment. Any decision or action by a physician pursuant to this Paragraph and the basis thereof shall be recorded in the patient's medical record.

F. A physician may choose, notwithstanding any other provision of law to the contrary, not to disclose the results of a confidential HIV test to a person upon whom such a test has been performed when in the medical opinion of the physician the disclosure of such results would be medically contraindicated.

RS 40:1171.5 — Court authorization for disclosure of confidential HIV test results

test results except a court of record of competent jurisdiction
in accordance with the provisions of this Subpart.

B. A court may grant an order for disclosure of confidential HIV test results upon an application showing:

(1) A compelling need for disclosure of the information for the adjudication of a criminal or civil proceeding.

(2) A clear and imminent danger to an individual whose life or health may unknowingly be at significant risk as a result of contact with the individual to whom the information pertains.

(3) Upon application of a state, parish, or local health officer, a clear and imminent danger to the public health.

(4) That the applicant is lawfully entitled to the disclosure and the disclosure is consistent with the provisions of this Subpart.

C. Upon receiving an application for an order authorizing disclosure pursuant to this Section, the court shall enter an order directing that all pleadings, papers, affidavits, judgments, orders of the court, briefs, and memoranda of law which are part of the application or the decision thereon, be sealed and not made available to any person, except to the extent necessary to conduct any proceedings in connection with the determination of whether to grant or deny the application, including any appeal. Such an order shall further direct that all subsequent proceedings in connection with the application, shall be conducted in camera, and, where appropriate to prevent the unauthorized disclosure of confidential HIV test results, that any pleadings, papers, affidavits, judgments, orders of the court, briefs, and memoranda of law which are part of the application or the decision thereon omit the name of the individual concerning whom confidential HIV test results are sought.

D.(1) The individual concerning whom confidential HIV test results are sought and any person holding records concerning confidential HIV test results from whom disclosure is sought shall be given adequate notice of such application in a manner that shall not disclose to any other person the identity of the individual, and shall be afforded an opportunity to file a written response to the application, or to appear in person for the limited purpose of providing evidence on the statutory criteria for the issuance of an order pursuant to this Section.

(2) The court may grant an order without such notice and opportunity to be heard, if an ex parte application by a public health officer shows a clear and imminent danger to an individual whose life or health may unknowingly be at risk.

(3) The service of a subpoena shall not be subject to this Subsection.

E. In assessing the compelling need and clear and imminent danger, the court shall provide written findings of fact, including scientific or medical findings, citing specific evidence in the record that supports each finding, and shall weigh the need for disclosure against the privacy interest of the protected individual and against the public interest that may not be served by disclosure which deters future testing or treatment or which may lead to discrimination.

F. An order authorizing disclosure of confidential HIV test results shall:

(1) Limit disclosure to that information necessary to fulfill the purpose for which the order is granted.

(2) Limit disclosure to those persons whose need for the information is the basis for the order, and specifically prohibit additional disclosure by such persons to any other persons, regardless of whether they are parties to the action.

(3) To the extent possible consistent with this Section, conform to the provisions of this Subpart.

(4) Include such other measures as the court deems necessary to limit any disclosures not authorized by its order.

RS 40:1173.1 — Findings; legislative intent

healthcare services in many areas of the state, and the concerns expressed by consumers, healthcare providers, third-party payers, and others involved with making informed decisions regarding healthcare services, treatment, and coverage, there is a need to have access to provider specific healthcare cost, quality, and outcome data on healthcare facilities, healthcare providers, and health plans as well as continued access to global patterns and trends in the availability, use, and charges for healthcare services and the associated health circumstances.

(2) Due to the rapidly expanding availability of and access to patient sensitive healthcare data, it is necessary to establish safeguards which ensure the level of protection of patient encounter data that Louisiana citizens deserve, and which protect the privacy of health information comprising data sets that are reported and disseminated to improve the population health of this state.

B. It is the intent of the legislature to improve transparency in prices and care quality measures by providing for the creation and maintenance of a useful and comprehensive

health service information database that can be publicly accessed in a manner that ensures protection of individuals' confidential health information and respects providers of care.

RS 40:1173.2 — Definitions

owing:

(a) Patient-level data elements that could be used alone or in combination with other available data elements to identify a patient.

(b) Information requested that the department determines will be utilized for business or commercial purposes, including but not limited to market analysis and software development.

(c) Protected health information as defined in the HIPAA Privacy Rule, 45 CFR Part 164, and R.S. 29:762.

(2) "Department" means the Louisiana Department of Health.

(3) "HIPAA" means the Health Insurance Portability and Accountability Act, Pub. L. 104-191.

(4) "Secretary" means the secretary of the Louisiana Department of Health.

RS 40:1173.3 — Data collection; powers and duties of the Louisiana Department of Health

(1) Identify and define the healthcare cost, quality, and performance data elements to be reported to the department in accordance with existing national and international data standards for facilitating meaningful comparison by consumers of costs for specific healthcare services and specific quality of care measures between and among medical facilities, healthcare providers, and health plans. Such data elements shall include, without limitation, the items specified in Paragraph (9) of this Subsection.

(2) Develop standards of accuracy, quality, timeliness, economy, and efficiency for the provision of data.

(3) Identify the most practical methods to collect, transmit, and share required healthcare data as described in this Subpart.

(4) Utilize, wherever practical, existing administrative data bases, and modalities of data collection to provide the required data.

(5) Ensure confidentiality of patients by enforcing appropriate rules and regulations at least as stringent as those regulations applicable to covered entities promulgated under HIPAA privacy regulations, 45 CFR Part 164.

(6) Maintain the computerized database of personal health information of consumers in a secure environment in compliance with federal laws providing for the security of the system containing such data. In the event of a known or suspected data breach, the department shall, within thirty days of the breach, notify each resident of the state whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(7) Coordinate with the Louisiana Department of Insurance on all matters of health plan cost, quality, and performance data to be collected from health plans licensed to offer health insurance coverage in Louisiana. Such data shall exclude premium data and information related to the development of premiums.

(8) Include, when appropriate, risk-adjustment measures into the production of all

healthcare cost, quality, and performance data issued to account for variation in facility size, location, and patient acuity levels.

(9)(a) Provide the process for Internet publication of provider and health plan specific cost, quality, and performance data collected pursuant to this Subpart for access and use by a consumer or requesting entity. At minimum, this data shall include all of the following items:

(i) Healthcare quality information that is easily understandable by the average consumer and is published in a format that allows the user to compare such information across providers to the extent practicable.

(ii) Data related to payments for health services rendered by healthcare facilities and practitioners published in an interactive format from which the user can generate reports of such data.

(iii) Data identifying at least fifteen of the most commonly used diagnosis codes, at least fifteen of the most commonly used procedure codes, and any emerging health trends for diagnosis and treatment related to hospitalization. The department shall publish this data in a format that facilitates comparison of the data from hospitals and other licensed health facilities of this state to similar data for medical care rendered in other states, to the extent that such data is available.

(iv) A list of the hospitals and other licensed health facilities that are in compliance with the reporting requirements promulgated by the department, and a list of the hospitals and other licensed health facilities that are not in compliance with such requirements.

(b) The department shall update the information provided for in this Paragraph at least annually.

(10) Ensure that data released pursuant to this Subpart shall not include any identifier which is listed in 45 CFR 164.514(b) as being necessary to be removed in order for the data to be de-identified within the meaning of 45 CFR 164.514(a).

(11) Promulgate rules and regulations, in accordance with the Administrative Procedure Act, to carry out the provisions of this Subpart.

RS 40:1173.4 — Health Data Panel; advisory council to the secretary of the Louisiana Department

hall be to make recommendations to the secretary for the implementation of the requirements of this Subpart.

B. Members of the Health Data Panel shall be appointed by the secretary and shall represent all interests involved in the collection and publication of provider- and health plan-specific cost, quality, and performance data elements. Members shall include but not be limited to purchasers of health care, hospitals and other service providers, consumer and patient advocacy groups, quality improvement and health information technology groups, physicians, and any other individuals or groups as deemed necessary by the secretary.

C. The Health Data Panel shall consider the provisions set forth in R.S. 40:1173.3.

D. The secretary or his designee shall serve as the chairman of the meetings of the Health Data Panel. The secretary shall convene meetings of the Health Data Panel on an annual basis and as needed to fulfill the provisions of this Subpart. The secretary may use the recommendations of the Health Data Panel to fulfill the responsibilities of the department

as set forth in this Subpart.

E. Members of the Health Data Panel shall serve without compensation.

RS 40:1173.5 — Release of information

ed from

hospitals and other healthcare providers pursuant to this Subpart. The department shall adhere to and comply fully with appropriate privacy protection protocols that are at least as stringent as the HIPAA Privacy Rule.

B. Notwithstanding Subsection A of this Section, the department may release data collected pursuant to this Subpart for the purpose of conducting healthcare research which is a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. All requests for data collected pursuant to this Subpart shall be submitted to the department and reviewed by the department's Institutional Review Board. The department shall deny any requests for data that it determines will be utilized for business or commercial purposes, including but not limited to market analysis and software development. The department shall have one representative of the provider group whose data is subject to the data release on the Institutional Review Board.

C. Each data request shall state the proposed use of the data requested and include an affirmation by the recipient that no attempt will be made to combine patient-level data provided for in the request with other data to identify patients and that no confidential information shall be released.

D. The department shall inform the Health Data Panel prior to the release of requested data collected pursuant to this Subpart.

RS 40:1173.6 — Violations; penalties

, shall provide to

the department such data as are necessary for the department to carry out its responsibilities as defined in this Subpart.

B. All healthcare providers licensed by the state, including but not limited to hospitals, outpatient surgical facilities, and outpatient clinical facilities shall submit information in the manner and form prescribed in rules and regulations promulgated by the department pursuant to this Subpart.

C. Any person, firm, corporation, organization, or institution that violates any of the provisions of this Subpart or any rules and regulations promulgated thereunder regarding patient confidentiality of information shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars or by imprisonment not exceeding one month, or both. Each day of the violation shall constitute a separate offense.

D. Any person, firm, corporation, organization, or institution knowingly violating any of the provisions of this Subpart or any rules and regulations promulgated thereunder shall be guilty of a misdemeanor and upon a plea of guilty, a plea of nolo contendere or conviction, shall be punished by a fine of not more than one thousand dollars.

E. Renewal of state licenses issued by the Louisiana Department of Health,

Department of Insurance, or health professional licensing, certification, or registration boards and commissions shall be predicated in part on compliance with data reporting requirements of this Subpart and rules and regulations promulgated thereunder. Prior to relicensing, the secretary shall confirm compliance with data reporting requirements in writing to the appropriate permitting or licensing authority. The permit, certification, or license of any healthcare provider, health plan, or facility covered by this Subpart shall be suspended until such time as the required data is submitted to the department.

RS 40:1175.1 — Chiropractic care; freedom of choice

d or services the freedom to

choose a duly licensed chiropractor as the provider of care or services which are within the scope of practice of the profession of chiropractic as defined in R.S. 37:2801(3).

RS 40:1181.1 — Nonstate governmental hospitals; cooperative endeavor agreements

ties which includes the transfer of funds for the provision

of health care services and such transfer shall be considered to be for a public purpose within the meaning of Paragraph C of Section 14 of Article VII of the Constitution of Louisiana.

RS 40:1183.1 — Short title

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R.S.

RS 40:1183.2 — Legislative findings; purpose

antial number of low-income residents living in the state and

therefore constitute an invaluable part of the healthcare delivery system of the state.

(2) Residents living in rural and medically underserved communities, which consist of sixty-two of the sixty-four Louisiana parishes, have a poorer health status than residents living in other communities in the state and lack access to adequate health care.

(3) FQHCs are in poor financial condition as a result of payment reductions in the Medicare and Medicaid programs and as a result of the advent and penetration of managed care in the state.

(4) FQHCs have a difficult time attracting and retaining physicians in their service areas, thereby resulting in a continued shortage of primary health care in the state's medically underserved communities.

(5) Absent intervention, continued reductions in the Medicare and Medicaid programs, as well as changes in healthcare reimbursement methodologies and the continued spread of managed care, may result in the closure of the state's FQHCs, thereby jeopardizing the very existence of a vital link in the healthcare delivery system for residents residing in medically underserved areas of the state.

(6) FQHCs constitute, in most cases, an important employer of residents from the economically and health distressed areas they serve and thus create a vital economic component of their local communities.

B. The legislature hereby declares an emergency finding that, absent the enactment of the following provisions, the very existence of Louisiana's FQHCs are imperiled. The legislature hereby declares that the purpose of this Part is to assure the continued viability

of FQHCs. To that end, the provisions of this Part shall be construed liberally and in favor of the purposes of this Part.

RS 40:1183.3 — Definitions

determined in accordance with Medicare

regulations governing cost-based reimbursement promulgated by the Health Care Financing Administration, United States Department of Health and Human Services, establishing the method or methods to be utilized and the items to be included in determining such costs related to patient care.

(2) "Department" means the Louisiana Department of Health or its successor in the role of designated state agency under Title XIX of the Social Security Act or any successor Act including but not limited to block grants for medical care of the poor.

(3) "FQHC" means a facility which is engaged in furnishing primary health services to outpatients by physicians, physician assistants or nurse practitioners, including but not limited to health services related to family medicine, internal medicine, pediatrics, obstetrics, and gynecology and such services and supplies incident thereto. Such facility shall serve a medically underserved population, meaning the population of an urban or rural area designated by the secretary of the Department of Health and Human Services as an area with a shortage of personal health services or a population group designated by the secretary as having a shortage of such services, such as migratory and seasonal agricultural workers, the homeless, residents of public housing, or students and other family members of students of a particular school or schools. Such a facility shall have been designated as a federally qualified health center by the secretary of the Department of Health and Human Services and shall be receiving grants or loans as may be granted by the secretary under 42 U.S.C. 254b.

(4) "Net uncompensated costs" means the costs related to patient care incurred during a provider's fiscal year of furnishing outpatient services, net of the cost of treating Medicare patients, Medicaid payments for inpatient and outpatient services, excluding disproportionate share payments, costs associated with patients who have insurance for services provided, and payments received from uninsured patients.

(5) "State plan for medical assistance" means the plan promulgated by the department in accordance with its role as a designated state agency under Title XIX of the Social Security Act, or its successor plan including but not limited to block grants for medical care to the poor.

RS 40:1183.4 — Medical assistance programs; FQHC reimbursement

y that reimburses FQHCs for

all costs related to patients, utilizing the most recent cost report information available to the department. The department shall seek to ensure that the reimbursement will be available to FQHCs under the Medicaid program, either through payments received by FQHCs from managed care organizations contracting with the department or its designee, or through supplemental payments as necessary from the department based on availability of funds to the extent permitted by federal law.

(2) With respect to disproportionate share payment methodologies, a reimbursement methodology that reimburses for all net uncompensated costs for services delivered on an

outpatient basis through contracts with disproportionate share hospitals in an integrated delivery system arrangement to the extent permitted by federal law and based on availability of funds.

B. The regulations promulgated pursuant to Subsection A of this Section shall be promulgated no later than one hundred twenty days after August 15, 1997. No later than one hundred twenty days after August 15, 1997, the department shall also submit to the secretary of the United States Department of Health and Human Services those amendments to the state plan for medical assistance necessary to conform the state plan for medical assistance with the provisions of Subsection A of this Section.

C. As of January 1, 2001, the department shall reimburse FQHCs for the delivery of Medicaid services as provided in Sections 1902(a)(15) and 1902(aa) of the Social Security Act, as added by Title VII Section 702 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, hereinafter referred to as "BIPA" and included as Appendix F of the Consolidated Appropriations Act of 2000, P.L. 106-554, and any pursuant federal regulations.

D.(1) To the extent the department is unable to implement BIPA as of January 1, 2001, it shall reimburse FQHCs pursuant to BIPA requirements retroactive to January 1, 2001, but in no event shall such implementation begin any later than and in no event shall such retroactive payment be made any later than July 1, 2002.

(2) In the event that the department chooses to apply an alternative payment methodology to FQHCs as allowed under Section 1902(aa)(6), as amended by BIPA, such methodology must be agreed to by the FQHC and cannot result in any less payment than the FQHC would receive pursuant to the payment methodology set out in Section 1902(aa)(1) through (5) of BIPA.

RS 40:1185.2 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1185.3 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1185.4 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1185.5 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1185.6 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1187.1 — Notification of law enforcement agency prior to discharge of a person issued a

g or investigating law enforcement

agency that a doctor has ordered the discharge of a patient from the hospital as soon as reasonably possible after the order has been written, if all of the following conditions exist:

(1) The law enforcement agency has certified in writing that the patient has been issued a summons or arrest warrant for an offense, but as a result of the need for emergency medical care, the warrant has not been executed prior to admission to the hospital.

(2) The law enforcement agency has provided the hospital with a written request to be informed upon the discharge of the patient from the hospital.

(3) The law enforcement agency has provided contact information for use by the hospital in making the notification.

B. No hospital shall be held civilly liable to any person for failure to comply or to timely comply with the requirements of this Section unless that failure is intentional or due to gross negligence.

C. As used in this Section, "hospital" means any institution, place, building, or agency, public or private, whether for profit or not, with facilities for the diagnosis, treatment, or care of persons who are suffering from illness, injury, infirmity, or deformity or other physical condition for which obstetrical, medical, or surgical services would be available and appropriate and which operates or is affiliated with facilities for the overnight care, observation, or recovery of those persons.

RS 40:1189.2 — Legislative findings; purpose

income rural residents living in the state and therefore constitute an invaluable part of the healthcare delivery system of the state.

(2) Residents living in rural areas of the state, which consist of sixty-four percent of the state's parishes, are in poorer health than residents living in the urban areas of the state and lack adequate public transportation.

(3) Small rural hospitals are in poor financial condition as a result of payment reductions in the Medicare and Medicaid programs and as a result of the advent and penetration of managed care in the state.

(4) Small rural hospitals have a difficult time attracting physicians to practice in their service areas, thereby resulting in a continued shortage of primary health care in the state's rural areas.

(5) Absent intervention, continued reductions in the Medicare and Medicaid programs, as well as changes in healthcare reimbursement methodologies and the continued spread of managed care, have caused and will continue to cause the closure of many of the state's small rural hospitals, thereby jeopardizing the very existence of a vital link in the healthcare delivery system for residents residing in rural areas of the state.

(6) Rural hospitals constitute, in many instances, the largest single employer of residents in areas served by them and thus constitute a vital economic component of many rural parish economies.

(7) The enactment of the Rural Hospital Preservation Act has preserved Louisiana's rural hospitals, a key component of the state's healthcare safety net which is essential to ensuring access to healthcare for Louisiana's rural residents.

(8) The Rural Hospital Preservation Act requires the department to maximize Medicaid reimbursement, including disproportionate share reimbursement, to rural hospitals.

(9) Congress has established a federal cap on each state's allotment of Medicaid disproportionate share reimbursement, and Louisiana's disproportionate share expenditures are approaching the federal cap.

(10) Unreimbursed rural hospital Medicaid inpatient and outpatient costs, including

the costs associated with the services provided at rural health clinics that are licensed as part of a rural hospital, are currently eligible for reimbursement under Louisiana's Medicaid disproportionate share program.

(11) There is no federal cap on Medicaid reimbursement unrelated to the disproportionate share program.

(12) It is in the state's interest to reduce rural hospital dependence on Medicaid disproportionate share reimbursement by increasing Medicaid reimbursement for rural hospital inpatient and outpatient services, including costs associated with services provided at rural health clinics that are licensed as part of a rural hospital.

(13) Increasing rural hospital inpatient and outpatient reimbursement under Medicaid will increase the disproportionate share hospital funding available to the state for non-rural, hospital-related disproportionate share hospital payments, thereby permitting the state to meet additional hospital-related uncompensated care needs.

B. The legislature hereby declares that, absent the enactment of the following provisions, the very existence of Louisiana's small rural hospital is imperiled. The legislature hereby declares that the purpose of this Part is to assure the continued viability of rural hospitals.

RS 40:1189.3 — Definitions

he Social Security Act or any successor

Act including but not limited to block grants or other funding for medical care of the poor.

(2) "Emergency medical condition" means acute symptoms of sufficient severity such that the absence of immediate medical attention could reasonably be expected to result in any one or more of the following:

(a) Placing the health of the individual in serious jeopardy, including the health of the unborn child in the case of a pregnant woman.

(b) Serious impairment to any bodily function.

(c) Serious dysfunction of any bodily part.

(3) "Health care provider" means an individual, person, corporation, facility, or institution licensed by the state to provide health care or professional services as a physician, nurse, or allied health professional.

(4) "Prospective rates approximating cost" means the median cost of a rural hospital providing inpatient acute or inpatient psychiatric services plus ten percent, which cost has been inflated by the Medicare market basket inflation factor to the midpoint of the state's fiscal year in which services may be furnished. The median cost and rates shall be re-based by the department at least every other year using the most current rural hospital cost reports on file with the department.

(5) "Public rural hospital" means a rural hospital owned or operated by a political subdivision of the state, including but not limited to a hospital service district, parish, or municipality.

(6) "Reasonable cost" means the cost of hospital outpatient services, including without limitation provider-based rural health clinics, utilizing Medicare cost reimbursement principles applicable to the respective rural hospital, including hospital-based rural health

clinics licensed as hospital departments. In the event a more limited definition of reasonable cost is required to obtain federal approval for the related state plan amendment for those rural hospitals that are reimbursed under Medicare's Prospective Payment System, hereinafter referred to as "PPS", the department shall utilize the most liberal definition of "reasonable cost" for such rural PPS hospitals that is acceptable to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, hereinafter referred to as "CMS".

(7)(a) "Rural hospital" means a hospital licensed by the department which meets one of the following criteria:

(i) Has no more than sixty hospital beds as of July 1, 1994; and

(aa) Is located in a parish with a population of less than fifty thousand; or

(bb) Is located in a municipality with a population of less than twenty thousand.

(ii) Meets the qualifications of a sole community hospital under 42 CFR 412.92(a); or met the qualifications of a sole community hospital as of June 30, 2005, and subsequently converted to critical access hospital status.

(iii) Has no more than sixty hospital beds as of July 1, 1999, and is located in a parish with a population, as measured by the 1990 census, of less than seventeen thousand.

(iv) Has no more than sixty hospital beds as of June 30, 2000, and is located in a municipality with a population, as measured by the 1990 census, of less than twenty thousand.

(v) Has no more than sixty beds as of July 1, 1997, and is located in a parish with a population, as measured by the 1990 and 2000 censuses, of less than fifty thousand.

(vi) Was a hospital facility licensed by the department that had no more than sixty hospital beds as of July 1, 1994, which hospital facility has been in continuous operation since July 1, 1994, is currently operating under a license issued by the department, and is located in a parish with a population, as measured by the 1990 census, of less than fifty thousand.

(vii) Has no more than sixty hospital beds or has notified the Louisiana Department of Health as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than sixty, and:

(aa) Is located, as measured by the 2000 census, in a municipality with a population of less than thirteen thousand; and

(bb) Is located, as measured in the 2000 census, in a parish with a population of less than thirty-two thousand.

(viii) Has no more than sixty hospital beds as of May 1, 2001, and:

(aa) Is located, as measured by the 2000 census, in a municipality with a population of less than five thousand five hundred; and

(bb) Is located, as measured by the 2000 census, in a parish with a population of less than forty-two thousand.

(ix) Has no more than sixty hospital beds as of September 26, 2002, and:

(aa) Is located, as measured by the 2000 census, in a municipality with a population of less than ten thousand; and

(bb) Is located, as measured by the 2000 census, in a parish with a population of less than thirty-three thousand.

(x) Has no more than sixty hospital beds as of January 1, 2003, and:

(aa) Is located, as measured by the 2000 census, in a municipality with a population of less than eleven thousand; and

(bb) Is located, as measured by the 2000 census, in a parish with a population of less than ninety thousand.

(xi) Has no more than sixty hospital beds or has notified the Louisiana Department of Health as of May 16, 2003, of its intent to reduce its number of hospital beds to no more than sixty, and:

(aa) Is located, as measured by the 2000 census, in a municipality with a population of less than seven thousand.

(bb) Is located, as measured by the 2000 census, in a parish with a population of less than fifty-three thousand.

(cc) Is located within ten miles of a United States military base.

(xii) Notwithstanding the provisions of Subparagraphs (7)(c) and (d) of this Section, has no more than forty beds as of January 1, 2005, and:

(aa) Is located, as measured by the 2000 census, in a municipality with a population of less than three thousand one hundred.

(bb) Is located, as measured by the 2000 census, in a parish with a population of less than fifteen thousand eight hundred.

(xiii) Notwithstanding the provisions of Subparagraphs (7)(c) and (d) of this Section, has no more than sixty hospital beds as of November 1, 2013, and:

(aa) Is located, as measured by the 2000 census, in a municipality with a population of less than thirty-three thousand.

(bb) Is located, as measured by the 2000 census, in a parish with a population of less than sixty-eight thousand.

(cc) Is located within three miles of Jackson Barracks.

(b) "Rural hospital" does not mean a long-term care hospital, a rehabilitation hospital, or a free-standing psychiatric hospital.

(c) For purposes of this Section, no hospital shall be designated as a "rural hospital" that was not downsized to sixty beds by May 16, 2003 and was not so designated prior to July 1, 2003.

(d) Notwithstanding anything to the contrary in this Section, no hospital shall be eligible to receive disproportionate share funds contingent upon Centers for Medicare and Medicaid Services approval unless designated as a "small rural hospital" and it has been annually certified by the Rural Hospital Coalition, Inc., as an entity eligible for assistance from Building Healthy Communities, Inc.

(8) "State plan for medical assistance" means the plan promulgated by the department in accordance with its role as designated state agency under Title XIX of the Social Security Act, or its successor plan, including but not limited to any plan adopted pursuant to any federal law creating block grants or other funding for medical care of the

poor.

RS 40:1189.4 — Medical assistance programs; rural hospital reimbursement
owing:

(1) Allow a rural hospital to certify as a contributing public agency, public funds as representing expenditures eligible for federal financial participation in the Medicaid program to the extent authorized by federal law. The expenditure of such funds shall be in accordance with rules promulgated by the department.

(2)(a) Maximize funding for services rendered by rural hospitals to the extent allowed by federal law and in amounts that may be appropriated by the legislature relative to the use of Medicaid disproportionate share reimbursement and Medicaid reimbursement. To the extent that intergovernmental transfers and the certification of eligible expenditures are available for recognition of state match for such Medicaid disproportionate share payments and Medicaid reimbursement, the department shall maximize the use of such amounts for the benefit of rural hospitals to increase access to health care for Medicaid and LaCHIP beneficiaries as well as indigent individuals.

(b) Notwithstanding any law to the contrary, by September 1, 2007, the department shall file a state plan amendment with CMS amending the Medicaid state plan provisions governing Medicaid hospital reimbursement to provide that a rural hospital, as defined in R.S. 40:1189.3, shall be reimbursed at a rate which equals or approximates one hundred ten percent, or, if a reduction is required by CMS, the maximum amount acceptable to CMS, but in no event less than one hundred percent, of the appropriate reasonable cost of providing hospital inpatient and outpatient services, including but not limited to services provided in a rural health clinic licensed as part of a rural hospital. The new rural hospital payment methodology shall utilize prospective rates approximating costs at the time of service for inpatient acute and psychiatric services. To ensure that rural hospital outpatient services, including those currently reimbursed on a cost basis and those currently reimbursed on a fee schedule are reimbursed in the aggregate at one hundred ten percent of the reasonable costs or such lesser amounts as approved by CMS, but in no event less than one hundred percent of their reasonable costs, the department shall pay an interim rate for cost-based outpatient services at one hundred ten percent of reasonable cost during the year and for fee-based services paid on a claim-by-claim basis, and the department shall make quarterly estimates of a supplemental payment required to bring the hospital's reimbursement for such services up to one hundred percent of reasonable costs and immediately remit such payments to the hospital and at final settlement pay such amounts as necessary to ensure that all outpatient services in the aggregate (cost based and fee schedule) are paid at one hundred ten percent of reasonable costs.

(c) On an expedited basis, the department shall take all steps necessary and available to obtain CMS approval for the state plan amendment and shall, immediately upon notification of such approval, promulgate an emergency rule to implement the state plan amendment.

(d) Once the outpatient cost-based reimbursement payment methodology is implemented, the department shall set and monitor interim payment rates to minimize the

amount of annual cost settlements.

(e) For cost reporting periods ending after July 1, 2008, the department shall pay seventy-five percent of interim rural hospital outpatient cost report settlement amounts due and one hundred percent of final rural hospital outpatient cost report settlement amounts due within fourteen days of receipt by the department of such reports from the Medicaid audit contractor.

(f) The new rural hospital payment methodology shall be effective for services provided on or after July 1, 2008, or as soon thereafter as may be permitted by federal law.

(3)(a) With respect to reimbursement for services furnished in another state, the department shall insure that reimbursement for such services shall be the lesser of the payment for such services by the state wherein such hospital is located or the department's payment made to like in-state providers. The department shall provide coverage for such services to the same extent that it would pay for services furnished within the boundaries of this state, only if any of the following conditions is met:

(i) Medical services are needed because of a medical emergency.

(ii) Medical services are needed and the recipient's health would be endangered if he were required to travel to his state or residence.

(iii) The state determines, on the basis of medical advice, that the needed medical services are necessary supplementary resources, and more readily available in the other state.

(iv) It is general practice for recipients in a particular locality to use medical resources in another state.

(b) In the event federal requirements for the state plan for medical assistance permit the department to impose further restrictions on payment for and coverage of medical services to Louisiana Medicaid patients rendered by out-of-state providers, the department shall promulgate regulations restricting payment for and coverage of such services to the fullest extent permitted by law. Such restrictions shall include lowering the rate of reimbursement provided for services rendered to out-of-state hospitals to the payment for such services by the state wherein such hospital is located, the department's payment made to like in-state providers, or the average rate paid to Louisiana rural hospitals located in the state, whichever is the least.

(c) The secretary of the department may negotiate a higher rate of reimbursement to an out-of-state hospital in the event that a Louisiana Medicaid recipient requires services that cannot be provided by any Louisiana hospital or provider and when these services can only be provided by an out-of-state provider.

(4)(a) Effective for services provided on or after July 1, 2010, or as soon thereafter as may be permitted by federal law, the department shall develop and implement, by emergency rule, a payment methodology which optimizes Medicaid inpatient and outpatient payments to rural hospitals. Payments shall be developed utilizing available Medicare upper payment limits for inpatient and outpatient services in accordance with state and federal law. Calculated payments shall be distributed to qualifying rural hospitals no less than quarterly, or as authorized by federal law.

(b) After federal funds are optimized, the remaining appropriated funds for rural

hospitals may be utilized to develop a state-only funded program to provide direct funds to qualifying rural hospitals to support access to services that would not be available otherwise. In the event the amount appropriated for such state-only funded program is insufficient in any state fiscal year to meet the total payments required by all rural hospitals to recover payment reductions, the payments to qualifying rural hospitals under this state-only funded program may be reduced proportionately.

(c) The department shall review Medicaid and uninsured cost information, payment information, patient charges, and hospital financial statements to the extent required by state or federal law to determine the optimal combination of payments.

(d) Rural hospitals that do not provide the minimum set of documentation required in Subparagraph (4)(c) of this Section to determine the optimal combination of payments shall not be eligible for additional payments.

(e) The department is hereby authorized to publish and promulgate rules, in accordance with the Administrative Procedure Act, to implement the provisions of this Paragraph.

B. The rules and regulations promulgated pursuant to Subsection A of this Section shall be promulgated no later than one hundred twenty days after August 15, 1997. No later than one hundred twenty days after August 15, 1997, the department shall also submit to the secretary of the United States Department of Health and Human Services those amendments to the state plan for medical assistance necessary to conform the state plan for medical assistance with the provisions of Subsection A of this Section.

RS 40:1189.5 — Managed care organizations

health care

services, and preferred provider organizations, which offer health services in the state through health service plans offered to Louisiana residents directly or indirectly, except with respect to a qualified benefit plan governed by ERISA, shall, in parishes in which enrollees or beneficiaries of the organization reside or in parishes which the organization services, offer rural hospitals and hospitals located in parishes with a population of sixty-five thousand or less, and physicians practicing at such hospitals, participation as providers in the managed care organizations on terms and conditions that are no more restrictive than applicable to other hospitals and physicians practicing at such hospitals. To qualify for participation in health services plans offered by managed care organizations, such hospitals may obtain either Medicare certification from the United States Department of Health and Human Services or accreditation by the Joint Commission on Accreditation of Healthcare Organizations. The provisions of this Section shall not apply to any plan offered through the Office of Group Benefits.

RS 40:1189.6 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1189.7 — Authorized activities concerning health care providers and public rural hospitals

on a part-time basis. As used in this Subsection, "part-time basis" means twenty or fewer hours of work per calendar week.

B. Notwithstanding any law to the contrary, a public rural hospital may lease, at fair market value, a portion or all of a facility or equipment to a health care provider employed by the hospital on a part-time basis for the provision of health care services and a health care provider employed on a part-time basis by a public rural hospital may lease, at fair market value, a portion or all of a facility or equipment to the hospital for the provision of health care services.

RS 40:1191.1 — Definitions

means the burial, cremation, or other disposition of the remains of a human fetus following fetal death.

(2) "Health facility" means a facility licensed by the Louisiana Department of Health to provide health services.

(3) "Miscarried child" means the fetal remains resulting from a spontaneous fetal death that does not require compulsory registration pursuant to the provisions of R.S. 40:47.

RS 40:1191.2 — Final disposition of fetal remains; rights of parents; notice required; exception

When a miscarriage occurs in a health facility, the facility shall notify the patient, or if the patient is incapacitated, the spouse of the patient, both orally and in writing, of both of the following:

(1) The parent's right to arrange for the final disposition of the child through the use of the notice of parental rights form as provided for in R.S. 40:1191.3.

(2) The availability of a chaplain or other counseling services concerning the death of the child, if such services are provided by the health facility.

B.(1) The patient shall have forty-eight hours from receipt of the notice of parental rights form provided by the health facility pursuant to Subsection A of this Section to indicate on the notice of parental rights form the patient's intent to arrange for the final disposition of the miscarried child and to return the notice of parental rights form to the health facility.

(2) If the health facility receives the patient's completed notice of parental rights form within the time period required by this Subsection, and once it is medically appropriate for the final disposition of the fetal remains to occur, the health facility shall make the remains available to transfer for a minimum of seventy-two hours. After the transfer, the final disposition of the fetal remains by the transferee shall be in accordance with the provisions of Chapter 10 of Title 8 of the Louisiana Revised Statutes of 1950.

(3) If the health facility does not receive the patient's completed notice of parental rights form within the time period required by this Subsection, the fetal remains shall be disposed of in accordance with the rules and regulations promulgated by the Louisiana Department of Health.

C. No notice shall be required if both the patient and the patient's spouse are incapacitated or otherwise unable to receive the notice required by Subsection A of this Section.

RS 40:1191.3 — Notice of parental rights form

health facilities

to comply with the provisions of this Part. The form shall include, at a minimum, all of the following:

- (1) A definitive statement that reads as follows: "This notice of parental rights form is required to be provided to you pursuant to Louisiana law."
- (2) A brief description of the provisions of this Part along with concise instructions for the patient to follow regarding how to properly complete the form and return it to the health facility in the event the patient desires to arrange for the final disposition of the miscarried child.
- (3) A concise statement of the timelines that must be satisfied in order for the patient to arrange for the final disposition of the miscarried child.
- (4) A listing of state, regional, or national grief counseling organizations that may provide counseling services concerning the death of a child.

RS 40:1191.4 — Limitation of liability

health facility, be held

civily liable for any damages when a health facility makes a final disposition of the fetal remains in accordance with the provisions of this Part.

RS 40:1193.1 — Short title

any technical difficulties navigating this website,

RS 40:1193.2 — Definitions

- (2) "Legal representative" means a legal guardian or a legally appointed substitute decision-maker who is authorized to act on behalf of a nursing home resident.
- (3)(a) "Monitoring device" means a surveillance instrument that transmits and records activity and is not connected to the facility's computer network.
- (b) The term "monitoring device" shall not include a camera that records still images exclusively.
- (4) "Nursing home" means a nursing facility or nursing home as defined in R.S. 40:2009.2.
- (5) "Ombudsman" means the administrator of the office of the state long-term care ombudsman established within the office of elderly affairs by the provisions of R.S. 40:2010.2.
- (6) "Resident" means a person who is a resident of a nursing home.

RS 40:1193.3 — Monitoring device; authorization and use

I representative may authorize

the installation and use of a monitoring device in a nursing home if all of the following conditions are met:

- (1) The resident or his legal representative gives notice of the installation to the nursing home.
- (2) If the monitoring device records activity visually, the recordings made by the device include a record of the date and time.
- (3) The resident pays for the monitoring device and all installation, operation, maintenance, and removal costs associated with the device.

(4) Each resident occupying the same room who has the capacity to consent as determined by emergency rules promulgated by the department pursuant to this Part, or that resident's legal representative, gives written consent for the installation of the monitoring device.

B. If the structure of the resident's room must be altered in order to accommodate a monitoring device, then the renovation to the room may be done only by a licensed contractor, subject to approval by the facility.

C. Any monitoring device installed in accordance with the provisions of this Chapter shall be in compliance with the National Fire Protection Association Life Safety regulations.

RS 40:1193.4 — Monitoring device option; installation; consent of residents in shared rooms;

me shall

notify the person of his right to have a monitoring device installed in his room, and shall offer the person the option to have a monitoring device. The resident or his roommate may exercise the right to install or remove a monitoring device at any time during which he resides in the nursing home. The nursing home shall keep a record of the person's authorization or choice not to have a monitoring device.

(2) The nursing home shall make the record provided for in Paragraph (1) of this Subsection accessible to the ombudsman.

B.(1) If a resident who is residing in a shared room wishes to have a monitoring device installed in the room and another resident living in or moving into the same shared room refuses to consent to the use of the monitoring device, then the nursing home shall make a reasonable attempt to accommodate the resident who wishes to have the monitoring device installed. A nursing home shall be deemed to have met this accommodation requirement when, upon notification that a roommate has not consented to the use of an electronic monitoring device in his room, the facility offers to move either resident to another shared room that is available at the time of the request.

(2) If a resident chooses to reside in a private room in order to accommodate the use of an electronic monitoring device, the resident shall pay the private room rate. If a nursing home is unable to accommodate a resident due to lack of space, the nursing home shall reevaluate the request at least once every two weeks until the request is fulfilled.

C. After authorization, consent, and notice in accordance with this Part, a resident or his legal representative may install, operate, and maintain, at the expense of the resident, a monitoring device in the room of the resident.

D. The nursing home shall cooperate to accommodate the installation of the monitoring device unless doing so would place undue burden on the nursing home.

E. The monitoring device shall be in a fixed, stationary position and shall monitor only the resident who consents either personally or through his legal representative to be monitored.

RS 40:1193.5 — Consent; waiver

nt to the authorization for installation and use of a monitoring device shall include a release of liability for the nursing home for a violation of the resident's right to privacy insofar as the use of the monitoring device is concerned.

C. A resident or his legal representative may reverse a choice to have or not have a monitoring device installed and used at any time after notice of such reversal has been made to the nursing home, and to the ombudsman, upon a form prescribed by the department.

RS 40:1193.6 — Authorization form; content

ident or his legal representative authorizing the installation and use of the monitoring device.

(2) Notice to the nursing home of the resident's installation of a monitoring device and specifics as to the type, function, and use of the device.

(3) Consent of any other resident sharing the same room, or that resident's legal representative, to the installation and use of a monitoring device.

(4) Notice of release from liability for violation of privacy through the use of the monitoring device.

(5) Waiver of the resident's right to privacy in connection with the use of the monitoring device.

RS 40:1193.7 — Immunity; unauthorized use

d without the

knowledge of the nursing home, or installed or used without the prescribed form.

B. Compliance with the provisions of this Part shall be a complete defense to any civil or criminal action brought against the resident, legal representative, or nursing home for the use or presence of a monitoring device.

RS 40:1193.8 — Prohibited acts; civil and criminal penalties

te against a person or resident,

because the person or resident chooses to authorize installation and use of a monitoring device.

(2) Any person who knowingly or willfully violates the provisions of Paragraph (1) of this Subsection shall be subject to appropriate action by the department as set forth in rules promulgated pursuant to this Part.

B.(1) Except as provided in Paragraph (2) of this Subsection, no person shall intentionally hamper, obstruct, tamper with, or destroy a monitoring device or a recording made by a monitoring device installed in a nursing home pursuant to this Part.

(2) The prohibition and penalties provided in this Subsection shall not apply to the resident who owns the monitoring device or recording, or to his legal representative.

RS 40:1193.9 — Public notice; signage of electronic monitoring device

in entrance of the nursing facility building to alert

and inform visitors. The sign shall be in a large, clearly legible type and font and bear the words "Electronic Monitoring" and shall further state in equally legible type and font "The rooms of some residents may be equipped with electronic monitoring devices installed by or on behalf of the resident."

B. A sign shall be clearly and conspicuously posted at the entrance of a resident's room where authorized electronic monitoring is being conducted. The sign shall be in large, clearly legible type and font and bear the words "This room is electronically monitored."

C. The nursing facility shall be responsible for reasonable costs of installation and maintenance of the sign required by Subsection A of this Section. The resident or his legal representative shall be responsible for installing and maintaining the sign required pursuant to Subsection B of this Section, which shall also be in accordance with the written policy of the nursing facility.

RS 40:1193.10 — Reporting abuse and neglect

e incident to the

facility as soon as is practicable after the viewing. The facility shall be provided with a copy of the recording in which the suspected incident of abuse or neglect occurred. If the recording must be transferred to a different format to be viewed, the transfer shall be done at the expense of the facility by a qualified professional who can certify that the contents of the recording were not altered.

RS 40:1201.1 — Clinical preceptor nurse aide training program; legislative intent

nd, therefore, it is in the best interest of the state to maximize

the opportunities which are available to students who are seeking to become certified nurse aides. The legislature further finds that a clinical preceptor nurse aide training program operated by the Louisiana Community and Technical College System in conjunction with nursing homes located throughout the state not only provides a viable method of training but also provides such training at a considerably lower cost than the traditional method of training.

RS 40:1201.2 — Clinical preceptor training program

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B. Any program developed under the provisions of this Part shall be in compliance with all federal laws and regulations.

RS 40:1203.1 — Definitions

he office of state

police to conduct the criminal history checks provided for in this Part. Nothing herein shall be construed as expanding the access to confidential law enforcement records of the state of Louisiana or its political subdivisions or authorizing access by said agency to the computerized records of law enforcement agencies.

(2) "Department" means the Louisiana Department of Health.

(3) "Educational institution" means a community college, vocational-technical program, or other educational entity offering a clinical preceptor nurse aide training program developed by the Louisiana Community and Technical College System pursuant to R.S. 40:1201.1 et seq.

(4) "Employer" means any of the following facilities, agencies, providers, or programs:

(a) A nursing facility as defined in R.S. 40:2009.2.

(b) An intermediate care facility for people with developmental disabilities.

(c) An adult residential care provider as defined in R.S. 40:2166.3.

(d) A pain management clinic as defined in R.S. 40:2198.11.

- (e) A home health agency as defined in R.S. 40:2116.31.
 - (f) A hospice as defined in R.S. 40:2182.
 - (g) An ambulance service as defined in R.S. 40:1131.
 - (h) A home- and community-based service provider as defined in R.S. 40:2120.2.
 - (i) An ambulatory surgical center as defined in R.S. 40:2133.
 - (j) A crisis receiving center as defined in R.S. 40:2180.12.
 - (k) A nonemergency, nonambulance medical transportation facility or entity.
 - (l) A Medicaid Personal Care Services or Section 1915(c) Home and Community-based Services Waiver Program.
 - (m) Any other direct service worker as defined in R.S. 40:2179 and 2179.1.
 - (n) A pediatric day health care facility as defined in R.S. 40:2193.1(B).
 - (o) An adult day health care provider as defined in R.S. 40:2120.42.
 - (p) A psychiatric residential treatment facility licensed pursuant to R.S. 40:2009.
 - (q) An end stage renal disease facility as defined in R.S. 40:2117.1.
 - (r) A behavioral health services provider as defined in R.S. 40:2153.
 - (s) An adult brain injury facility as defined in R.S. 40:2120.33.
 - (t) A rural health clinic as defined in R.S. 40:1185.3.
 - (u) A therapeutic group home licensed pursuant to R.S. 40:2009.
 - (v) A provider of case management services.
 - (w) A forensic supervised transitional residential and aftercare facility as defined in R.S. 28:32.
 - (x) An outpatient abortion facility as defined in R.S. 40:2175.3.
 - (y) A hospital as defined in R.S. 40:2102.
 - (z) A free-standing birth center as defined in R.S. 40:2180.23.
 - (aa) A Program for All-Inclusive Care of the Elderly (PACE), as defined in R.S. 40:2120.63.
- (5) "Licensed ambulance personnel" means personnel who provide services, either for compensation or volunteer services, as an emergency medical service practitioner, including licensed emergency medical technicians, licensed advanced emergency medical technicians, licensed paramedics, and licensed first emergency medical responders. The term "licensed ambulance personnel" shall also include certified ambulance operators.
- (6) "Nonlicensed person" means any person who provides for compensation nursing care or other health-related services directly related to patient care to residents in or patients of a nursing facility, intermediate care facility for people with developmental disabilities, adult residential care facility or provider, pediatric day health care facility, adult day health care center, psychiatric residential treatment facility, end stage renal disease facility, behavioral health services provider, home health agency, hospice agency, provider of ambulance services, hospital, adult brain injury facility, crisis receiving center, pain management clinic, outpatient abortion facility, rural health clinic, ambulatory surgical center, therapeutic group home, forensic supervised transitional residential and aftercare facility, case management provider, or home- and community-based service provider and who is not a licensed health provider. "Nonlicensed person" also means any person who provides such services to individuals in their own homes as an employee or contract provider

of a home health agency, hospice, or home- and community-based service provider.

"Nonlicensed person" also means any other direct service worker as defined in R.S. 40:2179 and 2179.1. "Nonlicensed person" also means a student or trainee applying for enrollment in a clinical preceptor training program authorized by R.S. 40:1201.1 et seq., or in a nurse aide training program approved by the department pursuant to federal and state law or regulation.

(7) "Office" means the office of state police within the Department of Public Safety and Corrections.

(8) "Training program" means a department-approved clinical preceptor nurse aide training program.

RS 40:1203.2 — Employment of nonlicensed persons and licensed ambulance personnel; training of applicants

A.(1) Except as otherwise provided in Subsection C of this Section, prior to any employer making an offer to employ or to contract with a nonlicensed person or any licensed ambulance personnel to provide nursing care, health-related services, medic services, or supportive assistance to any individual, the employer shall request that a criminal history and security check be conducted on the nonlicensed person or any licensed ambulance personnel pursuant to the provisions of this Section. If the employer is a facility, home, or institution which is part of a larger complex of buildings, the requirement of a criminal history and security check shall apply only to an offer of employment or contract made to a nonlicensed person or any licensed ambulance personnel who will work primarily in the immediate boundaries of the facility, home, or institution.

(2) Except as otherwise specified in Paragraph (D)(1) of this Section, an employer may obtain the criminal history record maintained by the office of state police of a nonlicensed person or any licensed ambulance personnel offering to provide nursing care, health-related services, or supportive services to any individual.

B.(1) The employer shall request in writing that the office or authorized agency conduct a criminal history and security check on the nonlicensed person or any licensed ambulance personnel and shall provide the office or authorized agency with any relevant information required by the office or authorized agency to conduct the check. The employer may request that the criminal history and security check be performed using the fingerprints of the nonlicensed person or any licensed ambulance personnel.

(2) An employer or authorized agency shall pay a fee of twenty-six dollars to the office for a search of the office's criminal history files on an applicant for employment.

(3) The security check shall consist of the use of personal identifiers, such as name, social security number, date of birth, and driver's license number, to search the national sex offender public registry. An authorized agency shall notify the office if a security check reveals that an applicant is listed in the national sex offender public registry.

C.(1) An employer may make an offer of temporary employment to a nonlicensed person or any licensed ambulance personnel pending the results of the criminal history and security check on the person. In such instances, the employer shall provide to the office or

authorized agency the name and relevant information relating to the person within seventy-two hours after the date the person accepts temporary employment.

(2)(a) Notwithstanding the provisions of Paragraph (1) of this Subsection, any nurse's aide offered temporary employment prior to the receipt of the results of the required criminal history and security check shall be under the direct supervision of a permanent employee or shall be in the presence of a member of the immediate family of the patient or of a care giver designated by the immediate family of the patient.

(b) As used in this Paragraph, "member of the immediate family" means a child, parent, grandparent, sibling, uncle, aunt, nephew, or niece of the patient related by blood, marriage, or adoption.

(3) Notwithstanding any other provision of law to the contrary, any adult day health care provider and any home- and community-based service provider providing adult day care services may make an offer of employment to a nonlicensed person without conducting the criminal history and security check required pursuant to this Part if all of the following conditions are met:

(a) The nonlicensed person was employed by the provider on March 22, 2020.

(b) The provider was required to temporarily cease operations pursuant to Proclamation Number 33 JBE 2020, or any subsequent proclamation declaring the existence of a statewide COVID-19 public health emergency.

(c) The nonlicensed person is no longer employed by the provider as a result of the temporary closure mandated pursuant to Proclamation Number 33 JBE 2020, or any subsequent proclamation declaring the existence of a statewide COVID-19 public health emergency.

(d) The nonlicensed person is being rehired by the same provider within sixty days of the provider resuming operations.

(e) The nonlicensed person provides a written attestation that he has not been arrested or received a criminal conviction during the period from the date the nonlicensed person was last employed by the provider to the date of rehiring.

D.(1) The office or authorized agency shall provide to the employer only such information as is necessary to specify whether or not that person has been arrested for or convicted of or pled nolo contendere to any crime or crimes, the crime or crimes for which he has been arrested or convicted or to which he has pled nolo contendere, and the date or dates on which the crime or crimes occurred.

(2) Within thirty days of receiving notification by the employer to conduct a criminal history and security check, the office or authorized agency shall complete the criminal history and security check and then report the results of the check to the requesting employer in writing.

E.(1) An employer shall inform each applicant for employment or each prospective contract provider that the employer is required to obtain a criminal history record and perform a security check before such employer makes an offer of employment to, or contracts with, a nonlicensed person or any licensed ambulance personnel. The employer shall obtain written permission from the applicant for the release of such information to the employer on

a form that clearly notifies the applicant it is a crime to provide false information concerning a criminal history check to an employer.

(2) Upon request of the employer, each applicant for employment may be fingerprinted and submit fingerprint samples to the Louisiana Bureau of Criminal Identification and Information pursuant to R.S. 15:587 to be used to obtain the criminal history record.

F. Employers subject to the provisions of this Part shall only contract for staffing services provided by businesses who comply with the provisions of this Part. Businesses that provide contract staffing services to healthcare providers shall comply with the provisions of this Part. Such businesses shall send accompanying letters certifying that the contracted staff meet license or certification standards of their profession and have undergone and passed criminal background checks.

G.(1) Prior to any educational institution or approved training program accepting an applicant for the clinical preceptor nurse aide training program, a statewide criminal history background check, which includes a check of the national sex offender public registry, shall be conducted. The educational institution or approved training program shall request in writing that the office or authorized agency conduct a criminal history and security check on the applicant and shall provide the office or authorized agency with any relevant information required by the office or authorized agency to conduct the check. The educational institution or approved training program may request the criminal history and security check be performed using the fingerprints of the applicant.

(2) An educational institution, approved training program, or authorized agency shall pay the fee the office is authorized by law to charge for a search of the office's criminal history files on an applicant for the clinical preceptor nurse aide training program.

(3) The security check shall consist of the use of personal identifiers, such as name, social security number, date of birth, and driver's license number, to search the national sex offender public registry. An authorized agency shall notify the office if a security check reveals that an applicant is listed in the national sex offender public registry.

RS 40:1203.3 — Refusal to hire or contract; termination of employment; exceptions to hiring

E of this

Section, no employer shall hire any licensed ambulance personnel or nonlicensed person when the results of a criminal history check reveal that the licensed ambulance personnel or nonlicensed person has been convicted of any of the following offenses:

(1) R.S. 14:28.1, 30, 30.1, 31, 32.6, 32.7, 32.12, 34, 34.1, 34.7, 35.2, 37, 37.1, 37.4, 38.1, 42, 42.1, 43, 43.1, 43.2, 43.3, 43.5, 44, 44.1, 46.2, 51, 60, 64, 64.1, 64.4, 66, 67.16, 89, 89.1, 93.3, 93.4, 93.5, 283.3 or distribution or possession with the intent to distribute controlled dangerous substances as listed in Schedules I through V of the Uniform Controlled Dangerous Substances Act.

(2) An attempt or conspiracy to commit any of the offenses listed in Paragraph (1) of this Subsection.

(3) The felony offense involving theft, pursuant to R.S. 14:67, or theft of assets of an aged person or person with a disability, pursuant to R.S. 14:67.21 in excess of five

hundred dollars or in any case in which the offender has been previously convicted of theft, pursuant to R.S. 14:67, or theft of assets of an aged person or person with a disability, pursuant to R.S. 14:67.21, regardless of the value of the instant theft.

(4) An attempt or conspiracy to commit an offense listed in Paragraph (3) of this Subsection.

B. Additionally, except as otherwise provided in R.S. 40:1203.2(C), no employer who provides care or services to any person under the age of twenty-one shall hire any licensed ambulance personnel or nonlicensed person when the results of the criminal history check reveal that the licensed ambulance personnel or nonlicensed person has been convicted of any of the following offenses:

(1) R.S. 14:44.2, 80, 81.2, or 93.

(2) An attempt or conspiracy to commit any of the offenses listed in Paragraph (1) of this Subsection.

C. If the results of a criminal history check reveal that a nonlicensed person or any licensed ambulance personnel hired on a temporary basis or any other person who is an employee has been convicted of any of the offenses listed in Subsection A or B of this Section, the employer shall immediately terminate the person's employment.

D.(1) The provisions of this Section shall not apply to a nonlicensed person or licensed ambulance personnel who was working under a waiver granted under the law in effect prior to August 15, 2010, so long as that person continues to be employed for the employer who granted the waiver and the person began employment for the employer prior to August 15, 2010, or a person who has received a pardon of the conviction or has had his conviction expunged.

(2) The employment prohibition provided for in this Section shall not apply to a state-certified hospice attendant as provided for in R.S. 40:2192.

E.(1) For purposes of this Subsection, "peer support specialist" means a behavioral health staff member who possesses lived experience with his own behavioral health condition and with navigating the behavioral health services network who seeks employment with a behavioral healthcare facility or program serving people with behavioral health conditions.

(2) The provisions of this Subsection shall apply exclusively to peer support specialists employed or contracted with a behavioral health services provider licensed by the department and shall not be construed to apply to any other person or any licensed personnel.

(3) Notwithstanding any other provision of law, a person shall not be prohibited or disqualified from employment as a peer support specialist with a licensed behavioral health services provider if the person's criminal background check reveals he has been convicted of an offense provided for in R.S. 14:38.1 or 67, or convicted of distribution or possession with the intent to distribute controlled dangerous substances listed in Schedules I through V of the Uniform Controlled Dangerous Substances Law, R.S. 40:961 et seq., if that person meets all of the following requirements:

(a) No less than three years prior to being hired as a peer support specialist, the person satisfactorily completed his sentence or was lawfully released from confinement,

supervision, or probation imposed by a court for the person's most recent conviction for an offense listed in this Paragraph.

(b) After satisfactorily completing his sentence or after being lawfully released from confinement, supervision, or probation for his most recent conviction for an offense listed in this Paragraph, the person successfully completed all training and requirements established by the office of behavioral health of the department for a peer support specialist as evidenced by a Notice of Completion of Training and Requirements issued by the office of behavioral health or its designee.

(4) Nothing in this Subsection shall be construed as creating an obligation upon an employer to offer employment to a person.

(5) The department shall promulgate rules in accordance with the Administrative Procedure Act relating to the training and requirements of peer support specialists for purposes of implementing this Subsection.

RS 40:1203.4 — Confidentiality of criminal history records

nt and the employer requesting the information.

B. Except by court order or with the written consent of the person being investigated, the records or information obtained from or regarding the records shall not be released or otherwise disclosed to any other person or agency.

C. The records shall be destroyed after one year from the termination of employment of the person to whom such records relate. However, upon receipt of written consent by an applicant for employment with a health provider, the employer in receipt of a criminal history check may send a copy to the employer seeking the referral.

RS 40:1203.5 — Compliance

provisions of this Part.

RS 40:1203.6 — Ineligible for unemployment compensation

I not be eligible for unemployment compensation.

RS 40:1203.7 — Application to be approved as an authorized agency

Criminal Identification and Information

along with the following documents to prove the individual's or business entity's qualifications:

(1) The applicant must be currently licensed in the state of Louisiana as a private investigator or detective by the Louisiana State Board of Private Investigator Examiners as evidenced by current and valid licensure issued by the Louisiana State Board of Private Investigator Examiners, or an individual employed by a business entity domiciled in the state of Louisiana and registered and in good standing with the secretary of state at the time of application whose primary source of business is background screenings.

(2) The applicant must not currently be charged by bill of information or under indictment for, or have been convicted of, any felony offense in this state or any other jurisdiction and shall submit to a background investigation to determine that this requirement

is met.

(3) The applicant shall be domiciled in the state of Louisiana and shall present proof of qualification to do business within the state of Louisiana, as evidenced by a valid certificate of authority issued by the secretary of state, and designation of an agent for service of process as required by law. If the applicant is operating as a sole proprietorship, a current and valid occupational license shall be presented.

(4) The applicant shall execute a written agreement whereby he agrees to maintain the confidentiality of any and all information provided to it by the Louisiana Bureau of Criminal Identification and Information pursuant to R.S. 40:1203.1 et seq., abide by all applicable laws, rules and regulations pertaining to receipt and use of criminal history information, cooperate in any auditing procedure conducted by the Louisiana Bureau of Criminal Identification and Information, and inform the Louisiana Bureau of Criminal Identification and Information in writing of any known violations regarding the use of criminal history information he receives.

B. Upon receipt of a completed application for approval as an authorized agency, the Louisiana Bureau of Criminal Identification and Information shall review the application and conduct whatever investigation it deems necessary to verify the information. Upon completion of this review, the Louisiana Bureau of Criminal Identification and Information shall inform the applicant in writing of its approval or denial of the application and, in the case of denial, the reasons for such denial.

C. Each authorized agency shall maintain the eligibility requirements to be approved as an authorized agency. Each authorized agency shall notify the Louisiana Bureau of Criminal Identification and Information in writing of a change in its qualification requirements within fifteen days of the change. Failure to continue to maintain the eligibility requirements shall result in cancellation of approval as an authorized agency.

RS 40:1205.1 — Health Professional Development Program

e program is established

to meet the current and projected continued severe shortage of medical doctors and nurses in health professional shortage areas in the state by increasing the number of primary health care practitioners in shortage areas through a program for repayment of loans, a program for physician retention and recruitment, and a scholarship program. The Louisiana Department of Health may participate in any federal programs that provide matching funds or total funding for health professional development.

RS 40:1205.2 — Definitions

he Louisiana Department of Health.

(2) "Health professional shortage areas" means areas so classified by the United States Public Health Services as areas with a shortage of health professionals.

(3) "Primary health care practitioner" means a medical practitioner who provides a basic level of health care, including but not limited to a general practitioner, internist, obstetrician, gynecologist, and pediatrician, as well as a nonphysician provider such as a nurse and advanced nursing specialist.

(4) "Secretary" means the secretary of the Louisiana Department of Health.

RS 40:1205.3 — Retention and recruitment program

sional shortage areas or facilities.

B. Such a plan shall provide for identification of shortage areas, prioritize long-term and short-term goals and strategies, provide a special minority component, and provide for public input.

C. The department shall implement the retention and recruitment plan, directly or through contract. Implementation may include advertising and promotion, professional recruitment services, travel, and all other necessary expenses.

RS 40:1205.4 — Loan repayment program

Public

Health Service Act.

B. To be eligible for the loan repayment program, an applicant must be licensed and qualified as a physician or nurse to practice in Louisiana, be willing to practice in a health professional shortage area, and meet any other requirements which may be established by the program.

C. Medical education loans shall be repaid retroactively after each term of service in a health professional shortage area for up to three years depending upon the primary health care provider's length of service.

D. Loans may be repaid for up to twenty thousand dollars per year of service.

E. The program shall provide an implementation schedule for loan repayments by January 1, 1992.

RS 40:1205.5 — Scholarship program

epartment

shall administer a state scholarship program. To be eligible for the scholarship program an applicant must:

(1) Be accepted for enrollment, or be enrolled as a full-time student in a program offering a doctor of medicine degree at a professional school of the Louisiana State University Health Sciences Center or the Tulane University School of Medicine, an approved program offering training as a registered nurse in a public or regionally accredited independent institution of higher education, or an approved program offering training as a licensed practical nurse at a public institution.

(2) Pursue an approved course of study and maintain an acceptable level of academic standing, leading to a degree in medicine, dentistry, or other health-related specialty, as determined by the secretary.

(3) Agree in writing to serve in the health professional shortage areas, in Louisiana one and one-half years for each year of receiving the scholarship and to accept and maintain an open panel for Medicaid, Medicare, and uninsured patients during his service. Failure to serve as agreed to in writing shall result in the repayment of such scholarship and a substantial penalty as determined by the department.

B. Subject to the availability of funding, the department shall provide scholarships equal to the lowest base tuition of a public medical school in the state and sufficient to

provide for the graduation each year of the following:

(1) Physicians from accredited graduate medical education training programs in the disciplines of general family medicine, general internal medicine, general pediatrics, general medicine/pediatrics, obstetrics, gynecology, dentistry, or optometry.

(2) Registered or advanced practice nurses.

(3) Licensed practical nurses.

C. Subject to the availability of funding, any scholarship awarded by the department to a nursing student shall be equal to the lowest base tuition of a public nursing school in the state.

D. The department may access state, federal, or grant funding made available to the department for the purpose of fulfilling the scholarships offered in accordance with this Part.

RS 40:1205.6 — Loan forgiveness for primary care physicians, pediatricians, surgeons,

physicians, which shall include those practicing family medicine, internal medicine, pediatrics, medicine/pediatrics, obstetrics, gynecology, and general surgery, hereinafter collectively referred to as "primary care physicians", who are practicing in a rural health professional shortage area, hereinafter referred to as an "HPSA", and who serve on the active medical staff of a rural hospital in accordance with such hospital's medical staff bylaws, rules, and regulations. "Rural hospital" is defined as provided for in R.S. 40:1189.3. The establishment of this loan forgiveness program shall be subject to an act of the legislature appropriating monies sufficient to establish and implement the program.

B. The department shall coordinate the administration of the program.

C. The department may provide assistance for the repayment of a student loan for education at an institution of higher learning received by a primary care physician, practicing in a rural HPSA and on the active medical staff of a rural hospital in accordance with such hospital's medical staff bylaws, rules, and regulations. Repayment shall be made by the department to the lending institution on behalf of the loan recipient.

D. Consideration for loan repayment assistance shall be as follows:

(1) The applicant must be an individual who has one of the following:

(a) A medical degree from an accredited medical school.

(b) Completed an Accreditation Council of Graduate Medical Education (ACGME) accredited training program in family medicine, internal medicine, pediatrics, medicine/pediatrics, obstetrics, gynecology, or general surgery and is board eligible in one of such areas.

(c) A license to practice medicine in the state.

(2) An applicant who is qualified under Paragraph (1) of this Subsection shall agree to practice in a rural hospital as a primary care physician, for not less than five years according to a schedule developed by the department.

E. A physician who is eligible pursuant to Subsection D of this Section shall be eligible to receive an amount of loan forgiveness of up to two hundred fifty thousand dollars, as established by the department, based on the total amount of the physician's debt and the available funding for this program. No less than ten percent of such debt amount shall be forgiven each year, subject to funds available for loan exonerations in that fiscal year.

F. A recipient of loan repayment assistance shall enter into a contract with the department, which shall be considered a contract with the state. The contract shall include but not be limited to the following terms and conditions:

- (1) An unlicensed applicant shall apply for a license to practice medicine at the earliest practicable opportunity.
- (2) Within six months after licensure and the completion of all ACGME requirements for the medical specialty, an applicant shall engage in the practice of family medicine, internal medicine, pediatrics, medicine/pediatrics, obstetrics, gynecology, and general surgery in a rural HPSA and obtain and maintain, during the term of the loan repayment agreement with the department, active medical staff privileges at a rural hospital in accordance with such hospital's medical staff bylaws, rules, and regulations. The department shall provide applicants with a list of available rural hospital sites and shall, to the extent possible, approve applicant selections in the order they are received.
- (3) The applicant shall agree, for a period of not less than five full years, to practice, on a full-time basis, not less than thirty-six hours per week, at an office, leased or owned by the applicant, a physician or physicians's group practice, or at an entity licensed by the department located in a rural HPSA while maintaining active medical staff privileges at a rural hospital, in accordance with such hospital's medical staff bylaws, rules, and regulations.
- (4) The applicant shall agree to treat patients who are eligible for Medicaid and Medicare.
- (5) The applicant shall permit the department to monitor his practice to determine compliance with the terms of the contract.
- (6) The department shall certify compliance with the terms of the contract for purposes of receipt by the physician of loan repayment awards for years subsequent to the initial year of the loan.
- (7) The contract shall be renewable on an annual basis upon certification by the department that the physician has complied with the terms of the contract.
- (8) Upon the recipient's death or total or permanent disability, the department shall nullify the service obligation of the recipient.
- (9) If the recipient is convicted of or pleads guilty or no contest to a felony or misdemeanor or if the appropriate licensing board has determined that the recipient has committed an act of gross negligence in the performance of service obligations or has suspended or revoked the license to practice, the department shall have the authority to terminate the recipient's service in the program and demand repayment of the assistance rendered to date.
- (10) Loan recipients who fail to begin or complete the obligations contracted for shall pay to the department three times the amount of assistance received. Falsification or misrepresentation on an application or in verification of service shall be construed to be a default. Determination as to the time of breach of contract shall be made by the department. Both the recipient and the department shall make every effort to resolve conflicts in order to prevent a breach of contract.

G. The department shall have the authority to seek garnishment of wages for the

collection of damages provided for in Paragraph (10) of Subsection F of this Section.

RS 40:1205.7 — Rules

1991, No. 502, §1; Redesignated from R.S. 40:1300.7 by HCR 84 of 2015 R.S.

RS 40:1207.1 — Scholarship and loan program

for which there are no

associated medical educational programs offered in the state.

B. The Board of Regents is hereby authorized to develop and administer through the promulgation of rules and regulations, pursuant to the Administrative Procedure Act, the Medical and Allied Health Professional Education Scholarship and Loan Program for students who choose to pursue certain out-of-state medical education because similar medical education programs are not offered in the state. The Board of Regents shall provide for the qualifications of the students and for the medical education programs to be included in the program. The Board of Regents shall require that all recipients of scholarship or loan funds, pursuant to this program, agree in writing to return to the state to practice for a minimum of one and one-half years for each year the scholarship or loan is received and to maintain enrollment as a Medicaid provider during their service.

C. The Board of Regents is hereby authorized to enter into agreements with a public trust and public corporation duly organized pursuant to R.S. 9:2341 et seq., having for its beneficiary the state for the purpose of administering and providing for a loan program to provide low interest loans to students seeking medical education for which there are no associated medical educational programs offered in the state. Notwithstanding any provision of law to the contrary, the public trust and public corporation duly organized pursuant to R.S. 9:2341 et seq., having for its beneficiary the state, may issue bonds, notes, or other obligations to the public and others for the purposes of this Part.

D. The Board of Regents may access state, federal, or grant funding made available to the Board of Regents for the purpose of fulfilling the scholarships offered in accordance with this Part.

RS 40:1207.2 — Medical and Allied Health Professional Education Scholarship and Loan Fund

nal Education Scholarship and Loan Fund, hereinafter sometimes

referred to as "the fund". The Louisiana Department of Health shall deposit into the state treasury on a quarterly basis at least twenty-five percent of all monies, not to exceed two hundred thousand dollars in any fiscal year, retained by the Louisiana Department of Health from local intergovernmental transfers which are transferred for the purpose of making supplemental payments to physicians.

B.(1) Notwithstanding any other provision of law, after compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and after a sufficient amount is allocated from that fund to pay all of the obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer shall deposit into the fund those monies transferred to the treasurer from the Louisiana Department of Health which were generated by the Louisiana Department of Health through the use of any Medicaid upper

payment limit financing mechanism created or maintained for physicians.

(2) The monies in this fund shall be used solely for the provision of the Medical and Allied Health Professional Education and Loan Scholarship Program as provided for by this Part and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. The monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to the fund following compliance with the requirements of Article VII, Section 9(B) relative to the Bond Security and Redemption Fund.

RS 40:1211.1 — Screening mammography permitted

a mammography in

this state may perform a screening mammography without the direction by prescription of a licensed practitioner.

B. A facility offering screening mammography may request a referral for a screening mammogram from a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners.

RS 40:1211.2 — Notification of results

ption of a

licensed practitioner.

B. The report of results mailed to the patient and to any physician named pursuant to Subsection A of this Section shall clearly state whether the need for any follow-up care is indicated by the mammogram.

RS 40:1211.3 — Notice concerning supplemental screening

ch mammography

facility certified by the United States Food and Drug Administration or by a certification agency approved by the United States Food and Drug Administration shall mail to the patient, in addition to any letter or report required by 21 CFR Part 900, the following notice in conspicuous and legible type which is not smaller than twelve-point font:

"If your mammogram demonstrates that you have dense breast tissue, which could hide abnormalities, and you have other risk factors for breast cancer that have been identified, you might benefit from supplemental screening tests that may be suggested by your ordering physician.

Dense breast tissue, in and of itself, is a relatively common condition. Therefore, this information is not provided to cause undue concern, but rather to raise your awareness and to promote discussion with your physician regarding the presence of other risk factors, in addition to dense breast tissue.

A summary of your mammography results will be sent to you, and a full mammography report will be sent to your physician and also to you. You should contact your physician if you have any questions or concerns regarding your summary or report of results."

B. The notice provided for in this Section may be transmitted to the patient by either

regular mail or certified mail via the United States Postal Service, or by any other commercial mail delivery service.

C. Notwithstanding any other law, compliance with this Section does not create a cause of action or create a standard of care, obligation, or duty that provides a basis for a cause of action.

D. The information required by this Section or evidence that a person violated this Section shall not be admissible in a civil, judicial, or administrative proceeding.

RS 40:1211.4 — Mammography and ultrasound reports; transmittal to patients required

ncy approved by the United States Food and Drug

Administration and every healthcare facility that performs breast ultrasound examinations shall transmit to each mammography and ultrasound patient the following, as appropriate to the procedure performed:

(1) A copy of the patient's mammography report, as defined in 21 CFR 900.12(c), issued by the facility to the patient's referring physician.

(2) A copy of the patient's full narrative radiology report of ultrasound findings.

B.(1) Each healthcare facility subject to the requirements of this Section shall transmit the mammography and ultrasound reports specified in Subsection A of this Section to patients within the time frame prescribed in 21 CFR 900.12(c) for communication of mammography results to healthcare providers.

(2) A healthcare facility subject to the requirements of this Section may transmit mammography and ultrasound reports to patients in any manner that comports with the provisions of 45 CFR Part 164 relative to security and privacy of health information.

C. In addition to providing reports to patients in accordance with Subsection A of this Section, a healthcare facility may provide such reports electronically through an electronic patient portal that meets applicable standards provided in federal law and regulation.

RS 40:1211.5 — Limitation of liability

211.2 on the

part of the performer of that screening mammogram or any physician performing an assessment of a screening mammogram shall cease upon delivery of the results or report of such screening mammogram to the screened or tested individual and to any physician named by the patient to receive such results. These results shall be sent by certified mail, return receipt requested, and shall comply with the reporting requirements for mammography results in the federal Mammography Quality Standards Act, 42 U.S.C. 263b, and any regulations promulgated pursuant thereto, including 21 CFR 900.1 et seq.

B. The liability of a supervising licensed practitioner for follow-up of patients following a screening mammogram shall be limited to informing the patient and a designated physician in accordance with the guidelines issued under the Mammography Quality Standards Act, 42 U.S.C. 263b, and any regulations promulgated pursuant thereto, including 21 CFR 900.1 et seq.

RS 40:1213.1 — Purpose

obile cholesterol screening units.

RS 40:1213.2 — Definitions

m him by means of a fingerstick sample.

(2) "Department" means the Louisiana Department of Health.

(3) "Fingerstick sample" means a quantity of blood taken from a person by sticking his finger with a needle or lancet.

(4) "Mobile cholesterol screening unit" means a unit or operation that travels from one location to another and provides cholesterol screening services to the public without the necessity of a referral from a licensed physician.

(5) "Secretary" means the secretary of the Louisiana Department of Health.

RS 40:1213.3 — Cholesterol screening by mobile cholesterol screening units; standards

lowing standards:

(1) The cholesterol screening services shall be organized and provided under the general supervision of a licensed clinical laboratory or a licensed physician who is qualified, by education and training, to conduct and interpret the results of the tests offered, and who is knowledgeable regarding quality control, calibration of the instrument, and proper maintenance of the equipment. The physician may be employed or serve as a consultant to the unit.

(2) Systems and instruments used for the testing shall be properly calibrated and periodically checked for calibration by a person qualified and trained to do so.

(3) The testing shall be performed only by personnel properly qualified, by education and training, in the drawing of blood samples, proper sterile techniques, and the correct operation of the testing instruments.

(4)(a) No person administering the tests shall attempt to interpret the clinical significance of the test results, render or express a medical diagnosis, or in any way suggest the necessity or appropriateness or lack of necessity or appropriateness of any form of treatment.

(b) The provisions of this Paragraph shall not apply to a licensed physician or other qualified health care professional.

(5) Persons tested shall be advised of the necessity of appropriate follow-up with a medical professional should the screening test warrant such, as outlined in the national cholesterol screening program guidelines or equal standards.

RS 40:1213.4 — Penalty

than six months, or both. For each subsequent offense, the violator shall be fined not more than one thousand dollars, imprisoned not more than one year, or both.

RS 40:1213.5 — Rules and regulations

trative

Procedure Act.

RS 40:1216.1 — Procedures for survivors of a sexually oriented criminal offense; immunity;

als and healthcare providers in Louisiana shall offer every

sexual assault survivor information to receive the treatment provided for in this Section. A licensed hospital or healthcare provider shall adhere to the following procedures if a person presents for treatment as a sexual assault survivor:

(1)(a) Except as provided in Subparagraphs (b) and (c) of this Paragraph, a survivor shall decide whether or not the incident will be reported to law enforcement officials. No hospital or healthcare provider shall require the survivor to report the incident to receive medical attention or collect evidence.

(b) If a person under the age of eighteen presents for treatment as a sexual assault survivor, the hospital or healthcare provider shall immediately notify the appropriate law enforcement agency or any other official necessary to fulfill any mandatory reporting obligation required by law.

(c) If a survivor is physically or mentally incapable of making the decision to report, the hospital or healthcare provider shall immediately notify the appropriate law enforcement officials.

(2) All sexual assault survivors shall be examined and treated, without undue delay, in a private space required to ensure the health, safety, and welfare of the survivor by a qualified healthcare provider. Examination and treatment, including the forensic medical examination, shall be adapted as necessary to address the unique needs and circumstances of each survivor. All survivors shall be afforded an advocate whose communications are privileged in accordance with the provisions of R.S. 46:2187, if one is available. With the consent of the survivor, an advocate shall remain in the examination room during the forensic medical examination. With the consent of the survivor, the examination and treatment of all sexual assault survivors shall, at a minimum, include all of the following:

(a) Examination of physical trauma.

(b) Patient interview, including medical history, triage, and consultation.

(c) Collection and evaluation of evidence, including but not limited to the following:

(i) Photographic documentation.

(ii) Preservation and maintenance of chain of custody.

(iii) Medical specimen collection.

(iv) When determined necessary by the healthcare provider, an alcohol or drug-facilitated sexual assault assessment and toxicology screening.

(d) Any testing related to the sexual assault or recommended by the healthcare provider.

(e) Any medication provided during the forensic medical examination, which may include emergency contraception and HIV or STI prophylaxis.

(3)(a) If the survivor wishes to report the incident to law enforcement, the hospital or healthcare provider shall contact the appropriate law enforcement agency having jurisdiction over the location where the crime occurred. If the location where the crime occurred cannot be determined, the hospital or healthcare provider shall contact the law enforcement agency having jurisdiction over the location where the forensic medical examination is performed to determine the appropriate investigating agency.

(b) Upon completion of the forensic medical examination, the sexual assault

collection kit shall be turned over to the investigating law enforcement agency. No sexual assault collection kit shall remain at a hospital or medical facility if the hospital or medical facility is unable to store the sexual assault kit in a secure location that ensures proper chain of custody. If a hospital or medical facility has a secure location to store the sexual assault collection kit that ensures proper chain of custody, the investigating law enforcement agency shall take possession of the sexual assault collection kit within seventy-two hours upon notification of completion of the sexual assault collection kit by the hospital or healthcare provider. A healthcare provider working for a coroner's office may store the sexual assault collection kit in a secure location maintained by the coroner.

(4) If the survivor does not wish to report the incident to law enforcement, the hospital or healthcare provider shall, upon completion of the forensic medical examination, contact the law enforcement agency having jurisdiction over the location where the forensic medical examination was performed to transfer possession of the unreported sexual assault collection kit for storage. The unreported sexual assault collection kit shall not be identified or labeled with the survivor's identifying information. The hospital or healthcare provider shall maintain a record of the sexual assault collection kit number in the survivor's record that shall be used for identification should the survivor later choose to report the incident. The healthcare provider shall provide all information required by the statewide tracking system operated by the office of state police, pursuant to R.S. 15:624.1. No sexual assault collection kit shall remain at a hospital or medical facility if the hospital or medical facility is unable to store the sexual assault kit in a secure location that ensures proper chain of custody. If a hospital or medical facility has a secure location that ensures proper chain of custody, the law enforcement agency having jurisdiction over the location where the forensic medical examination was performed shall take possession of the unreported sexual assault collection kit within seventy-two hours upon notification of completion of the sexual assault collection kit by the hospital or healthcare provider. A healthcare provider working for a coroner's office may secure the unreported sexual assault collection kit in a secured location maintained by the coroner. The law enforcement agency shall not destroy or dispose of an unreported sexual assault collection kit for a period of at least twenty years after the forensic medical examination was performed. If a healthcare provider working for a coroner's office chooses to store an unreported sexual assault collection kit at a coroner's office, the healthcare provider shall not destroy or dispose of an unreported sexual assault collection kit for period of at least twenty years after the forensic medical examination was performed.

(5) No hospital or healthcare provider shall directly bill a survivor of a sexually oriented criminal offense for any healthcare services rendered in conducting a forensic medical examination, including the healthcare services rendered in accordance with Paragraph (2) of this Subsection and the following:

- (a) Forensic examiner and hospital or healthcare facility services directly related to the exam, including integral forensic supplies.
- (b) Scope procedures directly related to the forensic exam including but not limited to anoscopy and colposcopy.
- (6) The healthcare provider who performed the forensic medical exam and the

hospital or healthcare facility shall submit a claim for payment for conducting a forensic medical exam directly to the Crime Victim Reparations Board to be paid in strict accordance with the provisions of R.S. 46:1822. A survivor of a sexually oriented criminal offense shall not be billed directly or indirectly for the performance of any forensic medical exam. The provisions of this Paragraph shall not be interpreted or construed to apply to either of the following:

(a) A healthcare provider billing for any medical services that are not specifically set forth in this Section or provided for diagnosis or treatment of the survivor for injuries related to the sexual assault.

(b) A survivor of a sexually oriented criminal offense seeking reparations in accordance with the Crime Victims Reparations Act, R.S. 46:1801 et seq., for the costs for any medical services that are not specifically set forth in this Section or provided for the diagnosis or treatment of the survivor for injuries related to the sexual assault.

(7) The department shall make available to every hospital and healthcare provider licensed under the laws of this state a pamphlet containing an explanation of the billing process for services rendered pursuant to this Section. Every hospital and healthcare provider shall provide a copy of the pamphlet to any person presented for treatment as a survivor of a sexually oriented criminal offense.

(8)(a) The survivor shall be provided with information about emergency contraception which shall be developed and made available electronically to all licensed hospitals in this state through the Louisiana Department of Health's website and by paper form upon request to the department.

(b) The treating healthcare provider shall inform the survivor of the option to be provided emergency contraception at the hospital or healthcare facility and, upon the completion of a pregnancy test yielding a negative result, shall provide emergency contraception upon the request of the survivor.

B.(1) These procedures shall constitute minimum standards for the operation and maintenance of hospitals under the provisions of this Part, and failure to comply with the standards shall constitute grounds for denial, suspension, or revocation of license under provisions of this Part.

(2) Failure to comply with the provisions of this Section may constitute grounds for denial, suspension, or revocation of the healthcare provider's license by the appropriate licensing board or commission.

C. No hospital or healthcare provider shall refuse to examine and assist a survivor on the grounds that the alleged offense occurred outside of or the survivor is not a resident of the jurisdiction.

D.(1) Any member of the hospital staff or a healthcare provider who in good faith notifies the appropriate law enforcement official pursuant to Paragraph (A)(1) of this Section shall have immunity from any civil liability that otherwise might be incurred or imposed because of the notification. The immunity shall extend to participation in any judicial proceeding resulting from the report.

(2) The hospital or healthcare provider staff member who notifies the appropriate law

enforcement official shall document the date, time, and method of notification and the name of the official who received the notification.

(3) On or before January first of each year, each law enforcement agency shall provide each hospital located in its respective jurisdiction with the name of the responsible contact person along with the responsible person's contact information in order to comply with the provisions of this Section.

E.(1) The Louisiana Department of Health, through the medical directors of each of its nine regional health service districts, shall coordinate an annual sexual assault response plan for each district. Each district shall submit a proposed plan for review by the secretary no later than November first of each year. An approved plan shall become effective February first of the following year.

(2) When developing the annual response plan, each district shall incorporate a sexual assault response team protocol and the uniform protocol for human trafficking established by the Human Trafficking in Emergency Departments Task Force. Each district shall develop the annual plan to do all of the following:

(a) Provide an inventory of all available resources and existing infrastructure in the region and clearly outline how the resources and infrastructure will be incorporated in the most effective manner.

(b) Clearly outline the entity responsible for the purchase of sexual assault collection kits and the standards and procedures for the storage of the kits prior to use in a forensic medical examination.

(c) Clearly outline the standards and procedures for a survivor to receive a forensic medical examination, as defined in R.S. 15:622, to ensure access to such an examination in every parish. The plan shall designate a hospital or healthcare provider to be the lead entity for sexual assault examinations for adult survivors and a hospital or healthcare provider to be the lead entity for sexual assault examinations for pediatric survivors. The plan shall also include specific details directing first responders in the transport of survivors of a sexually oriented crime, the appropriate party to perform the forensic medical examination, and any required training for a person performing a forensic medical examination.

(d) Clearly outline the standards and procedures for the handling and payment of medical bills related to the forensic medical examination to clarify and ensure that those standards and procedures are in compliance with this Section and any other applicable section of law.

(e) Clearly outline the standards and procedures for the transfer of sexual assault collection kits pursuant to this Section and any other applicable section of law.

(3) When developing the annual response plan, the department shall solicit the input of interested stakeholders in the region including but not limited to all of the following:

(a) The sheriff for each parish within the region.

(b) The chief of police for any political subdivision located within the region.

(c) All hospitals located within the region.

(d) The coroner for each parish within the region.

(e) First responder organizations located within the region.

- (f) Higher education institutions located within the region.
- (g) The school board for each parish located within the region.
- (h) Sexual assault advocacy organizations and children's advocacy centers providing services within the region.
- (i) The district attorney for each parish within the region or his designee.
- (j) Each crime lab located within the region.
- (4) The annual response plan shall be approved by the stakeholders as provided for in Paragraph (3) of this Subsection.
- (5) The department shall include an appendix in each regional plan that provides a copy of all notices sent to stakeholders about the sexual response plan meeting, a list of the individuals and organizations that were provided notice, the method and timing of the notice provided, and a list of the individuals and organizations in attendance at the meeting.
- (6) The department shall record all meetings and make the recordings and annual plans available through the Louisiana Department of Health's website.

F. All sexual assault collection kits used in a forensic medical examination shall meet the standards developed by the Louisiana Department of Health and the Department of Public Safety and Corrections.

G.(1) Upon request of a competent adult survivor of a sexually oriented criminal offense, the healthcare provider that performed the forensic medical exam shall provide a reproduction of any written documentation which is in the possession of the healthcare provider resulting from the forensic medical exam of the survivor. The documentation shall be provided to the survivor no later than fourteen days after the healthcare provider receives the request or the healthcare provider completes the documentation, whichever is later.

(2) The reproduction of written documentation provided for in this Subsection shall be made available at no cost to the survivor and may only be released at the direction of the survivor who is a competent adult. This release does not invalidate the survivor's reasonable expectation of privacy nor does the record become a public record after the release to the survivor.

H. For purposes of this Section the following definitions apply:

- (1) "Emergency contraception" means only drugs approved by the United States Food and Drug Administration with mechanisms of action that likely include the prevention of ovulation, sperm capacitation, or fertilization after sexual intercourse and do not meet the definition of a legend drug as defined in R.S. 40:1060.11.
- (2) "Forensic medical examination" has the same meaning as defined in R.S. 15:622.
- (3) "Healthcare provider" means either of the following:
 - (a) A physician, sexual assault nurse examiner, or other healthcare practitioner licensed, certified, registered, or otherwise authorized and trained to perform a forensic medical examination.
 - (b) A facility or institution providing healthcare services, including but not limited to a hospital or other licensed inpatient center; ambulatory surgical or treatment center; skilled nursing facility; inpatient hospice facility; residential treatment center; diagnostic, laboratory, or imaging center; or rehabilitation or other therapeutic health setting.

(4) "Healthcare services" means services, items, supplies, or drugs for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease ancillary to a sexually oriented criminal offense.

(5) "Sexual assault collection kit" includes all evidence collected during a forensic medical examination.

(6) "Sexually oriented criminal offense" has the same meaning as defined in R.S. 15:622.

(7) "Unreported sexual assault collection kit" means a sexual assault collection kit where a law enforcement agency has not received a related report or complaint alleging that a sexual assault has occurred.

RS 40:1217.1 — Short title

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RS 40:1217.2 — Finding; statement of purpose

n this state each year from

chronic kidney disease when the present state of medical art and technology could return many of these people to a socially productive life. Many of these people may die due to lack of personal financial resources to pay for the expensive equipment and care necessary for survival.

B. The legislature recognizes a responsibility to allow its citizens to remain healthy without being pauperized and a responsibility to use the resources and organizations of the state to gather and disseminate information on the prevention and treatment of chronic kidney disease.

C. The legislature further finds that a comprehensive program to combat chronic kidney disease must be implemented through the combined and correlated efforts of individuals, state and local governments, persons in the field of medicine, universities, and nonprofit organizations. Therefore, it is the purpose of this Part to provide a comprehensive and coordinated approach to direct the use of resources and care and treatment of chronic kidney disease.

RS 40:1217.3 — Definitions

me" means adjusted gross income as provided by the federal income tax return.

(2) "Chancellor" means the chancellor of the Louisiana State University Health Sciences Center at Shreveport.

(3) "Medical center" means the Louisiana State University Health Sciences Center at Shreveport.

(4) "Other benefit" means a benefit, other than one provided under this Part, to which a person is entitled for payment of the costs of medical care and treatment, services, pharmaceutical, transportation, and supplies including benefits available from any of the following:

(a) An insurance policy, group health plan, or prepaid medical.

(b) Title XVIII or Title XIX of the Social Security Act (42 U.S.C. Sections 1395 et

seq. and 1396 et seq.).

(c) The United States Department of Veterans Affairs.

(d) The Civilian Health and Medical Program of the Uniformed Services.

(e) Workers' compensation or other compulsory employer's insurance program.

(f) A public program created by federal or state law or an ordinance or rule of a municipality or other political subdivision of the state, excluding benefits created by the establishment of a municipal or parish hospital, a joint municipal-parish hospital, a parish hospital authority, or a hospital service district.

(g) A cause of action for medical expenses brought by an applicant for or recipient of services from the department, or a settlement or judgment based on the cause of action, if the expenses are related to the need for services provided under this Part.

RS 40:1217.4 — Louisiana Kidney Health Care Program; creation; eligibility
ey Health Care Program through the health
sciences center.

B. The health sciences center, by rule, shall establish the terms, conditions, and criteria, including medical and financial criteria, for eligibility to participate in the program. However, eligibility shall be limited to residents of the state who meet, at a minimum, all of the following criteria:

(1) Require care and treatment for chronic kidney disease.

(2) Do not qualify for or receive other benefits.

(3) Have an adjusted gross income of less than:

(a) Seventy-five thousand dollars annually if filing a joint return.

(b) Sixty thousand dollars annually if filing a single return.

(c) Fifty thousand dollars annually if married and filing a separate return.

(4) Meet all medical criteria as determined by the health sciences center.

RS 40:1217.5 — Services

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Part.

B. The medical center may cooperate with other departments, agencies, political subdivisions, and public and private institutions to provide services to eligible persons, to study the public health and welfare needs involved, and to plan, establish, develop, and provide programs or facilities and services that are necessary or desirable, including any that are jointly administered with state agencies.

C. The medical center may conduct research and compile statistics relating to the provision of kidney care services and the need for the services by persons with disabilities.

D. The medical center may contract with schools, hospitals, corporations, agencies, and individuals, including doctors, nurses, and technicians, for training, physical restoration, transportation, and other services necessary to treat and care for persons with kidney disease.

RS 40:1217.6 — Facilities

c kidney

disease.

B. The medical center may conduct surveys of existing facilities in the state that diagnose, evaluate, and treat persons with kidney disease and may prepare and submit its findings and a specific program of action.

C. The medical center may evaluate the need to create local or regional facilities and to establish a major kidney research center.

RS 40:1217.7 — Selection of service providers

B. The medical center shall provide a hearing procedure to resolve any conflicts between the medical center and a service provider.

C. The medical center may not terminate a contract with a service provider while a hearing is pending but may withhold payments while the hearing is pending. If the final determination is in favor of the service provider, the medical center shall pay the withheld payment and resume the contract payments.

D. The provisions of Subsections B and C of this Section shall not apply if a contract:

(1) Is canceled because the services are restricted to conform to budgetary limitations that require the medical center to adopt service priorities regarding types of services to be furnished or classes of eligible individuals.

(2) Expires according to its terms.

RS 40:1217.8 — Denial, modification, suspension, or termination of services; appeal procedure;

terminate services to an applicant for or recipient of services after notice and opportunity for a hearing.

B. Any person who is aggrieved by a decision of the medical center with regard to a request for the provision of services may appeal such decision within thirty days. Such appeal shall be conducted in accordance with the Administrative Procedure Act and shall be subject to judicial review.

C. The provisions of this Section shall not apply if program services are restricted to conform to budgetary limitations that require the medical center to adopt service priorities regarding types of services to be furnished or classes of eligible persons.

RS 40:1217.9 — Reimbursement

ligation to

support the applicant or recipient, is eligible for some other benefit that would pay for all or part of the service.

B. When an application for services is made, or at any time while a person is eligible for and receiving services, the applicant or recipient, or the person with a legal obligation to support the applicant or recipient, shall inform the medical center of any other benefit to which the applicant or recipient, or the person with a legal obligation to support the applicant or recipient, may be entitled.

C. A recipient who has received services that are covered by some other benefit, or the person with a legal obligation to support that recipient, shall reimburse the medical center to the extent of the cost of services provided when the other benefit is received.

D. The medical center may waive the provisions of Subsection A of this Section in

certain individually considered cases when the enforcement of that provision may deny services to a class of end stage renal disease patients because of conflicting state or federal laws or rules.

RS 40:1217.10 — Recovery of costs

) or

from any third party who has a legal obligation to pay other benefits and to whom notice of the medical center's interest has been given.

B. At the request of the chancellor, the medical center may file suit in the appropriate court of Caddo Parish, or any other court of competent jurisdiction, on its behalf.

C. In a judgment rendered in favor of the medical center, the court may award attorney fees, court costs, and interest accruing from the date on which the medical center provided the service to the date on which the medical center is reimbursed.

RS 40:1217.12 — Contracts

necessary to develop and expand kidney health care programs and services.

RS 40:1217.13 — Scientific investigations

se, including

research in kidney transplantation.

B. The medical center may develop techniques for an effective method of mass testing to detect kidney disease and urinary tract infections.

RS 40:1217.14 — Educational programs

armacists, and

other health providers, concerning chronic kidney disease, including prevention and methods of care and treatment.

B. The medical center may use existing public or private programs or groups for the educational programs.

RS 40:1217.15 — Rules and regulations

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Procedure Act.

RS 40:1217.16 — Report

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of Representatives, and the chairmen of the House and Senate committees on health and welfare at least sixty days prior to the legislative session and shall report on the state's total need in the area of kidney health care.

RS 40:1217.17 — Implementation

1997, No. 557, §1, eff. July 1, 1997; Redesignated from
R.S. 40:1300.97 by HCR 84 of 2015 R.S.

RS 40:1219.1 — Short title

07, No. 406, §1; Redesignated from R.S.
40:1300.211 by HCR 84 of 2015 R.S.

RS 40:1219.2 — Definitions

blished in the Federal Register by the United States Department of Health and Human Services.

(2) "Income" means income from whatever source derived.

(3) "Office of elderly affairs" and "office" mean the office of elderly affairs within the office of the governor.

(4) "Programs" mean either the Louisiana Senior Rx Program or the Aging and Disability Information Station Program established in this Part.

RS 40:1219.3 — Louisiana Senior Rx and Aging and Disability Information Station Programs;

seeing a need for

such programs, have created charitable programs to aid low-income seniors and persons with adult-onset disabilities with the cost of prescription drugs. The legislature recognizes that seniors and adults with disabilities need assistance in locating and accessing available supports and services. The legislature also finds that many persons are unaware of such programs or do not know how to apply for or need assistance in applying for such programs. It is the intent of the legislature that the office of elderly affairs implement programs to assist seniors and persons with an adult-onset disability in accessing those programs.

B. The Louisiana Senior Rx and Aging and Disability Information Station Programs

are hereby established in the office of elderly affairs to help seniors and persons with adult-onset disabilities in accessing manufacturers' discount cards and pharmaceutical assistance

programs and to assist such persons in applying for those and other supports and service programs.

C. Eligibility shall be limited to residents of the state who meet, at a minimum, all of the following criteria:

(1) Must be sixty years of age or older or be a person with adult-onset disabilities.

(2) Must have a gross income that does not exceed three hundred percent of the federal poverty guidelines.

(3) Must not have voluntarily canceled a state or federal prescription drug program or a private prescription reimbursement plan within six months prior to application for enrollment in the program.

RS 40:1219.4 — Services

provided by the office shall include:

(1) Assisting seniors and adults with a disability in accessing manufacturers' pharmaceutical assistance programs and supports and services.

(2) Assisting seniors and adults with a disability in applying for manufacturers' pharmaceutical assistance programs and supports and services.

B. Funding for the programs in Fiscal Year 2007-2008 shall be at a level consistent with funding for the programs in Fiscal Year 2006-2007.

C. Beginning in Fiscal Year 2008-2009, funding shall be based on the maximum allowable unit cost rate and numbers served.

RS 40:1219.5 — Other sources of funding

s Part. The

office may also accept voluntary funding in the form of grants available to build community

public sector and private sector partnerships. The office shall include within the development of the programs the assistance of foundations, independent and chain community pharmacists, volunteers, state agencies, community groups, area agencies on aging, corporations, hospitals, physicians, and any other entity that can further the intent of the programs.

RS 40:1219.6 — Report

e Senate and House committees on health and welfare. Such reports shall include the number of clients served, the number of prescriptions filled and refilled, the value of the drugs provided, and the number and type of supports and service assistance provided.

RS 40:1221.1 — Remote patient monitoring; medical assistance program

eq., shall be a covered service in the medical assistance program.

B. A one-time telehealth installation and training reimbursement to the telehealth provider from Medicaid for remote patient monitoring services may also be reimbursed at a maximum of two installation and training reimbursements per calendar year.

C. No geographic restrictions shall be placed on the delivery of remote patient monitoring services in the home setting other than requiring that the patient reside within this state.

D. For the purposes of this Section, "medical assistance program" means the medical assistance program provided for in Title XIX of the Social Security Act as administered by the Louisiana Department of Health.

E. The Louisiana Department of Health shall promulgate rules and regulations as are necessary for the implementation of the "Louisiana Remote Patient Monitoring Program Law", and the provisions of this Part shall be applicable only upon either a specific appropriation or funds made available by the Louisiana Department of Health for the implementation of the "Louisiana Remote Patient Monitoring Program Law".

RS 40:1221.2 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1221.3 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1221.4 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1221.5 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:1221.6 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1221.7 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1221.8 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1221.9 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1221.10 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1221.11 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1223.1 — Short title

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R.S.

RS 40:1223.2 — Legislative findings

nces access to care, particularly in rural locations and other medically underserved areas; makes delivery of care more cost-effective; and distributes limited provider resources more efficiently.

(2) Many patients with limited access to traditional health care can be diagnosed and treated sooner through telehealth than they would be otherwise, resulting in improved outcomes and less costly treatments due to early detection and prevention.

(3) Telehealth services could potentially address a great unmet need for health care by persons who have limited access to traditional healthcare settings.

(4) If this state is to achieve much needed improvement in health outcomes, a prudent and responsible policy for doing so would be to balance patient safety and access to care through expanding access to telehealth services for the people of Louisiana.

RS 40:1223.3 — Definitions

a patient's

medical information from an originating site to the provider at the distant site without the patient being present.

(2) "Distant site" means the site at which the healthcare provider delivering the service is located at the time the service is provided via a telecommunications system.

(3) "Healthcare provider" means a person, partnership, limited liability partnership, limited liability company, corporation, facility, or institution licensed or certified by this state to practice medicine or provide health care or healthcare professional services which may be provided by telehealth in the ordinary course of business or practice of a profession.

(4) "Originating site" means the location of the patient at the time the service is furnished via a telecommunications system or when the asynchronous store and forward transfer occurs.

(5) "Synchronous interaction" means communication through interactive technology that enables a healthcare provider and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously.

(6)(a) "Telehealth" means healthcare services, including behavioral health services, provided by a healthcare provider, as defined in this Section, to a person through the use of electronic communications, information technology, asynchronous store-and-forward transfer technology, or synchronous interaction between a provider at a distant site and a patient at

an originating site, including but not limited to assessment of, diagnosis of, consultation with, treatment of, and remote monitoring of a patient, and transfer of medical data. The term "telehealth" shall not include any of the following:

(i) Electronic mail messages and text messages that are not compliant with applicable requirements of the Health Insurance Portability and Accountability Act of 1996, as amended, 42 U.S.C. 1320d et seq.

(ii) Facsimile transmissions.

(b) For purposes of this Paragraph, "behavioral health services" means all of the following:

(i) Behavioral health services as defined in R.S. 40:2153 that are appropriate for the patient and delivered by a licensed mental health professional, acting within the scope of applicable state laws and his professional license for services identified by the Louisiana Department of Health, to treat mental illness or substance use.

(ii) Services provided by a behavioral health provider who works for a licensed agency or credentialed provider which provides community psychiatric support and treatment services or psychosocial rehabilitation services as defined in R.S. 40:2162.

RS 40:1223.4 — Telehealth; rulemaking required

this Part, shall promulgate,

in accordance with the Administrative Procedure Act, any rules necessary to provide for, promote, and regulate the use of telehealth in the delivery of healthcare services within the scope of practice regulated by the licensing entity.

B. The rules shall, at a minimum, provide for all of the following:

(1) Application of all laws regarding the confidentiality of healthcare information and the patient's rights to the patient's medical information created during telehealth interactions.

(2) Application of the same standard of care by a healthcare provider as if the healthcare services were provided in person.

(3)(a) Licensing or registration of out-of-state healthcare providers who seek to furnish healthcare services via telehealth to persons at originating sites in Louisiana. The rules shall ensure that the healthcare provider possesses, at a minimum, an unrestricted and unencumbered license in good standing to perform the healthcare service in the state in which the healthcare provider is located, and that the license is comparable to its corresponding license in Louisiana as determined by the respective Louisiana licensing agency, board, or commission.

(b) Each state agency and professional or occupational licensing board or commission may provide by rule for a reasonable fee for the license or registration provided for in this Subsection.

(4) Exemption from the telehealth license or registration required by this Subsection for the consultation of a healthcare professional licensed by this state with an out-of-state peer professional.

(5) Except as otherwise provided in Paragraph (6) of this Subsection, a healthcare provider shall not be required to conduct an in-person patient history or physical examination

of the patient before engaging in a telehealth encounter but shall provide a referral to a healthcare provider in this state or arrange for follow-up care in this state as necessary.

(6) Except as authorized by R.S. 37:1271.1 or otherwise by rule promulgated by a state agency or professional or occupational licensing board or commission, no healthcare provider shall prescribe any controlled dangerous substance prior to conducting an appropriate in-person patient history or physical examination of the patient as determined by the appropriate state agency or professional or occupational licensing board or commission.

(7) A healthcare provider may use interactive audio without the requirement of video if, after access and review of the patient's medical records, the healthcare provider determines that he is able to meet the same standard of care as if the healthcare services were provided in person.

(8) Creation of a record on each patient. The record shall be made available, upon request, to the state agency or professional or occupational licensing board or commission that regulates the practice of the healthcare provider.

C. Nothing in this Part shall be construed to authorize a state agency or professional or occupational licensing board or commission to expand, diminish, or alter the scope of practice of any healthcare provider.

RS 40:1223.5 — Venue; telehealth

judicial

district in which the patient resides or in the district court having jurisdiction in the parish where the patient was physically located during the provision of the telehealth service. The patient is considered physically located at the originating site as defined in R.S. 40:1223.3.

RS 40:1225.1 — Purchase of prostheses, orthoses, prosthetic services, and orthotic services by a

tate agencies which utilize funds to pay for prostheses, orthoses, prosthetic services, or orthotic services shall only purchase such services, prostheses, or orthoses from an accredited facility.

(2) No reimbursements from the state Medicaid program shall be paid for prostheses, orthoses, prosthetic services, or orthotic services except to an accredited facility.

B. As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) "Accredited facility" means any facility that is accredited by the American Board for Certification in Orthotics, Prosthetics, and Pedorthics, or by the Board for Orthotist/Prosthetist Certification which provides prostheses, orthoses, prosthetic services, or orthotic services.

(2) "Orthosis" means a custom fabricated brace or support that is designed based on medical necessity. Orthoses shall not include prefabricated or direct-formed orthotic devices, or any of the following assistive technology devices: commercially available knee orthoses used following injury or surgery, upper extremity adaptive equipment, finger splints, hand splints, wrist gauntlets, face masks used following burns, wheelchair seating that is an integral part of the wheelchair and not worn by the patient independent of the wheelchair, fabric or elastic supports, corsets, low-temperature formed plastic splints, trusses, elastic hose, canes, crutches, cervical collars, and dental appliances, such as those commonly carried

in stock by a pharmacy, department store, corset shop, or surgical supply facility.

(3) "Orthotic services" includes the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing of an external device for the support, correction, or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity. Orthotic practice provides continuing patient care in order to assure proper fit and function of the orthotic device by periodic evaluation.

(4) "Prosthesis" means an artificial limb designed to maximize function, stability, and safety of the patient. Prosthesis also means an artificial medical device that is not surgically implanted and that is used to replace a missing limb. The term shall not include artificial eyes, ears, noses, dental appliances, ostomy products, or devices such as eyelashes or wigs.

(5) "Prosthetic services" includes the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, aligning, adjusting, or servicing of a prosthesis through the replacement of external parts of a human body lost due to amputation or congenital deformities to restore function, cosmesis, or both.

C. Any person who does not provide services from an accredited facility as defined in Paragraph (1) of Subsection B, or any organization or facility which is not accredited as defined in Paragraph (1) of Subsection B, and accepts payment from a state agency for prostheses, orthoses, prosthetic services, or orthotic services shall be fined twenty-five hundred dollars per violation and shall reimburse the state agency for the cost of the prostheses, orthoses, or services.

D. Any person who does not provide services from an accredited facility as defined in Paragraph (1) of Subsection B, or any organization or facility which is not accredited as defined in Paragraph (1) of Subsection B, and is reimbursed from the state Medicaid program for prostheses, orthoses, prosthetic services, or orthotic services shall be fined twenty-five hundred dollars per violation and shall reimburse the state Medicaid program for the cost of the prostheses, orthoses, or services.

E. Any fines collected pursuant to this Section shall be deposited in the state general fund after compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund.

F. Nothing in this Part shall prohibit a licensed occupational therapist or a licensed physical therapist from practicing within his scope of practice. In addition, the provisions of this Part shall not apply to a licensed optometrist, ophthalmologist, podiatrist, or orthopedist.

RS 40:1226.1 — Definitions

(1) "Aftercare" means any assistance provided by a caregiver to a patient pursuant to this Part after the patient's discharge from a hospital. Such assistance may include tasks that are limited to the patient's condition at the time of discharge and that do not require a licensed professional.

(2) "Caregiver" means an individual who meets all of the following conditions:

- (a) Is eighteen years of age or older.
- (b) Provides aftercare to an individual.

(c) Is identified by the patient or, if applicable, the legal guardian of the patient as a person who is involved with the health care of the patient pursuant to 45 CFR 164.510(b), as it existed on January 1, 2015.

(3) "Discharge" means a patient's release from hospital care to the patient's residence following an inpatient admission.

(4) "Hospital" means a facility licensed under the provisions of Part II of Chapter 11 of this Title.

(5) "Patient" means an individual who has been admitted to a hospital for inpatient care and who is eighteen years of age or older.

(6) "Residence" means a dwelling that the patient considers to be his home. A residence shall not include any rehabilitation facility, hospital, nursing home, assisted living facility, or group home.

RS 40:1226.2 — Designation of a caregiver

the patient's

inpatient admission into a hospital and prior to the patient's discharge.

(2) In the event that the patient is unconscious or otherwise incapacitated upon his entry into a hospital, the hospital shall provide such patient or his legal guardian with an opportunity to designate a caregiver following the patient's recovery of his consciousness or capacity.

(3) In the event that the patient or the patient's legal guardian designates an individual as a caregiver, the hospital shall record the patient's designation of caregiver and the name, telephone number, and address of the patient's designated caregiver in the patient's medical record.

(4) In the event the original designated caregiver becomes unavailable, unwilling, or unable to care for the patient prior to discharge, a patient may elect to change his designated caregiver, and the hospital shall record this change in the patient's medical record.

B. The hospital shall be deemed to have complied in full with the provisions of this Part in the event that the patient or, if applicable, the legal guardian of the patient declines to designate a caregiver under this Part.

C. A designation of a caregiver by a patient or a patient's legal guardian under this Part does not obligate any individual to perform any aftercare tasks for any patient.

D. This Section shall not be construed to require a patient or a patient's legal guardian to designate any individual as a caregiver.

RS 40:1226.3 — Notice to caregiver

atient's residence

as soon as possible prior to the patient's discharge. If the hospital is unable to contact the designated caregiver, the lack of contact may not interfere with, delay or otherwise affect the medical care provided to the patient, or an appropriate discharge of the patient.

RS 40:1226.4 — Education and instruction provided to caregiver

caregiver along with the patient, taking into

account the capabilities and limitations of the caregiver, to accomplish the aftercare tasks that

may be included in a discharge care plan that describes the patient's aftercare needs at his residence.

B. As part of the consultation under Subsection A of this Section, the hospital shall educate and instruct the caregiver concerning the aftercare needs of the patient in a manner that is consistent with the discharge plan and is based on the learning needs of the caregiver. In addition, the hospital shall also provide an opportunity for the caregiver and patient to ask questions and receive explanations about the aftercare tasks.

C. In the event the hospital is unable to contact the designated caregiver, the lack of contact shall not interfere with, delay, or otherwise affect an appropriate discharge of the patient.

RS 40:1226.5 — Noninterference with medical decision making

provide informed consent on behalf

of the patient unless the caregiver is otherwise authorized to do so pursuant to law. Nothing in this Part shall be construed to interfere with, supersede, or any other way affect the provisions of Parts I and II of Subchapter A of this Chapter or with the rights of a mandatory of the patient acting pursuant to a mandate.

RS 40:1226.6 — Limitation of liability

sultant or

contractor with whom the hospital has a contractual relationship.

B. A hospital, hospital employee, or any consultant or contractor with whom a hospital has a contractual relationship shall not be liable, vicariously or otherwise, to any patient for any injury, death, loss, civil penalty, or damage as a result of any act or omission of a caregiver in rendering assistance or care to a patient or as a result of any act or failure to act or failure to provide care rendered by a caregiver to a patient.

C. A hospital, hospital employee, or any consultant or contractor with whom a hospital has a contractual relationship shall not be liable to any caregiver designated pursuant to the provisions of this Part, except for gross negligence or willful and wanton misconduct directly related to the education and instruction provided to the caregiver concerning the aftercare needs of the patient, for any injury, death, loss, civil penalty, or damage as a result of any act or omission of a caregiver in rendering assistance or care to a patient or as a result of any act or failure to act or failure to provide care rendered by a caregiver to a patient.

RS 40:1226.7 — Compensation of caregiver

professional may be designated as a caregiver as long as the individual does not accept compensation for aftercare provided to the patient.

RS 40:1227.1 — Short title

u experience any technical difficulties navigating this website,

RS 40:1227.2 — Legislative findings

nd to improve

the quality and cost of their care, including prevention of more costly care.

B. The legislature further declares that the goal of remote patient monitoring services provided through telehealth is to coordinate primary, acute, chronic disease, behavioral, and

long-term social service needs for high-need, high-cost patients.

RS 40:1227.3 — Definitions

re

services using telecommunications technology to enhance the delivery of in-home health care, including but not limited to all of the following:

- (a) Monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, and other condition-specific data, such as blood glucose and activity trackers.
- (b) Medication adherence monitoring.
- (c) Interactive video conferencing with or without digital image upload.
- (2) "Telehealth" has the same meaning as defined in R.S. 40:1223.3.

RS 40:1227.4 — Remote patient monitoring

o use home

telehealth and can maintain performance of needed tasks or have the availability of informal caregivers to help with remote patient monitoring through telehealth.

RS 40:1227.5 — Qualifications for patients

management services

through remote patient monitoring and shall meet one of the following criteria:

- (1) Has been diagnosed with one or more chronic conditions, as defined by the Centers for Medicare and Medicaid Services, including but not limited to sickle cell disease, mental illness, asthma, diabetes, cancer, and heart disease.
- (2) Has a recent history of costly service use due to one or more chronic conditions as evidenced by two or more hospitalizations, including emergency room visits, in the last twelve months.
- (3) Is a pregnant or postpartum woman.
- (4) Is an infant who has been discharged from a hospital after requiring neonatal intensive care.

RS 40:1227.6 — Remote monitoring services

luation which includes all of the

following:

- (a) Assessment and monitoring of clinical data, including but not limited to appropriate vital signs, pain levels, and other biometric measures specified in the plan of care and an assessment of responses to previous changes in the plan of care.
- (b) Detection of condition changes based on the telehealth encounter that may indicate the need for a change in the plan of care.
- (2) Implementation of a management plan through one or more of the following:
 - (a) Teaching regarding medication management as appropriate based on the telemedicine findings for that encounter.
 - (b) Teaching regarding other interventions as appropriate to both the patient and the caregiver.
 - (c) Management and evaluation of the plan of care including changes in visit frequency or addition of other skilled services.

(d) Coordination of care with the ordering healthcare provider regarding telehealth findings.

(e) Coordination and referral to other healthcare providers as needed.

(f) Referral for an in-person visit or the emergency room as needed.

RS 40:1227.7 — Remote monitoring equipment and network requirements

(1) Compliance with applicable standards of the United States Food and Drug Administration.

(2) Maintenance of telehealth equipment in good repair and free from safety hazards.

(3) Installation of only new or sanitized equipment in the patient's home setting.

(4) Availability of technical and clinical support services for the patient user.

RS 40:1227.8 — Remote monitoring services; procedure code required

Louisiana Department of Health for the

covered healthcare service shall be included with the appropriate modifier indicating telehealth services were used.

B. Nothing in this Section shall prohibit any health benefit plan offered by a health insurer, managed care organization, or other health payor from establishing its own policy and payment structure for in lieu of service agreements with providers.

RS 40:1231.1 — Definitions and general applications

not applicable which operates either ground or air

ambulances, using a minimum of two persons on each ground ambulance, at least one of whom is trained and registered at the level of certified emergency medical technician-basic, or at the intermediate or paramedic levels, or one who is a registered nurse, and using a minimum on any air ambulance of one person trained and registered at the paramedic level or a person who is a registered nurse, or any officer, employee, or agent thereof acting in the course and scope of his employment, including any student enrolled in a qualified emergency medical services educational program under the direct supervision of a licensed health care provider.

(2) "Authority" means the Residual Malpractice Insurance Authority established under Section 1231.7.

(3) "Board" means the Patient's Compensation Fund Oversight Board created in R.S. 40:1231.4(D).

(4) "Claimant" means a patient or representative or any person, including a decedent's estate, seeking or who has sought recovery of damages or future medical care and related benefits under this Part. All persons claiming to have sustained damages as a result of injuries to or death of any one patient are considered a single claimant.

(5) "Claims manager" means the claims manager appointed and employed by the board pursuant to R.S. 40:1231.4(D)(2)(g).

(6) "Community blood center" means any independent nonprofit nonhospital based facility which collects blood and blood products from donors primarily to supply blood and blood components to other health care facilities.

(7) "Court" means a court of competent jurisdiction and proper venue over the

parties.

(8) "Executive director" means the executive director of the board, appointed and employed pursuant to R.S. 40:1231.4(D)(2)(f).

(9) "Health care" means any act, treatment, administration, service, or care related to policies and procedures and the administration thereof, staffing, custodial services by licensed or certified staff, performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical care, treatment, or confinement, or during or relating to or in connection with the procurement of human blood or blood components. This includes all acts associated with the medical treatment of an individual, whether directly related to clinical care or performed in an administrative or managerial capacity necessary for the delivery of such care.

(10) "Health care provider" means a person, partnership, limited liability partnership, limited liability company, corporation, facility, or institution licensed or certified by this state, state agencies, or a state board to provide health care or professional services as a physician, hospital, nursing home, community blood center, tissue bank, dentist, a licensed dietician or licensed nutritionist employed by, referred by, or performing work under contract for, a health care provider or other person already covered by this Part, registered or licensed practical nurse or certified nurse assistant, offshore health service provider, ambulance service under circumstances in which the provisions of R.S. 40:1237.1 are not applicable, certified registered nurse anesthetist, nurse midwife, licensed midwife, nurse practitioner, clinical nurse specialist, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, psychologist, social worker, licensed professional counselor, licensed perfusionist, licensed respiratory therapist, licensed radiologic technologist, licensed clinical laboratory scientist, or any nonprofit facility considered tax-exempt under Section 501(c)(3), Internal Revenue Code, pursuant to 26 U.S.C. 501(c)(3), for the diagnosis and treatment of cancer or cancer-related diseases, whether or not such a facility is required to be licensed by this state, or any professional corporation a health care provider is authorized to form under the provisions of Title 12 of the Louisiana Revised Statutes of 1950, or any partnership, limited liability partnership, limited liability company, management company, or corporation which may provide any kind of health care whatsoever, or an officer, employee, partner, member, shareholder, or agent thereof acting in the course and scope of his employment.

(11) "Hospital" means any hospital as defined in R.S. 40:2102; any "nursing home" or "home" as defined in R.S. 40:2009.2; or any physician's or dentist's offices or clinics containing facilities for the examination, diagnosis, treatment or care of human illnesses.

(12) "Insurer" means the authority or the entity chosen to manage the authority or an insurer writing policies of malpractice insurance.

(13) "Malpractice" means any unintentional tort or any breach of contract based on health care or professional services rendered, or which should have been rendered, by a health care provider, to a patient, including but not limited to failure to render services timely and the handling of a patient, loading and unloading of a patient, and all legal responsibility of a health care provider arising from acts or omissions during the procurement of blood or blood components, in the staffing, training, or supervision of health care providers, or from

defects in blood, tissue, transplants, drugs, and medicines, or from defects in or failures of prosthetic devices implanted in or used on or in the person of a patient. This includes all acts associated with the medical treatment of an individual, whether directly related to clinical care or performed in an administrative or managerial capacity necessary for the delivery of such care.

(14) "Offshore health service provider" means any individual or entity which provides any health care service rendered by an emergency medical technician-basic, or at the intermediate or paramedic levels, or one who is a registered nurse, when such medical care is rendered on a fixed platform in Louisiana territorial waters or on the Outer Continental Shelf, adjacent to Louisiana territorial waters, or any instance on the Outer Continental Shelf where the applicable law, under the Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., would be the laws of the state of Louisiana.

(15) "Patient" means a natural person, including a donor of human blood, a donor or prospective donor of an organ or tissue, or blood components and a nursing home resident who receives or should have received health care from a licensed health care provider, under contract, expressed or implied.

(16) "Physician" means a person with an unlimited license to practice medicine in this state.

(17) "Proof of financial responsibility" as provided for in this Part shall be determined by the board in accordance with regulations promulgated under the Administrative Procedure Act.

(18) "Representative" means the spouse, parent, guardian, trustee, attorney or other legal agent of the patient.

(19) "Risk" means any health care provider which shall apply for malpractice liability insurance coverage under the provisions of R.S. 40:1231.7.

(20) "Risk manager" means an insurance company with no less than an "A" rating according to the then current annual edition of Best's Insurance Reports or a domestic insurance company with assets in excess of ten million dollars chosen by the commissioner according to the public bid laws of the state, to manage the authority.

(21) "Tissue bank" means any independent nonprofit facility procuring and processing human organs or tissues for transplantation, medical education, research, or therapy.

(22) "Tort" means any breach of duty or any negligent act or omission proximately causing injury or damage to another. The standard of care required of every health care provider, except a hospital, in rendering professional services or health care to a patient, shall be to exercise that degree of skill ordinarily employed, under similar circumstances, by the members of his profession in good standing in the same community or locality, and to use reasonable care and diligence, along with his best judgment, in the application of his skill.

B. Wherever necessary to the context of this Part the masculine shall mean and include the feminine and the singular shall mean and include the plural.

C. No liability shall be imposed upon any health care provider on the basis of an alleged breach of contract, whether by express or implied warranty, assuring results to be

obtained from any procedure undertaken in the course of health care, unless such contract is expressly set forth in writing and signed by such health care provider or by an authorized agent of such health care provider.

D. A health care provider who fails to qualify under this Part is not covered by the provisions of this Part and is subject to liability under the law without regard to the provisions of this Part. If a health care provider does not so qualify, the patient's remedy will not be affected by the terms and provisions of this Part, except as hereinafter provided with respect to the suspension and the running of prescription of actions against a health care provider who has not qualified under this Part when a claim has been filed against the health care provider for review under this Part.

E.(1) Subject to R.S. 40:1231.8, a claimant having a claim under this Part for bodily injuries to or death of a patient on account of malpractice may file a complaint in any court of competent jurisdiction and proper venue. Upon filing the complaint in court for bodily injuries to or death of a patient on account of malpractice, said claimant shall send, by certified mail, return receipt requested, a copy of the complaint, and any amendments thereto, to the board. The claimant shall also promptly provide written notice to the board of the trial date upon receiving notice from the court scheduling a trial in such proceeding.

(2) No dollar amount or figure shall be included in the demand in any malpractice complaint, but the prayer shall be for such damages as are reasonable in the premises.

(3) This Section shall not prevent a person from alleging a requisite jurisdictional amount in a malpractice claim filed in a court requiring such an allegation.

(4) All claims and complaints submitted by a patient, claimant, or their representative, as a result of malpractice as defined in this Section, shall, once the parties have certified to the court that discovery is complete, be given priority on the court's docket, to the extent practicable, over any other civil action before the court, provided that the provisions of this Paragraph shall not supersede the provisions of Code of Civil Procedure Article 1573.

F. The provisions of this Part do not apply to any act of malpractice which occurred before September 1, 1975. The provisions of this Part that provide for the suspension and the running of prescription with respect to a health care provider who has not qualified under this Part, but against whom a claim has been filed under this Part, do not apply to any act of malpractice which occurred before September 1, 1981.

G. Notwithstanding the provisions of Subsection D of this Section, the running of prescription against a health care provider who is answerable in solido with a qualified health care provider against whom a claim has been filed for review under this Part shall be suspended in accordance with the provisions of R.S. 40:1231.8(A)(2)(a).

H. The provisions of this Part do not apply to any act of malpractice which occurred before September 1, 1975. The provisions of this Part that provide for the suspension of the running of prescription with respect to a health care provider who is answerable in solido with another health care provider apply to an act of malpractice which has been duly submitted for review prior to September 1, 1981 but in which the third health care provider panelist has not been selected. The provision for the suspension of the running of

prescription does not apply to any act of malpractice which has not been duly submitted for review and which has prescribed on September 1, 1981.

I. Nothing in this Part shall be construed to make the patient's compensation fund liable for any sums except for those arising from medical malpractice. Notwithstanding any other law to the contrary, including but not limited to R.S. 13:5106, the provisions of this Part shall not apply to medical malpractice actions against the state or any political subdivision thereof with the exception of a hospital service district and a municipally owned hospital and any entities, organizations, or subsidiary owned, operated, or controlled by such a hospital service district or municipally owned hospital. However, this Part shall apply to any certified emergency medical technician-basic, or at the intermediate or paramedic level, employed by any political subdivision of the state, and to any medical advisor or registered nurse performing emergency medical services under contract with any political subdivision of the state.

J. The board shall appoint legal counsel for the Patient's Compensation Fund. It shall be the responsibility of the board to establish minimum qualifications and standards for lawyers who may be appointed to defend professional liability cases. The minimum qualifications and the appointments procedure shall be published at least annually in the Louisiana Bar Journal or such other publication as will reasonably assure dissemination to the membership of the Louisiana State Bar Association. The primary counsel may be permitted by the board to continue the professional liability litigation on behalf of the Patient's Compensation Fund where no conflict of interest exists or where there is no potential conflict of interest. The function of establishing reserves shall be carried out by the board.

K. The provisions of this Part shall not apply to any health care provider when performing the elective termination of an uncomplicated viable pregnancy.

L. Any cause of action for the unintentional acts or omissions arising from resuscitating a patient who has a declaration concerning life-sustaining procedures executed pursuant to R.S. 40:1151 et seq., a Louisiana Physician Order for Scope of Treatment executed pursuant to R.S. 40:1155.1 et seq., or a do not resuscitate order issued by a physician licensed in this state shall be governed by the provisions of this Part.

M. Any cause of action for an unintentional act or omission by an organ procurement organization to a donor or prospective donor of an anatomical gift, as defined in R.S. 17:2351, shall be governed by the provisions of this Section.

RS 40:1231.2 — Limitation of recovery

nsibility as provided by

Subsection E of this Section.

(2) Pay the surcharge assessed by this Part on all health care providers according to R.S. 40:1231.4.

(3) For self-insured health care providers, initial qualification shall be effective upon acceptance of proof of financial responsibility by and payment of the surcharge to the board. Initial qualification shall be effective for all other health care providers at the time the malpractice insurer accepts payment of the surcharge.

B.(1) The total amount recoverable for all malpractice claims for injuries to or death of a patient, exclusive of future medical care and related benefits as provided in R.S. 40:1231.3, shall not exceed five hundred thousand dollars plus interest and cost.

(2) A health care provider qualified under this Part is not liable for an amount in excess of one hundred thousand dollars plus interest thereon accruing after April 1, 1991, and costs specifically provided for by this Paragraph for all malpractice claims because of injuries to or death of any one patient. The sole cost for which a health care provider qualified under this Part may be assessed by a trial court shall be limited to the cost incurred prior to the rendering of a final judgment against the health care provider, not as a nominal defendant, after a trial on a malpractice claim, including but not limited to, costs assessed pursuant to Code of Civil Procedure Article 970 in any instance where the board was not the offeror or offeree of the proposed settlement amount. The health care provider shall not be assessed costs in any action in which the fund intervenes or the health care provider is a nominal defendant after there has been a settlement between the health care provider and the claimant.

(3)(a) Any amount due from a judgment or settlement or from a final award in an arbitration proceeding which is in excess of the total liability of all liable health care providers, as provided in Paragraph (2) of this Subsection, shall be paid from the patient's compensation fund pursuant to the provisions of R.S. 40:1231.4(C).

(b) The total amounts paid in accordance with Paragraphs (2) and (3) of this Subsection shall not exceed the limitation as provided in Paragraph (1) of this Subsection.

C. Except as provided in R.S. 40:1231.4(C), any advance payment made by the defendant health care provider or his insurer to or for the plaintiff, or any other person, may not be construed as an admission of liability for injuries or damages suffered by the plaintiff or anyone else in an action brought for medical malpractice.

D.(1) Evidence of an advance payment is not admissible until there is a final judgment in favor of the plaintiff, in which event the court shall reduce the judgment to the plaintiff to the extent of the advance payment.

(2) The advance payment shall inure to the exclusive benefit of the defendant or his insurer making the payment.

(3) In the event the advance payment exceeds the liability of the defendant or the insurer making it, the court shall order any adjustment necessary to equalize the amount which each defendant is obligated to pay, exclusive of costs.

(4) In no case shall an advance payment in excess of an award be repayable by the person receiving it.

(5) In the event that a partial settlement is executed between the defendant and/or his insurer with a plaintiff for the sum of one hundred thousand dollars or less, written notice of such settlement shall be sent to the board. Such settlement shall not bar the continuation of the action against the patient's compensation fund for excess sums in which event the court shall reduce any judgment to the plaintiff in the amount of malpractice liability insurance in force as provided for in R.S. 40:1231.2(B)(2).

E.(1) Financial responsibility of a health care provider under this Section may be established only by filing with the board proof that the health care provider is insured by a

policy of malpractice liability insurance in the amount of at least one hundred thousand dollars per claim with qualification under this Section taking effect and following the same form as the policy of malpractice liability insurance of the health care provider, or in the event the health care provider is self-insured, proof of financial responsibility by depositing with the board one hundred twenty-five thousand dollars in money or represented by irrevocable letters of credit, federally insured certificates of deposit, bonds, securities, cash values of insurance, or any other security approved by the board. In the event any portion of said amount is seized pursuant to the judicial process, the self-insured health care provider shall have five days to deposit with the board the amounts so seized. The health care provider's failure to timely post said amounts with the board shall terminate his enrollment in the Patient's Compensation Fund.

(2) For the purposes of this Subsection, any group of self-insured health care providers organized to and actually practicing together or otherwise related by ownership, whether as a partnership, professional corporation or otherwise, shall be deemed a single health care provider and shall not be required to post more than one deposit. In the event any portion of the deposit of such a group is seized pursuant to judicial process, such group shall have five days to deposit with the board the amounts so seized. The group's failure to timely post said amounts with the board will terminate its enrollment and the enrollment of its members in the Patient's Compensation Fund.

RS 40:1231.3 — Future medical care and related benefits

ient is in need of future medical care

and related benefits that will be incurred after the date of the response to the special interrogatory, and the amount thereof.

(2) In actions upon malpractice claims tried by the court, the court's finding shall include a recitation that the patient is or is not in need of future medical care and related benefits that will be incurred after the date of the court's finding and the amount thereof.

(3) If the total amount is for the maximum amount recoverable, exclusive of the value of future medical care and related benefits that will be incurred after the date of the response to the special interrogatory by the jury or the court's finding, the cost of all future medical care and related benefits that will be incurred after the date of the response to the special interrogatory by the jury or the court's finding shall be paid in accordance with R.S. 40:1231.3(C).

(4) If the total amount is for the maximum amount recoverable, including the value of the future medical care and related benefits, the amount of future medical care and related benefits that will be incurred after the date of the response to the special interrogatory by the jury or the court's finding shall be deducted from the total amount and shall be paid from the patient's compensation fund as incurred and presented for payment. The remaining portion of the judgment, including the amount of future medical care and related benefits incurred up to the date of the response to the special interrogatory by the jury or the court's finding shall be paid in accordance with R.S. 40:1231.4(A)(7) and R.S. 40:1231.4(B)(2)(a), (b), and (c).

(5) In all cases where judgment is rendered for a total amount less than the maximum

amount recoverable, including any amount awarded on future medical care and related benefits that will be incurred after the date of the response to the special interrogatory by the jury or the court's finding, payment shall be in accordance with R.S. 40:1231.4(A)(7) and R.S. 40:1231.4(B)(2)(a), (b), and (c).

(6) The provisions of this Subsection shall be applicable to all malpractice claims.

B.(1) "Future medical care and related benefits" for the purpose of this Section means all of the following:

(a) All reasonable medical, surgical, hospitalization, physical rehabilitation, and custodial services and includes drugs, prosthetic devices, and other similar materials reasonably necessary in the provision of such services, incurred after the date of the injury up to the date of the settlement, judgment, or arbitration award.

(b) All reasonable medical, surgical, hospitalization, physical rehabilitation, and custodial services and includes drugs, prosthetic devices, and other similar materials reasonably necessary in the provisions of such services, after the date of the injury that will be incurred after the date of the settlement, judgment, or arbitration award.

(2) "Future medical care and benefits" as used in this Section shall not be construed to mean non-essential specialty items or devices of convenience.

C. Once a judgment is entered in favor of a patient who is found to be in need of future medical care and related benefits that will be incurred after the date of the response to the special interrogatory by the jury or the court's finding or a settlement is reached between a patient and the patient's compensation fund in which the provision of medical care and related benefits that will be incurred after the date of settlement is agreed upon and continuing as long as medical or surgical attention is reasonably necessary, the patient may make a claim to the patient's compensation fund through the board for all future medical care and related benefits directly or indirectly made necessary by the health care provider's malpractice unless the patient refuses to allow them to be furnished.

D. Payments for medical care and related benefits shall be paid by the patient's compensation fund without regard to the five hundred thousand dollar limitation imposed in R.S. 40:1231.2.

E.(1) The district court from which final judgment issues shall have continuing jurisdiction in cases where medical care and related benefits are determined to be needed by the patient.

(2) The court shall award reasonable attorney fees to the claimant's attorney if the court finds that the patient's compensation fund unreasonably fails to pay for medical care within thirty days after submission of a claim for payment of such benefits.

F. Nothing in this Section shall be construed to prevent a patient and a health care provider and/or the patient's compensation fund from entering into a court-approved settlement agreement whereby medical care and related benefits shall be provided for a limited period of time only or to a limited degree.

G. The patient's compensation fund shall be entitled to have a physical examination of the patient by a physician of the patient's compensation fund's choice from time to time for the purpose of determining the patient's continued need of future medical care and related

benefits, subject to the following requirements:

(1)(a) Notice in writing shall be delivered to or served upon the patient or the patient's counsel of record, specifying the time and place where it is intended to conduct the examination.

(b) Such notice must be given at least ten days prior to the time stated in the notice.

(c) Delivery of the notice may be by certified mail.

(2) Such examination shall be by a licensed medical physician or chiropractic physician licensed under the laws of this state or of the state, parish, or county wherein the patient resides.

(3)(a) The place at which such examination is to be conducted shall not involve an unreasonable amount of travel for the patient considering all circumstances.

(b) It shall not be necessary for a patient who resides outside this state to come into this state for such an examination unless so ordered by the court.

(4) Within thirty days after the examination, the patient shall be compensated by the party requesting the examination for all necessary and reasonable expenses incidental to submitting to the examination including the reasonable costs of travel, meals, lodging, loss of pay, or other direct expenses.

(5)(a) Examinations may not be required more frequently than at six months intervals except that, upon application to the court having jurisdiction of the claim and after reasonable cause shown therefor, examination within a shorter interval may be ordered.

(b) In considering such application, the court should exercise care to prevent harassment to the patient.

(6)(a) The patient shall be entitled to have a physician or an attorney of his own choice or both present at such examination.

(b) The patient shall pay such physician or attorney himself.

(7) The patient shall be promptly furnished with a copy of the report of the examination made by the physician making the examination on behalf of the patient's compensation fund.

H. If a patient fails or refuses to submit to examination in accordance with a notice and if the requirements of Subsection G of this Section have been satisfied, then the patient shall not be entitled to attorney fees in any action to enforce rights pursuant to Subsection E of this Section.

I.(1) Any physician selected by the patient's compensation fund and paid by the patient's compensation fund who shall make or be present at an examination of the patient conducted in pursuance of this Section may be required to testify as to the conduct thereof and the findings made.

(2) Communications made by the patient upon such examination by such physician or physicians shall not be considered privileged.

J. The patient's compensation fund shall pay all reasonable fees and costs of medical examinations and the costs and the fees of the medical expert witnesses in any proceeding in which the termination of medical care and related benefits is sought.

RS 40:1231.4 — Patient's Compensation Fund

n Fund Oversight

Board into a fund designated as the "Patient's Compensation Fund". The Patient's Compensation Fund Oversight Board is established and authorized pursuant to Subsection D of this Section. Neither the fund nor the board shall be a budget unit of the state. The assets of the fund shall not be state property, subject to appropriation by the legislature, or required to be deposited in the state treasury. The state recognizes and acknowledges that the fund and any income from it are not public monies, but rather are private monies which shall be held in trust as a private custodial fund by the board for the use, benefit, and protection of medical malpractice claimants and the fund's private health care provider members, and all of such funds and income earned from investing the private monies comprising the corpus of this fund shall be subject to use and disposition only as provided by this Section.

(b) The Patient's Compensation Fund Oversight Board may invest, in accordance with R.S. 40:1231.5, any portion of the private monies comprising the corpus of the fund, as determined by the board, while maintaining its ability to timely pay claims, future medical care and related benefits, and other current expenses under this Part. The board may enter into a cooperative endeavor agreement whereby the state treasurer may be authorized to invest, in accordance with R.S. 40:1231.5, a portion of the private monies comprising the corpus of the fund, as determined by the board.

(c) The fund shall be exempt from participation in and shall not join or contribute financially to or be entitled to the protection of any plan, pool, association, or guaranty fund or insolvency fund.

(d) Neither the fund nor the board may rely on the full faith and credit of this state for payment of legal obligations.

(e) The fund and the board shall not be entitled to an appropriation of state general funds without a specific appropriation approved by the legislature.

(f) Notwithstanding any provision of law to the contrary, in the event the fund is dissolved or liquidated, any remaining balance after all amounts due under this Part to medical malpractice claimants, including future medical care and related benefits as provided in R.S. 40:1231.3, and all amounts due any other person for administrative or operating expenses have been paid from the fund, shall be paid over to the state general fund by the board or then administrator of the fund for deposit in the state treasury.

(2)(a) To provide monies for the fund, an annual surcharge shall be levied on all health care providers in Louisiana qualified under the provisions of this Part.

(b) The board shall cause to be prepared an annual actuarial study of the fund by a qualified competent actuary.

(c) The board and the fund shall be exempt from rate regulation by the commissioner of insurance. The surcharge rates shall be determined by the board in a public meeting held pursuant to the provisions of R.S. 42:11 et seq. based upon actuarial principles and reports, experience, and prudent judgment of the board. The board shall give written or electronic notice of the meeting at least fifteen days in advance and provide an opportunity for public comment at the meeting before determining rates.

(d) The surcharge rates shall not be excessive, inadequate, or unfairly discriminatory.

In determining whether surcharge rates are excessive, inadequate, or unfairly discriminatory, consideration may be given to the following items:

(i) Basic rate factors. Due consideration shall be given to past and prospective loss and expense experience, catastrophe hazards and contingencies, events, or trends. Fines and penalties against a health care provider, whether levied by a court or regulatory body, shall not be used by the board or considered in any manner in the loss or expense experience.

(ii) Classification. Risks may be grouped by classification for the establishment of rates. Classification rates may be modified for individual risks in accordance with an experience-rating plan or schedule which apportions a greater percentage of required surcharge increases to those health care providers who generate greater than expected losses.

(iii) Expenses. The expense provisions shall reflect the operating methods of the board and the fund, the past expense experience, and anticipated future expenses.

(iv) Contingencies. The rates may contain a provision for contingencies.

(v) Other relevant factors. Any other factors available at the time of determining the rates.

(e) The surcharge shall be collected on the same basis as premiums by each insurer, the risk manager, and surplus line agent.

(f) The board shall collect the surcharge from health care providers qualified as self-insureds.

(g) The surcharge for self-insureds shall be the same amount determined by the board to be the amount of surcharge which the health care provider would reasonably be required to pay were his qualification based upon filing a policy of malpractice liability insurance.

(3)(a) Such surcharge shall be due and payable to the patient's compensation fund within thirty days after the premiums for malpractice liability insurance have been received by the insurer, agent of the insurer, risk manager, or surplus line agent from the health care provider in Louisiana.

(b) It shall be the duty of the insurer, agent of the insurer, risk manager, or surplus line agent to remit the surcharge to the Patient's Compensation Fund within thirty days of the date of payment by the health care provider. Failure of the insurer, agent of the insurer, risk manager, or surplus line agent to remit payment within thirty days may subject the insurer, agent of the insurer, risk manager, or surplus line agent to a penalty, the amount of which will be set by the board on an annual basis, not to exceed a total of twelve percent of the annual surcharge. Upon the failure of the insurer, agent of the insurer, risk manager, or surplus line agent to remit as provided herein, the board is authorized to institute legal proceedings if necessary to collect the surcharge, any penalty amount to be assessed, legal interest, and all reasonable attorney fees.

(4) If the annual surcharge is not paid within the time limited above, upon written notice of such nonpayment given by the board concurrently to the commissioner of insurance and the insurer, risk manager, or surplus line agent, the certificate of authority of the insurer, risk manager, and surplus line agent shall be suspended until the annual surcharge is paid.

(5)(a) All expenses of collecting, protecting, and administering the fund shall be paid from the fund.

- (b) The functions of collecting, administering, and protecting the fund, including all matters relating to determining surcharge rates, establishing reserves, the evaluating and settlement of claims, and relating to the defense of the fund, shall be carried out by the board.
- (c) The board shall prepare quarterly statements of the financial condition of the fund and publish the statements on the website of the board.
- (d) The function of selecting the list of attorney names from which the selection of the attorney chairman of the medical review panels is to be made shall be the responsibility of the office of the clerk of the Louisiana Supreme Court.
- (e) These expenses of the board and office of the clerk of the Louisiana Supreme Court shall be paid from the fund in accordance with law.
- (f) Not later than the first day of January each year, the board shall submit a copy of its proposed budget for the ensuing fiscal year to the Joint Legislative Committee on the Budget, the House Committee on Civil Law and Procedure, the Senate Committee on Judiciary A, the legislative auditor, and the legislative fiscal office. The format of the budget submission shall be as follows:
 - (i) A budget message signed by the budget preparer which shall include a summary description of the proposed financial plan, policies, and objectives and assumptions.
 - (ii) Narrative explanations describing the purpose and functions of the Patient's Compensation Fund.
 - (iii) Statements for the last completed fiscal year, estimates covering the entire current fiscal year, and projections for the ensuing fiscal year, as follows:
 - (aa) A statement showing fund balances of the Patient's Compensation Fund at the beginning of each year and at the conclusion of each fiscal year.
 - (bb) A statement of revenues and receipts, itemized by source.
 - (cc) Detailed comparative statements of expenditures itemized by source of funds and expenditure category by each major function, program, or service.
 - (dd) Clearly defined indicators of the quantity and quality of performance of agency functions.
 - (ee) Participation of agency personnel and board members in state employee benefit programs, including insurance and retirement programs.
 - (g) Any purchases of furniture, fixtures, equipment, or other property shall be specifically designated, by the method of identification as is reasonable and practical for each item, as the property of the fund.
- (6)(a) At all times the fund shall be maintained to provide assets of at least thirty percent of the fund's outstanding liabilities, calculated using the most recent actuarial study and report for the fund.
- (b) No reduction in the surcharge shall be made unless such assets are available in the fund.
- (7)(a) Claims from the patient's compensation fund exclusive of those provided for in R.S. 40:1231.3 shall be computed at the time the claim becomes final.
- (b) A final claim shall be paid within forty-five days of the board's receipt of a certified copy of the settlement, judgment, or arbitration award, unless the fund is exhausted

and the proration provision contained in Subparagraph (7)(c) applies.

(c) If the fund would be exhausted by payment in full of all final claims then the amount paid to each claimant shall be prorated.

(d) Any amounts due and unpaid shall be prorated.

(e) Repealed by Acts 2012, No. 802, §2.

B.(1) Subject to the other provisions of this Section, the board shall issue payment in the amount of each claim submitted to and approved by it, or prorated payment, as the case may be, against the fund within thirty days of receipt of a certified copy of the settlement, judgment, or arbitration award except that payment for claims made pursuant to Subparagraph (2)(d) or (e) of this Subsection, or both, shall be made upon receipt of such certified copy.

(2) The only claim against the fund shall be a voucher or other appropriate request by the board after it receives:

(a) A certified copy of a final judgment in excess of one hundred thousand dollars against a health care provider.

(b) A certified copy of a court approved settlement in excess of one hundred thousand dollars against a health care provider.

(c) A certified copy of a final award in excess of one hundred thousand dollars in an arbitration proceeding against a health care provider.

(d) A certified copy of a judgment awarding medical care and related benefits rendered pursuant to R.S. 40:1231.3.

(e) A voucher drawn by the board through the patient's compensation fund defense counsel pursuant to a judgment reciting that a patient is in need of future medical care and related benefits under the provisions of R.S. 40:1231.3.

C. If the insurer of a health care provider or a self-insured health care provider has agreed to settle its liability on a claim against its insured and claimant is demanding an amount in excess thereof from the patient's compensation fund for a complete and final release, then the following procedure must be followed:

(1) A petition shall be filed by the claimant with the court in which the action is pending against the health care provider, if none is pending in the parish where plaintiff or defendant is domiciled seeking (a) approval of an agreed settlement, if any, and/or (b) demanding payment of damages from the patient's compensation fund.

(2) A copy of the petition shall be served on the board, the health care provider and his insurer, at least ten days before filing and shall contain sufficient information to inform the other parties about the nature of the claim and the additional amount demanded.

(3) The board and the insurer of the health care provider or the self-insured health care provider as the case may be, may agree to a settlement with the claimant from the patient's compensation fund, or the board and the insurer of the health care provider or the self-insured health care provider as the case may be, may file written objections to the payment of the amount demanded. The agreement or objections to the payment demanded shall be filed within twenty days after the petition is filed.

(4) As soon as practicable after the petition is filed in the court the judge shall fix the

date on which the petition seeking approval of the agreed settlement and/or demanding payment of damages from the fund shall be heard, and shall notify the claimant, the insurer of the health care provider or the self-insured health care provider as the case may be, and the board thereof as provided by law.

(5)(a) At the hearing the board, the claimant, and the insurer of the health care provider or the self-insured health care provider, as the case may be, may introduce relevant evidence to enable the court to determine whether or not the petition should be approved if it is submitted on agreement without objections. If the board, the insurer of the health care provider or the self-insured health care provider, as the case may be, and the claimant cannot agree on the amount, if any, to be paid out of the patient's compensation fund, then the trier of fact shall determine at a subsequent trial which shall take place only after the board shall have been given an adequate opportunity to conduct discovery, identify and retain expert witnesses, and prepare a defense, the amount of claimant's damages, if any, in excess of the amount already paid by the insurer of the health care provider or self-insured health care provider. The trier of fact shall determine the amount for which the fund is liable and render a finding and judgment accordingly. The board shall have a right to request trial by jury whether or not a jury trial has been requested by the claimant or by any health care provider.

(b) The board shall not be entitled to file a suit or otherwise assert a claim against any qualified health care provider as defined in R.S. 40:1231.1(A) on the basis that the qualified health care provider failed to comply with the appropriate standard of care in treating or failing to treat any patient.

(c) The board may apply the provisions of Civil Code Article 2323 or 2324, or both, to assert a credit or offset for the allocated percentage of negligence or fault of a qualified health care provider provided at least one of the following conditions is met:

(i) A payment has been made to the claimant by, in the name of, or on behalf of the qualified health care provider whose percentage of fault the board seeks to allocate.

(ii) A payment has been made to the claimant by, in the name of, or on behalf of another qualified health care provider in order to obtain a dismissal or release of liability of the qualified health care provider whose percentage of fault the board seeks to allocate, provided that there shall be no separate credit or offset for the fault of an employer or other vicariously liable entity who was not independently negligent or otherwise at fault and who makes a payment in order to obtain a dismissal or release of liability of a single qualified health care provider for whom the payor is vicariously liable.

(iii) All or a portion of a payment made by another qualified health care provider, by the insurer of another qualified health care provider, or by the employer of another qualified health care provider has been attributed to or allocated to the qualified health care provider whose percentage of fault the board seeks to allocate, provided that there shall be no separate credit or offset for the fault of an employer or other vicariously liable entity who was not independently negligent or otherwise at fault and who makes a payment in order to obtain a dismissal or release of liability of a single qualified health care provider for whom the payor is vicariously liable.

(iv) A medical review panel has determined that the qualified health care provider

whose percentage of fault the board seeks to allocate failed to comply with the appropriate standard of care and that the failure was a cause of the damage or injury suffered by the patient, or a medical review panel has determined that there is a material issue of fact, not requiring expert opinion, bearing on liability of the qualified health care provider whose percentage of fault the board seeks to allocate for consideration by the trier of fact.

(v) The qualified health care provider does not object within thirty days after notice of the board's intention to allocate the health care provider's percentage of fault is delivered via certified mail to the plaintiff, the qualified health care provider, and the qualified health care provider's professional liability insurer or to their attorneys.

(vi) The court determines, after a hearing in which the qualified health care provider whose percentage of fault the board seeks to allocate shall be given an opportunity to appear and participate, that there has been collusion or other improper conduct between the defendant health care providers to the detriment of the interests of the fund.

(d) Except where the sum of one hundred thousand dollars has been paid by, in the name of, or on behalf of the qualified health care provider whose percentage of fault the board seeks to allocate, in any case in which the board is entitled pursuant to the provisions of Civil Code Article 2323 or 2324, or both, to assert a credit or offset for the allocated percentage of negligence or fault of a qualified health care provider, the board shall have the burden of proving the negligence or fault of the qualified health care provider whose percentage of fault the board seeks to allocate.

(e) In approving a settlement or determining the amount, if any, to be paid from the patient's compensation fund, the trier of fact shall consider the liability of the health care provider as admitted and established where the insurer has paid its policy limits of one hundred thousand dollars, or where the self-insured health care provider has paid one hundred thousand dollars.

(f) In each instance in which a claimant seeks to recover any sum from the board, each qualified health care provider or insurer or employer of a qualified health care provider who has made or has agreed to make any payment, including any reimbursement of court costs, medical expenses, or other expenses, to the claimant, the claimant's attorney, or any other person or entity shall be required, not later than ten days after the filing of the petition for approval of the settlement, to file and serve upon the board an answer to the petition for approval of the settlement which sets forth a complete explanation of each such payment, to include the identity of each payee, the identity of each entity by or on whose behalf each payment has been or is to be made, each amount paid or to be paid directly or indirectly by, on behalf of, or which has been or is to be attributed or allocated to any qualified health care provider, the purpose of each such payment, and the precise nature of any collateral agreement which has been made or is to be made in connection with the proposed settlement.

(6) Any settlement approved by the court shall not be appealed. Any judgment of the court fixing damages recoverable in any such contested proceeding shall be appealable pursuant to the rules governing appeals in any other civil court case tried by the court.

(7) For the benefit of both the insured and the patient's compensation fund, the insurer of the health provider shall exercise good faith and reasonable care both in evaluating

the plaintiff's claim and in considering and acting upon settlement thereof. A self-insured health care provider shall, for the benefit of the patient's compensation fund, also exercise good faith and reasonable care both in evaluating the plaintiff's claim and in considering and acting upon settlement thereof.

(8) The parties may agree that any amounts due from the patient's compensation fund pursuant to R.S. 40:1231.4(B) be paid by annuity contract purchased by the patient's compensation fund for and on behalf of the claimant.

(9) Notwithstanding any other provision of this Part, any self-insured health care provider who has agreed to settle its liability on a claim and has been released by the claimant for such claim or any other claim arising from the same cause of action shall be removed as a party to the petition, and his name shall be removed from any judgment that is rendered in the proceeding. Such release shall be filed with the clerk of court in the parish in which the petition is filed upon the filing of a properly executed, sworn release and settlement of claim.

D.(1)(a) The Patient's Compensation Fund Oversight Board is hereby created and established in the office of the governor, division of administration. The board shall be comprised of nine members, appointed by the governor subject to Senate confirmation.

(b) Nine members of the board shall be a representative of and for one or more classes of health care providers enrolled in the fund, and the board's membership shall be apportioned according to the distribution of aggregate surcharges paid to the fund among the several classes of health care providers enrolled with the fund, as follows:

(i) Four members of the board shall be representatives of the class of health care providers contributing the greatest percentage of the fund's aggregate surcharges.

(ii) Two members of the board shall be representatives of the class of health care providers contributing the second greatest percentage of the fund's aggregate surcharges.

(iii) One member of the board shall be a representative of the class of health care providers contributing the third greatest percentage of the fund's aggregate surcharges.

(iv) One member of the board shall be appointed to represent all other classes of health care providers enrolled with the fund.

(c) The ninth member of the board shall be appointed from nominees provided by the principal professional insurance agents organizations and this member shall be familiar with property and casualty insurance and licensed in this state as a producer.

(d) Appointments of members representing a single class of health care providers shall be made from nominations solicited from the respective principal professional organizations of such health care providers in the state. The member of the board representing all other classes of health care providers shall be nominated by concurrence of the respective principal professional organizations of such health care providers in the state. In the absence of such concurrence each such professional organization shall name a representative to an ad hoc committee which shall, from among its number, nominate a representative to the board.

(e) For the purpose of apportioning representation on the board, the percentage surcharge contribution of each distinct class of health care providers listed by R.S. 40:1231.1

to the aggregate surcharges paid to the fund shall be calculated for each fiscal year of the fund, and apportionment with respect to an initial or subsequent appointment to the board shall be based on such percentage contributions for the fund fiscal year preceding any such appointment.

(f) Two of the initial members of the board appointed pursuant to Item (1)(b)(i) of this Subsection, one of the initial members appointed pursuant to Item (1)(b)(ii), and the member appointed pursuant to Item (1)(b)(iii) shall serve for terms of three years. One of the members of the initial board appointed pursuant to Item (1)(b)(i) of this Subsection and one of the initial members appointed pursuant to Item (1)(b)(ii) shall serve for terms of two years. The remaining members of the initial board shall serve for terms of one year. Thereafter, each member of the board shall serve for a term of three years, with any vacancy occurring in any such position being filled for the unexpired term of such position in the manner of the original appointment, in accordance with the apportionment of representation provided for by this Subsection.

(g) The board shall annually elect a chairman and secretary from among its members and shall meet not less frequently than quarterly during the calendar year on the call of the chairman at such times and places as he may designate.

(h) The members of the board shall receive seventy-five dollars per day while engaged in board business and for attendance at all meetings of the board. Reasonable expenses incurred by board members in their travel to and attendance at meetings of the board shall be reimbursed by the fund in accordance with applicable laws and administrative regulations. The members of the board shall not be reimbursed for any expenses incurred for board meetings outside of the state.

(2)(a) The board shall be responsible, and have full authority under law, for the management, administration, operation and defense of the fund in accordance with the provisions of this Part.

(b) In addition to other powers and authority expressly or impliedly conferred on the board by this Part, the board shall have the authority, to the extent not inconsistent with the provisions of this Part, to:

(i) Collect all surcharges and other monies due the fund.

(ii) Establish and define the standards and forms of financial responsibility required of self-insured health care providers, and the standards and forms of malpractice liability insurance policies issued by admitted insurance companies and the standards, forms, acceptable ratings and other criteria for medical malpractice liability insurance policies issued by non-admitted insurance companies which are acceptable as proof of financial responsibility pursuant to R.S. 40:1231.2, as a condition to initial and continuing enrollment with the fund.

(iii) Collect, accumulate, and maintain claims experience data from enrolled health care providers and insurance companies providing professional liability insurance coverage to health care providers in this state, in the form necessary or appropriate to permit the board to determine appropriate surcharge rates for the fund.

(iv) Employ, or in accordance with the provisions of law applicable to contracting

for personal, professional or consulting services, retain the services of a qualified competent actuary to perform the annual actuarial study of the fund required by this Section and to advise the board on all aspects of the fund's administration, operation and defense which require application of the actuarial science.

(v) Contract for any services necessary or advisable to implement the authority and discharge the responsibilities conferred and imposed on the board by this Part.

(vi) Employ, in the unclassified service, an appropriately qualified executive director and delegate to such executive director all or any portion of the authority for administration and operation of the fund vested in the board, subject to the superseding authority of the board.

(vii) Employ, in the unclassified service, an appropriately qualified claims manager and delegate to such claims manager all or any portion of the authority for the protection and defense of the fund vested in the board, subject to the superseding authority of the board.

(viii) Employ, or contract with, legal counsel to advise and represent the board and represent the fund in proceedings pursuant to this Part.

(ix) Employ such clerical personnel as may be necessary or appropriate to carry out the responsibilities of the board under this Part.

(x) Defend the fund from all claims due wholly or in part to the negligence or liability of anyone other than a qualified health care provider regardless of whether a qualified health care provider has settled and paid its statutory maximum or has been adjudged liable or negligent.

(xi) Defend the fund from all claims arising under R.S. 40:1231.4(D)(2)(b)(x) and obtain indemnity and reimbursement to the fund of all amounts for which anyone other than a qualified health care provider may be held liable. The right of indemnity and reimbursement to the fund shall be limited to that amount that the fund may be cast in judgment.

(xii) Intervene as a matter of right, at its discretion, in any civil action or proceeding in which the constitutionality of this Part, R.S. 9:5628, R.S. 9:5628.1 or any other Louisiana law related to medical malpractice as defined in this Part is challenged.

(xiii) The right to apply the provisions of Civil Code Article 2323 or 2324, or both, to assert a credit or offset for the allocated percentage of negligence or fault of a qualified health care provider shall be governed by the provisions of Subparagraph (C)(5)(c) of this Section.

(xiv) Intervene as a matter of right, at its discretion, in any civil action or proceeding in which a health care provider files a dilatory exception of prematurity pursuant to Code of Civil Procedure Article 926(A)(1) and the board reasonably believes either of the following:

(aa) Any health care provider is not qualified under this Part.

(bb) Any claim is not subject to this Part.

Any intervention and participation by the board in any civil action or proceeding pursuant to this Subparagraph shall be strictly limited to the health care provider's qualification status under this Part and whether the claim is subject to this Part. A copy of the exception and the petition for damages shall be sent by the health care provider filing the

dilatory exception of prematurity to the board, via certified mail, return receipt requested, concurrently with serving the parties to the civil action or proceeding.

(xv) Intervene as a matter of right, at its discretion, in any civil action or proceeding involving malpractice as defined in R.S. 40:1231.1 in which either of the following occurs:

(aa) A self-insured health care provider is the subject of a liquidation, insolvency, receivership, or bankruptcy proceeding.

(bb) A health care provider's insurer is the subject of a liquidation, insolvency, receivership, or bankruptcy proceeding, the insurer has been discharged from the civil action or proceeding and the malpractice claim is not covered by the Louisiana Insurance Guaranty Association.

(xvi) Employ an appropriately qualified chief investment officer and delegate to him a portion of the authority vested in the board related to investments, subject to the superseding authority of the board.

(3) The board shall have authority, in accordance with applicable provisions of the Administrative Procedure Act, to adopt and promulgate such rules, regulations and standards as it may deem necessary or advisable to implement the authority and discharge the responsibilities conferred and imposed on the board by this Part.

(4) All communications made and all documents and records developed by, between or among the attorney general, claims manager, the oversight board, any person or entity contracted to provide services to or on behalf of the fund under this Part, and enrolled health care providers and their insurers, relative to or in anticipation of defense of the fund or enrolled health care providers against, establishment of reserves with respect to, or prospective settlement of, individual malpractice claims shall be confidential and privileged against disclosure to any third party, pursuant to request, subpoena, or otherwise.

(5) Any meeting of the board or any portion of any meeting of the board which is restricted to consideration of and/or action upon pending or threatened claims against the fund or health care providers with the fund shall not be subject to the provisions of R.S. 42:11 through 28.

E. In any instance in which a complaint for bodily injuries to or death of a patient on account of malpractice has been filed in court and the parties enter into a stipulation prior to trial as to the amount of past medical expenses and related benefits and the amount exceeds one hundred thousand dollars, the parties shall also stipulate to the admissibility of the documents supporting the stipulated amount and shall introduce these documents into evidence at the trial for which the stipulation was entered into.

RS 40:1231.5 — Investment responsibilities

er members of the

fund. The fund shall be maintained on a sound actuarial basis and the investment practices of the board in administering the fund are an integral part.

B. The prudent man rule shall be applied by the board in investing monies of the fund.

C.(1) The prudent man rule shall require each member of the board and the board collectively to act with the care, skill, prudence, and diligence under the circumstances

prevailing that a prudent institutional investor acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(2) The prudent man standard requires the exercise of reasonable care, skill, and caution, and is to be applied to investments not in isolation, but in the context of the fund portfolio, and as part of an overall investment strategy, which shall include an asset allocation study and plan for implementation thereof, incorporating risk and return objectives reasonably suited to the fund. The asset allocation study and implementation plan shall include the examination of market value risk, credit risk, interest rate risk, inflation risk, counterparty risk, and concentration risk. The investment policy of the board shall preserve and enhance principal over the long term and provide adequate liquidity and cash flow for the payment of benefits and expenses of the fund and the board under this Part. The investments shall be diversified to minimize the risk of significant losses unless it is clearly prudent to do otherwise.

D.(1) Notwithstanding the prudent man rule, the board shall not invest more than twenty-five percent of the total portfolio in equities, except as provided in Paragraph (2) of this Subsection.

(2) The board may invest more than twenty-five percent of the total portfolio in equities, so long as not more than thirty-five percent of the total portfolio is invested in equities and at least ten percent of the total equity portfolio is invested in one or more index funds which seek to replicate the performance of the chosen indices.

(3) When contemplating any investment, action, or asset allocation, the following factors shall be considered:

- (a) The availability of public pricing to value each investment.
- (b) The ability to liquidate each investment at a fair market price within a reasonable time for the size of investment being considered.
- (c) The degree of transparency that accompanies each investment.
- (d) The risk of fluctuations in currency.
- (e) The experience of the professionals who will manage each investment and the financial soundness of the business entity employing the professionals.
- (f) The degree of diversification within each investment and what each may provide relative to the existing investments.
- (g) Whatever leverage is involved.
- (h) The jurisdiction of the laws that govern each investment.
- (i) The net return expected relative to the risk associated with each investment.

E.(1) The board shall electronically submit semiannual reports beginning January 1, 2012, to the House Committee on Civil Law and Procedure and the Senate Committee on Judiciary A. The reports shall be submitted no later than thirty calendar days after January first and July first of each year and shall contain the following:

- (a) The investment return net of investment fees and expenses expressed as a percentage return and dollar amount.
- (b) The amount of administrative expenses.
- (c) The board-approved target asset allocation.

(d) The current actual asset allocation of the portfolio.

(2) Investment returns reported in accordance with this Subsection shall be by total fund and particular asset class over the six-month period reported, fiscal year-to-date, one-year, three-year, five-year, and ten-year periods.

F. The board is hereby authorized, in requesting proposals for investment advisory services, to require fees to be quoted as a fixed fee, a fee based on market value of assets, or a performance fee.

G.(1) Investment performance reports shall be in compliance with the current Performance Presentation Standards as amended and published by the Association for Investment Management and Research or any successor entity.

(2) Investment performance composite data submitted in response to a request for proposal or any other solicitation or selection process used by the board for hiring an investment manager or investment advisor shall be in compliance with the current Performance Presentation Standards as amended and published by the Association for Investment Management and Research or any successor entity.

(3) The board shall require, at least annually, the investment managers or investment advisors employed or otherwise retained by the board to submit investment performance composite data that is subject to a Level I verification as defined in the Performance Presentation Standards as amended and published by the Association for Investment Management and Research or any successor entity.

H.(1) Consultants and money managers shall provide full disclosure of conflicts of interest to the board. Consultants shall also provide full disclosure of any payments received from money managers, in hard or soft dollars, for any services provided, including but not limited to performance measurement, business consulting, and education.

(2) Each consultant and money manager shall submit a written disclosure report semiannually to the board beginning January 1, 2012. A report shall be submitted regardless of whether the consultant or money manager has any conflict or payment to report. If a reportable agreement is contracted during any reporting period, the consultant or money manager shall notify the board of the agreement within seven business days.

I. Any consultant or money manager found to be in violation of Subsection H of this Section shall pay to the board an amount of money equal to the value of the undisclosed revenue or payment and any damages caused by the failure to disclose. Additionally, if the consultant or money manager intentionally failed to disclose as required in Subsection H of this Section, he shall pay to the board an amount equal to three times the value of the revenue or payment he failed to disclose as a penalty and any damages caused by the failure to disclose.

RS 40:1231.6 — Malpractice coverage

lations of the

board remains undiminished, are the health care provider and his insurer liable to a patient, or his representative, for malpractice to the extent and in the manner specified in this Part.

(2) When, and during the period that each shareholder, partner, member, agent, officer, or employee of a corporation, partnership, limited liability partnership, or limited

liability company, who is eligible for qualification as a health care provider under this Part, and who is providing health care on behalf of such corporation, partnership, or limited liability company, is qualified as a health care provider under the provisions of R.S. 40:1131.2, such corporation, partnership, limited liability partnership, or limited liability company shall, without the payment of an additional surcharge, be deemed concurrently qualified and enrolled as a health care provider under this Part. Any such corporation, partnership, limited liability partnership, or limited liability company which fails to provide proof of financial responsibility upon request of the fund after the filing of a request for review of a claim under R.S. 40:1231.8 or after the filing of a lawsuit alleging medical malpractice, shall not be deemed concurrently qualified and enrolled as a health care provider under this Part.

B. The filing of proof of financial responsibility with the board shall constitute, on the part of the insurer, a conclusive and unqualified acceptance of the provisions of this Part.

C. Any provision in a policy attempting to limit or modify the liability of the insurer contrary to the provisions of this Part is void, except that a provision in a malpractice liability insurance policy approved by the board which limits the aggregate sum for which the insurer may be liable during the policy period shall be valid.

D. Every policy issued under this Part is deemed to include the following provisions, and any change which may be occasioned by legislation adopted by the legislature of the state of Louisiana as fully as if it were written therein:

(1) The insurer assumes all obligations to pay an award imposed against its insured under the provisions of this Part; and

(2) Any termination of this policy by cancellation is not effective as to patients claiming against the insured covered hereby, unless at least thirty days before the taking effect of the cancellation, a written notice giving the date upon which termination becomes effective has been received by the insured and the board at their offices. In no event shall said cancellation affect in any manner any claim which arose against the insurer or its insured during the life of the policy.

E. If an insurer fails or refuses to pay a final judgment, except during the pendency of an appeal, or fails, or refuses to comply with any provisions of this Part, in addition to any other legal remedy, the board may also revoke the approval of its policy form until the insurer pays the award or judgment or has complied with the violated provisions of this Part and has resubmitted its policy form and received the approval of the board.

RS 40:1231.7 — Risk management; authority

created the Residual Malpractice Insurance Authority. The authority is empowered to engage in making malpractice liability insurance available in this state. Governance and administration of the authority shall be vested with the board.

C.(1) The board shall choose a risk manager for the authority according to the public bid laws of the state.

(2) Unless otherwise agreed between the risk manager and the board, the separate, personal or independent assets of the risk manager shall not be liable for or subject to use or expenditure for the purpose of providing insurance by the authority.

(3) All contracts between the authority and the risk manager, and any amendment thereto, and any adjustments made by the board in the compensation or duties of the risk manager permitted by such contracts shall require the approval of the division of administration.

D. In the administration and provision for malpractice liability insurance by the authority, the risk manager shall:

(1) Be subject to all laws and regulations of this state which apply to insurance.

Except as provided by this Part the Residual Malpractice Insurance Authority shall not be subject to the taxes provided by the Louisiana Insurance Code.

(2) Prepare and file appropriate forms with the Department of Insurance.

(3) Prepare and file premium rates with the Department of Insurance.

(4) Perform the underwriting functions; and subject to the approval of the board, shall formulate underwriting standards for insuring health care providers who by reason of training, experience, claims history and other generally accepted underwriting standards are reasonable insurance risks.

(5) Dispose of all claims and litigations arising out of insurance policies.

(6) Maintain complete books and records.

(7) File an annual financial statement regarding its operations under this Section with the Department of Insurance on forms prescribed by the commissioner.

(8) Obtain private reinsurance for the authority, if necessary.

(9) Prepare and file for approval of the commissioner, a schedule of agent's compensation.

(10) Prepare and file a plan of operations with the commissioner for approval.

E. Unless otherwise agreed between the risk manager and the board, the risk manager shall receive as compensation for its services only a percentage of all premiums received by it under the terms of this Section, as determined by the board and approved by the division of administration.

F. If a health care provider desires malpractice liability insurance under this Part, he shall forward his application to the risk manager. The risk manager shall not consider any application unless a health care provider furnishes in his application evidence of his having either been refused coverage by at least two private insurers writing medical malpractice insurance in the state, or having been refused coverage by the only private insurer writing medical malpractice insurance in the state, or that no private insurer is writing such insurance in the state. Upon written application therefor, the risk manager shall provide a malpractice liability insurance binder to a health care provider who has applied for medical malpractice insurance to any private insurer writing medical malpractice insurance in the state. Such binder shall remain in effect for no more than sixty days from the date of the application by the health care provider to such private insurer. Upon proof by the health care provider submitted to the risk manager that he has not been accepted by any private insurer during the sixty day period, the risk manager shall assume that the health care provider has been rejected for private insurance coverage. In that case, the risk manager shall, if the health care provider meets the underwriting standards called for in Paragraph (4) of Subsection D of this

Section, issue a policy of insurance to the health care provider. If within the sixty day period the applicant is accepted by a private insurer, the binder shall expire at the time of such acceptance.

G. If the risk manager declines to accept the risk, notice of declination, together with reasons, shall be sent to the applicant and the board. The applicant shall have ten days from the date of notice to file an appeal for review by the board. On appeal, the board shall review the decision of the risk manager to determine whether the approved underwriting standards have been fairly applied by the risk manager and shall enter an appropriate order.

H. The surplus of premiums over losses and expenses received by the authority shall be placed in a segregated fund and shall be invested and reinvested by the board in accordance with the Louisiana Insurance Code and investment income generated shall remain in the fund. These funds shall not be considered public or state funds.

I. The authority may issue malpractice liability insurance policies only to health care providers who are residents of Louisiana and to corporations, foreign or domestic, with regard to health care facilities operated within Louisiana. Insofar as practicable, only the claims experience of Louisiana health care providers shall be considered in the determination of rates for such policies. The rates for such policies shall otherwise be determined and approved according to the same procedures and principles as rates for malpractice liability policies issued by private insurers in Louisiana. The rates for such policies shall be at least equal to the highest rate established for any particular category of malpractice liability insurance of a like policy issued by private insurers in the state.

J. The state of Louisiana assumes no liability for medical malpractice insurance policies written by the authority. Every policy issued by the authority shall contain a statement that the authority's liability or the liability of the policy is limited to the authority's reserves.

RS 40:1231.8 — Medical review panel

ion procedure,

shall be reviewed by a medical review panel established as hereinafter provided for in this Section. The filing of a request for review by a medical review panel as provided for in this Section shall not be reportable by any health care provider, the Louisiana Patient's Compensation Fund, or any other entity to the Louisiana State Board of Medical Examiners, to any licensing authority, committee, or board of any other state, or to any credentialing or similar agency, committee, or board of any clinic, hospital, health insurer, or managed care company.

(b) A request for review of a malpractice claim or a malpractice complaint shall contain, at a minimum, all of the following:

(i) A request for the formation of a medical review panel.

(ii) The name of only one patient for whom, or on whose behalf, the request for review is being filed; however, if the claim involves the care of a pregnant mother and her unborn child, then naming the mother as the patient shall be sufficient.

(iii) The names of the claimants.

(iv) The names of the defendant health care providers.

(v) The dates of the alleged malpractice.

(vi) A brief description of the alleged malpractice as to each named defendant health care provider.

(vii) A brief description of the alleged injuries.

(c) A claimant shall have forty-five days from the date of receipt by the claimant of the confirmation of receipt of the request for review in accordance with Subparagraph (3)(a) of this Subsection to pay to the board a filing fee in the amount of one hundred dollars per named defendant qualified under this Part.

(d) Such filing fee may be waived only upon receipt of one of the following:

(i) An affidavit of a physician holding a valid and unrestricted license to practice his specialty in the state of his residence certifying that adequate medical records have been obtained and reviewed and that the allegations of malpractice against each defendant health care provider named in the claim constitute a claim of a breach of the applicable standard of care as to each named defendant health care provider.

(ii) An in forma pauperis ruling issued in accordance with Code of Civil Procedure Article 5181 et seq. by a district court in a venue in which the malpractice claim could properly be brought upon the conclusion of the medical review panel process.

(e) Failure to comply with the provisions of Subparagraph (c) or (d) of this Paragraph within the specified forty-five day time frame in Subparagraph (c) of this Paragraph shall render the request for review of a malpractice claim invalid and without effect. Such an invalid request for review of a malpractice claim shall not suspend time within which suit must be instituted in Subparagraph (2)(a) of this Subsection.

(f) All funds generated by such filing fees shall be private monies and shall be applied to the costs of the Patient's Compensation Fund Oversight Board incurred in the administration of claims.

(g) The filing fee of one hundred dollars per named defendant qualified under this Part shall be applicable in the event that a claimant identifies additional qualified health care providers as defendants. The filing fee applicable to each identified qualified health care provider shall be due forty-five days from the mailing date of the confirmation of receipt of the request for review for the additional named defendants in accordance with Subparagraph (3)(a) of this Subsection.

(2)(a) The filing of the request for a review of a claim shall suspend the time within which suit must be instituted, in accordance with this Part, until ninety days following notification, by certified mail, as provided in Subsection J of this Section, to the claimant or his attorney of the issuance of the opinion by the medical review panel, in the case of those health care providers covered by this Part, or in the case of a health care provider against whom a claim has been filed under the provisions of this Part, but who has not qualified under this Part, until ninety days following notification by certified mail to the claimant or his attorney by the board that the health care provider is not covered by this Part. The filing of a request for review of a claim shall suspend the running of prescription against all joint and solidary obligors, and all joint tortfeasors, including but not limited to health care providers, both qualified and not qualified, to the same extent that prescription is suspended

against the party or parties that are the subject of the request for review. Filing a request for review of a malpractice claim as required by this Section with any agency or entity other than the division of administration shall not suspend or interrupt the running of prescription. All requests for review of a malpractice claim identifying additional health care providers shall also be filed with the division of administration.

(b)(i) The request for review of a malpractice claim under this Section shall be deemed filed on the date the request is:

(aa) Sent, if the request is electronically sent by facsimile transmission or other authorized means, as provided by R.S. 9:2615(A), to the division of administration.

(bb) Mailed, if the request is delivered by certified or registered mail to the division of administration.

(cc) Received, if the request is delivered to the division of administration by any means other than as provided by Subitem (aa) or (bb) of this Item.

(ii) Upon receipt, the request shall be stamped with the filing date and certified by the division of administration. Filing of the request shall be complete only upon timely compliance with the provisions of Subparagraph (1)(c) or (d) of this Subsection. Upon receipt of any request, the division of administration shall forward a copy of the request to the board within five days of receipt.

(c) An attorney chairman for the medical review panel shall be appointed within one year from the date the request for review of the claim was filed. Upon appointment of the attorney chairman, the parties shall notify the board of the name and address of the attorney chairman. If the board has not received notice of the appointment of an attorney chairman within nine months from the date the request for review of the claim was filed, then the board shall send notice to the parties by certified or registered mail that the claim will be dismissed in ninety days unless an attorney chairman is appointed within one year from the date the request for review of the claim was filed. If the board has not received notice of the appointment of an attorney chairman within one year from the date the request for review of the claim was filed, then the board shall promptly send notice to the parties by certified or registered mail that the claim has been dismissed for failure to appoint an attorney chairman and the parties shall be deemed to have waived the use of the medical review panel. The filing of a request for a medical review panel shall suspend the time within which suit must be filed until ninety days after the claim has been dismissed in accordance with this Section.

(3) It shall be the duty of the board within fifteen days of the receipt of the claim by the board to:

(a) Confirm to the claimant by certified mail, return receipt requested, that the filing has been officially received and whether or not the named defendant or defendants have qualified under this Part.

(b) In the confirmation to the claimant pursuant to Subparagraph (a) of this Paragraph, notify the claimant of the amount of the filing fee due and the time frame within which such fee is due to the board, and that upon failure to comply with the provisions of Subparagraph (1)(c) or (d) of this Subsection, the request for review of a malpractice claim is invalid and without effect and that the request shall not suspend the time within which suit

must be instituted in Subparagraph (2)(a) of this Subsection.

(c) Notify all named defendants by certified mail, return receipt requested, whether or not qualified under the provisions of this Part, that a filing has been made against them and request made for the formation of a medical review panel; and forward a copy of the proposed complaint to each named defendant at his last and usual place of residence or his office.

(4) The board shall notify the claimant and all named defendants by certified mail, return receipt requested, of any of the following information:

(a) The date of receipt of the filing fee.

(b) That no filing was due because the claimant timely provided the affidavit set forth in Item (1)(d)(i) of this Subsection.

(c) That the claimant has timely complied with the provisions of Item (1)(d)(ii) of this Subsection.

(d) That the required filing fee was not timely paid pursuant to Subparagraph (1)(c) of this Subsection.

(5) In the event that the board is unable to determine after forty-five days from the date of mailing of the notification, whether notification by certified mail, return receipt requested, provided for in Paragraphs (3) and (4) of this Subsection has been received by the claimant, or the notification is not claimed or is returned undeliverable, the board shall provide such notification by regular first class mail, which date of mailing shall have the effect of receipt of notice by certified mail for purposes of Subparagraphs (1)(c) and (d) of this Subsection.

(6) In the event the board receives a filing fee that was not timely paid pursuant to Subparagraph (1)(c) of this Subsection, then the board shall return, or refund the amount of, the filing fee to the claimant within thirty days of the date the board receives the untimely filing fee.

B.(1)(a)(i) No action against a health care provider covered by this Part, or his insurer, may be commenced in any court before the claimant's proposed complaint has been presented to a medical review panel established pursuant to this Section.

(ii) A certificate of enrollment issued by the board shall be admitted in evidence.

(b) However, with respect to an act of malpractice which occurs after September 1, 1983, if an opinion is not rendered by the panel within twelve months after the date of notification of the selection of the attorney chairman by the executive director to the selected attorney and all other parties pursuant to Paragraph (1) of Subsection C of this Section, suit may be instituted against a health care provider covered by this Part. However, either party may petition a court of competent jurisdiction for an order extending the twelve month period provided in this Subsection for good cause shown. After the twelve month period provided for in this Subsection or any court-ordered extension thereof, the medical review panel established to review the claimant's complaint shall be dissolved without the necessity of obtaining a court order of dissolution.

(c) By agreement of all parties, the use of the medical review panel may be waived.

(d) By agreement of all parties and upon written request to the attorney chairman,

an expedited medical review panel process may be selected. Unless otherwise specified in the provisions of Subsection N of this Section, the expedited process shall be governed by other provisions of this Section.

(2)(a) A health care provider against whom a claim has been filed under the provisions of this Part may raise peremptory exceptions of no right of action pursuant to Code of Civil Procedure Article 927 or any exception or defenses available pursuant to R.S. 9:5628 in a court of competent jurisdiction and proper venue at any time without need for completion of the review process by the medical review panel.

(b) If the court finds that the claim had prescribed or otherwise was preempted prior to being filed, the panel, if established, shall be dissolved upon the judgment becoming final. If the court grants the peremptory exception of no right of action as to all claimants, the panel, if established, shall be dissolved upon the judgment becoming final. If the court grants the peremptory exception of no right of action as to less than all claimants, the claimants as to whom the court granted the peremptory exception of no right of action shall be prohibited from participating in the panel process as a claimant.

(3) Ninety days after the notification to all parties by certified mail by the attorney chairman or the board of the dissolution of the medical review panel or ninety days after the expiration of any court-ordered extension as authorized by Paragraph (1) of this Subsection, the suspension of the running of prescription with respect to a qualified health care provider shall cease.

C. The medical review panel shall consist of three health care providers who hold unlimited licenses to practice their profession in Louisiana and one attorney. The parties may agree on the attorney member of the medical review panel. If no attorney for or representative of any health care provider named in the complaint has made an appearance in the proceedings or made written contact with the attorney for the plaintiff within forty-five days of the date of receipt of the notification to the health care provider and the insurer that the required filing fee has been received by the patient's compensation board as required by Subparagraph (A)(1)(c) of this Section, the attorney for the plaintiff may appoint the attorney member of the medical review panel for the purpose of convening the panel. Such notice to the health care provider and the insurer shall be sent by registered or certified mail, return receipt requested. If no agreement can be reached, then the attorney member of the medical review panel shall be selected in the following manner:

(1)(a) The office of the clerk of the Louisiana Supreme Court, upon receipt of notification from the board, shall draw five names at random from the list of attorneys who reside or maintain an office in the parish which would be proper venue for the action in a court of law. The names of judges other than city court judges, magistrates, district attorneys, and assistant district attorneys shall be excluded if drawn and new names drawn in their place. After selection of the attorney names, the office of the clerk of the supreme court shall notify the board of the names so selected. It shall be the duty of the board to notify the parties of the attorney names from which the parties may choose the attorney member of the panel within five days. If no agreement can be reached within five days, the parties shall immediately initiate a procedure of selecting the attorney by each striking two

names alternately, with the claimant striking first and so advising the health care provider of the name of the attorney so stricken; thereafter, the health care provider and the claimant shall alternately strike until both sides have stricken two names and the remaining name shall be the attorney member of the panel. If either the plaintiff or defendant fails to strike, the clerk of the Louisiana Supreme Court shall strike for that party within five additional days.

(b) After the striking, the office of the board shall notify the attorney and all other parties of the name of the selected attorney.

(2) The attorney shall act as chairman of the panel and in an advisory capacity but shall have no vote. It is the duty of the chairman to expedite the selection of the other panel members, to convene the panel, and expedite the panel's review of the proposed complaint. The chairman shall establish a reasonable schedule for submission of evidence to the medical review panel but must allow sufficient time for the parties to make full and adequate presentation of related facts and authorities within ninety days following selection of the panel.

(3)(a) The plaintiff shall notify the attorney chairman and the named defendants of his choice of a health care provider member of the medical review panel within thirty days of the date of certification of his filing by the board.

(b) The named defendant shall then have fifteen days after notification by the plaintiff of the plaintiff's choice of his health care provider panelist to name the defendant's health care provider panelist.

(c) If either the plaintiff or defendant fails to make a selection of health care provider panelist within the time provided, the attorney chairman shall notify by certified mail the failing party to make such selection within five days of the receipt of the notice.

(d) If no selection is made within the five day period, then the chairman shall make the selection on behalf of the failing party. The two health care provider panel members selected by the parties or on their behalf shall be notified by the chairman to select the third health care provider panel member within fifteen days of their receipt of such notice.

(e) If the two health care provider panel members fail to make such selection within the fifteen day period allowed, the chairman shall then make the selection of the third panel member and thereby complete the panel.

(f) A physician who holds an unrestricted license to practice medicine by the Louisiana State Board of Medical Examiners and who is engaged in the active practice of medicine in this state, whether in the teaching profession or otherwise, shall be available for selection as a member of a medical review panel.

(g) Each party to the action shall have the right to select one health care provider and upon selection the health care provider shall be required to serve.

(h) When there are multiple plaintiffs or defendants, there shall be only one health care provider selected per side. The plaintiff, whether single or multiple, shall have the right to select one health care provider, and the defendant, whether single or multiple, shall have the right to select one health care provider.

(i) A panelist so selected and the attorney member selected in accordance with this Subsection shall serve unless for good cause shown may be excused. To show good cause

for relief from serving, the panelist shall present an affidavit to a judge of a court of competent jurisdiction and proper venue which shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. A health care provider panelist may also be excused from serving by the attorney chairman if during the previous twelve-month period he has been appointed to four other medical review panels. In either such event, a replacement panelist shall be selected within fifteen days in the same manner as the excused panelist.

(j) If there is only one party defendant which is not a hospital, community blood center, tissue bank, or ambulance service, all panelists except the attorney shall be from the same class and specialty of practice of health care provider as the defendant. If there is only one party defendant which is a hospital, community blood center, tissue bank, or ambulance service, all panelists except the attorney shall be physicians. If there are claims against multiple defendants, one or more of whom are health care providers other than a hospital, community blood center, tissue bank, or ambulance service, the panelists selected in accordance with this Subsection may also be selected from health care providers who are from the same class and specialty of practice of health care providers as are any of the defendants other than a hospital, community blood center, tissue bank, or ambulance service.

(4) When the medical review panel is formed, the chairman shall within five days notify the board and the parties by registered or certified mail of the names and addresses of the panel members and the date on which the last member was selected.

(5)(a) Before entering upon their duties, each voting panelist shall subscribe before a notary public the following oath:

"I, (name) do solemnly swear/affirm that I will faithfully perform the duties of medical review panel member to the best of my ability and without partiality or favoritism of any kind. I acknowledge that I represent neither side and that it is my lawful duty to serve with complete impartiality and to render a decision in accordance with law and the evidence."

(b) The attorney panel member shall subscribe to the same oath except that in lieu of the last sentence thereof the attorney's oath shall state:

"I acknowledge that I represent neither side and that it is my lawful duty to advise the panel members concerning matters of law and procedure and to serve as chairman."

(c) The original of each oath shall be attached to the opinion rendered by the panel.

(6) The party aggrieved by the alleged failure or refusal of another to perform according to the provisions of this Section may petition any district court of proper venue over the parties for an order directing that the parties comply with the medical review panel provisions of the medical malpractice act.

(7) A panelist or a representative or attorney for any interested party shall not discuss with other members of a medical review panel on which he serves a claim which is to be reviewed by the panel until all evidence to be considered by the panel has been submitted.

A panelist or a representative or attorney for any interested party shall not discuss the pending claim with the claimant or his attorney asserting the claim or with a health care provider or his attorney against whom a claim has been asserted under this Section. A

panelist or the attorney chairman shall disclose in writing to the parties prior to the hearing any employment relationship or financial relationship with the claimant, the health care provider against whom a claim is asserted, or the attorneys representing the claimant or health care provider, or any other relationship that might give rise to a conflict of interest for the panelists.

D.(1) The evidence to be considered by the medical review panel shall be promptly submitted by the respective parties in written form only.

(2) The evidence may consist of medical charts, x-rays, lab tests, excerpts of treatises, depositions of witnesses including parties, interrogatories, affidavits and reports of medical experts, and any other form of evidence allowable by the medical review panel.

(3) Depositions of the parties and witnesses may be taken prior to the convening of the panel.

(4) Upon request of any party, or upon request of any two panel members, the clerk of any district court shall issue subpoenas and subpoenas duces tecum in aid of the taking of depositions and the production of documentary evidence for inspection and/or copying.

(5) The chairman of the panel shall advise the panel relative to any legal question involved in the review proceeding and shall prepare the opinion of the panel as provided in Subsection G.

(6) A copy of the evidence shall be sent to each member of the panel.

E. Either party, after submission of all evidence and upon ten days notice to the other side, shall have the right to convene the panel at a time and place agreeable to the members of the panel. Either party may question the panel concerning any matters relevant to issues to be decided by the panel before the issuance of their report. The chairman of the panel shall preside at all meetings. Meetings shall be informal.

F. The panel shall have the right and duty to request and procure all necessary information. The panel may consult with medical authorities, provided the names of such authorities are submitted to the parties with a synopsis of their opinions and provided further that the parties may then obtain their testimony by deposition. The panel may examine reports of such other health care providers necessary to fully inform itself regarding the issue to be decided. Both parties shall have full access to any material submitted to the panel.

G. The panel shall have the sole duty to express its expert opinion as to whether or not the evidence supports the conclusion that the defendant or defendants acted or failed to act within the appropriate standards of care. After reviewing all evidence and after any examination of the panel by counsel representing either party, the panel shall, within thirty days, render one or more of the following expert opinions, which shall be in writing and signed by the panelists, together with written reasons for their conclusions:

(1) The evidence supports the conclusion that the defendant or defendants failed to comply with the appropriate standard of care as charged in the complaint.

(2) The evidence does not support the conclusion that the defendant or defendants failed to meet the applicable standard of care as charged in the complaint.

(3) That there is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court.

(4) When Paragraph (1) of this Subsection is answered in the affirmative, that the conduct complained of was or was not a factor of the resultant damages. If such conduct was a factor, whether the plaintiff suffered: (a) any disability and the extent and duration of the disability, and (b) any permanent impairment and the percentage of the impairment.

H. Any report of the expert opinion reached by the medical review panel shall be admissible as evidence in any action subsequently brought by the claimant in a court of law, but such expert opinion shall not be conclusive and either party shall have the right to call, at his cost, any member of the medical review panel as a witness. If called, the witness shall be required to appear and testify. A panelist shall have absolute immunity from civil liability for all communications, findings, opinions and conclusions made in the course and scope of duties prescribed by this Part.

I.(1)(a) Each physician member of the medical review panel shall be paid at the rate of twenty-five dollars per diem, not to exceed a total of three hundred dollars for all work performed as a member of the panel exclusive of time involved if called as a witness to testify in a court of law regarding the communications, findings, and conclusions made in the course and scope of duties as a member of the medical review panel, and in addition thereto, reasonable travel expenses.

(b) The attorney chairman of the medical review panel shall be paid at the rate of one hundred dollars per diem, not to exceed a total of two thousand dollars for all work performed as a member of the panel exclusive of time involved if called as a witness to testify in a court of law regarding the communications, findings, and conclusions made in the course and scope of duties as a member of the medical review panel, and in addition thereto, reasonable travel expenses. Additionally, the attorney chairman shall be reimbursed for all reasonable out-of-pocket expenses incurred in performing his duties for each medical review panel. The attorney chairman shall submit the amount due him for all work performed as a member of the panel by affidavit, which shall attest that he has performed in the capacity of chairman of the medical review panel and that he was personally present at all the panel's meetings or deliberations.

(2)(a) The costs of the medical review panel shall be paid by the health care provider if the opinion of the medical review panel is in favor of said defendant health care provider.

(b) The claimant shall pay the costs of the medical review panel if the opinion of the medical review panel is in favor of the claimant. However, if the claimant is unable to pay, the claimant shall submit to the attorney chairman prior to the convening of the medical review panel an in forma pauperis ruling issued in accordance with Code of Civil Procedure Article 5181 et seq. by a district court in a venue in which the malpractice claim could properly be brought upon the conclusion of the medical review panel process. Upon timely receipt of the in forma pauperis ruling, the costs of the medical review panel shall be paid by the health care provider, with the proviso that if the claimant subsequently receives a settlement or receives a judgment, the advance payment of the medical review panel costs will be offset.

(c) In a medical malpractice suit filed by the claimant in which a unanimous opinion was rendered in favor of the defendant health care provider as provided in the expert opinion

stated in Paragraph (G)(2) of this Section, the claimant who proceeds to file such a suit shall be required to post a cash or surety bond, approved by the court, in the amount of all costs of the medical review panel. Upon the conclusion of the medical malpractice suit, the court shall order that the cash or surety bond be forfeited to the defendant health care provider for reimbursement of the costs of the medical review panel, unless a final judgment is rendered finding the defendant liable to the claimant for any damages. If a final judgment is rendered finding the defendant liable to the claimant for any damages, the court shall order that the defendant health care provider reimburse the claimant an amount equal to the cost of obtaining the cash or surety bond posted by the claimant.

(d) In the event a medical review panel renders a unanimous opinion in favor of the claimant as provided in the expert opinions stated in Paragraphs (G)(1) and (4) of this Section, and the claimant has not timely submitted an in forma pauperis ruling to the panel's attorney chairman, and thereafter the defendant health care provider failed to settle the claim with the claimant resulting in the claimant filing a malpractice suit in a court of competent jurisdiction and proper venue against the defendant health care provider based on the same claim which was the subject of the unanimously adverse medical review panel opinion against the defendant health care provider, the defendant health care provider shall be required to post a cash or surety bond, approved by the court, in the amount of all costs of the medical review panel. Upon the conclusion of the medical malpractice suit, the court shall order that the cash or surety bond be forfeited to the claimant for reimbursement of the costs of the medical review panel, unless a final judgment is rendered finding that the defendant health care provider has no liability for damages to the claimant. If a final judgment is rendered finding that the defendant health care provider has no liability for damages to the claimant, the court shall order that the claimant reimburse the defendant health care provider an amount equal to the cost of obtaining the cash or surety bond posted by the defendant health care provider.

(3) If the medical review panel decides that there is a material issue of fact bearing on liability for consideration by the court, the claimant and the health care provider shall split the costs of the medical review panel. However, in those instances in which the claimant is unable to pay his share of the costs of the medical review panel, the claimant shall submit to the attorney chairman prior to the convening of the medical review panel an in forma pauperis ruling issued in accordance with Code of Civil Procedure Article 5181 et seq., by a district court in a venue in which the malpractice claim could properly be brought upon the conclusion of the medical review panel process. Upon timely receipt of the in forma pauperis ruling, the costs of the medical review panel shall be paid by the defendant health care provider with the proviso that if the claimant subsequently receives a settlement or receives a judgment, the advance payment of the claimant's share of the costs of the medical review panel will be offset.

(4) Upon the rendering of the written panel decision, if any one of the panelists finds that the evidence supports the conclusion that a defendant health care provider failed to comply with the appropriate standard of care as charged in the complaint, each defendant health care provider as to whom such a determination was made shall reimburse to the

claimant that portion of the filing fee applicable to the claim against such defendant health care provider or if any one of the panelists finds that the evidence supports the conclusion that there is a material issue of fact, not requiring expert opinion, bearing on liability of such defendant health care provider for consideration by the court, each such defendant health care provider as to whom such a determination was made shall reimburse to the claimant fifty percent of that portion of the filing fee applicable to the claim against such defendant health care provider.

J. The chairman shall submit a copy of the panel's report to the board and all parties and attorneys by registered or certified mail within five days after the panel renders its opinion.

K. Repealed by Acts 2005, No. 127, §2.

L. Where the medical review panel issues its opinion required by this Section, the suspension of the running of prescription shall not cease until ninety days following notification by certified mail to the claimant or his attorney of the issuance of the opinion as required by Subsection J of this Section.

M. Legal interest shall accrue from the date of filing of the complaint with the board on a judgment rendered by a court in a suit for medical malpractice brought after compliance with this Part.

N.(1)(a)(i) Parties seeking an expedited panel process pursuant to the provisions of Subparagraph (B)(1)(d) of this Section shall request such process in writing sixty days from the date of the letter of notification of the selection of the attorney chairman pursuant to Paragraph (C)(1) of this Section. When a written request for an expedited medical review panel process has been made to the attorney chairman, the chairman shall establish a schedule for submission of evidence to the medical review panel within ninety days following selection of the third physician member of the panel so that a panel opinion is rendered within twelve months of the date of notification of the selection of the attorney chairman.

(ii) In accordance with Subsection J of this Section, the chairman shall submit a copy of the panel's report to the board and all parties and attorneys by registered or certified mail within five days after the panel renders its opinion. In accordance with Subsection L of this Section, where the medical review panel issues its opinion required by this Section, the suspension of the running of prescription shall not cease until ninety days following notification by certified mail to the claimant or his attorney of the issuance of the opinion as required by Subsection J of this Section.

(b)(i) No party may petition a court for an order extending the twelve month period provided in Subparagraph (B)(1)(b) of this Section. If an opinion is not rendered by the panel within the twelve month period established in this Subsection, suit may be instituted against the health care provider.

(ii) In accordance with Subparagraph (B)(1)(b) of this Section, after the twelve month period provided for in this Subsection, the medical review panel established to review the claimant's complaint shall be dissolved without the necessity of obtaining a court order of dissolution.

(iii) In accordance with Paragraph (B)(3) of this Section, ninety days after the notification to all parties by certified mail by the attorney chairman of the board of the dissolution of the medical review panel, the suspension of the running of prescription with respect to a qualified health care provider shall cease.

(2) During selection of the physician members of the medical review panel, the plaintiff shall notify the attorney chairman and the named defendants of his choice of a health care provider member of the medical review panel within ten days of the date of written request to the chairman for an expedited panel process. The named defendant shall then have five days after notification by the plaintiff of the plaintiff's choice of his health care provider panelist to name the defendant's health care provider panelist. If no selection is made within the five and ten day respective periods, then the chairman shall make the selection on behalf of the failing party. The two health care provider panel members selected by the parties or on their behalf shall be notified by the chairman to select the third health care provider panel member within fifteen days of their receipt of such notice from the chairman to make the selection. If no selection is made within the fifteen day period, then the chairman shall make the selection on behalf of the two health care provider panel members.

(3)(a) Within thirty days of the parties' written request for an expedited medical review panel process to the attorney chairman, the claimant shall provide all defendants with a list of the names and addresses of all known health care providers, including individuals and entities, who have treated the patient during the time period starting from three years prior to the date of the alleged malpractice up to and including the date that the list is provided. The claimant shall make a good faith effort to identify the treating health care providers.

(b) The claimant shall execute and provide all defendants with a HIPAA Compliant Authorization form to permit the defendants to obtain the medical records.

(c) An order to protect the medical records may be sought as provided in Code of Civil Procedure Article 1426 or the HIPAA regulations at 45 CFR 164.512(e) in a court of competent jurisdiction and proper venue.

(d) If an authorization is not provided or a protective order is not obtained within thirty days following the written request by the parties to the chairman for an expedited medical review panel process, the medical review panel shall lose its expedited status and no longer be governed by the provisions of this Subsection. The attorney chairman shall provide notice of this to the board and all parties by registered or certified mail.

(4)(a) The evidence to be considered by the medical review panel shall be promptly submitted by the respective parties in written form only, according to the schedule established by the chairman.

(b) The evidence may consist only of medical charts, x-rays or other film studies, lab tests, other diagnostic or medical tests, and a position paper submitted by or on behalf of each party.

(c) Neither interrogatories to nor depositions of the parties and witnesses may be taken prior to the convening of the panel.

(d) No party or panel member shall be permitted to request the clerk of any district

court to issue subpoenas and subpoenas duces tecum in aid of the taking of depositions and the production of documentary evidence. However, if a copy of the medical record is not produced by a health care provider within a reasonable period of time, not to exceed fifteen days, following a health care provider's receipt of a medical authorization executed by the claimant pursuant to Subparagraph (3)(b) of this Subsection then the party who forwarded the authorization to the health care provider may request the clerk of any district court to issue subpoenas and subpoenas duces tecum in aid of the production of the medical records.

(5) The attorney chairman, after submission of all evidence and upon ten days notice, shall convene the panel at a time and place agreeable to the members of the panel, but in no event shall the opinion be rendered later than twelve months from the date of notification of the selection of the attorney chairman by the executive director to the selected attorney and all other parties pursuant to Paragraph (C)(1) of this Section. Either party may informally question the panel concerning any matters relevant to issues to be decided by the panel before and after the issuance of their report. The panel deliberation and the questioning of the panel shall not be recorded. The chairman of the panel shall preside at all meetings.

(6) The panel shall have the sole duty to express its expert opinion as to whether or not the evidence supports the conclusion that the defendant or defendants acted or failed to act within the appropriate standards of care. After reviewing all evidence and after any examination of the panel by counsel representing either party, the panel shall, within thirty days, but in no event later than twelve months of the date of notification of the selection of the attorney chairman pursuant to Paragraph (C)(1) of this Section, render one or more of the following expert opinions, which shall be in writing and signed by the panelists, together with written reasons for their conclusions:

(a) The evidence supports the conclusion that the defendant or defendants failed to comply with the appropriate standard of care as charged in the complaint.

(b) The evidence does not support the conclusion that the defendant or defendants failed to meet the applicable standard of care as charged in the complaint.

(c) That there is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court.

(7) The report of the expert opinion reached by the expedited medical review panel process pursuant to the provisions of this Subsection shall not be admissible as evidence in any action subsequently brought by the claimant in a court of law. Neither party shall have the right to call any member of the medical review panel as a witness. A panelist shall have absolute immunity from civil liability for all communications, findings, opinions and conclusions made in the course and scope of duties prescribed by this Part.

(8) The provisions of Subparagraphs (1)(2)(c) and (d) of this Section shall not apply to a medical review panel governed by the expedited medical review panel process.

RS 40:1231.9 — Reporting of claims

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insurers or self insurers on behalf of health care providers in this state, each insurer of such health care provider, and each health care provider in Louisiana who is self insured shall, within thirty days of the date of payment, provide a written report to the licensing board of

this state having licensing authority over the health care provider on whose behalf payment was made, and each such report shall contain:

- (1) The name and address of the health care provider.
- (2) A brief description of the acts of omission or commission which gave rise or allegedly gave rise to the claim, and the date thereof.
- (3) The name of the patient and the injury which resulted or allegedly resulted therefrom.
- (4) The amount paid in settlement or discharge of the claim, whether paid by compromise, by payment of judgment, by payment of arbitration award, or otherwise; and
- (5) Where any judicial opinion has been rendered with regard to a claim, a copy of all such opinions shall be attached to the report.

Provided, however, no report shall be required for compromise settlements of claims where the amount paid is one thousand dollars or less, except where such payments were made in satisfaction or compromise of judgment of court or of award of arbitrators.

B. The provisions of this Section shall apply to all health care providers in Louisiana, whether or not such health care provider has qualified under the provisions of this Part.

C. There shall be no liability on the part of any insurer or person acting for said insurer, for any statements made in good faith in the reports required by this Section.

D.(1) The executive director of the Patient's Compensation Fund shall submit a report on an annual basis to the Senate and House committees on health and welfare no later than January thirty-first. The report shall contain every claim against an individual practitioner who has had five or more paid claims for the previous year paid by the Patient's Compensation Fund and shall contain the following information:

- (a) All paid claims for the previous year and the year immediately preceding that year, as well as the total number of pending claims filed against that individual practitioner.
- (b) The name and address of the individual practitioner and a brief description of the

RS 40:1231.10 — Medical review panel; one panel for state and private claims

ity of both a state health care provider under the provisions of this Part and a health care provider under the provisions of Part IV of this Subchapter:

- (1) Unless all parties have agreed otherwise, only one medical review panel shall be convened in such instance to review the claims under this Part and Part IV of this Subchapter.
- (2) The panel shall consist of a single attorney chairperson and three health care providers who hold unlimited licenses to practice their profession in Louisiana.
- (3) The panel shall be considered a joint medical review panel, and its actions shall be deemed to have the same force and effect as if a separate medical review panel had been convened under each of the respective Parts.
- (4) The panel shall be governed by the law applicable under both Parts. In the event of a procedural conflict between the provisions of the Parts, the provisions of R.S. 40:1231.8 shall govern.

RS 40:1233.1 — State hospitals; medical malpractice coverage

sional nurses who are employed by such hospital or who donate services free of charge to such hospital or who have personal services contracts with such hospital to provide medical services. Such coverage shall only apply to those claims arising from services rendered by such medical doctors, dentists or professional nurses as a direct result of such employment, donation of services or contract for services. For the purposes of this Part the term "medical doctor" shall mean any person holding a valid certificate to practice medicine issued pursuant to R.S. 37:1273; the term "dentist" shall mean any person holding a valid certificate to practice dentistry issued pursuant to R.S. 37:751 through R.S. 37:763; the term "professional nurse" shall mean any person holding a valid certificate to practice nursing pursuant to R.S. 37:921, R.S. 37:971 or R.S. 37:972.

RS 40:1235.1 — State agency may provide malpractice coverage

agency and each agency of the state to whom any medical doctor, dentist or professional nurse donates their services may provide such persons with medical malpractice coverage at no cost to such persons. For the purposes of this Part the term "physician" shall mean any person holding a valid certificate to practice medicine issued pursuant to R.S. 37:1273; the term "dentist" shall mean any person holding a valid certificate to practice dentistry issued pursuant to R.S. 37:751 through R.S. 37:763; the term "professional nurse" shall mean any person holding a valid certificate to practice nursing pursuant to R.S. 37:921, R.S. 37:971 or R.S. 37:972. The coverage provided for herein shall apply only to those actions arising from services rendered as a direct result of such employment or donation.

RS 40:1236.15 — Repealed by Acts 2008, No. 815, §5.

on Rouge, Louisiana 70804-9062

RS 40:1236.16 — Repealed by Acts 2008, No. 815, §5.

on Rouge, Louisiana 70804-9062

RS 40:1236.17 — Repealed by Acts 2008, No. 815, §5.

on Rouge, Louisiana 70804-9062

RS 40:1236.18 — Repealed by Acts 2008, No. 815, §5.

on Rouge, Louisiana 70804-9062

RS 40:1236.19 — Repealed by Acts 2008, No. 815, §5.

on Rouge, Louisiana 70804-9062

RS 40:1236.20 — Repealed by Acts 2008, No. 815, §5.

on Rouge, Louisiana 70804-9062

RS 40:1237.1 — Definitions and general application

two persons on each ground ambulance, at least one of whom is trained and registered at the level of certified medical technician-basic, or at the intermediate or paramedic levels, or one who is a registered nurse, and using a minimum on any air ambulance of one person trained and registered at the paramedic level or a person who is a registered nurse or any officer, employee, or agent thereof acting in the course and

scope of his employment.

(2) "Future medical care and related benefits" for the purposes of this Section, means all reasonable medical, surgical, hospitalization, physical rehabilitation, and custodial services, including drugs, prosthetic devices, and other similar materials reasonably necessary in the provision of such services, to which the injured patient is entitled under the provisions of this Section and which each injured patient needs after the date of the injury.

"Future medical care and related benefits" as used in this Section shall not be construed to mean nonessential specialty items, or devices of convenience.

(3) "Health care" means any act or treatment which was performed or furnished or which should have been performed or furnished by any person covered by this Part for, to, or on behalf of, a patient during the medical care, treatment or confinement of the patient.

(4) "Malpractice" means the failure to exercise the reasonable standard of care specified and required by Subsection B of this Section, in the provision of health care, when such failure proximately causes injury to a patient, as provided in Subsection B of this Section.

(5) "Patient" means a natural person who receives, or should have received, health care from a person covered by this Part, or a donor or prospective donor of an organ or tissue, and any other natural person or persons who would or may have a claim or claims for damages under applicable law arising out of, or directly related to, the claim or claims of the natural person who receives, or should have received, health care from a person covered by this Part.

(6) "Physician" means a person with a license or permit to practice medicine in this state.

(7) "Representative" means a person who is a parent, tutor, curator, spouse, trustee, attorney, or other legal agent of the patient and who is authorized, by and on behalf of the patient, to exercise any of the patient's rights, privileges, or immunities granted by this Section or to fulfill any of the patient's obligations, duties, or forbearances imposed under this Section, because the patient has executed a written authorization and mandate to that effect or because the law operates to that effect due to the status of that patient and his relationship to such person, as when the patient is a minor child and his parent must act for him. After the death of the patient, "representative" shall also mean and include the executor of a patient's will, the administrator of his estate, the surviving spouse of the patient, the patient's children, or, if they are minors, their legal representatives, any of the patient's heirs, successors, legatees, or assigns, and/or any other person who may have any interest in any recovery arising out of the death of the patient or in the bringing of any action or the making of any demands or claims with regard to such patient.

(8) "Right to recover losses due to malpractice" means the substantive right in favor of a patient or his representative to receive, subject to the fiscal legislative discretion of appropriation, some measure of compensation in money or services or both from the state, as and to the extent allowed by this Section, toward repairing any injury or losses proximately caused to him by an act of malpractice committed by a state health care provider as defined in this Section.

(9)(a) "State health care provider" or "person covered by this Part" means:

(i) The state or any of its departments, offices, agencies, boards, commissions, institutions, universities, facilities, hospitals, clinics, laboratories, health care units, ambulances, ambulance services, university health centers, and other state entities which may provide any kind of health care whatsoever, and the officers, officials, and employees thereof when acting within the course and scope of their duties in providing health care in connection with such state entity; or

(ii) A person acting in a professional capacity in providing health care services, by or on behalf of the state, including but not limited to a physician, psychologist, coroner, and assistant coroner who is a licensed physician when acting solely in accordance with the Behavioral Health Law as provided in R.S. 28:50 et seq., provided that the premium costs of such malpractice coverage shall be the responsibility of the coroner's office, dentist, a licensed dietician or licensed nutritionist employed by, referred by, or performing work under contract for, a state health care provider or other person already covered by this Part, registered nurse, licensed practical nurse, nurse practitioner, clinical nurse specialist, pharmacist, optometrist, podiatrist, physical therapist, occupational therapist, licensed respiratory therapist, licensed radiologic technologist, licensed clinical laboratory scientist, social worker, hospital administrator, or licensed professional counselor, who is either:

(aa) Acting within the course and scope of his employment pursuant to a contract with the state, which contract specially names that health care provider and designates him to render such health care services, pursuant to a staff appointment to a state hospital or other state health care facility, or pursuant to an assignment to render such health care services for or on behalf of the state, without regard to where the services are performed, whether or not he is paid for such services.

(bb) Performing voluntary professional or telehealth services in a health care facility or institution for or on behalf of the state.

(iii) A resident, intern, or student of, or any person who is otherwise qualified in, any discipline, including but not limited to, the disciplines listed in this Subsection when he is acting within the course and scope of the training or staff appointment in and under the supervision of a state hospital or other health care facility to which he is assigned as a part of his prescribed training in such discipline, without regard to where the services are performed.

(iv)(aa) A physician, surgeon, dentist, or hospital, and any employee of a physician, surgeon, dentist, or hospital not otherwise included in Item (i), (ii), or (iii) of this Subparagraph who gratuitously treats or provides services to any patient referred to him from a state hospital or other state facility without compensation or reimbursement from Medicaid or from any type of state or federal public assistance program, who gratuitously treats or provides services to any patient eligible for admission from a state hospital or other state facility without compensation or reimbursement from Medicaid or from any type of state or federal public assistance program, when the patient is certified by the state hospital or other state facility, to be eligible for admission to the state hospital or other state facility, only as it relates to services provided to that patient, or who gratuitously treats or provides services

to a student in a public school health clinic without compensation or reimbursement from Medicaid or from any type of state or federal public assistance program.

(bb) Any provider referenced in this Item, in order to be covered by the provisions of this Part, shall signify in writing, by the end of the next business day after the patient presents himself for treatment, that all fees for professional medical or hospital health care services and all rights to reimbursement under Medicaid or any other federal or state public assistance or entitlement program are waived. For the purpose of this Item, a referred patient or the term "any patient referred" "from a state hospital or other state facility" shall mean a patient who presents himself for treatment to any health care provider enumerated in this Item after prior arrangements have been made between such a provider and a state hospital or other state facility where that patient has been receiving or has attempted to receive health care and medical services or in circumstances when no prior arrangements have been made or a patient who has attempted to reach or was in transit to such state hospital or facility to receive health care and medical services but was diverted from that intended destination by such hospital or facility because of lack of specialty medical services, treatment availability, or bed capacity, or any combination thereof.

(cc) However, no person or entity referenced in this Item shall be considered a "state health care provider" or "person covered by this Part" for any injury to or death of the patient resulting from any act or omission of gross negligence or any willful or wanton act or omission.

(dd) However, no person or entity referenced in this Part shall be considered a "state health care provider" or "person covered by this Part" when performing the elective termination of an uncomplicated viable pregnancy.

(b) "State health care provider" or "person covered by this Part" shall not mean and shall not include a political subdivision of the state nor any hospital, hospital service district, or any other health care facility of a political subdivision, nor shall it mean or include any individual acting in a professional capacity in providing health care services not by or on behalf of the state.

B.(1) The standard of reasonable care specified and required by this Section is as follows: The standard of care specified and required by this Section for licensed physicians and dentists shall be the same as that required to be proven with respect to them under the provisions of R.S. 9:2794.

(2) No breach of the standard of reasonable care required under the provisions of this Section shall constitute malpractice within the meaning of this Section, nor shall it give grounds for any recovery or liability, without its also being the proximate cause of each injury for which a recovery in damages is sought. A patient injured must fall within the specific class of persons legislatively intended, by the purpose and design of this Section, to be protected against such breaches of the standard of reasonable care set forth in this Subsection, the resulting injury must be of the kind specifically intended and designed by this Section to be prevented by the standard of reasonable care set forth in this Subsection, and the resulting injury and the damages sought therefor must fall within the type of injury and damages for which a recovery is allowable by the purpose and intent of this Section in light

of the particular legislative provisions, findings, and purposes expressed in this Section.

C. Since the Louisiana Civil Code was enacted only in the domain of the private law, governs only the legal relationships of private persons among themselves alone, and is inapplicable to public entities and their legal relationships, there is no right nor legal basis *ex delicto*, or *ex quasi-delicto*, for an action by a patient or his representative to recover damages or any other losses, including those for the death of the patient, from the state or a state health care provider as defined in this Section as a result of malpractice in connection with state-provided or state-related health care; however, a patient, his representative properly acting for him, or his after-death representative shall have a right to recover from the state certain losses to the extent and within the limitations defined and allowed by this Section of public law due to malpractice as defined in this Section, in the circumstances and within the parameters provided by this Section, on the sole basis of this Section as a special substantive *sui generis* statutory grant in the domain of public law. This Section shall not be construed to limit, waive, or prohibit claims for lack of informed consent or breach of contract as defined by statutes or otherwise provided by law.

D.(1) Whenever in the same circumstances, but not more than to the same extent, that a patient would, under the private law, including the Louisiana Civil Code, which is applicable only to private persons among themselves alone, be allowed a recovery, due to malpractice, from a private person not employed by nor acting on behalf of a public entity, a patient, his representative properly acting for him, or his after-death representative shall have a right to recover, from the state, losses, including the death of said patient, but only to the degree and within the limits allowed by, and subject to the terms and conditions of, this Section of public law, when and insofar as such losses proximately result from malpractice as defined in this Section and not from victim fault, third party fault, acts of God, acts of third parties, or contributory negligence or fault and when there exist no breaches of duty by such patient or his agents or representatives with respect to the damages sued for, no assumption of risk by patient with respect thereto, nor any other circumstance which would otherwise provide a defense or a basis of nonrecovery in any action in contract or quasi-contract or in any action arising out of any offense or quasi-offense. Whenever victim fault, third party fault, acts of God, acts of third parties, contributory negligence, or contributory fault is a substantial factor in causing such losses, the amount of recovery available from the state under this Section shall be reduced by the same percentage or proportion as such losses were brought about or resulted from such victim fault, third party fault, acts of God, acts of third parties, contributory negligence, or contributory fault. Otherwise than as provided by this Section of public law, a patient shall not have a right to recover losses due to malpractice from the state or from a state health care provider as defined in this Section.

(2) In actions allowed and authorized by and brought pursuant to this Section, third party demands and other actions for indemnification and contribution shall be recoverable in the same circumstances and to the same extent as otherwise provided by law, but only insofar as such actions, demands, and/or recovery do not conflict with the provisions or intent of this Section. Judicial interest shall be allowed as otherwise provided by law, except that none shall be allowed on future medical care and related benefits.

(3) Any cause of action for an unintentional act or omission by an organ procurement organization to a donor or prospective donor of an anatomical gift, as defined in R.S. 17:2351, shall be governed by the provisions of this Section.

E.(1) Unless the medical malpractice claim is first compromised and settled in accordance with Subsection H of this Section or unless the state, through the concurrence of the office of risk management and the legal counsel representing the state against such claim, waive the medical review panel procedure, all medical malpractice claims by their patients or their representatives arising from the right created and granted by Subsections C and D of this Section shall be submitted to administrative review in accordance with this Subsection before such right in individual claims can become sufficiently existent to be susceptible of judicial recognition or adjudication. The medical malpractice claims of prisoners relating to health care rendered in a correctional facility and arising under this Part shall be submitted to correctional administrative review procedures established for administrative hearings in the correctional environment or established in accordance with express law, including R.S. 15:1171 et seq., R.S. 49:978.1, and the administrative rules and regulations pertaining thereto. All other medical malpractice claims arising under this Part, including wrongful death and survival actions related to prisoners, shall be submitted to a medical review panel in accordance with R.S. 40:1237.2.

(2) All claims and complaints submitted to a medical review panel in accordance with R.S. 40:1237.2 shall conform at a minimum to the requirements of Rules 8, 9, and 10 of the Federal Rules of Civil Procedure.

(3) All claims and complaints submitted by a patient, claimant, or their representative, as a result of malpractice as defined in this Section, shall, once the parties have certified to the court that discovery is complete, be given priority on the court's docket, to the extent practicable, over any other civil action before the court, provided that the provisions of this Paragraph shall not supersede the provisions of Code of Civil Procedure Article 1573.

F. Notwithstanding any other provision of the law to the contrary, no judgment shall be rendered and no settlement or compromise shall be entered into for the injury or death of any patient in any action or claim for an alleged act of malpractice in excess of five hundred thousand dollars plus interest and costs, exclusive of future medical care and related benefits valued in excess of such five hundred thousand dollars. In claims which may include future medical care and related benefits, the following procedures shall apply:

(1) The court's judgment or the settlement or compromise shall include a recitation that the patient is or is not in need of future medical care and related benefits and the amount thereof.

(2) If the total amount of the value of the judgment or settlement or compromise is for five hundred thousand dollars, plus interest and costs, exclusive of the value of future medical care and related benefits, all future medical care and related benefits shall be paid in accordance herewith.

(3) If the total amount of recovery, excluding interest and costs but including the amount of future medical care and related benefits does not exceed five hundred thousand

dollars, judgment may be rendered for the total amount and paid by the state as provided by Subsection I of this Section.

(4) The district court from which final judgment issues shall have continuing jurisdiction in cases where future medical care and related benefits are determined to be necessary. Such continuing jurisdiction shall be limited to matters of future medical care and benefits as provided in this Subsection.

(5) Nothing in this Subsection shall be construed to prevent a claimant and the state from entering into a court-approved settlement or agreement whereby future medical care and related benefits shall be provided for a limited period of time or to a limited degree.

(6) If the total amount of recovery awarded against the state, excluding interest and costs but including the amount of future medical care and related benefits, exceeds five hundred thousand dollars, the claimant may make a claim to the office of risk management for all future medical care and related benefits.

(7) Payments for medical care and related benefits shall be paid by the office of risk management pursuant to Subsection L of this Section, without regard to the five hundred thousand dollar limitation imposed in this Subsection.

(8) The court shall award reasonable attorney fees to the claimant's attorney if the court finds that the office of risk management unreasonably fails to pay for medical care within sixty days after submission of a claim for payment of such benefits together with proper substantiation therefor.

(9) The office of risk management shall be entitled to have a physical examination of the claimant performed by a physician of the office of risk management's choice from time to time for the purpose of determining the validity of any claim submitted or the claimant's continued need of future medical care and related benefits, subject to the following requirements:

(a) Notice in writing shall be delivered to or served upon the claimant or the claimant's counsel of record at least ten days prior to an examination specifying the time and place of the intended examination. Delivery of the notice may be by certified mail.

(b) Such examination shall be by a licensed physician or chiropractic physician licensed under the laws of this state or of the state, parish, or county wherein the claimant resides.

(c) The place at which such examination is to be conducted shall not involve an unreasonable amount of travel for the claimant considering all circumstances. It shall not be necessary for a claimant who resides outside this state to come into this state for such an examination unless so ordered by the court.

(d) Within thirty days after the examination, the claimant shall be compensated by the office of risk management for all necessary and reasonable expenses incidental to submitting to the examination, including the reasonable costs of travel, meals, lodging, loss of pay, or other direct expenses.

(e) Examinations may not be required more frequently than at six-month intervals, except that, upon application to the court having jurisdiction of the claim and after reasonable cause shown therefor, examination within a shorter interval may be ordered. In

considering such application, the court should exercise care to prevent harassment to the claimant.

(f) The claimant shall be entitled to have a physician or an attorney of his choice or both present at such examination. The patient shall pay such physician or attorney himself.

(g) The claimant shall be promptly furnished with a copy of the report of the examination made by the physician making the examination on behalf of the future medical benefits fund.

(10) If a claimant fails or refuses to submit to examination in accordance with a notice, and if the requirements of Paragraph (9) of this Subsection have been satisfied, then the claimant shall not be entitled to attorney fees in any action to enforce rights pursuant to Paragraph (8) of this Subsection and may be subject to denial of payment of any claim submitted for payment.

(11) Any physician selected by the office of risk management who shall make or be present at an examination of the claimant conducted in pursuance of this Subsection may be required to testify as to the conduct thereof and the findings made. Communications made by the claimant upon such examination by such physician or physicians shall not be considered privileged.

(12) All reasonable fees and costs of medical examinations and the costs and fees of the medical expert witnesses in any proceeding in which the termination of medical care and related benefits is sought shall be paid by the office of risk management.

G. Notwithstanding any other provision of the law to the contrary, the state shall pay any damages, interest, cost of investigation and defense, and any other costs in connection with any claim lodged against any state health care provider (person covered by this Part) for an alleged act of medical malpractice, resulting in the injury or death of a patient up to the limits set forth in this Part. The coverage provided herein shall apply only when the state health care provider (person covered by this Part) is acting within the terms of the definition of "state health care provider" or "person covered by this Part" as provided in Paragraph (1) of Subsection A of this Section.

H. Internally within the state government of Louisiana, the office of risk management shall have the primary responsibility for the administrative management of medical malpractice claims against the state. Copies of all claims shall be submitted to the office of risk management by claimants or their attorneys. In the administration of such claims, the office of risk management shall cause a timely and thorough investigation of the circumstances surrounding each malpractice claim, assemble all data relevant thereto, and coordinate with legal counsel for the defense of such cases. With the approval of such legal counsel, and in accordance with R.S. 39:1535, the office of risk management may compromise and settle any suit or claim up to the limits set forth in this Part. All malpractice claims not subject to such compromise or settlement shall be reviewed by a state medical review panel pursuant to R.S. 40:1237.2. In any suit or claim brought pursuant to this Part, the office of risk management may pay all defense and investigative costs, costs as established by the state medical review panel law, and any other costs incurred in connection with the defense of these actions as said costs accrue.

I.(1) An attorney appointed in accordance with R.S. 49:258 shall be designated as the attorney to defend medical malpractice claims filed under this Part.

(2) Any written compromise or settlement effected between the state and the claimant with the approval of legal counsel designated as provided above shall be binding upon the claimant and the state.

J. The office of risk management, with the concurrence of counsel designated as provided for in Subsection I of this Section, shall have the authority to compromise or settle, and pay any suit or claim brought pursuant to this Part up to twenty-five thousand dollars exclusive of interest and costs. The compromise or settlement, and payment of any suit or claim of twenty-five thousand dollars or more, exclusive of interest and costs, shall be governed by the provisions of R.S. 39:1535(B)(6) and (D)(1), as may be applicable.

K. Any person covered by this Part shall be considered as a named insured. A health care provider who fails to qualify as a state health care provider under this Part is not covered by the provisions of this Part and is subject to liability under the private law without regard to the provisions of this Part. If a health care provider does not so qualify, the patient's remedy will not be affected by the terms and provisions of this Part, except as provided in this Part with respect to the suspension and the running of prescription of actions against a health care provider who has not qualified under this Part when a claim has been filed against the health care provider for review under this Part. However, the running of prescription against a health care provider who is answerable in solido with a qualified state health care provider against whom a claim has been filed for review under this Part shall be suspended in accordance with the provisions of R.S. 40:1237.2(A)(2)(a).

L.(1) All future medical care and related benefits shall be paid by the office of risk management as are awarded in final judgments, settlements, or compromises in accordance with this Section.

(2) The office of risk management shall review all invoices received for future medical care and related benefits, prepare vouchers or warrants, and evaluate and settle claims relating to the payments of future medical care and related benefits. In submitting requests for payment, the claimant shall submit the original invoices.

(3) The parties may agree that any amount due for future medical care and related benefits be paid through a reversionary medical trust fund, or the purchase of an annuity contract by the office of risk management for and on behalf of the claimant.

M. The state shall not be liable for any injuries arising from the medical malpractice of any officer, official, employee, representative, appointee, agent, agency, district, hospital, clinic, service, facility, institution, or any health care provider of a political subdivision.

N. Nothing in this Part shall be construed to make the state liable for any sums except those arising from medical malpractice. Notwithstanding any other law to the contrary, including but not limited to R.S. 13:5106, the provisions of this Part shall apply for medical malpractice actions against the state.

RS 40:1237.2 — State medical review panel

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facility in accordance with R.S. 40:1237.1(E) and claims compromised or settled by the

claimant and the division of administration with the concurrence of designated legal counsel for the state, shall be reviewed by a state medical review panel established as provided in this Section, to be administered by the commissioner of administration, hereinafter referred to as commissioner. The filing of a request for review by a state medical review panel as provided for in this Section shall not be reportable by any health care provider or any other entity to the Louisiana State Board of Medical Examiners, to any licensing authority, committee, or board of any other state, or to any credentialing or similar agency, committee, or board of any clinic, hospital, health insurer, or managed care company.

(b) A request for review of a malpractice claim or malpractice complaint shall contain, at a minimum, all of the following:

(i) A request for the formation of a medical review panel.

(ii) The name of only one patient for whom, or on whose behalf, the request for review is being filed; however, if the claim involves the care of a pregnant mother and her unborn child, then naming the mother as the patient shall be sufficient.

(iii) The names of the claimants.

(iv) The names of defendant state health care providers.

(v) The dates of the alleged malpractice.

(vi) A brief description of the alleged malpractice as to each named defendant state health care provider.

(vii) A brief description of alleged injuries.

(c) A claimant shall have forty-five days from the date of receipt by the claimant of the confirmation of receipt of the request for review in accordance with Subparagraph (3)(a) of this Subsection to pay to the commissioner a filing fee in the amount of one hundred dollars per named defendant state health care provider.

(d) Such filing fee may be waived only upon receipt by the division of administration of one of the following:

(i) An affidavit of a physician holding a valid and unrestricted license to practice his specialty in the state of his residence certifying that adequate medical records have been obtained and reviewed and that the allegations of malpractice against each defendant state health care provider named in the claim constitute a claim of a breach of the applicable standard of care as to each named defendant state health care provider.

(ii) An in forma pauperis ruling issued in accordance with Code of Civil Procedure Article 5181 et seq. by a district court in a venue in which the malpractice claim could properly be brought upon the conclusion of the medical review panel process.

(e) Failure to comply with the provisions of Subparagraph (c) or (d) of this Paragraph within the specified time frame in Subparagraph (c) of this Paragraph shall render the request for review of a malpractice claim invalid and without effect. Such an invalid request for review of a malpractice claim shall not suspend the time within which suit must be instituted in Subparagraph (2)(a) of this Subsection.

(f) All funds generated by such filing fees shall be applied to the costs of the division of administration incurred in the administration of claims.

(2)(a) The filing of the request for a review of a claim shall suspend the time within

which suit must be instituted, in accordance with this Part, until ninety days following notification, by certified mail, as provided in Subsection J of this Section, to the claimant or his attorney of the issuance of the opinion by the state medical review panel, in the case of the state or persons covered by this Part, or, in the case of a health care provider against whom a claim has been filed under the provisions of this Part who has not qualified under this Part, until ninety days following notification by certified mail to the claimant or his attorney by the commissioner that after requesting evidence of such qualifications under this Part and waiting the passage of at least ninety days, the commissioner has not received a certificate or other evidence sufficient to establish that the person is covered by this Part. The filing of a request for review of a claim shall suspend the running of prescription against all joint or solidary obligors, including but not limited to health care providers, both qualified and not qualified, to the same extent that prescription is suspended against the party or parties that are subject of the request for review. Filing a request for review of a malpractice claim required by this Section with any agency or entity other than the division of administration shall not suspend or interrupt the running of prescription.

(b)(i) The request for review of the claim under this Section shall be deemed filed on the date the request is:

(aa) Sent, if the request is electronically sent by facsimile transmission or other authorized means, as provided by R.S. 9:2615(A), to the division of administration.

(bb) Mailed, if the request is delivered by certified or registered mail to the division of administration.

(cc) Received, if the request is delivered to the division of administration by any means other than as provided by Subitem (aa) or (bb) of this Item.

(ii) Upon receipt, the request shall be stamped with the filing date and certified by the division of administration. Filing of the request shall be complete only upon timely compliance with the provisions of Subparagraph (1)(c) or (d) of this Subsection.

(c) An attorney chairman for the state medical review panel shall be appointed within one year from the date the request for review of the claim was filed. Upon appointment of the attorney chairman, the parties shall notify the commissioner of the name and address of the attorney chairman. If the commissioner has not received notice of the appointment of an attorney chairman within nine months from the date the request for review of the claim was filed, then the commissioner shall send notice to the parties by certified or registered mail that the claim will be dismissed in ninety days unless an attorney chairman is appointed within one year from the date the request for review of the claim was filed. If the commissioner has not received notice of the appointment of an attorney chairman within one year from the date the request for review of the claim was filed, then the commissioner shall promptly send notice to the parties by certified or registered mail that the claim has been dismissed for failure to appoint an attorney chairman and the parties shall be deemed to have waived the use of the state medical review panel. The filing of a request for a medical review panel shall suspend the time within which suit must be filed until ninety days after the claim has been dismissed in accordance with this Section.

(3) It shall be the duty of the commissioner, within thirty days of the receipt of the

claim, to:

(a) Confirm to the claimant by certified mail, return receipt requested, that the filing has been officially received and whether or not the named defendant or defendants have as yet qualified under this Part.

(b) In the confirmation to the claimant pursuant to Subparagraph (a) of this Paragraph, notify the claimant of the amount of the filing fee due and the time frame within which such fee is due to the commissioner, and that upon failure to timely comply with the provisions of Subparagraph (1)(c) or (d) of this Subsection the request for review of a malpractice claim is invalid and without effect and that the request shall not suspend the time within which suit must be instituted in Subparagraph (2)(a) of this Subsection.

(c) Notify all named defendants, whether or not qualified under the provisions of this Part, that a filing has been made against them and request made for the formation of a state medical review panel; and forward a copy of the proposed complaint to each named defendant at his last and usual place of residence or his office and to the legal section and secretary of each agency named as a defendant. The notification shall request that each defendant who is a person covered by this Part present to the commissioner, within ninety days from the date of such notification, a certificate of employment or appointment or other evidence and proof sufficient to establish his qualification as a person covered by this Part.

(4) The commissioner shall notify the claimant and all named defendants by certified mail, return receipt requested, of any of the following information:

(a) The date of receipt of the filing fee.

(b) That no filing was due because the claimant timely provided the affidavit set forth in Item (1)(d)(i) of this Subsection.

(c) That the claimant has timely complied with the provisions of Item (1)(d)(ii) of this Subsection.

(d) That the required filing fee was not timely paid pursuant to Subparagraph (1)(c) of this Subsection.

(5) In the event that the commissioner is unable to determine after forty-five days from the date of mailing of the notification, whether notification by certified mail, return receipt requested, provided for in Paragraphs (3) and (4) of this Subsection has been received by the claimant, or the notification is not claimed or is returned undeliverable, the commissioner shall provide such notification by regular first class mail, which date of mailing shall have the effect of receipt of notice by certified mail for purposes of Subparagraphs (1)(c) and (d) of this Subsection.

(6) In the event the commissioner receives a filing fee that was not timely paid pursuant to Subparagraph (1)(c) of this Subsection, the commissioner shall return, or refund the amount of, the filing fee to the claimant within thirty days of the date the commissioner receives the untimely filing fee.

B.(1)(a)(i) No action against the state, its agencies, or a person covered by this Part, or his insurer, may be commenced in any court before the claimant's complaint has been presented to a state medical review panel established pursuant to this Section.

(ii) Each person covered by this Part who is a defendant shall, within ninety days

after the date of the notice from the commissioner that a complaint has been filed naming such person as a defendant, cause a certificate of employment, appointment, or agency covering him to be issued to the commissioner by the employing or contracting state department or shall present other evidence and proof sufficient to qualify him as a person covered by this Part with respect to the medical malpractice claim. Such certificates and proof shall be admitted in evidence.

(b) If an opinion is not rendered by the panel within twelve months after the date of notification of the selection of the attorney chairman by the commissioner to the selected attorney and all other parties pursuant to Paragraph (C)(1) of this Section, suit may be instituted against the state or a person covered by this Part. However, either party may petition a court of competent jurisdiction for an order extending the twelve month period provided in this Subsection for good cause shown. After the twelve month period provided for in this Subsection or any court-ordered extension thereof, the state medical review panel established to review the claimant's complaint shall be dissolved without the necessity of obtaining a court order of dissolution.

(c) By agreement of both parties, the use of the state medical review panel may be waived.

(2)(a) The state or a person against whom a claim has been filed under the provisions of this Part may raise peremptory exceptions of no right of action pursuant to Code of Civil Procedure Article 927 or any exceptions or defenses available pursuant to R.S. 9:5628 in a court of competent jurisdiction and proper venue at any time without need for completion of the review process by the state medical review panel.

(b) If the court finds that the claim had prescribed or otherwise was preempted prior to being filed, the panel, if established, shall be dissolved upon the judgment becoming final. If the court grants the peremptory exception of no right of action as to all claimants, the panel, if established, shall be dissolved upon the judgment becoming final. If the court grants the peremptory exception of no right of action as to less than all claimants, the claimants as to whom the court granted the peremptory exception of no right of action shall be prohibited from participating in the panel process as a claimant.

(3) Ninety days after the notification to all parties by certified mail by the attorney chairman or the commissioner of the dissolution of the state medical review panel or ninety days after the expiration of any court-ordered extension as authorized by Paragraph (1) of this Subsection, the suspension of the running of prescription with respect to the state or person shall cease.

C.(1) The state medical review panel shall consist of one attorney and three health care providers who hold unlimited licenses to practice their profession in Louisiana. The parties may agree on the attorney member of the state medical review panel. If no attorney for or a representative of any health care provider named in the complaint has made an appearance in the proceeding or made written contact with the attorney for the plaintiff within forty-five days of the date of receipt of the notification to the health care provider and the insurer that the required filing fee has been received by the commissioner or the patients compensation board as required by Subparagraph (A)(1)(c) of this Section, the attorney for

the plaintiff may appoint the attorney member of the state medical review panel for the purpose of convening the panel. Such notice to the health care provider and the insurer shall be sent by registered or certified mail, return receipt requested. If no agreement can be reached, then the attorney member of the state medical review panel shall be selected in the following manner:

(a) The office of the clerk of the Louisiana Supreme Court, upon receipt of notification from the commissioner, shall draw five names at random from the list of attorneys who reside or maintain an office in the parish which would be proper venue for the action in a court of law. The names of judges other than city court judges, magistrates, district attorneys, and assistant district attorneys shall be excluded if drawn and new names drawn in their place. After selection of the attorney names, the office of the clerk shall notify the office of the commissioner of the names so selected. It shall be the duty of the office of the commissioner to notify the parties of the attorney names from which the parties may choose the attorney member of the panel within five days. If no agreement can be reached within five days, the parties shall immediately initiate a procedure of selecting the attorney by each striking two names alternately, with the claimant striking first and so advising the state or the person covered by this Part of the name of the attorney so stricken; thereafter, the state or the person covered by this Part and the claimant shall alternately strike until both sides have stricken two names and the remaining name shall be the attorney member of the panel. If either party fails to strike, the clerk shall strike for that party within five additional days.

(b) After the striking, the office of the commissioner shall notify the attorney and all other parties of the name of the selected attorney.

(2) The attorney shall act as chairman of the panel and in an advisory capacity but shall have no vote. It is the duty of the chairman to expedite the selection of the other panel members, to convene the panel, and to expedite the panel's review of the complaint. The chairman shall establish a reasonable schedule for submission of evidence to the state medical review panel but must allow sufficient time for the parties to make full and adequate presentation of related facts and authorities within ninety days following selection of the panel.

(3)(a) The claimant shall notify the attorney chairman and the named defendants of his choice of a health care provider member of the state medical review panel within thirty days of the date of certification of his filing by the commissioner.

(b) The named defendant shall then have fifteen days after notification by the claimant of the claimant's choice of his health care provider panelist to name the defendant's health care provider panelist.

(c) If either party fails to make a selection of health care provider panelist within the time provided, the attorney chairman shall notify by certified mail the failing party to make such selection within five days of the receipt of the notice.

(d) If no selection is made within the five day period, then the chairman shall make the selection on behalf of the failing party. The two health care provider panel members selected by the parties, or on their behalf, shall be notified by the chairman to select the third

health care provider panel member within fifteen days of their receipt of such notice.

(e) If the two health care provider panel members fail to make such selection within the fifteen day period allowed, the chairman shall then make the selection of the third panel member and thereby complete the panel.

(f) The qualification and selection of physician members of the state medical review panel shall be as follows:

(i) All physicians who hold a license to practice medicine in the state of Louisiana and who are engaged in the active practice of medicine in this state, whether in the teaching profession or otherwise, shall be available for selection.

(ii) Each party to the claim may select one physician and upon selection the physician shall serve.

(iii) When there are multiple claimants or defendants, there shall be only one physician selected per side. The claimant, whether single or multiple, may select one physician, and the defendant, whether single or multiple, may select one physician.

(iv) A panelist so selected and the attorney member selected in accordance with this Subsection shall serve unless for good cause shown he is excused. To show good cause for relief from serving, the panelist shall present an affidavit to a judge of a court of competent jurisdiction and proper venue which shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. A health care provider panelist may also be excused from serving by the attorney chairman if during the previous twelve month period he has been appointed to four other medical review panels. In either event, a replacement panelist shall be selected within fifteen days in the same manner as the excused panelist.

(v) If there is only one party defendant or person charged with malpractice other than a hospital, all panelists except the attorney shall be from the same class and speciality of practice of health care provider as the defendant or person. If there is only one party defendant which is a hospital, all panelists except the attorney shall be physicians whose specialty shall be the same as the specialty of the hospital department wherein the alleged malpractice occurred. If there are claims against multiple defendants, one or more of whom are health care providers other than a hospital, the panelists selected in accordance with this Subsection shall be selected from health care providers who are from the same class and speciality of practice of health care providers as are any of the defendants other than a hospital, except that when one of such defendants is a physician, the panelists shall have the minimum qualifications of also being physicians and when none of such defendants are a physician or a hospital but at least one of such defendants is a registered nurse, the panelists shall have the minimum qualifications of also being registered nurses.

(4) When the state medical review panel is formed, the chairman shall within five days notify the commissioner and the parties by registered or certified mail of the names and addresses of the panel members and the date on which the last member was selected.

(5)(a) Before entering upon their duties, each voting panelist shall subscribe before a notary public the following oath:

"I, (name), do solemnly swear (or affirm) that I will faithfully perform the duties of

state medical review panel member to the best of my ability and without partiality or favoritism of any kind. I acknowledge that I represent neither side and that it is my lawful duty to serve with complete impartiality and to render a decision in accordance with law and the evidence."

(b) The attorney panel member shall subscribe to the same oath except that in lieu of the last sentence thereof the attorney's oath shall state:

"I acknowledge that I represent neither side and that it is my lawful duty to advise the panel members concerning matters of law and procedure and to serve as chairman."

(c) The original of each oath shall be attached to the opinion rendered by the panel.

(6) Any party aggrieved by the alleged failure or refusal of another to perform according to the provisions of this Section may petition any district court of proper venue as to the party for an order directing that the party comply with the state medical review panel provisions.

(7) A panelist or a representative or an attorney for any interested party shall not discuss with other members of a state medical review panel on which he serves a claim which is to be reviewed by the panel until all evidence to be considered by the panel has been submitted. A panelist or a representative or an attorney for any interested party shall not discuss the pending claim with the claimant or his attorney asserting the claim or with a state health care provider or his attorney against whom a claim has been asserted under this Section. A panelist or the attorney chairman shall disclose in writing to the parties prior to the hearing any employment relationship or financial relationship with the claimant, the state health care provider against whom a claim is asserted, or the attorneys representing the claimant or state health care provider, or any other relationship that might give rise to a conflict of interest for the panelists.

D.(1) The evidence to be considered by the state medical review panel shall be promptly submitted by the respective parties in written form only.

(2) The evidence may consist of medical charts, x-rays, lab tests, excerpts of treatises, depositions of witnesses including parties, interrogatories, affidavits and reports of medical experts, and any other form of evidence allowable by the state medical review panel.

(3) Depositions of the parties and witnesses may be taken prior to the convening of the panel.

(4) Upon request of any party, or upon request of any two panel members, the clerk of any district court shall issue subpoenas and subpoenas duces tecum in aid of the taking of depositions and the production of documentary evidence for inspection or copying, or both.

(5) The chairman of the panel shall advise the panel relative to any legal question involved in the review proceeding and shall prepare the opinion of the panel as provided in Subsection G of this Section.

(6) A copy of the evidence shall be sent to each member of the panel.

E. Either party, after submission of all evidence and upon ten days notice to the other side, may convene the panel at a time and place agreeable to the members of the panel. Either party may question the panel concerning any matters relevant to issues to be decided by the panel before the issuance of their report. The chairman of the panel shall preside at

all meetings. Meetings shall be informal.

F. The panel shall request and procure all necessary information. The panel may consult with medical authorities, provided the names of such authorities are submitted to the parties with a synopsis of their opinions and provided further that the parties may then obtain their testimony by deposition. The panel may examine reports of such other health care providers necessary to fully inform itself regarding the issue to be decided. Both parties shall have full access to any material submitted to the panel.

G. The panel shall have the sole duty to express its expert opinion as to whether or not the evidence supports the conclusion that the defendant or defendants acted or failed to act within the appropriate standards of care as charged in the complaint. After reviewing all evidence and after any examination of the panel by counsel representing either party, the panel shall, within thirty days, render one or more of the following expert opinions which shall be in writing and signed by the panelists, together with written reasons supporting each opinion, which shall constitute part of the report:

- (1) The evidence does not support the conclusion that the defendant or defendants failed to comply with the appropriate standard of care as charged in the complaint.
- (2) The evidence does support the conclusion that the defendant or defendants failed to meet the applicable standard of care as charged in the complaint. If such opinion is rendered, then an opinion on whether the conduct complained of was or was not, in fact, a medical cause of the resultant damages shall also be rendered. If an opinion is rendered that such conduct was, in fact, a medical cause of the resultant damages, then an opinion shall be rendered on whether the plaintiff suffered:
 - (a) Any disability and the extent and duration of the disability.
 - (b) Any permanent impairment and the percentage of the impairment.
- (3) There is a material issue of fact, not requiring medical or health care expert opinion, bearing on liability for consideration by the court.

H. Any report of the expert opinion reached by the state medical review panel shall be admissible as evidence in any action subsequently brought by the claimant in a court of law, but such expert opinion shall not be conclusive and either party may call, at his cost, any member of the state medical review panel as a witness. If called, the witness shall appear and testify. A panelist shall have absolute immunity from civil liability for all communications, findings, opinions, and conclusions made in the course and scope of duties prescribed by this Part.

I.(1) Each physician member of the state medical review panel shall be paid at the same compensation rate as that paid physician members of private sector medical review panels for all work performed as a member of the panel, exclusive of time involved if called as a witness to testify in a court of law regarding the communications, findings, and conclusions made in the course and scope of duties as a member of the state medical review panel, and in addition thereto, reasonable travel expenses.

(2) The attorney chairman of the state medical review panel shall be paid at the same compensation rate as the paid attorney chairmen of private sector medical review panels for all work performed as a member of the panel, exclusive of time involved if called as a

witness to testify in a court of law regarding the communications, findings, and conclusions made in the course and scope of duties as a member of the state medical review panel, and in addition thereto, reasonable travel expenses.

(3)(a) The costs of the state medical review panel shall be paid by the division of administration if the opinion of the medical review panel is in favor of the defendant state or person covered by this Part.

(b) In a medical malpractice suit filed by the claimant in which a unanimous opinion was rendered in favor of the defendant state or person covered by this Part as provided in the expert opinion stated in Paragraph (G)(1) of this Section, the claimant who proceeds to file such a suit shall be required to post a cash or surety bond, approved by the court, in the amount of all costs of the state medical review panel. Upon the conclusion of the medical malpractice suit, the court shall order that the cash or surety bond be forfeited to the division of administration for reimbursement of the costs of the state medical review panel, unless a final judgment is rendered finding the defendant state or person covered by this Part liable to the claimant for any damages. If a final judgment is rendered finding the defendant state or person covered by this Part liable to the claimant for any damages, the court shall order that the defendant state or person covered by this Part reimburse the claimant an amount equal to the cost of obtaining the cash or surety bond posted by the claimant.

(4)(a) The claimant shall pay the costs of the state medical review panel if the opinion of the state medical review panel is in favor of the claimant. However, if the claimant is unable to pay, the claimant shall submit to the attorney chairman prior to the convening of the state medical review panel an in forma pauperis ruling issued in accordance with Code of Civil Procedure Article 5181 et seq. by a district court in a venue in which the malpractice claim could properly be brought upon the conclusion of the state medical review panel process. Upon timely receipt of the in forma pauperis ruling, the costs of the state medical review panel shall be paid by the division of administration, with the proviso that if the claimant subsequently receives a settlement or receives a judgment, the advance payment of the state medical review panel costs shall be reimbursed by him to the state.

(b) In the event a state medical review panel renders a unanimous opinion in favor of the claimant as provided in the expert opinions stated in Paragraph (G)(1) of this Section, and the claimant has not timely submitted an in forma pauperis ruling to the panel's attorney chairman, and thereafter the defendant state or person covered by this Part failed to settle the claim with the claimant resulting in the claimant filing a malpractice suit in a court of competent jurisdiction and proper venue against the defendant state or person covered by this Part based on the same claim which was the subject of the unanimously adverse medical review panel opinion against the defendant state or person covered by this Part, the defendant state or person covered by this Part shall not be required to post a cash or surety bond in the amount of all costs of the state medical review panel. However, upon the conclusion of the medical malpractice suit, the court shall order that the defendant state or person covered by this Part reimburse to the claimant the costs of the state medical review panel unless a final judgment is rendered finding that the defendant state or person covered by this Part has no liability for damages to the claimant.

(5) If the state medical review panel decides that there is a material issue of fact bearing on liability for consideration by the court, the claimant and the state shall split the costs of the state medical review panel. However, in those instances in which the claimant is unable to pay his share of the costs of the state medical review panel, the claimant shall submit to the attorney chairman prior to the convening of the state medical review panel an in forma pauperis ruling issued in accordance with Code of Civil Procedure Article 5181 et seq. by a district court in a venue in which the malpractice claim could properly be brought upon the conclusion of the state medical review panel process. Upon timely receipt of the in forma pauperis ruling, the costs of the state medical review panel shall be paid by the state with the proviso that if the claimant subsequently receives a settlement or receives a judgment, the advance payment of the claimant's share of the costs of the state medical review panel shall be reimbursed by him to the state.

(6) Upon rendering of the written panel opinion, if any one of the panelists finds that the evidence supports the conclusion that a defendant state health care provider failed to comply with the appropriate standard of care as charged in the complaint, the division of administration on behalf of each defendant state health care provider as to whom such a determination was made shall reimburse to the claimant that portion of the filing fee applicable to the claim against such defendant state health care provider or if any one of the panelists finds that the evidence supports the conclusion that there is a material issue of fact, not requiring expert opinion, bearing on liability of such defendant state health care provider for consideration by the court, the division of administration on behalf of each such defendant state health care provider as to whom such a determination was made shall reimburse to the claimant fifty percent of that portion of the filing fee applicable to the claims against such defendant state health care provider.

J. The chairman shall submit a copy of the panel's report to the commissioner and all parties and attorneys by registered or certified mail within five days after the panel renders its opinion.

K. Legal interest on a judgment rendered by a court in a suit for medical malpractice brought after compliance with this Part will accrue as determined by R.S. 13:5112(C). For the purpose of the determination of interest, the medical malpractice panel procedure shall be considered equivalent to court procedures.

RS 40:1237.3 — Medical review panel; one panel for state and private claims

ity of both a state health care provider under the provisions of this Part and a health care provider under the provisions of Part I of this Subchapter:

(1) Unless all parties have agreed otherwise, only one medical review panel shall be convened in such instance to review the claims under this Part and Part I of this Subchapter.

(2) The panel shall consist of a single attorney chairperson and three health care providers who hold unlimited licenses to practice their profession in Louisiana.

(3) The panel shall be considered a joint medical review panel, and its actions shall be deemed to have the same force and effect as if a separate medical review panel had been convened under each of the respective Parts.

(4) The panel shall be governed by the law applicable under both Parts. In the event of a procedural conflict between the provisions of the Parts, the provisions of R.S. 40:1231.8 shall govern.

RS 40:1237.4 — Emergency/Disaster Medicine Review Panel; establishment; review process

fined in R.S. 37:1731, during a declared state of emergency, disaster, or public health emergency.

B. An Emergency/Disaster Medicine Review Panel (hereinafter referred to in this Section as "panel") shall consist of three members and shall include all of the following:

(1) The coroner in the parish where the health care services were rendered, or if unavailable, his designee with a medical license from the state of Louisiana, or alternatively, a coroner with a medical license selected from the Louisiana Coroner's Association. The coroner shall act as its chairperson and preside over the panel.

(2) A member of the Louisiana State Medical Society selected by the Louisiana State Medical Society if the respondent is a physician, or a member of the Louisiana State Nurse's Association if the respondent is a nurse, or a member of a peer organization supervising any other respondent medical personnel. Such organization should be prepared to designate a member within thirty days of any such emergency or disaster and provide a panel member within ten days of the prosecuting authority's referral of the matter to the coroner.

(3) One member appointed by the governor with expertise in disaster medicine or, if unavailable, within the time required to form the panel, such an expert selected by the other two members of the panel.

C. Prior to the institution of criminal prosecution for acts arising out of the rendering of or failing to render health care services during a state of disaster, medical emergency, or public health emergency, the district attorney or the attorney general, whichever is the prosecuting agency, may refer in confidence those portions of the investigative file to the panel created for a peer review of the clinical judgment of the respondent physician, nurse, or other medical personnel to determine whether the respondent's judgment was exercised in good faith given the circumstances under which such judgment was rendered.

D. Emergency/disaster medicine review process

(1) The panel shall provide an opportunity to the respondent physician, nurse, or other member of the medical profession to set forth, in writing, the respondent's position with regard to the clinical judgment rendered, including any expert opinion on the matter subject to investigation.

(2) The panel shall have the right and duty to request and procure all necessary information regarding the care rendered. The panel may consult with medical authorities and others to become fully informed regarding the issues to be decided. The panel may subpoena medical records consistent with federal and state laws for patient privacy, and any such records shall remain confidential.

(3) The panel shall have as its sole duty to express its expert opinion as to whether or not scientific reliable evidence supports the conclusion that the respondent's or respondents' exercise of clinical judgment was in good faith given the circumstances under which the judgment was rendered.

(4) The panel shall render one or more of the following expert opinions which shall be in writing and signed by the members of the panel, together with written reasons for their conclusions.

(a) The evidence supports the conclusion that the respondent medical personnel exercised good faith clinical judgment given the circumstances under which judgment was rendered.

(b) The evidence does not support the conclusion that the respondent medical personnel exercised good faith clinical judgment under the circumstances under which such judgment was rendered.

(c) There exists a material issue of fact, not requiring expert opinion, bearing on whether the respondent exercised good faith clinical judgment under the circumstances under which such judgment was rendered.

(5) The panel opinion shall be advisory only and shall be submitted in confidence to the prosecutorial authority and the respondent medical personnel.

(6) Upon receipt of the advisory opinion from the panel, the prosecuting authority, after giving due consideration to the panel opinion, may proceed in accordance with the United States Constitution and constitution and laws of this state to prosecute conduct which, in the prosecuting authority's sole discretion, is deemed actionable.

(7) Other procedures for the panel process and opinion shall be similar to the panel process for civil proceedings provided in R.S. 40:1237.2 et seq. but shall be confidential as provided in Subsection F of this Section.

(a) The panel members shall take the oath provided for in R.S. 40:1237.2(C)(5)(a) and (c).

(b) The panel deliberations shall be governed by the provisions of R.S. 40:1237.2(C)(7).

(c) Qualification of physicians/medical personnel shall be the same as R.S. 40:1237.2(C)(3)(f).

(d) Costs of the panel shall be paid by the division of administration and compensation for panel members shall be the same as R.S. 40:1237.2(l)(1).

(e) Evidence to be considered shall be the same as R.S. 40:1237.2(D)(1), (2), (5), and

(6) except that no depositions may be set or utilized during this process.

(8) The procedures for the review shall be on an expedited basis.

(a) The district attorney or attorney general may refer, in confidence, the matter to the coroner who will chair and activate the panel within ten days of the receipt of the investigative file. Upon referral to the coroner, the prosecuting authority shall notify the governor and the respective medical peer organization of the need for the appointment of a panel member.

(b) After the formation of the panel, the respondent medical personnel shall be given fifteen days notice in order to provide an opportunity for a written response to the matter under investigation. The chair may grant the respondent medical personnel an extension of time for good cause.

(c) The panel shall render an opinion within ninety days of the referral, with one

extension of thirty days at the panel's option. The panel opinion shall be submitted in confidence to the prosecuting authority and the respondent medical personnel within five days of the panel rendering its opinion.

(d) If the panel has been unable to act within one hundred twenty days of referral, the prosecuting authority may withdraw the referral of the matter or in writing extend to a reasonable specified date the time for the panel to render its opinion.

(9) The prescriptive period for prosecution shall be suspended from the time period of the prosecuting authority's referral to the coroner until such time as the panel opinion has been rendered or the expiration of the one hundred twenty days or the specific date provided for in Subparagraph (8)(d) of this Subsection.

E. The prosecuting authority shall refrain from arresting a respondent until such time as the panel created by this Section has concluded its review, and an advisory opinion has been received by the prosecuting authority, except where there is probable cause to believe the respondent is a risk of flight or delay will adversely affect the investigation.

F. The panel review process and panel opinion shall remain confidential and shall not be utilized in subsequent civil or criminal proceedings unless by orders of the court. The respondent medical personnel and the prosecuting authority may agree to the public disclosure of the panel opinion if it is in the public interest.

G. For purposes of this Section, the following words shall have the following meanings:

(1) "During a declared state of emergency or public health emergency" means during the period of time set forth in a declaration of the governor as provided in R.S. 29:724 or 766 and shall include the time period as set forth in the declaration and shall also be retroactive to the precipitating event requiring the declaration of disaster or public emergency.

(2) "Health care services" means any act of diagnosis, treatment, medical evaluation, or advice or such other acts as may be permissible under the applicable health care licensing provisions of the state of Louisiana.

(3) "Medical personnel" means any individual or person subject to the provisions of R.S. 37:1731, regardless of compensation.

(4) "Scientific reliable evidence" means evidence that will meet the criteria for use of expert evidence as set forth by the United States Supreme Court in *Daubert vs. Merrell*

Dow Pharmaceuticals

, 509 U.S. 579, 113 S.Ct. 2786 (1993).

RS 40:1241 — Hospital prospective reimbursement methodology

purpose of the hospital prospective

reimbursement methodology and temporary licensure of international medical graduates, the Louisiana Medical Assistance Program's recognition of a major teaching hospital is limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education or the Commission on Osteopathic College Accreditation.

B. A major teaching hospital shall meet one of the following criteria:

(1) Be a major participant in at least four approved medical residency programs of which at least two of the programs shall be in medicine, surgery, obstetrics and gynecology, pediatrics, family practice, emergency medicine, or psychiatry.

(2) Maintain an intern and resident full-time equivalency of at least twenty filled positions with an approved medical residency program in family practice located more than one hundred fifty miles from the medical school accredited by the Liaison Committee on Medical Education.

C. For the purposes of this Subpart, "hospital prospective reimbursement methodology" means a method of hospital reimbursement in which Medicaid payment is made based on a predetermined, fixed amount.

NOTE: §1241 repealed effective only upon implementation of a diagnosis-related group hospital payment methodology pursuant to an approved state plan amendment by the Centers for Medicare and Medicaid Services.

§1241. Repealed by Acts 2018, No. 234, §1.

RS 40:1242 — Uncompensated Care Hospital Payments

mine what facilities qualify

for uncompensated care payments and the amount of the payments. In determining payments as provided in this Subsection, the department shall prioritize local access to care and shall distribute uncompensated care payments in proportion to the amount and type of uncompensated care reported by all qualified facilities as required by rule and as allocated in appropriations to the medical vendor payments program. The secretary shall require, as a condition of payment of uncompensated care costs provided pursuant to this Subsection, that all state and nonstate hospitals, excluding rural hospitals included in the Rural Hospital Preservation Act and their provider-based rural health clinics, and other healthcare facilities report to the department patient-specific Louisiana Medicaid universal billing revenue code format data on the amount and type of uncompensated care provided and all requested data on the amount and type of other services and activities financed by uncompensated care payments. This data shall be reported electronically by each hospital or other facility on a quarterly schedule as required by the department. The secretary shall provide, after the close of each quarter, a detailed summary of reported information to the governor and the legislature. Hospitals defined in the Rural Hospital Preservation Act shall continue to report the data collected on the Louisiana Department of Health form "Schedule of Uncompensated Care Cost" in accordance with the state plan as approved by the Centers for Medicare and Medicaid Services. The secretary of the Louisiana Department of Health shall provide an annual report of the submitted information and related payments to the governor and the legislature and shall make such data available to the public on the department's website. In addition, if a hospital or other healthcare facility does not provide the required patient-specific data, the secretary of the department may withhold an amount equal to five percent of Medicaid payments due that provider. Such withholding shall increase by five percent for each successive month that the required data is not received, but the total amount withheld shall not exceed twenty-five percent of the total monthly amount due the facility. Upon receipt of the required data, the department shall pay the facility all amounts previously

withheld as a result of the failure to submit the required data. A hospital or other healthcare facility subject to withholding pursuant to this Paragraph may request an administrative review as provided by R.S. 46:437.4. The format of the data submission shall be defined as the current mandated Louisiana Medicaid program format by the secretary of the department.

(2) Nothing in this Subsection shall be construed to impede or preclude the Louisiana Department of Health from implementing the provisions of the Rural Hospital Preservation Act.

B. The secretary of the Louisiana Department of Health shall, subject to approval from the Centers for Medicare and Medicaid Services, amend the state Medicaid plan to provide for Medicaid disproportionate share payments to hospitals operated by the LSU Health Sciences Center-New Orleans under the provision of federal law that permits the reimbursement of uncompensated cost up to one hundred seventy-five percent of allowable cost.

RS 40:1243.1 — Healthcare providers; upper payment limit

which incorporates any

healthcare provider licensed by the Louisiana Department of Health. The purpose of developing an upper payment limit financing methodology is to enhance the delivery of healthcare services to the uninsured and Medicaid patients. Any such upper payment limit financing methodology shall be in accordance with federal law and subject to approval by the Centers for Medicare and Medicaid Services.

B. The department may submit waivers or state plan amendments to the Centers for Medicare and Medicaid Services in order to secure federal financial participation in relation to any such upper payment limit financing methodology. Disbursements of monies generated by the use of an upper payment limit methodology shall be made only in accordance with an approved waiver or state plan amendment.

RS 40:1243.2 — Upper payment limit mechanism for outpatient behavioral health services for approval from the

Centers for Medicare and Medicaid Services of a program designed to reimburse non-state, governmental entities through the Medicaid program for outpatient behavioral health services to Medicaid recipients under the age of twenty-one.

B. The Louisiana Department of Health may develop and maintain a Medicaid upper payment limit financing methodology for the behavioral health services provided for in Subsection A of this Section. The disbursements of monies generated by the use of an upper payment limit methodology shall be made only in accordance with an approved waiver or state plan amendment. The source of the non-federal match for these payments may only be by voluntary certification of expenditures or intergovernmental transfer of funds.

RS 40:1243.3 — Upper payment limit mechanism for ambulatory surgical centers of a program designed to reimburse ambulatory

surgical centers that have an agreement with a governmental entity or entities to provide enhanced Medicaid services.

B. The Louisiana Department of Health may develop and maintain a Medicaid upper

payment limit financing methodology for ambulatory surgical centers provided for in Subsection A of this Section. The disbursements of money generated by the use of an upper payment limit methodology shall be made only in accordance with an approved waiver or state plan amendment. The source of the nonfederal match for these payments may only be by voluntary certification of expenditures or intergovernmental transfer of funds.

RS 40:1244.1 — Physician upper payment limit methodology

ograms, specifically Medicaid,

through the utilization of physician upper payment limit reimbursement methodologies. Any such methodology utilized shall be designed to continue access and delivery of healthcare services to the poor. The implementation of this methodology shall be subject to federal law and approval by the Centers for Medicare and Medicaid Services. Participation in the utilization of physician upper payment limit reimbursement methodologies shall be limited exclusively to hospitals which certify public expenditures to the state.

RS 40:1245.1 — Authority to accept and use intergovernmental transfers from local governing

bodies, including but not limited to a parish, for the purpose of enhancing

the delivery of health care services to the uninsured and Medicaid patients. Any such transfer shall be in accordance with federal law and subject to approval by the Centers for Medicare and Medicaid Services.

B. It is the intent of the legislation that any transfer authorized herein shall be primarily utilized for the enhancement of health care within the jurisdiction of the transferring entity. However, any such transfer shall be under the administrative control of the Louisiana Department of Health.

C. The department may establish a methodology utilizing a pool, or pools, to facilitate distribution of any transfers received in addition to any federal financial participation earned through the use of such transfers, as authorized herein. The methodology shall be created with the intent to maximize, to the fullest extent possible, the return to the providers located within the jurisdiction of the local governing body from which such transfer is derived. The department may create criteria for qualification to participate in any pool methodology and establish criteria and priorities for reimbursement within the respective pool. Any such criteria may include health care providers which reside outside the jurisdiction of the transferring body.

D. The department may submit waivers or state plan amendments to the Centers for Medicare and Medicaid Services in order to secure federal financial participation in relation to any such payments or reimbursement. Payments shall be made only in accordance with an approved waiver or state plan amendment.

E. The department and the transferring local governing body may enter into an agreement, in accordance with state and federal law, concerning the use of transferred funds in a way that is consistent with the legislative intent set forth herein.

RS 40:1247.1 — Funding identification

ent of Health

in an effort to maximize revenues for both the Louisiana Department of Health and the parish

and municipal entities. Collaboration between the Louisiana Department of Health and the parish and municipal entities may allow such entities to receive additional funding from public and private sources. The provisions of this Subpart shall not be construed to require any parish or municipal entity to enter into an agreement with the Louisiana Department of Health.

RS 40:1248.1 — Definitions

(2) "Governmental institutional provider" means either of the following:

(a) A nonstate governmental hospital, licensed in accordance with the Hospital Licensing Law, R.S. 40:2100 et seq., other than a rural hospital as defined in R.S. 40:1189.3.

(b) A hospital included in the definition of public, nonrural community hospital as defined in the Louisiana Medicaid State Plan.

(3) "Institutional provider" means a governmental institutional provider, nongovernmental institutional provider, or rural hospital, as applicable, located in participating parishes.

(4) "Nongovernmental institutional provider" means a hospital licensed in accordance with the Hospital Licensing Law, R.S. 40:2100 et seq., that is not a governmental institutional provider or rural hospital.

(5) "Paying hospital" means an institutional provider required by the provisions of this Subpart to make a local hospital assessment payment.

(6) "Program" means the local healthcare provider participation program authorized by this Subpart.

(7) "Rural hospital" means a rural hospital as defined in R.S. 40:1189.3.

RS 40:1248.2 — Purpose

share of a Medicaid payment program directly benefitting the residents of a parish.

RS 40:1248.3 — Applicability; multi-parish funding district

join with one or more

contiguous parishes with fewer than two hospitals and create a multi-parish funding district, which shall be a new governmental entity. The boundary of a multi-parish funding district shall be coextensive with the combined boundaries of the parishes contained in the multi-parish funding district. A multi-parish funding district shall be established by the governing body of each parish within the boundaries of a proposed funding district passing and adopting a resolution or ordinance establishing the multi-parish funding district and appointing one representative to serve on the multi-parish funding district's governing body. If any other parish seeks to join after the creation of the district, the resolution or ordinance shall be amended before the new parish may join the district.

(2) The governing body of a multi-parish funding district shall be comprised solely of the individuals appointed by each parish within the boundaries of the district. A parish may replace its appointment to the governing body by resolution or ordinance.

(3) The governing body of a multi-parish funding district shall delegate the operational and administrative burdens of the district to the parishes that comprise the

district. Within sixty days of the establishment of a multi-parish funding district, the governing body shall designate at least one parish to serve as the operational and administrative lead for the district. The governing body may change this designation at any time.

(4) Solely for purposes of compliance with this Subpart, a multi-parish funding district is considered to be a parish and the other provisions of this Subpart shall be read to impose parish requirements on the governing body of the multi-parish funding district.

RS 40:1248.4 — Parish healthcare provider participation program

provider participation fund established by the
parish all of the following monies:

(1) Any local hospital assessment payment from an institutional provider located in the parish.

(2) Such other sums as the parish deems appropriate.

B. Monies in the provider participation fund may be used by the parish to fund certain intergovernmental transfers and indigent care programs as provided by this Subpart.

C. A parish may adopt an ordinance authorizing it to participate in the program, subject to the limitations provided in this Subpart.

D. Any parishes authorized by R.S. 40:1248.3 to establish a local provider participation fund may, upon agreement of the governing authorities of each parish, establish a single fund for the benefit of those parishes and a local hospital assessment applicable to the institutional providers in those parishes.

RS 40:1248.5 — Powers and duties of parishes; limitations; inspection of provider records

from an institutional provider in the parish. The requirement for
payment shall be implemented in the manner provided for in this Section.

B. A parish may authorize the collection of a local hospital assessment payment authorized by this Subpart only with an affirmative vote of a majority of the members of the governing body of the parish made at a regular or special meeting held no less than thirty days following publication of a notice in the official journal of the parish of intention to authorize the collection of such payment.

C.(1) A parish that collects a local hospital assessment payment authorized by this Subpart shall require each institutional provider to submit to the parish a copy of any financial and utilization data required by and reported to the department.

(2) A parish that collects a local hospital assessment payment authorized by this Subpart may inspect the records of an institutional provider to the extent necessary to ensure compliance with the requirements of Paragraph (1) of this Subsection.

D.(1) A rural hospital may be included in assessment payments imposed pursuant to this Subpart if the rural hospital and parish enter into a mutual agreement to include the rural hospital.

(2) A governmental hospital may be included in assessment payments imposed in accordance with this Subpart if the governmental hospital and parish enter into a mutual agreement to include the governmental hospital.

(3) If a parish excludes providers pursuant to this Subsection or otherwise, the

definition of institutional provider as used in this Section and in R.S. 40:1248.8 shall be read to exclude such excluded providers, and, if necessary, the parish shall be required to work with the department to obtain federal approvals to ensure compliance with 42 U.S.C. 1396b(w).

RS 40:1248.6 — Public hearings

assessment

payments that the parish intends to require during the year and how the revenue derived from those payments is to be spent.

B. Not later than the tenth day before the date of the hearing required by Subsection

A of this Section, the parish governing authority shall publish notice of the hearing in the official journal of the parish. A representative of a paying hospital shall be entitled to appear at the time and place designated in the public notice and to be heard regarding any matter related to the local hospital assessment payments authorized by this Subpart.

RS 40:1248.7 — Local provider participation fund; authorized uses

ion fund. All income received by a parish

pursuant to the provisions of this Subpart, including the revenue from local hospital assessment payments remaining after discounts and fees for assessing and collecting the payments are deducted, shall be deposited in the local provider participation fund of the parish. Monies in the fund may be withdrawn only in accordance with and for purposes specified in the provisions of this Section.

B. The local provider participation fund of a parish shall consist of the following monies:

- (1) All revenue received by the parish attributable to local hospital assessment payments authorized by this Subpart, including any penalties and interest attributable to delinquent payments.
- (2) Monies received from the department as a refund of an intergovernmental transfer from the parish to the state for the purpose of providing the nonfederal share of Medicaid base rate payments, provided that the intergovernmental transfer does not receive a federal matching payment.
- (3) Sums which the parish elects to deposit.
- (4) The earnings of the fund.

C. Monies in the local provider participation fund may be used only for one or more of the following purposes:

- (1) To fund intergovernmental transfers from a parish to the state to provide the nonfederal share of a program of Medicaid payments for the benefit of hospitals in the parish.
- (2) To pay the administrative expenses of a parish associated exclusively with activities authorized by this Subpart in an amount not to exceed the amount specified in R.S. 40:1248.8.
- (3) To refund a portion of a local hospital assessment payment collected in error from a paying hospital.
- (4) To refund to paying hospitals the proportionate share of money received by a parish from the department that is not used to fund the nonfederal share of Medicaid payment

program payments described in Paragraph (1) of this Subsection.

D. Money in the local provider participation fund shall not be commingled with other parish funds.

RS 40:1248.8 — Local hospital assessment payments; basis; calculation

this Subpart may require an annual local hospital

assessment payment to be assessed quarterly using any basis permitted by 42 U.S.C.

1396b(w)(3). The parish shall update the amount of the local hospital assessment payment on an annual basis.

B. The assessment authorized by this Subpart shall be imposed on each paying hospital in the parish in accordance with 42 U.S.C. 1396b(w) including but not limited to 42 U.S.C. 1396b(w)(3)(E). In accordance with 42 U.S.C. 1396b(w), a local hospital assessment payment authorized by this Subpart shall not hold harmless any institutional provider.

C. A parish that collects a local hospital assessment payment authorized by this Subpart shall set the amount of the local hospital assessment payment. The amount of the local hospital assessment payment required of paying hospitals may not exceed an amount that, when added to the amounts of any other assessment, local hospital assessment payment, or tax imposed by the state with a similar purpose, equals an amount of revenue that exceeds six percent of the aggregate net patient revenue of all hospitals in the state. The local hospital assessment shall also meet all other relevant Centers for Medicare and Medicaid Services tests. No later than the twentieth day before a hearing to set a rate pursuant to R.S. 40:1248.6, a parish shall inform the department of the amount of revenue to be collected under the proposed assessment. If the department determines that the proposed assessment will trigger federal compliance issues, including issues with respect to the six-percent limit, the department shall inform the parish, prior to the hearing, of any necessary reductions in the amount to be collected or changes necessary to comply with federal requirements. If the parish does not follow recommendations or requests from the department, the department may terminate, or refuse to enter into, any intergovernmental transfer agreements with the parish.

D. Subject to the maximum payment amount prescribed in Subsection C of this Section, a parish that collects a local hospital assessment payment authorized by this Subpart shall set local hospital assessment payments in amounts that, in the aggregate, will generate sufficient revenue to cover the administrative expenses of the parish for activities provided for in this Subpart and to fund the nonfederal share of a Medicaid payment for the benefit of hospitals in the parish; except that the amount of revenue from local hospital assessment payments used for administrative expenses of the parish for activities provided for in this Subpart in a year, including collection services as provided for in R.S. 40:1248.9, shall be one hundred fifty thousand dollars.

E. A paying hospital may not add a local hospital assessment payment required by this Section as a surcharge to a patient.

RS 40:1248.9 — Local hospital assessment payments; collection

this Subpart. If a sheriff serves as the

collection entity, the sheriff may charge and deduct from local hospital assessment payments

a reasonable and customary fee for collecting those payments.

RS 40:1248.10 — Eligibility of funds for federal match; conformance with requirements of federal

e with this Subpart causes a local hospital assessment payment authorized by this Subpart to be ineligible for federal matching funds, the parish may provide by rule for an alternative provision or procedure that conforms to the requirements of the Centers for Medicare and Medicaid Services.

RS 40:1248.21 — Dispensation of contraceptive drugs; six-month supply; coverage

er January 1, 2023, to include the dispensing of a

six-month supply of contraceptive drugs to be obtained at one time by the insured, unless the insured requests a smaller supply or the prescribing provider instructs for the insured to receive a smaller supply. The insured shall have used the same contraceptive drugs for at least the consecutive six months prior to receiving a six-month supply. Contracts with managed care plans shall allow the insured to receive onsite dispensing of the prescribed contraceptive drugs at family practice clinics, if available. Dispensing practices shall follow all licensing and clinical guidelines for appropriate prescribing and dispensing to ensure the health of the insured while maximizing access to effective contraceptive drugs.

B. For purposes of this Section, "contraceptive drugs" means all drugs approved by the United States Food and Drug Administration that are used to prevent pregnancy including but not limited to hormonal drugs administered orally, transdermally, and intravaginally.

C. Nothing in this Section shall apply to any drug, medicine, or other substance prescribed, dispensed, or distributed that is intended to induce an abortion.

RS 40:1249.1 — Legislative findings; purpose

ent that the legislature has made to

provide home- and community-based long-term care services, many Louisiana residents are still required to wait for years to receive the services they need.

RS 40:1249.2 — Definitions

means the Louisiana Department of Health or its successor in the role of designated state agency under Title XIX of the Social Security Act or any successor Act providing funding for medical care for the poor.

(3) "Elderly" means an individual who is sixty-five years of age or older.

(4) "Long-term care services" means the following services provided pursuant to Louisiana's approved Medicaid state plan for medical assistance:

(a) Long-term personal care services.

(b) Adult day health care waiver services.

(c) Children's Choice Waiver services.

(d) Elderly and Disabled Adults Waiver services.

(e) New Opportunities Waiver services.

(f) Supports waiver services.

(5) "Person with a developmental disability" means an individual of any age who has a developmental disability as defined in R.S. 28:451.2.

(6) "State plan for medical assistance" means the plan promulgated by the

department in accordance with its role as designated state agency under Title XIX of the Social Security Act or any successor Act providing funding for medical care for the poor.

RS 40:1249.3 — Medical assistance programs

Taking actions necessary to complete implementation of the resource allocation models for the New Opportunities Waiver, the Elderly and Disabled Adults Waiver, and the Long-Term Personal Care Services program by July 1, 2012.

(2) Developing an objective formula to determine the staff needed to appropriately regulate and monitor the various home- and community-based programs to control fraud and abuse, to ensure program regulations are adhered to and services are delivered in a quality manner, and to report the department's findings.

(3) Changing the policy on the allocation of waiver slots so that the office for citizens with developmental disabilities and the office of aging and adult services may allocate all Centers for Medicare and Medicaid Services-approved waivers, such as Children's Choice, Supports, Residential Options and Adult Day Health Care, based upon individual need and cost-effectiveness, as long as individual needs are met with the alternative waivers.

(4) Developing and implementing a budget-neutral pilot program in selected areas of the state for an integrated, coordinated, prepaid delivery model for long-term care services for the elderly and people with adult-onset disabilities.

(5) Submitting quarterly reports, the first report being submitted no later than October 1, 2010, to the House and Senate committees on health and welfare and the Joint Legislative Committee on the Budget. Each report shall include:

(a) The number of recipients served in the Long-Term Personal Care Services program, the Elderly and Disabled Adults Waiver program, and the New Opportunities Waiver program, and the average annual cost per recipient served in each program.

(b) The number of recipients in each program whose annual cost of services exceeds the average cost for that program.

(c) The number of recipients in each program whose annual service cost has increased from the previous year.

(d) The number of persons on waiting lists for each program.

(e) The number of persons on waiting lists who are currently receiving services and the type of services they are receiving.

(f) The number of persons moved from an existing service to the New Opportunities Waiver and the additional cost or savings for each person.

(g) The average cost of persons receiving services from both the Long-Term Personal Care Services program and the Elderly and Disabled Adults Waiver program.

(h) The average cost for persons receiving services in privately operated nursing facilities and privately operated intermediate care facilities for persons with developmental disabilities.

(i) The number of waiver recipients whose cost of care exceeds the average cost of the services being waived.

(j) Other pertinent data as requested by the committees.

B. Repealed by Acts 2022, No. 252, §3.

RS 40:1249.4 — Electronic visit verification system; implementation; conditions

on system which electronically verifies that service visits

occur and documents the points in time when service provision begins and ends.

B. The legislature hereby finds that due to the significant potential of electronic visit verification systems for improving care quality and containing medical assistance program costs, notably through prevention of fraud, abuse, and billing errors, the implementation of such systems in home- and community-based long-term care and other in-home service care programs is in the best interest of this state.

C. To the maximum extent practicable, and subject to the conditions provided in Subsection D of this Section, the department shall implement an electronic visit verification system for all in-home care services that it funds through medical assistance programs.

D.(1) If the conditions of Paragraph (3) of this Subsection are satisfied, then the department shall promulgate such rules in accordance with the Administrative Procedure Act as are necessary to ensure optimal functioning of the electronic visit verification system.

(2) The department may provide rate enhancements and other financial incentives to providers of long-term care services to facilitate timely and effective implementation of the electronic visit verification system.

(3) The department may implement an electronic visit verification system only if the fiscal impact thereof is reasonably expected to be cost-neutral or result in cost savings.

RS 40:1250.1 — Short title

ce any technical difficulties navigating this website,

RS 40:1250.2 — Legislative findings; declaration

It-onset, or physical disabilities furnished by private providers is essential for the health, safety, and well being of those persons.

(2) Reliable and sufficient Medicaid reimbursement rates for private providers are necessary to create and maintain a sustainable statewide system of services for eligible individuals with disabilities.

(3) A statewide system of services is sustainable only if reimbursement rates are sufficient to enlist providers in numbers great enough to allow eligible individuals a choice among different providers who are capable of delivering quality services that will meet the assessed needs of those individuals in a timely manner.

B. The legislature hereby declares that this state must take steps to foster and maintain a robust network that attracts and retains quality providers which are capable of maintaining a stable workforce and are sufficient in number to allow for meaningful choices among providers by individuals eligible to receive disability services.

RS 40:1250.3 — Definitions

(2) "Methodology" means the aggregate of methods, principles, assumptions, variables, factors, and procedures used to determine a reimbursement rate.

(3) "Provider" means a person, public agency, nonprofit corporation, or a for-profit business entity that provides services under a contract or other agreement with the

department.

(4) "Rate" means the amount of money per unit of time for a Medicaid service performed or the amount of money for a Medicaid service performed for a flat fee, such as a per diem.

(5) "Rebasing" means using cost report information to adjust Medicaid reimbursement rates to the level dictated by the Medicaid reimbursement methodology for each covered service.

(6) "Reimbursement" means payment for a Medicaid service in accordance with a specified rate.

(7) "Service" means a home- or community-based service, intermediate care facility service, or support coordination service provided to a recipient by a provider under a contract or other agreement with the department.

RS 40:1250.11 — Monitoring for adequacy and quality of services

iciency of rates. Such factors may

include, without limitation, trends in cost of living and other economic indexes, wage rates, and changes in regulatory and policy requirements affecting provider costs.

B. The department may require reasonable, periodic financial reports from providers as needed to ensure the availability of reliable cost data. The department shall consult and collaborate with providers to develop reasonable financial reporting requirements.

RS 40:1250.12 — Annual review of rates

review of all

pertinent data.

B. Any reduction in disability rates to providers must be approved by the Joint Legislative Committee on the Budget.

RS 40:1250.21 — Annual report

and the legislative committees on health and welfare no later than forty-five days prior to the convening of each regular session of the Legislature of Louisiana. The report shall include, without limitation, all of the following information:

(1) Any changes within the previous twelve months to the Medicaid rate methodology for disability services and the current Medicaid rates for those services.

(2) The date of the last rebasing of Medicaid rates for intermediate care facilities for people with developmental disabilities and any future dates on which those rates are due to be rebased.

(3) The amount of funding that would be required for an annual adjustment, based on the inflation index, to Medicaid rates for disability services.

(4) The health market basket inflation index used in calculating the amount of funding that would be needed for an annual adjustment of Medicaid rates for disability services.

(5) Any proposed changes to the methodology for determining Medicaid rates for disability services.

B. Upon request of any legislative committee identified in this Section, the secretary

of the department or his designee shall appear in person before the committee to present the report required by this Section.

RS 40:1250.31 — Dental care for certain adults with developmental or intellectual disabilities;

ning a

specific appropriation of monies for the implementation of Act 366 of the 2022 Regular Session becomes effective. See Acts 2022, No. 366.

A.(1) The Louisiana Department of Health shall ensure that comprehensive Medicaid coverage for dental care is provided to each person of age twenty-one or older who is enrolled in any Medicaid waiver program for persons with developmental or intellectual disabilities.

NOTE: Paragraph (A)(1) eff. upon an Act of the Louisiana Legislature containing a specific appropriation of monies for the implementation of Act 366 of the 2022 Regular Session becomes effective. See Acts 2022, No. 366.

A.(1) The Louisiana Department of Health shall ensure that comprehensive Medicaid coverage for dental care is provided to all of the following persons:

(a) Each person of age twenty-one or older who is enrolled in any Medicaid waiver program for persons with developmental or intellectual disabilities.

(b) Each Medicaid enrollee of age twenty-one or older who resides in an intermediate care facility for people with developmental disabilities licensed in accordance with the provisions of R.S. 40:2180 et seq.

(2) For purposes of this Section, "comprehensive Medicaid coverage for dental care" means Medicaid coverage which reimburses for dental and oral health services including all of the following:

(a) Diagnostic services.

(b) Preventive services.

(c) Restorative services.

(d) Endodontics.

(e) Periodontics.

(f) Prosthodontics.

(g) Oral and maxillofacial surgery.

(h) Orthodontics.

(i) Emergency care.

B. The Louisiana Department of Health shall not furnish any coverage required by Subsection A of this Section until all of the following have occurred:

(1) The Centers for Medicare and Medicaid Services has approved the provision of such coverage.

(2) The legislature has appropriated the funding necessary for the provision of such coverage.

RS 40:1250.32 — Administrative rulemaking

sions of this

Part.

RS 40:1251.1 — Title

by HCR 84 of 2015 R.S.

RS 40:1251.2 — Purpose

bilities live above the poverty level by providing needed health care coverage. This program is also intended to enable some recipients of Supplemental Security Disability Insurance benefits to return to work and to receive Medicaid as a supplement to private or Medicare insurance.

B. This program is intended to help persons with severe mental illnesses who can work if they are on medication and those with severe physical disabilities who need medical supports in order to work.

RS 40:1251.3 — Ticket to Work and Work Incentives Improvement Act Opportunities

(i) and pursuant to the restrictions contained in this Part, the department shall avail itself of the provisions of the Ticket to Work and Work Incentives Improvement Act provisions to implement a buy-in program for the working persons with disabilities.

RS 40:1251.4 — Definitions

provide the opportunity for working persons with disabilities to buy access to needed health care and support services.

(2) "Persons with disabilities" means those citizens of Louisiana who meet the Social Security Disability criteria.

RS 40:1251.5 — Buy-In Program Appropriations

nt, are included

in the General Appropriation Act

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enacted during the 2003 Regular Session of the Legislature. If included in that Act, the Medicaid Buy-In Program for Persons with Disabilities shall be implemented by the department no later than January, 2004.

RS 40:1251.6 — Provisions

ty criteria for persons

with disabilities to obtain coverage.

(2) A sliding scale for the buy-in amounts to be paid by working persons with disabilities to maintain Medicaid coverage, while working.

(3) A plan to publicize the eligibility criteria and where applications may be obtained.

(4) Any standards or procedures necessary to properly implement a buy-in program for persons with disabilities.

B. The provisions of this Part shall not prohibit the department from exercising any and all authorities and responsibilities granted to the department under the Medical Assistance Program (Title XIX of the Social Security Act) in the event such authorities and responsibilities are concurrent with the provisions of this Part.

C. Any rules or regulations adopted under the provisions of this Part shall be

promulgated under the Administrative Procedure Act. Any rules or regulations shall be subject to review by the House Committee on Health and Welfare and the Senate Committee on Health and Welfare.

D. Beginning January 1, 2004, and semiannually thereafter and not later than sixty days prior to the beginning of the regular session of the legislature, the department shall submit the following information to the Joint Legislative Committee on the Budget and to the Senate Committee on Health and Welfare and the House Committee on Health and Welfare:

- (1) Status of the buy-in program, including the number of enrollees, the estimated cost of the program, and any other information the department deems pertinent to this buy-in program.
- (2) A report relative to the estimated value of the state, federal and FICA taxes paid by the participants in the buy-in program.
- (3) Any recommendations for expanding coverage in the buy-in program or any other recommendations relative to the requirements of this Part.

RS 40:1253.1 — Legislative intent

cient and sustainable

method possible. With the transition of over two-thirds of the Medicaid eligible population from a fee-for-service based program to a managed care organization based program, it is imperative that there is adequate reporting from the Louisiana Department of Health in order to ensure the following outcomes are being achieved:

- (1) Improved care coordination with patient-centered medical homes for Medicaid recipients.
- (2) Improved health outcomes and quality of care as measured by metrics, such as the Healthcare Effectiveness Data and Information Set (HEDIS).
- (3) Increased emphasis on disease prevention and the early diagnosis and management of chronic conditions.
- (4) Improved access to Medicaid services.
- (5) Improved accountability with a decrease in fraud, abuse, and wasteful spending.
- (6) A more financially sustainable Medicaid program.

B. It is in the best interest of the citizens of the state that the Legislature of Louisiana ensures that the Louisiana Medicaid program, as it relates to recipients with severe mental illness, is operated in the most efficient and sustainable method possible. The transition of the services of the office of behavioral health within the Louisiana Department of Health to a managed care system in which a single statewide management organization operates as a single point of entry to behavioral health services requires adequate reporting from the Louisiana Department of Health in order to ensure the following outcomes are being achieved:

- (1) Implementation of a Coordinated System of Care for youth and their families or caregivers that utilizes a family and youth driven practice model, provision of wraparound facilitation by child and family teams, family and youth supports, and overall management of these services by the statewide management organization.

- (2) Improved access, quality, and efficiency of behavioral health services for children not eligible for the Coordinated System of Care and for adults with severe mental illness and addictive disorders, through management of these services by the statewide management organization.
- (3) Smooth and efficient transition of behavioral health service delivery and operations from a regional based approach coordinated through the office of behavioral health within the Louisiana Department of Health to the use of human service districts or local government entities.
- (4) Seamless coordination of behavioral health services with the comprehensive healthcare system without losing attention to the special skills of the behavioral health professionals.
- (5) Advancement of a resiliency, recovery, and consumer-focused system of person-centered care.
- (6) Implementation of best practices and evidence-based practices that are effective and efficient and are supported by the data collected from measuring outcomes, quality, and accountability.
- (7) The efficient and effective use of state general funds in order to maximize federal funding of behavioral services provided by the Medicaid program.

RS 40:1253.2 — Medicaid managed care program; reporting

within that program, any

managed care program providing dental benefits to Medicaid enrollees to the senate and house committees on health and welfare. The department shall submit the report by June thirtieth every year, and the applicable reporting period shall be for the previous state fiscal year except for those measures that require reporting of health outcomes which shall be reported for the calendar year prior to the current state fiscal year. The report shall include:

- (1) Except when inapplicable due to the types of healthcare benefits administered by the particular managed care organization, the following information related to the managed care organizations contracted with the state to provide Medicaid-covered healthcare services to Medicaid enrollees:
 - (a) The name of each managed care organization that has contracted with the Louisiana Department of Health to provide healthcare services to Medicaid enrollees.
 - (b) The total number of employees employed by each managed care organization which is based in Louisiana and the average salary paid to those employees.
 - (c) The amount of the total payments and average per member per month payment paid by the state to each managed care organization delineated monthly.
 - (d) The total number of healthcare providers contracted to provide healthcare services for each managed care organization delineated by provider type, provider taxonomy code, and parish.
 - (e) The total number of providers contracted to provide healthcare services for each managed care organization that provides primary care services and submitted at least one claim for payment for services rendered to an individual enrolled in the health plan delineated by provider type, provider taxonomy code, and parish.

- (f) The total number of providers contracted to provide healthcare services for each managed care organization that has a closed panel for any portion of the reporting period delineated by provider type, provider taxonomy code, and parish.
- (g)(i) The medical loss ratio of each managed care organization and the amount of any refund to the state for failure to maintain the required medical loss ratio.
- (ii) With respect to the monies comprising the managed care organization's medical loss ratio, the report shall include the following information:
- (aa) Total expenditures on patient care.
- (bb) Total expenditures on healthcare quality improvements.
- (cc) Total expenditures on healthcare information technology.
- (dd) Total expenditures on goods and services other than patient care, healthcare quality improvements, and healthcare information technology.
- (h) A copy of the annual external quality review technical report produced pursuant to 42 CFR 438.364.
- (i) A copy of the member and provider satisfaction survey report for each managed care organization.
- (j) A copy of the annual audited financial statements for each managed care organization. The financial statements shall be those of the managed care organization operating in Louisiana and shall not be those financial statements of any parent or umbrella organization.
- (k) A brief factual narrative of any sanctions levied by the Louisiana Department of Health against a managed care organization.
- (l) For managed care organizations that administer dental benefits, a comparison of oral health outcomes that includes but is not limited to the percentage of eligible patients that saw a dentist in that fiscal year as well as the following rates of procedures performed on those who saw a dentist:
- (i) Adult oral prophylaxis.
- (ii) Child oral prophylaxis.
- (iii) Dental sealants.
- (iv) Fluoride varnish.
- (v) Amalgam fillings.
- (vi) Composite fillings.
- (vii) Stainless steel crowns.
- (viii) Extractions of primary teeth.
- (ix) Extractions of permanent teeth.
- (x) Pulpotomies performed on primary teeth.
- (xi) Root canals performed on permanent teeth.
- (2) The following information regarding Medicaid enrollees receiving healthcare services from a managed care organization:
- (a) The total number of unduplicated enrollees enrolled during the reporting period, and the monthly average of the number of members enrolled in each managed care organization delineated by eligibility category of the enrollees.

- (b) The number of members who proactively chose the managed care organization, and the number of members who were auto-enrolled into each managed care organization, delineated by managed care organization.
- (c) The total number of enrollees who received unduplicated Medicaid services from each managed care network, broken down by provider type, provider taxonomy code, and place of service.
- (d) The total number and percentage of enrollees of each managed care organization who had at least one visit with their primary care provider during the reporting period.
- (e) The following information concerning hospital services provided to Medicaid enrollees:
- (i) The number of members who received unduplicated outpatient emergency services, delineated by managed care organization.
- (ii) The number of total inpatient Medicaid days delineated by managed care organization.
- (iii) The total number of unduplicated members who received outpatient emergency services and had at least one visit to a primary care provider within the past year of receiving the outpatient emergency services.
- (f) The number of members, delineated by each managed care organization, who filed an appeal, the number of members who accessed the state fair hearing process, and the total number and percentage of appeals that reversed or otherwise resolved a decision in favor of the member. For purposes of this Subparagraph, "appeal" means a request for review of an action.
- (3) The following information related to healthcare services provided by healthcare providers to Medicaid enrollees enrolled in each of the managed care organizations:
- (a) The total number of claims submitted by healthcare providers to each managed care organization. The total number shall also be delineated by claims for emergency services and claims for nonemergency services.
- (b) The total number of claims submitted by healthcare providers to each managed care organization which were adjudicated by the respective managed care organization and payment for services was denied. This item of the report shall include a delineation between emergency and nonemergency claim denials. Additionally, this item of the report shall include the number of denied claims for each managed care organization delineated by the standard set of Claim Adjustment Reason Codes published by the Washington Publishing Company.
- (c) The total number of claims submitted by healthcare providers to each managed care organization which meets the definition of a clean claim as it is defined in the contract executed between the state and the managed care organization, and the percentage of those clean claims that each of the managed care plans has paid for each provider type within fifteen calendar days and within thirty calendar days. In addition, the report shall include the average number of days for each managed care organization to pay all claims of healthcare providers delineated by provider type.
- (d) The total number and percentage of regular and expedited service authorization

requests processed within the time frames specified by the contract for each managed care organization. In addition, the report shall contain the total number of regular and expedited service authorization requests which resulted in a denial for services for each managed care organization.

(e) The total number and dollar value of all claims paid to out-of-network providers by claim type categorized by emergency services and nonemergency services for each managed care organization by parish.

(f)(i) The total number of independent reviews conducted pursuant to R.S. 46:460.81 et seq., delineated by claim type for each managed care organization.

(ii) The total number and percentage of adverse determinations overturned as a result of an independent review conducted pursuant to R.S. 46:460.81 et seq., delineated by claim type for each managed care organization.

(g) The following information concerning pharmacy benefits delineated by each managed care organization and by month:

(i) Total number of prescription claims.

(ii) Total number of prescription claims subject to prior authorization.

(iii) Total number of prescription claims denied.

(iv) Total number of prescription claims subject to step therapy or fail first protocols.

(v) The average and range of times for responding to prior authorization requests.

(vi) The number of prior authorization requests denied, delineated by the reasons for denial.

(vii) The number of claims denied after prior authorization was approved, delineated by the reasons for denial.

(h) The report shall include the following information concerning Medicaid drug rebates and manufacturer discounts delineated by each managed care organization and the prescription benefit manager contracted or owned by the managed care organization and by month:

(i) Total dollar amount of the Medicaid drug rebates and manufacturer discounts collected and used.

(ii) Total dollar amount of Medicaid drug rebates and manufacturer discounts collected and remitted to the Louisiana Department of Health.

(4) For managed care organizations that administer dental benefits, the following information concerning prior authorization requests, delineated by type of procedure:

(a) The number of prior authorization requests.

(b) The average and range of times for responding to prior authorization requests.

(c) The number of prior authorization requests denied, delineated by the reasons for denial.

(d) The number of claims denied after prior authorization was approved, delineated by the reasons for denial.

(5) Any other metric or measure which the Louisiana Department of Health deems appropriate for inclusion in the report.

B.(1) The Louisiana Department of Health shall submit quarterly reports to the Senate

and House committees on health and welfare concerning the Medicaid expansion population and service utilization. The reports shall include all of the following:

(a) Medicaid expansion population data which shall include the following:

(i) Number of individuals enrolled in Medicaid for the reporting period who are eligible as part of the expansion population.

(ii) Number of individuals in the expansion population age nineteen to forty-nine and number of individuals age fifty to sixty-four.

(iii) Number of individuals in the expansion population in each age category with earned income.

(iv) Number of individuals in the expansion population in each age category assigned to a Medicaid managed care organization, identified by each individual managed care organization.

(v) The per-member per-month cost paid to each managed care organization to manage the care of the individuals in the expansion population assigned to their plan, identified by each individual managed care organization.

(b) Medicaid expansion population utilization data shall include the following:

(i) Comparison of individuals age nineteen to forty-nine, age fifty to sixty-four, and those who are covered by Medicaid who are not part of the expansion population utilizing the following services during the reporting period:

(aa) Emergency department.

(bb) Prescription drugs.

(cc) Physician services.

(dd) Hospital services.

(ee) Nonemergency medical transportation.

(ii) Expenditures associated with each service for individuals in the expansion population age nineteen to forty-nine, age fifty to sixty-four, and those who are covered by Medicaid who are not part of the expansion population during the reporting period.

(2) The quarterly reports required in this Subsection shall be submitted on the twentieth day of July, October, January, and April of each year, to include the data required in this Subsection, identified by month for the prior three months, with a collective chart of all data submitted to be included in the annual report provided for in Subsection A of this Section.

C.(1) The Louisiana Department of Health shall submit quarterly reports to the Senate and House committees on health and welfare encompassing the following data regarding the Medicaid managed care organizations' pharmacy benefit managers:

(a) The name of each pharmacy benefit manager, identified as contracted or owned by the Medicaid managed care organization.

(b) Whether the pharmacy benefit manager is a subsidiary of the parent company of the Medicaid managed care organization.

(c) The total dollar amount paid to the pharmacy benefit manager by the Medicaid managed care organization as a transaction fee for each processed claim.

(d) The total dollar amount of the Medicaid drug rebates and manufacturer discounts

collected and retained by the Medicaid managed care organization and pharmacy benefit manager.

(e) The total dollar amount of the Medicaid drug rebates and manufacturer discounts collected by the Medicaid managed care organization and pharmacy benefit manager and remitted to the Louisiana Department of Health.

(f) The total dollar amount retained by the pharmacy benefit manager through spread pricing. For purposes of this Subparagraph, "spread pricing" means the actual amount paid as reimbursement to a pharmacist as compared to the amount the pharmacy benefit manager charged to and was reimbursed by the Medicaid managed care organization to identify the excess amount paid to the pharmacy benefit manager above what was paid to the pharmacist.

(g) Identification of any other monies retained by the pharmacy benefit manager not otherwise provided for in this Subsection that are not reimbursed to pharmacists.

(2) The quarterly reports required in this Subsection shall be submitted on the twentieth day of July, October, January, and April of each year, to include the data required in this Subsection, identified by month for the prior three months, with a collective chart of all data submitted to be included in the annual report provided for in Subsection A of this Section.

D. To the greatest extent possible, the Louisiana Department of Health shall include in the report at least three years of historical data for each of the measures set forth in Subsection A of this Section.

RS 40:1253.3 — Louisiana Behavioral Health Partnership; reporting

Louisiana Behavioral Health

Partnership to the Senate and House committees on health and welfare. The report shall be submitted by June thirtieth of each year, and the applicable reporting period shall be for the previous state fiscal year. The report shall include but not be limited to the following information:

(1) The total number of healthcare providers in each parish, broken down by provider type, applicable contracting status, and specialty.

(2) The total number of Medicaid and non-Medicaid members enrolled in each parish.

(3) The total and monthly average number of adult Medicaid enrollees receiving services in each parish.

(4) The total and monthly average number of adults not enrolled in the Medicaid program receiving services in each parish.

(5) The total and monthly average number of children receiving services through the Coordinated System of Care by parish.

(6) The total and monthly average number of children receiving Louisiana Behavioral Health Partnership services outside the Coordinated System of Care by parish.

(7) The total and monthly average number of children not enrolled in the Medicaid program receiving Louisiana Behavioral Health Partnership services outside the Coordinated System of Care by parish.

(8) The percentage of all referrals that were considered immediate, urgent and

routine needs and the average length of time to authorize for services by parish.

(9) The percentage of clean claims paid for each provider type within thirty calendar days and the average number of days to pay all claims for each human services district or authority or local government entity.

(10) The five most common reasons for denial of claims and the total number of claims denied according to the cause presented.

(11) The percentage of members asked to and who provide consent for the release of information to coordinate care with the member's primary care physician and other healthcare providers.

(12) The number of outpatient members who received services through the Louisiana Behavioral Health Partnership in hospital-based emergency rooms.

(13) A copy of the statewide management organization's report to the Louisiana Department of Health on quality management, which shall include:

(a) The number of qualified quality management personnel employed by the statewide management organization to review performance standards, measure treatment outcomes, and assure timely access to care.

(b) The mechanism utilized by the statewide management organization for generating input and participation of members, families/caretakers, and other stakeholders in the monitoring of service quality and determining strategies to improve outcomes.

(c) Documented demonstration of meeting all the federal requirements of 42 CFR 438.240 and with the utilization management required by the Medicaid program as described in 42 CFR 456.

(d) Documentation that the statewide management organization has implemented and maintained a formal outcomes assessment process that is standardized, relatable, and valid in accordance with industry standards.

(14) The total amount of funding remitted by the state pursuant to its contract with the statewide management organization during the period addressed by the report, including an itemization of this amount which encompasses, at minimum, the total costs to the state associated with the following cost items:

(a) Payment of claims to providers.

(b) Administrative costs of the statewide management organization.

(c) Profit for the statewide management organization.

(15) An explanation of all changes during the period addressed by the report in any of the following program aspects:

(a) Standards or processes for submission of claims by behavioral health service providers to the statewide management organization.

(b) Types of behavioral health services covered through the statewide management organization.

(c) Changes in reimbursement rates for covered services.

(16) Any other metric or measure that the Louisiana Department of Health deems appropriate for inclusion in the report.

B. Upon the integration of behavioral health services into the Louisiana Medicaid

Bayou Health managed care program, or any successor, the final report produced pursuant to this Section for the period starting July 1, 2015, shall be issued by June 30, 2016, or six months following the integration date, whichever occurs later, and subsequent behavioral health reporting shall be included in the report produced pursuant to R.S. 40:1253.2.

RS 40:1253.4 — Louisiana Department of Health information

published by the department

concerning the Louisiana Medicaid managed care program. The department shall publish and make such information available to the public on its website.

B. Prior to August 1, 2015, every managed care organization contracted with the state to provide Medicaid-covered healthcare services to Medicaid enrollees shall report to the department the uniform resource locator of a webpage which contains a publicly accessible copy of all practice guidelines utilized by each managed care organization which are required to be made available to healthcare providers pursuant to 42 CFR 438.236(c). The department shall place and maintain publicly accessible web links to each of these respective webpages upon its website.

RS 40:1253.5 — Medicaid state plan amendments

correspondence

within twenty-four hours of submission to the Centers for Medicare and Medicaid Services.

All formal responses by the Centers for Medicare and Medicaid Services regarding any state plan amendment shall be made available to the public on the department's website within twenty-four hours of receipt of the correspondence by the department.

RS 40:1255.1 — Definitions

(2) "Medicaid" means the medical assistance program provided for in Title XIX of the Social Security Act.

(3) "Medicare" means the federal health insurance program provided for in Title XVIII of the Social Security Act.

(4) "Telehealth" has the meaning ascribed in R.S. 40:1223.3.

RS 40:1255.2 — Telehealth services; alignment of reimbursement with Medicare policy

identify variations between permissible

reimbursement under that program and reimbursement available to healthcare providers under the Medicare program.

B. To the extent practicable, notwithstanding any other law to the contrary, after conducting a review provided for in Subsection A of this Section, the department may modify its administrative rules, policies, and procedures applicable to Medicaid reimbursement for telehealth services as necessary to provide for a reimbursement system that is comparable to that of the Medicare program for those services.

RS 40:1257.1 — Definitions

(2) "Healthcare provider" means a person, partnership, limited liability partnership, limited liability company, corporation, facility, or institution that provides healthcare or professional services to individuals enrolled in the Medicaid program.

(3) "Medicaid" means the medical assistance program provided for in Title XIX of

the Social Security Act.

(4) "Nonemergency medical transportation" and "NEMT" mean transportation provided to a Medicaid beneficiary to or from a medically necessary Medicaid-covered service. The term shall not include any nonemergency or other type of transportation by ambulance.

RS 40:1257.2 — Nonemergency medical transportation services

EMT services". The purpose

of NEMT services shall be to provide nonemergency medical transportation to a Medicaid beneficiary after all other reasonable means of free transportation for that person have been explored and found to be unavailable. The Medicaid beneficiary or his representative shall confirm that the beneficiary has no other means of transportation.

B. Nonemergency medical transportation to or from a pharmacy, a nursing facility, hospice care, or an appointment for Special Supplemental Nutrition Program for Women, Infants, and Children services at an office of public health location is prohibited.

RS 40:1257.3 — Standards for services; prohibition

state requirements to

provide nonemergency medical transportation as defined in this Part and in administrative rules of the department.

RS 40:1257.5 — Nonemergency medical transportation; transportation network companies

protect and promote public health by facilitating access

to primary care, pharmacy services, and other forms of health care that help people maintain and improve their health.

B. If the department determines that transportation network providers can provide transportation services for Medicaid recipients in a safe, effective, and cost-efficient manner and in compliance with applicable federal Medicaid and Medicare requirements, any transportation network company that complies with rules promulgated pursuant to this Section may connect a driver to a rider through utilizing a Medicaid NEMT broker for the purpose of providing nonemergency medical transportation services within the state through the Louisiana Medicaid program.

C.(1)(a) The department may promulgate rules and regulations as are necessary for the implementation of this Section. No transportation network company may provide Medicaid NEMT services prior to rules being promulgated by the department and demonstrating compliance with requirements established by the department through rules. Requirements imposed for companies and drivers to act as Medicaid transportation providers shall include requirements for enrollment and specifications for the vehicles used and any requirements that may be necessary to conform to applicable federal Medicaid transportation requirements administered by the department, bureau of health services financing.

(b) No driver shall provide nonemergency medical transportation services to a Medicaid enrollee through a transportation network company's digital network prior to the completion of a criminal background check on that driver which comports with the requirements for such background checks provided in R.S. 40:1203.1 et seq. or R.S. 48:2199.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, the department shall require that, prior to facilitating nonemergency medical transportation services for Medicaid enrollees, a transportation network company be under contract with a transportation broker that is under contract with either of the following:

(a) A Medicaid managed care organization as defined in R.S. 46:460.51.

(b) The department.

D. The provisions of R.S. 48:2205 shall apply to the regulation of companies, drivers, and vehicles facilitating or providing nonemergency medical transportation services as authorized in this Section.

E. Nothing in this Section shall be construed to authorize a company or an individual to violate any provision of R.S. 40:1135.1.

F. No ambulance, emergency medical response vehicle, or EMS practitioner as defined in R.S. 40:1131 shall be used for the purpose of providing nonemergency medical transportation services pursuant to this Section.

RS 40:1258.1 — Definitions

reatment that is

designed to manipulate T-cell protein to recognize an antigen on targeted tumor cells in an effort to eliminate cancer.

(2) "Healthcare facility" has the same meaning as the term is defined in R.S. 40:2120.13.

RS 40:1258.2 — Medicaid coverage; enrollment qualifications; duties

such therapy is approved by the United

States Food and Drug Administration, used for a medically accepted indication, and administered in any healthcare facility appropriately providing CAR T-cell therapy in accordance with state and federal guidelines or certifications.

B. Any healthcare facility appropriately providing CAR T-cell therapy in accordance with state and federal guidelines or certifications that participates in the Louisiana Medicaid program shall provide CAR T-cell therapy to an individual who is eligible for such enrollment as defined in Subsection C of this Section.

C.(1) In order to receive coverage from the Louisiana Medicaid program for CAR T-cell therapy, the eligibility of a prospective enrollee shall be determined by the healthcare facility appropriately providing CAR T-cell therapy in accordance with state and federal guidelines or certifications as provided in Subsection B of this Section.

(2) A prospective enrollee shall be considered eligible for CAR T-cell therapy enrollment if the individual satisfies all of the following qualifications:

(a) The individual is enrolled in the Louisiana Medicaid program.

(b) A licensed healthcare provider has certified that CAR T-cell therapy is medically necessary and appropriate to treat the individual's condition.

(c) The CAR T-cell therapy is administered in any healthcare facility appropriately providing CAR T-cell therapy in accordance with state and federal guidelines or certifications.

D. Pursuant to this Section, the secretary of the Louisiana Department of Health shall

do all of the following:

- (1) Submit to the Centers for Medicare and Medicaid Services all necessary state plan amendments.
- (2) Promulgate all necessary rules and regulations in accordance with the Administrative Procedure Act.
- (3) Promulgate rules as necessary to regulate and provide payment to healthcare providers for high cost pharmaceutical carve-outs in accordance with the provisions of this Part.
- (4) Take any other actions necessary to implement the provisions of this Section.

RS 40:1259.1 — Menopausal care; Medicaid coverage

Act, 42 U.S.C. 1396 et

seq., coverage benefits for hormonal care for any woman who is experiencing menopausal or perimenopausal symptoms.

B. The symptoms for which such funding shall be made available include but are not limited to the following:

- (1) Irregular menstrual periods.
- (2) Hot flashes.
- (3) Vaginal or bladder problems.
- (4) Decrease in fertility.
- (5) Loss of bone.
- (6) Increase in low-density lipoprotein cholesterol levels.
- (7) Sleep disruption, which includes night sweats.

C. For the purposes of this Part, the following definitions apply:

- (1) "Menopause" means the permanent cessation of menstruation due to loss of ovarian follicular function. During menopause, ovaries stop releasing eggs and the body produces less estrogen and progesterone.
- (2) "Perimenopause" means the transition period in which a woman is near the end of her reproductive years or at the onset of menopause.

D. The Louisiana Department of Health may seek approval of a federal Medicaid waiver and state plan amendments as may be necessary to implement the provisions of this Section.

RS 40:1259.2 — Medicaid coverage for perimenopausal and menopausal care

menopausal treatment or care when such care or treatment is used for a medically accepted indication and administered in any healthcare facility by any healthcare professional appropriately licensed in this state to provide such medical treatment or care in accordance with state and federal guidelines or certifications.

B. Any healthcare facility appropriately providing perimenopausal or menopausal treatment or care in accordance with state and federal guidelines or certifications that participates in the Louisiana Medicaid program shall provide perimenopausal or menopausal treatment or care to an individual who is eligible for such enrollment as defined in Subsection C of this Section.

C.(1) To receive coverage from the Louisiana Medicaid program for perimenopausal

or menopausal treatment or care, the eligibility of a prospective enrollee shall be determined by the healthcare facility appropriately providing perimenopausal or menopausal treatment or care in accordance with state and federal guidelines or certifications as provided in Subsection B of this Section.

(2) A prospective enrollee shall be considered eligible for perimenopausal or menopausal treatment or care enrollment if the individual satisfies all of the following qualifications:

- (a) The individual is enrolled in the Louisiana Medicaid program.
- (b) A licensed healthcare provider has certified that perimenopausal or menopausal treatment or care is medically necessary and appropriate to treat the individual's condition.
- (c) The perimenopausal or menopausal treatment or care is administered in any healthcare facility appropriately providing perimenopausal or menopausal treatment or care in accordance with state and federal guidelines or certifications.

D. Pursuant to this Section, the secretary of the Louisiana Department of Health shall do all of the following:

- (1) Submit to the Centers for Medicare and Medicaid Services all necessary state plan amendments.
- (2) Promulgate all necessary rules and regulations in accordance with the Administrative Procedure Act.
- (3) Take any other actions necessary to implement the provisions of this Section.

RS 40:1261 — Health report card

to the following

issues:

- (a) Health findings of major diseases.
 - (b) Teenage pregnancy and birth rates.
 - (c) Rates of low birth-weight babies.
 - (d) Suicide rates.
 - (e) Sexually transmitted diseases.
 - (f) Incidence of drug addictions.
 - (g) Violent deaths.
 - (h) Morbidity rates.
 - (i) Health assessment programs and results.
 - (j) Results of preventive health outreach programs.
 - (k) An assessment of the state healthcare delivery system.
- (2) The report shall include information on each parish and the state as a whole and a comparison of that data with data from other states and from prior years, and, if available, variations and changes according to different segments of the state's population.
- (3) Any benefits plan that contracts with the state to provide or coordinate the provision of healthcare services to a Medicaid recipient or other person whose enrollment costs are paid wholly or in part by the state under a Medicaid waiver shall submit a report card indicating the overall health of those enrollees whose costs are paid wholly or in part by the state concerning but not limited to the issues delineated in Paragraph (1) of this

Subsection. Such report card shall be prepared and submitted in accordance with guidelines established by the department and shall be included in the written report described in Subsection C of this Section.

B. The department may conduct hearings and call upon other state agencies, boards, commissions, and departments to assist in the furnishing, compiling, and analyzing of the data required to prepare the report.

C. The department shall submit the written report to the governor, and to each member of the legislature, at least sixty days prior to each regular session, together with recommendations for improving the overall health status on each issue.

D. The department shall promulgate rules and regulations, in accordance with the Administrative Procedure Act, to implement this Section.

RS 40:1261.1 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1262 — Health equity; duties of the Louisiana Department of Health

a foundation and resource for addressing health care

disparities for women and vulnerable populations, and contribute to the improvement of the health of Louisiana's citizens. Specific to the improvement in the health of women in Louisiana, the Louisiana Department of Health shall be responsible for leading, consolidating, and coordinating efforts across the state geared toward improving women's health outcomes through policy, education, evidence-based practices, programs, and services.

B. As part of carrying out the duties provided for in Subsection A of this Section, the Louisiana Department of Health shall engage in all of the following activities:

(1) Complete a thorough assessment of all activities engaged in or services provided by the department that may specifically impact the health or quality of life of women. The department shall submit this assessment to the House Committee on Health and Welfare and Senate Committee on Health and Welfare no later than February 15, 2022.

(2) Make available to health care professionals the best practices and protocols for treating communities with underlying medical conditions and health disparities by doing all of the following:

(a) Examining opportunities which provide greater access to high-quality medical care and improve health outcomes.

(b) Performing a comprehensive evidence-based analysis of the determinants of health equity that influence racial health disparities.

(c) Performing a comprehensive evidence-based analysis of interventions that positively impact health equity and address disparities.

(d) Performing a comprehensive examination of the population dynamics that are indicative of health equity and disparities.

(e) Promoting health awareness educational media campaigns.

C. To assist in carrying out its duties pursuant to this Section, the Louisiana Department of Health may analyze any other relevant data which will add to the work of the department, seek input from any interested parties including but not limited to licensed health care professionals, advocates, and concerned citizens, pursue any relevant topics including

policies and laws that impact health disparities, and promote community outreach and extension activities.

RS 40:1263.1 — Definitions

n the secretary of the Louisiana Department of Health, or
his designated representative.

RS 40:1263.2 — Louisiana Organ Transplant Assistance Program

e Program.

RS 40:1263.3 — Powers and duties

operations on Louisiana residents.

(2) Establish and promulgate rules and regulations, in accordance with the Administrative Procedure Act, for determining eligibility to the program and the amount of assistance.

(3) Accept on behalf of the state any federal funds to assist in carrying out the provisions of this Part.

(4) Accept on behalf of the state funds from any private source to assist in carrying out the provisions of this Part.

(5)(a) Educate residents of the state about:

(i) The need for bone marrow donors.

(ii) The procedures required to become registered as a potential bone marrow donor, including the procedures for determining the person's tissue type.

(iii) The medical procedures a donor must undergo to donate bone marrow or other sources of blood stem cells and the attendant risks of the procedure.

(b) Make special efforts to educate and recruit minority populations to volunteer as potential bone marrow donors. Means of communication may include the use of the press, radio, and television, and placement of educational materials in appropriate health care facilities, blood banks, and state and local agencies. The secretary, in conjunction with the secretary of the Department of Public Safety and Corrections, shall make educational materials available at all places where drivers' licenses are issued or renewed.

RS 40:1263.4 — Definitions; paid marrow donor leave; prohibition of employer sanctions;

(1) "Employee" means a person who performs services for hire for an employer, for an average of twenty or more hours per week, and includes all individuals employed at any site owned or operated by an employer. Employee does not include an independent contractor.

(2) "Employer" means a person or entity that employs twenty or more employees at at least one site and includes an individual, corporation, partnership, association, nonprofit organization, group of persons, state, parish, town, city, school district, or other governmental subdivision.

B. An employer shall grant paid leaves of absence to an employee who seeks to undergo a medical procedure to donate bone marrow. The combined length of the leaves shall be determined by the employee, but may not exceed forty work hours, unless agreed to by the employer. The employer may require verification by a physician of the purpose and

length of each leave requested by the employee to donate bone marrow. If there is a medical determination that the employee does not qualify as a bone marrow donor, the paid leave of absence granted to the employee prior to that medical determination is not forfeited.

C. An employer shall not retaliate against an employee for requesting or obtaining a leave of absence as provided by this Section.

D. This Section does not prevent an employer from providing leave for bone marrow donations in addition to leave allowed under this Section. This Section does not affect an employee's rights with respect to any other employment benefit.

RS 40:1263.5 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1265.1 — Public markets; location, inspection, and operation; exemptions; market zones

subject to the superior right of inspection and regulation of the Louisiana Department of Health.

(2) Permanent open-air public market buildings built prior to 1950 which are designated as historic and located in the city of New Orleans shall be exempt from LAC 51:XXIII.1501, 1701, and 3505(A). The lessor shall develop food service operational guidelines after consultation and periodic review with the Louisiana Department of Health. Such food service operational guidelines shall be incorporated into the lease agreements with lessees who operate food service establishments in the exempted area. The lessor shall enforce such food service operational guidelines through leases with their lessees.

B. They may fix market zones around public markets. However, these market zones shall be limited to a radius of three thousand feet walking distance of the public market and shall not apply within a radius of three hundred lineal feet from the center of all public railroad passenger depots.

RS 40:1265.2 — Private markets; inspection and operation

rovide general regulations for the operation of these private markets, including rules affecting their cleanliness and the wholesomeness of the goods offered for sale therein.

RS 40:1267.1 — Poison control center; establishment

oe. The university may cooperate with public and private agencies and health care institutions in the operation of the center. The center shall include operation of a statewide toll-free telephone number.

RS 40:1269.1 — Citation of Part

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RS 40:1269.2 — Definitions

usly or otherwise, of animal anti-rabies vaccine as approved by the Louisiana Department of Health.

(3) "Owner" means any person who keeps in his care or harbors or who has the custody of a dog.

(4) "Local health authority" means any parish or municipal board, officer, department or other agency charged with the responsibility of preserving the public health.

(5) "Rabies" means hydrophobia (madness), the infectious disease of the brain

transmitted by specific virus which occurs in saliva.

RS 40:1269.3 — Authority to enact regulations for control of rabies

the control of rabies in animals,

including the authority of parishes and municipalities to enact local ordinances, the report of incidence of the disease and the enactment of enforcement provisions.

RS 40:1269.4 — Penalty

n

thirty days, or both, for each offense.

RS 40:1271.1 — Infectious diseases; notification

icer, or other person who is

employed by or voluntarily working with a firm, agency, or organization which provides emergency treatment or transportation comes into direct contact with a patient who is subsequently diagnosed as having untreated pulmonary tuberculosis or acute meningococcal meningitis, or comes in contact with the blood or body fluid of a person who is subsequently diagnosed as having acute hepatitis virus B infection, or is a chronic hepatitis B carrier, or is infected with human immunodeficiency virus, the hospital receiving the patient shall notify the appropriate firm, agency, or organization which shall notify its emergency medical technician, paramedic, firefighter, police officer, emergency medical transportation service employer, or other person treating or transporting the patient of the individual's exposure to the infectious disease within forty-eight hours of confirmation of the patient's diagnosis and shall advise same of the appropriate treatment, if any. Notification shall be made in a manner that protects the confidentiality of the patient and the emergency medical technician, paramedic, police officer, or other person treating or transporting the patient.

(2) Prior to October 30, 1988, the Louisiana Department of Health shall, in accordance with the Administrative Procedure Act, promulgate rules and regulations for the notification procedures required under the provisions of this Subsection.

B.(1) Whenever a patient is admitted to a hospital or nursing home by a physician, and that physician has actual knowledge that the patient is infected with one or more of the conditions described in Subsection A of this Section, and is aware of the transfer, the physician shall notify the hospital or nursing home of the patient's condition.

(2) Whenever a patient is transferred from a nursing home to a hospital, or from a hospital to a nursing home, and the transferor's records reflect that patient is infected with one or more of the conditions described in Subsection A of this Section, the transferor shall notify the transferee of the patient's condition.

(3) Whenever a patient is admitted to or treated at a hospital or nursing home and the hospital or nursing home has actual knowledge that the patient is infected with one or more of the conditions described in Subsection A of this Section, the hospital or nursing home shall notify all healthcare providers involved in the treatment of that patient.

C. For purposes of this Subpart, "hospital" means any institution, place, building, or agency, public or private, whether operated for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care of persons

admitted for overnight stay or longer who are suffering from illness, injury, infirmity, deformity, or other physical conditions for which obstetrical, medical, or surgical services would be available and appropriate. The term "hospital" specifically includes any emergency room or outpatient clinic operated in connection with a hospital as herein defined, whether or not the patient is admitted for overnight stay.

RS 40:1271.2 — Mandatory identification of infected corpses

ral director, embalmer, or a

representative thereof whenever there is actual knowledge that the corpse is infected with a contagious disease. The hospital, nursing home, or coroner shall inform the funeral director, embalmer, or representative thereof that the corpse is infected with a contagious disease during the initial telephone communication requesting that the corpse be transported. Further notification shall include a clearly visible, external tag that is readily discernible from other identification markers and a written statement that clearly indicates the name of the contagious disease or causative agent infecting or infesting said corpse. Such notification shall be made in a manner that protects the confidentiality of the deceased and the funeral director or embalmer handling the corpse.

B. The Louisiana Department of Health through the office of public health shall promulgate rules and regulations to provide for the disposition by hospitals, nursing homes, coroners, and other medical personnel of corpses infected with known contagious diseases and to implement the provisions of this Section. Such regulations shall include, at a minimum, a requirement that each hospital, nursing home, and coroner's office establish staff procedures for implementing this law.

C. Whoever violates the provisions of this Section shall be fined not more than five thousand dollars. Violation of the provisions of this Section shall constitute grounds for suspension or revocation of the professional license or certificate of the violator or for other disciplinary action by the respective professional regulatory board.

RS 40:1271.3 — Infectious disease incidence among school-age children; public health

with R.S. 29:766 and relating to one or more infectious diseases, the Louisiana Department of Health, office of public health shall publish, on a publicly accessible website, a report updated not less than weekly, which provides the total number of children between the ages of five and seventeen years in this state known to have been infected with each disease addressed by the public health emergency declaration.

RS 40:1275.1 — Statement of purpose

tential for

causing lifelong disability. The legislature further recognizes that such injuries are not randomly occurring events and traditional public health approaches to preventing diseases may be applied successfully to preventing injuries as well. Recognizing that a rational approach toward preventing serious public health problems cannot be accomplished without data to document and monitor their occurrence, the legislature hereby provides for the establishment of systematic data collection on severe head injuries by instituting a mandatory reporting requirement for severe head injuries.

RS 40:1275.2 — Definitions

ns the office of public health, Louisiana Department of Health.

(3) "Severe head injury" means acute traumatic injury to the central nervous system within the skull which is serious enough to cause significant long-term functional impairment.

RS 40:1275.3 — Mandatory reporting requirement

ead injuries. The office, by

rule, shall require appropriate health care professionals and health care facilities to report severe head injuries to the central registry. The office shall provide for the analysis of such data and for dissemination of such data and analysis for the purposes of prevention of severe head injuries and care and support for persons with severe head injuries.

RS 40:1277.1 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1279.1 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1281.1 — Definitions

ate health officer

stating that the operator has met the requirements for the specified operator classification as defined by the state health officer under R.S. 40:1281.3.

(2) "Committee" means the committee of certification.

(3) "Louisiana conference" means the Louisiana Conference on Water Supply, Sewerage and Industrial Wastes.

(4) "Operator" means the individual, as determined by the committee of certification, in attendance on site of a water supply system or a sewerage system and whose performance, judgment, and direction affects either the safety, sanitary quality, or quantity of water or sewage treated or delivered.

(5) "Sewage collection system" means all components of a sewerage system except for the sewage treatment plant.

(6) "Sewage treatment plant" means the facility or group of units provided for the treatment of wastewater and for the reduction and handling of sludge removed from such wastewater.

(7) "Sewerage system" means a system of piping and appurtenances, including sewage treatment facilities, for collecting and conveying wastewater from source to discharge.

(8) "State health officer" means the surgeon general appointed by the governor as provided in R.S. 40:2.

(9) "Wastewater" means the spent water or sewage of a community containing the liquid or water-carried wastes from residences, commercial buildings, and institutions along with any groundwater, surface water, or storm water that may be commingled.

(10) "Water distribution system" means that portion of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises

of the consumer.

(11) "Water production facility" means the system of water wells, impoundments reservoirs, aqueducts, pumps, pipelines and other appurtenances necessary to produce and deliver the water necessary for treatment and distribution to a community.

(12) "Water supply system" means the system of pipes, structures and facilities through which water is obtained, treated and sold, distributed or otherwise offered to the public for household or other uses.

(13) "Water treatment plant" means that portion of the water supply system which in some way alters the physical, chemical, or bacteriological quality of the water.

RS 40:1281.2 — Committee of certification; appointment; terms; powers; duties; annual report;

to assist him in the administration of the certification program. The committee is charged with the responsibility of conducting all work necessary to promote the certification program to develop examinations, examine certificate candidates, and maintain records, and shall also suggest to the secretary rules of procedure or policies required in performing its obligations in conformity with the provisions of the Louisiana Administrative Procedure Act.

B. The committee shall consist of the following members whose terms shall commence on September 1, 1972:

(1) Two members from a list of six recommended by the Louisiana conference who are currently employed waterworks operators eligible for certificates of the highest classification issued by the department and in the employ of a municipality. One member shall be appointed initially for a two year term and one for a three year term, respectively.

(2) Two members from a list of six recommended by the Louisiana conference who are currently employed as waterworks or sewerage works operators eligible for a certificate of the highest classification issued by the department and in the employ of an investor owned water or sewerage utility. One member shall be appointed initially for a two year term and one for a three year term, respectively.

(3) Two members from a list of six recommended by the Louisiana conference who are currently employed municipal sewage treatment plant operators eligible for certificates of the highest classification issued by the department. One member shall be appointed initially for a one year term and one for a four year term, respectively.

(4) Two members from a list of six recommended by the Louisiana Municipal Association. One member shall be appointed initially for a one year term and one for a four year term, respectively.

(5) One ex officio member representing the department. This member will be the state sanitary engineer or a qualified member of his staff.

C. Each member of the committee, with the exception of the ex officio member from the department, shall be appointed for a four year term except in the case of the initial appointments which shall be for terms of one, two, three, and four years, as set out in Subsection B above, so that not more than two appointments will expire in any one year. Whenever a vacancy occurs on the committee by reason of the expiration of a term of service as herein provided, the state health officer shall appoint a successor of like qualifications from a list of names submitted by the original nominating group for the vacated position.

Wherever a vacancy shall occur on the committee for any reason prior to expiration of the appointment term, the state health officer shall appoint a successor for the remainder of the term in the same manner as regular appointments.

D. The committee shall elect from its membership a chairman and other necessary officers. The department representative of the committee shall be responsible for maintaining records and shall act as committee secretary.

E. The committee shall hold at least one examination each year for the purpose of examining candidates for certification at a time and place designated by the committee. Those applicants whose competency is acceptable to the committee shall be recommended to the state health officer for certification. Additional meetings may be called by the chairman or the state health officer as may be necessary to carry out the provisions of this Subpart. Five members shall constitute a quorum.

F. The committee shall fix and accept fees on a per person basis for examinations and for issuance, renewal, reinstatement, or reciprocation of certificates according to the schedule of fees that it may adopt. However, the fee per person collected for examinations or certifications, including but not limited to a fifth certification in the fields of water or sewerage, in connection with training conducted at a university shall be twenty-five dollars. All or a portion of fees collected at a university may be retained by the university pursuant to an agreement with the department. In no case will the total fees paid by private Louisiana-domiciled corporations exceed five hundred dollars. The fee authorized in this Subsection shall not apply to an individual who owns an on-site individual waste water system of one thousand five hundred gallons per day or smaller.

G. The committee shall maintain all funds collected in a separate account and shall use these funds in the administration of this Subpart; it shall prepare an annual report to be submitted to the undersecretary of the department, showing its financial and operational activities. The committee may use the office of management and finance of the department and may reimburse the department for such services as it may render.

H. The committee members shall serve without pay. Travel and subsistence expenses incidental to attending committee meetings shall be reimbursed at the same rate as for regular employees of the department. The domicile of the committee shall be the same as the Louisiana Department of Health.

RS 40:1281.3 — Classification of water and sewerage facilities

ater treatment plants, water distribution systems, sewage collection systems, and sewage treatment plants actually used or intended for use by the public with due regard to the size, type, character of water or wastewater to be treated, and other physical conditions affecting such treatment plants and collection or distribution systems and prescribe the skill, knowledge, and experience that the operator in charge must have to supervise successfully the operation of the facilities so as to protect the public health, prevent unlawful pollution, and protect the water resources of the state.

RS 40:1281.4 — Responsibility for operator certification

operation of such water supply and sewerage systems.

RS 40:1281.5 — Operator certificates; display; renewal; revocation; termination

ions of the committee of certification. The certificate

shall indicate the classification of works which the operator is qualified to supervise.

B. Certificates shall be prominently displayed in the office of the operator.

C. Certificates shall continue in effect as long as renewal fees are paid and minimum standards maintained, unless suspended or revoked by the state health officer upon due notice and after hearing by and upon recommendation of the committee.

D. The state health officer may revoke the certificate of an operator, following a hearing by and upon recommendation of the committee when it is found that the operator has practiced fraud, or deception; that reasonable care, judgment or the application of his knowledge or ability was not used in the performance of his duties; or that the operator is incompetent or unable properly to perform his duties.

E. The certificates of operators who terminate their employment at a treatment plant or water distribution system will remain valid for two years. After two years, the certificate will be automatically invalidated. Operators whose certificates are invalidated under this section may be issued new certificates of a like classification provided appropriate proof of competency is presented to the committee. Successful completion of an examination may be required at the discretion of the committee.

RS 40:1281.6 — Qualification by reciprocity

ification to any

person who holds a certificate in any state, territory or possession of the United States or any country providing the requirements for certification of operators under which the person's certificate was issued do not conflict with the provisions of this Subpart and are of a standard not lower than that specified by regulations adopted under this Subpart and providing further that reciprocal privileges are granted by said state, territory, or possession to certified operators of this state.

RS 40:1281.7 — Certification of present practitioners; temporary certification

old certificates of competency attained by examination under

the voluntary certification program now being administered by the Louisiana Department of Health and the Louisiana Conference on Water Supply, Sewerage, and Industrial Wastes, upon application to the committee within eighteen months after the effective date of this Subpart and payment of the certification fees prescribed by the committee.

B. All operators employed in charge of water supply or sewerage systems on the effective date of this Subpart*, and who do not hold voluntary or other qualifying certificates, and who apply to the committee within twelve months of the effective date of this Subpart* and pay the prescribed certificate fees, shall be granted an operator's limited certificate, which shall be valid only for the system in which the operator is employed and for the conditions of operation and duties involved on the effective date of this Subpart*. Limited certificates shall be renewable upon application, provided the requirements for renewal without reexamination for certificate of even grade are satisfied. Persons granted limited certificates and renewals of limited certificates shall pay the same fees as are fixed for regular certificates of like grade.

C. Any person appointed to replace or succeed a water supply system or sewage system operator after the effective date of this Subpart may be issued a temporary certificate upon application to the committee and payment of the same fees as are specified for limited certificates. Any such person shall be required to obtain a regular certificate of the class commensurate with his duties within a period of twenty four months after the date on which a temporary certificate is issued.

RS 40:1281.8 — Rulemaking authority

carry out the

intent of this Subpart. The rules and regulations shall include, but not be limited to, provisions establishing the bases for classification of water production facilities, water treatment plants, water distribution systems, sewage collection systems, and sewage treatment plants, and prescribing the skill, knowledge, and experience that the operator in charge must have to supervise successfully the operation of such facilities, and such other provisions as may be necessary for the administration of this Subpart.

RS 40:1281.9 — Certified operator required; exceptions

and private, operating a water

supply system or sewerage system to operate same unless the competency of the operator is duly certified to by the state health officer under the provisions of this Subpart. Furthermore, it shall be unlawful for any person to perform the duties of an operator, as defined herein, without being duly certified under the provisions of this Subpart.

B. Surface water systems shall have a certified operator present at all times while the treatment facility is in operation.

C. The requirements of Subsection B of this Section shall not apply to systems which serve less than ten thousand persons and which utilize automated operation systems which monitor system operation, record all required readings, notify the operator in the event of a system upset or failure, and allow the operator to remotely control or shut down the system.

D. The requirements of this Section shall not apply to municipal and public works contractors and other related classifications of contractor properly licensed by the Louisiana State Licensing Board for Contractors who construct water, sewer, or drainage line work. Such contractor shall not be required by any public entity to apply for or maintain a Class IV Certified Water System Operator Certificate or Wastewater Collection Operator Certificate as a condition of bidding, obtaining permits, or constructing water, sewer, or drainage line work.

E. The Sewerage and Water Board of New Orleans shall be allowed to require their municipal and public works contractors and other related classifications of contractors properly licensed by the Louisiana State Licensing Board of Contractors who construct, install or repair water, sewer or drainage line work to successfully complete a course provided and approved by the Sewerage and Water Board of New Orleans or the Louisiana Department of Health, which includes, but is not limited to all of the following:

(1) The practices involved in the installation and the rehabilitation of the wastewater collection system including gravity sewers, sewer service lines, sewer force mains and manholes.

(2) Water distribution system including valves, a network of pipes, water service lines, meters and fire hydrants.

RS 40:1281.10 — Penalties

the parish jail for not more than ten days, or by both fine and imprisonment, and each day of operation in violation of this Subpart shall constitute a separate offense.

RS 40:1281.11 — Exemptions, exceptions, and exclusions

lication of this Subpart

relative to the certification of water supply and sewerage system operators. Such exemptions shall be authorized only if and to the extent that they are in conformity with and are required by federal guidelines pertaining to such operators.

RS 40:1281.12 — Community water systems; complaint records; review of records by state health

hone, letter, or electronic mail from customers or users. The record of each complaint shall include the date the complaint was received, the service connection to which the complaint relates, the name of the customer or user making the complaint and associated contact information, and a brief description of the complaint. The log containing the record shall also include documentation of corrective actions that the community water system has implemented with respect to the matters detailed in the complaint.

(2) The community water system shall retain the complaint records required by the provisions of this Subsection for at least five years, and shall make the records available to the Louisiana Department of Health upon request and without charge.

B.(1) If the state health officer or his designee reviews a complaint record provided for in this Section and, based upon the results of the review, recommends that any board member, owner, officer, or operator of a community water system, or any combination of these personnel, undertake an appropriate training course incorporating topics concerning proper customer service, customer relations, public relations, or related matters, then the personnel identified by the state health officer or his designee shall be required to undertake such training.

(2) The training provided for in this Subsection may be delivered by the state, a contractor of the state, or a state-recognized trainer.

C. If the state health officer deems it necessary, he may require any community water system to implement a demonstrated flushing program.

D. For the purposes of this Section, "community water system" shall have the meaning ascribed in R.S. 40:5.8.

RS 40:1281.21 — Secretary; powers; sewage discharges; certain waters

, or abate the discharge of untreated or

improperly treated sewage into Lake Pontchartrain, Toledo Bend Reservoir, the Sabine River, and their drainage basins, and into all estuaries, streams, canals, and water courses within the state which empty into Lake Pontchartrain, Toledo Bend Reservoir, the Sabine River, or their drainage basins. However, the secretary may not authorize any such discharges into the Mississippi River.

B. The secretary shall ascertain and determine the sufficiency of the sewage

treatment of commercial and residential dwellings, including camps, which drain or empty into any of the waters described in Subsection A of this Section.

C. The secretary shall adopt and promulgate rules and regulations consistent with the general intent and purposes of this Subpart, in accordance with the Administrative Procedure Act, to prevent water pollution of any of the waters described in Subsection A of this Section, from untreated or improperly treated sewage, notwithstanding any other provision of law establishing any special sewage or water districts or commissions.

RS 40:1281.22 — Sewage discharges; prohibitions; penalties

the Sabine River, or their drainage

basins, and into all estuaries, streams, and water courses within the state which empty or drain into Lake Pontchartrain, Toledo Bend Reservoir, the Sabine River, or their drainage basins, in contravention of any of the rules or regulations authorized and adopted pursuant to R.S. 40:1281.21.

B.(1) When an inspection discloses a violation of this Section, the state health officer or his duly authorized representative shall notify the responsible party of the violation and give them an opportunity to correct the noted deficiencies. If upon reinspection, the violation is noted to still exist, the state health officer is hereby authorized, in accordance with the Administrative Procedure Act, to issue a civil compliance order directing the responsible party to correct the violations noted and/or impose a fine of one hundred dollars per day for each day the violation has not been corrected, not to exceed ten thousand dollars. If a fine is imposed, the fine shall commence on the day following the date specified for compliance in the civil compliance order issued by the state health officer.

(2) All fines imposed under this Section shall be payable to the office of public health of the Louisiana Department of Health.

(3) In accordance with the Administrative Procedure Act, the aggrieved party, following a hearing and orders issued pursuant thereto, may petition a district court for judicial review of the administrative proceeding.

(4) If a civil action is necessary to recover fines imposed in this Section, the offender shall be liable for the amount of the fine, legal interest from the date of assessment, and all costs of recovery, including reasonable attorney fees and court costs. It shall be the duty of the Bureau of Legal Services of the Louisiana Department of Health to initiate all civil action in recovering said fines.

RS 40:1281.23 — Sewage treatment systems; effluent limiters or reducers; disinfectants

red gallons per day that produce an effluent and, by design, do not significantly limit or reduce the amount of offsite effluent, shall include an effluent limiter or reducer approved by the Louisiana Department of Health.

B. All new and reconditioned sewage treatment systems with a capacity up to and including one thousand five hundred gallons per day that produce an effluent shall have a means of or device for disinfecting such effluent, approved by the Louisiana Department of Health. Such disinfection systems shall be exempt from any requirements for minimum contact chamber volumes unless the addition of formal disinfection is specifically required as part of a permit issued by the Louisiana Department of Health or the Department of

Environmental Quality.

RS 40:1281.24 — Approval of individual sewage treatment and disposal systems

he installation of individual sewage treatment and disposal systems without written approval by the office of public health of the Louisiana Department of Health.

RS 40:1281.25 — Installation and maintenance of individual aerobic sewage treatment systems by c

sewage treatment system in his own home himself may do so only after satisfying any installation education requirements, certification or licensure requirements, or any other requirements under rules and regulations promulgated by the Louisiana Department of Health on that subject. However, if a homeowner does so wish to become certified to safely install an individual aerobic sewage treatment system in his own home, the department shall waive any and all fees usually charged commercial installers of such systems.

B. A homeowner who wishes to perform maintenance of his own individual aerobic sewage treatment system which services his home, after completing the department's homeowner maintenance certification program and license requirements, shall be exempt from the requirement of obtaining an endorsement from the manufacturer for the brand of plant the homeowner wishes to maintain. However, nothing in this Section shall be construed to exempt the homeowner from the requirement to install appropriate, approved replacement components when such are required to maintain the performance of the system. A homeowner who maintains his own aerobic sewage treatment system shall be responsible for the system's proper operation.

RS 40:1281.26 — Individual sewerage systems; temporary waiver; enforcement

II.101 et seq. regarding individual sewerage

systems pending the construction of a community sewerage system for properties located within the boundaries of any parish with a population between six thousand eight hundred and six thousand nine hundred according to the latest federal decennial census.

B. The temporary waiver of individual sewerage system regulations for properties within a qualifying jurisdiction pursuant to Subsection A of this Section shall be granted only under the following conditions:

- (1) All permits and authorizations issued by the Louisiana Department of Health, office of public health, for new or existing onsite sewerage treatment shall become invalid upon completion of a community sewerage treatment system.
- (2) The property owner or designated agent shall sign an agreement acknowledging that the waiver is temporary and that the owner shall be required to connect to the community sewerage system upon its availability.
- (3) Each waiver shall require five thousand square feet of contiguous property, with a current property survey by a Louisiana-registered land surveyor, and a minimum of four property corners that are visibly staked.
- (4) Only one habitable structure shall be authorized for parcels of property meeting the requirements set forth in Paragraph (3) of this Subsection.

(5) Permits for new individual sewerage treatment systems shall be contingent upon adherence to Paragraphs (3) and (4) of this Subsection, and shall require the installation of an aerobic treatment unit that includes the appropriate required effluent reduction field.

(6) Authorization or approvals to use permitted existing individual sewerage treatment systems shall be contingent upon the owner's providing the Louisiana Department of Health, office of public health, with written and signed documentation from a Louisiana licensed sewerage installer or maintenance provider which declares the system is operable and will function as designed.

(7) Individual sewerage systems that produce a discharge shall be required to provide appropriate effluent disinfection prior to effluent reduction field.

C. The parish or any municipality within the parish may provide appropriate enforcement mechanisms to prohibit persons who own property within the boundaries of the parish from doing any of the following:

(1) Connecting multiple habitable structures to an individual sewerage system.

However, two recreational vehicles, as defined in Subsection D of this Section, may connect to one individual sewerage system if the system is permitted by the Louisiana Department of Health and the rated capacity of the system is not exceeded.

(2) Allowing an individual sewerage system to cause or create a nuisance or public hazard.

(3) Refusing to connect to the community sewerage system after its availability.

(4) Refusing to properly abandon an individual sewerage system upon connection to the new completed community sewer system.

D.(1) For purposes of this Section, "recreational vehicle" means a motorized or towable vehicle that combines transportation and temporary living quarters.

(2) For purposes of this Section, the term "recreational vehicle" shall not include a mobile home, a dwelling known commonly as a "Katrina cottage", a dwelling known commonly as a "tiny house", a movable house, or any other living quarters designed or intended to have the wheels removed in connection with placement on a lot or parcel of land.

RS 40:1283.1 — Purpose

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ongoing surveillance of the environmental factors, including physical, chemical, biological, and social factors and diseases affecting the citizens of this state, with a focus on disease trends and research. The Board of Regents is hereby requested to cooperate with the division and the office in establishing the EHSS.

B. The objectives of the EHSS are as follows:

(1) To track and evaluate environmental factors, including physical, chemical, biological, and social factors, that may play a role in the development of certain chronic diseases.

(2) To develop data in a standardized format for optimal use with other public health databases and to allow government, university, and public health officials to develop hypotheses for research on the potential impact of environmental factors on chronic diseases.

(3) To provide information to the Louisiana Department of Health, the Department

of Environmental Quality, or any other relevant public or private entity for the development of appropriate preventive strategies.

RS 40:1283.2 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:1285.1 — Establishment of lead poisoning prevention program

g in its office of public health. This

program shall, to the extent permitted by appropriations, provide for the prevention of lead poisoning through public and professional education; shall ensure the availability of screening, diagnosis, and treatment relative to lead poisoning of children under the age of six years and persons deemed at risk by the state health officer; and shall advocate for the abatement of sources of lead when appropriate. The program shall not apply to those persons having religious objections to the examination. The office of public health shall promulgate rules and regulations to implement this program.

RS 40:1285.2 — Collaboration with other organizations

ps for the provision of

necessary services, the development of educational programs, scientific research, and detection and abatement of sources of lead poisoning, subject to appropriations, and shall promulgate and from time to time amend such rules and regulations as may be necessary.

RS 40:1285.3 — Mandatory reporting of lead poisoning cases required; comprehensive records

reporting person shall report to the state health officer or his designee

the existence and circumstances of each case of lead poisoning known to him and not previously reported. Such reports shall be made on forms prescribed by the state health officer or his designee. The state health officer shall by regulation, and in accordance with current technical knowledge and guidelines of the United States Centers for Disease Control and Prevention, United States Environmental Protection Agency, and United States Department of Housing and Urban Development, define the terms "lead poisoning" and "previously reported" and what constitutes hazardous lead conditions in the environment.

B. When the state health officer or his designee is informed of a case of lead poisoning pursuant to Subsection A of this Section or otherwise, he shall strongly encourage the examination of all other children under the age of six years, and all other persons deemed at risk by the state health officer or his designee, residing or recently residing in the household of the person with lead poisoning. The results of such examinations shall be reported to the persons or agency reporting the original case pursuant to Subsection A of this Section, and to such other persons or agencies as the state health officer or his designee deems advisable.

RS 40:1285.4 — Program for detection of lead poisoning sources; voluntary and compulsory

esignee shall establish a comprehensive

program for detection of sources of lead poisoning. Such program shall attempt, to the extent permitted by appropriations, to locate all dwellings in which the paint, plaster, or other accessible substance contains dangerous amounts of lead. The means of detection and the amount of lead that produces the danger of lead poisoning shall be determined by regulation

by the state health officer in accordance with current technical knowledge and guidelines of the United States Centers for Disease Control and Prevention, United States Environmental Protection Agency, and United States Department of Housing and Urban Development.

(2) Such programs of detection shall, to the extent that all appropriate dwellings are not inspected, give priority in inspections to those dwellings located in areas where significant numbers of lead poisoning cases have recently been reported, and in which children under the age of six years or other persons deemed at risk by the state health officer or his designee reside.

B. When the state health officer or his designee is informed of a case of lead poisoning pursuant to this Part, or otherwise, he shall cause to have inspected the dwelling in which the person with lead poisoning resides, or has recently resided, if the occupants of said dwelling consent, after reasonable notice, to such inspection. The findings of such inspection shall be reported to the state health officer or his designee and to the appropriate enforcement authorities provided in R.S. 40:1285.9.

C. A dangerous level of lead found in a dwelling inspected pursuant to this Section, or otherwise, shall be reported immediately to the owner of the building or to his duly appointed representative, all affected tenants, the appropriate enforcement authorities set out in R.S. 40:1285.9, and the state health officer or his designee. The state health officer or his designee shall inform such other persons or agencies as he deems advisable, and shall cause to have prominently posted on the main entrance to said dwelling a notice that the dwelling contains dangerous amounts of lead paint or other lead materials and that children under the age of six years and persons deemed at risk should not be allowed to reside in said dwelling. Such notice may not be removed until all premises have been found to comply with R.S. 40:1285.7. Unauthorized intentional removal of the notice shall subject the offender to a fine of five hundred dollars.

D. When a dangerous level of lead is found in a dwelling inspected pursuant to this Part, or otherwise, the state health officer or his designee shall cause to have examined all children under the age of six years and other persons as he may find advisable to examine, residing or who have recently resided in said dwelling. The results of such examinations shall be reported to the state health officer or his designee, the affected individual, and his parent or legal guardian. The state health officer or his designee shall inform such other persons or agencies as he deems advisable.

RS 40:1285.5 — Designation of high-risk areas

lance, housing, and

Medicaid data, shall identify geographic areas in the state and establish those areas as high-risk for lead poisoning. Based upon the analysis of data by the Louisiana Department of

Health, blood lead screening of children of certain ages residing in these identified areas shall be mandated by rules adopted in accordance with the Administrative Procedure Act. The office of public health shall promulgate rules and regulations to implement the specific policies and procedures for mandated childhood blood lead screening.

RS 40:1285.6 — Sale and use of lead-based paint and other similar lead-based surface coating

pplied lead-based paint or similar surface coating material, manufactured after the effective date of this

Section, intended for use of the following surfaces or articles:

- (1) Interior surfaces of any dwelling,
- (2) Exterior surfaces of any dwelling such as window sills, porches, stairs or railings, to which children under six years of age may be commonly exposed,
- (3) Toys or other articles intended for use by children,
- (4) Residential furniture and fixtures that can be readily chewed by children, and
- (5) Cooking, eating and drinking utensils.

B.(1) No person shall knowingly sell or offer for sale any other lead-based paint or similar surface coating material that may be purchased by the general public unless the container is clearly labeled as to its intended use and bears on the principal display panel the word "WARNING" and the following statement: "Contains lead. Dried film of this paint may be harmful if eaten or chewed."

(2) The following cautionary statement, or its practical equivalent, shall be placed on the label but need not be part of the warning statement on the principal display panel:

"Do not apply on toys and other children's articles, furniture, or interior surfaces of any dwelling. Do not apply on those exterior surfaces of any dwelling, such as window sills, porches, stairs, or railings, to which children may be commonly exposed. Keep Out Of The Reach of Children."

(3) The type size of this labeling shall be in accordance with the requirements for precautionary labeling under the Federal Hazardous Substances Act, 15 U.S.C. §1260 (1970).

C. No person shall knowingly sell, expose for sale, deliver, give away or possess with intent to sell, deliver or give away, any toy or other article intended for use by children, residential furniture, cooking, drinking or eating utensil manufactured after January 1, 1973 to which any lead-based paint or similar surface coating material has been applied.

D. Any paint or other similar surface coating material shall be deemed to be lead-based when it contains lead compounds in excess of the Federal standard for lead content in

residential paints established under Federal laws and regulations.

E. Any person who violates the provisions of this Section shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars for each violation.

Any person who willfully violates the provisions of this Section shall be punished by imprisonment for not more than three months for each violation.

F. Any article of personal property in violation of this Section may be embargoed by the state health officer.

G. This Section shall become effective on January 1, 1973.

RS 40:1285.7 — Safety precautions; procedures for removal and repainting

remises in which any paint, plaster, or other accessible

materials contain dangerous levels of lead as defined pursuant to the provisions of this Part, after notification by the state health officer or his representative, the owner shall remove or cover said paint, plaster, or other material so as to make it inaccessible to children under six years of age or persons with intellectual disabilities. Whenever any such residential premises containing said dangerous levels of lead undergoes a change of ownership and as a result thereof, a child under six years of age or a person with an intellectual disability will become

a resident therein, the new owner shall remove or cover said paint, plaster, or other material so as to make it inaccessible to such child or person.

B. Repainting with nonlead based paint, without removal of the offending paint, plaster, or other material shall not constitute compliance with this Section. Such removal or covering shall be performed as follows:

(1) All peeling paint, plaster or other material, on both interior and exterior surfaces and fixtures, shall be removed or adequately covered.

(2) Paint, plaster, or other material that is not peeling shall be removed or covered on window sills; door frames; windows, including mullions; stair rail spindles; stair treads; doors; stair rails; porch railings, and all other exterior and interior surfaces or fixtures that may be readily chewed by children or persons with intellectual disabilities.

C. This duty shall apply to every owner of residential premises whenever a child under six years of age or a person with an intellectual disability resides therein or whenever such premises undergoes a change of ownership and as a result thereof a child under six years of age or person with an intellectual disability shall reside therein, whether or not his premises have been inspected pursuant to R.S. 40:1285.4 or otherwise. The provisions of this Section shall be strictly construed and enforced so as to best protect the safety of residents of such dwellings.

D. Every owner of residential premises who violates the provisions of this Section shall commence correction of the condition constituting the violation within fifteen days after notification of the violation, which project shall be completed within thirty days.

RS 40:1285.8 — Lead-free pipe, fitting, fixture, solder, or flux; exclusions; definitions

ee in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except when necessary for the repair of leaded joints of cast iron pipes.

(2) No person shall introduce into commerce any pipe, pipe or plumbing fitting, or fixture intended to convey or dispense water for human consumption through drinking or cooking that is not lead free, including kitchen faucets, bathroom faucets, and any other end-use devices intended to convey or dispense water for human consumption through drinking or cooking.

(3) The provisions of this Subsection shall not apply to the following:

(a) Pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption.

(b) Toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, showers, safety shower flushes, service saddles, or water distribution main gate valves that are two inches in diameter or larger.

(c) Materials purchased or acquired by public water systems prior to January 1, 2013.

B.(1) No person engaged in the business of selling plumbing supplies, except a manufacturer, shall sell solder or flux that is not lead free.

(2) No person shall introduce into commerce any solder or flux that is not lead free

unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

C. For the purposes of this Section, "lead free" means not more than 0.2 percent lead when used with respect to solder and flux and not more than a weighted average of 0.25 percent when used with respect to the wetted surfaces of pipes and pipe fittings, plumbing fittings, and fixtures. The weighted average lead content of a pipe and pipe fitting, plumbing fitting, and fixture shall be calculated by using the following formula: The percentage of lead content within each component that comes into contact with water shall be multiplied by the percent of the total wetted surface of the entire pipe and pipe fitting, plumbing fitting, or fixture represented in each component containing lead. These percentages shall be added and the sum shall constitute the weighted average lead content of the pipe and pipe fitting, plumbing fitting, or fixture.

D. All pipe, pipe or plumbing fittings or fixtures, solder, or flux shall be certified by an independent American National Standards Institute (ANSI) accredited third party as being in compliance with this Section.

E. The Louisiana Department of Health shall promulgate rules and regulations implementing the provisions of this Section.

RS 40:1285.9 — Violations; enforcement

cedures and

remedies applicable to such violations of the codes shall be available to correct, deter, or punish violations of the provisions. The district and appellate courts shall have jurisdiction to enforce the provisions to the same extent that the courts have jurisdiction to enforce the codes.

B. All local health officers, health unit supervisors, or other code enforcement agencies shall enforce R.S. 40:1285.6, 1285.7, and 1285.8 in the same manner and with the same authority as they may enforce the health code.

C. The state health officer shall have concurrent responsibility and authority to enforce R.S. 40:1285.6, 1285.7, and 1285.8 and in so doing shall have available to him all powers and authority which shall be available to local health officers and health unit supervisors. The state health officer's responsibility with respect to objects sold or placed into commerce in violation of R.S. 40:1285.8 is limited to those instances where the state officer or his personnel are notified of such violation.

D. Violations of R.S. 40:1285.6, 1285.7, and 1285.8 shall be treated as emergency matters, and shall be given preference by enforcing agencies and speedy hearings by district and appellate courts.

RS 40:1285.10 — Liability of owners of residential property; damages

pursuant to R.S. 40:1285.6 or R.S. 40:1285.7.

RS 40:1287.1 — Equipment of steam plants in certain cities; penalty

ants shall provide, for the use of the

steam plant, smoke consumers or other necessary appliances competent to consume not less than seventy-five percent of the smoke resulting from the burning of fuel used in providing

motive power for the plant.

B. Whoever violates this Section shall, for each day the plant is operated without the required appliance, be fined twenty-five dollars or imprisoned for thirty days.

RS 40:1289.1 — Legislative findings; declaration

Louisiana and the health of its people. Moreover, the legislature finds that indoor toxins, specifically toxic mold, represent an insufficiently understood health and environmental problem.

(2) Numerous studies indicate that adverse health effects result from mold spores, varying from cold-like symptoms to more serious symptoms, such as allergy and asthma outbreaks. Toxins in mold can have negative effects on humans when ingested, inhaled, or when they come in contact with the skin. These effects can have serious health consequences for some population subgroups, especially infants, children, pregnant women, persons who are elderly, individuals with asthma, individuals with allergies, and individuals with compromised immune systems. Healthcare professionals now acknowledge that molds can cause allergies, trigger asthma attacks, detrimentally affect the function of vital human organs, and increase susceptibility to colds and flu.

(3) Though not all molds are toxic, there are certain dangers that molds present within buildings and structures. It is thus imperative that the toxicity of mold be determined where it is found and a corresponding plan of action be implemented to address mold-related hazards in buildings and structures within this state.

B. The legislature hereby declares that it is in the best interest of the public health, welfare, and safety to establish a task force to lead development of comprehensive policies and promote best practices concerning mitigation and remediation of toxic mold and reducing the adverse health effects caused by this unique threat to public health.

RS 40:1289.2 — Definition

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are not limited to *cladosporium*, *alternaria*, *aspergillus*, *trichoderma*, *memnoniella*, *mucor*, and *stachybotrys chartarum*.

RS 40:1289.3 — Toxic Mold Task Force; creation; composition; meetings

hereafter in this Subpart as the "task force",

which shall be composed of the following members:

- (1) One pediatric environmental health specialist appointed by the secretary of the Louisiana Department of Health.
- (2) One person with expertise in toxicology appointed by the secretary of the Louisiana Department of Health.
- (3) The assistant secretary of the office of public health of the Louisiana Department of Health or his designee.
- (4) The chancellor of the Louisiana State University Health Sciences Center at New Orleans or his designee.
- (5) The chancellor of the Louisiana State University Health Sciences Center at Shreveport or his designee.

- (6) The dean of the School of Public Health and Tropical Medicine of Tulane University or his designee.
- (7) One member appointed by the Louisiana State Medical Society.
- (8) One member appointed by the Louisiana Primary Care Association.
- (9) One member with expertise in consumer protection appointed by the Louisiana attorney general.
- (10) One member appointed by the Southern University Law Center.
- (11) One member appointed by the Paul M. Hebert Law Center of Louisiana State University.
- (12) One member with expertise in toxic mold remediation appointed by the Louisiana State Licensing Board for Contractors.
- (13) One member appointed by the Louisiana Housing Corporation.
- (14) One member appointed by the Louisiana Realtors Association.
- (15) One member appointed by the Louisiana Home Builders Association.
- (16) One member appointed by the Apartment Association of Louisiana.

B. The secretary of the Louisiana Department of Health shall take such actions as are necessary to ensure that the initial convening of the task force occurs no later than October 1, 2020.

C. The task force members shall select a chairman annually, and he shall serve as chairman without salary.

D. Task force members shall serve without compensation, except per diem or expense reimbursement to which they may be individually entitled by their respective employer organizations.

E. The task force shall hold at least two meetings each year at a place designated by the chairman.

RS 40:1289.4 — Functions and duties of the task force; report to the governor and legislature

visory body to the legislature on policies and practices that protect all people of this state, particularly tenants, consumers, and vulnerable populations, from harm related to toxic mold.

- (2) Serve as a coordinating forum between and among state agencies, local governments, and nongovernmental groups on matters related to toxic mold.
- (3) On a regular basis, research and review state regulations, guidelines, policies, and procedures that pertain in any way to toxic mold and make recommendations to the governor, the legislature, and the secretary of the Louisiana Department of Health as deemed necessary and appropriate by the chairman of the task force.

B. On or before January 1, 2021, and annually thereafter, the task force shall prepare and submit to the governor and the legislature a report on the status of public health risks from toxic mold in Louisiana. The annual report shall include, without limitation, all of the following:

- (1) An assessment, based on scientific evidence, of the nature, scope, and magnitude of the adverse environmental and health impacts caused by toxic mold in this state.
- (2) Measurement, based on scientific evidence, of the adverse health effects of

exposure to molds on the general population, including specific effects on any subgroups identifiable as being at greater risk of adverse health effects when exposed to molds.

(3) Identification of actions taken by the state, local governments, and any other public or private organizations that have made a positive impact on mitigating the harm to public health of toxic mold.

(4) Identification of best practices for the control of mold in a cost-effective and environmentally sound manner.

C. The task force may request administrative and technical support from the Louisiana Department of Health, office of public health, to carry out the functions and responsibilities provided in this Section.

RS 40:1289.5 — Termination

20, No. 157, §2.

RS 40:1289.11 — Submission of emergency plan and reporting of toxic substances; penalties

regularly manufactured, stored, or maintained in quantities capable of escaping the boundaries or perimeters of such plant or industrial facility in sufficient concentrations to cause death or serious bodily harm to persons outside said boundaries or perimeters shall prepare and submit an emergency plan for immediate notification of the proper public safety authority. The emergency plan shall be put into effect whenever toxic substances escape beyond the boundaries or perimeters of each plant or industrial facility. The plan shall be submitted to the secretary of the Department of Public Safety and Corrections and the secretary of the Department of Environmental Quality with copies furnished to the local sheriffs and municipal authorities concerned.

(2) The plan, including a report on toxic substances, shall be submitted on a form prescribed by the secretary of the Department of Public Safety and Corrections with the concurrence of the secretary of the Department of Environmental Quality in accordance with the Administrative Procedure Act. The form shall be incorporated, wherever feasible and practical, into the survey form implemented under the Hazardous Material Information, Preparedness and Response Act (R.S. 30:2361 et seq.).

(3) The term "toxic substance" is hereby defined to include those substances which are designated as toxic in rules and regulations adopted by the Department of Public Safety and Corrections with the concurrence of the Department of Environmental Quality. The plan or revisions thereto shall be submitted no later than January 31 of each calendar year.

B. The requirements of this Section shall be applicable to all nuclear reactors within the state of Louisiana and the escape of radioactivity therefrom.

C. Any person or corporate entity in violation of the provisions of this Section shall be fined not more than twenty five thousand dollars. Fines collected pursuant to this Section shall be distributed on a pro rata basis to the governing authority of the parish or parishes wherein the offending plant or industrial facility is located.

RS 40:1290.1 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1290.2 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1290.3 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1290.4 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1291.1 — Short title

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RS 40:1291.2 — Purpose

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further finds and determines that a balance should be struck between the health concerns of nonconsumers of tobacco products and the need to minimize unwarranted governmental intrusion into and regulation of private spheres of conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private places. Therefore, the legislature hereby declares that the purpose of this Part is to preserve and improve the health, comfort, and environment of the people of this state by limiting exposure to tobacco smoke.

RS 40:1291.3 — Definitions

ess that holds a Class A-General retail permit and the

primary purpose of such business is to serve alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

(2) "Business" means any corporation, sole proprietorship, partnership, limited partnership, professional corporation, enterprise, franchise, association, trust, joint venture, or other entity.

(3) "Department" means the Louisiana Department of Health.

(4) "Employer" means an individual or a business that employs one or more individuals.

(5) "Enclosed area" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling.

(6) "Local governing authority" means a municipal or parish governing authority.

(7) "Place of employment" means an area under the control of an employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a place of employment unless it is used as a licensed child care, adult day care, or healthcare facility.

(8) "Public building" means any building owned or operated by any of the following:

(a) The state, including the legislative, executive, and judicial branches of state government.

(b) Any parish, city, or town, or instrumentality thereof, or any other political subdivision of the state, special district, authority, commission, or agency.

(c) Any other separate corporate instrumentality or entity of state or local government.

(9) "Public place" means an enclosed area to which the public is invited or in which the public is permitted which is not a public building, including but not limited to banks, educational facilities, healthcare facilities, hotel and motel lobbies, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms.

(10) "Restaurant" means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar located within a restaurant.

(11) "Retail tobacco business" means a business utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is incidental.

(12) "School" means any elementary or secondary school building, the campus of any school, any buildings on the campus, and all school buses.

(13) "Secondhand smoke" means smoke emitted from lighted, smoldering, or burning tobacco when the smoker is not inhaling, smoke emitted at the mouthpiece during puff drawing, and smoke exhaled by the smoker.

(14) "Smoking" means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted combustible plant material.

RS 40:1291.11 — General smoking prohibitions; exemptions

Smoke in any school.

(3) Smoke in any public place and in any enclosed area within a place of employment.

(4) Smoke in any outdoor area proximate to a state office building where smoking is prohibited pursuant to the provisions of R.S. 40:1293.3.

(5) As an employer, knowingly permit smoking in any enclosed area within a place of employment.

B. Nothing in this Part shall prohibit smoking in any of the following places:

(1) Private homes, private residences, and private automobiles; except that this Subsection shall not apply if any such home, residence, or vehicle is being used for child care or day care or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation in which case smoking is prohibited.

(2) Limousines under private hire.

(3) A hotel or motel room designated as a smoking room and rented to a guest; provided that a maximum of fifty percent of the hotel rooms, at the discretion of the hotel owner or general manager, available for rent to guests in a hotel or motel may be designated

as smoking rooms.

(4) Any retail tobacco business.

(5) Any bar.

(6) The outdoor area of places of employment; except that the owner or manager of such business may post signs prohibiting smoking in any such outdoor area, which shall have the effect of making that outdoor area an area in which smoking is prohibited under the provisions of this Part.

(7) Private and semiprivate rooms or apartments in assisted living residences, and other long-term care facilities that are occupied by one or more persons, who are all smokers and who have requested in writing to be placed in a room where smoking is permitted; provided that smoke from such rooms or apartments does not infiltrate into areas where smoking is prohibited under the provisions of this Part.

(8) Designated smoking areas in which gaming operations are permitted to occur upon a riverboat, at the official gaming establishment, at a facility licensed for the operation of electronic video draw poker devices, at an eligible facility licensed for the operation of slot machines, by a licensed charitable organization, or at a pari-mutuel wagering facility or off-track wagering facility which is licensed for operation and regulated under the provisions of Chapters 4 and 11 of Title 4 and Chapters 4, 5, 6, and 7 of Title 27 of the Louisiana Revised Statutes of 1950, or any other gaming operations authorized by law, except that smoking shall be prohibited in all restaurants, including snack bars and any other type of eating area whether or not such area is separated from the gaming area, that are located within the facilities where gaming operations are conducted regardless of any type of license issued relevant to the operation of the restaurant.

(9) All workplaces of any manufacturer, importer, wholesaler or distributor of tobacco products, of any tobacco leaf dealer or processor, and all tobacco storage facilities.

(10) Convention facilities during the time such facilities are being used for professional meetings and trade shows which are not open to the public that are produced or organized by tobacco businesses or convenience store associations where tobacco products are displayed and limited to the location of such meetings or shows and during the time such facilities are used by a carnival organization, traditionally known as a krewe or a courir de Mardi Gras for the purpose of the conduct of a Mardi Gras ball and limited to the location of such ball.

(11) Designated and well-ventilated smoking rooms in nursing homes which permit smoking, provided that the designated smoking room is not the reception area, lobby, waiting room, dining room, or any other room or area defined as a public place under the provisions of this Part.

(12) A hotel or motel room operated by a casino or gaming operation which is rented to a guest.

(13) An outdoor patio, whether or not food is served.

(14) Any state, local, or private correctional facility prior to August 15, 2009. After August 15, 2009, smoking shall be prohibited in any state, local, or private correctional facility.

C. An individual, person, entity, or business subject to the smoking prohibitions of this Section shall not discriminate or retaliate in any manner against a person for making a complaint regarding a violation of this Section or for furnishing information concerning a violation to an enforcement authority.

D. Nothing in this Part shall be construed to restrict the power of any parish, city, town, or village to adopt and enforce additional local laws, ordinances, or regulations that comply with at least the minimum applicable standards to establish smokefree public places as set forth in this Part.

RS 40:1291.21 — Notice of prohibition of smoking

e with a red bar across

it shall be clearly and conspicuously posted by the owner, operator, manager, or other person in control in every public building, public place, and place of employment where smoking is prohibited by this Part.

B. The owner, operator, manager, or other person in control shall remove all ashtrays from any area where smoking is prohibited by this Part.

C. The Louisiana Department of Health may treat a violation of this Section as a deficiency to be assessed against any licensee or facility over which it has statutory jurisdiction.

RS 40:1291.22 — Enforcement; penalties

ore a court

of proper jurisdiction.

(2) Such citations shall be in a form such that there shall be retained in each book of citations a receipt and each shall have a copy to be deposited by the law enforcement officer with a court having jurisdiction over the alleged offense.

(3) Upon the deposit of the copy, the court shall notify the alleged violator of the time and place of his hearing or of his opportunity to plead guilty by the payment of his specified fine. Failure to appear, unless the fine is paid, may be punished within the discretion of the court as contempt of court.

B.(1)(a) Any person who is guilty of a violation of the prohibition in R.S.

40:1291.11(A)(1), (2), (3), and (4) shall, upon a first offense, be fined twenty-five dollars.

(b) Any person who is guilty of violating such prohibition a second time shall be fined fifty dollars.

(c) Any person who is guilty of violating such prohibition a third or subsequent time shall be fined one hundred dollars.

(2)(a) Any employer who is guilty of a violation of the prohibition in R.S.

40:1291.11(A)(5) shall, upon a first offense, be fined one hundred dollars.

(b) Any employer who is guilty of violating such prohibition a second time shall be fined two hundred fifty dollars.

(c) Any employer who is guilty of violating such prohibition a third or subsequent time shall be fined five hundred dollars.

RS 40:1291.23 — Development of smoke-free policies

ection, "smoke-free" means the prohibition of smoking as defined in R.S. 40:1291.3(14).

B.(1) Nothing in this Section shall prohibit a public postsecondary education institution from developing a tobacco-free policy for its campus.

(2) For the purposes of this Section, "tobacco-free" means the prohibition on the use of tobacco derived or containing products, including but not limited to cigarettes, cigars, cigarillos, pipes, hookah-smoked products, and oral tobacco products.

C. The provisions of this Section shall not supersede the provisions of R.S. 40:1291.11(A).

RS 40:1291.24 — Smoking prohibited near school property; exceptions; penalty

ances, exits, or outdoor areas of any public or private elementary or secondary school.

B.(1) This Section shall not apply to smoking by a person of the legal age within private property that is within the two hundred feet boundary or to smoking by a person of the legal age occupying a moving vehicle in which smoking is not prohibited that is traveling through an area within the two hundred feet boundary.

(2) This exception shall not apply to the property of a private elementary or secondary school.

C. The state superintendent of education, with the approval of the State Board of Elementary and Secondary Education, shall develop a method by which to mark smoke-free areas, including the use of signs or other markings suitable to the situation. Signs or other markings shall be located in a visible manner on or near each school indicating that such area is a smoke-free area, and that such an area is within two hundred feet of the entrances, exits, or outdoor areas of any public or private elementary or secondary school. The state Department of Education shall assist each school system with providing for the posting required in this Subsection.

D.(1) Any violation of this Section may be cited by any law enforcement officer by the issuance of a citation and summons to appear before a court of proper jurisdiction.

(2) Such citations shall be in a form such that there shall be retained in each book of citations a receipt and each shall have a copy to be deposited by the law enforcement officer with a court having jurisdiction over the alleged offense.

(3) Upon the deposit of the copy, the court shall notify the alleged violator of the time and place of his hearing or of his opportunity to plead guilty by the payment of his specified fine. Failure to appear, unless the fine is paid, may be punished within the discretion of the court as contempt of court.

E.(1) Any person who is guilty of a violation of this Section shall, upon a first offense, be fined twenty-five dollars.

(2) Any person who is guilty of violating this Section a second time shall be fined fifty dollars.

(3) Any person who is guilty of violating this Section a third or subsequent time shall be fined one hundred dollars.

F. The provisions of this Section shall not supersede the provisions of R.S.

40:1291.11(A).

RS 40:1293.1 — Louisiana Superdome; smoking regulation

g shall be prohibited in all areas of the Louisiana Superdome.

C. "Smoking" means the carrying of a lighted cigar, cigarette, pipe, or any other lighted smoking equipment, in addition to the inhalation and exhalation of smoke by a person from any form of lighted tobacco.

D. Any person who violates the provisions of this Section shall be advised of the prohibition by Superdome personnel. In addition, the board of commissioners of the Louisiana Stadium and Exposition District may adopt rules to provide for ejection from the Superdome of any person who continues such violation after being so advised of the prohibition, such rules to be enforced by security personnel in accordance with board rules.

RS 40:1293.2 — Senator Nat G. Kiefer University of New Orleans Lakefront Arena; smoking

ople of this state.

B. Smoking shall be prohibited in all areas of the Senator Nat G. Kiefer University of New Orleans Lakefront Arena.

C. "Smoking" means the carrying of a lighted cigar, cigarette, pipe, or any other lighted smoking equipment, in addition to the inhalation and exhalation of smoke by a person from any form of lighted tobacco.

D. Any person who violates the provisions of this Section shall be advised of the prohibition by university personnel. In addition, the Board of Supervisors for the University of Louisiana System may adopt rules to provide for ejection from the arena of any person who continues such violation after being so advised of the prohibition, such rules to be enforced by security personnel in accordance with board rules.

RS 40:1293.3 — State office buildings; smoking regulation; enforcement

ffice buildings, referred to hereafter in this Part as

"state office buildings".

B. In addition to any applicable smoking prohibition as provided in the Louisiana Smokefree Air Act (R.S. 40:1291.1 et seq.), smoking shall be prohibited in all of the following areas:

(1) Any outdoor area proximate to a state office building that is within twenty-five feet of an entrance of the building to which access by the public is not restricted.

(2) Any outdoor area that is within twenty-five feet of a wheelchair ramp or other structure that facilitates access to a state office building by persons with disabilities.

C. "Smoking" means the carrying of a lighted cigar, cigarette, pipe, or any other lighted smoking equipment, in addition to the inhalation and exhalation of smoke by a person from any form of lighted tobacco.

D. Enforcement of the prohibition of smoking provided for in this Section shall be conducted in accordance with the provisions of R.S. 40:1291.22.

E. Any person who violates the provisions of this Section shall be subject to the penalties established in R.S. 40:1291.22(B)(1).

RS 40:1295 — Smoking cessation benefits program; medical assistance program; coverage

artment" means the Louisiana Department of Health.

(2) "Medical assistance program" means the medical assistance program provided for in Title XIX of the Social Security Act as administered by the Louisiana Department of Health.

(3) "Smoking cessation benefits" means smoking cessation treatments and services, including individual counseling, group counseling, nicotine patches, nicotine gum, nicotine lozenges, nicotine nasal spray, nicotine inhaler, bupropion, and varenicline.

B.(1) The smoking cessation benefits provided for in R.S. 22:1041.1 shall be a covered service in the medical assistance program.

(2) The smoking cessation benefits coverage required by this Subsection shall not be subject to any copayments, deductibles, or other cost-sharing mechanisms.

C. The department shall promulgate and enforce such rules, regulations, and minimum standards as needed to carry out the provisions of this Section.

RS 40:1295.1 — Legislative findings; purpose

nation.

(2) Though smoking-related illnesses and deaths and their associated human and economic costs are a devastating public health problem across the United States, and billions of dollars from sources such as cigarette taxes and tobacco-related legal settlements are available to states for preventing and controlling tobacco use, only a fraction of these funds is put to this public health service, and state spending on tobacco prevention and control falls below CDC recommended levels.

(3) Though smoking is an exceptionally difficult habit to break due to the powerful nature of addiction to cigarettes, many thousands of Americans win the battle to quit smoking each year, often with the help of a smoking cessation program.

B. The purpose of this Part is to increase awareness of and access to smoking cessation programs and services available in Louisiana.

RS 40:1295.2 — Definitions

(2) "Smoking Cessation Trust" and "trust" mean the organization of that name which incorporated in Louisiana pursuant to the judgment rendered in

Scott v. American Tobacco

Co., Inc. (2009-CA-0461 (La. App. 4 Cir. 4/23/10), 36 So. 3d 1046)

for the purpose of

operating the smoking cessation program called for in that judgment, or any successor.

RS 40:1295.3 — Public information concerning smoking cessation

summary information on programs and

services offered by the trust.

B. The department may feature the link to the website of the Smoking Cessation Trust and information on programs and services of the trust on any web page it maintains for any program or office if the link and information are posted in a conspicuous location.

RS 40:1295.4 — Program coordination

th, the Medicaid

coordinated care network program, and any other program of the department with programs offered by the Smoking Cessation Trust.

B. On or before January 1, annually, the secretary of the department shall engage with the executive director of the Smoking Cessation Trust to evaluate means and best practices for promoting smoking cessation, and to identify opportunities for increasing access to smoking cessation programs and services available in this state.

RS 40:1295.5 — Termination

5, 2015.

RS 40:1299.35.16 — Repealed by Acts 2007, No. 473, §3, and Acts 2007, No. 477, §3, eff. July 12, 2007.

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RS 40:1299.70 — Blank

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RS 40:1299.190 — Blank

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RS 40:1300 — Use of public monies for human cloning; prohibition; exceptions

m the federal government, or other revenues of the state or political subdivisions thereof, shall not be used by any person or entity, including any state-funded institution or facility, for human somatic cell nuclear transfer, commonly known as human cloning.

B. This Section shall not prohibit areas of scientific research which are not specifically prohibited by this Section, including research in the use of nuclear transfer or other cloning techniques to produce molecules, deoxyribonucleic acid, cells other than human embryos, tissues, organs, plants, or animals other than humans nor shall this Section prohibit the use of state, private, or federal funds for research using embryonic stem cell lines approved for federal funding prior to August 9, 2001.

C. For purposes of this Section, "human somatic cell nuclear transfer" shall mean human asexual reproduction that is accomplished by introducing the genetic material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce an organism, at any state of development, that is genetically virtually identical to an existing or previously existing human organism.

RS 40:1300.8 — Blank

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RS 40:1300.11 — Definitions

It not include meetings and assemblies of members of bona fide labor organizations when said meetings are held in furtherance of any legitimate collective bargaining activity, business activity, or political activity of such labor organizations.

RS 40:1300.12 — Permits

ings in the interest of public health and safety. Such ordinance may specify objective and reasonable standards which may be necessary to protect the public health or safety

including requirements that the permit be conditioned on the applicant furnishing a bond of an amount up to one hundred thousand dollars issued by a surety company authorized to transact business in the State of Louisiana to guarantee full compliance with the ordinance under which the permit was issued as well as the other laws of this state. The bond shall also cover expenses of the cleanup of the site as well as all damages sustained by the governing body issuing the permit and all damages sustained by any person as a result of the activity of the mass gathering. In lieu of a surety bond, if required by the ordinance of the governing authority, the person holding or promoting the mass gathering may deposit with the governing authority of the parish a cash deposit in a like amount. Applications for permits which meet the standards specified in the ordinance and who have posted bond in accordance therewith shall be granted. The reason for the refusal of any such permit shall be conveyed in writing to the applicant by the issuing authority.

B. Such ordinance may be adopted by the governing authority immediately and without delay.

C. The provisions of this bill shall not apply or affect incorporated municipalities or their right to grant or refuse such permits as may be permitted by other laws of this state.

RS 40:1300.13 — Application of Part; exceptions

rganizations when said

meetings are held in furtherance of any legitimate collective bargaining activity, business activity, or political activity of such labor organizations, regardless of race, creed, color, disability, as defined in R.S. 51:2232, or political beliefs of its members; however, nothing contained herein shall apply to mass meetings held in permanent structures dedicated to the purpose of accommodating the type of gathering in question.

RS 40:1300.16 — Repealed by Acts 2007, No. 153, §2.

on Rouge, Louisiana 70804-9062

RS 40:1300.21 — Furnishing and maintaining of resuscitators; penalties

urnished and maintained by the governing

authority which operates or supervises the swimming place. Such governing authority shall furnish resuscitators of the dual model type designed to work on two persons at the same time, together with at least four cylinders of oxygen and at least two adult masks and two infant masks for each such dual model. At each such swimming place such governing authority shall provide at least one lifeguard thoroughly trained in the operation of such resuscitators and such lifeguard shall be responsible for the maintenance thereof.

B. Whoever violates the provisions of this Section shall be fined not more than one hundred dollars or imprisoned not more than thirty days, or both.

RS 40:1300.31 — Title

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NOTE: Former R.S. 40:1300.31 redesignated as R.S. 40:1191.1 by HCR 84 of 2015

R.S.

RS 40:1300.32 — Definitions

coherent, or otherwise incapacitated to communicate.

- (2) "Disabled person" means a person in a disabled condition.
- (3) "Emergency symbol" means the caduceus inscribed within a six-barred cross used by the American medical association to denote emergency information.
- (4) "Identifying device" means an identifying bracelet, necklace, metal tag, or similar device bearing the emergency symbol and the information needed in an emergency.
- (5) "Law enforcement officer" means a person authorized to make arrests for violations of any laws.
- (6) "Medical practitioner" means a person licensed or authorized to practice medicine pursuant to Sections 1261 through 1290 of Title 37 of the Louisiana Revised Statutes.

RS 40:1300.33 — Identifying devices for persons having certain conditions

lackouts, semiconscious periods, or complete

unconsciousness, or who suffers from a condition requiring specific medication or medical treatment, is allergic to certain medications or items used in medical treatment, wears contact lenses, has religious objections to certain forms of medication or medical treatment, or is unable to communicate coherently or effectively in the English language, is authorized and encouraged to wear an identifying device.

B. Any person may carry an identification card bearing his name, type of medical condition, physician's name, and other medical information.

C. If any person is wearing an identifying device, such person shall be considered as giving his consent for any law enforcement officer or medical practitioner, who finds him in a disabled condition, to make a reasonable search of his clothing, wallet, or purse for an identification card of the type described in Subsection B of this Section, provided that any such search shall not be malicious or willfully and deliberately intended to harass, embarrass or intimidate the disabled person, and further provided that the evidence seized cannot be used in a criminal prosecution.

RS 40:1300.34 — Duty of law enforcement officer

e other type of illness

which would cause the condition. Whenever feasible, this effort shall be made before the person is charged with a crime or taken to a place of detention.

B. In seeking to determine whether a disabled person suffers from an illness, each law enforcement officer shall make a reasonable search for an identifying device and, if the identifying device is found, may make a reasonable search for an identification card of the type described in Section 1300.33(B). The law enforcement officer shall not search for an identifying device or an identification card in a manner or to an extent that would appear to a reasonable person in the circumstances to cause an unreasonable risk of worsening the condition of the disabled person.

C. Any law enforcement officer who finds a disabled person without an identifying device or identification card shall not be relieved of the duty to that person to make a diligent effort to ascertain the existence of any illness causing the disabled condition, provided that any such action of the law enforcement officer shall not be malicious or willfully and deliberately intended to harass, embarrass or intimidate the disabled person, and further provided that the evidence seized cannot be used in a criminal prosecution.

D. There shall be no cause of action against a law enforcement officer for making a reasonable search of a disabled person to locate an identifying device, and if the identifying device is found, for making a reasonable search for an identification card of the type described in Section 1300.33(B).

E. Each law enforcement officer who determines or has reason to believe that a disabled person is suffering from an illness causing his condition shall promptly notify the person's physician, if practicable. If the officer is unable to ascertain the physician's identity or to communicate with him, the officer shall make a reasonable effort to cause the disabled person to be transported immediately to a medical practitioner or to a facility where medical treatment is available. If the officer believes it unduly dangerous to move the disabled person, he shall make a reasonable effort to obtain the assistance of a medical practitioner.

RS 40:1300.35 — Duty of medical practitioners

an identifying device,

and, if the identifying device is found, may make a reasonable search for an identification card of the type described in Section 1300.33(B).

B. There shall be no cause of action against a medical practitioner for making a reasonable search of a disabled person to locate an identifying device, and if the identifying device is found, for making a reasonable search for an identification card of the type described in Section 1300.33(B).

RS 40:1300.36 — Duty of others

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medical practitioner. If a law enforcement officer or medical practitioner is not present, any person who finds a disabled person may make a reasonable search for an identifying device, and, if the identifying device is found, may make a reasonable search for an identification card of the type described in Section 1300.33(B). If a device or card is located, the person making the search shall attempt promptly to bring its contents to the attention of a law enforcement officer or medical practitioner.

B. There shall be no cause of action arising from a reasonable search to locate an identifying device or identification card as authorized by Subsection A of this Section.

C. The duties imposed by this Section shall be in addition to, and not in limitation of, any other duties existing under the laws of this state.

RS 40:1300.37 — Falsifying identification or misrepresenting condition

the type described in Section 1300.33(B) shall be

guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment in the parish jail for not more than ninety days, or by a fine of not more than three hundred dollars, or both.

RS 40:1300.41 — Short title

from R.S. 40:1123.1.

RS 40:1300.42 — Definitions

condition" means Crohn's disease, ulcerative colitis,

inflammatory bowel disease, irritable bowel disease, or any other medical condition that

requires the use of an ostomy device or immediate access to a restroom.

(2) "Ostomy device" means a medical device that creates an artificial passage for elimination of body waste.

(3) "Retail establishment" means any business whether a sole proprietorship, corporation, partnership, or otherwise that holds or stores articles, products, commodities, items, or components for sale to the public or to other retail establishments.

RS 40:1300.43 — Restroom access

he

restroom during normal business hours if the restroom is maintained in a reasonably safe manner and all of the following conditions are met:

(1) The individual requesting access to the employee restroom presents a copy of a written statement, signed, and issued by a healthcare provider on the healthcare provider's letterhead or of a facility with which the healthcare provider is associated, stating that the individual suffers from an eligible medical condition as provided in R.S. 40:1123.2 or utilizes an ostomy device.

(2) A public restroom is not immediately accessible to the individual.

(3) The employee restroom is located in an area of the retail establishment where access would not create an obvious risk to the health or safety of the individual or create an obvious security risk to the retail establishment.

B. This Section shall not apply to any retail establishment that meets either of the following criteria:

(1) It sells prescription drugs, if the employee restroom is located in an area where the individual may gain access to any prescription drugs.

(2) It maintains records or information that are subject to the Health Insurance Portability and Accountability Act of 1996, if the employee restroom is located in an area where the records or information may be accessed.

RS 40:1300.44 — Liability

pursuant to the provisions of this Part, if such act or omission meets all of the following requirements:

(1) It does not constitute gross, willful, or wanton negligence on the part of the retail establishment or an employee of the retail establishment.

(2) It occurs in an area of the retail establishment that is not otherwise accessible to the public.

(3) It results in injury or death of the individual other than an employee accompanying the individual to the employee restroom.

B. No retail establishment shall be required to make any physical change to an employee restroom to effectuate the purposes of this Part.

RS 40:1300.51 — Short title

ence any technical difficulties navigating this website,

RS 40:1300.52 — Legislative findings

cility is a very scary experience for an individual regardless of the reason for entering the

facility or the expected length of stay in the facility.

(2) An inpatient healthcare facility can be a very intimidating place with new sights, sounds, and smells; long periods of isolation; and a myriad of strangers coming quickly in and out of your room at all hours of the day and night.

(3) Many individuals find the process of entering an inpatient healthcare facility overwhelming, particularly children, the elderly, individuals who entered the facility under emergency situations, and those with behavioral health challenges, intellectual disabilities, or profound health complications.

(4) In many instances, the patient or resident of the inpatient healthcare facility is so afraid that they are not able to adequately process the information that they are being given such as a particular diagnosis, medication management, safety procedures, recovery instructions, or food or liquid limitations.

(5) Being a patient or resident in an inpatient healthcare facility also yields itself to very long, boring days of isolation which can cause depression, anxiety, diminished will to improve or even to live, and for individuals with limited functionality, they often go for hours without moving, speaking, or even opening their eyes.

(6) Having a reliable person visit, be it a family member or friend, serves as a source of strength and companionship to a patient or resident in an inpatient healthcare facility, often expressed through reassuring words or a compassionate hug or holding of one's hand, and also allows for a fresh and focused set of eyes and ears to be aware of the totality of the circumstances of the situation.

RS 40:1300.53 — Applicability

ined in R.S. 28:751.

(2) Hospitals as defined in R.S. 40:2102.

(3) Licensed facilities that provide inpatient hospice care as defined in R.S. 40:2182.

(4) Nursing homes as defined in R.S. 40:2009.2.

RS 40:1300.54 — In-person visitation policies; requirements

it him in person during any

stay in any hospital, nursing home, or other healthcare facility within the state of Louisiana.

B. In accordance with R.S. 40:2005.1, hospitals, nursing homes, and adult residential care homes may allow members of the clergy to visit patients or residents during a public health emergency whenever a patient or resident or the legal or designated representative of the patient or resident requests the visit. Special consideration shall be given to patients or residents receiving end-of-life care.

C. In accordance with R.S. 40:2009.4, licensed nursing facilities may allow immediate family members and other designated persons to visit residents during a public health emergency whenever a resident or the legal or designated representative of the resident requests the visit. Special consideration shall be given to residents receiving end-of-life care.

D. In accordance with R.S. 40:2166.5, licensed adult residential care providers may allow immediate family members and other designated persons to visit residents during a public health emergency whenever a resident or the legal or designated representative of the resident requests the visit. Special consideration shall be given to residents receiving

end-of-life care.

E. In accordance with R.S. 40:2180.2, licensed intermediate care facilities for people with developmental disabilities (ICF/DD) may allow any close family member or legal representative of a resident of an ICF/DD to visit the resident during any state of public health emergency.

RS 40:1300.55 — Designation of an essential caregiver; circumstances for visitation

er daily in addition to any other visitation provisions authorized

by the facility. However, the provisions of this Section shall not apply to licensed forensic psychiatric hospitals.

(2) In accordance with this Section, a resident, client, or patient of any facility identified in R.S. 40:1300.53 may designate at least one visitor who is a family member, friend, guardian, or other individual as a designated essential caregiver.

(3) The designated essential caregiver shall not be required to provide advance notice of the intent to visit the patient. The visits of the designated essential caregiver as provided in this Section shall not be constrained for any reason other than medical necessity, which shall include medical procedures and emergencies.

(4) The designated essential caregiver shall not be required to provide necessary care to a resident, client, or patient of a facility. A facility providing such care shall not require a designated essential caregiver to provide such care.

B. The visitation provisions of this Section may allow in-person visitation unless otherwise restricted by law or by order of the court.

C. The visitation policies and procedures of any facility identified in R.S. 40:1300.53 shall require a designated essential caregiver to agree in writing to follow such policies and procedures. A facility may suspend in-person visitation for a designated essential caregiver if the designated essential caregiver violates the facility's visitation policies and procedures.

D. Access to a religious or spiritual support person shall be included in addition to the designated essential caregiver and in accordance with R.S. 40:2005.1.

RS 40:1300.61 — Short title

e any technical difficulties navigating this website,

RS 40:1300.62 — Definitions

means a parish or municipality, as provided pursuant to Article VI, Sections 1 and 2 of the Constitution of Louisiana.

(2) "Mitragynine speciosa" shall have the same meaning as defined in R.S. 14:91.10.

RS 40:1300.63 — Local government prohibition or regulation

mitragynine speciosa products or to

regulate the sale or distribution of mitragynine speciosa products in a manner that is more restrictive than provided for in R.S. 14:91.10.

RS 40:1300.71 — Short title

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RS 40:1300.72 — Definitions

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Assurance for the Protection of Human Subjects, in accordance with 42 U.S.C. 289(a) and 45 CFR Part 46, and an eligible facility that is subject to the Federalwide Assurance for the Protection of Human Subjects laws, regulations, policies, and guidelines, including renewals and updates.

(2) "Eligible patient" means an individual who meets all of the following conditions:

(a) Has considered all other treatment options currently approved by the United States Food and Drug Administration.

(b) Has received a recommendation from his physician for an individualized investigational treatment, based on analysis of the patient's genomic sequence, human chromosomes, deoxyribonucleic acid, ribonucleic acid, genes, gene products such as enzymes and other types of proteins, or metabolites.

(c) Has a life-threatening, severely debilitating illness or serious disease or condition associated with morbidity that has a substantial impact on day-to-day functioning and is attested to by the patient's treating physician.

(d) Has given written, informed consent for the use of the investigational drug, biological product, or device.

(e) Has documentation from his physician that the patient meets the requirements of this Part.

(3) "Individualized investigational treatment" means drugs, biological products, or devices that are unique to and produced exclusively for use for an individual patient, based on his own genetic profile.

(a) "Individualized investigational treatment" includes but is not limited to individualized gene therapy antisense oligonucleotides and individualized neoantigen vaccines.

(b) "Individualized investigational treatment" does not include any drug, biological product, or device derived from human primary or secondary embryonic stem cells or cell lines, or tissues or cells derived from abortion, but does include any drug, biological product, or device derived from human perinatal tissues, cells, and secreted factors not obtained from an abortion.

(4) "Life-threatening or severely debilitating illness," has the same meaning as provided in 21 CFR 312.81, or any successor law or regulation, as applicable.

(5) "Written, informed consent" means a written document that is signed by the patient, or if the patient is a minor, by any person authorized to consent in accordance with the Louisiana Medical Consent Law, R.S. 40:1159.1, et seq., and attested to by the patient's physician and a witness and that, at a minimum, includes all of the following:

(a) An explanation of the currently approved products and treatments for the illness, disease, or condition from which the patient suffers.

(b) An attestation that the patient concurs with his physician in believing that all currently approved and conventionally recognized treatments are unlikely to prolong the patient's life.

(c) Clear identification of the specific proposed individualized investigational drug, biological product, or device that the patient is seeking to use.

- (d)(i) A description of the potentially best and worst outcomes of using the individualized investigational drug, biological product, or device and a realistic description of the most likely outcome.
- (ii) The description shall include the possibility that new, unanticipated, different, or worse symptoms might result and that death could be hastened by the proposed treatment.
- (iii) The description shall be based on the physician's knowledge of the proposed treatment in conjunction with an awareness of the patient's condition.
- (e) A statement that the patient's health plan or third-party administrator and provider are not obligated to pay for any care or treatments consequent to the use of the individualized investigational drug, biological product, or device, unless they are specifically required to do so by law or contract.
- (f) A statement that the patient's eligibility for hospice care may be withdrawn if the patient begins curative treatment with the individualized investigational drug, biological product, or device and that care may be reinstated if this treatment ends and the patient meets hospice eligibility requirements.
- (g) A statement that the patient understands that the patient is liable for all expenses consequent to the use of the individualized investigational drug, biological product, or device and that this liability extends to the patient's estate, unless a contract between the patient and the manufacturer of the drug, biological product, or device states otherwise.

RS 40:1300.73 — Individualized investigational drugs; facility and manufacturer abilities

Insurance for the Protection of Human Subjects laws and regulations may make available an individualized investigative treatment and an eligible patient may request an individualized investigational drug, biological product, or device from an eligible facility or manufacturer operating within an eligible facility in accordance with this Part. This Part shall not require a manufacturer to make available an individualized investigational drug, biological product, or device to an eligible patient.

B. An eligible facility or manufacturer operating within an eligible facility may do all of the following:

- (1) Provide an individualized investigational drug, biological product, or device to an eligible patient without receiving compensation.
- (2) Require an eligible patient to pay the costs of, or the costs associated with, the manufacture of the investigational drug, biological product, or device.

RS 40:1300.74 — Coverage expansion; permissible; not required

Statutes of 1950.

B. A health plan, third-party administrator, or governmental agency may provide coverage for the cost of an individualized investigational drug, biological product, or device or the cost of services related to the use of an individualized investigational drug, biological product, or device in accordance with this Part.

C. This Part shall not require any governmental agency to pay costs associated with the use, care, or treatment of a patient with an individualized investigational drug, biological product, or device.

D. This Part shall not require a hospital or facility licensed in accordance with R.S.

40:2006(A) and operating or planning to operate within the state to provide new or additional services unless approved by the hospital or facility.

RS 40:1300.75 — Patient death; insurance provisions

tate, heirs, or devisees are

not liable for any debt remaining after payment by insurance for charges directly incurred for the treatment. However, this provision shall not provide an exemption to liability for charges for nonexperimental treatments provided to the patient, including nonexperimental treatments rendered to the patient due to complications or consequences of the experimental treatment.

RS 40:1300.76 — Prohibition of actions taken against licensure of healthcare providers

against a healthcare provider's license issued in accordance with

Chapter 15 of Title 37 of the Louisiana Revised Statutes of 1950 based solely on the healthcare provider's recommendations to an eligible patient regarding access to or treatment with an individualized investigational drug, biological product, or device.

B. An entity responsible for Medicare certification shall not take action against a healthcare provider's Medicare certification based solely on the healthcare provider's recommendation that a patient has access to an individualized investigational drug, biological product, or device.

RS 40:1300.77 — Eligible patient's access to individualized investigational drugs, biological

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eligible patient's access to an individualized investigational drug, biological product, or device.

B. Providing counseling, advice, or a recommendation consistent with medical standards of care from a licensed healthcare provider shall not be a violation of this Section.

RS 40:1300.78 — Prohibition of private causes of action and insurance mandates

, biological product, or device or against any other person

or entity involved in the care of an eligible patient using the individualized investigational drug, biological product, or device for any harm done to the eligible patient resulting from the individualized investigational drug, biological product, or device, if the manufacturer or other person or entity is complying in good faith with the terms of this Part and has exercised reasonable care.

B. This Part shall not affect any mandatory healthcare coverage for participation in clinical trials in accordance with any provisions provided in Title 22 of the Louisiana Revised Statutes of 1950.

RS 40:1300.79 — Severability

shall

remain effective notwithstanding such unconstitutionality.

RS 40:1301 — Creation and organization of department

ganized Crime Intelligence Division, and such other divisions as are established in accordance with this Part.

RS 40:1302 — Director of public safety head of department; appointment; compensation

by the governor, with the advice and consent of the senate, for a term of four years and until his successor has qualified. His appointment shall be made on the sole basis of his qualifications to administer the affairs of the department for which he is appointed. He shall serve on a full-time basis and be subject to removal by the governor only for cause and after public hearing.

His compensation shall be fixed by the governor.

RS 40:1303 — Substitute appointment for director in case of leave or vacancy

in absence or disability or in case of a vacancy, until the absence or disability is terminated or the vacancy filled. If he does not do so, the governor may make this designation.

RS 40:1304 — Functions of department

expressly provided by this Chapter, in relation to:

- (1) The maintenance of peace and order as involved in the services of police patrol and crime prevention and detection;
- (2) Highway traffic control and highway safety;
- (3) Police and fire training and investigating as conducted by the state but not the municipalities; and
- (4) The enforcement of regulatory provisions of law.

Nothing in this Part affects in any manner the rights, powers, and duties of the sheriffs or constables of the various parishes or of the marshals or police of all incorporated municipalities.

RS 40:1305 — Exercise of department functions; acts of employees are acts of director and department

by the constitution and by this Part, the director has the management of the department and, subject to the provisions of this Part, shall exercise all the functions of the department through the department organization provided, in carrying out the provisions of law with respect to those functions, except any functions which are specifically assigned to any board of the department under the provisions of this Part.

Any act performed by any employee of the department under the authority of the director shall be considered an act of the department and of the director.

RS 40:1306 — Appointment and control of employees

positions;

- (3) Transfer duties between positions;
- (4) Assign duties to and direct and control the work of employees; and
- (5) Transfer, promote, demote, remove, and otherwise change the status of employees of the department.

All employees of the department are, to the extent practicable, interchangeable in work assignments for such temporary periods as are necessary to meet seasonal and emergency demands upon the department.

RS 40:1307 — Divisions and units of department; heads of divisions; distribution of work

by this Part, the governor, on recommendation of the director, may authorize the director to combine existing divisions, divide existing divisions, establish new divisions, change the names of divisions, add new functions to existing divisions, or transfer functions and staff from one division to another within the department.

The director may create, combine, or divide subordinate units within a division or otherwise alter the internal organization of a division.

The director shall appoint the heads of the divisions.

The work of the department shall be distributed among the divisions of the department and the director shall exercise the functions of the department through the divisions.

RS 40:1307.1 — Organized Crime Intelligence Division

c Safety as designated by the director. The functions of this division shall be as follows:

- (1) to gather information for the State of Louisiana concerning organized crime;

- (2) to cooperate with the Attorney General of the State of Louisiana and with all other officials and agencies of this state having law enforcement and investigative powers;
- (3) to furnish background information to the Department of Revenue, the Louisiana Alcohol and Tobacco Control Board and political subdivisions of this state concerning applicants for permits to sell beverages of high and/or low alcoholic content; and
- (4) to perform such other functions as may be designated by the director.

RS 40:1308 — Plan of organization and operation; practice instructions; central records bureau

he department with a view to the most effective conduct of the work of the department. This plan shall include such elements as unified and systematic procedures, definite allocation of functions to the divisions and other component parts of the department, proper housing and layout of quarters to facilitate the carrying out and supervision of the work in process, effective routing and flow of work, and co-ordination of staff efforts in carrying out the procedures prescribed.

The director shall have standard practice instructions prepared for the guidance of all concerned in the operation of the prescribed plan and the system of procedures based upon it and for placing the prescribed procedures into effect and fitting them to the established plan of organization.

B. The director shall create within the department of public safety a central records bureau. Such central records bureau shall be maintained for the principal purpose of accumulating, tabulating and recording all motor vehicle accident and traffic convictions, overtime parking convictions only excepted, occurring within the state of Louisiana.

C. The statistical information thusly obtained shall be analyzed by the central records bureau and made available to:

1. Engineers, for guidance in dealing with high frequency accident locations and for use in improving highway design standards;
2. Enforcement administrators, for use in planning the most effective use of their available manpower and equipment;
3. The driver licensing division of the department of public safety for the utilization of accident experience for driver improvement discipline;
4. Officials responsible for school safety and public information programs, for guiding and implementing their educational activities;
5. The motor vehicle safety responsibility division of the department of public safety;
6. The commissioner of insurance for his use and study in connection with automobile physical damage and bodily injury and property damage automobile insurance rates and to insurance companies which are authorized by the commissioner of insurance to write such coverages in Louisiana. The director of public safety is hereby authorized to charge such companies the actual expenses incurred in furnishing such report but not to exceed a charge of one dollar for each such report;
7. Municipalities and parishes for their use in applying the functions of engineering, education and enforcement to local traffic safety, driver and vehicle control programs;
8. Such other officials of the state, parish and municipalities as may request said analyses for official use.

D. The director of public safety shall provide for the operation of said bureau, including the purchase, installation and use of mechanical tabulating equipment.

E. The central records bureau created herein shall become effective on January 1, 1961.

RS 40:1309 — Rules and regulations

The director of public safety may prescribe such administrative rules as he thinks necessary or expedient for the proper conduct of the work of the department and for making effective the provisions of law, so long as these rules are not inconsistent with the law or with any general rules prescribed by the governor.

RS 40:1310 — Reports of director and governor

ormation documents or pamphlets, which are published on a regular basis and are generally known as newsletters.

RS 40:1312.1 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.2 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.4 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.5 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.6 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.7 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.8 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.9 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.10 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.11 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.12 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.15 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.16 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.17 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.18 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.19 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.20 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.21 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.22 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.24 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.25 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.26 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1312.27 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1321 — State identification cards; special identification cards; issuance; veteran designation;

promotion of use; persons less than twenty-one

years of age; the Protect and Save our Children Program; Selective Service

Registration

A. Any Louisiana resident may obtain a special identification card from the office of motor vehicles within the Department of Public Safety and Corrections, hereinafter referred to as "OMV". The identifying information and documents of identification required to obtain a special identification card shall be the same as those required to obtain a Louisiana driver's license, as stated in R.S. 32:409.1. However, if the applicant is seventeen years of age, the signature of the custodial parent or guardian shall not be required, provided that the applicant has the necessary identifying information and documents.

If the applicant

is fourteen to sixteen years of age and is accompanied by a person over the age of twenty-one years with whom the applicant lives, or the applicant is accompanied by a person over the age of twenty-one years who works for a nonprofit agency that assists children under the age of eighteen, that person may sign in lieu of the custodial parent or guardian for the issuance of a special identification card, provided that the applicant has the necessary identifying information and documents and is not requesting a REAL ID.

B.(1) Each special identification card shall be accepted as valid identification of the person to whom it was issued when it is presented physically or in the form of a digitized special identification card for the purpose of furnishing proof of that person's identification. Under no circumstances shall the state of Louisiana, or any of its agencies, be held liable in any manner legally or otherwise as a result of the use or misuse of a special identification card.

(2)(a) For purposes of this Subsection, a digitized special identification card shall mean a data file available on any mobile device which has connectivity to the internet through an application that allows the mobile device to download the data file from the department or an authorized representative of the department and contains all of the data elements visible on the face and back of the special identification card, displays the current status of the identification card, and shall include any special identification card that complies with the standards of REAL ID as provided for in Subsection P of this Section. For purposes of this Subparagraph, "current status" shall include but is not limited to valid, expired, or cancelled.

(b) A digital copy, photograph, or image of a special identification card which is not

downloaded through the application on a mobile device shall not be considered a valid digitized special identification card as provided by this Subsection.

(c) In connection with requests for identification not associated with traffic stops or checkpoints in Louisiana, a person may be required to produce a physical special identification card to a law enforcement officer, a representative of a state or federal department or agency, or a private entity when so requested and be subject to all the applicable laws and consequences for failure to produce such identification card.

(d) The Department of Public Safety and Corrections shall promulgate rules as are necessary to implement a digitized special identification card. No digitized special identification card shall be valid until the department has adopted the rules.

(e) The display of a digitized special identification card shall not serve as consent or authorization for a law enforcement officer, or any other person, to search, view, or access any other data or application on the mobile device. If a person presents their mobile device to a law enforcement officer for purposes of displaying their digitized special identification card, the law enforcement officer shall promptly return the mobile device to the person once he has had an opportunity to verify the identity of the person.

(f) The fee to install the application to display a digitized special identification card as defined in Subparagraph (a) of this Paragraph shall not exceed six dollars.

C. This Subsection and Subsection D of this Section shall establish and be cited as the Protect and Save our Children Program for issuance of special identification cards for persons under the age of sixteen. The fee for the issuance or renewal of a special identification card for persons under the age of sixteen shall be three dollars for a two-year identification card and seven dollars and fifty cents for a six-year identification card. The fee for the issuance or renewal of a special identification card for persons sixteen years of age or older shall be fifteen dollars. However, this fee shall be waived for:

(1) Any person who does not have a Louisiana driver's license, upon presentation of his voter registration card or certificate.

(2) Any child who is in foster care as defined in Children's Code Article 603.

D.(1)(a) Each special identification card issued to a person under the age of sixteen shall expire every two years for the three-dollar identification card and every six years for the seven-dollar-and-fifty-cents identification card and may be renewed only by personal appearance. Each special identification card for a person sixteen years of age or older shall expire every six years but may be renewed. The OMV may issue the special identification card for a period of less than six years in circumstances of medical, legal presence, or other special restriction. Where the OMV issues a special identification card to a properly documented alien student or a nonresident alien, the special identification card shall both:

(i) Expire on the date for which the alien's immigration documents expire or six years after issuance, whichever is sooner.

(ii) Contain a restriction code which declares that the special identification card holder is an alien student or a nonresident alien.

(b)(i) Any United States male citizen or immigrant who is fifteen years of age, but less than eighteen years of age, shall provide personal information, including a social security

number, if available, to the office of motor vehicles when applying to receive or renew a special identification card for the purpose of registration with the Selective Service. Upon the applicant attaining the age of eighteen years, the applicant shall automatically be registered with the Selective Service. The office of motor vehicles shall forward to the Selective Service System, in an electronic format, the necessary personal information required for registration with the Selective Service after receiving the application to issue or renew a special identification card. The application for issuance or renewal of a special identification card shall include all information required according to the provisions of R.S. 32:418.

(ii) The office of motor vehicles shall not issue or renew any special identification card to any person who refuses to provide personal information for registration with the Selective Service.

(2) With the exception of a special identification card issued to a properly documented alien student and nonresident alien, special identification cards which were obtained by personal appearance at an office of OMV may be renewed by personal appearance or may be renewed by mail. Special identification cards issued to properly documented alien students and nonresident aliens may be renewed only by personal appearance at an office of OMV if the alien can produce proper immigration documents which establish that the alien is legally in the United States. Special identification cards which were obtained by renewal by mail may be renewed only by personal appearance at an office of OMV.

E.(1) Each special identification card shall be similar in size, shape, and design to the Louisiana driver's license, and shall include a picture of the person to whom the card is issued. Each special identification card shall clearly state that it does not enable the person to whom it is issued to operate a motor vehicle. Beginning January 1, 2000, and thereafter, special identification cards issued pursuant to this Section to applicants less than twenty-one years of age shall contain a highly visible distinctive color to clearly indicate that the card has been issued to an applicant less than twenty-one years of age.

(2) Beginning January 1, 2007, the office of motor vehicles of the Department of Public Safety and Corrections shall provide for a method by which an applicant has the option of including emergency contact information in the operating record of the special identification card to which law enforcement and emergency personnel will have access.

F. No later than December 1, 1999, OMV shall adopt rules for the effective implementation of the provisions of this Section, including but not limited to rules relating to the choice of color and placement on the special identification card for cards issued to applicants less than twenty-one years of age. All rules shall be adopted in accordance with the Administrative Procedure Act. OMV shall utilize the various communications media throughout the state to inform Louisiana residents of the provisions of this Section and to encourage and promote the general public to take advantage of these provisions.

G. Any person who intentionally furnishes false information to OMV for the purpose of obtaining a special identification card, or any person found to be in possession of a fictitious special identification card or a special identification card which has been

intentionally altered, or which has been caused to be altered, by such person, or any person who lends his special identification card to another person for unlawful or fraudulent purposes, or any person who refuses to surrender the special identification card to the department upon its lawful demand, shall be fined not less than one hundred dollars nor more than five hundred dollars or shall be imprisoned for not more than six months, or both, and shall surrender the special identification card for cancellation. Such person shall not be entitled to apply for a replacement or subsequent special identification card.

H. Persons who are residents of this state and who are sixty years of age or older may obtain a special identification card without charge. This provision shall not apply to the special identification card required to be obtained by a sex offender pursuant to Subsection J of this Section. Special identification cards issued under the provisions of this Subsection shall not be subject to the expiration provisions or the renewal requirements of this Section.

I.(1) An individual may renew the special identification card issued pursuant to this Section by appearing in person at a motor vehicle field office, by mail, and by electronic commerce. An individual shall not make consecutive renewals of a special identification card by mail or electronic commerce, or any combination of the two. The department shall promulgate rules in accordance with the Administrative Procedure Act to implement the provisions of this Subsection, including but not limited to rules providing for the following procedures for the renewal of special identification cards by mail or electronic commerce:

- (a) Procedures to be used to limit the likelihood of fraud in the renewal process.
- (b) Procedures to secure payment when a renewal is made by electronic commerce.
- (c) Procedures to secure the transmission of personal information electronically, or the use of a disclaimer or warning statement to individuals who choose to use electronic commerce.

(2) When a special identification card has been renewed pursuant to this Subsection, and the department has complied with the requirements of this Subsection and the rules adopted by the department, the state and the department shall not be liable for any damages resulting from the use of a special identification card renewed pursuant to this Subsection.

J.(1) Any person required to register as a sex offender with the Louisiana Bureau of Criminal Identification and Information, as required by R.S. 15:542 et seq., shall obtain a special identification card issued by the Department of Public Safety and Corrections which shall contain a restriction code declaring that the holder is a sex offender. This special identification card shall include the words "sex offender" in all capital letters which are orange in color and shall be valid for a period of one year from the date of issuance. This special identification card shall be carried on the person at all times by the individual required to register as a sex offender.

(2) Each person required to carry a special identification card pursuant to this Subsection shall personally appear, annually, at a field office of the office of motor vehicles to renew his or her special identification card but only after he or she has registered as an offender pursuant to R.S. 15:542 et seq. Reregistration shall include the submission of current information to the department and the verification of this information, which shall include the street address and telephone number of the registrant; the name, street address

and telephone number of the registrant's employer, and any registration information that may need to be verified by the bureau. No special identification card shall be issued or renewed until the office of motor vehicles receives confirmation from the bureau, electronically or by other means, that the reregistration of the sex offender has been completed.

(3) The provisions of this Subsection shall apply to all sex offenders required to register pursuant to R.S. 15:542 et seq., regardless of the date of conviction.

(4) Whoever violates this Subsection shall be fined not less than one hundred dollars and not more than five hundred dollars, or imprisoned for not more than six months, or both.

K. Upon request, the word "Veteran" shall be exhibited in the color black below the person's photograph on a special identification card upon presentation of a copy of the person's DD Form 214, issued by the United States Department of Defense, or equivalent, as established by administrative rule. No additional fee shall be charged to include such designation. The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall comply with the provisions of this Subsection. The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall establish rules and regulations as are necessary to implement the provisions of this Subsection.

L.(1) Upon request and payment of an additional fee, the designation "I'm a Cajun" shall be exhibited in the color black below the person's photograph on the special identification card. The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall comply with the provisions of this Subsection.

(2) The department shall collect an annual fee of five dollars for inclusion of the designation "I'm a Cajun" on the special identification card, which fee shall be disbursed in accordance with Paragraph (3) of this Subsection. This fee shall be in addition to the payment of any other special identification card fee.

(3) The monies received from the additional fee shall be disbursed quarterly to the Council for the Development of French in Louisiana. The monies received from the additional five-dollar fee shall be disbursed solely to fund scholarships for the "La Fondation Louisiane for the Escadrille Louisiane" scholarship program of the Council for the Development of French in Louisiana.

(4) The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall establish such rules and regulations as are necessary to implement the provisions of this Subsection.

M.(1) Upon request and payment of a university logo fee, if any, as established by a Louisiana university for the use and display of its logo, the logo of the university shall be exhibited in color on the special identification card. The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall comply with the provisions of this Subsection.

(2) The department shall collect such university logo fee, if any, which shall be disbursed in accordance with Paragraph (3) of this Subsection. This university logo fee shall be in addition to the payment of any other special identification card fee.

(3) Any monies received from such university logo fee shall be disbursed quarterly

by the department to the foundation of the university.

(4) The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall establish such rules and regulations as are necessary to implement the provisions of this Subsection.

(5) Any implementation costs shall be incurred by the foundation of the university participating in the university logo program.

N.(1) Upon request, the special identification card holder's blood type shall be exhibited on the back of the special identification card. No additional fee shall be charged to include such designation. The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall promulgate, in accordance with the Administrative Procedure Act, rules and regulations necessary to implement the provisions of this Subsection.

(2) No action taken by any person, whether private citizen or public officer or employee, with regard to any identification card displaying a blood type, shall create a warranty of the reliability or accuracy of the document or electronic image, or create any liability on the part of the state, or on the part of any department, office, or agency of the state, or on the part of any officer, employee, or agent of the state.

O. Upon request, the words "100% DAV" shall be exhibited in the color black below the person's photograph on a special identification card upon presentation of a copy of the person's DD Form 214, issued by the United States Department of Defense, or equivalent, and presentation of one hundred percent disabled veteran status as determined by the United States Department of Veterans Affairs, as established by administrative rule. No additional fee shall be charged to include such designation. The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall comply with the provisions of this Subsection. The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall establish rules and regulations as are necessary to implement the provisions of this Subsection.

P.(1) The Department of Public Safety and Corrections, office of motor vehicles, hereinafter in this Subsection referred to as "department", shall provide for the option of the issuance of special identification cards that are compliant with the standards of the REAL ID Act of 2005, P. L. 109-13, and federal rules adopted pursuant thereto as of January 1, 2016, hereinafter collectively referred to as REAL ID, for official purposes, in the manner set forth in this Subsection.

(2) Any person applying for a special identification card pursuant to the provisions of this Section may elect to apply for a special identification card that complies with the standards of REAL ID. If that person is eligible for a special identification card to be issued pursuant to the provisions of this Section and meets all requirements of the United States Department of Homeland Security for a REAL ID compliant credential, that person shall be issued a special identification card which bears a United States Department of Homeland Security approved security marking reflecting that such credential meets REAL ID standards. A person who is issued a REAL ID compliant special identification card shall not be issued a REAL ID compliant driver's license.

(3) Any person applying for a special identification card pursuant to the provisions of this Section who elects not to apply for a special identification card that complies with REAL ID standards and who is otherwise eligible to be issued a special identification card pursuant to the provisions of this Section shall be issued a special identification card which indicates the special identification card is not in compliance with REAL ID. If the person has elected not to apply for a REAL ID compliant special identification card, the department shall not require the applicant to comply with any REAL ID requirements that were not required by the state as of January 1, 2016, or require the applicant to submit to a facial image capture in connection with such application prior to determining if such applicant is eligible to be issued a special identification card. If the person has elected not to apply for a REAL ID compliant special identification card, the department shall not copy, scan, maintain, or share a copy of the applicant's documents proving his identity obtained from any person in the process of applying for the issuance or renewal of a special identification card. Documents proving identity shall include but not be limited to the applicant's birth certificate, social security card, or United States issued passport. If the person has elected not to apply for a REAL ID compliant special identification card, the department shall not scan or maintain a copy of the applicant's documents proving his identity. This includes but is not limited to the applicant's birth certificate, social security card, or United States issued passport.

(4)(a) Each applicant for a special identification card shall be informed that he is not required by law to be issued a REAL ID compliant special identification card and may be issued a special identification card which is not REAL ID compliant. Each applicant shall be required to indicate on his special identification card application whether he is applying for a REAL ID compliant special identification card or a special identification card that is not REAL ID compliant. Each applicant shall also be required to indicate on his special identification card application that he was provided the printed document as required pursuant to Subparagraph (b) of this Paragraph.

(b) The department shall provide each applicant for a special identification card a printed document that includes the following information:

(i) The documents that are required to be provided by the applicant to obtain a REAL ID compliant special identification card, and the documents that are required to be provided by the applicant to obtain a special identification card that is not REAL ID compliant.

(ii) The purposes for which a REAL ID compliant special identification card may be utilized and the purposes for which a special identification card that is not REAL ID compliant may be utilized.

(iii) The electronic technology incorporated into a REAL ID compliant special identification card and the electronic technology incorporated into a special identification card that is not REAL ID compliant.

(5) Compliance with REAL ID referenced in this Subsection shall be limited to those standards in effect as of January 1, 2016. Any subsequent changes or additions to federal laws or rules for implementation of REAL ID shall be implemented by the state only if such changes are approved by the legislature by a favorable vote of a majority of the elected

members of each house.

(6) Any eligible person electing to obtain a special identification card which bears a United States Department of Homeland Security approved security marking reflecting that such credential meets REAL ID standards prior to the renewal date of his special identification card may be issued such credential at the cost of a duplicate special identification card.

(7) Upon the request of any applicant for a special identification card, the department shall record and retain the applicant's name, date of birth, certificate numbers, date filed, and issuing agency in lieu of retaining an image or copy of the applicant's birth certificate.

(8) The department shall not participate in any programs that exchange or allow the access of facial biometric data of Louisiana citizens obtained in the issuance or renewal of a Louisiana special identification card to the agencies, governments, or contractors of other states or nations without a warrant or a court order issued for access to that data.

Q.(1) Upon the request of any person, any personal identifying source documents or photographs of such person obtained by the department or a contractor in the process of a person applying for or renewing a special identification card between July 7, 2008, and the effective date of this Subsection that were not required by state law to be captured by the department or a contractor as of July 7, 2008, shall be disposed of as follows:

(a) Personal identifying source documents shall be removed and purged from department and contractor databases and systems.

(b) All photographs of persons obtained by the department which are in the possession of a contractor shall be purged from the database or system of that contractor.

(2) As used in this Subsection, the following terms shall mean and include:

(a) "Contractor" shall mean and include any contractor of the department or any affiliate or subsidiary of such contractor and any subcontractor of such contractor or any affiliate or subsidiary of such subcontractor.

(b) "Personal identifying source documents" shall mean and include any document provided by any person to prove his identity or residence. It shall include all copies, scans, or digital images of such documents.

(c) "Photographs" shall mean and include any captured image, digital or otherwise, of a person's face. It shall include all copies, scans, or digital images of such image.

R.(1) Upon request of an applicant for a special identification card who needs accommodation, a designation that the applicant needs accommodation shall be exhibited on the special identification card, upon presentation of a statement from a qualified medical professional licensed in Louisiana or any other state or territory of the United States verifying the medical reason, including any mental, physical, or developmental disability, the applicant needs accommodation as established by administrative rule. No additional fee shall be charged to include such designation.

(2) The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall promulgate rules and regulations to implement this Subsection, including a waiver of liability for the release of any medical information. Such rules shall be effective no later than July 1, 2018. Notwithstanding the provisions of R.S.

49:966(B)(12), the Senate and House committees on transportation, highways and public works shall have oversight of the adoption of rules and regulations required by this Subsection.

(3) The designation authorized by this Subsection shall not be available prior to the effective date of the administrative rules required by Paragraph (2) of this Subsection.

S.(1) Upon request of an applicant for a special identification card, a designation that the applicant has autism spectrum disorder or seizure disorder shall be exhibited on the special identification card upon presentation of a statement from a qualified medical or mental health professional licensed in Louisiana or any other state or territory of the United States verifying the applicant's disability as established by administrative rule. The qualified medical or mental health professional shall be authorized to diagnose autism spectrum disorder or seizure disorder. No additional fee shall be charged to include such designation.

(2) Upon the renewal of a special identification card, an applicant who has autism spectrum disorder or seizure disorder shall provide a statement from a qualified medical or mental health professional licensed in Louisiana or any other state or territory of the United States verifying the applicant's disability as established by administrative rule.

(3) Any person who has not been diagnosed with autism spectrum disorder or seizure disorder who willfully and falsely represents himself as having the qualifications to obtain the special designation authorized by this Subsection shall be fined not less than one hundred dollars nor more than two hundred fifty dollars, or shall be imprisoned for not more than thirty days, or both. Any subsequent offense shall result in a fine of not less than two hundred fifty dollars nor more than five hundred dollars, or imprisonment for not more than ninety days, or both.

(4) In addition to the training requirements contained in R.S. 40:2404.2(C), the Department of Public Safety and Corrections, public safety services, shall establish and implement a law enforcement training course relative to law enforcement officers' interaction with persons who have autism spectrum disorder. The course shall instruct law enforcement officers on sensitivity and awareness to ensure equitable treatment and how to effectively communicate and interact with persons with autism spectrum disorder. At a minimum, the course shall include the following:

(a) Identification of indicators that a person has autism spectrum disorder.

(b) Identification of procedures that an officer should employ when encountering a person with autism spectrum disorder.

(c) Demonstrations of communication and interactive techniques required to effectively interact with a person with autism spectrum disorder.

(d) Explanations that provide law enforcement officers with an understanding of the developmental disability and examples of unexpected actions potentially taken by persons diagnosed with autism spectrum disorder.

(e) Explanations of the resources available to assist an officer encountering a person who has autism spectrum disorder.

(f) Descriptions of the procedures an officer should use to ensure compliance with the Americans with Disabilities Act when encountering a person with autism spectrum

disorder.

(5) In addition to the training requirements contained in R.S. 40:2404.2(C), the Department of Public Safety and Corrections, public safety services, shall establish and implement a law enforcement training course relative to law enforcement officers' interaction with persons who have a seizure disorder. The course shall instruct law enforcement officers on sensitivity and awareness to ensure equitable treatment and how to effectively interact with a person experiencing a seizure. At a minimum, the course shall include the following:

- (a) Identification of indicators that a person is experiencing a seizure.
- (b) Identification of procedures that an officer should employ when encountering a person experiencing a seizure.
- (c) Demonstrations of techniques required to effectively respond to a person experiencing a seizure.
- (d) Explanations that provide law enforcement officers with an understanding and examples of unexpected actions potentially taken by persons experiencing a seizure.
- (e) Explanations of the resources available to assist an officer encountering a person who has seizure disorder.
- (f) Descriptions of the procedures that an officer should use to ensure compliance with the Americans with Disabilities Act when encountering a person with seizure disorder.

(6) The deputy secretary of the Department of Public Safety and Corrections, public safety services, shall promulgate rules and regulations as necessary to implement the provisions of this Subsection, including a waiver of liability for the release of any medical information. Notwithstanding the provisions of R.S. 49:966(B)(12), the House and Senate committees on transportation, highways and public works shall have oversight of the adoption of rules and regulations required by this Subsection.

T. No fee shall be charged for transactions to issue a duplicate special identification card to correct an address due to the renaming of a street or highway in accordance with a parish or municipal ordinance.

U. Every state identification card issued by OMV shall include the words "Crisis Lifeline dial 988".

RS 40:1321.1 — Duplicate special identification cards; lost or destroyed

ial identification card at a motor vehicle office, an authorized agent of the office of motor vehicles, or through the motor vehicle website online application. Any application submitted pursuant to this Section shall include a statement executed by the applicant attesting to the facts regarding the lost or destroyed special identification card.

B. For each duplicate special identification card so issued a five dollar charge shall be collected, except no fee shall be charged to a child who is in foster care, as defined in Children's Code Article 603. However, if the original special identification card was stolen as evidenced by a police report, the charge provided for in this Subsection and the handling charge provided for in R.S. 32:412.1 shall not be collected.

C. If any special identification card which was issued to a Louisiana domiciliary or resident who is temporarily out of state or an active member of the armed forces, or who is

a domiciliary resident dependent of a member of the active armed forces, in lieu thereof has been lost or destroyed, the person who was issued the special identification card, or a person who has power of attorney for the person to whom a special identification card was issued, may submit satisfactory proof to the office of motor vehicles of the loss or destruction and may apply for a duplicate special identification card.

D.(1) The holder of a valid special identification card may apply for a duplicate special identification card by mail or electronic commerce, except as follows:

(a) No duplicate special identification card by mail or electronic commerce shall be granted if a previous duplicate special identification card was issued prior to the card's expiration.

(b) No duplicate special identification card by mail or electronic commerce shall be granted to an alien student or nonresident alien.

(2) The department may establish rules and regulations to grant or deny a duplicate special identification card by mail in cases where a Louisiana resident is temporarily domiciled out of state or out of the country, or temporarily residing, employed, or attending school in another state or foreign country, even if the resident does not meet the qualification criteria in this Section.

(3) Upon receipt of all required statements by the department and upon the issuance of a duplicate special identification card, the state, the department, or any department employee shall not be liable for any property damages, injuries, or deaths that may arise from an applicant's use of the special identification card if the special identification card was unlawfully obtained.

(4) When a duplicate special identification card is issued by mail or electronic commerce, the department shall issue a duplicate special identification card with the same expiration date as the previously issued special identification card.

(5) The department shall promulgate rules and regulations necessary to implement the provisions of this Section.

(6) Any online transaction shall be assessed the fee authorized and approved in R.S. 49:316.1.

RS 40:1321.2 — Office of Motor Vehicles Special Identification Card Dedicated Fund Account

ce of Motor Vehicles Special Identification Card Dedicated Fund Account, hereafter referred to as the "Identification Card Account".

B. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, the treasurer shall pay an amount equal to one-third of the monies received by the state treasury pursuant to the provisions of R.S. 40:1321(C) into the Identification Card Account. Monies in the account shall be used for operational expenses of the Department of Public Safety and Corrections, public safety services. All unexpended and unencumbered monies in the account at the end of the fiscal year shall remain in the account. Monies in the account shall be invested by the state treasurer in the same manner as monies in the state general fund and shall be deposited into the state general fund.

C. Monies deposited into the Identification Card Account shall be available for

appropriation in Fiscal Years 2026, 2027, 2032, 2033, 2038, and 2039.

D. Monies deposited into the Identification Card Account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriations bill and shall be available for annual appropriation by the legislature.

E. The provisions of this Section shall be null, void, and of no effect beginning on July 1, 2039.

RS 40:1322 — Credit card, charge card, and debit card transactions with the Department of Public Safety and Corrections, public safety services, or any

authorized agent of the department, is authorized to accept credit cards, charge cards, or debit cards for the payment of fees, fines, taxes, penalties, and interest. The department may enter into agreements with issuing companies and banks as are necessary to implement the use of these cards.

B. The department may charge a convenience fee on any transaction whereby a customer requests payment by credit card, charge card, or debit card for payment through telephone, in person, by regular mail, or via the Internet to conduct business with the department. Prior to charging the convenience fee, the total amount of the fee shall be disclosed to the customer. The customer shall have the right to decline payment of the fee and to submit payment for his transaction using another tender type. The convenience fee may be a uniform dollar amount, a percentage of the transaction, or a tiered amount based on the transaction amount.

C.(1) Prior to accepting the card as payment from a customer who appears in person at the department, the department shall:

(a) Require the presentation of the card.

(b) Verify that the card has not expired and obtain the proper authorization for use of said card.

(c) Verify that the signature on the receipt corresponds to the signature on the signature panel on the card.

(d) Verify that the card has not been voided or revoked, or placed on a list by the company or bank issuing the card which would require that the transaction be precleared by the issuer. This verification may be accomplished by telephoning the issuing company or bank or by using any device or instrument that can access information encoded on the card and verify such encoded information through electronic or digital means.

(2) The department may also accept the card by utilizing electronic commerce which shall include but not be limited to the use of the Internet and conversant phone systems.

Prior to accepting the card as payment when utilizing electronic commerce, the department shall:

(a) Verify that the card has not expired.

(b) Verify that the card has not been voided or revoked, or placed on a list by the company or bank issuing the card which would require that the transaction be precleared by the issuer. This verification may be accomplished by telephoning the issuing company or bank or by using any device or instrument that can access keyed information and verify such

keyed information through electronic or digital means.

D.(1) The department may determine that only specific programs or specific offices or locations will accept credit cards, charge cards, or debit cards as payment for fees, fines, taxes, penalties, and interest.

(2)(a) Notwithstanding the provisions of Paragraph (1) of this Subsection, the office of motor vehicles within the department shall accept credit cards, charge cards, and debit cards as payment for fees, fines, taxes, penalties, and interest as a form of payment along with all other payment methods currently used.

(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, the office of motor vehicles within the department shall not be required to accept credit cards, charge cards, and debit cards for the International Registration Plan (IRP) authorized pursuant to R.S. 47:511(B).

E. The department shall suspend any license, permit, license plate, appointment, authorization, or motor vehicle registration issued or renewed pursuant to a payment made by a credit card, charge card, or debit card, if the credit, charge, or debit is refused, denied, dishonored, or reversed by the issuing company or bank. Drivers' licenses shall be suspended and reinstated in accordance with the provisions of R.S. 32:414. Any such license, permit, license plate, appointment, authorization, or motor vehicle registration shall remain suspended until such time as the card payment which was refused, denied, dishonored, or reversed is made good by the person issued the license, permit, license plate, appointment, authorization, or motor vehicle registration and the person pays any reinstatement fee due to the department.

F. The department shall recall and revoke any certificate of title for a motor vehicle issued pursuant to a payment made by a credit card, charge card, or debit card if the credit, charge, or debit is refused, denied, dishonored, or reversed by the issuing company or bank.

G. The notice of suspension or revocation issued pursuant to this Subsection shall inform the person that his license, permit, license plate, appointment, authorization, or motor vehicle registration is being suspended, or certificate of title is being revoked, because the payment with the credit card, charge card, or debit card was refused, denied, dishonored, or reversed by the issuing company or bank. The notice shall be sent by certified mail. The person shall have thirty days from the date the notice of suspension or revocation was mailed to submit a written request for an administrative hearing. If a timely request for an administrative hearing is received, the hearing shall be scheduled no later than ninety days from the date the request for a hearing was received by the department. The department records of the transaction including any notice from the issuing company or bank shall be prima facie proof of the violation. Any petition for a judicial review of the administrative hearing shall be in the same manner and under the same conditions as provided in R.S. 32:414.

H. The department may promulgate rules and regulations in accordance with the Administrative Procedure Act as are necessary to prohibit a person who has repeatedly submitted a credit card, charge card, or debit card for payment which was refused, denied, dishonored, or reversed by the issuing company or bank from submitting a credit card, charge

card, or debit card for payment for a period of three years.

RS 40:1322.1 — Transfer of recalled and revoked motor vehicle titles

e has been recalled and revoked pursuant to R.S. 40:1322.

B. Whoever violates the provisions of this Section shall be imprisoned for not more than six months, or fined not more than five hundred dollars, or both.

RS 40:1341 — Safety education

afeguarded.

RS 40:1342 — Repealed by Acts 1991, No. 922, §1.

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RS 40:1351 — Louisiana Medical Advisory Board created; membership, qualifications, vacancies

ted by the governor for terms of four years. Each member of the board shall be a graduate physician or surgeon or optometrist and the members shall be selected from the following areas of specialization: (1) ophthalmology or optometry, (2) psychiatry, (3) orthopedics, (4) neurology or neurological surgery, (5) general surgery, or (6) internal medicine and cardiology. The Louisiana State Medical Society shall submit the names of six persons qualified in each specialty from which the governor shall make appointments to the board, and the Louisiana State Association of Optometrists shall also submit the names of six qualified optometrists, from which the governor shall make at least one appointment to the board. All members appointed by the governor shall be confirmed by the Senate, and, beginning in 1984, be reconfirmed by the Senate every two years.

B. Vacancies in the membership of the board shall be filled by appointment by the governor.

RS 40:1352 — Expenses of members

n business for the board assigned by it.

RS 40:1354 — Domicile of board; meetings

cts 1968, No. 281, §1.

RS 40:1355 — Powers and duties

visual ability or physical condition of an applicant for a vehicle operator's license or of a licensed driver, insofar as any impairment or disability therein may hinder such person's ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

B. Pursuant to the provisions of R.S. 46:2582(4), the board shall review material and evidence submitted to it by the accessible parking privileges investigation committee within the governor's office of disability affairs. If, in the board's determination, the review of such material does indicate a possible inappropriate certification by a physician of an individual's eligibility for accessible parking privileges, the board shall submit such material along with a recommendation for appropriate disciplinary action to the Louisiana State Board of Medical Examiners.

RS 40:1356 — Limitation of liability; reporting impaired applicants for license or licensed drivers;

efined

in R.S. 40:1231.1(A), and "board" means the Louisiana Medical Advisory Board.

B. No person shall have a cause of action for damages or loss against any health care provider nor shall any criminal liability be imposed as a result of a report by the health care provider to the Department of Public Safety and Corrections or the Louisiana Medical Advisory Board of any visual ability or physical condition, impairment, or disability of an applicant for a driver's license or of a licensed driver, which may impair such person's general ability to exercise ordinary and reasonable control in the operation of a motor vehicle, whether the health care provider is statutorily mandated to make such a report or whether such report is made voluntarily, when the health care provider is acting without

malice and in the reasonable belief that such action is warranted to protect the public.

C. No person shall have a cause of action for damages or loss against any member of the board for his actions as a result of his official duties when the member of the board is acting without malice and in the reasonable belief that such action is warranted by the information as presented to the board.

D. A health care provider who conducts an examination of an applicant for a driver's license or of a licensed driver, at the board's request, relative to an individual's general ability to exercise ordinary and reasonable control in the operation of a motor vehicle, shall not be liable for damages or loss as a result of his report to the board nor shall such health care provider be considered a guarantor of the applicant's or licensed driver's ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

E.(1) Any office of motor vehicles employee or agent in the performance of his duties related to drivers' licenses, law enforcement officer, health care provider, or any family member having first-hand knowledge of any condition of an applicant for a driver's license or of a licensed driver may file a report with the Department of Public Safety and Corrections stating that he believes an applicant for a driver's license or a licensed driver is unable to safely operate a motor vehicle.

(2) The report shall state that the person reasonably and in good faith believes an applicant for a driver's license or a licensed driver cannot safely operate a motor vehicle and shall be based upon personal observation or physical evidence which shall be described in the report, or the report shall be based upon an investigation by a law enforcement officer. The report shall be a written declaration in the form prescribed by the Department of Public Safety and Corrections and shall include the name, address, telephone number, and signature of the person making the report.

(3) Upon receipt of the report, the Department of Public Safety and Corrections shall send written notification to the applicant for a driver's license or the licensed driver requiring him to submit to a medical examination. The medical examination shall be conducted, and the completed medical examination form shall be submitted to the department not later than thirty days after the date written notification of the need for a medical examination is sent. Upon receipt of the examination form or lapse of the thirty days if no form is received, the department shall take appropriate action as provided in R.S. 32:424 against the applicant for a driver's license or the licensed driver.

(4) No person, nor the Department of Public Safety and Corrections, nor the board shall be liable for damages or loss as a result of the failure to file a report or the failure to act upon or investigate a report.

(5) Any person who makes a report pursuant to this Section shall be immune from any criminal or civil liability that otherwise might result from making the report when that person is acting without malice and in the reasonable belief that such action is warranted to protect the public.

RS 40:1372 — Definitions

nt" means the Department of Public Safety and Corrections.

(3) "Division" means the division of state police in the Department of Public Safety

and Corrections.

(4) "Emergency response operator" and "emergency services dispatcher" shall include individuals with and without the ability to provide medical advice as provided by R.S. 40:1131(22).

(5) "Employee" means any employee of the division of state police in the Department of Public Safety and Corrections.

(6) "First responder" means a public employee or volunteer whose duties include responding rapidly to an emergency. The term includes any of the following:

(a) A peace officer whose duties include responding rapidly to an emergency.

(b) Fire protection personnel.

(c) A volunteer firefighter.

(d) An individual certified as emergency medical services personnel.

(e) An emergency response operator or emergency services dispatcher who provides communication support services for an agency by responding to requests for assistance in emergencies.

(f) Other emergency response personnel employed by a state agency.

(7) "Police employee" means any employee who is assigned to police work as a peace officer pursuant to R.S. 40:1379.

RS 40:1373 — Five day work week for employees

g granted compensatory time off for the period worked in excess of five days.

RS 40:1374 — Workers' compensation law; employees deemed within; coverage for posttraumatic

he head thereof, shall be

considered an employee of the state within the meaning of the workers' compensation law of this state and entitled to the benefits of all the provisions of that law applicable to state employees.

B. Any workers' compensation policy which provides coverage for an employee of the division of state police, pursuant to this Section, shall include coverage for posttraumatic stress injury.

C. For purposes of this Section, the following definitions shall apply:

(1) "Posttraumatic stress injury" means those injuries which are defined as "posttraumatic stress disorder" by the most recently published edition of the Diagnostic and Statistical Manual of Mental Disorders by the American Psychiatric Association caused by an event occurring in the course and scope of employment.

(2) "Psychiatrist" shall have the same meaning as it is defined pursuant to R.S. 23:1371.1.

(3) "Psychologist" shall have the same meaning as it is defined pursuant to R.S. 23:1371.1.

D.(1) Any employee of the division of state police who is diagnosed by a psychiatrist or psychologist with posttraumatic stress injury, either during employment in the classified service in the state of Louisiana pursuant to this Chapter or thereafter, shall be presumed, prima facie, to have a disease or infirmity connected with his employment for purposes of workers' compensation benefits.

(2) Once diagnosed with posttraumatic stress injury as provided for in Paragraph (1) of this Subsection, the employee affected or his survivors shall be entitled to all rights and benefits as granted by state workers' compensation law to one suffering an occupational disease and is entitled as service connected in the line of duty, regardless of whether the employee is employed at the time of diagnosis.

E.(1) Nothing in this Section shall modify the qualifications necessary to establish eligibility to receive benefits or the calculation of benefits to be paid under any Louisiana public pension or retirement system, plan, or fund.

(2) In case of a conflict between any provision of Title 11 of the Louisiana Revised Statutes of 1950, including any provision in Subpart E of Part II of Chapter 4 of Title 11 of the Louisiana Revised Statutes of 1950, and any provision of this Section, the provision of Title 11 of the Louisiana Revised Statutes of 1950 shall control.

F. A posttraumatic stress injury that arises solely from a legitimate personnel action such as a transfer, promotion, demotion, or termination, is not a compensable injury pursuant to this Chapter.

RS 40:1374.1 — Development of hearing loss during employment in the division of state
r in R.S. 40:1372.

B.(1) Any loss of hearing that is ten decibels or greater on average for the frequencies that the Occupational Safety and Health Administration monitors for noise exposure in the general population when adjusted for aging and that develops during employment in the division shall, for purposes of this Section only, be classified as a disease or infirmity connected with employment.

(2) The employee affected shall be entitled to medical benefits, including hearing aids, as granted by the laws of this state to which one suffering an occupational disease is entitled, regardless of whether the employee is on duty at the time that the employee is stricken with the loss of hearing.

(a) Such loss of hearing shall be presumed to have developed during employment and shall be presumed to have been caused by or to have resulted from hazardous noise exposure when diagnostic hearing testing reveals a decrease of ten decibels or more for the frequencies that the Occupational Safety and Health Administration monitors for noise exposure from the baseline audiological evaluation.

(b) This presumption shall be rebuttable by a preponderance of evidence, and such presumption shall be overcome if the evidence does not establish that the nature of the work performed was the predominant and major cause of the hearing loss.

(c) The presumption shall be extended to an employee following termination of service for a period of twenty-four months.

C.(1) Each person selected for appointment to an entry level position in the division on and after August 1, 2024, shall submit to a baseline audiology examination, an audiological examination every five years, and a final termination audiological evaluation at the end of service. An employee shall receive his baseline examination not later than one year after his appointment.

(2) The appointing authority shall develop and implement policies and procedures for the administration of such examinations.

D.(1) Nothing in this Section shall modify the qualifications necessary to establish eligibility to receive benefits or the calculation of benefits to be paid in accordance with any Louisiana public pension or retirement system, plan, or fund.

(2) In case of a conflict between any provision of Title 11 of the Louisiana Revised Statutes of 1950 and any provision of this Section, the provision of Title 11 of the Louisiana Revised Statutes of 1950 shall control.

RS 40:1375 — Training school; fees

s shall consist of the Training Academy at State Police Headquarters; Emergency Response Training Center near Holden, Louisiana; and Joint Emergency Services Training Center near Zachary, Louisiana.

C. No police employee of the department shall be assigned to active duty until he or she has successfully passed the course for probationers which is prescribed by the department and which is taught at the training facilities.

D. Training courses for the higher ranks, grades, and positions of the office shall be prescribed and conducted by the department for those police employees of the department who have been promoted to a higher rank, grade, or position.

E. The department shall make the training facilities available to any local government unit within this state by conducting schools at convenient centers for the training of police officers.

F.(1) Pursuant to the Administrative Procedure Act, the department may promulgate rules and regulations to charge reasonable fees for participation in its training school and courses and for the use of its training facilities.

(2) The fees received by the department shall be deposited immediately upon receipt into the state treasury.

RS 40:1376 — Uniforms, equipment, and badges

ance of their respective duties, but all such uniforms and equipment shall remain the property of the state.

B. The uniform to be used and worn by the police employees of the division shall be distinctive in color, design, material, markings, and insignia so as to be readily and easily identifiable from a reasonable distance as the uniform worn by the police employees of the division of state police of this state.

C.(1) No department, division, or agency of the state or of any municipality, parish, or other political subdivision of the state charged with law enforcement or the apprehension of violators of any state, municipal, or parochial laws or ordinances shall provide, furnish to, or permit their employees to wear a uniform of the same color, design, or markings as that worn by state policemen or which is so similar in appearance as to confuse, tend to confuse, or not be clearly distinguishable from the uniforms used and worn by the police employees of the office of state police.

(2) It shall be unlawful for any person to utilize or wear a uniform of the same color, design, or markings as that worn by state policemen or to utilize or wear a uniform which is so similar in appearance as to confuse, tend to confuse, or not be clearly distinguishable from the uniform used and worn by the police employees of the office of state police. This Paragraph does not apply to a person who first obtains the express, written consent of the deputy secretary for public safety services.

D. The department may sell equipment which becomes unfit for use. All money received therefor shall be paid into the state treasury and credited to the general fund.

E. The department shall keep an inventory and shall charge against each employee of the division the value of all property of the department issued to him and if it determines that any loss or destruction of such property was due to the carelessness or neglect of the employee, it shall cause the value of the property to be deducted from the pay of the employee.

F. No department, office, or agency of the state or of any municipality, parish, or other political subdivision of the state charged with law enforcement or the apprehension of violators of any state laws or any municipal or parochial ordinances shall provide, furnish, sell, or permit its employees to wear a badge of the same design or markings as that worn by a law enforcement officer employed by the Department of Public Safety and Corrections, an employee of the Department of Justice, an enforcement officer of the Department of Wildlife and Fisheries, an employee of the Department of Agriculture

and Forestry who is commissioned by the office of state police, an employee of the Department of Environmental Quality who is commissioned by the office of state police, or the sergeant at arms or assistant sergeants at arms of the Senate or House of Representatives who are commissioned by the office of state police, or which is so similar in appearance as to confuse, tend to confuse, or not be clearly distinguishable from the badge used and worn by such officer or employee.

RS 40:1377 — Property and equipment for use of division

quipment, and other commodities, equipment, and services deemed essential by it for the needs of the division or its employees in carrying out their duties.

The department may sell any property which becomes unnecessary or unfit for further use. All moneys received therefor shall be paid into the state treasury and credited to the general fund.

RS 40:1378 — Headquarters and stations; establishment; discontinuance

nt of the laws of this state.

It may also, as it sees fit, discontinue any headquarters or station.

RS 40:1379 — Duties and powers of police employees

and good order in the state in the enforcement of the state's police powers, and perform any other related duties imposed upon them by the legislature.

B. Police employees of the division are peace officers and, any provision of the law to the contrary notwithstanding, except R.S. 40:1386, they have, in any part of the state, the same powers with respect to criminal matters and the enforcement of the law relating thereto as sheriffs, constables, and police officers have in their respective jurisdictions.

They have all the immunities and matters of defense now available or hereafter made available to sheriffs, constables, and any police officers in any suit brought against them in consequence of acts done in the course of their employment.

C. Any warrant of arrest or other process issued by the legislature or either house thereof, or any court of the state may be served and executed by any police employee of the division in any part of the state according to the tenor thereof without endorsement.

D. Other police employees of the office, including but not limited to safety enforcement officers, public safety services police officers, and officers of the weights and standards mobile police force shall be commissioned under this Section and shall have all the authority and protection afforded by the provisions of this Section.

RS 40:1379.1 — Special officers; powers and duties; concealed handgun permit

the division of state police. Any person who receives a

special officer's commission must display need for statewide police power and power to arrest, be bonded, and adhere to all restrictive stipulations as set forth in the special officer's commission.

B. The special officer, when performing those tasks requiring a special officer's commission, shall have the same powers and duties as a peace officer; provided, however, that when not performing these tasks directly related to the special officer's commission, he shall be regarded as a private citizen and his commission shall not be in effect.

C. The superintendent of state police shall determine who is entitled to receive a special officer's commission and may promulgate and adopt regulations providing with respect to the issuance and use of said permits.

D. The superintendent of state police shall have the authority to revoke any special officer's commission for cause, and is further empowered to require those holding special officer's commissions to furnish proof of their being bonded and such other information as may be deemed necessary for determining suitability for holding a special officer's commission.

E. All special officer or agent commissions previously issued by the department of

public safety are rescinded upon the effective date of this Section.

F. During a declared state of emergency or disaster by the governor, the deputy secretary of the Department of Public Safety and Corrections, public safety services, office of state police may issue a special officer's commission to a commissioned law enforcement officer who responds to a request for assistance pursuant to the Emergency Management Assistance Compact, as found in R.S. 29:733 and is determined by the deputy secretary to need statewide police power and power to arrest. Any person who receives a special officer's commission under this Subsection shall not be required to be bonded and shall adhere to all restrictive stipulations as set forth in the special officer's commission and regulations promulgated and adopted pursuant to Subsection C of this Section. Such person shall have the powers and duties of a peace officer, provided, that when he is not performing tasks directly related to the special officer's commission, he shall be regarded as a private citizen and his commission shall not be in effect.

G. Repealed by Acts 2013, No. 402, §3.

H. The deputy secretary of the Department of Public Safety and Corrections shall have the authority to grant to an individual a concealed handgun permit from the office of state police. Before the individual applies to the deputy secretary for a permit, he must have been granted a concealed handgun permit by the chief law enforcement officer of the parish in which he is officially domiciled. Any individual who receives a concealed handgun permit from the office of state police must be bonded in the amount of five thousand dollars and must adhere to all restrictive stipulations as provided in the concealed handgun permit. Further, the deputy secretary shall have the authority to promulgate and adopt regulations providing with respect to the issuance and use of said permit.

I. The superintendent of state police or the chief law enforcement officer of a parish shall have the authority to revoke any concealed handgun permit, and is further empowered to require those holding handgun permits to furnish proof of their being bonded, and such other information as may be deemed necessary for determining suitability for holding a concealed handgun permit.

J. Special officer commissions shall be valid only for a period of one year from the date of their issuance. However, special officer commissions issued to employees of the department shall be valid until revoked by the superintendent. Special officer commissions issued to judges shall be valid for the length of their term of office.

K. For the purposes of this Section, "handgun" is defined as meaning any pistol or revolver originally designed to be fired by the use of a single hand and which is designed to fire or is capable of firing fixed cartridge ammunition.

L. No provision of this Section or of any regulation of the superintendent of state police shall be construed to require persons holding bona fide law enforcement officer commissions to possess a handgun permit.

M. Anyone in possession of a concealed handgun permit issued by the superintendent who uses a handgun in a task not directly related to the stipulations set forth in the permit shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

N.(1) Notwithstanding the provisions of Subsections A, B, C, and D of this Section, the deputy secretary of public safety services shall issue a special officer's commission to the sergeant at arms or assistant sergeants at arms of the Senate or the House of Representatives or a capitol security officer when directed to do so by the president of the Senate or the speaker of the House of Representatives. The deputy secretary shall not determine eligibility for a special officer's commission under this Subsection, which determination shall be made solely by the president of the Senate or the speaker of the House of Representatives.

(2) Commissions under this Subsection shall not exceed the term of the president of the Senate or the speaker of the House of Representatives, according to the length of the remaining term of the respective party.

RS 40:1379.1.1 — Concealed handgun permit issued by sheriffs; reciprocity; contiguous parishes

hall be valid only within the boundaries of the parish in which the sheriff has jurisdiction, unless the sheriff has entered into a reciprocity agreement as provided for in Subsection B of this Section.

(2) Upon application, the sheriff's office shall perform a standard criminal record check. The officer who performed the standard criminal record check shall not be liable for acts committed by the permittee, unless the officer had actual personal knowledge at the time he issued the permit that the permittee was mentally unstable or disqualified by law from possessing a firearm.

B.(1) A sheriff may enter into a reciprocity agreement with any sheriff of a contiguous parish that shall authorize both sheriffs to issue concealed handgun permits to persons meeting the criteria provided for in Subsection C of this Section. Those permits issued pursuant to this Subsection shall be valid within the boundaries of the participating contiguous parishes. The agreement shall specify the terms of use regarding the issuance of the concealed handgun permits and any other restrictions deemed appropriate by the sheriffs.

(2) If a sheriff enters into a reciprocity agreement with any sheriff in a contiguous parish, no concealed handgun permits shall be issued to any person pursuant to Subsection A of this Section.

(3) Any concealed handgun permit issued pursuant to this Subsection shall be null, void, and of no effect if the permittee does not meet the criteria provided for in Subsection C of this Section.

C. To qualify for a concealed handgun permit issued by a sheriff who has entered into a reciprocity agreement with a sheriff of a contiguous parish, the applicant shall meet all of the following requirements:

(1) Make sworn application to the sheriff in the same manner provided for in R.S. 40:1379.3(C)(1) in which a concealed weapons permit application is made to the secretary of public safety services of the Department of Public Safety and Corrections.

(2) Meet the same qualifications for the issuance of a concealed handgun permit pursuant to the provisions of R.S. 40:1379.3(C).

(3) Demonstrate competence with a handgun in the same manner provided for in R.S. 40:1379.3(D) in which a concealed weapons permit application is made to the secretary of public safety services of the Department of Public Safety and Corrections.

D.(1) Any information in an application for a concealed handgun permit or any information provided in connection with the application submitted to the sheriff's office pursuant to the provisions of this Section shall be held confidential and shall not be subject to any public records request nor shall the information be considered as a public record pursuant to R.S. 44:1 et seq. The sheriff shall not be required to release any list of persons who applied for or received a permit for a concealed handgun pursuant to this Section; however, nothing in this Section shall limit or impede the exchange of information between law enforcement agencies, prohibit the sheriff from releasing information necessary to perform a background investigation, provide statistical information that does not identify individual applicants or permittees, or release information in response to an appropriate law enforcement function as determined by the issuing sheriff.

(2) Absent a valid court order requiring the release of information, or unless an applicant or a recipient of a concealed handgun permit is charged with a felony offense involving the use of a handgun, it shall be unlawful for any employee of the sheriff's office to intentionally release or disseminate for publication any information contained in an application for a

concealed handgun permit or any information regarding the identity of any person who applied for or received a concealed handgun permit issued pursuant to this Section. A person who violates the provisions of this Paragraph shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(3)(a) Subject to the provisions of Paragraph (2) of this Subsection, it shall be unlawful for any person to intentionally release, disseminate, or make public in any manner any information contained in an application for a concealed handgun permit or any information regarding the identity of any person who applied for or received a concealed handgun permit issued pursuant to this Section. Any person except as provided for in Paragraph (2) of this Subsection, who violates the provisions of this Paragraph shall be fined ten thousand dollars and may be imprisoned for not more than six months.

(b) The provisions of this Paragraph shall not apply to the release of information under any of the following circumstances:

(i) A valid court order requires the release of the information.

(ii) The information released identifies a concealed handgun permit holder or applicant who is charged with a felony offense involving the use of a handgun.

(iii) The information regarding a concealed handgun permit applicant or holder is released pursuant to the express approval for the release of such information by that permit applicant or holder.

(iv) The information regarding a concealed handgun permit holder or applicant has been made public by that concealed handgun permit holder or applicant.

E.(1) A sheriff who issues a concealed handgun permit pursuant to the provisions of Subsection B of this Section shall require an applicant to comply with the requirements of Subsection C of this Section and shall charge the fee in the amount set forth in R.S. 40:1379.3(H)(2).

(2) A sheriff who issues a concealed handgun permit pursuant to this Section shall revoke the permit if the permit holder violates any provision as provided for in R.S. 40:1379.3(F).

F. The provisions of this Section shall not invalidate any permit to carry a concealed handgun that was issued by a sheriff prior to August 1, 2013.

RS 40:1379.1.2 — Special officers commission; rail police officers

ce to any person who is employed by a rail carrier as a rail police officer in accordance with 49 U.S.C. §28101.

B. A rail police officer issued a special officer's commission shall maintain current certification pursuant to the Council on Peace Officer Standards and Training.

C. The superintendent of state police shall be authorized to perform any of the following acts:

(1) Determine eligibility to receive a special officer's commission.

(2) Revoke any special officer's commission for cause.

(3) Require those rail police officers holding special officer's commissions to furnish proof of being bonded.

(4) Require submission of any information that is deemed necessary for determining suitability for holding a special officer's commission.

D. A special officer's commission issued to a rail police officer pursuant to the provisions of this Section shall be in effect at all times and to the extent of the authority of a certified or commissioned police officer pursuant to the laws of this state for the purpose of enforcing the laws in any jurisdiction in which the rail carrier owns property and provides protection for the following:

(1) Employees, passengers, or patrons of the rail carrier.

(2) Property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier.

(3) Property moving in interstate or foreign commerce in the possession of the rail carrier.

(4) Personnel, equipment, and material moving by rail that are vital to national defense.

E. Special officer commissions issued pursuant to the provisions of this Section shall be valid for a period of one year from the date of their issuance.

F. The Department of Public Safety and Corrections may promulgate and adopt regulations with respect to the issuance of the special officer's commissions for rail police officers.

RS 40:1379.1.3 — Carrying of concealed firearms by qualified law enforcement officers

he rules and regulations or policies of the agency or office

employing the individual, an individual who is a qualified law enforcement officer and who is carrying the identification required by his office as a law enforcement officer, may carry a concealed firearm anywhere in the state, including any place open to the public, whether the officer is on duty or not, and regardless of whether the officer is engaged in the actual discharge of his duties.

B. As used in this Section, the term "qualified law enforcement officer" means a law enforcement officer who meets all of the following requirements:

- (1) Is an active, full-time employee of a state or municipal law enforcement agency or sheriff's office and is certified in the use of firearms by the Peace Officer Standards and Training Council.
- (2) Is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest or apprehension.
- (3) Is authorized by the employing agency to carry a firearm in accordance with the agency's rules and regulations.
- (4) Is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers.
- (5) Meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm.
- (6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
- (7) Is not prohibited by federal law from receiving a firearm.

C. The identification required by this Section is the photographic identification credential issued by the law enforcement agency for which the individual is employed that identifies the employee as a law enforcement officer of the agency.

D. No business organization shall deny entry or otherwise prohibit a qualified law enforcement officer who is lawfully carrying a concealed firearm from entering a venue.

E. As used in this Section:

- (1) "Business organization" means a sole proprietorship, partnership, corporation, limited liability company, or other business association recognized by the Internal Revenue Service.
- (2) "Venue" means a physical location open to the public that is operated, managed, owned by, or otherwise under the control or authority of a business organization.

F. A business organization operating a venue shall be subject to a civil fine of one thousand dollars per occurrence to be paid to the Department of Justice for each violation of the provisions of Subsection D of this Section. Each violation of Subsection D of this Section shall constitute a separate offense. The attorney general shall have the authority to bring a civil action arising out of any violation of the provisions of Subsection D of this Section, in addition to any other authority granted by the Constitution of Louisiana and laws of this state.

G. The court shall assess all court costs, including attorney fees, incurred in the

institution of the action authorized by Subsection F of this Section against the subject of the action for any violation of the provisions of Subsection D of this Section.

RS 40:1379.1.4 — Carrying of concealed firearms by qualified retired law enforcement officers

ect to the rules and regulations or policies of the agency or office from which the individual has retired, an individual who is retired from service as a qualified law enforcement officer and who was commissioned by the agency or office from which he retired and is carrying the identification required by his office as a retired law enforcement officer, may carry a concealed firearm anywhere in the state, including any place open to the public.

B. As used in this Section, the term "qualified retired law enforcement officer" means an individual who meets all of the following:

- (1) Separated from service in good standing from a law enforcement agency as a qualified law enforcement officer. For purposes of this Section, an officer is in "good standing" unless the officer is the subject of an internal investigation for which the presumptive penalty, if the investigation is disposed of as "sustained", is termination.
- (2) Before such separation, was an active, full-time employee or reserve officer of a state or municipal law enforcement agency or sheriff's office and is certified in the use of firearms by the Peace Officer Standards and Training Council.
- (3) Was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest.
- (4)(a) Before such separation, served as a law enforcement officer for an aggregate of twelve years or more; or
- (b) Separated from service with such agency after completing any applicable probationary period of such service due to a service-connected disability, as determined by such agency.
- (5) Qualifies annually in the use of firearms by the Peace Officer Standards and Training Council and has proof of such certification or was properly certified by the Council on Peace Officer Standards and Training at the time of retirement, in accordance with R.S. 40:1379.3(D)(1)(f).
- (6)(a) Has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental or physical health and as a result of this finding will not be issued the photographic identification as described in Subsection C of this Section; or
- (b) Has not entered into an agreement with the agency from which the individual separated from service in which that individual acknowledged he or she was not qualified under this Section for reasons relating to mental or physical health and for those reasons did not receive or accept the photographic identification as described in Subsection C of this Section.
- (7) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
- (8) Is not prohibited by federal law from receiving a firearm.

C. The identification required by this Section is the photographic identification credential issued by the agency from which the individual separated from service as a law enforcement officer that identifies the person as having been employed as a law enforcement officer.

D. The sheriff, chief law enforcement officer, or head of the office or agency from which the individual has retired shall issue identification required by the provisions of this Section to each individual who meets the qualifications set forth in Subsection B of this Section.

E. The provisions of this Section shall not permit an individual who is retired from service as a qualified law enforcement officer the ability to carry a concealed firearm in another state without proper qualification under the provisions of 18 U.S.C. 926C.

F. For the purposes of this Section, "reserve officer" means a reserve or auxiliary municipal police officer who meets all of the qualifications provided in R.S. 14:95(G)(3).

G. No business organization shall deny entry or otherwise prohibit a qualified retired law enforcement officer who is lawfully carrying a concealed firearm from entering a venue.

H. As used in this Section:

(1) "Business organization" means a sole proprietorship, partnership, corporation, limited liability company, or other business association recognized by the Internal Revenue Service.

(2) "Venue" means a physical location open to the public that is operated, managed, owned by, or otherwise under the control or authority of a business organization.

I. A business organization operating a venue shall be subject to a civil fine of one thousand dollars per occurrence to be paid to the Department of Justice for each violation of the provisions of Subsection G of this Section. Each violation of Subsection G of this Section shall constitute a separate offense. The attorney general shall have the authority to bring a civil action arising out of any violation of the provisions of Subsection G of this Section, in addition to any other authority granted by the Constitution of Louisiana and laws of this state.

J. The court shall assess all court costs, including attorney fees, incurred in the institution of the action authorized by Subsection I of this Section against the subject of the action for any violation of the provisions of Subsection G of this Section.

RS 40:1379.1.5 — Conflict provision

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RS 40:1379.1.6 — Tactical medical professionals

cted by a law

enforcement agency to provide direct support to a tactical law enforcement unit by providing medical services at high-risk incidents, including but not limited to hostage incidents, narcotics raids, hazardous surveillance, sniper incidents, armed suicidal persons, barricaded suspects, high-risk felony warrant services, fugitives refusing to surrender, and active shooter incidents.

B. While actively operating in direct support of a tactical operation by a tactical law enforcement unit, a tactical medical professional may carry a firearm in the same manner as

a law enforcement officer at any place a tactical law enforcement operation occurs if all of the following conditions are met:

- (1) The tactical medical professional is lawfully able to possess firearms and has an active concealed weapons permit issued pursuant to R.S. 40:1379.3.
- (2) The tactical medical professional is appointed to a tactical law enforcement unit of a law enforcement agency by the head of the law enforcement agency.
- (3) The law enforcement agency has an established policy providing for the appointment, training, and deployment of the tactical medical professional.
- (4) The tactical medical professional has successfully completed firearm safety training and tactical training as established or designated by the appointing law enforcement agency.
- (5) The law enforcement agency provides, and the tactical medical professional participates in, annual firearm training and tactical training.

C. While actively operating in direct support of a tactical operation by a tactical law enforcement unit, a tactical medical professional:

- (1) Has no duty to retreat and is justified in the use of any force which he reasonably believes is necessary to defend himself or another from bodily harm.
- (2) Has the same immunities and privileges as a law enforcement officer in any civil or criminal action arising out of a tactical law enforcement unit operation when acting within the scope of his official duties.

D. The provisions of this Section shall not be construed to authorize a tactical medical professional to carry, transport, or store any firearm or ammunition on any fire apparatus or EMS vehicle.

E. The appointing law enforcement agency shall issue any firearm or ammunition that the tactical medical professional carries in accordance with this Section.

RS 40:1379.2 — Civil defense officers' commissions for local civil defense directors; powers and duties

issue a special officer's commission from the office of state police through the Military Department, State of Louisiana, to each director of a local organization for civil defense appointed under the provisions of R.S. 29:608 which shall be termed a civil defense officer's commission. Such civil defense officer's commission shall be valid only during emergency situations in which the assistance of the civil defense organization is necessary.

B. The civil defense officer shall have the same powers and duties as a peace officer except for the power to arrest or utilize a weapon in carrying out his duties; provided, however, that when not performing those tasks directly related to the civil defense officer's commission, he shall be regarded as a private citizen and his commission shall not be in effect.

C. The deputy secretary of the Department of Public Safety may promulgate and adopt regulations providing with respect to the issuance and use of a civil defense officer's commission which shall not be inconsistent with the duties of a civil defense director. Every civil defense officer's commission issued under the provisions of this Section shall expire whenever any person who has received such commission ceases to be the director of a local organization for civil defense appointed under the provisions of R.S. 29:608.

RS 40:1379.3 — Statewide permits for concealed handguns; application procedures; definitions

ervices of the Department of Public Safety and Corrections shall

issue a concealed handgun permit to any person who qualifies for a permit under the provisions of this Section and may promulgate rules and adopt regulations regarding concealed handgun permits in accordance with the Administrative Procedure Act. The

permit shall contain a permit number, expiration date, photograph, and the name, address, and date of birth of the permittee.

(2) Any information in any application for a concealed handgun permit or any information provided in connection with the application submitted to the deputy secretary of public safety services of the Department of Public Safety and Corrections under the provisions of this Section shall be held confidential and shall not be subject to any public records request nor shall the information be considered as a public record pursuant to R.S. 44:1 et seq. The Department of Public Safety and Corrections shall not release any list of persons who applied for or received a permit for a concealed handgun pursuant to this Section. However, nothing contained herein shall limit or impede the free flow of information between law enforcement agencies, prohibit the department from releasing information necessary to perform the background investigation, or provide statistical information which does not identify individual applicants or permittees.

(3)(a) Absent a valid court order requiring the release of information, or unless an applicant or a recipient of a concealed handgun permit is charged with a felony offense involving the use of a handgun, it shall be unlawful for any employee of the Department of Public Safety and Corrections or any law enforcement officer to intentionally release or disseminate for publication any information contained in an application for a concealed handgun permit or any information regarding the identity of any person who applied for or received a concealed handgun permit issued pursuant to this Section. A person who violates the provisions of this Subparagraph shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(b)(i) It shall be unlawful for any person other than an employee of the Department of Public Safety and Corrections or a law enforcement officer to intentionally release, disseminate, or make public in any manner any information contained in an application for a concealed handgun permit or any information regarding the identity of any person who applied for or received a concealed handgun permit issued pursuant to this Section. Any person who violates the provisions of this Subparagraph shall be fined ten thousand dollars and may be imprisoned for not more than six months.

(ii) The provisions of this Subparagraph shall not apply to the release of information under any of the following circumstances:

(aa) A valid court order requires the release of the information.

(bb) The information released identifies a concealed handgun permit holder or applicant who is charged with a felony offense involving the use of a handgun.

(cc) The information regarding a concealed handgun permit applicant or holder is released pursuant to the express approval for the release of such information by that permit applicant or holder.

(dd) The information regarding a concealed handgun permit holder or applicant has been made public by that concealed handgun permit holder or applicant.

B.(1) A concealed handgun permit shall be issued only to a person who qualifies for a permit under the provisions of this Section. A concealed handgun permit issued pursuant to the provisions of this Section shall grant authority to a person to carry a concealed

handgun on his person.

(2)(a) A person who meets the qualifications of R.S. 14:95(M) shall not be required to possess a valid concealed handgun permit issued by the state of Louisiana pursuant to the provisions of this Section in order to carry a concealed handgun in the state of Louisiana.

(b) Any person carrying a concealed firearm pursuant to this Paragraph shall be deemed to have certified that he meets all of the conditions required in R.S. 14:95(M).

C. To qualify for a concealed handgun permit, a person shall:

(1)(a) Make sworn application to the deputy secretary of public safety services of the Department of Public Safety and Corrections. The providing of false or misleading information on the application or any documents submitted with the application shall be grounds for the denial or revocation of a concealed handgun permit. The application shall reflect training in pistols, revolvers, or both. Any permittee under this Section shall notify the department of any address or name change within thirty days of the change. Failure to timely notify the department of a name or address change may result in suspension of the permit for up to thirty days.

(b) In the case of an applicant who is not a United States citizen, the applicant shall provide any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement and any basis, if applicable, for an exception to the prohibitions of 18 U.S.C. 922(g)(5)(B).

(2) Agree in writing to hold harmless and indemnify the department, the state, or any peace officer for any and all liability arising out of the issuance or use of the concealed handgun permit.

(3) Repealed by Acts 2025, No. 273, §2.

(4) Be twenty-one years of age or older.

(5) Not suffer from a mental or physical infirmity due to disease, illness, or intellectual disability which prevents the safe handling of a handgun.

(6) Not be ineligible to possess a firearm by virtue of having been convicted of a felony. A conviction for a felony offense which has been expunged prior to August 1, 2014, pursuant to the provisions of R.S. 44:9 or on or after August 1, 2014, pursuant to Title XXXIV of the Code of Criminal Procedure shall not be considered a conviction for the purposes of this Paragraph if ten years have elapsed since the completion of the person's probation, parole, or suspended sentence. However, the provisions of this Paragraph shall not apply to a conviction for a crime of violence as defined in R.S. 14:2(B) even if that conviction has been expunged. A conviction for which a person has been pardoned by the governor shall not be considered a conviction for purposes of this Paragraph, unless that pardon expressly provides that the person may not ship, transport, possess, or receive firearms.

(7) Not have been committed, either voluntarily or involuntarily, for the abuse of a controlled dangerous substance, as defined by R.S. 40:961 and 964, or been found guilty of, or entered a plea of guilty or nolo contendere to a misdemeanor under the laws of this state or similar laws of any other state relating to a controlled dangerous substance within a five-year period immediately preceding the date on which the application is submitted, or be

presently charged under indictment or a bill of information for such an offense.

(8) Not chronically and habitually use alcoholic beverages to the extent that his normal faculties are impaired. It shall be presumed that an applicant or permittee chronically and habitually uses alcoholic beverages to the extent that his normal faculties are impaired if the applicant has been admitted, either voluntarily or involuntarily, for treatment as an alcoholic within the five-year period immediately preceding the date on which the application is submitted, or at any time after the application has been submitted.

(9) Not have entered a plea of guilty or nolo contendere to or been found guilty of a crime of violence as defined in R.S. 14:2 at the misdemeanor level, unless five years have elapsed since completion of sentence or any other conditions set by the court have been fulfilled, or unless the conviction was set aside and the prosecution dismissed, prior to the date on which the application is submitted.

(10) Not have been convicted of, have entered a plea of guilty or nolo contendere to, or not be charged under indictment or a bill of information for any crime of violence or any crime punishable by imprisonment for a term of one year or greater. However, a person who has been convicted of a violation of 18 U.S.C. 491(a) shall be permitted to qualify for a concealed handgun permit if fifteen or more years has elapsed between the date of application and the successful completion or service of any sentence, deferred adjudication, or period of probation or parole. A conviction for a felony offense which has been expunged prior to August 1, 2014, pursuant to the provisions of R.S. 44:9 or on or after August 1, 2014, pursuant to Title XXXIV of the Code of Criminal Procedure shall not be considered a conviction for the purposes of this Paragraph if ten years have elapsed since the completion of the person's probation, parole, or suspended sentence. However, the provisions of this Paragraph shall not apply to a conviction for a crime of violence as defined in R.S. 14:2(B) even if that conviction has been expunged. A conviction for which a person has been pardoned by the governor shall not be considered a conviction for purposes of this Paragraph, unless that pardon expressly provides that the person may not ship, transport, possess, or receive firearms.

(11) Not be a fugitive from justice.

(12) Not be an unlawful user of, or addicted to, marijuana, depressants, stimulants, or narcotic drugs.

(13) Not have been adjudicated to be mentally deficient or been committed to a mental institution, unless the person's right to possess a firearm has been restored pursuant to R.S. 28:57.

(14) Not be an illegal alien in the United States.

(15) Not have been discharged from the Armed Forces of the United States with a discharge characterized as "Under Other than Honorable Conditions", a "Bad Conduct Discharge", or a "Dishonorable Discharge". In the case of Commissioned Officers and Warrant Officers of the United States Armed Forces, the punishment of "Dismissal" rendered subject to a verdict of "guilty" at a trial by military court-martial is deemed to be disqualifying under this Paragraph. For the purposes of this Paragraph, the United States Coast Guard is considered an armed force.

(16) Not have a history of engaging in violent behavior. There shall be a rebuttable presumption that an applicant has a history of engaging in violent behavior upon proof that, within a ten-year period immediately preceding the date of the application, the applicant has been arrested or charged on three or more occasions for any crime of violence as defined in R.S. 14:2(B), or has been arrested or charged on two or more occasions for any crime of violence that may be punished by death.

(17) Not be ineligible to possess or receive a firearm under 18 U.S.C. 922(g) or (n).

(18) Not have had a permit denied within one year prior to the most recent application.

(19) Not have had a permit revoked within four years prior to the most recent application.

D.(1) In addition to the requirements of Subsection C of this Section, an applicant shall demonstrate competence with a handgun by any one of the following:

(a) Completion of any National Rifle Association handguns safety or training course conducted by a National Rifle Association certified instructor within the preceding twelve months.

(b) Completion of any Department of Public Safety and Corrections approved firearms safety or training course or class available to the general public offered by a law enforcement agency, college, or private or public institution or organization or firearms training school within the preceding twelve months.

(c) Completion of any law enforcement firearms safety or training course or class approved by the Department of Public Safety and Corrections and offered for correctional officers, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement within the preceding twelve months.

(d) Possession of a current valid license to carry a concealed weapon issued by a parish law enforcement officer.

(e) Completion of any firearms training or safety course or class approved by the Department of Public Safety and Corrections within the preceding twelve months.

(f) Completion of a law enforcement training academy program certified by the Council on Peace Officer Standards and Training. However, any person retired from full-time service as a Louisiana peace officer need only demonstrate that he was properly certified by the Council on Peace Officer Standards and Training at the time of retirement.

(g) Completion of small arms training within the preceding sixty months while serving with the armed forces of the United States as evidenced by any of the following:

(i) For personnel released or retired from active duty, possession of an "Honorable Discharge" or "General Discharge Under Honorable Conditions" as evidenced by a Department of Defense Form 214 (DD-214).

(ii) For personnel on active duty or serving in one of the National Guard or reserve components of the Armed Forces, possession of certification of completion of basic training with service record evidence of having successfully completed small arms training and qualification.

(h) The National Rifle Association's personal protection course.

(i) For personnel released or retired from active duty or the National Guard or reserve components of the Armed Forces for more than sixty months, possession of proof indicating combat service and an "Honorable Discharge" or "General Discharge Under Honorable Conditions" as evidenced by a Department of Defense Form 214 (DD-214) and completion of the following:

(i) A three-hour course of instruction on the use of deadly force and conflict resolution which shall include a review of R.S. 14:18 through 22 and which may include a review of any other laws relating to the use of deadly force within the preceding sixty months.

(ii) A one-hour course of instruction on child access prevention within the preceding sixty months.

(j) Completion of any United States Concealed Carry Association handgun safety or training course conducted by a United States Concealed Carry Association certified instructor within the preceding twelve months.

(2)(a) Instructors for any class, training, or course of instruction authorized by this Subsection, except for small arms training in military service as provided in Subparagraph (1)(g) of this Subsection, shall be certified by any of the following:

(i) The Council on Peace Officer Standards and Training as a firearms instructor.

(ii) The National Rifle Association as an instructor for Basic Pistol Shooting, Personal Protection in the Home, Carrying a Concealed Weapon, or Personal Protection Outside the Home.

(iii) The National Rifle Association Law Enforcement Division as an instructor for courses involving the teaching of handguns.

(iv) The United States Concealed Carry Association as an instructor for Home Defense and Concealed Carry Fundamentals or Defensive Shooting Fundamentals.

(v) The Federal Law Enforcement Training Center's Firearms Instructor Training Program or other federal agency firearms instructor course consisting of at least forty hours of instruction.

(vi) Other instructor certification programs approved by the Department of Public Safety and Corrections.

(b) Any safety or training course or class as described in this Subsection, except for basic handgun training in military service provided in Subparagraph (1)(g) of this Subsection, shall include instruction in child access prevention, a demonstration by the applicant of shooting proficiency, and safe handling of a handgun.

(3) Any live range fire training required to demonstrate competency as authorized by the provisions of this Subsection may use live ammunition or fixed-case marking projectiles capable of being fired from a handgun.

E.(1) A photocopy of a certificate of completion of any of the courses or classes, or an affidavit from the instructor, school, club, organization, or group that conducted or taught said course or class attesting to the completion of the course or class by the applicant, or a copy of any document which shows completion of the course or class or confirms participation in firearms competition or honorable discharge shall constitute evidence of

qualification pursuant to Subsection D of this Section.

(2) It shall be illegal to intentionally present false, fraudulent, altered, or counterfeit documents to prove training in handguns in order to obtain a concealed handgun permit. Whoever intentionally presents false, fraudulent, altered, or counterfeit documents to prove training in handguns in order to obtain a concealed handgun permit shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both. In addition, no person convicted of a violation of this Subsection shall be eligible to obtain a permit.

F.(1) The deputy secretary shall revoke the permit if at any time during the permit period the permittee fails to satisfy any one of the qualification requirements provided for in Subsection C of this Section.

(2) The deputy secretary shall revoke the permit for a violation of Subsection I of this Section or R.S. 40:1382.

G. Neither the state, the deputy secretary of public safety services, nor any applicable permitting process employee of the Department of Public Safety and Corrections shall be liable for acts committed by the permittee, unless the deputy secretary or applicable permitting process employee had actual knowledge at the time the permit was issued that the permittee was disqualified by law from carrying a concealed handgun.

H.(1) The deputy secretary of public safety services of the Department of Public Safety and Corrections shall, within two working days of the initial application, notify the chief of police of the municipality and the chief law enforcement officer of the parish in which the applicant is domiciled of such application. Those officers shall have ten days to forward to the deputy secretary any information relating to the applicant's legal qualification to receive a permit.

(2) The deputy secretary of public safety services of the Department of Public Safety and Corrections shall issue timely and without delay the concealed handgun permit to all qualified applicants, which permit shall be for a term of five years, at a cost of twenty-five dollars per year, and which shall be valid in all parishes statewide. The division may promulgate rules for the purpose of providing for permits and fees for fewer than five years to the applicants requesting a shorter time period. Fees may be reduced proportionately for terms of fewer than five years. The permit shall be retained by the permittee who shall immediately produce it upon the request of any law enforcement officer.

(3) Anyone who violates the provisions of this Subsection shall be fined not more than one hundred dollars.

I.(1) No individual to whom a concealed handgun permit is issued or a person carrying a weapon pursuant to R.S. 14:95(M) may carry and conceal such handgun while under the influence of alcohol or a controlled dangerous substance. While a permittee is under the influence of alcohol or a controlled dangerous substance, an otherwise lawful permit is considered automatically suspended and is not valid. A permittee or any person carrying a concealed handgun shall be considered under the influence as evidenced by a blood alcohol reading of .05 percent or greater by weight of alcohol in the blood, or when a blood test or urine test shows any confirmed presence of a controlled dangerous substance as defined in R.S. 40:961 and 964.

(2) A permittee armed with a handgun in accordance with this Section or a person carrying a weapon pursuant to R.S. 14:95(M) shall notify any police officer who approaches the individual in an official manner or with an identified official purpose that the individual has a weapon on his person, submit to a pat down, and allow the officer to temporarily disarm him. Whenever a law enforcement officer is made aware that an individual is carrying a concealed handgun and the law enforcement officer has reasonable grounds to suspect that the individual is under the influence of either alcohol or a controlled dangerous substance, the law enforcement officer may take temporary possession of the handgun, reasonably detain the individual, and request submission of the individual to a department-certified chemical test for determination of the chemical status of the individual. Whenever a law enforcement officer reasonably suspects or is made aware that an individual is behaving in a criminally negligent manner as defined under the provisions of this Section, or is negligent in the carrying of a concealed handgun as provided for in R.S. 40:1382, the law enforcement officer may frisk for and seize the handgun, until adjudication by a judge, if the individual is issued a summons or arrested under the provisions of R.S. 40:1382. Failure by the permittee to comply with the provisions of this Paragraph shall result in a six-month automatic suspension of the permit. A person carrying a concealed handgun pursuant to R.S. 14:95(M) who fails to comply with the provisions of this Paragraph shall be subject to the penalties provided in Subsection L of this Section.

(3) The permit to carry a concealed handgun shall be revoked by the deputy secretary when the permittee is carrying and concealing a handgun under any of the following circumstances:

(a) The blood alcohol reading of a permittee is .05 percent or greater by weight of alcohol in the blood.

(b) A permittee's blood test or urine test shows the confirmed presence of a controlled dangerous substance as defined in R.S. 40:961 and 964.

(c) A permittee refuses to submit to a department-certified chemical test when requested to do so by a law enforcement officer pursuant to Paragraph (2) of this Subsection.

(d) An individual is found guilty of negligent carrying of a concealed handgun as provided for in R.S. 40:1382.

(4) The person tested may have a physician or a qualified technician, chemist, registered nurse, or other qualified person of his own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer, and he shall be given the opportunity to telephone and request the qualified person to administer such test.

(5) Whenever a peace officer determines that grounds under this Subsection exist for the revocation of a concealed handgun permit, he shall prepare an affidavit, on a form provided by the Department of Public Safety and Corrections, indicating the reasons for the revocation and all other information regarding the revocation available to the officer. A copy of the peace officer's report relating to the incident shall be attached to the affidavit when submitted to the department.

(6) No permit shall be suspended or revoked solely upon the basis of an arrest for a

violation of R.S. 14:98.1.

J. For the purposes of this Section, the following terms shall have the meanings ascribed herein:

- (1) "Crime of violence" means a crime as defined in R.S. 14:2(B).
- (2) "Criminal negligence" means there exists such disregard of the interest of others that the license holder's conduct amounts to a gross deviation below the standard of care expected to be maintained by a reasonably careful man under like circumstances.
- (3) "Handgun" means a type of firearm commonly referred to as a pistol or revolver originally designed to be fired by the use of a single hand and which is designed to fire or is capable of firing fixed cartridge ammunition. The term "handgun" shall not include shotguns or rifles that have been altered by having their stocks or barrels cut or shortened.
- (4) "Resident" means a person who is legally domiciled in Louisiana. An individual shall prove legal domicile by providing a copy of a valid Louisiana driver's license or an official Louisiana identification card. Notwithstanding anything in this Section to the contrary, a person who maintains a dwelling in this state but is residing elsewhere as a member of the United States military or as a student is still considered to be a resident for the purposes of this Section.

K. The department shall execute a thorough background investigation, including a criminal history check, of every applicant for the purpose of verifying the qualifications of the applicant pursuant to the requirements of this Section. For purposes of this Subsection, a background check shall be defined as a computer check of available on-line state records, and, if warranted, the fingerprints may be forwarded to the Federal Bureau of Investigation for a national criminal history record check. In addition, the department shall submit an inquiry on every applicant to the National Instant Criminal Background Check System of the Federal Bureau of Investigation.

- L.(1) Anyone who carries and conceals a handgun in violation of any provision of this Section, unless authorized to do so by another provision of the law, shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.
- (2) Anyone who carries a concealed handgun in violation of any provision of this Section in the area within the boundaries of the French Quarter Management District as established in R.S. 25:799 shall be fined not less than five hundred dollars nor more than one thousand dollars, or be imprisoned for not more than six months, or both.

M. No concealed handgun may be carried into and no concealed handgun permit shall be valid or entitle any permittee to carry a concealed handgun in any facility, building, location, zone, or area in which firearms are banned by state or federal law.

N. No concealed handgun may be carried into and no concealed handgun permit issued pursuant to this Section shall authorize or entitle a permittee to carry a concealed handgun in any of the following:

- (1) A law enforcement office, station, or building.
- (2) A detention facility, prison, or jail.
- (3) A courthouse or courtroom, provided that a judge may carry such a weapon in his own courtroom.

(4) A polling place.

(5) A municipal building or other public building or structure, only if the building or structure is utilized as the meeting place of the governing authority of a political subdivision.

(6) The state capitol building.

(7) Any portion of an airport facility where the carrying of firearms is prohibited under federal law, except that no person shall be prohibited from carrying any legal firearm into the terminal, if the firearm is encased for shipment, for the purpose of checking such firearm as lawful baggage.

(8) Any church, synagogue, mosque, or other similar place of worship, eligible for qualification as a tax-exempt organization under 26 U.S.C. 501, unless authorized by the person who has authority over the administration of the church, synagogue, mosque, or other similar place of worship.

(9)(a) A parade or demonstration for which a permit is issued by a governmental entity when the permittee or person is an active participant in such parade or demonstration.

(b) The provisions of this Paragraph shall not apply to a bystander or spectator who attends a parade or demonstration for which a permit is issued by a governmental entity.

(10) Any portion of the permitted area of an establishment that has been granted a Class A-General retail permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950, to sell alcoholic beverages for consumption on the premises.

(11) Any school, school campus, or school bus as defined in R.S. 14:95.6.

O.(1) The provisions of Subsection N of this Section shall not limit the right of a property owner, lessee, or other lawful custodian to prohibit or restrict access of those persons possessing a concealed handgun pursuant to a permit issued under this Section or a person lawfully carrying a handgun pursuant to R.S. 14:95(M).

(2) No individual to whom a concealed handgun permit is issued or who is lawfully carrying a handgun pursuant to R.S. 14:95(M) may carry a concealed handgun into the private residence of another without first receiving the consent of that person.

P. Within three months of April 19, 1996, the Department of Public Safety and Corrections shall promulgate rules and regulations in accordance with the Administrative Procedure Act to provide an appeal process in the event that an applicant is denied issuance of a permit. The department may also promulgate educational requirements for renewal of concealed handgun permits.

Q. The provisions of this Section shall not apply to commissioned law enforcement officers.

R.(1) Each permittee, within fifteen days of a misdemeanor or a felony arrest, other than a minor traffic violation, in this state or any other state, shall notify the deputy secretary of public safety services by certified mail. The deputy secretary may suspend, for up to ninety days, the permit of any permittee who fails to meet the notification requirements of this Section.

(2) The Department of Public Safety and Corrections shall submit a report by March

thirty-first of each year to the Senate Committee on Judiciary C and the House Committee on the Administration of Criminal Justice relative to concealed handgun permits. The report shall include information on the number of licenses issued, denied, revoked, or suspended and the reasons for such denial, revocation, or suspension to be categorized by age, sex, race, and zip code of the applicant or licensee. The report shall include data concerning any known accidents or deaths involving permittees.

S. Notwithstanding any other provision of law to the contrary, the department may develop, print, and distribute an informational newsletter relative to concealed handgun permittees, safety training, and related matters.

T.(1) Possession of a current and valid concealed handgun permit issued pursuant to this Section shall constitute sufficient evidence of the background check required pursuant to 18 U.S.C. 922(t) provided that the appropriate waiver has been granted by the Bureau of Alcohol, Tobacco, Firearms and Explosives. A person whose permit has been suspended or revoked by the department and who uses that permit to purchase a firearm from a licensed dealer knowing that the permit has been suspended or revoked shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) A current and valid concealed handgun permit issued by another state to an individual having attained the age of twenty-one years shall be deemed to be valid for the out-of-state permit holder to carry a concealed weapon within this state if a current and valid concealed handgun permit issued by Louisiana is valid in those states.

(3) An out-of-state permit holder carrying a concealed handgun pursuant to this Paragraph is bound by the laws of this state regarding carrying a concealed handgun pursuant to a permit issued in accordance with this Section.

(4) A concealed handgun permit issued by another state is invalid in the state of Louisiana for the purpose of authorizing a Louisiana resident to carry a concealed handgun in the state of Louisiana.

(5) The deputy secretary for public safety services shall also have the authority to enter into reciprocity agreements with other states so that full-time active peace officers commissioned in another state shall have the same authority as a person issued a concealed handgun permit pursuant to this Section to carry a concealed handgun while in this state, regardless of whether or not they are in the official discharge of their duties, and full-time active law enforcement officers commissioned in this state shall have the authority to carry a concealed handgun in those states whether or not they are in the official discharge of their duties. An out-of-state law enforcement officer carrying a concealed handgun pursuant to this Paragraph is bound by the laws of this state regarding carrying a concealed handgun pursuant to a permit issued in accordance with this Section.

U. Repealed by Acts 2020, No. 186, §2.

V.(1) Notwithstanding any other provision of law to the contrary, a person who meets the provisions of this Section may be issued a lifetime concealed handgun permit. The term for the lifetime concealed handgun permit shall be for the life of the permit holder.

(2) A person issued a lifetime concealed handgun permit shall be required to meet the qualifications and competency requirements for the issuance of a concealed handgun

permit pursuant to the provisions of Subsections C and D of this Section.

(3) A person issued a lifetime concealed handgun permit shall have a continuing obligation to comply with the provisions of this Section and any other rules or provisions of law regarding the carrying of concealed handguns.

(4)(a) A lifetime concealed handgun permit holder shall provide the division with proof of completion of educational training every five years. The educational training shall include all of the following:

(i) Instruction on handgun nomenclature and safe handling procedures for a revolver and a semiautomatic pistol.

(ii) Instruction on ammunition knowledge and fundamentals of pistol shooting.

(iii) Instruction on handgun shooting positions.

(iv) Instruction on the use of deadly force and conflict resolution which shall include a review of R.S. 14:18 through 22 and which may include a review of any other laws relating to use of deadly force.

(v) Instruction on child access prevention.

(vi) Actual live range fire and proper handgun cleaning procedures:

(aa) Live range fire shall include twelve rounds each at six feet, ten feet, and fifteen feet for a total of thirty-six rounds.

(bb) Each applicant or permittee must perform at least one safe reload of the handgun at each distance.

(cc) Each applicant or permittee must score one hundred percent hits within the silhouette portion of a N.R.A. B-27 type silhouette target with at least thirty-six rounds.

(b) Failure to submit proof of completion of the educational training pursuant to the provisions of this Paragraph shall result in the suspension of the lifetime concealed handgun permit until such time as the lifetime concealed handgun permit holder submits proof of the educational training required in the provisions of this Paragraph.

(5) The deputy secretary of the department shall revoke the lifetime concealed handgun permit if the permittee fails to satisfy the qualifications and requirements of Subsection C of this Section or violates the provisions of Subsection I of this Section.

(6) Repealed by Acts 2025, No. 273, §2.

(7) An applicant for a lifetime concealed handgun permit shall pay the yearly fee provided for in Paragraph (H)(2) of this Section but shall prepay that fee for a total of twenty years at the time the application is made. If the applicant is sixty-five years of age or older, he shall pay the yearly fee provided for in Paragraph (H)(2) of this Section but shall prepay that fee for a total of ten years at the time the application is made.

W.(1) Notwithstanding any provision of law to the contrary, an active duty member or reserve member of the armed forces of the United States shall pay one half of the annual fee provided for in Paragraph (H)(2) of this Section for a five-year permit, or if applying for a lifetime concealed handgun permit, he shall prepay that fee for a total of ten years at the time the application for the lifetime concealed handgun permit is made.

(2) A veteran of the armed forces of the United States shall be exempt from all fees associated with the five-year permit or lifetime concealed carry permit.

(3) For the purposes of this Subsection, "veteran" shall mean any honorably discharged veteran of the armed forces of the United States including reserve components of the armed forces, the Army National Guard, the Air National Guard, the United States Public Health Service Commissioned Corps, and any other category of persons designated by the president in time of war or emergency.

RS 40:1379.3.1 — Concealed Handgun Permit Dedicated Fund Account; assessment and

dollars for a concealed handgun permit with a term of four years, to be submitted with the application to cover the administrative costs of the investigation and other services required to process and issue the permit. An additional fee of fifty dollars may be assessed to cover costs associated with the background check of any individual who resided outside of the state of Louisiana at any time during the fifteen years prior to submission of the application.

(2) Whenever the applicant is sixty-five years of age or older, the fees assessed pursuant to this Subsection shall be one-half of the amount otherwise assessed by the department.

(3) No fee authorized under the provisions of this Section shall be assessed on or collected from any law enforcement officer who is retired from full-time active law enforcement service with at least twelve years service upon retirement, nor assessed on or collected from any enforcement officer of the office of state parks, in the Department of Culture, Recreation and Tourism who is retired from full-time active duty as an enforcement officer provided the retired officer is annually qualified in the use of firearms by the Council on Peace Officer Standards and Training and has on his or her person proof of such qualification. This exception shall not apply to any officer who is medically retired based upon any mental impairment.

B. Fees received by the Department of Public Safety and Corrections as authorized in this Section and fines collected pursuant to R.S. 40:1379.3(L) shall be deposited immediately upon receipt into the state treasury.

C. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required by Subsection B of this Section shall be credited to a special statutorily dedicated fund account hereby created in the state treasury to be known as the "Concealed Handgun Permit Dedicated Fund Account", hereafter referred to in this Section as the "account". The monies in the account shall be used solely as provided for in Subsection D of this Section and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in the account at the end of the fiscal year shall remain in the account. The monies in the account shall be invested by the state treasurer in the same manner as monies in the state general fund and interest earned on the investment of these monies shall be credited to the account after compliance with the requirement of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general

appropriation bills and shall be available for annual appropriation by the legislature.

D. The monies in the account shall be used solely for administration of the concealed handgun permit process and for special law enforcement initiatives.

RS 40:1379.3.2 — Temporary concealed handgun permit; protective order; time limitations

cessation of abuse by one family member, household

member, or dating partner pursuant to a court-approved consent agreement or pursuant to the provisions of R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2136, 2151, or 2173, Children's Code Article 1570, Code of Civil Procedure Article 3607.1, or Code of Criminal Procedure Articles 30, 320, or 871.1 and which prohibits the subject of the order from possessing a firearm for the duration of the injunction or protective order pursuant to the provisions of R.S. 46:2136.3 may apply to the deputy secretary of public safety services of the Department of Public Safety and Corrections for the issuance of a temporary concealed handgun permit.

B. When submitting an application for a temporary concealed handgun permit, the applicant shall:

- (1) Make sworn application in person or electronically to the deputy secretary of public safety services of the Department of Public Safety and Corrections. The providing of false or misleading information on the application or any documents submitted with the application shall be grounds for the denial or revocation of a temporary concealed handgun permit.
- (2) Agree in writing to hold harmless and indemnify the department, the state, or any peace officer for any and all liability arising out of the issuance or use of the temporary concealed handgun permit.
- (3) Meet the qualifications for the issuance of a concealed handgun permit as provided for in R.S. 40:1379.3(C); however, an applicant for a temporary concealed handgun permit shall not be required to comply with the provisions of R.S. 40:1379.3(D) upon application.
- (4) Pay the twenty-five dollar fee authorized in R.S. 40:1379.3(H)(2).

C.(1) The holder of a temporary concealed handgun permit shall not be subject to the provisions of R.S. 40:1379.3(D) pending completion of the requisite training for a concealed handgun permit issued pursuant to the provisions of R.S. 40:1379.3, but shall otherwise comply with all other restrictions and provisions of R.S. 40:1379.3.

(2) If the applicant for a temporary concealed handgun permit applies for a concealed handgun permit issued pursuant to the provisions of R.S. 40:1379.3, the twenty-five dollar fee paid shall be applied to the cost of a concealed handgun permit as provided for in R.S. 40:1379.3(H)(2) issued once the temporary concealed handgun permittee completes the requisite training pursuant to R.S. 40:1379.3(D).

D. The temporary concealed handgun permit:

- (1) Is valid only in Louisiana and shall not be considered as satisfying the requirements of reciprocity with any other state concealed firearm provisions.
- (2) Shall not be construed to constitute evidence of a background check required pursuant to 18 U.S.C. 922 prior to the transfer of a firearm as authorized by the provisions of R.S. 40:1379.3(T).

(3) Shall expire forty-five days from the date of issuance.

E. The person issued a temporary concealed handgun permit as provided by the provisions of this Section is authorized to carry a concealed handgun for a period of forty-five days from issuance or until the concealed handgun permit issued pursuant to the provisions of R.S. 40:1379.3 is issued, whichever is less.

F. Failure to carry a copy of the permanent injunction or the protective order at all times the person is carrying the concealed handgun shall render the temporary concealed handgun permit invalid.

G. The department shall conduct a background check as provided for in R.S. 40:1379.3(K) prior to the issuance of a temporary concealed handgun permit.

H. The office of state police shall promulgate rules to implement the provisions of this Section.

RS 40:1379.3.3 — Louisiana Firearm Safety Awareness Act

ety and Corrections, office of state police, shall provide a two-hour-and-fifteen-minute online handgun education course at no cost to Louisiana residents.

C. The purpose of this online education course is to educate the public on firearm safety and use. The course is optional and shall not be a requirement for obtaining a concealed handgun permit under R.S. 40:1379.3. Completion of this course shall not grant any person the right to carry a concealed handgun unless otherwise provided by law.

D. The online handgun education course shall include instruction on all of the following topics:

(1) Handgun basics and nomenclature, including handling procedures for a revolver and a semiautomatic pistol.

(2) Firearm-free zones.

(3) Use of deadly force.

(4) Interactions with law enforcement officers.

(5) Conflict resolution.

(6) Accident prevention, including safe storage of firearms.

(7) Unauthorized access prevention.

(8) Safe handling of a handgun.

(9) Suicide prevention with an emphasis on the impact of firearm-related suicides involving veterans and current service members of the United States Armed Forces.

E. State police shall maintain an online database of all licensed handgun and firearm instructors to allow the public to search for classes.

F.(1) The content, structure, accessibility, and all other related matters of the online handgun education course shall be developed and promulgated by the Department of Public Safety and Corrections, office of state police, in accordance with the rules and regulations of the Administrative Procedure Act.

(2) In accordance with Paragraph (1) of this Subsection, the Department of Public Safety and Corrections, office of state police, shall divide the topics provided in Subsection D of this Section into nine video segments that shall broadcast for no less than fifteen

minutes per segment.

RS 40:1379.3.4 — Louisiana permitless carry

Louisiana

residents.

B. The purpose of this online education course is to educate the public on firearm safety and use. The course is optional and shall not be a requirement for obtaining a concealed handgun permit under R.S. 40:1379.3. Completion of this course shall not grant any person the right to carry a concealed handgun unless otherwise provided by law.

C. The concealed handgun education course shall include instruction on the following topics:

- (1) Concealed handgun basics and nomenclature.
- (2) Firearm-free zones.
- (3) Use of deadly force.
- (4) Interactions with law enforcement officers.
- (5) Conflict resolution.
- (6) Accident prevention.
- (7) Unauthorized access prevention.
- (8) Safe handling of a handgun.

D. State police shall maintain an online database of all licensed handgun and firearm instructors to allow the public to search for classes.

E. State police shall post prominently on its website all conditions required to be met to authorize the carrying of a concealed handgun without a valid concealed handgun permit pursuant to R.S. 14:95(M) and R.S. 40:1379.3(B)(2).

F.(1) The content, structure, accessibility, and all other related matters of the online handgun education shall be developed and promulgated by the Department of Public Safety and Corrections, office of state police, in accordance with the rules and regulations of the Administrative Procedure Act.

(2) In accordance with Paragraph (1) of this Subsection, the Department of Public Safety and Corrections, office of state police, shall divide the topics provided in Subsection C of this Section into eight video segments that shall broadcast for no less than fifteen minutes per segment.

RS 40:1379.4 — Reserve officer's commission; powers and duties

ement of the laws and protection of the people of the state of Louisiana. For this reason, the following provisions are hereby set forth.

B. The deputy secretary of the Department of Public Safety shall be authorized to issue at his discretion a reserve officer's commission to peace officers who have retired from the division of state police. Any person who receives a reserve officer's commission must be bonded and adhere to all restrictive stipulations as set forth in the reserve officer's commission.

C. The reserve officer, when performing those tasks requiring a reserve officer's commission, shall have the same powers and duties as a peace officer in the division of state police.

D. The deputy secretary of the Department of Public Safety shall determine who is entitled to receive a commission and may promulgate and adopt regulations providing with respect thereto.

E. The deputy secretary of the Department of Public Safety shall have the authority to revoke any reserve officer's commission, and is further empowered to require those holding a reserve officer's commission to furnish proof of their being bonded and such other information as may be deemed necessary for determining suitability for holding a reserve officer's commission.

F. Reserve officers' commissions shall only be valid for a period of one year from the date of their issuance.

G. No provision of this Section or of any regulation of the deputy secretary of the Department of Public Safety shall be construed to require persons holding bona fide law enforcement officer commissions to possess a handgun permit.

RS 40:1379.5 — State capitol complex; provision of police protection; maintenance of peace and

rections shall provide that public safety services police officers regularly

patrol all areas within the state capitol complex to maintain peace and order and to prevent and detect crime.

(2) Within the areas in the state capitol complex that are occupied and utilized by the members, officers, and staff of the legislative branch of state government, all public safety services police officers shall coordinate with and be subject to the direction of the director of capitol security in accordance with Chapter 12 of Title 24 of the Louisiana Revised Statutes of 1950.

B. Nothing in this Section shall be construed or interpreted in any manner as to affect the rights, powers, and duties of any sheriff, constable, police officer, or other law enforcement officer with jurisdiction over any area within the state capitol complex.

C. For the purposes of this Section, the term "state capitol complex" shall mean that area in the city of Baton Rouge, containing the state capitol building and bounded on the south by Main Street, on the west by the Mississippi River, on the north by Choctaw Drive, and on the east by the Kansas City Southern Railway tracks.

RS 40:1379.6 — Aviation unit; powers and duties

eration of all state-owned aircraft, including helicopters and fixed-wing aircraft, used by the office of state police. The deputy secretary for public safety services is authorized to appoint as many police and civilian employees to the unit as may be permitted by legislative appropriation.

B. The police employees of the unit shall have the same duties and powers as are provided for other police employees of the office in R.S. 40:1379 and such other duties and rank as are assigned by the deputy secretary.

RS 40:1379.7 — Public Safety DWI Testing, Maintenance, and Training Dedicated Fund Account;

is for which special costs are assessed in accordance with Code of Criminal

Procedure Article 887(C) such costs shall be forwarded, on or before the twenty-fifth day of each month following their collection, to the state treasurer for immediate deposit in the state treasury.

B. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, the treasurer shall credit an amount equal to the total amount of such costs received to a special statutorily dedicated fund account which is hereby created in the state treasury and designated as the Public Safety DWI Testing, Maintenance, and Training Dedicated Fund Account. The monies in the account shall be used solely to fund activities of the office of state police in executing its responsibilities in the purchase and maintenance of equipment and supplies for use in breath, blood, or urine analysis as related to violations of R.S. 14:98 or 98.1; training in the maintenance and usage

of testing equipment; other such related expenses as may be necessary in the efficient and effective administration of those duties; and for special law enforcement initiatives. The monies in the account shall be used only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in the account at the end of the fiscal year shall remain in the account. The monies in the account shall be invested by the treasurer in the same manner as monies in the state general fund. All interest earned on monies in the account invested by the treasurer shall be credited to the account. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

RS 40:1379.8 — Weights and Standards Mobile Police Force

ices.

B. Members of the Weights and Standards Mobile Police Force of the Department of Public Safety and Corrections who receive P.O.S.T. certification training, are considered peace officers and shall have the authority to enforce the criminal and traffic laws of the state, apprehend criminals and make arrests, and perform other related duties imposed upon them by the legislature. As peace officers, they shall also have, in any part of the state, the same powers with respect to criminal matters and the enforcement of the law relating thereto as sheriffs, constables, and police officers have in their respective jurisdictions. No member of the Weights and Standards Mobile Police Force shall be authorized to carry a weapon until the member has received P.O.S.T. certification training.

RS 40:1380 — Fish and game, conservation; enforcement of laws relating to

d for the protection and conservation of forests, woods, and other natural resources.

RS 40:1381 — Concealed weapons; employees; highway patrol

of any duty or while under assignment to any duty under this Subpart.

B. The police employees of the division shall be the highway patrol of the state and as such shall perform only real police duties as provided by R.S. 40:1379.

RS 40:1382 — Negligent carrying of a concealed handgun

licensed to carry or

possess a concealed handgun, under the following circumstances:

- (1) When it is foreseeable that the handgun may discharge, or when a law enforcement officer or others are placed in reasonable apprehension or the law enforcement officer has a reasonable suspicion that the handgun may discharge.
- (2) When the handgun is being carried, brandished, or displayed under circumstances that create a reasonable apprehension on the part of members of the public or a law enforcement official that a crime is being committed or is about to be committed.

B. It shall be within the discretion of the law enforcement officer to issue a summons to a person accused of committing this offense in lieu of making a physical arrest. The seizure of the handgun pending resolution of the offense shall only be discretionary in the instance where the law enforcement officer issues a summons to

the person accused. If the law enforcement officer makes a physical arrest of the person accused, the handgun and the person's license to carry such handgun shall be seized.

C.(1) Whoever commits the offense of negligent carrying of a concealed handgun shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

(2) Whoever commits the offense of negligent carrying of a concealed handgun in the area within the boundaries of the French Quarter Management District as established in R.S. 25:799 shall be fined not less than five hundred dollars nor more than one thousand dollars, or imprisoned for not more than six months, or both.

(3) In addition to the penalties provided in Paragraphs (1) and (2) of this Subsection, the court may order the forfeiture of the handgun and may suspend or revoke any permit or license authorizing the concealed carrying of the handgun.

D. Notwithstanding the provisions of R.S. 40:1798, a handgun forfeited under Paragraph (C)(3) of this Section shall be returned to the defendant if the defendant satisfies all of the following:

(1) The instant conviction is the defendant's first offense for a violation of this Section.

(2) The defendant is not otherwise prohibited by state or federal law from possessing a firearm.

(3) The defendant successfully completes the eight-hour National Rifle Association Basics Pistol Shooting course taught in person by a National Rifle Association certified instructor within one year of conviction.

RS 40:1383 — Incarceration of persons arrested; penalty for failure to comply

arrest, shall, immediately after the arrest, place the person arrested in the parish jail of the parish in which the arrest was made.

Whoever wilfully violates this Section shall be fined not more than twenty-five dollars or imprisoned for not more than thirty days, or both.

RS 40:1384 — Prisoners; place of detention; how released; penalty

d by a police employee of the division and shall detain him in custody until otherwise ordered by a court, by the department, or by the police employee from whom the prisoner was received.

Whoever violates this Section shall be fined not more than twenty-five dollars or imprisoned for not more than thirty days, or both.

RS 40:1385 — Fingerprints and other identification data

ody by them for offenses other than those arising solely out of violations of fish, game, conservation, or traffic laws.

RS 40:1386 — Industrial disputes

r the threat of violence exists and then only by order of the superintendent of state police. It shall be the duty of the superintendent of state police to notify the chief executive officer of the municipality wherein the dispute has occurred or, if unavailable, the highest ranking municipal law enforcement official available, of the issuance of the order prior to the execution thereof. The provisions of this Section do not apply in the case of a municipality which has elected to operate under a contract pursuant to R.S. 40:1388.

RS 40:1387 — Control of officers; municipalities

said chief law enforcement officer of the municipality shall have the sole authority, command and control of all peace officers or police officers within the municipality during the said emergency; provided that the governor may supercede the chief law enforcement officer at any time during such emergency as he deems appropriate.

RS 40:1388 — Contracts with municipalities for police protection

behalf of the state, for the regular assignment of an agreed number of employees of the division of state police to the municipality or parish, as the case may be, so as to provide police protection therein and to enforce both state laws and local ordinances, in consideration of the payment by the municipality, parish, or other unit of government of a sum agreed upon by them and the department. The department may enter into such a contract or contracts or may refuse to do so for the good of the service.

Any police employee of the division so assigned shall continue to have all the powers and duties granted and bestowed in this Sub-part but he shall not be subject to the restrictions contained in R.S. 40:1386 and 40:1387 with reference to the municipality to which he has been assigned.

The department may, at all times, withdraw any employee of the division so assigned and assign another employee in his place.

RS 40:1389 — Police protection for certain companies

valuables within this state for the appointment of police officers, the department may appoint persons whom it thinks qualified and competent for purposes of protection. The department may also appoint any other officers, agents, and employees necessary for the rendition of efficient service. Every person so appointed shall have the rank and title of special agent and shall be governed by this Sub-part when so designated by the department.

The department may revoke the commission and authority of any person appointed under this Section.

RS 40:1390 — Resisting arrest and interference with officers; penalty

ficer or agent thereof in the lawful performance of any duty imposed on him by this Sub-part or any duty assigned to him under authority of this Sub-part shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned for not less than thirty days nor more than six months, or both.

RS 40:1391 — Exchange of information; interstate compacts for police protection

police forces, both within this state and outside it and with federal police forces, toward the end of achieving greater success in preventing and detecting crimes and apprehending criminals.

The department of public safety may, on request of any chief police officer of any local government unit in the state, assist such officer in the investigation of the circumstances of any crime and in the identification, apprehension, and conviction of the perpetrators thereof. For this purpose it may detail such employees of the division of state police for such length of time as it sees fit.

The department may, when so authorized by the governor, negotiate with appropriate officials of other states in the preparation of interstate compacts for police protection as authorized by the Act of June 6, 1934 (48 Stat. 909, c. 406; U.S. Code, Title 18, section 420),* or other Acts of Congress. Such compacts as are negotiated shall be submitted to the governor and legislature for approval.

*Now 4 U.S.C.A. §112.

RS 40:1392 — Free and unhampered passage on bridges and ferries

bridges and ferries in this state.

B. All law enforcement personnel, with law enforcement agency equipment, who are employed within this state shall have unhampered passage at all times on and over toll-bridges and ferries in this state, regardless of whether the personnel are in uniform or in civilian clothes. Procedures currently in effect for Louisiana state police to sign a register when granted an exemption from tolls, shall also apply to all other law enforcement personnel in the state.

C.(1) Notwithstanding the provisions of Subsections A and B of this Section, the right of free passage on and over the Crescent City Connection Bridge at New Orleans for state police and law enforcement personnel shall be exercised only by means of automatic vehicular identification toll tags.

(2)(a) Upon the written request of the superintendent of state police or the head of a law enforcement agency and payment of the deposit required by Subparagraph (b) of this Paragraph, the Crescent City Connection Division of the Department of Transportation and Development shall issue the number of automatic vehicular identification toll tags requested for use in connection with the exemption granted by this Section.

(b) Each state policeman and law enforcement personnel shall be charged a deposit of twenty-five dollars for the issuance of his tag. The deposit shall be refunded to such state policeman and law enforcement personnel upon the return of the tag to the division.

(3) The use of the automatic vehicular identification toll tags provided shall be limited to bridge crossings made by state police with state police equipment and by designated law enforcement personnel with law enforcement agency equipment. The appropriate law enforcement agency shall be responsible for any crossing made using the automatic vehicular identification toll tag outside the scope of the exemption granted by this Section.

D. The Department of Transportation and Development shall adopt rules and regulations in accordance with the Administrative Procedure Act for the administration of the provisions of this Section on those toll bridges and ferries under their jurisdiction.

RS 40:1393 — Fees and rewards not to be accepted by employees

ion of any person or for the recovery of any property. Any fee or reward to which the employee would be entitled except for the foregoing provision shall be paid into the state treasury and credited to the State Police Retirement Fund.

RS 40:1394 — Salary scale; vouchers in payment of expenses; allowances

e as follows:

Trooper, minimum salary \$565.00 per month;

Sergeant, minimum salary \$675.00 per month;

Lieutenant, minimum salary \$760.00 per month;

Captain, minimum salary \$850.00 per month;

Major, minimum salary \$965 per month;

Lt. Colonel, minimum salary \$1,120 per month.

All troopers shall maintain grade for a minimum period of three years. All sergeants shall maintain grade for a minimum period of two years. All lieutenants shall maintain grade for a minimum period of two years. At the end of the respective periods in grade, they shall be paid at the maximum rate prescribed for the respective grades and be eligible for promotion to the next higher grade as vacancies occur.

The department may approve vouchers in payment of expenses incurred by employees of the division in the discharge of their duties.

Allowance for lodging and subsistence may be paid to the employees of the division under such terms and conditions as the department prescribes. The department may provide lodging and subsistence for employees of the division at their official stations.

RS 40:1394.1 — Annual salary schedule

s for troopers and officers of the state police service, whether classified or unclassified, to the governor, the commissioner of administration, and the speaker of the House of Representatives and the president of the Senate for distribution by them to the members of each house of the legislature not later than the fifteenth day of November prior to the regular session held pursuant to Article III, Section 2(A)(4) of the Constitution of Louisiana. The report shall include a comparison of the salaries of troopers and officers of the division of state police, with the salaries of local law enforcement officers in the state in addition to other matters deemed pertinent by the superintendent. The report may contain such other information as deemed appropriate by the deputy secretary.

RS 40:1395 — Counsel for employees and division in certain litigations

n the course of duty, which, in his opinion, requires his services to protect the interests of the state. The department may, with the approval of the governor, appoint an attorney for the division.

RS 40:1395.1 — Repealed by Acts 1999, No. 1119, §1.

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RS 40:1396 — Length of service of Division of State Police employees computed

who was transferred or assigned by the superintendent of the division of state police to perform police duty at any war plant or at the establishment of any employer who, in the opinion of the superintendent of state police, contributed to the war effort during World War II, shall have credited to his service record in the department all of the actual time served by him at such plant or establishment.

RS 40:1397 — Police employees, persons ineligible

es of America and/or the State of Louisiana.

RS 40:1398 — Reimbursement for use, damage or destruction of property by state police

vision of State Police without the necessity of suit. The amount of such reimbursement shall be determined by an appraisal of the damages sustained as estimated by three appraisers engaged in the business of repairing or supplying the type of item seized. Compensation shall also be paid for the actual pecuniary loss suffered because of such use, damage or destruction. Reimbursement to the Department of Public Safety shall be obtained by supplemental appropriation by the legislature in the session following the department's payment of damages. The director of the Department of Public Safety shall establish rules and regulations to effectuate the purposes of this section. If the owner of property elects to accept the payment authorized by this section, such payment shall be in lieu of other actions for damages against the state.

RS 40:1399 — Police protection for the governor or other authorized persons

s authorized by the governor, and the governor's office and mansion, and the grounds thereof.

B. The office of state police may employ personnel necessary to carry out this responsibility, including uniformed and nonuniformed commissioned state police officers, pursuant to R.S. 40:1375, who shall have authority to bear arms and make arrests, with or without warrant, for violations of any of the criminal laws of the state, under the same terms and conditions as investigative personnel of the office, and who shall be considered peace officers for all purposes.

C. The deputy secretary for public safety services, in accordance with R.S. 36:405(A)(2), shall assign commissioned state police officers for the performance of the duties prescribed in this Section. Upon request of the governor, the deputy secretary shall reassign a commissioned state police officer from continued performance of such duties.

D. Per diem and subsistence allowance for security personnel traveling with the governor or his family away from Baton Rouge shall be computed by payment of a sum not exceeding the amounts permitted for meals, plus actual expenses for lodging, to be substantiated by paid bills therefor.

E. The office of state police may provide security or transportation to visiting governors and their families upon request by the governor.

F. The office of state police may coordinate transportation and protective services provided herein with other law enforcement agencies and may request the assistance of other law enforcement agencies to carry out the duties required herein. The other law enforcement agencies of the state may provide such assistance as may be requested by the office of state police under this Section.

G. The office of state police shall coordinate all protective services with the United States Department of State and the United States Secret Service when requested to do so by such agencies or by the governor.

RS 40:1400 — Accessible parking enforcement

pose of the program shall be training and utilizing volunteers in the enforcement of accessible parking restrictions, particularly those established pursuant to R.S. 40:1742. The office shall operate the program in the manner and subject to the limitations and provisions of this Section.

B. The program shall become operative if and when funds are transferred to the office of state police from the office of disability affairs for such purpose.

C. The program shall incorporate a training program, to be offered at each troop headquarters, incorporating matters relevant to volunteers recognizing and collecting evidence on violations of accessible parking restrictions. Such training shall include training in legal matters with respect to violations of accessible parking restrictions and personal safety

matters. Volunteers shall be trained to identify violators and to collect information necessary to provide evidence of violation, including vehicle identification information, all legal matters relevant to identifying a properly marked restricted parking area and a violation thereof, the collection of photographic information which would be sufficient to establish a presumption of a violation, and matters of personal safety and ethics. The training course may be offered as often as the police troop deems necessary to serve potential volunteers who have requested enrollment in the course.

D. Upon completion of such training, an individual volunteer who identifies an apparent violation of accessible parking restrictions may collect information on such violation, including vehicle identification information and photographs of the violation and may then submit such information to the appropriate office at the respective state police troop headquarters in accordance with procedures established for the program by the office of state police.

E. Upon identification of the owner of the vehicle, the state police shall send by registered mail, return receipt requested, to the owner a citation for the parking violation. Such citation shall include information on the submission of fines and how the individual may contest the citation. Each troop of the state police may train and utilize volunteers in any aspect of the program which it deems appropriate and for which volunteers offer their services, including clerical responsibilities associated with the processing of information relative to violations of accessible parking restrictions and in the dissemination of citations.

F. The office of state police shall establish and promulgate rules and regulations necessary for the operation of the program in accordance with the Administrative Procedure Act. Such rules may include the establishment of a minimum number of participants who must enroll in the training course before such course is offered, criteria for successful completion of the course, certification of successful completion, procedures for identification of persons who have completed the course and who are thereby authorized to submit information relative to violations of accessible parking restrictions, procedures for the submission and processing of such information, and any other matter which the office deems necessary or convenient for successful operation of the program.

G. The office of state police may utilize funds to promote the program for the purpose of soliciting volunteers, for salaries of police personnel involved in the program, materials, and supplies necessary for operation of the program, and any other purpose authorized by the office of disability affairs.

H. Neither the office of state police nor any troop or office thereof shall be liable for any injury to any volunteer participating in the program. The office of state police may provide for a waiver to such effect to be signed by volunteers in the program.

I. The office of state police shall annually submit a report to the office of disability affairs describing the activities of the program including number of volunteers trained, number of citations issued pursuant to the program, expenses incurred by the state police in the implementation of the program, and any other information required by the office of disability affairs.

RS 40:1401 — Release of personal information

may be deemed otherwise confidential of an employee, officer, or agent of the Department of Public Safety and Corrections, office of state police, without the express written consent of that employee, officer, or agent with respect to an investigation of the employee, officer, or agent.

RS 40:1421 — Definitions

d unit" or "unit" means the insurance fraud investigation unit within the Department of Public Safety and Corrections, office of state police.

(3) "Fraud support unit" means the insurance fraud support unit within the Department of Justice.

(4) "Insurance fraud" means any commission or attempted commission of criminal

RS 40:1422 — Insurance fraud investigation unit; powers and duties

y services, office of state police, and the unit

shall be solely dedicated to the investigation of property and casualty, worker's compensation, life, and health insurance fraud. The purposes of this unit shall be to:

(1) Initiate independent inquiries and conduct independent investigations into

allegations of insurance fraud in any municipality or parish of the state of Louisiana and perform other related law enforcement duties.

(2) Respond to notification or complaints alleging insurance fraud generated by federal, state, and local police, other law enforcement authorities, governmental agencies or units, and any other person.

(3) Review notices and reports of insurance fraud, select the incidents of suspected fraud that, in its judgment, require further detailed investigation, and conduct the investigations.

B. The insurance fraud investigation unit shall have the authority to:

(1) Issue subpoenas to examine any person under oath and to compel the production of records, books, papers, contracts, and other documents. Subpoenas shall be served in the same manner as if issued by a district court. If any person fails to obey a subpoena issued and served pursuant to this Subsection, upon application of the insurance fraud investigation unit, the Nineteenth Judicial District Court or the district court in the judicial district where the subpoena was served may issue an order requiring the person to comply with the subpoena. Any failure to obey the order of the court may be punished by the court as contempt.

(2) Administer oaths and affirmation.

(3) Share records and evidence with federal, state, or local law enforcement or regulatory agencies.

(4) Make criminal referrals to prosecuting authorities. The district attorney of the judicial district where a criminal referral has been made shall, for the purpose of assisting in such prosecution, have the authority to appoint as special deputy district attorneys, licensed attorneys in the employment of the insurance fraud investigation unit. The district attorney shall have the right and discretion to proceed against any person or organization on criminal referrals.

(5) Conduct investigations outside of this state. If the information the fraud unit seeks to obtain is located outside this state, the person from whom the information is sought may make the information available to the fraud unit to examine at the place where the information is located. The fraud unit may designate representatives, including officials of the state in which the matter is located, to inspect the information on behalf of the fraud unit, and the fraud unit may respond to similar requests from officials of other states.

C. The police employees of the unit shall have the same duties and powers as are provided for other police employees of the office in R.S. 40:1379 and such other duties as are assigned by the deputy secretary of public safety services of the Department of Public Safety and Corrections. The police employees of the unit shall complete the National Insurance Crime Training Academy, phases 1, 2, and 3, and Fraud Claims Law Specialist program, within the first two years of assignment to the unit.

RS 40:1423 — Access to evidence, documentation, and related materials

Investigation, as contained in the
National Crime Identification Center.

B. The unit is authorized to request access to evidence, documentation, and

related materials located within this state pertinent to an investigation or examination and in the possession or control of an insurer or an insurance professional. The person so requested shall either make the material available to the unit or shall make the material available for inspection or examination by a designated representative of the unit.

RS 40:1424 — Reporting suspected fraud

23, 1924, or 1925

will be, is being, or has been committed, that person shall notify the section of insurance fraud in the Department of Insurance, in accordance with R.S. 22:1926.

B. All applications for insurance and all claim forms provided and required by an insurer or required by law as a condition of payment of a claim shall contain a statement, permanently affixed to or included as a part of the application or claim form, that clearly states in substance the following:

"Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison."

C. The lack of the statement required by Subsection B of this Section shall not constitute a defense in any criminal prosecution. The statement shall not be required to appear on applications and forms relating to reinsurance.

RS 40:1425 — Receipt of information; immunity from liability

st relevant information and receive the information requested within thirty days.

B. There shall be no cause of action in the nature of defamation, libel, slander, invasion of privacy, negligence, or any other cause of action against any person furnishing information concerning any suspected, anticipated, or completed criminal or fraudulent insurance act as described in this Subpart which involve any type of insurance as defined in R.S. 22:47. This immunity from liability shall apply when the information is provided to or received from a person employed by or authorized by an insurer whose activities include the investigation or reporting of suspected fraudulent insurance acts. The immunity shall apply to furnishing, disclosing, or requesting information on such suspected fraudulent insurance

RS 40:1426 — Reward fund

s, may establish and operate a fund to offer monetary rewards for information sufficient to procure conviction in a court of appropriate jurisdiction of a person or persons responsible for insurance fraud. No law enforcement officer, employee of the office of commissioner of insurance, employee of an insurance company, or any insurance professional shall be eligible to receive such reward.

RS 40:1427 — Reports

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house of the legislature no later than February fifteenth of each year on the progress made in deterring insurance fraud. Such report shall detail:

- (1) All expenditures and receipts of the insurance fraud investigation unit, fraud support unit, and insurance fraud section.
- (2) The uses to which these funds were put, including payment of salaries and expenses, purchases of equipment and supplies, and other expenditures by type.
- (3) The results achieved as a consequence of such expenditures, including the number of notifications or inquiries received, the number of inquiries and investigations undertaken, the number of inquiries to which an investigation was not initiated, the number of arrests, the number of files presented to prosecutors, the number of prosecutions, the number of convictions, and the total dollar amount of restitution resulting from the operation of the insurance fraud investigation unit, fraud support unit, and insurance fraud section, as applicable to each.

RS 40:1428 — Special assessment; creation of dedicated fund account

ums received by each insurer licensed by the

Department of Insurance to conduct business in this state. Such fee shall be imposed by rule adopted by the commissioner in accordance with the Administrative Procedure Act. The total fees assessed for any year shall not exceed the amount necessary to pay the costs of investigation, enforcement, public education and public awareness, and prosecution of insurance fraud in this state by the programs to which funds are allocated in Paragraph (4) of this Subsection. The total fee assessed in any year shall not exceed an amount equal to 0.000375 multiplied times the annual direct premium dollars received that are subject to the fee.

(2) The fee shall not be assessed on premiums received on life insurance policies, annuities, credit insurance, crop and livestock insurance, federal flood insurance policies, reinsurance contracts, reinsurance agreements, or reinsurance claims transactions. The fee shall not be assessed on fifty percent of the premiums received on health and accident insurance policies.

(3) Repealed by Acts 2025, No. 83, §2, eff. June 4, 2025.

(4)(a) Prior to making the allocations specified in Subparagraph (b) of this Paragraph, the commissioner of insurance is authorized to withhold the sum of thirty thousand dollars per year from the fees collected pursuant to this Section to defray the expense of collection of the fees, enforcement of this Subpart, and operation of the Department of Insurance and shall withhold one hundred eighty-seven thousand dollars to fund insurance fraud detection, investigation, and public awareness.

(b) Except as otherwise provided in Subparagraph (a) of this Paragraph, the fees collected shall be used solely for the purposes of this Subpart and shall be allocated to the insurance fraud investigation unit within the office of state police, the insurance fraud support unit within the Department of Justice, the section of insurance fraud within the Department of Insurance, and other state agencies in accordance with a written agreement entered into by the superintendent of state police, the attorney general, and the commissioner of insurance.

(c) Except as otherwise provided in Subparagraph (a) of this Paragraph, if a written agreement is not entered into pursuant to Subparagraph (b) of this Paragraph no later than

September thirtieth, the fees collected in the next fiscal year shall be used solely for the purposes of this Subpart and shall be allocated as follows:

(i) Seventy-five percent of the fees collected shall be allocated to the insurance fraud investigation unit within the office of state police.

(ii) Fifteen percent of the fees collected shall be allocated to the Department of Justice to be used solely for the insurance fraud support unit.

(iii) Ten percent of the fees collected shall be allocated to the Department of Insurance to be used solely for the section of insurance fraud.

B. The fee established in this Section shall be paid to commissioner of insurance and shall be deposited immediately upon receipt into the state treasury.

C. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, an amount equal to that deposited as required by Subsection B of this Section shall be credited to a special statutorily dedicated fund account created in the state treasury to be known as the Insurance Fraud Investigation Dedicated Fund Account, hereafter referred to in this Subsection as the "account". The monies shall be irrevocably dedicated and deposited in the account and shall be used solely as provided in Subsection A of this Section and only in the amounts appropriated by the legislature. Monies in the account shall be appropriated, administered, and used solely and exclusively for purposes of the fraud unit, fraud support unit, insurance fraud section, and as further provided in this Section. All unexpended and unencumbered monies in the account at the end of the fiscal year shall remain in the account. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

D. The commissioner of insurance may levy a fine on any insurer who fails to pay the fee assessed pursuant to this Section when due. Such fine shall not exceed five percent of the fee per month; however, no fine shall be less than one hundred dollars per month.

RS 40:1451 — Purpose

1959, No. 50, §1.

{{NOTE: §§1451-1459 WERE REPEALED SUBJECT TO THE CONDITION IN SECTION 3 OF ACTS 1989, NO. 337 WHICH STATES:

"Section 3. This Act shall become effective if and when the base salary of each person entitled to a supplement pursuant to Subpart D of Part III of Chapter 6 of Title 40 and Part XII of Chapter 1 of Title 56 of the Louisiana Revised Statutes of 1950 is increased by an amount equal to the supplement to which the person is entitled on the date that this Act becomes law." }}

RS 40:1452 — Rate of compensation

ice officers may receive as compensation under civil service rules and regulations or otherwise, every state police officer employed by the Division of State Police of the Department of Public Safety shall be paid by the state extra compensation as follows:

- (1) \$16.66 per month for each state police officer who has completed or hereafter completes one year of service;
- (2) \$33.32 per month for each state police officer who has completed or who hereafter completes three years of service;
- (3) \$50.00 per month for each state police officer who has completed or who hereafter completes six years of service.

B. In computing the period of service required by Sub-section A of this Section, service as a state police officer shall include prior service for those police officers who have returned or hereafter return to such service.

C. In addition to the compensation paid by the State Department of Public Safety, Division of State Police, to any drivers license examiner, and in addition to that which said drivers license examiners may receive as compensation under civil service rules and regulations or otherwise, every drivers license examiner employed by the Division of State Police of the Department of Public Safety shall be paid by the state extra compensation as follows:

- (1) \$15.00 per month to those classified as Drivers License Examiner I;
- (2) \$20.00 per month to those classified as Drivers License Examiner II;
- (3) \$25.00 per month to those classified as Drivers License Examiner III;
- (4) \$30.00 per month to those classified as Drivers License Examiner IV.

RS 40:1453 — Credit to special fund

667.2, and the funds so credited shall be and remain dedicated to the payment of the supplemental salaries provided in R.S. 40:1452.

RS 40:1454 — Disbursement of funds

have attached to them a detailed list of the names of the officers for whose benefit any particular warrant is drawn, together with the completed years of service of such officers and such other information as the State Comptroller or the State Treasurer may require. A list of the names of the drivers license examiners together with their classifications shall also be attached to the warrants.

B. The Director of the Department of Public Safety, on the basis of such warrants, shall prepare and sign individual checks representing the amount to be paid out of the special fund created by R.S. 40:1667.2 to each person in accordance with the provisions of this Sub-part. Each such check shall show the legislative appropriation from which payment is made and shall note that it represents additional compensation paid by the state under the provisions of this Sub-part. The Director of the Department of Public Safety shall deliver the checks to the individual person in whose favor drawn, by mail or by such other means as he shall determine.

C. The Director of the Department of Public Safety shall include the additional compensation paid by the individuals in accordance with the provisions of this Sub-part in the calculation and deduction from the pay of such individuals of sums required by state or federal laws to be withheld by an employer, such as federal income tax and social security tax or contribution to a state retirement system. The Director of the Department of Public Safety shall be further charged with the responsibility for transmitting the sums so withheld in accordance with the law or laws requiring the withholding.

D. The additional compensation paid by the state to state police officers and drivers license examiners in accordance with the provisions of this Sub-part shall be included in the calculation and computation of the total wages paid to a state police officer or drivers license examiner in the determination of employer contributions to any retirement system or pension fund of which the individual may be a member as well as in the determination of retirement eligibility and benefits which may accrue to the individual under any retirement system or pension fund, as well as in the determination of any other employee benefits, sick leave, or disability pay to which the individual might be entitled.

RS 40:1455 — Salary deductions void

pay plan under the provisions of any civil service law or regulation, or otherwise, shall be void where it is made solely by reason of the additional compensation provided for in this Sub-part.

RS 40:1456 — Purpose

peace and safety by providing better enforcement of the law.

RS 40:1457 — Amount of additional salary

nt of Public Safety shall be paid by the state additional salary in the amount of two hundred sixty dollars per month, provided funds are available. The salary provided for by this Section shall be in addition and supplemental to any uniform state civil service pay plan. In the event that supplemental pay for deputy sheriffs is increased, then supplemental pay for state police shall be increased in the same amount, provided that funds are available.

RS 40:1458 — Special fund

fter made shall be credited, and the funds so credited shall be used solely for the payment of such additional salary as provided in R.S. 40:1457.

RS 40:1459 — Disbursement of funds

hall be subject to the deductions normally withheld by the employer.

B. The additional salary paid by the state to state police officers in accordance with the provisions of this Subpart shall be included in the calculation and computation of the total wages paid to a state police officer in the determination of employer contributions to any retirement system or pension fund of which the individual may be a member as well as in the determination of retirement eligibility and benefits which may accrue to the individual under any retirement system or pension fund, as well as in the determination of any other employee benefits, sick leave, or disability pay to which the individual might be entitled.

RS 40:1460.1 — Repealed by Acts 2022, No. 252, §3.

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RS 40:1461 — Requirements for private training and driving instructor schools

viding driving courses, shall apply for and procure a license

from the Department of Public Safety and Corrections, public safety services. No person shall advertise or otherwise hold himself before the public, for remuneration, as qualified, licensed, or otherwise approved to train or instruct without having first obtained a license or contract with the Department of Public Safety and Corrections, public safety services.

(2) Every person engaged in the business of operating a private driving instructor training school or agency, or providing driving courses, who has or is seeking a contract or license with the Department of Public Safety and Corrections, public safety services, shall consent to, pass, and pay the costs of a criminal history background check pursuant to R.S. 15:587.

B. Every person desiring to train or instruct in driving courses shall file a written application with the commissioner.

C. The commissioner of the office of motor vehicles shall establish rules and regulations in accordance with the Administrative Procedure Act subject to oversight review by the House and Senate committees on transportation, highways, and public works, for the following:

- (1) The issuance, suspension, or revocation of licenses.
- (2) The requirements and qualifications of each applicant for a contract.
- (3) The establishment of the terms, manner, and location of instruction and testing.
- (4) The establishment of the causes of suspension or revocation of the license and contract and the imposition of a fine not to exceed one thousand five hundred dollars, pursuant to a schedule, for any violation of statutory law, rules, and regulations or the terms of the contract.

D. The commissioner shall charge a fee of twenty-five dollars for each school or agency. The commissioner shall charge a fee of ten dollars for each additional instructor that the school or agency may employ.

E. The fees collected under this Section shall be paid to the office of motor vehicles of the Department of Public Safety and Corrections and used for its maintenance, operation, and supervision.

F. Every person properly licensed pursuant to this Section on or after June 30, 2012,

shall administer in accordance with law and administrative rules promulgated by the Department of Public Safety and Corrections, as a third-party examiner, both the knowledge and on-road driving skills tests required for the issuance of a Class "D" or "E" license in Louisiana.

G. For purposes of this Section as it relates to a driving instructor training school or agency for a Class "D" or "E" license, or a person providing driving courses for a Class "D" or "E" license, the following words and phrases shall have the meaning ascribed to them in this Section, unless the context clearly indicates a different meaning:

- (1) "Engaged in the business of operating a private driving instructor training school or agency" means any person or entity who applies to or contracts with the office of motor vehicles to operate a driving instructor training school or agency pursuant to R.S. 32:408.1 or this Section and any current or prospective employee who works the business including but not limited to an instructor, an examiner, or any staff member who has access to the students' records.
- (2) "Principal" means a person or provider who has the primary responsibility for a driver education program at a school or agency.
- (3) "Third-party examiner" means a person employed by a third-party tester who is licensed as an instructor and is also authorized by a contract with the state to administer the knowledge and road-skills test for Class "D" and "E" licenses.
- (4) "Third-party tester" means a person or entity licensed to provide driving courses who has executed a contract with the department to administer knowledge and road-skills tests required by Louisiana law for driver's license issuance.

RS 40:1462 — Bond requirement

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thousand dollars if such surety bond is available for purchase. Such bond shall name the Department of Public Safety and Corrections, office of motor vehicles, as obligee and shall be subject to the condition that, if the private driving school or any of the private driving school's instructors fail to perform any services the school agreed to provide to a student or a student's parent, that student, or the parent in case the student is a minor, may recover the private driving school fees from the bond by filing a claim through the department against the bond. If the company fails to meet the conditions of the bond, the obligation of the surety shall remain in full force and effect. A private driving school with multiple locations shall furnish only a single surety bond.

B. The surety bond furnished as required in this Section shall be delivered to and filed with the Department of Public Safety and Corrections, office of motor vehicles.

RS 40:1463 — Cease and desist orders

ntly licensed as a driving school by the department, or for a licensed driving school to engage in any prohibited activity.

B. For the purpose of this Section, "prohibited activity" means:

- (1) Activity normally conducted by a driving school such as classroom instruction, behind the wheel instruction, issuing certificates of successful completion to be used by an applicant to apply for a driver's license, advertising as a licensed, authorized, or approved driving school, or holding oneself out as an authorized or approved driving school or instructor without a license, authorization, or approval by the department.

(2) Activity conducted by a driving school or an instructor, whether licensed or not, in which a student of the school is requested to go to, or is taken to, a hotel room, a private residence, or any other location not appropriate for a person of the student's age.

C. The Department of Public Safety and Corrections, office of motor vehicles may issue a cease and desist order to any person or business which is operating in violation of this Section. Any such cease and desist order shall be served either by regular mail with a proof of mailing issued by the United States Postal Service, or by hand delivery by a representative of the department. If the cease and desist order is served by mail with proof of mailing, it shall be deemed delivered on the seventh calendar day after the date affixed by the post office on the certificate or proof of mailing. The presumption of delivery in this Subsection shall not apply if the postal service returns the cease and desist order as undeliverable.

D. If the person or business subject to the cease and desist order in this Section cannot be served, or does not comply with the cease and desist order, the department may file a petition for injunctive relief as provided in the Code of Civil Procedure in district court. There shall be no suspensive appeal or stay of an order or judgment of the district court granting the department a preliminary or permanent injunction.

E. The department shall promulgate rules as it determines are necessary to aid in the implementation and enforcement of this Section, in accordance with the Administrative Procedure Act.

RS 40:1464 — Commercial driver's curriculum; human trafficking training

struction in the operation of commercial

motor vehicles as part of a commercial motor vehicle driving course curriculum shall include a minimum of thirty minutes of industry-specific anti-trafficking training on the recognition, prevention, and reporting of human trafficking.

B. The Board of Regents shall identify and establish industry-specific anti-trafficking training materials for use in instruction on the recognition, prevention, and effective reporting of human trafficking by applicants as a requirement to obtain a Class "A", "B", or "C" commercial driver's license. The board may collaborate with organizations that specialize in and offer training materials on the recognition, prevention, and reporting of human trafficking for commercial truckers. The board shall review and update the training materials to account for changes and trends in human trafficking once every three years, at minimum. The provisions contained in this Subsection shall become effective on August 1, 2024.

RS 40:1466 — Repealed by Acts 1981, No. 656, §2

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RS 40:1471.1 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.2 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.3 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.4 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.5 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.6 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.7 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.8 — Repealed by Acts 1989, No. 330, §2.

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RS 40:1471.9 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.10 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.13 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.17 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.18 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.18.1 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.19 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.20 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.21 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1471.22 — Repealed by Acts 1995, No. 1139, §2.

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RS 40:1472.1 — Construction of Part

services of the Department of Public Safety and Corrections under any other law of this state; provided that with respect to the regulations of explosives as herein provided, in instances where the provisions of this Part may conflict with any other such law, the provisions of this Part control.

B. The provisions of this Part and regulations promulgated by the deputy secretary do not apply to the lawful purchase by a non-licensee or non-permittee twenty-one years of age or older of commercially manufactured black powder in quantities not to exceed five pounds, or quantities not to exceed twenty-five pounds if purchased by a member of a bona fide artillery unit of historical reenactors, if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16) or in antique devices as exempted from the term "destructive device" in 18 U.S.C. 921(a)(4).

RS 40:1472.2 — Definitions

ffice of the deputy secretary for public safety services of the Department of Public Safety and Corrections.

(2) "Artificial barricade" shall mean an artificial mound or revetted wall of earth of a minimum thickness of three feet.

(3) "Barricaded" shall mean that building containing explosives is effectively screened from a magazine, building, railway, or highway, either by a natural barricade or by an artificial barricade of such height that a straight line from the top

of any sidewall of the building containing explosives to the eave line of any magazine or building, or to a point twelve feet above the center of a railway or highway, will pass through such intervening natural or artificial barricade.

(4) "Blaster" shall mean a person employed by a primary licensee who detonates or otherwise effects the explosion of an explosive or who is in immediate personal charge and supervision of one or more other persons engaged in such activity.

(5) "Combustible" means any material with a flash point above 140° F and less than 200° F.

(6) "Dealer-distributor" means a person engaged in the wholesale or retail business of buying and selling or distribution of explosives, provided that should a manufacturer make sales to users, such manufacturer shall not be required to obtain an additional license as a dealer.

(6.1) "Deputy secretary" means the deputy secretary for public safety services of the Department of Public Safety and Corrections.

(7) "Explosives" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes but is not limited to dynamite and other high explosives, black powder in quantities in excess of five pounds, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. The term "explosives" further includes but is not limited to the following:

(a) "Binary" (phosphoric) means two or more unmixed, commercially manufactured prepackaged chemical substances including oxidizers, flammable liquids or solids, or similar substances that are not independently classified as explosives but which when mixed or combined form a mixture that is classified as an explosive and that is intended for blasting.

(b) "Blasting agent" means any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive; provided, that the finished product, as mixed for use or shipment, cannot be detonated by means of a number eight test blasting cap when unconfined.

(c) "Detonator" means any device containing an initiating or primary explosive that is used for initiating detonation in another explosive material. A detonator may not contain more than ten grams of total explosives by weight, excluding ignition or delay charges. The term includes but is not limited to electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous and delay blasting caps which use detonating cord, shock tube, or any other replacement for electric leg wires.

(d) Except as provided for in Subparagraph (e) of this Paragraph the term "explosive" shall not include smokeless powder when used in sporting arms.

(e) "Exploding or explosive target" means two or more mixed, commercially manufactured prepackaged chemical substances including oxidizers, flammable liquids or solids, or similar substances that are not independently classified as explosives but which when mixed or combined in quantities greater than five pounds form a mixture that is classified as an explosive and designed primarily as a target for firearms practice.

(8) "Factory building" shall mean any building or other structure, except magazines, containing explosives in which the manufacture of explosives or any processing involving explosives is carried on, and any building where explosives are used as a component part or ingredient in the manufacture of any article or device. The definition does not include private residences or shop buildings where the handloading of small arms ammunition is being carried on.

(9) "Flammable" means any material with a flash point of 140° F or less.

(9.1) "Handler" shall mean a person who touches, moves, or otherwise handles explosives but does not detonate or otherwise effect the explosion of explosives or explosives materials. The license issued to a handler shall not be used by a blaster or user who uses explosives as an ultimate consumer.

(10) "Highway" shall mean any public street or public road, public highway, alley, or thoroughfare. Public highways of Class A to D as applied to the American Table of Distances for Storage of Explosives are highways with an average traffic volume of three thousand or less vehicles per day as specified in American Civil Engineering Practice (Abbett, Vol. 1, Table 46, Section 3-74, 1956 Edition, John Wiley and Sons).

(11) "Inhabited building" shall mean any building or structure regularly used in whole or part as a place of human habitation, also any church, school, store, railway passenger station, airport terminal for passengers, and any other building or structure where people are accustomed to congregate or assemble, but excluding buildings or structures occupied in connection with the manufacture, transportation, storage, and use of explosives.

(12) "Local office" as applies to a user, means a structure, place of rental, such as an apartment or motel, or a movable such as a barge, ship, or vehicle, in the vicinity of the storage container.

- (13) "Magazine" shall mean any building, structure, or device used for temporary or permanent storage of explosives. There shall be five types of magazines built and/or constructed in accordance with the rules and regulations promulgated pursuant to this Part. This definition does not apply to the storage of explosives in underground mining operations.
- (14) "Manufacturer" means a person engaged in the manufacture, compounding, or combining of explosives.
- (15) "Natural barricade" shall mean natural features of the ground such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen when the trees are bare of leaves.
- (16) "Offshore" shall apply to any work performed at locations accessible only by air or water when the work location is totally surrounded by water and explosives are secured and attended.
- (17) "Oxidizer" means a material that may, generally by yielding oxygen, cause or enhance the combustion of other materials.
- (18) "Person" means any individual, corporation, company, association, firm, partnership, society, or joint stock company.
- (19) "Primary licensee" is the responsible party holding a valid manufacturer, dealer-distributor, or user license.
- (20) "Purchase" and its various forms as used shall include acquisition of any explosive by a person with or without consideration.
- (21) "Railroad" shall mean any steam, electric, diesel electric, or other railroad or railway which carries passengers for hire.
- (22) "Sale" and its various forms as used shall include delivery of an explosive with or without consideration.
- (23) "Secured area" means any location that is either locked or under the immediate control of a licensee.
- (24) "Temporary" shall mean no more than forty-eight hours.
- (25) "Unauthorized persons" means those persons not employed by the licensed company or authorized by the licensed manufacturer, dealer-distributor, or user.
- (26) "User" means a person who, as an ultimate consumer of an explosive, purchases the same from a dealer-distributor or manufacturer or means a dealer or manufacturer who uses an explosive as an ultimate consumer.
- (27) "Vessel" means any description of watercraft used or capable of being used as a means of transportation on water.

RS 40:1472.3 — License; manufacturer, dealer-distributor, user, blaster, or handler of explosives

e use of, or otherwise handle explosives in this state, except in conformity with the provisions of this Part. Each manufacturer, dealer-distributor, user, blaster, or handler, as such words are defined in R.S. 40:1472.2, shall possess a valid and subsisting license issued by the deputy secretary. An applicant employed by a licensed manufacturer, shall be permitted to work and to perform duties that would otherwise require a license pursuant to this Part provided the following conditions are all met:

- (a) The applicant has submitted a complete application for a handler license.
- (b) The applicant has successfully completed the required training.
- (c) The applicant has been drug screened and found free of controlled dangerous substances.
- (d) The applicant is found to meet the suitability requirements for licensing as provided for in this Chapter.
- (e) When the conditions in Subparagraphs (a), (b), and (c) of this Paragraph have been fulfilled and the department has preliminarily determined the applicant to be suitable for licensing, the department shall, within five days from receipt of application unless exigent circumstances dictate otherwise, inform the applicant as to his provisional status to begin work.
- (f) During the period as provided for in Subparagraph (e) of this Paragraph a currently licensed manufacturer shall be responsible to ensure the applicant performs all

activities regulated by this Chapter under their direct supervision or the supervision of a licensed designee in their employ. Such licensee shall direct, coordinate and control all activities of the applicant at all times while at work and shall not permit the applicant to work independently with explosives until fully licensed by the Department of Public Safety and Corrections.

(2) Any person who is solely engaged in the initiation of fireworks for public display and holds a valid pyrotechnic operator license or a pyrotechnic special effects operator license issued by the state fire marshal in accordance with R.S. 51:650 et seq. shall not be required to obtain a blaster's license issued pursuant to this Part.

(3) License holders shall be required to receive additional training as prescribed by the deputy secretary who shall approve all courses of instruction and all instructors of such courses in accordance with regulations adopted pursuant to this Part.

(4) The Department of Public Safety and Corrections is authorized to inspect all facilities under the control of an explosives licensee when the license is issued pursuant to the provisions of this Section.

(5) Persons under twenty-one years of age who possess a blaster license issued pursuant to the provisions of this Section shall be supervised by a licensed blaster who is at least twenty-one years of age.

B.(1) Each manufacturer, dealer-distributor, and user shall possess a valid United States Bureau of Alcohol, Tobacco, Firearms and Explosives, explosives license or permit.

(2) Each manufacturer, dealer-distributor, and user maintaining a Type 1, Type 2, Type 4, or Type 5 storage magazine as defined by regulations promulgated pursuant to this Part shall possess an additional license, as set forth in this Paragraph, for each magazine. Type 3 portable magazines or "day boxes" used for taking detonators and other explosives from storage magazines to the blasting area are exempt from the licensing and location reporting requirements of this Paragraph. The department shall assign to each magazine licensed pursuant to this Part a license number which shall be posted on the magazine in a manner prescribed by the department. The exact location of such magazines shall be reported to the deputy secretary in the application for such license. Any change in such magazine locations shall be reported to the Department of Public Safety and Corrections, explosives control unit, in advance of the actual change in a manner prescribed by the department. Written notice of such location change shall be filed with the Department of Public Safety and Corrections, explosives control unit and the deputy secretary, not later than seven calendar days after such change is effected.

C.(1) Licenses shall be required for the following and the fees therefor are as follows:

1 yr.

2 yr.

3 yr.

4 yr.

(a) Manufacturer

\$200

\$400

\$550

\$700

(b) Dealer-distributor

\$200

\$400

\$550

\$700

(c) User

\$100

\$200

\$250

\$300

(d) Magazine

\$50

\$100

\$150

\$200

(e) Blaster

\$50

\$100

\$150

\$200

(f) Handler

\$50

\$100

\$125

\$150

(2) License holders may renew their licenses ninety days prior to expiration. The department shall notify license holders of the expiration of their licenses at least sixty days prior to expiration.

(3) The nonrefundable fees in Paragraph (1) of this Subsection shall be submitted with the license application but shall not apply to Type 3 Magazines.

D. Such licenses shall be issued by the deputy secretary for a period not to exceed four years from the date of issuance. The department may issue blaster and handler licenses to qualified individuals who seek such a license and who are not, at the time of application, employed by a licensed manufacturer, dealer-distributor, or user.

E.(1) The forms of such licenses and applications shall be prescribed by the deputy secretary and shall require a photo of the applicant as well as such other information and data as the deputy secretary deems appropriate.

(2) To qualify for a license, an applicant shall:

(a) Make sworn application to the department. The providing of false or misleading

information in the application or any documents submitted with the application shall be grounds for the denial or revocation of a license and shall subject the applicant to criminal prosecution. Any license holder under this Section shall notify the department of any name or address change within thirty days of the change. Failure to timely notify the department of a name or address change may result in suspension of the license for up to thirty days.

(b) Agree in writing to hold harmless and indemnify the department, the state, or any peace officer for any and all liability arising out of the issuance or use of a license issued pursuant to this Part.

(c) Be twenty-one years of age or older, except licenses for blasters and handlers for which an applicant shall be eighteen years of age or older to qualify.

(d) Not suffer from a mental or physical infirmity due to disease, illness, or intellectual disability which prevents the safe handling of explosives.

(e) Not be ineligible to possess an explosives license by virtue of having been convicted of a felony.

(f) Not have been committed, either voluntarily or involuntarily, for the abuse of a controlled dangerous substance, as defined by R.S. 40:961 and 964, or been found guilty of or entered a plea of guilty or nolo contendere to a misdemeanor under the laws of this state or similar laws of any other state relating to a controlled dangerous substance within a five-year period immediately preceding the date on which the application is submitted, or be presently charged under indictment or a bill of information for such an offense.

(g) Not have entered a plea of guilty or nolo contendere to or been found guilty of a crime of violence as defined in R.S. 14:2 at the misdemeanor level, unless five years have elapsed since completion of sentence or any other conditions set by the court have been fulfilled, or unless the conviction was set aside and the prosecution dismissed prior to the date on which the application is submitted.

(h) Not have been convicted of, have entered a plea of guilty or nolo contendere to, or not be charged under indictment or a bill of information for any crime of violence or any crime punishable by imprisonment for a term of one year or greater. A conviction, plea of guilty, or plea of nolo contendere for the purposes of this Paragraph shall include a dismissal and conviction set aside under the provisions of Code of Criminal Procedure Article 893.

(i) Not be a fugitive from justice.

(j) Not be a person whose prior activities, arrest or arrests, criminal record, reputation, habits, and associations pose a threat to public safety.

(k) Not be an unlawful user of or addicted to marijuana, depressants, stimulants, or narcotic drugs.

(l) Not have been adjudicated to be mentally deficient or been committed to a mental institution.

(m) Be a legal resident of the United States.

(n) Not have been discharged from the Armed Forces of the United States with a discharge characterized as "Under Other than Honorable Conditions", a "Bad Conduct Discharge", or a "Dishonorable Discharge". In the case of commissioned officers and warrant officers of the United States Armed Forces, the punishment of "Dismissal" rendered

subject to a verdict of "guilty" at a trial by military court-martial is deemed to be disqualifying under this Paragraph. For the purposes of this Subparagraph, the United States Coast Guard is considered an armed force.

(o) Not have a history of engaging in violent behavior. There shall be a rebuttable presumption that an applicant has a history of engaging in violent behavior upon proof that, within a ten-year period immediately preceding the date of the application, the applicant has been arrested or charged on three or more occasions for any crime of violence as defined in R.S. 14:2(B), or has been arrested or charged on two or more occasions for any crime of violence that may be punished by death.

(p) Not have been determined by a judge of this state or any other state to be a credible threat to the physical safety of another, nor a person who is subjected to the provisions of an active protective order, or prohibited from possessing or receiving a firearm by law.

(3)(a) The deputy secretary shall revoke the license if at any time during the license period the license holder fails to satisfy any one of the qualification requirements provided for in Paragraph (2) of this Subsection.

(b) The department shall execute a thorough background investigation, including a criminal history records check, of every applicant for the purpose of verifying or renewing the qualifications of the applicant pursuant to the requirements of this Section. For purposes of this Subparagraph, a background check shall be defined as all state records of arrest, prosecution, or conviction and all expunged information and dismissed convictions pursuant to Code of Criminal Procedure Articles 893 and 894, as well as national records which shall include fingerprints of the applicant and other identifying information, that shall be requested by the department. The department shall require any current or prospective manufacturer, dealer-distributor, user, blaster, or handler as defined in R.S. 40:1472.2 to submit to a criminal history records check to be conducted by the Louisiana Bureau of Criminal Identification and Information. Fingerprints and other identifying information from the current or prospective manufacturer, dealer-distributor, user, blaster, or handler shall be submitted to the bureau. In addition, when the department requests a national criminal history records check, the bureau shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history records check and shall provide the department with the national criminal history record information of the current or prospective manufacturer, dealer-distributor, user, blaster, or handler.

(c) Cost incurred by the department for conducting a background investigation and criminal history records check shall be borne by the applicant.

(4)(a) Anyone who handles, moves, uses, manipulates, or otherwise detonates explosives and does so with a blood alcohol concentration of 0.02 percent or greater by weight of alcohol in the blood or when a blood or urine test confirms the presence of any abused or controlled substance that has been prescribed by a licensed medical practitioner shall constitute a violation of careless use of explosives as found in R.S. 40:1472.18 and shall be cause for the immediate suspension of the person's explosive license issued pursuant to this Chapter.

(b) Anyone who handles, moves, uses, manipulates, or otherwise detonates explosives and does so with a blood alcohol concentration of 0.08 percent or greater by weight of alcohol in the blood or when a blood or urine test confirms the presence of any abused or controlled dangerous substance that was not prescribed by a licensed medical practitioner shall constitute a violation of reckless use of explosives as found in R.S. 40:1472.19 and shall be cause for the person's explosives license issued pursuant to this Chapter to be revoked for life.

(5) The tested license holder may have a physician or a qualified technician, chemist, registered nurse, or other qualified person of his own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer. The license holder shall be given the opportunity to telephone and request the qualified person to administer such test.

F. Repealed by Acts 2003, No. 161, §1.

G. No license shall be issued by the deputy secretary pursuant to an application therefor unless it shall be determined that the purpose for which the applicant seeks a license falls within the purview of this Part and that such purpose is not violative of any other laws of this state.

H. All explosives licensing fees collected pursuant to this Section shall be dedicated to the Explosives Trust Dedicated Fund Account for the use of the deputy secretary in the administration of this Part, and shall be deposited in a special account to be established in the office of the state treasurer pursuant to the provisions of R.S. 40:1472.20.

I. It shall be unlawful for any person in an application for a license required by Subsection A or B of this Section to knowingly make a false statement therein. Whoever is convicted of violating the provisions of this Subsection shall be fined not less than fifteen hundred dollars nor more than ten thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

J. Whoever is convicted of violating Subsection A of this Section shall be fined not less than five thousand dollars nor more than twenty thousand dollars or imprisoned with or without hard labor for not less than five years nor more than ten years, or both.

K. Whoever is convicted of violating Subsection B of this Section shall be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

L.(1) The provisions of this Part shall not apply to the use of commercially manufactured black powder by historical and cultural reenactors sixteen years of age or older or the acquisition and use of commercially manufactured black powder by historical and cultural reenactors twenty-one years of age or older, who have completed the Louisiana State Parks Black Powder Certification. The acquisition and possession of black powder shall be limited to quantities not to exceed the following:

(a) Twenty-five pounds for historical and cultural reenactors who hold artillery designation with a bona fide unit of historical reenactors.

(b) Five pounds for all other lawful purchasers.

(2) Persons acquiring commercially manufactured black powder in quantities in

excess of five pounds shall produce evidence of current certification from Louisiana State Parks for participation in Louisiana historical and cultural reenactments.

(3) Black powder in excess of five pounds that is stored at a private residence shall be reported in writing by the homeowner, occupant, or resident, as the case may be, to the chief of a fire district or department of competent jurisdiction.

RS 40:1472.4 — Possession without license prohibited; exceptions

osives for the purpose set forth by the license.

B. There are hereby made the following exceptions:

(1) Contract and private carriers operating in interstate and intrastate commerce.

(2) Cultural and historical reenactors who are members of a bona fide artillery unit and who have completed the Louisiana State Parks Black Powder Certification and possess commercially manufactured black powder in quantities of twenty-five pounds or less.

C. Whoever is charged and convicted of violating Subsection A of this Section shall be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

RS 40:1472.5 — Maintenance of records; inspection; notice of sale or delivery

entified by marking all explosive material. The marks required by this Section must identify the manufacturer and the location, date, and shift of manufacture. The manufacturer shall place on each cartridge, bag, or other immediate container of explosives manufactured for sale or distribution the required mark which shall also be placed on the outside container, if any, used for their packaging.

B. Manufacturers and dealer-distributors shall keep accurate accounts of all inventories and sales of explosives.

C. All such sales shall be evidenced by an "Explosive Bill of Sale". The manufacturer or dealer-distributor shall retain the original and shall provide one copy to the purchaser, one copy to the deputy secretary, and one copy to the explosives control unit. Such bills of sale so delivered to purchasers shall bear the name of the manufacturer or dealer-distributor and the purchaser, date of sale, quantity sold, use for which the explosive is purchased, the address of the purchaser, and the date-shift code.

D. Should the purchase of explosives occur outside the state of Louisiana, then the purchaser shall notify the Department of Public Safety and Corrections, explosives control unit, of such delivery by forwarding thereto a copy of the bill of sale or bill of lading.

E. Manufacturers and dealer-distributors shall retain all records of inventories, invoices, sales tickets, and copies thereof and shall make the same available to any peace officer of this state, and the deputy secretary or his duly authorized representative at such intervals as the secretary shall deem appropriate.

F. Each user, as defined in this Part, shall keep an accurate written inventory of all explosives possessed by him and a record of the use of such explosives in a format approved by the deputy secretary. Such inventory and record of use shall be made available to any peace officer of this state, or the deputy secretary or his duly authorized representative at such intervals as the secretary shall deem appropriate.

G. All records required to be maintained under Subsections E and F of this Section shall require approval by the deputy secretary before they may be disposed of, and shall be turned over to the Department of Public Safety and Corrections upon the termination of the operations of a business which is required to keep such records.

H. Whoever is charged and convicted of violating any provision of this Section shall be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

I. All sales made to historical and cultural reenactors shall bear upon the sales invoice the roster or unit number of the individuals to be assigned by the dealer-distributor, for which a current roster must be maintained by the dealer-distributor and provided to the deputy secretary annually.

RS 40:1472.6 — Sales authorized only to licensees

to purchase same and the explosives are to be used by the purchaser for a purpose covered by the purchaser's license, except that the provisions of this Subsection do not apply to lawful purchases by a non-licensee or non-permittee of commercially manufactured black powder in quantities not to exceed five pounds, or twenty-five pounds by a member of a bona fide unit of historical reenactors, if the black powder is intended to be used solely for sporting, recreational or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16), or in antique devices as exempted from the term "destructive device" in 18 U.S.C. 921(a)(4).

B. Whoever is charged and convicted of violating Subsection A of this Section shall be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

RS 40:1472.7 — Reports of losses or thefts; illegal use or illegal possession

thefts, illegal uses, or illegal possession of explosives within the purview of this Part, coming to his attention, and shall forward a copy of his final written report to the deputy secretary. Any manufacturer, dealer-distributor, user, blaster, handler, or historical and cultural reenactor who knows that explosives in his possession have been lost, stolen, or otherwise misappropriated shall immediately notify the nearest sheriff's office or police department and the deputy secretary of such fact. In addition, each manufacturer, dealer-distributor, and user shall physically inspect all magazines at least one time every seven days to ensure security of the explosives.

B. Whoever is convicted of violating this Section shall be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

RS 40:1472.8 — Promulgation of regulations

loading and unloading, use, sale, handling, and storage of explosives. The regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act and shall be such as are reasonably necessary for the protection of the health, welfare, and safety of the public and persons possessing, handling, and using such materials and shall be in substantial conformity with generally accepted standards of safety concerning such subject matters. It is hereby declared that regulations in substantial conformity with the published rules and suggested standards of the Institute of Makers of Explosives in relation to said subject matters shall be deemed to be in substantial conformity with accepted standards of safety concerning such subject matters. All procedures with regard to the revocation, suspension, or denial of licenses shall be in accordance with the Administrative Procedure Act.

B.(1) The licensee, with the specific written approval of the deputy secretary, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this Part and rules and regulations adopted pursuant to this Part.

(2) The deputy secretary may approve an alternate method or procedure, subject to certain conditions, when he finds that all of the following are true:

(a) Good cause is shown for the use of the alternate method or procedure.

(b) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure.

(c) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the state of Louisiana or hinder the effective administration of this Part.

(3) When the licensee desires to employ an alternate method or procedure, he shall submit a written application to the deputy secretary. The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons for it. Alternate methods or procedures may not be employed until the application is approved by the deputy secretary. The licensee shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the deputy secretary, the effective administration of this Part is hindered by the continuation of the authorization. As used in this Paragraph, alternate methods or procedures include alternate construction or equipment.

RS 40:1472.9 — Civil penalties

ed ten thousand dollars for each violation against any person he determines to

have violated any rule or regulation adopted pursuant to this Part. In determining the amount of the penalty the deputy secretary shall take into account the nature, circumstances, extent, and gravity of the violation, the degree of culpability of the person violating the rule or regulation, the person's history of previous offenses, the person's ability to pay and the effect of the penalty on his ability to continue to operate, and any other matter that justice requires.

B. The secretary may refer any civil penalty assessed pursuant to this Section to the attorney general for collection. Before referral for collection, the secretary may compromise any penalty.

C. The secretary may deduct all or part of any civil penalty assessed under the provisions of this Section from any other monies owed by the department to the person assessed with the penalty.

D. All civil penalties collected pursuant to this Section shall be dedicated to the Explosives Trust Dedicated Fund Account, as provided in R.S. 40:1472.20.

RS 40:1472.10 — Denial, revocation, suspension of license

issued by the deputy secretary.

(2) Licensee convicted of a felony.

(3) Licensee advocates or knowingly belongs to any organization or group which advocates violent overthrow of or violent action against any federal, state, or local government or institution.

(4) Licensee suffers from a mental or physical defect and in the judgment of the deputy secretary may be hazardous to himself or the public.

(5) Violation by the licensee of the terms specified on the license or essential changes in the condition under which the license was issued.

(6) Violation by the licensee of any of the provisions of this Part; however, except for violations deemed to constitute an immediate threat to public safety as provided under R.S. 40:1472.11. It shall be the policy of the deputy secretary to issue a ninety-day letter of noncompliance for such violations. Should a licensee receive two such letters of noncompliance within a period of twelve months, revocation or suspension procedures can be invoked.

(7) The giving of any false information or the making of a misrepresentation to obtain a license.

(8) Any violation of this Part deemed to constitute an immediate threat to public safety as provided in R.S. 40:1472.11.

(9) The applicant for a license is a person who is currently under investigation for, or who has been criminally charged with, terrorist activity, a crime of violence as defined in R.S. 14:2(B)(1) through (16), (18) through (23), and (25) through (30), a crime involving the possession or use of a dangerous weapon as defined in R.S. 14:2(A), or a crime involving the manufacture or distribution of a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Law.

B. The deputy secretary may invoke suspension of a license pending disposition of a felony charge which involves the use of explosives brought against a licensee.

RS 40:1472.11 — Confiscation and disposal of explosives

shall have the power to:

(1) Order the licensee to immediately correct such violation; or

(2) Confiscate such explosives and dispose of them in any manner deemed appropriate to insure the safety of the public.

B. Such violation shall be cause for revocation or suspension of the violator's license without the issuance of a ninety-day noncompliance letter as provided in R.S. 40:1472.10(A)(6).

C. All costs incurred in the confiscation and disposal of unsafe explosives as provided in Subsection A of this Section shall be paid by the licensee.

RS 40:1472.12 — Unlawful storage of explosives

the storage of commercially manufactured black powder by historical and cultural reenactors of twenty-five pounds or less as authorized in this Part shall be stored in the factory-provided packages and boxes or in an approved day-box portable magazine.

B. Any person who violates the provisions of this Section shall upon conviction be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or be imprisoned with or without hard labor for not less than two years nor more than five years, or both.

RS 40:1472.13 — Abandonment of explosives

tion shall upon conviction be fined not less than one thousand five hundred dollars nor more than ten thousand dollars or be imprisoned with or without hard labor for not less than two years nor more than five years, or both.

RS 40:1472.14 — Injunction

Igated in pursuance thereto, the deputy secretary is authorized to resort to proceedings for injunction in the district court of the parish where such person shall reside or have his or its principal place of business, and therein apply for such temporary and permanent orders as the deputy secretary may deem necessary to restrain such person from engaging in any such businesses until such person shall have complied with the provisions of this Part and such rules and regulations.

RS 40:1472.15 — Exceptions

fire departments in this state, provided they are acting within their respective official capacities and in the performance of their duties.

RS 40:1472.16 — Municipal ordinances, rules, and regulations

in this state which are not less restrictive than the provisions of this Part and the rules and regulations promulgated pursuant thereto, or affect, modify, or limit the power of such incorporated city or town to adopt ordinances, rules, and regulations pertaining to explosives within the respective corporate limits.

B. Every holder of a license issued by the deputy secretary shall obtain the specific approval of the explosives control unit before detonating any explosives in any congested area of the state, whether within the corporate limits of a city or town or not.

RS 40:1472.17 — Administration of Part; personnel

ses as may be required in connection with the administration of this Part.

RS 40:1472.18 — Careless use of explosives

nt manner without regard for the hazards or circumstances in which the explosives or blasting agents are being stored, handled, disposed, transported, transferred, loaded, unloaded, or used.

B. Whoever is convicted of violating this Section shall be guilty of a misdemeanor and fined not less than five hundred dollars and not more than two thousand dollars or imprisoned for not more than ninety days.

C. Any person in possession of an explosive license issued under R.S. 40:1472.3 upon conviction shall have such license revoked for one year from date of conviction.

RS 40:1472.19 — Reckless use of explosives

rs or could endanger human life, health, or property.

B. Whoever is convicted of violating this Section shall be guilty of a felony and fined not less than five thousand dollars nor more than twenty thousand dollars or imprisoned with or without hard labor for not less than five years nor more than ten years, or both.

RS 40:1472.20 — Explosives Trust Dedicated Fund Account

upport the efforts of the

Department of Public Safety and Corrections, office of state police, explosives control unit.

After deposit into the Bond Security and Redemption Fund, all funds collected pursuant to

R.S. 40:1472.3(H) and 1472.9(D) shall be deposited in and credited to the Explosives Trust Dedicated Fund Account. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

B. The funds as specified in Subsection A of this Section shall be appropriated by the legislature and shall be used solely to support staffing, training, and the acquisition of equipment necessary for the handling of incidents involving the threat of or actual use of explosive or explosive devices which threaten the safety of the citizens of Louisiana. The amount of money deposited out of that collected pursuant to R.S. 40:1472.3(H) and 1472.9(D) shall not exceed one million dollars annually.

RS 40:1481 — Purpose

s of production increases both the cost to the public and the danger to the public on the roads of the state. Therefore, the legislature imposes certain requirements upon the transportation of oil and oil field equipment.

RS 40:1482 — Documentation for transport

n by motor vehicle from or to storage, disposal, processing, or refining shall possess specific documentation required by regulation of the secretary of the Department of Public Safety which substantiates his right to be in possession of the estimated volume of crude petroleum oil carried in that vehicle. The regulation shall require the documentation to include:

- (1) The identity of the operator and the location of the lease from which originated the crude petroleum oil or any sediment, water, or brine produced in association with the production of oil or gas, or both, if it is purportedly being transported from a lease; and
- (2) The identity of the operator of and the location of the storage facility from which or to which the crude petroleum oil or any sediment, water or brine produced in association with the production of oil or gas, or both, is being transported; and
- (3) The identity of the operator of and the location of the disposal, processing, or refining facility to which the crude petroleum oil or any sediment, water, or brine produced in association with the production of oil or gas, or both, is being transported; and
- (4) The estimated percentage of crude petroleum oil in the sediment, water, or brine produced in association with the production of oil or gas, or both, which is being transported; or
- (5) The volume of crude petroleum oil being transported; and
- (6) Any additional information the secretary finds necessary or appropriate.

B. Any common carrier transporting oil field equipment, defined as any oil or gas equipment necessary for or incidental to the drilling, production, or maintenance of an oil or gas well, shall possess specific documentation required by regulation of the secretary which substantiates his right to be transporting the equipment. Such regulation shall require the documentation to include:

- (1) The equipment owner's name and address;
- (2) The point of origin for transporting and the destination;
- (3) The name and address of the transporter, if different from the owner;
- (4) A brief description of the equipment being transported, including identification marks or numbers if they exist.

RS 40:1483 — Impoundment

ight to possession, whenever: (1) he has reasonable cause to examine the documentation; and (2) the transporter lacks it or the documentation is substantially in variance with the facts.

RS 40:1484.2 — Purpose; administration and enforcement

musement rides to prohibit the

use of such devices, attractions, and rides when they have not been properly registered, have

not received a proper and timely certificate of inspection, and have not received a set-up inspection as provided for in this Part.

B. The state fire marshal shall administer and enforce the provisions of this Part and may promulgate rules and regulations which he considers necessary to such administration and enforcement pursuant to the Administrative Procedure Act. In formulating necessary rules and regulations, the state fire marshal may use recognized standards, including but not limited to those of the ANSI, ASTM, those recognized by federal law or regulation, those published by nationally recognized standards-making organizations, those industry standards established by accepted practices or trade associations, or those contained in manufacturers' installation manuals.

C. The state fire marshal has the authority to charge and collect fees as provided for in this Part.

RS 40:1484.3 — Definitions

sement attraction or amusement ride" means an attraction that is not a "child amusement attraction or amusement ride" or "kiddie amusement attraction or amusement ride".

(2) "Amusement attraction" means any building or structure around, over, or through which people may move or walk, without the aid of any moving device integral to the building or structure, that provides amusement, pleasure, thrills, or excitement. "Amusement attraction" does not include any enterprise principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts.

(3) "Amusement ride" means any mechanized device or combination of devices which carries passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Amusement ride" also includes any mechanized device or combination of devices of a permanent nature even though such device or combination of devices is subject to building regulations issued by cities or parishes and existing applicable safety orders. "Amusement rides" also include the following:

(a) Bungee rides or bungee operations which utilize as a component a bungee cord, which is an elastic rope made of rubber, latex, or other elastic-type materials whether natural or synthetic.

(b) Go-karts, which means a ride in which a vehicle is controlled or driven by patrons on a fixed course.

(c) Any wave pool, water slide, or other similar attraction that totally or partially immerses a patron in water.

(d) Artificial climbing walls.

(e) Zip lines.

(4) "ANSI" means the American National Standards Institute.

(5) "ASTM" means the American Society for Testing and Materials or ASTM International.

(6) "Audit" means an official inspection of an operator's actions and documentation as it relates to the coordination of inflatable amusement devices, amusement rides, and

amusement attractions at an event and a set-up inspector's actions, documentation, and tagging as it relates to the set-up inspection of inflatable amusement devices, amusement rides, and amusement attractions at an event, including each operator's and set-up inspector's adherence to applicable statutes and rules.

(7) "Certificate of inspection" means a certificate or report prepared by a third-party inspector pursuant to his inspection which verifies that the inflatable amusement device, amusement attraction, or amusement ride complies with all applicable adopted laws, rules, standards, and its corresponding manufacturer's installation manuals, maintenance and service bulletins, and notices.

(8) "Certificate of registration" means a certificate issued by the office of state fire marshal upon receipt of a completed registration application, valid insurance as required by this Part, and a certificate of inspection.

(9) "Child amusement attraction or amusement ride" or "kiddie amusement attraction or amusement ride" means an amusement attraction or amusement ride designed primarily for use by children weighing ninety pounds or less per passenger unit.

(10) "Compliance inspection" means a type of inspection performed as deemed necessary by the state fire marshal or his designee, usually in conjunction with an audit or investigation, or in response to a complaint.

(11) "Employee" means a person who performs services for wages or salary from his employer.

(12) "Event" means a private or public organized occasion, where people and entertainment are usually present, which may be celebratory in nature and occurs at a temporary operation location. This shall include but not be limited to fairs, festivals, carnivals, parties, or gatherings.

(13) "Firm" means a sole proprietorship, corporation, limited liability company, or similar type of business entity.

(14) "Fixed operation location" means an operating location wherein amusement devices, amusement attractions, or amusement rides are operated for an indefinite period of time and are not often disassembled and reassembled.

(15) "Inflatable amusement device" means any amusement attraction that incorporates a structural and mechanical system that employs a high-strength fabric or film that achieves its strength, shape, and stability by pretensioning with internal air pressure for activities including, but not limited to bouncing, climbing, sliding, or interactive play, which may or may not be enclosed.

(16) "Inspect" or "inspection" means the thorough physical examination and functional testing of an inflatable amusement device, amusement attraction, or amusement ride and its component parts necessary to ensure that the device, attraction, or ride complies with all applicable adopted laws, rules, standards, and corresponding manufacturer's installation manuals, maintenance and service repair bulletins, or notices.

(17) "Investigate" or "investigation" means the thorough physical examination of an inflatable amusement device, amusement attraction, or amusement ride and its component parts by the office of state fire marshal in response to a complaint or an accident, which may

or may not have resulted in injury or death, to determine the cause of the accident.

(18) "NAARSO" means the National Association of Amusement Ride Safety Officials.

(19) "Operate" means to manage and coordinate an inflatable amusement device, amusement attraction, or amusement ride at an event or a fixed operation location. The term includes management or coordination which may or may not be performed by the owner of the inflatable amusements device, amusement attraction, or amusement ride.

(20) "Operator" means a person or firm who may or may not own the inflatable amusements devices, amusement attractions, or amusement rides who is managing, coordinating, or has the duty to control the operation of the inflatable amusements devices, amusement attractions, or amusement rides at an event or a fixed operation location.

(21) "Owner" means a person or firm, or the agent of a person or firm, who owns an amusement attraction, amusement ride, or more than two inflatable amusement devices, and at least one of the person's or firm's inflatable amusement devices, amusement attractions, or amusement rides is utilized in this state.

(22) "Ride operator" means the person or persons responsible for directly supervising, monitoring, and attending to the inflatable amusement device, amusement attraction, or amusement ride, including but not limited to collecting tickets or money, ensuring the appropriate number of patrons are boarding and debording a ride, ensuring riders are the appropriate height, latching and securing passengers, operating a ride, starting and stopping a ride, and monitoring patrons' activities during a ride's operation to ensure their safety.

(23) "Set-up inspection" means a review of all necessary documents, including service and repair documents, the observation of and examination of the assembly, set-up, and operation of an inflatable amusement device, amusement attraction, or amusement ride, and an inspection of the foundation, blocking, fuel containers, and mechanical and electrical conditions of such a device, attraction, or ride.

(24) "Set-up inspector" means the person licensed by the office of state fire marshal to conduct the set-up inspection prior to the opening of an amusement attraction or prior to the operation of an inflatable amusement device or amusement ride at each event.

(25) "Temporary operation location" means an operating location where inflatable amusement devices, amusement attractions, or amusement rides are operated for a finite period of time not to exceed thirty days.

(26) "Testing" means the set-up and activation of an inflatable amusement device, amusement attraction, or amusement ride for the purpose of analyzing such device, attraction, or ride and its component parts for safety. This may be done in conjunction with an inspection.

(27) "Third-party inspector" means a person licensed by the office of state fire marshal to test and inspect inflatable amusement devices, amusement attractions, and amusement rides.

RS 40:1484.4 — Registration of inflatable amusement devices, amusement attractions, and amusement ride shall register each of his inflatable amusement devices, amusement

attractions, or amusement rides with the office of state fire marshal prior to its use in this state. An owner shall renew the registration each year for each inflatable amusement device, amusement attraction, or amusement ride being used in this state.

B. To register the inflatable amusement device, amusement attraction, or amusement ride, the owner shall submit all of the following to the office of state fire marshal for approval:

- (1) A registration application.
- (2) A certificate of inspection dated no earlier than sixty days prior to the date of submission of a registration application.
- (3) A copy of the general liability insurance in which all inflatable amusement devices, amusement attractions, or amusement rides being registered are listed on the submitted insurance declaration page.

C. Upon approval by the state fire marshal, a certificate of registration shall be issued as follows:

- (1) Initial registration. Initial registration can occur at any time. A registration plate shall be issued bearing a permanent registration number. The registration plate shall be permanently affixed to the inflatable amusement device, amusement attraction, or amusement ride in a conspicuous location.
- (2) Annual registration renewal. A decal bearing the month and year of the annual renewal shall be issued and affixed to the plate to indicate its current registration with the state fire marshal.

D. An owner shall notify the office of state fire marshal if a plate or decal is lost or damaged. Any plate or decal that is lost or damaged shall be decommissioned. Prior to receiving a new plate or decal, the owner shall return the damaged plate or decal to the office of state fire marshal and pay the required fee. The fee to replace a lost or damaged plate or decal is thirty dollars.

RS 40:1484.5 — Third-party inspection of inflatable amusement devices, amusement attractions, se of testing, training, or inspection, no inflatable amusement device, amusement attraction, or amusement ride shall be operated in this state without a current certificate of registration, valid registration plate, and registration decal issued by the office of state fire marshal.

B.(1) Each inflatable amusement device, amusement attraction, or amusement ride shall be inspected by a third-party inspector for safety and subjected to nondestructive testing, according to the manufacturer's recommendations, if any, at least annually, in accordance with ASTM-F-24, as promulgated by the state fire marshal in conformity with the Administrative Procedure Act, and other applicable standards, regulations, manuals, manufacturers' specifications, service bulletins, and notices.

(2) Upon completion of each inspection as required in this Section, the third-party inspector shall submit a certificate of inspection to the office of state fire marshal and the owner. The certificate shall be valid for not more than twelve months from the date of issuance.

(3) If the third-party inspection shows that an inflatable amusement device,

amusement attraction, or amusement ride does not comply with all relevant provisions of this Part and the adopted standards, regulations, and applicable manuals, service bulletins, and notices, the third-party inspector shall notify and submit the findings to the state fire marshal within ten days of the inspection. The office of state fire marshal shall issue a cease and desist order to the operator or owner indicating that operation of the inflatable amusement device, amusement attraction, or amusement ride, which does not comply, is to immediately cease in the state. The state fire marshal shall lift any cease and desist order and issue registration plates or registration decals, if applicable, for the inflatable amusement devices, amusement attractions, or amusement rides only when the deficiencies have been remedied to the satisfaction of a third-party inspector and proof of satisfaction is submitted to and approved by the state fire marshal.

RS 40:1484.6 — Operation of amusement rides and amusement attractions; notice; changes in any amusement ride or

amusement attraction, except for the purpose of testing, training, and inspection, the operator shall give written or electronic notification to the office of state fire marshal of his intent to commence operation of the amusement ride or amusement attraction.

B.(1) Any operator who gives written or electronic notification to the office of state fire marshal of his intent to commence operation of the amusement ride or amusement attraction fewer than five days prior to commencing operation shall be fined as follows:

- (a) Fifty dollars per ride or attraction for the first offense.
- (b) Seventy-five dollars per ride or attraction for the second offense.
- (c) Two hundred dollars per ride or attraction for the third offense.
- (d) Two hundred fifty dollars per ride or attraction for each additional offense thereafter.

(2) In determining the number of offenses that have occurred, only offenses occurring over the three-year period preceding the offense at issue shall be considered.

C. If, after the notification, the operator changes his schedule of locations or dates, he shall immediately notify the office of state fire marshal of the change. An operator shall pay a fine of two hundred fifty dollars for any change in schedule of location or date that occurs less than five days prior to the commencement of operation of the amusement ride or amusement attraction.

D. Prior to operating any new amusement ride or amusement attraction, the operator shall notify the office of state fire marshal of his intent to commence operation, but shall not operate the amusement ride or amusement attraction until the owner has registered the amusement ride or amusement attraction as required in this Part.

E.(1) The state fire marshal or his designee may inspect all amusement rides or amusement attractions operating in the state at least once during the duration of the event at which the amusement ride or amusement attraction is being operated.

(2) During an office of state fire marshal inspection or audit, the operator shall submit to the state fire marshal or his designee the set-up inspection report and any other documentation relating to the set-up inspection or an annual inspection.

(3) In the case of amusement rides or amusement attractions operating at a fixed

operation location, the state fire marshal or his designee shall inspect the amusement rides or amusement attractions no more than once annually, except in furtherance of an investigation arising from a reported ride accident or pursuant to a complaint. The inspection is to ensure compliance with the provisions of this Part and adopted standards, rules, regulations, and applicable manuals, service bulletins, and notices.

(4) The state fire marshal or his designee has free access to any premises in the state where an amusement ride or amusement attraction is being installed, built, repaired, or operated for the purpose of ascertaining whether such amusement ride or amusement attraction is being installed, built, repaired, or operated in accordance with the provisions of this Part and adopted standards, rules, regulations, and applicable manuals, service bulletins, and notices.

F. The state fire marshal or his designee has the authority to publish a listing of all noncompliant operators and make such list available to the public upon written demand.

RS 40:1484.7 — Operation of inflatable amusement devices; notice; changes in schedule; fines

For the purpose of testing, training, and inspection, the operator shall give written or electronic notification to the office of state fire marshal of his intent to commence operation of the inflatable amusement device.

B.(1) Any operator who gives written or electronic notification to the office of state fire marshal of his intent to commence operation of the inflatable amusement device fewer than five days prior to commencing operation shall be fined as follows:

- (a) Twenty-five dollars per ride or attraction for the first offense.
- (b) Fifty dollars per ride or attraction for the second offense.
- (c) One hundred fifty dollars per ride or attraction for the third offense.
- (d) Two hundred dollars per ride or attraction for each additional offense thereafter.

(2) In determining the number of offenses that have occurred, only offenses occurring over the three-year period preceding the offense at issue shall be considered.

C. If, after the notification, the operator changes his schedule of locations or dates, he shall immediately notify the office of state fire marshal of the change. An operator shall pay a fine of two hundred dollars for any change in schedule of location or date that occurs less than five days prior to the commencement of operation of the inflatable amusement device.

D. Prior to operating any new inflatable amusement device, the operator shall notify the office of state fire marshal of his intent to commence operations, but shall not operate the inflatable amusement device until the owner has registered the inflatable amusement device as required in this Part.

E.(1) The fire marshal or his designee may inspect all inflatable amusement devices operating in this state during the duration of the event at which the inflatable amusement device is being operated.

(2) During an office of state fire marshal inspection or audit, the operator shall submit to the state fire marshal or his designee the set-up inspection report and any other documentation relating to the set-up inspection or an annual inspection.

(3) In the case of inflatable amusement devices operating at a fixed operation

location, the fire marshal or his designee shall inspect the inflatable amusement devices no more than once annually, except in furtherance of an investigation arising from a reported ride accident or pursuant to a complaint. The inspection is to ensure compliance with the provisions of this Part and adopted standards, rules, regulations, and applicable manuals, service bulletins, and notices.

(4) The state fire marshal or his designee has free access to any premises in the state where an inflatable amusement device is being installed, built, repaired, or operated for the purpose of ascertaining whether such inflatable amusement device is being installed, built, repaired, or operated in accordance with the provisions of this Part and adopted standards, rules, regulations, and applicable manuals, service bulletins, and notices.

F. The provisions of this Part apply only to inflatable amusement devices which are all of the following:

- (1) Open to public.
- (2) Located on grounds other than those of a one- or two-family dwelling.
- (3) Co-located with other inflatable amusement devices, attractions, or rides governed by this Part.

G. The state fire marshal or his designee has the authority to publish a listing of all noncompliant operators and make such list available to the public upon written demand.

RS 40:1484.8 — Set-up inspection; requirements; notification to the fire marshal

nd amusement rides at least once prior to their operation at each event in the state.

B. The set-up inspection may be conducted by a third-party inspector or an employee of the operator of the inflatable amusement device, amusement attraction, or amusement ride who is specially trained to perform a set-up inspection.

C. If an inflatable amusement device, amusement attraction, or amusement ride is in compliance pursuant to the findings of a set-up inspection and corresponding adopted rules and regulations, the third-party inspector or set-up inspector shall affix a tag to the inflatable amusement device, amusement attraction, or amusement ride.

D. If an inflatable amusement device, amusement attraction, or amusement ride is not in compliance pursuant to the findings of a set-up inspection and corresponding adopted rules and regulations, a third-party inspector or set-up inspector shall cease operation of the inflatable amusement device, amusement attraction, or amusement ride and notify the office of state fire marshal within two hours of the determination, and tag it accordingly.

E. The office of state fire marshal shall specifically adopt rules and regulations in accordance with the Administrative Procedure Act for enforcement of this Section.

RS 40:1484.9 — License required to inspect inflatable amusement devices, amusement attractions, an inflatable

amusement device, amusement attraction, or amusement ride for the purpose of providing an annual third-party inspection as required by this Part, unless the person or firm holds a current and valid license issued by the state fire marshal as provided in this Part.

B. No person or firm shall aid, abet, facilitate, or otherwise assist any unlicensed person or firm in the engagement of any testing or inspecting of an inflatable amusement

device, amusement attraction, or amusement ride when such person or firm knew or should have known the latter person or firm was unlicensed.

C. A person or firm shall not test or inspect an inflatable amusement device, amusement attraction, or amusement ride if such person or firm is also the owner or operator of the same.

RS 40:1484.10 — Third-party inspector; educational and certification requirements

r is one of the following:

- (1) A licensed engineer experienced in materials testing.
- (2) Currently certified by NAARSO with a Level 1 or greater certification.
- (3) Currently certified with an equivalent to NAARSO Level 1 or greater certification as determined by rules promulgated by the state fire marshal pursuant to this Part.

RS 40:1484.11 — License required to operate inflatable amusement devices, amusement rides, and

ride operator as defined in this Part, shall not

engage in the operation of an inflatable amusement device, amusement attraction, or amusement ride unless the person or firm holds a current and valid license issued by the state fire marshal as provided in this Part.

B. No person or firm shall aid, abet, facilitate, or otherwise assist any unlicensed person or firm in the operation of an inflatable amusement device, amusement attraction, or amusement ride when the person or firm knew or should have known the latter person or firm was unlicensed.

C. The state fire marshal may, by rule, allow the owner of an inflatable amusement device, amusement attraction, or amusement ride, or an employee of the owner, to perform minor service and repairs of the inflatable amusement device, amusement ride, or amusement attraction. The owner shall document such service or repair and assume responsibility for all such service or repair.

RS 40:1484.12 — Exemptions from licensure

sion of either, while

engaged in the performance of his official duties within the course and scope of his employment with the United States, this state, or any political subdivision of either.

RS 40:1484.13 — Application for firm license; third-party inspection firm license; operating firm

n of an inflatable amusement device,

amusement attraction, or amusement ride, a firm shall apply for and obtain a license and the respective relevant endorsement for inspection or operation. The inspection endorsement authorizes the licensee to conduct any necessary testing.

B. An applicant for a third-party inspection firm license shall submit all of the following to the state fire marshal:

- (1) A completed firm application including the names of all owners, managers, or members.
- (2) Documentation that the firm is an entity duly authorized to conduct business within this state. If the firm is physically located in Louisiana, documentation shall be in the

form of a local or parish occupational license, if such license exists, and if incorporated, a certificate of good standing issued by the secretary of state. If the firm is physically located outside of the state, documentation shall be in the form of a certificate of good standing issued by the secretary of state as a foreign corporation including the name of the firm's registered agent of service.

(3) An original certificate of insurance documenting that the firm has general liability coverage in a minimum amount of one million dollars.

(4) An original certificate of insurance documenting that the firm has "Errors and Omissions" coverage in a minimum amount of one million dollars.

(5) An original certificate of insurance documenting that the firm has a current and valid worker's compensation insurance policy as required by state law.

(6) The name of the person who will serve as the contact for the firm.

(7) The application fee authorized by this Part.

(8) Proof of employment of a qualified individual with proper certification and training at each of its operating locations.

C. An applicant for an operating firm license shall submit the following to the state fire marshal:

(1) A completed firm application including the names of all owners, managers, or members.

(2) An original certificate of insurance documenting that the firm has general liability coverage in a minimum amount of one million dollars and in which all inflatable amusement devices, amusement attractions, or amusement rides subject to coverage are listed on the declarations page.

(3) An original certificate of insurance documenting that the firm has a current and valid workers' compensation insurance policy as required by state law.

(4) The name of the person who will serve as the contact for the firm.

(5) The application fee authorized by this Part.

D. As a condition of licensure, each firm shall be open for inspection by the state fire marshal or his designated representative at any reasonable time for the purpose of observation and collection of facts and data relating to proper enforcement of this Part. No person acting on behalf of the firm shall refuse to admit the state fire marshal or his designated representative to an operating location or its business location where the firm keeps records. A firm physically located outside of Louisiana may be charged for the travel expenses of the state fire marshal to conduct such an inspection.

E. As a further condition of licensure, the acceptance of a license by a firm is deemed as the firm's consent to submit to reasonable requests for documentation by the state fire marshal or his designated representatives and to cooperate in a lawful investigation by the office of state fire marshal. A firm refusing to cooperate with any lawful investigation by the office of state fire marshal is subject to any applicable penalty as provided in this Part, including suspension or revocation of a license.

F. Each firm shall clearly display its license in a conspicuous location at its place of business.

G. The firm shall notify the state fire marshal within ten days of the following:

- (1) A change in the business address of the firm.
- (2) A change in ownership of or interest in the firm.
- (3) The termination of a licensed employee.

RS 40:1484.14 — Application for an individual license; requirements to maintain; prohibitions;

action, or amusement ride, an individual shall apply for and obtain a license and the respective relevant endorsement for inspection or operation. The inspection endorsement authorizes the licensee to conduct any necessary testing. Each individual license holder shall maintain his license on his person while engaging in any such activity and present his license for inspection upon demand of any employee of the office of state fire marshal, a fire department, or any law enforcement officer.

B. As a condition of licensure, the acceptance of a license by an individual is deemed as the individual's consent to submit to reasonable requests for documentation by the office of state fire marshal or his designated representatives and to cooperate in a lawful investigation by the office of state fire marshal. Any person refusing to cooperate with any lawful investigation by the office of state fire marshal is subject to any applicable penalty as described in this Part, including suspension or revocation of a license.

C. Each individual license holder shall notify the state fire marshal, as specified by the state fire marshal, within ten days of the following:

- (1) A change in business or home address.
- (2) A separation from an employer or change in employer.

D. An individual licensed as provided in this Section shall not contract his services as an independent contractor or agent with any other firm, whether such firm is engaged in testing, inspection, or operation.

E. An individual licensed as provided in this Section shall meet all certification, continuing education, training, and testing requirements as established by this Part and related adopted rule or regulation.

RS 40:1484.15 — Set-up inspection; license endorsement

d obtain a license and a set-up inspection endorsement which authorizes its holder to perform the set-up inspection.

B. Third-party inspectors, as licensed by this Part, may perform set-up inspections as required by this Part, under their third-party inspector endorsement.

C. Employees of the operators of an inflatable amusement device, amusement attraction, or amusement ride may become licensed as specified by this Part to perform the set-up inspection of an inflatable amusement device, amusement attraction, or amusement ride owned or operated by his employer.

D. In conformity with the Administrative Procedure Act, the state fire marshal shall promulgate rules for qualifications, including required training, for the administration and enforcement of this Section.

RS 40:1484.16 — Powers and duties of the state fire marshal

orcement of this Part.

- (2) Evaluate the qualifications of firms or persons applying for or maintaining a license pursuant to this Part.
- (3) Have authority to set qualifications and fitness of applicants for a license as provided in this Part, which may include conducting examinations.
- (4) Issue full or provisional licenses to firms and persons meeting the qualifications established by this Part.
- (5) Have authority, after notice and opportunity for hearing, to increase or decrease the limits of insurance coverage and authorize acceptance of surplus lines coverage if the state fire marshal determines that due to loss experience, market conditions, or other good reason, the liability insurance coverage required by this Part is unavailable to applicants for or holders of licenses.
- (6) Have authority to conduct inspections of licensed firms, whether in state or out of state, for the purpose of observation and collection of facts and data relating to proper enforcement of this Part.
- (7) Conduct inspections and perform audits to ensure compliance with this Part and investigate at reasonable times, and within reasonable limits and manner, inflatable amusement devices, amusement attractions, or amusement rides in any area where they are assembled, maintained, stored, serviced, or in use. The state fire marshal or his designee, upon presenting credentials to an owner or operator, is authorized to act as described in this Paragraph without prior notice.
- (8) Employ such persons as he may deem qualified, consistent with applicable civil service regulations, and incur expenses as may be necessary in connection with the administration of this Part.
- (9) Investigate all written complaints lodged against firms or individuals alleged to have violated provisions of this Part or related promulgated rules and pursue administrative action against the firms or individuals.
- (10) Investigate all accidents related to an inflatable amusement device, amusement attraction, or amusement ride resulting in injury or death, or as requested by an operator, customer, patron, rider, or user.

RS 40:1484.17 — Notice; hearing; revocation of certificate or license

Procedure Act and upon a finding that a person or firm acted in any of the following manners:

- (1) Willfully violated any provision of this Part or any rule, regulation, or adopted order.
- (2) Used deceit or false or misleading information to obtain any certificate or license pursuant to this Part.
- (3) Demonstrated professional incompetence or gross negligence.
- (4) Assisted any person attempting to evade the provisions of this Part or any related adopted rules or regulations.

RS 40:1484.18 — Fees; required renewal; penalties

amusement device, amusement attraction, or amusement ride are as follows:

(1) Initial Registration Fee:

(a) Inflatable amusement device: \$100.00

(b) Child or "Kiddie" amusement attraction or amusement ride: \$100.00

(c) Adult amusement attraction or amusement ride: \$200.00

(2) Annual Renewal Fee:

(a) Inflatable amusement device: \$100.00

(b) Child or "Kiddie" amusement attraction or amusement ride: \$100.00

(c) Adult amusement attraction or amusement ride: \$200.00

C. The licensing fees for a firm are as follows:

(1) Initial Fee:

(a) Inspection endorsement: \$500.00

(b) Operation endorsement: \$500.00

(2) Renewal Fee:

(a) Inspection endorsement: \$100.00

(b) Operation endorsement: \$100.00

D. The licensing fees for an individual's license are as follows:

(1) Initial Fee:

(a) Third-party inspector endorsement: \$250.00

(b) Operator or Owner endorsement: \$250.00

(c) Set-up inspector endorsement: \$250.00

(2) Renewal Fee:

(a) Third-Party inspector endorsement: \$50.00

(b) Operator or Owner endorsement: \$50.00

(c) Set-up inspector endorsement: \$50.00

E. All licenses are valid for one year, unless a multi-year license is created, and shall be renewed by the license holder within the thirty days prior to the license expiration date. The state fire marshal may create a prorated fee system to allow employee license renewal dates to coincide with the firm license renewal date.

F. Any license not renewed within the thirty days prior to its expiration date is past due for renewal and subject to late fees. The license holder shall pay a late fee penalty of twenty-five dollars for a license renewed within the first forty-five days past the license expiration date. The license holder shall pay a late fee penalty of fifty dollars for a license renewed between forty-six and sixty days past the license expiration date.

G. The state fire marshal shall suspend a license if the license is not renewed within sixty days past its expiration date or if the license holder has not maintained the license. The cost to reinstate a suspended license is the cost of the respective license holder's initial fee plus twenty dollars.

H. The cost for a duplicate or replacement firm or individual license is twenty dollars, regardless of how many endorsements are carried.

I. The cost to transfer an individual license from one firm to another is twenty dollars.

J. The fees established in this Section are not refundable, except when certain

conditions apply as the state fire marshal may establish.

K. There are no fees associated with any inspections and audits performed by the office of state fire marshal, unless otherwise indicated by this Part.

L. All fees collected pursuant to this Part shall be used exclusively for the operation and maintenance of the amusement rides and safety division within the office of state fire marshal, code enforcement and building safety.

RS 40:1484.19 — Prohibited acts; operator

ment ride without a valid license issued as provided in this Part.

- (2) Aid and abet an unlicensed individual, employee, or firm in the testing, inspection, or operation of an inflatable amusement device, amusement attraction, or amusement ride without a valid license.
- (3) Operate an inflatable amusement device, amusement attraction, or amusement ride contrary to manufacturer's specifications or codes or standards adopted in rules promulgated by the state fire marshal without specific written authorization from the office of state fire marshal.
- (4) Submit an application or any other document to the office of state fire marshal when the person reasonably should have known the document contained false or misleading information.
- (5) Engage in false, misleading, or deceptive acts or practices.
- (6) Fail to maintain a valid license as required by this Part.
- (7) Fail to maintain a valid insurance policy as required by this Part.
- (8) Refuse to admit the state fire marshal or his designated representative to any operating location or refuse to cooperate in the purposes of such admittance as required by this Part.
- (9) Fail to maintain his license on his person and present it for inspection as required by this Part.
- (10) Refuse to cooperate with any lawful investigation by the office of state fire marshal.
- (11) Fail to abide by the administrative rules promulgated pursuant to this Part.

RS 40:1484.20 — Prohibited acts; third-party inspector

ment ride, or amusement attraction without a valid license issued as provided in this Part.

- (2) Aid and abet an unlicensed operator in the operation of an inflatable amusement device, amusement attraction, or amusement ride.
- (3) Aid and abet an unlicensed individual or firm in the inspection or testing of an inflatable amusement device, amusement ride, or amusement attraction.
- (4) Certify, test, or inspect an inflatable amusement device, amusement attraction, or amusement ride contrary to the provisions of this Part and adopted standards, regulations, and applicable manuals, service bulletins, and notices.
- (5) Submit an application or any other document to the office of state fire marshal when the third-party inspector reasonably should have known the document contained false or misleading information.

- (6) Engage in false, misleading, or deceptive acts or practices.
- (7) Fail to maintain a valid license as required by this Part.
- (8) Fail to maintain a valid insurance policy as required by this Part.
- (9) Refuse to admit the state fire marshal or his designated representative to any operating location or refuse to cooperate in the purposes of such admittance as required by this Part.
- (10) Fail to maintain his license on his person and present it for inspection as required by this Part.
- (11) Refuse to cooperate with any lawful investigation by the office of state fire marshal.
- (12) Fail to abide by the administrative rules promulgated pursuant to this Part.

RS 40:1484.21 — Prohibited acts; set-up inspector

, or amusement attraction without a valid license issued as provided in this Part.

- (2) Aid and abet an unlicensed operator in the operation of an inflatable amusement device, amusement ride, or amusement attraction.
- (3) Certify or inspect inflatable amusement devices, amusement rides, or amusement attractions contrary to the provisions of this Part and adopted standards, regulations, and applicable manuals, service bulletins, and notices.
- (4) Submit an application or any other document to the office of state fire marshal when the person or firm reasonably should have known the document contained false or misleading information.
- (5) Engage in false, misleading, or deceptive acts or practices.
- (6) Fail to maintain a valid license as required by this Part.
- (7) Refuse to admit the state fire marshal or his designated representative to any operating location or refuse to cooperate in the purposes of such admittance as required by this Part.
- (8) Fail to maintain his license on his person and to present it for inspection as required by this Part.
- (9) Refuse to cooperate with any lawful investigation by the office of state fire marshal.
- (10) Fail to abide by the administrative rules promulgated pursuant to this Part.

RS 40:1484.22 — Notice of violation of standard; cease and desist order

the office of state fire marshal determines that the

respective device, ride, or attraction is in violation of any standard promulgated pursuant to the provisions of this Part, and that there may be a substantial probability of death or physical injury to the public from its continued use, a notice of violation may be given to both the owner and operator of the device, ride, or attraction, and a red tag shall be attached to the device, ride, or attraction. The attached red tag constitutes a cease and desist order.

B. After the red tag is attached, the use of the inflatable amusement device, amusement ride, or amusement attraction is prohibited. The red tag shall not be removed until the device, ride, or attraction is made safe for public use, in accordance with R.S. 40:1484.5(B)(3), and the required safeguards are provided. The tag shall not be removed

except by the state fire marshal or his designee.

RS 40:1484.23 — Insurance; bond

mount of not less than one million dollars insuring the operator against liability for injury suffered by persons riding the amusement attraction or ride.

(2) A bond in a like amount, provided the aggregate liability of the surety of any such bond shall not exceed the face amount.

B. A certificate verifying coverage shall be filed with the office of state fire marshal, code enforcement and building safety.

C. In the event of cancellation of the policy or bond, the office of state fire marshal shall be notified by either the insurer or the bond holder no later than ten days prior to cancellation.

D. Upon request, the operator shall provide to any sponsor, lessor, landowner, or other person responsible for the offering of an amusement ride or attraction for public use a copy of the required insurance policy or bond and the certificate of registration issued by the state fire marshal.

E. The provisions of this Section shall also apply to operators of inflatable amusement devices. However, the policy of liability insurance or bond amount required of such operators shall be in an amount of not less than three hundred thousand dollars.

RS 40:1484.24 — Violations and penalties; cease and desist order; injunctive relief

Part or any regulation, rule, or issued order, he may impose upon that person, operator, inspector, or firm a fine in an amount not to exceed five thousand dollars for each violation. Each day on which the violation occurs is considered a separate offense.

B.(1) In addition to or in lieu of administrative sanctions and civil penalties provided in this Part, the state fire marshal is empowered to issue an order to any person, operator, inspector, or firm engaged in any activity, conduct, or practice constituting a violation of any provision of this Part, directing the person, operator, inspector, or firm to cease and desist from the activity, conduct, or practice. The order shall be issued in the name of the state of Louisiana under the official seal of the state fire marshal.

(2) If the person, operator, inspector, or firm to whom the state fire marshal directs a cease and desist order does not cease and desist the prohibited activity, conduct, or practice immediately after service of the cease and desist order by certified mail or personal service, the state fire marshal may seek, in any court of competent jurisdiction and proper venue, a writ of injunction enjoining the person, operator, inspector, or firm from engaging in any activity, conduct, or practice prohibited by this Part.

(3) Upon a proper showing by the state fire marshal that a person, operator, inspector, or firm has engaged in any activity, conduct, or practice prohibited by this Part, the court shall issue a temporary restraining order restraining the person, operator, inspector, or firm from engaging in unlawful activity, conduct, or practices pending the hearing on a preliminary injunction, and in due course a permanent injunction shall be issued after a hearing, commanding the cessation of the unlawful activity, conduct, or practices.

(4) A temporary restraining order, preliminary injunction, or permanent injunction issued as provided in this Part is not subject to being released upon bond.

(5) In the suit for an injunction, the state fire marshal may demand of the defendant a penalty of fifty dollars per day for each violation, reasonable attorney fees, and court costs. Judgment for penalty, attorney fees, and court costs may be rendered in the same judgment in which the injunction is made final.

C. In addition to the foregoing provisions, the state fire marshal may assess civil penalties attributable to the operator of an inflatable amusement device, amusement ride, or amusement attraction to the owner or lessee of the site on which the inflatable amusement device, amusement attraction, or amusement ride is located, if the owner or lessee of the site failed to reasonably determine that the operator of the inflatable amusement device, amusement ride, or amusement attraction is in proper compliance with the requirements of this Part.

D. Procedures for the imposition of fines and appeals of such fines shall be governed in accordance to the Administrative Procedure Act.

RS 40:1484.25 — Exemptions

und equipment including but not limited to swings, seesaws, stationary spring-mounted animal features, underpropelled merry-go-rounds, climbers, slides, trampolines, swinging gates, and physical fitness devices except where an admission fee is charged for usage or an admission fee is charged to areas where such equipment is located.

(2) An inflatable amusement device, amusement attraction, or amusement ride which is owned and operated by a nonprofit religious, educational, or charitable institution or association if such attraction or ride is located within a building subject to inspection by the state fire marshal or his designee.

(3) Coin-operated mechanical devices occupying less than thirty-six square feet of floor space.

(4) Non-motorized rides and attractions.

RS 40:1484.26 — Local regulation

attraction, or amusement ride, carnival, or circus as otherwise provided by law.

RS 40:1484.27 — Waiver of inspection

re

being operated in this state if an operator gives satisfactory proof to the office of state fire marshal that such device, amusement attraction, ride, or any component part has passed an inspection conducted by a public agency whose inspection standards and requirements are at least equal to those requirements and standards established by the state fire marshal pursuant to the provisions of this Part.

RS 40:1484.28 — Rules adopted

pair,

maintenance, use, operation, and inspection of inflatable amusement devices, amusement attractions, and amusement rides for the protection of the public. The rules shall be based

upon generally accepted engineering standards and shall be concerned with but not necessarily limited to engineering force stresses, safety devices, and preventive maintenance. The rules shall provide for the reporting of accidents and injuries incurred from the operation of inflatable amusement devices, amusement attractions, or amusement rides.

RS 40:1485.1 — Legislative findings

mber of nonresidents, significantly contributing to the tourism industry and tax base of this state.

- (2) The safety of the public using carnival or amusement rides is an important matter of public policy.
- (3) There are inherent risks associated with all machinery, equipment, or animals that are impractical or impossible for an amusement owner to eliminate with all reasonable safety precautions, and an informed rider is in the best position to avoid those risks.
- (4) The safety of carnival or amusement rides will be greatly improved at minimal cost if riders are subject to minimum safety standards for their own protection and the protection of others.

RS 40:1485.2 — Definitions

ollowing:

- (a) A device that is intended to give amusement, excitement, pleasure, or thrills to riders whom the device carries along or around a fixed or restricted course or within a defined area.
- (b) A structure that gives amusement, excitement, pleasure, or thrills to people who move around, over, or through the structure without the aid of a moving device integral to the structure.
- (2) "Firm" means a sole proprietorship, corporation, limited liability company, or similar type of business entity.
- (3) "Owner" means a person, a firm, the state, or a political subdivision of the state that owns an amusement ride or, if the ride is leased, the lessee of the ride.
- (4) "Parent or guardian" means each parent, custodian, or guardian responsible for the control, safety, training, or education of a rider who is a minor, has a disability, or is incompetent.
- (5)(a) "Rider" means any person who is:
 - (i) Waiting in the immediate vicinity to enter a carnival or amusement ride.
 - (ii) Entering a carnival or amusement ride.
 - (iii) Using a carnival or amusement ride.
 - (iv) Exiting a carnival or amusement ride.
 - (v) Leaving a carnival or amusement ride and still in the immediate vicinity of the ride.
- (b) The term "rider" does not include employees or agents of the owner while engaged in the duties of their employment.
- (6) "Sign" means any symbol or language reasonably calculated to communicate information to riders or their parents or guardians, including but not limited to placards, prerecorded messages, live public addresses, stickers, pictures, pictograms, guidebooks, brochures, video, verbal information, and visual signals.

RS 40:1485.3 — Reporting rider injury

r's premises, including:

- (1) The name, address, and phone number of the injured person.
 - (2) A full description of the incident, the injuries claimed, any treatment received, and the location, date, and time of the injury.
 - (3) The cause of the injury, if known.
 - (4) The names, addresses, and phone numbers of any witnesses to the incident.
- B. If the rider, or his parent or guardian on a rider's behalf, is unable to file a report because of the severity of his injuries, he shall file the report as soon as reasonably possible.
- C. The failure of a rider, or his parent or guardian on a rider's behalf, to report an injury as required by this Section shall have no effect on the rider's right to commence a civil action.

RS 40:1485.4 — Code of rider conduct

ain from acting in any manner that may cause or contribute to injuring the rider or others, including:

- (1) Exceeding the limits of the rider's ability.
- (2) Interfering with the safe operation of the carnival or amusement ride.
- (3) Failing to engage any safety devices provided for the rider's safety.
- (4) Disconnecting or disabling a safety device except at the express instruction of the owner's agent or employee.
- (5) Altering or enhancing the intended speed, course, or direction of a carnival or amusement ride.
- (6) Using the controls of a carnival or amusement ride designed solely to be operated by the owner's agent or employee.
- (7) Extending arms and legs beyond the carrier or seating area except at the express direction of the owner's agent or employee.
- (8) Throwing, dropping, or expelling an object from or toward a carnival or amusement ride except as permitted by the owner's agent or employee.
- (9) Entering or exiting a carnival or amusement ride except at the designated time and area, if any, at the direction of the owner's agent or employee.
- (10) Unreasonably controlling the speed or direction of the carnival or amusement ride that requires the rider to control or direct himself or a ride.
- (11) Overloading a carnival or amusement ride beyond its designated capacity.

RS 40:1485.5 — Rider qualifications

m:

- (1) The rider has sufficient knowledge to use, enter, or exit the carnival or amusement ride safely without instruction or has requested and received, before entering the carnival or amusement ride, sufficient information to enter, use, or exit the ride safely.
- (2) The rider has located, reviewed, and understood any signs in the vicinity of the carnival or amusement ride and has satisfied any posted height or other restrictions.
- (3) The rider knows the range and limits of his ability and knows the requirements of the carnival or amusement ride will not exceed those limits.
- (4) The rider is not under influence of alcohol or any drug that affects his ability to safely use the carnival or amusement ride or obey the posted rules or oral instructions.
- (5) The rider is authorized by the owner's authorized agent or employee to enter the carnival or amusement ride.

RS 40:1485.6 — Parent or guardian conduct

xperience any technical difficulties navigating this website,

RS 40:1485.7 — Notice to riders

y entrance or exit to or from the premises designated for riders.

- (b) Any area or structure at which riders may purchase admission or obtain authority to use a carnival or amusement ride.

B. All signs required by this Section shall include a legend providing that "STATE LAW REQUIRES RIDERS TO OBEY ALL WARNINGS AND DIRECTIONS AND BEHAVE IN A MANNER THAT WILL NOT CAUSE OR CONTRIBUTE TO INJURING THEMSELVES OR OTHERS. RIDERS SHOULD REPORT ALL INJURIES BEFORE LEAVING THE EVENT PREMISES."

RS 40:1485.8 — Criminal penalty

o exceed twenty-five dollars and for subsequent convictions, up to one hundred dollars.

RS 40:1485.9 — Applicability

to the

provisions of this Subpart.

RS 40:1486 — [Blank]

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RS 40:1486.1 — Purpose

transport those workers is also of vital concern; therefore, the legislature directs the director of aviation of the aviation section of the Department of Transportation and Development to participate in education, communication, and promotion of aviation safety in the offshore oil and gas industry. The legislature's goal is to reduce to as low as reasonably practicable the instances of helicopter accidents in the oil and gas industry by promotion of the adoption of safe practices in such operations. The legislature recognizes that Congress has delegated the responsibility for regulation of such operators to the Federal Aviation Administration ("FAA"), which has promulgated regulations as published in the Code of Federal Regulations to all Part 133 and Part 135 operators, and which has further, by its issuance of Operations Specifications to such operators, required them to conduct such operations with the highest degree of safety in the public interest.

RS 40:1486.2 — State participation in and promotion of transportation of oil and gas workers over

n and Development ("DOTD") shall request membership to the Helicopter

Safety Advisory Conference ("HSAC"), attend regularly scheduled meetings of HSAC for the purpose of education, understanding, and dissemination of information developed for the purpose of the promotion of safety through cooperation, and encourage all operators who provide over water flight services to the oil and gas industry to adopt and incorporate the recommended practices of HSAC into their daily operations.

B. The DA or his designated representative may attend and secure all writings in the form of recommended practices that result from HSAC conferences that relate to safe over water helicopter operations, and disseminate such writings in such a way that over water flight service providers in the state or adjacent to its shores are made aware of its content.

C. Among considerations for helicopter safety in over water flight services in the oil and gas industry, the DA or his designated representative may identify, evaluate, and maintain current knowledge of available feasible technology for all of the following:

- (1) Personal locator beacons ("PLBs") capable of transmitting a digital coded distress signal and a permanent homing signal suitable for use in over water flight services utilized in the oil and gas industry.
- (2) Incorporation into the daily operations of all Part 91, Part 133 and Part 135 operators, a system for satellite tracking of helicopters conducting over water flights, including maintaining a command center to monitor the status of such flights.
- (3) Improvement of flight safety over water services by adoption of emerging advances in aviation. The DA or his designated representative shall also promote

enhancements of required pre-flight briefings that maximize passenger awareness of passenger safety, and emergency procedures. Where appropriate, the DA shall provide information and recommendations to HSAC for consideration of recommended practices for industry use of such systems and devices.

D. Notwithstanding any provision of law to the contrary, any aircraft used to transport offshore platform workers to and from the platform shall require each person being transported to wear a life jacket equipped with a personal locator beacon, as described in Paragraph (C)(1) of this Section.

E. The DA or his designated representative shall maintain familiarity with all Part 91, Part 133, and Part 135 regulations promulgated by the FAA pertaining to over water helicopter operations and may obtain and review all advisory circulars of the FAA that relate to such over water helicopter operations in the state or adjacent to its shores issued under those parts of the Federal Aviation Regulations ("FAR"). Where appropriate, the DA or his designated representative shall promote the adherence to the regulations and adoption of the HSAC recommended practices.

F. The DA shall facilitate, as he deems necessary, information to the director of operations of operators who provide over water flight services in the state or adjacent to its shores, through publication on the internet through an identifiable link on the DOTD website, summaries or text of relevant new FAR and Advisory Circulars published by the FAA or Recommended Practices published by HSAC.

G.(1) The DA shall publish a report to the legislature, directed to the chairs of the House and Senate committees on transportation, highways and public works, wherein the DA shall summarize and comment upon all of the following:

(a) The previous year's developments in safe practices for operators who provide over water flight services in the state or adjacent to its shores, as such safe practices have evolved over the previous twelve months, through the federal and industry organizations referenced in this Part.

(b) Efforts made by the DA to ensure knowledge of all such practices by operators within the industry.

(2) The report shall be delivered to the committees no later than the first of September annually. A copy of the report shall also be sent to the director of operations of each helicopter operator known by the DA to be engaged in providing over water flight services in the offshore oil and gas industry.

RS 40:1487 — Authorization of bonds

is the state of

Louisiana is authorized to issue bonds, notes, certificates, or other evidences of indebtedness, hereafter, "the bonds", pursuant to the provisions of the Louisiana public trust law, being R.S. 9:2341 through 2347, on behalf of the Department of Public Safety and Corrections. Additionally, any public trust, political subdivision, district, corporation, or instrumentality authorized to issue revenue bonds on behalf of the state is authorized to issue bonds on behalf of the department in accordance with the provisions of this Section and the constitutional and statutory provisions governing the issuance of bonds by such entities.

(2) The revenue bonds may be issued in order to obtain funds for the relocation, planning, acquisition, construction, and equipping of a Joint Emergency Services Training Center in the parish of East Baton Rouge, a public safety complex, including without limitation a crime lab and the state fire marshal's project at Independence Park in the parish of East Baton Rouge, and troop or regional headquarters throughout the state, and to fund the cost of issuance, credit enhancements, or other obligations related to the issuance of such bonds.

(3) The bonds and any necessary or proper ancillary instruments shall be secured by an irrevocable pledge and dedication of any reinstatement fee, handling fee, or other fees, rates, rentals, charges, grants, or other receipts or income derived by or in connection with an undertaking, facility, project, or any combination thereof, without a pledge of the full faith and credit of the state, hereinafter referred to as "revenues".

(4) The bonds shall be entitled to such priorities on the revenues of the Department of Public Safety and Corrections as provided in a loan agreement, trust indenture, or other instrument.

B. In addition to the pledge of revenues to secure the bonds, the department may, in its discretion, further secure their payment by a mortgage upon the land or facilities acquired by or for the department with the proceeds of the sale of the bonds, with such mortgage subject to such provisions for the making and enforcement of such mortgage and the provisions to be contained therein as may be deemed fit by the department. However, in no event shall the bonds constitute a claim against any property or revenue of the department not specifically pledged or mortgaged for payment of such bonds.

C.(1) When any bonds have been issued and secured as provided in this Section, neither the issuer of the bonds, the department, the state, nor any other entity may act to impair any obligation or contract for the benefit of the holders of the bonds or discontinue or decrease any fee, rate, or other revenue in anticipation of the collection of which the bonds have been issued until all of the bonds have been retired as to principal and interest or irrevocable provision otherwise made for their complete redemption and payment in principal, interest, and redemption premium, if any, and the complete payment of all amounts due under the trust agreement, or other instrument, pursuant to which the bonds are issued. There is hereby vested in the holders from time to time of such bonds a contract right in the provisions of this Paragraph.

(2) Any pledge of revenues for the security of the bonds shall be valid and binding from the time the pledge is made and shall be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the state or the department whether or not such parties have notice thereof. Any trust agreement, or other instrument, by which a pledge is created need not be filed or recorded except in the official records of the department and of the State Bond Commission.

(3) The deputy secretary, or the undersecretary, is hereby authorized on behalf of the department to execute loan agreements, reimbursement agreements, investment agreements, bond purchase agreements, and all such documents as may be necessary to carry out and

comply with the provisions thereof and the provisions of this Section, and is further authorized to take any and all further actions and execute and deliver all other documents as it may deem to be necessary in connection with the issuance of any bonds, notes, certificates, reimbursement obligations, or other evidences of indebtedness referred to in this Section.

The provisions of R.S. 9:2347(J) shall not apply to bonds or any contractual obligation, including the pledge of state funds, to be undertaken or incurred in connection therewith.

(4) The department is authorized to create such funds and/or accounts for the deposit of the revenues or the proceeds of the bonds including state funds described above or other revenues and monies pledged in connection therewith or respect thereto.

(5) The department and the issuer of the bonds are authorized to enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all

RS 40:1491 — Definitions

board of commissioners, governing a fire protection district.

RS 40:1492 — Power to create; boundaries constitute state subdivisions for tax and bond purposes

limitations and restrictions contained in this Part.

B. Any fire protection district may include all or part of the territory in the parish whether contiguous or noncontiguous.

With the concurrence of the governing authorities of the affected parishes, it may include all or part of two or more parishes in a single fire protection district, provided that any municipality which is to be included is included in its entirety.

However, before any municipality may be included within the territory of the fire protection district, the governing authority of the municipality shall first concur by proper resolution in its inclusion and in the boundaries to be fixed for the district.

C. Fire protection districts so created are subdivisions of the state within the meaning of the laws of this state relating to the voting and levying of special maintenance taxes, incurring debt, and issuing bonds therefor, including particularly but without limitation the provisions of Subtitle II, Chapter 4, of Title 39 of the Louisiana Revised Statutes of 1950. However, the governing authority of the district shall be without authority to levy any previously authorized taxes in the new territory included within the boundaries of the districts as enlarged, unless such enlargement has occurred after petition therefor of a majority of the qualified electors of the area to be included and/or the question of such tax levy has been approved by a majority of the electors of the new territory so included voting in an election held for such purpose.

RS 40:1492.1 — Fire protection districts of DeSoto Parish; general purpose political subdivision; Louisiana Community Block Grant program

ck Grant program, fire protection districts of the parish of DeSoto are hereby designated as general purpose political subdivisions, and accordingly, each such fire protection district may apply directly to the division of administration for funding under such program.

RS 40:1493 — Notice of intention to create, enlarge, or redistrict; resolution

tion has been given.

B. Notice of intention to create, enlarge, or redistrict a fire protection district shall be ordered by resolution of the governing authority of each parish to be included in the proposed district and concurred in by the governing authority of any municipality or municipalities to be included in the district. The resolution shall state the boundaries proposed for the contemplated fire protection district. The notice shall state that the parish governing authority ordering its publication will, in open session, on a date and at an hour and place named, proceed to create the proposed district.

C. This notice shall be published once a week for two successive weeks, the first publication being not less than fifteen days before the date fixed for the hearing, in a newspaper having general circulation in the parish.

RS 40:1493.1 — Fire District Number 2 of Rapides Parish; extension of boundaries

es of Fire District Number 2 of Rapides Parish so that it includes all of Wards 1 and 8 outside the city of Alexandria and Wards 2, 3, 5, and 7.

RS 40:1493.2 — Fire District Number One of Ouachita Parish; extension of boundaries; board of commissioners

he concurrence of the governing authority of the town of Sterlington, is authorized to extend the boundaries of Fire Protection District Number One of Ouachita Parish so that said district includes the town of Sterlington. Upon inclusion of said town, the board of commissioners of said fire protection district shall consist of the members of the governing authority of Ouachita Parish. The board of commissioners of the district shall perform all duties, functions, and powers provided in this Part and shall have responsibility for the operation and maintenance of the district. Members of the board shall receive no per diem but may be reimbursed for expenses incurred in performing the duties imposed on them by such membership.

RS 40:1494 — Hearing; objections; resolution fixing boundaries; publication of notice

all objections which may be interposed to the boundaries of the district and to the inclusion of the property proposed to be included in the district. It may adjourn the meeting from time to time. At this hearing the parish governing authority may change the boundaries of the proposed district by excluding therefrom the lands of persons objecting or by including therein the lands of persons petitioning to be included therein. After disposing of all objections, the parish governing authority, if it approves the creation of such district, shall adopt a resolution fixing the boundaries of the territory within the parish to be included in such district. However, as provided in R.S. 40:1492, the governing authority of any municipal corporation which is included in the district must, by resolution adopted after the boundaries of the territory of the parish to be included in the district are fixed, concur in the fixing of the boundaries before the action of the parish governing authority becomes final. The decision of the parish governing authority, concurred in by any municipality as provided, is final and conclusive as regards that parish. Notice of the formation of the district shall be given immediately by one publication in any newspaper in which the original notice of hearing was published.

RS 40:1495 — Governing body of district

ning body of the district or may appoint a board of commissioners to serve as the governing body for the district.

B.(1) If a municipal corporation is included within the boundaries of a district, or if the boundaries of a district comprise all or part of two or more parishes, the governing body of the district shall consist of a board of commissioners of the district.

(2) However, the parish governing authority may in its discretion continue to be the governing body of the district in those instances where a municipal corporation lying within the boundaries of the district is created after the creation of the district and after 1970.

RS 40:1495.1 — Concordia Parish Monterey Fire Protection District Number One

er One is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and shall have responsibility for the operation and maintenance of the district. Members shall receive no per diem but may be reimbursed any expenses incurred in performing the duties imposed upon them by virtue of their serving as members. The board shall consist of five members appointed by the governing authority for the parish of Concordia and each member shall be a resident and elector of the Concordia Parish Monterey Fire Protection District Number One and shall serve on such board at the pleasure of the governing authority of the parish of Concordia.

RS 40:1496 — Appointment of members of board; term; vacancies

In the case of a district comprising all or part of a single parish, members shall be appointed as follows:

(1) In the case where no municipality is included within the boundaries of a district lying within a single parish, the parish governing authority shall appoint the five members.

The members so appointed shall elect the chairman of the board.

(2) In the case where one municipality is included within the boundaries of a district lying within a single parish:

(a) Two members shall be appointed by the parish governing authority.

(b) Two members shall be appointed by the governing authority of the municipality;
and

(c) One shall be selected by the other four members and shall serve as chairman of the board.

(3) In the case where two municipalities are included within the boundaries of a district lying within a single parish:

(a) The parish governing authority shall appoint two members.

(b) The governing authority of each municipality shall appoint one member; and

(c) One member shall be selected by the other four members and shall serve as chairman of the board.

(4) In any case where three or more municipalities are included within the boundaries of a district lying within a single parish, the parish governing authority shall appoint two members and the governing authority of each municipality shall appoint one member notwithstanding the provisions of Subsection A herein. The members so appointed shall elect the chairman of the board.

(5)(a) Notwithstanding any provision of this Part or any other law to the contrary, the board of commissioners of Caddo Parish Fire District Number Five shall consist of six members. The Caddo Parish Commission shall appoint the additional member of the board of commissioners. The additional member shall serve a term of two years.

(b) Notwithstanding any provision of this Part or any other law to the contrary, the board of commissioners of Caddo Parish Fire District Number One shall consist of seven members. The Caddo Parish governing authority shall appoint the additional members of the board. The parish governing authority shall set the initial terms of the two additional members. Such initial terms shall not exceed two years and shall be set so as to retain an orderly and balanced staggering of terms of commissioners. Thereafter, each member shall serve a term of two years.

(c) Notwithstanding any provision of this Section or any other law to the contrary, the governing authority of Terrebonne Parish may, by ordinance, provide that the board of commissioners of the Bayou Cane Fire Protection District shall consist of seven members. An ordinance adopted pursuant to this Subparagraph shall provide that the parish governing authority appoints the two additional members and shall provide for the initial terms of such additional members.

(d) Notwithstanding any provision of this Part or any other law to the contrary, the board of commissioners of Ward 5 Fire Protection District of the Parish of Evangeline may consist of seven members. The parish governing authority shall appoint the additional members of the board.

(e) The board of commissioners of St. Landry Parish Fire District No. 7 shall consist of seven members. The parish governing authority shall appoint the additional members of the board and shall set the initial terms of the two additional members.

C. In districts comprising all or part of two or more parishes, members shall be appointed as follows:

(1) In the case of a district comprising all or part of two or more parishes, but excluding any municipality, the parish governing authority of each such parish shall appoint two members, and the last member, shall be selected by the other four members and shall

serve as chairman of the board.

(2) In the case of a district comprising all or part of two or more parishes, and which includes one municipality, the parish governing authority of each such parish shall appoint two members, and the last member shall be selected by the governing authority body of the municipal corporation in the district. The members shall elect the chairman of such board.

(3) In any case where more than one municipality is included within the boundaries of any district, the governing authority of each parish affected shall appoint two members and each municipality shall appoint one member to the board notwithstanding the provisions of Subsection A herein. The members so appointed shall elect the chairman of such board.

D.(1) Each member of the board shall be a resident property taxpayer of the district.

(2) Paragraph (1) of this Subsection shall not apply to a district that comprises all or part of two or more parishes and in which district there are no resident property taxpayers. Each member of the board of commissioners of such a district shall reside within fifty miles of the district.

E. Two of the initial members of the board shall hold office until one year from the January first immediately succeeding their appointment and three members shall hold office until two years from the January first immediately succeeding their appointment, the respective terms to be determined by lot. Thereafter, each member appointed shall serve for a term of two years. Members are eligible for reappointment. If a vacancy occurs, it shall be filled for the unexpired term by the body originally making the appointment so vacated.

F. Notwithstanding any provision of this Section to the contrary, the board of commissioners of Terrebonne Parish Fire Protection District Number Six shall consist of five members to be appointed as follows provided that the governing authority of Terrebonne Parish and the governing authority of Lafourche Parish have respectively authorized the extension of the boundaries of Terrebonne Parish Fire Protection District Number Six into Lafourche Parish as such an extension is provided for by R.S. 40:1493 and 1494:

(1) Four members shall be appointed by the governing authority of Terrebonne Parish. Such commissioners shall be electors of the area of Terrebonne Parish lying within the boundaries of the district.

(2) One commissioner shall be appointed by the governing authority of Lafourche Parish. Such commissioner shall be an elector of the area lying within the boundaries of the district.

(3) The commissioners so appointed shall elect from their number a chairman of the board.

(4) The term of office for each commissioner shall be two years.

G.(1) When four or more municipalities are included within the boundaries of a district lying within the parish of Claiborne, Grant, or Winn, in addition to the membership provided in Paragraph (B)(4) of this Section, the respective parish governing authority may appoint up to three additional members to the board.

(2) Of the additional members appointed pursuant to Paragraph (1), the first initial member shall hold office until one year from the January first immediately succeeding his appointment, the second initial member shall hold office until two years from the January

first immediately succeeding his appointment, and the third initial member shall hold office until one year from the January first immediately succeeding his appointment. Thereafter, each additional member appointed shall serve for a term of two years.

H. Notwithstanding any provision of this Section to the contrary, the board of commissioners of the Bayou Blue Fire Protection District shall consist of seven members, to be appointed as follows, provided that the governing authority of Terrebonne Parish and the governing authority of Lafourche Parish have respectively authorized the extension of the boundaries of the Bayou Blue Fire Protection District into Lafourche Parish as such an extension is provided for by R.S. 40:1493 and 1494:

(1) Three members shall be appointed by the governing authority of Terrebonne Parish. Such commissioners shall be electors and resident property taxpayers of the area of Terrebonne Parish lying within the boundaries of the district.

(2) Four commissioners shall be appointed by the governing authority of Lafourche Parish. Such commissioners shall be electors and resident property taxpayers of the area of Lafourche Parish lying within the boundaries of the district.

(3) The commissioners so appointed shall elect from their number a chairman of the board.

(4) Initial terms of two of the commissioners from Lafourche Parish and one of the commissioners from Terrebonne Parish shall be one year, and the initial terms of the remaining commissioners shall be two years as determined by lot. All subsequent terms of commissioners shall be two years.

I. Notwithstanding any provision of this Section to the contrary, the board of commissioners of the Terrebonne Parish Fire District No. Five shall consist of seven members, to be appointed as follows, provided that the governing authority of Terrebonne Parish and the governing authority of Lafourche Parish have respectively authorized the extension of the boundaries of the Terrebonne Parish Fire District No. Five into Lafourche Parish as such an extension is provided for by R.S. 40:1493 and 1494:

(1) Six members shall be appointed by the governing authority of Terrebonne Parish. Such commissioners shall be electors and resident property taxpayers of the area of Terrebonne Parish lying within the boundaries of the district.

(2) One commissioner shall be appointed by the governing authority of Lafourche Parish. The commissioner shall be an elector and resident property taxpayer of the area of Lafourche Parish lying within the boundaries of the district.

(3) The commissioners so appointed shall elect from their number a chairman of the board.

(4) Initial terms of four of the commissioners from Terrebonne Parish shall be one year, and the initial terms of the remaining commissioners shall be two years as determined by lot. The term of the Lafourche Parish commissioner and all subsequent terms of any commissioners shall be two years.

J.(1) Notwithstanding any provision of law to the contrary, the board of commissioners of the St. George Fire Protection District shall consist of five members. The St. George City Council shall appoint the two members of the board of commissioners. The

East Baton Rouge Metropolitan Council shall appoint two members to the board of commissioners, one whom shall be selected by the member representing council district No. 3 of the Metropolitan Council of the parish of East Baton Rouge and the city of Baton Rouge and one whom shall be selected by the member representing council district No. 9 of the Metropolitan Council of the parish of East Baton Rouge and the city of Baton Rouge. The four appointed members of the board of commissioners shall appoint the fifth member. Initial terms of three of the commissioners shall be one year and the initial terms of two commissioners shall be two years as determined by lot. All subsequent terms of commissioners shall be two years.

(2)(a) The members who are appointed by the St. George City Council shall reside within the boundaries of the city of St. George and within the boundaries of the St. George Fire Protection District.

(b) The members who are appointed by the East Baton Rouge Metropolitan Council shall reside within the boundaries of the St. George Fire Protection District.

(c) The fifth member who is appointed by the four members of the board of commissioners shall reside within the boundaries of the St. George Fire Protection District.

RS 40:1496.1 — Calcasieu Parish Ward Four Fire Protection District No. 2

ated. The board of commissioners shall perform all duties, functions and powers provided in this Part as well as responsibility for the operation and maintenance of the district, and shall receive compensation as provided by R.S. 40:1498. The board shall consist of five members appointed by the governing authority for the parish of Calcasieu, and each member shall be a resident and elector of the parish of Calcasieu and shall serve on such board at the pleasure of the governing authority of the parish of Calcasieu.

RS 40:1496.2 — Calcasieu Parish Ward Four Fire Protection District Number Three

Number Three is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part; be responsible for the operation and maintenance of the district; and shall receive compensation as provided by R.S. 40:1498. The board shall consist of five members appointed by the governing authority for the parish of Calcasieu, and each member shall be a resident and elector of the parish of Calcasieu. One of such members shall be a resident of the city of Westlake and shall act as liaison between the board and the town of Westlake. All board members shall serve on such board at the pleasure of the governing authority of the parish of Calcasieu. All funds of the Calcasieu Parish Ward Four Fire Protection District Number Three shall be administered through the parish treasurer's office.

RS 40:1496.3 — Calcasieu Parish Ward Seven Fire Protection District Number One

umber One is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and be responsible for the operation and maintenance of the district, and shall receive compensation as provided by R.S. 40:1498. The board shall consist of five members appointed by the governing authority for the parish of Calcasieu, and each member shall be a resident and elector of the parish of Calcasieu and shall serve on such board at the pleasure of the governing authority of the parish of Calcasieu. All funds of the Calcasieu Parish Ward Seven Fire Protection District Number One shall be administered by the board.

RS 40:1496.4 — Calcasieu Parish Ward One Fire Protection District Number One

er One is hereby created. The board of commissioners shall perform all duties, functions and powers provided in this Part and be responsible for the operation and maintenance of the district, and shall receive compensation as provided by R.S. 40:1498. The board shall consist of five members appointed by the governing authority for the parish of Calcasieu, and each member shall be a resident and elector of the parish of Calcasieu and shall serve on such board at the pleasure of the governing authority of the parish of Calcasieu. All funds of the Calcasieu Parish Ward One Fire Protection District Number One shall be administered through the Calcasieu Parish Treasurer's Office.

RS 40:1496.5 — Beauregard Parish Fire Protection District Number Two; creation, membership

tection District Number Two is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part, and shall be responsible for the operation and maintenance of the district.

(2) The members of the board of commissioners shall receive compensation as provided by R.S. 40:1498.

(3) The board shall consist of six members appointed by the governing authority for the parish of Beauregard, and each member shall be a resident and elector of the parish of Beauregard and shall serve on such board at the pleasure of the governing authority for the parish of Beauregard.

B. All funds of the Beauregard Parish Fire Protection District Number Two shall be administered through the Beauregard Parish treasurer's office.

RS 40:1496.6 — St. Mary Parish Ward Four Fire Protection District

t is hereby created. The board of commissioners shall exercise and perform all duties, functions, and powers provided in this Part and shall have responsibility for the operation and maintenance of the district. Members shall receive compensation as provided by R.S. 40:1498. The board shall be composed of five members appointed by the governing authority of the parish of St. Mary, and each member shall be a resident and elector of Ward Four of St. Mary Parish. No member of the parish governing authority shall serve on the board. Members shall serve staggered terms as fixed by the governing authority of the parish of St. Mary. The governing authority shall determine the length of such terms for initial members and their successors. All funds of the St. Mary Parish Ward Four Fire Protection District shall be administered by the board.

RS 40:1496.7 — Caddo Parish Fire District Number Two

oard of commissioners shall perform and exercise all duties, functions, and powers provided in this Part, and shall be responsible for the operation and maintenance of the district. The members of the board of commissioners shall receive compensation as provided by R.S. 40:1498. The board shall consist of five members appointed by the governing authority of the parish of Caddo, and each member shall be a resident and elector of the parish of Caddo and shall serve on such board at the pleasure of the governing authority of the parish of Caddo. All funds of the Caddo Parish Fire District Number Two shall be administered by the board.

RS 40:1496.8 — Calcasieu Parish; Ward Four-Ward Six Fire Protection District Number One

Number One of Calcasieu Parish is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part; shall be responsible for the operation and maintenance of the district; and shall receive compensation as provided by R.S. 40:1498. The board shall consist of five members appointed by the governing authority for the parish of Calcasieu. Each member shall be an elector of the parish of Calcasieu. Three members shall reside within the fire district in Ward Four, and two members shall reside within the fire district of Ward Six. The commissioners shall serve at the pleasure of the governing authority of the parish of Calcasieu. All funds of the Ward Four-Ward Six Fire Protection District Number One of Calcasieu Parish shall be administered by the Calcasieu Parish Treasurer's Office.

RS 40:1496.9 — Calcasieu Parish; Ward Eight Fire Protection District Number Two

lcasieu Parish is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and be responsible for the operation and maintenance of the district and shall receive compensation as provided by R.S. 40:1498. The board shall consist of five members appointed by the governing authority for the parish of Calcasieu. Each member shall be an elector of the parish of Calcasieu and a resident of the district. The commissioners shall serve at the pleasure of the governing authority of the parish of Calcasieu. All funds of the Ward Eight Fire Protection District Number Two of Calcasieu Parish shall be administered by the Calcasieu Parish Treasurer's Office.

RS 40:1496.10 — Ward Four Fire Protection District Number Four of Calcasieu Parish

f Calcasieu Parish is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and be responsible for the operation and maintenance of the district. The board shall consist of five members appointed by the governing authority of Calcasieu Parish. Each member shall be an elector of Calcasieu Parish and a resident of the district. The commissioners shall receive compensation as provided by R.S. 40:1498 and shall serve at the pleasure of the governing authority of Calcasieu Parish. All funds of the Ward Four Fire Protection District Number Four of Calcasieu Parish shall be administered by the parish treasurer's office.

RS 40:1496.11 — Calcasieu Parish; Ward Six Fire Protection District Number One

Calcasieu Parish is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and be responsible for the operation and maintenance of the district and shall receive compensation as provided by R.S. 40:1498. The board shall consist of five members appointed by the governing authority for the parish of Calcasieu. Each member shall be an elector of the parish of Calcasieu and a resident of the district. The commissioners shall serve at the pleasure of the governing authority of the parish of Calcasieu. All funds of the Ward Six Fire Protection District Number One of Calcasieu Parish shall be administered by the Calcasieu Parish treasurer's office.

RS 40:1496.12 — Washington Parish; Fire Protection District Numbers One through Eight

Washington Parish is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and shall be responsible for the operation and maintenance of the district. The board shall consist of five members appointed by the governing authority of Washington Parish. Each member shall be an elector of Washington Parish and a resident of the district. The commissioners shall receive compensation as provided by R.S. 40:1498 and shall serve at the pleasure of the governing authority of Washington Parish. All funds of the Fire Protection District Number One of Washington Parish shall be administered by the board of commissioners.

B. Notwithstanding the provisions of R.S. 40:1495 and 1496, the board of commissioners of the Fire Protection District Number Two of Washington Parish is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and shall be responsible for the operation and maintenance of the district. The board shall consist of five members appointed by the governing authority of Washington Parish. Each member shall be an elector of Washington Parish and a resident of the district. The commissioners shall receive compensation as provided by R.S. 40:1498 and shall serve at the pleasure of the governing authority of Washington Parish. All funds of the Fire Protection District Number Two of Washington Parish shall be administered by the board of commissioners.

C. Notwithstanding the provisions of R.S. 40:1495 and 1496, the board of commissioners of the Fire Protection District Number Three of Washington Parish is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and shall be responsible for the operation and maintenance of the district. The board shall consist of five members appointed by the governing authority of Washington Parish. Each member shall be an elector of Washington Parish and a resident of the district. The commissioners shall receive compensation as provided by R.S. 40:1498 and shall serve at the pleasure of the governing authority of Washington Parish. All funds of the Fire Protection District Number Three of Washington Parish shall be administered by the board of commissioners.

D. Notwithstanding the provisions of R.S. 40:1495 and 1496, the board of commissioners of the Fire Protection District Number Four of Washington Parish is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and shall be responsible for the operation and maintenance of the district. The board shall consist of five members appointed by the governing authority of Washington Parish. Each member shall be an elector of Washington Parish and a resident of the district. The commissioners shall receive compensation as provided by R.S. 40:1498 and shall serve at the pleasure of the governing authority of Washington Parish. All funds of the Fire Protection District Number Four of Washington Parish shall be administered by the board of commissioners.

E. Notwithstanding the provisions of R.S. 40:1495 and 1496, the board of commissioners of the Fire Protection District Number Five of Washington Parish is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and shall be responsible for the operation and maintenance of the district. The board shall consist of five members appointed by the governing authority of Washington Parish. Each member shall be an elector of Washington Parish and a resident of the district. The commissioners shall receive compensation as provided by R.S. 40:1498 and shall serve at the pleasure of the governing authority of Washington Parish. All funds of the Fire Protection District Number Five of Washington Parish shall be administered by the board of commissioners.

F. Notwithstanding the provisions of R.S. 40:1495 and 1496, the board of commissioners of the Fire Protection District Number Seven of Washington Parish is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and shall be responsible for the operation and maintenance of the district. The board shall consist of not more than eight members appointed by the governing authority of Washington Parish. Each member shall be an elector of Washington Parish and a resident of the district. The commissioners shall receive compensation as provided by R.S. 40:1498 and shall serve at the pleasure of the governing authority of Washington Parish. All funds of the Fire Protection District Number Seven of Washington Parish shall be administered by the board of commissioners.

G. Notwithstanding the provisions of R.S. 40:1495 and 1496, the board of commissioners of the Fire Protection District Number Six of Washington Parish is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and shall be responsible for the operation and maintenance of the district. The board shall consist of five members appointed by the governing authority of Washington Parish. Each member shall be an elector of Washington Parish and a resident of the district. The commissioners shall receive compensation as provided by R.S. 40:1498 and shall serve at the pleasure of the governing authority of Washington Parish. All funds of the Fire Protection District Number Six of Washington Parish shall be administered by the board of commissioners.

H. Notwithstanding the provisions of R.S. 40:1495 and 1496, the board of commissioners of the Fire Protection District Number Eight of Washington Parish is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and shall be responsible for the operation and maintenance of the district. The board shall consist of five members appointed by the governing authority of Washington Parish. Each member shall be an elector of Washington Parish and a resident of the district. The commissioners shall receive compensation as provided by R.S. 40:1498 and shall serve at the pleasure of the governing authority of Washington Parish. All funds of the Fire Protection District Number Eight of Washington Parish shall be administered by the board of commissioners.

RS 40:1496.13 — Natchitoches Parish Fire Protection Districts; additional members on board of commissioners

the provisions of this Part, the police jury of the parish of Natchitoches is authorized to appoint two additional members to the board of commissioners of each fire protection district within the parish.

RS 40:1496.14 — Repealed by Acts 2011, No. 68, §1.

n Rouge, Louisiana 70804-9062

RS 40:1496.15 — Assumption Parish fire protection districts; parish governing authority to constitute governing authority

authority of the parish of Assumption shall be the governing authority of each fire protection district within the parish and shall have all powers and duties provided by law for governing authorities of fire protection districts. No member of the parish governing authority shall receive any compensation, in addition to compensation as a member of the parish governing authority, for service in such capacity.

RS 40:1496.16 — Ward Five Fire Protection District Number One of Calcasieu Parish

r One of Calcasieu Parish is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and shall be responsible for the operation and maintenance of the district. The board shall consist of five members appointed by the governing authority of Calcasieu Parish. Each member shall be an elector of Calcasieu Parish and a resident of the district. The members shall receive compensation as provided by R.S. 40:1498(A) and shall serve at the pleasure of the governing authority of Calcasieu Parish. All funds of the Ward Five Fire Protection District Number One of Calcasieu Parish shall be administered by the office of the treasurer of Calcasieu Parish.

RS 40:1496.17 — Parishwide Fire Protection District of Red River Parish

r Parish is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and shall be responsible for the operation and maintenance of the district. The board shall consist of eight members appointed by the governing authority of Red River Parish as follows: two from the Coushatta Fire District and one from each of the other six fire districts within Red River Parish. Each such member shall be a resident and elector of his respective fire district and of Red River Parish.

B.(1) The initial members of the board shall serve terms as follows: two shall serve terms ending one year from January first of the year immediately following their appointment; three shall serve terms ending two years from January first of the year immediately following their appointment; and three shall serve terms ending three years from January first of the year immediately following their appointments. The length of the term of each such member shall be determined by lot.

The terms of subsequent members of the board shall be two years.

(2) Members of the board may be removed from office by a majority vote of the governing authority of Red River Parish.

(3) Any vacancy which occurs prior to the expiration of the term for which a member of the board has been appointed shall be filled by the governing authority of Red River Parish for the remainder of the term in the same manner as the

original appointment.

(4) Members of the board shall be eligible for reappointment to the board.

(5) No member of the governing authority of Red River Parish shall serve on the board.

C. Notwithstanding the provisions of R.S. 40:1498, members of the board shall receive no per diem but may be reimbursed for expenses incurred in performance of their duties.

D. All funds of the Parishwide Fire Protection District of Red River Parish shall be administered by the board of commissioners of the district.

RS 40:1496.18 — Evangeline Parish; Ward One Fire Protection District No. 2 of Ville Platte

lle Platte is hereby created. The board of commissioners shall perform all duties, functions, and powers provided in this Part and be responsible for the operation and maintenance of the district. The board shall consist of five members appointed by the governing authority of Evangeline Parish. Each member of the board shall be a resident property taxpayer of the district.

RS 40:1497 — First meeting; organization; election of secretary and treasurer

anize and shall elect a secretary and a treasurer or a combined secretary-treasurer. The persons filling these offices may, but need not, be members of the board.

RS 40:1498 — Compensation of board members

ty dollars for

attending meetings of the board, not to exceed two meetings in any one calendar month, and may be reimbursed any expenses incurred in performing the duties imposed upon them by virtue of their serving as members. The amounts paid by virtue of this Section shall be paid from funds of the respective fire protection districts. Per diem payments under this Section to members of police juries serving ex officio as members of the governing boards of fire protection districts shall be in addition to per diem paid them as members of the police juries.

(2) If a member is elected secretary or treasurer or secretary-treasurer of the board, he may be compensated additionally for such office.

(3) Notwithstanding the provisions of Paragraphs (1) and (2) of this Subsection, the governing board of the Fire Protection District No. 7 of Vermilion Parish may choose to provide compensation for the elected president of its board. Only one officer shall receive compensation and the remaining board members shall receive only the per diem and reimbursed expenses provided for in Paragraphs (1) and (2) of this Subsection.

B.(1) Notwithstanding the provisions of Subsection A hereof, all members of the governing board of Tangipahoa Parish Fire Protection District No. 1, including any members who are members of the Tangipahoa Parish Police Jury, shall be paid a per diem of thirty dollars for attending meetings of the board, not to exceed two meetings in any one calendar month, and may be reimbursed any expenses incurred in performing the duties imposed upon them by virtue of their serving as members of the board. The amount paid by virtue of this Subsection shall be paid from funds of the said protection district.

(2) If a member is elected secretary or treasurer or secretary-treasurer of the board, he may be compensated additionally for such services.

C.(1) Notwithstanding the provisions of Subsection A hereof, all members of the governing boards of St. Landry Parish fire protection districts, except for St. Landry Parish Fire Protection District Number Two, may be paid a per diem of fifty dollars for attending meetings of the board, not to exceed two meetings in any one calendar month, and may be

reimbursed any expenses incurred in performing the duties imposed upon them by virtue of their serving as members of the board.

(2) All members of the governing board of St. Landry Fire Protection District Number Two may be paid a per diem of seventy-five dollars for attending meetings of the board, not to exceed two meetings in any one calendar month, and may be reimbursed any expenses incurred in performing the duties imposed upon them by virtue of their serving as members of the board.

(3) The amount paid by virtue of this Subsection shall be paid from funds of the respective protection district.

(4) If a member is elected secretary or treasurer or secretary-treasurer of the board, he may be compensated additionally for such services.

D. Notwithstanding the per diem rate set by Subsection A of this Section but otherwise in accordance therewith, members of the governing authority of any fire protection district wholly within Calcasieu Parish may be paid a per diem not to exceed one hundred dollars. However, no increase in per diem pursuant to this Subsection shall be paid to members of any such governing authority until a per diem rate for the particular district has been approved by the parish governing authority.

E. Notwithstanding the amount of the per diem authorized by Subsection A of this Section but otherwise in accordance therewith, all members of the governing board of any fire protection district located wholly within the parish of St. Landry may be paid a per diem of eighty dollars for attending meetings of the board, not to exceed two meetings in any one calendar month, and thirty dollars for attending committee meetings, not to exceed two in any month.

F. Notwithstanding the provisions of Subsection A of this Section, all members of the governing board of any fire protection district located wholly within the parish of St. Tammany may be paid a per diem of one hundred dollars for attending meetings of the board, not to exceed two meetings in any one calendar month, and fifty dollars for attending committee meetings, not to exceed two meetings in any one calendar month.

G. Notwithstanding the provisions of Subsection A of this Section, all members of the governing board of Jefferson Davis Parish Fire District #2 may be paid a per diem of one hundred dollars for attending meetings of the board, not to exceed two meetings in any calendar month.

H. Notwithstanding the provisions of Subsection A of this Section, members of the governing board of the Vermilion Parish Fire Protection District No. 7 may be paid a per diem not to exceed one hundred dollars per meeting, not to exceed twelve meetings per year. No increase in taxes, assessments, charges, or fees is authorized after August 1, 2012 for the purpose of paying the increased per diem authorized by this Subsection.

I. Notwithstanding the provisions of Subsection A of this Section, members of the governing board of Bienville Parish Ward 4 and 5 Fire Protection District may be paid a per diem not to exceed fifty dollars per meeting, not to exceed fourteen meetings per year. A member who serves as chairman of the board may be paid a per diem not to exceed two hundred fifty dollars per meeting, not to exceed fourteen meetings per year.

J. Notwithstanding the provisions of Subsection A of this Section, members of the governing board of the Ward Five Fire Protection District of Evangeline Parish may be paid a per diem not to exceed one hundred dollars per meeting, not to exceed two meetings in any calendar month.

K.(1) Notwithstanding the per diem rate set by Subsection A of this Section but otherwise in accordance therewith and subject to the provisions of Paragraph (2) of this Subsection, members of the governing board of Fire Protection District No. 5 of the Parish of Allen, State of Louisiana may be paid a per diem of one hundred dollars, and the district president may be paid a per diem of one hundred fifty dollars.

(2) The district's governing board may increase the per diem its members receive above the amount provided for in Paragraph (1) of this Subsection, but the per diem shall not exceed three hundred dollars.

RS 40:1499 — General powers and duties of board

are customary for the governing bodies of taxing districts and political subdivisions, including the right to levy taxes and to operate and control the property acquired by the district. It may do all things necessary to carry out the purposes for which the district was created.

RS 40:1500 — Districts as public corporations; powers

ce and the right and power to incur debt and contract obligations, to sue and be sued, and to have a corporate seal. Such districts shall also be authorized to do and perform all acts in their corporate capacity and in their corporate names necessary and proper for the purposes of acquiring, maintaining, and operating buildings, machinery, equipment, water tanks, water hydrants, water lines, and such other things, including both movable and immovable property, as might be necessary or proper for effective fire prevention and control or considered necessary by the governing body of the district for the protection of the property within the limits of the district against fire. However, districts may not own and operate systems of waterworks.

B. Districts may utilize their equipment to transport any injured or ill person to a hospital or other place of medical care in an emergency situation where there is no reasonable expectation of the prompt response of an ambulance or industrial ambulance.

C. Districts may enter into such contracts as they consider necessary or desirable to carry out the purposes for which they were created, including, specifically, contracts with private or public entities pursuant to which water for fire protection purposes shall be made available and paid for by the districts.

D. Districts may do such things and enter into such contracts and agreements with the United States or with any state or federal agency or instrumentality as are necessary to procure aid and grants to assist them in carrying out the purposes for which they were created.

RS 40:1500.1 — Emergency medical services and emergency medical transportation in the parishes of Caddo, Cameron, and Morehouse

r into public service contracts with other public service entities for emergency medical services or emergency medical transportation; or in the absence of public service entities, the fire protection district may provide such services.

RS 40:1501 — Maintenance tax; submission to vote at certain election; additional tax

ctors of the district a proposition to levy ad valorem taxes for any of the following purposes: acquiring, constructing, improving, maintaining or operating fire protection or emergency medical service facilities, vehicles, and equipment, including both movable and immovable property, that are to be used by the district directly or indirectly to provide fire protection or emergency medical service, as defined in Paragraph (3) of this Subsection. The specific purposes of any such tax, as well as the rate and duration of the tax, shall be as determined by the governing authority of the district and specified in the proposition. Any facilities, vehicles, and equipment, whether movable or immovable, that are used directly or indirectly to provide fire protection or emergency medical service shall be deemed to be works of public improvement within the meaning of Article VI, Section 32 of the Constitution of Louisiana. The cost of maintaining or operating

facilities, vehicles, and equipment shall include, without limitation, salaries and benefits of fire district personnel, the cost of obtaining water, communication, equipment, uniforms and other materials and supplies, the cost of fire hydrant rentals and service, the cost of fuel, insurance and maintenance for vehicles and equipment, the cost of insurance, utilities, upkeep of buildings and grounds, and all other maintenance and operating costs necessary to carry out the public purposes for which fire protection districts are created.

(2) Notwithstanding any other law to the contrary, the fire protection district may provide emergency medical service itself. Any district which provides such service shall have all authority granted to ambulance service districts by R.S. 33:9053 et seq. and any other provision of law.

(3) For purposes of this Subsection "emergency medical service" shall mean emergency medical services provided by fire protection districts.

(4) The Legislature of Louisiana recognizes that providing fire protection and emergency medical service by fire protection districts is a governmental purpose essential to the public health, safety and protection of citizens and property in the state. Accordingly, the provisions of this Section shall be construed liberally in order to allow fire protection districts the broadest discretion in determining the appropriate uses for their funds subject to any express constitutional limitations.

B. Whenever the governing body of the parish in which the state capitol is situated calls an election for the purpose of submitting to the qualified electors of the district the question of levying a special tax or for such purpose it may call a special election on the question of the levy of an additional five mills on the dollar of assessed valuation for a period of not to exceed ten years, in excess of and in addition to the tax authorized in the foregoing Subsection, for the purpose of maintaining and operating the district's fire protection facilities and paying the cost of obtaining water for fire protection purposes and more particularly for salaries of firemen. Whenever the governing authority of Tangipahoa Fire Protection District No. 1 calls an election for the purpose of submitting to the qualified electors of the district the question of levying a special tax or for such purpose, it may call a special election on the question of the levy of an additional five mills on the dollar of assessed valuation for a period of not to exceed ten years, in excess of and in addition to the tax authorized in the foregoing paragraph, for the purpose of purchasing fire protection equipment, maintaining and operating the district's fire protection facilities and equipment, paying the cost of water, and for salaries of firemen. An election on the question of a levy of the additional tax as herein provided shall be in accordance with and subject to the requirements provided for in the foregoing Subsection.

C.(1) The governing authority of the Ouachita Parish Fire Protection District No. 1 may call an election for the purpose of submitting to the qualified electors of the district the question of levying an additional tax of twenty mills on the dollar of assessed valuation for a period not to exceed ten years.

(2) This tax shall be in addition to the tax authorized in Subsection A of this Section and shall be for the purpose of purchasing fire protection equipment, maintaining and operating the district's fire protection facilities and equipment, paying the cost of water, and for salaries of firemen.

(3) An election on the question of a levy of the additional tax as herein provided shall be in accordance with and subject to the requirements provided for in Subsection A of this Section.

D.(1) The governing authority of Fire Protection District Number One of Caddo Parish may call an election for the purpose of submitting to the qualified electors of the district the question of levying an additional tax of ten mills on the dollar of assessed valuation for a period not to exceed ten years; if the question of levying such tax is approved by a majority of the electors of the district voting in that election, said governing authority may levy such tax by majority vote of its members. Such tax shall be in addition to the tax authorized in Subsection A of this Section and shall be for the purpose of purchasing fire protection equipment, maintaining, and operating the fire protection facilities and equipment of the district, paying the cost of water, and for salaries of firemen. An election on the question of a levy of the additional tax as herein provided shall be in accordance with and subject to the requirements of Subsection A of this Section.

(2) The governing authority of Fire Protection District No. 3 of Caddo Parish may call an election for the purpose of submitting to the qualified electors of the district the question of levying an additional tax of ten mills on the dollar of assessed valuation for a period not to exceed ten years; if the question of levying such tax is approved by a majority of the electors of the district voting in that election, said governing authority may levy such tax by majority vote of its members. Such tax shall be in addition to the tax authorized in Subsection A of this Section and shall be for the purpose of maintaining and operating the fire protection district. An election on the question of the levy of the additional tax as herein provided shall be in accordance with and subject to the requirements of Subsection A of this Section. The avails of

such tax may also be used for emergency medical transportation and emergency services of the district.

(3) The governing authority of District 6 Fire Protection District of East Baton Rouge Parish may call an election for the purpose of submitting to the qualified electors of the district the question of levying an additional tax not to exceed twenty-five mills on the dollar of assessed valuation for a period not to exceed ten years; if the question of levying such tax is approved by the electors of the district voting in that election, said governing authority may levy such tax by majority vote of its members. Such tax shall be in addition to the tax authorized in Subsection A of this Section and shall be for the purpose of purchasing fire protection trucks and equipment, maintaining, and operating the fire protection facilities, paying the cost of obtaining water for fire protection purposes, including charges for fire hydrant rentals, and for personnel salaries. An election on the question of a levy of the additional tax as herein provided shall be in accordance with and subject to the requirements of Subsection A of this Section.

E.(1) In addition to the tax provided for in Subsection A of this Section, the board of commissioners of Fire Protection District No. 1, St. Tammany Parish is hereby authorized to levy an additional tax not to exceed thirty-five mills on the dollar of assessed valuation for a period not to exceed ten years if the question of levying such tax is approved by the electors of the district voting in an election called for that purpose. The purpose of the additional tax shall be to maintain and operate the district's fire protection facilities, to purchase fire trucks and other fire fighting equipment, and to pay the cost of obtaining water for fire protection purposes, including hydrant rentals and service.

(2) In addition to the tax provided for in Subsection A of this Section, the board of commissioners for Caddo Parish Fire Protection District No. Six is hereby authorized to levy an additional tax not to exceed ten mills on the dollar of assessed valuation for a period not to exceed ten years if the question of levying such tax is approved by the electors of the district voting in an election called for that purpose. The purpose of the additional tax shall be to maintain and operate the district's fire protection facilities, to purchase fire trucks and other fire fighting equipment, and to pay the cost of obtaining water for fire protection purposes, including hydrant rentals and service.

(3) In addition to the tax provided for in Subsection A of this Section, the governing authority of any fire district whose boundaries are wholly within the boundaries of Jefferson Parish is hereby authorized to levy an additional tax not to exceed twenty-five mills on the dollar of assessed valuation for a period not to exceed ten years if the question of levying such tax is approved by the electors of the district voting in an election called for that purpose. The purpose of the additional tax shall be to maintain and operate the fire protection facilities, including operating expenses and capital improvements of those facilities.

(4) In addition to the tax provided for in Subsection A of this Section and for the purposes provided therein, the governing authorities of Fire Protection District No. 4-A of Terrebonne Parish, Fire Protection District No. 5 of Terrebonne Parish, Fire Protection District No. 6 of Terrebonne Parish, Fire Protection District No. 9 of Terrebonne Parish, Fire Protection District No. 10 of Terrebonne Parish, and Village East Fire Protection District of Terrebonne Parish, respectively, are hereby authorized to levy an additional tax, not to exceed five mills on the dollar of assessed valuation and for a period not to exceed ten years, if the question of levying such tax is approved by a majority of the electors of the district voting in an election called for that purpose.

(5) In addition to the tax provided for in Subsection A of this Section and for the purposes provided therein, the governing authority of Rural Fire Protection District No. 2 of Tangipahoa Parish is hereby authorized to levy an additional tax, not to exceed twenty mills on the dollar of assessed valuation and for a period not to exceed ten years, if the question of levying such tax is approved by a majority of the electors of the district voting in an election called for that purpose.

(6) In addition to the tax provided for in Subsection A of this Section, the governing authority of the Ward 4 Fire Protection District of Jackson Parish is hereby authorized to levy an additional tax not to exceed five mills on the dollar of assessed valuation for a period not to exceed ten years if the question of levying such tax is approved by the electors of the district voting in an election called for that purpose. The purpose of the additional tax shall be to maintain and operate the district's fire protection facilities, to purchase fire trucks and other fire fighting equipment, and to pay the cost of obtaining water for fire protection purposes, including hydrant rentals and service.

(7) In addition to the tax provided for in Subsection A of this Section and for the purposes provided therein, the governing authority of Benton Fire Protection District No. 4 of Bossier Parish is hereby authorized to levy an additional tax, not to exceed ten mills on the dollar of assessed valuation and for a period not to exceed ten years, if the question of levying such tax is approved by a majority of the electors of the district voting in an election called for that purpose.

(8) In addition to the tax provided for in Subsection A of this Section and for the purposes provided therein, the governing authority of East-Central Bossier Parish Fire District No. 1 is hereby authorized to levy an additional tax, not to exceed ten mills on the dollar of assessed valuation and for a period not to exceed ten years, if the question of levying such tax is approved by a majority of the electors of the district voting in an election called for that purpose.

(9) In addition to the tax provided for in Subsection A of this Section and for the purposes provided therein, the governing authority of any fire protection district whose boundaries are wholly within the boundaries of Rapides Parish is hereby authorized to levy an additional tax, not to exceed forty mills on the dollar of assessed valuation and for a period not to exceed ten years, if the question of levying such tax is approved by a majority of the electors of the district voting in an election called for that purpose.

RS 40:1501.1 — Tangipahoa Parish Fire Protection District No. 1

for the purpose of submitting to the qualified electors of the district the question of levying a tax of not more than twenty mills on the dollar for a period of not more than ten years to be used to acquire fire trucks and other fire fighting equipment and for the purpose of maintaining and operating the district's fire protection facilities and paying the cost of obtaining water for fire protection purposes, including charges for fire hydrant rentals and service. The election shall be held in accordance with the provisions of R.S. 18:1281 et seq.

RS 40:1501.2 — Fire protection districts; DeSoto Parish; tax collections not to be reduced

40:1501, relative to any fire protection district within the parish of DeSoto, shall be made available to the relevant fire protection district, and shall not be reduced by being diverted for any other purpose.

RS 40:1501.3 — Ouachita Parish Fire Protection District No. 1; authority to levy additional sales and use tax

tional one-half of one percent sales and use tax within the Ouachita Parish Fire Protection District No. 1 pursuant to the provisions of Article VI, Section 30 of the Constitution of Louisiana.

B. The proceeds of the tax herein authorized shall be used for maintaining and operating fire protection facilities and obtaining water for fire protection purposes.

C. The sales and use tax so levied shall be imposed by an ordinance of the Board of Commissioners of Ouachita Parish Fire Protection District No. 1 and shall be levied upon the sale at retail, the use, the lease or rental, the consumption, the storage for use or consumption of tangible personal property, and on sales of services in the district, all as defined in Chapter 2 of Subtitle II, Title 47 of the Louisiana Revised Statutes of 1950; said tax being previously approved by a majority of the electors of Ouachita Parish voting in an election conducted in accordance with the election laws of the state of Louisiana on October 21, 1995.

D. This tax shall be in addition to all other taxes and shall be collected at the same time and in the same manner as set forth in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

RS 40:1501.4 — Calcasieu Parish; taxes in annexed areas

fire protection district shall levy or collect ad valorem taxes, except as provided in Paragraph (2) of this Subsection, in any area to which both of the following apply:

(a) The area is in Calcasieu Parish and has been annexed into a municipality.

(b) Pursuant to a contract between the municipality and the fire protection district, the municipality provided regular fire protection to the area prior to annexation in exchange for revenues of the fire protection district received from the levy of ad valorem taxes.

(2) The fire protection district shall continue to levy and collect any ad valorem taxes or portion thereof the avails of which are pledged as security for bonded indebtedness until the avails of such taxes are sufficient to pay off such indebtedness.

B. If at any time an area in which a fire protection district has been authorized to levy and collect ad valorem taxes is annexed and such area meets the criteria set forth in Paragraph A(1) of this Section, the authority of the district to levy and collect such taxes in the area, except any taxes collected pursuant to Paragraph A(2) of this Section, shall expire at the time and for the year in which the annexation ordinance becomes effective. The authority of the district to levy and collect taxes pursuant to Paragraph A(2) of this Section shall expire at the time and for the year in which the indebtedness is paid off.

RS 40:1501.5 — Fire protection districts in the parish of Tangipahoa; authority to levy sales and use tax

all of one percent sales and use tax within each parish fire protection district pursuant to the provisions of Article VI, Section 30 of the Constitution of Louisiana.

B. The proceeds of the tax herein authorized shall be used for maintaining and operating fire protection facilities and obtaining water for fire protection purposes.

C. The sales and use tax so levied shall be imposed by a resolution of the board of commissioners of each district and shall be levied upon the sale at retail, the use, the lease or rental, the consumption, the storage for use or consumption of tangible personal property, and on sales of services in the district, all as defined in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950

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; said tax shall be levied only after approval by a majority of the electors of the district voting in an election conducted in accordance with the election laws of the state of Louisiana.

D. This tax shall be in addition to all other taxes and shall be collected at the same time and in the same manner as set forth in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950

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RS 40:1501.6 — St. Tammany Parish; taxes in areas annexed into the city of Covington

o levy ad valorem taxes, Fire Protection District No. 12 of St. Tammany Parish shall not levy or collect ad valorem taxes in any area which is within the corporate limits of the city of Covington on January 1, 2007, unless an agreement between the city and the fire protection district is executed pursuant to R.S. 33:221 granting the fire protection district the exclusive right to serve the annexed area.

(2) The fire protection district shall continue to levy and collect any ad valorem taxes or portion thereof, the avails of which are pledged as security for bonded indebtedness. The authority of the district to levy and collect taxes pursuant to this Paragraph shall expire at the time and for the year in which the indebtedness is paid off.

B. Fire protection services for all property within the corporate limits of the city of Covington on January 1, 2007, shall be the sole responsibility of the city except as may be provided by an agreement between the city and one or more affected fire protection districts.

C. Any property situated within the growth boundary areas 1, 2, or 3, as described in the Growth Management and Revenue Sharing Agreement Supplementing and Amending the 1990 Sales Tax Enhancement Plan, Instrument # 1365867, which may be annexed by the city, fire protection services for such property shall be the sole responsibility of the city. However, prior to such annexation, an agreement for fire protection services shall be entered into by the city and each affected fire protection district.

D. Notwithstanding any provisions to the contrary, nothing in this Section shall prevent the city of Covington and any affected fire protection district from entering into a mutually acceptable agreement for fire protection services.

E. The provisions of this Section shall not affect the provisions of Act No. 102 of the 2000 First Extraordinary Session

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of the Louisiana Legislature, which Act shall remain in effect.

RS 40:1501.7 — Caddo Parish Fire District No. 1; authority to levy sales and use tax

d use tax not to exceed one percent pursuant to the provisions of Article VI, Section 30 of the Constitution of Louisiana. Caddo Parish Fire District No. 1 may levy the tax only if the levy of the tax is approved by a majority of the electors in the district who vote on a proposition authorizing the levy of the tax.

B. The proceeds of the tax authorized by this Section shall be used for maintaining and operating fire protection facilities, for obtaining water for fire protection purposes, or for any other lawful purpose as determined by the governing board.

C. The sales and use tax so levied shall be imposed by an ordinance of the district and shall be levied upon the sale at retail, the use, the lease or rental, the consumption, the storage for use or consumption of tangible personal property, and on sales of services in the district, all as defined in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of

1950.

D. The tax shall be in addition to all other authorized sales and use taxes and shall be collected at the same time and in the same manner as other local sales and use taxes.

RS 40:1501.8 — Caddo Parish Fire District No. 3; authority to levy sales and use tax

ect a sales and use tax not to exceed one percent pursuant to

the provisions of Article VI, Section 30 of the Constitution of Louisiana. Caddo Parish Fire District No. 3 may levy the tax only if the levy of the tax is approved by a majority of the electors in the district who vote on a proposition authorizing the levy of the tax.

B. The proceeds of the tax authorized by this Section shall be used for maintaining and operating fire protection facilities, for obtaining water for fire protection purposes, or for any other lawful purpose as determined by the governing board.

C. The sales and use tax so levied shall be imposed by an ordinance of the district and shall be levied upon the sale at retail, the use, the lease or rental, the consumption, the storage for use or consumption of tangible personal property, and on sales of services in the district, all as defined in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

D. The tax shall be in addition to all other authorized sales and use taxes and shall be collected at the same time and in the same manner as other local sales and use taxes.

RS 40:1501.9 — Caddo Parish Fire District No. 4; authority to levy sales and use tax

ect a sales and use tax not to exceed one percent pursuant to

the provisions of Article VI, Section 30 of the Constitution of Louisiana. Caddo Parish Fire District No. 4 may levy the tax only if the levy of the tax is approved by a majority of the qualified electors of the district voting on the proposition at an election held for that purpose and conducted in accordance with the Louisiana Election Code and held on a date that corresponds with an election date provided by R.S. 18:402(A)(1) or (B)(1).

B. The proceeds of the tax authorized by this Section shall be used for maintaining and operating fire protection facilities, for obtaining water for fire protection purposes, or for any other lawful purpose as determined by the governing board.

C. The sales and use tax so levied shall be imposed by an ordinance of the district and shall be levied upon the sale at retail, the use, the lease or rental, the consumption, the storage for use or consumption of tangible personal property, and on sales of services in the district, all as defined in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

D. The tax shall be in addition to all other authorized sales and use taxes and shall be collected at the same time and in the same manner as other local sales and use taxes.

RS 40:1501.10 — Caddo Parish Fire District No. 6; authority to levy sales and use tax

ect a sales and use tax not to exceed one percent pursuant to

the provisions of Article VI, Section 30 of the Constitution of Louisiana. Caddo Parish Fire District No. 6 may levy the tax only if the levy of the tax is approved by a majority of the qualified electors of the district voting on the proposition at an election held for that purpose and conducted in accordance with the Louisiana Election Code and held on a date that corresponds with an election date provided by R.S. 18:402(A)(1) or (B)(1).

B. The proceeds of the tax authorized by this Section shall be used for maintaining and operating fire protection facilities, for obtaining water for fire protection purposes, or for any other lawful purpose as determined by the governing board.

C. The sales and use tax so levied shall be imposed by an ordinance of the district and shall be levied upon the sale at retail, the use, the lease or rental, the consumption, the storage for use or consumption of tangible personal property, and on sales of services in the district, all as defined in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

D. The tax shall be in addition to all other authorized sales and use taxes and shall be collected at the same time and in the same manner as other local sales and use taxes.

RS 40:1502 — Service charge authorized for DeSoto Parish; assessment and collection

DeSoto Parish is hereby authorized to establish, by majority vote of the members of the authority, a service charge to be assessed on persons owning property located wholly or partly within the boundaries of the fire protection district as customers of the district, subject to the provisions of Subsection B of this Section. Such service charges shall be equal for all customers and shall be framed so as to cover the costs of any or all of the following components of fire protection services:

(a) The purchase of fire protection equipment.

(b) The maintenance and operation of fire protection facilities and equipment.

(c) Obtaining water for fire protection purchases.

(2) The fire protection district shall provide a receipt to each property owner paying the service charge. All insurers and all insurance agents shall have proof of a current service charge receipt before considering any reduced rates because of fire district protection.

B. Service charges so established shall be assessed by resolution of the governing authority of the fire protection district. However, the resolution assessing said service charges shall be adopted by the governing authority only after the question of the assessment and the amount of the service charge established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted in accordance with the general election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held.

C. The governing authority of any fire protection district assessing a service charge for fire protection services to customers of the district as provided in this Section shall also have the authority to use any necessary and proper means to collect and enforce the collection of such service charges, including contracting with another political subdivision within DeSoto Parish or any official of said parish to effect such collection. However, liens shall not be placed on property for failure to pay such service charge.

RS 40:1502.1 — Service charges authorized; assessment and collection

DeSoto Parish, Lincoln Parish, Claiborne Parish, Union

Parish, Morehouse Parish, East Carroll Parish, or West Carroll Parish is hereby authorized to establish, by majority vote of the members of the authority, a service charge or rates of service charges for each residential or commercial structure for a term not to exceed ten years to be assessed on persons owning each such structure, whether occupied or unoccupied, located wholly or partly within the boundaries of the fire protection district, subject to the provisions of Subsection B of this Section.

(b) The governing authority of any fire protection district situated wholly within the geographical boundaries of St. Mary Parish, the governing authority of any fire protection district situated wholly within the geographical boundaries of East Baton Rouge Parish, the governing authority of any fire protection district situated wholly within the geographical

boundaries of Livingston Parish, the governing authority of Fire Protection District No. 2 of St. Helena Parish, the governing authority of any fire protection district situated wholly within the geographical boundaries of Caddo Parish, the governing authority of Ward One Fire Protection District No. 1 of Calcasieu Parish, and the governing authority of Fire Protection District No. 1 of Tangipahoa Parish is hereby authorized to establish, by majority vote of the members of the authority, a service charge or rates of service charges for each residential or commercial structure for a term not to exceed ten years to be assessed persons owning each such structure, whether occupied or unoccupied, located wholly or partly within the boundaries of the fire protection district, and the persons owning the ground upon which each such structure is situated subject to the provisions of Subsection B of this Section.

(2)(a) For purposes of this Section as it relates to any fire protection district situated wholly within the geographical boundaries of Rapides, Lincoln, Claiborne, Union, Morehouse, East Carroll, or West Carroll Parish, each residential or commercial unit in a structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2 shall be considered a structure. The service charges or rates of service charges shall be equal for all structures of a given class and shall be framed to cover and shall be used for the costs of any or all fire protection services; however, in Lincoln, Claiborne, Union, Morehouse, East Carroll, and West Carroll parishes, the service charges or rates of service charges for each class of structure shall be framed to cover and shall be used for the costs of any or all fire protection and emergency services.

(b) For purposes of this Section as it relates to any fire protection district situated wholly within the geographical boundaries of St. Mary, East Baton Rouge, Livingston, or Caddo Parish, Fire Protection District No. 2 of St. Helena Parish, Ward One Fire Protection District No. 1 of Calcasieu Parish, and Fire Protection District No. 1 of Tangipahoa Parish, each residential, commercial, occupancy, or tenant unit in a structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2 shall be considered a structure. The service charges or rates of service charges shall be equal for all structures of a given class and shall be framed to cover and shall be used for the costs of any or all fire protection services; however, in Ward One Fire Protection District No. 1 of Calcasieu Parish, and in Fire Protection District No. 1 of Tangipahoa Parish, the service charges or rates of service charges for each class of structure shall be framed to cover and shall be used for the costs of any or all fire protection and emergency services.

(3) The governing authority of the Spencer-West Sterlington Fire Protection District may exempt outbuildings and similar structures which are not operable commercial structures or livable residential structures, as defined or identified by the governing authority of the district, from any service charge assessed pursuant to this Section.

B. Service charges or rates of service charges so established shall be assessed by resolution of the governing authority of the fire protection district. However, the resolution assessing said service charges shall be adopted by the governing authority only after the question of the assessment, its duration, and the amount of the service charge or rates of service charges established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted

in accordance with the election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held.

C.(1)(a) The governing authority of any fire protection district assessing a service charge or rates of service charges for fire protection services as provided in this Section shall also have the authority to use any reasonable means to collect and enforce the collection of such service charges, including any means authorized by law for collection of taxes.

(b) For the Old Ward Seven Fire Protection District of Union Parish, such means shall include the assessor carrying the fire protection service charges on the tax rolls for Union Parish and the sheriff of Union Parish collecting such service charges at the same time as ad valorem taxes are collected and with the same authority with which such taxes are collected.

(c) For the Spencer/West Sterlington Fire Protection District of Union Parish such means shall include the assessor carrying the fire protection service charges on the tax rolls for Union Parish and the sheriff of Union Parish collecting such service charges at the same time as ad valorem taxes are collected and with the same authority with which such taxes are collected.

(d) In Lincoln Parish, such means shall include the assessor carrying the fire protection service charges on the tax rolls for Lincoln Parish and the sheriff of Lincoln Parish collecting such service charges at the time ad valorem taxes are collected. If any fire protection service charge becomes delinquent and unpaid, the sheriff shall send "Final Notices" to the delinquent property owners by registered or certified mail. He shall also publish the delinquent property owners' names and addresses in the parish journal setting forth the date and place of property sale to enforce collection in the same manner as for ad valorem taxes. Such fire protection service charge obligations shall prime all other liens, mortgages, and privileges against the property except those for taxes and prior recorded local and special assessments. The governing authority shall compensate the sheriff and tax assessor for such services and collection upon mutual agreement of the governing authority and the sheriff and tax assessor.

(2)(a)(i) The governing authority of any district referred to in Subparagraph A(1)(a) shall also have the authority to place liens for fire protection service charges upon the structure subject to the charge, upon the building, if any, in which the structure is located if it is owned by the owner of the structure, and upon the lot of ground not exceeding one acre on which the structure is situated if such lot of ground belongs to the person who owns such structure. However, if such structure or building is owned by a lessee of the lot of ground, the lien shall exist only against the lease and shall not affect the owner of the lot. Such lien shall be placed upon property only in the event of the refusal of the owner of a structure to pay said service charges when requested to do so by said governing authority within thirty days of receipt by the owner of such a request by registered or certified letter.

(ii) The governing authority of any district referred to in Subparagraph A(1)(b) shall also have the authority to place liens for fire protection service charges upon the structure subject to the charge, upon the building, if any, in which the structure is located if it is owned by the owner of the structure, and upon the lot of ground on which the structure is situated.

Such lien shall be placed upon property only in the event of the failure or refusal of the owner of a structure to pay said service charges when requested to do so by said governing authority within thirty days of receipt by the owner of such a request by registered or certified letter. When the owner of the structure is not the owner of the ground upon which the structure is situated, the lien shall not affect the ground unless the owner of the ground fails or refuses to pay said service charges within thirty days after receipt of request, made by registered or certified letter, from the governing authority for such payment.

(b) The governing authority may file a statement reflecting the amount of the unpaid charges in the mortgage office of the parish, which, when so filed and recorded, shall operate as a lien and privilege in favor of the district against property as provided herein.

(c) In addition, the governing authority of the district shall be entitled to recover the amount of said charges, together with all costs of court and attorney fees, by ordinary process in the Ninth Judicial District for Rapides Parish, in the Second Judicial District for Claiborne Parish, in the Third Judicial District for Lincoln Parish and Union Parish, in the Sixth Judicial District for East Carroll Parish, in the Fifth Judicial District for West Carroll Parish, in the Fourth Judicial District for Morehouse Parish, in the Nineteenth Judicial District for East Baton Rouge Parish, in the Twenty-first Judicial District for Livingston Parish, St. Helena Parish, and Tangipahoa Parish, in the Sixteenth Judicial District for St. Mary Parish, the First Judicial District for Caddo Parish, the Fourteenth Judicial District for Calcasieu Parish, or any other court of competent jurisdiction in Calcasieu Parish.

(d) Said governing authority may also provide, by resolution, for interest on the amount of said charges, which shall be paid prior to cancellation of the lien. The rate of interest charged shall not exceed the rate of legal interest, as provided in R.S. 9:3500, and such interest shall be computed from the date of recordation of the lien until paid.

D. The clerk for the Nineteenth Judicial District Court for the parish of East Baton Rouge shall exempt all fire protection districts wholly situated within the parish of East Baton Rouge from all costs, fees, and expenses related to the recordation, preservation, and enforcement of liens under this Section.

E.(1) In addition to all other means of collection, the governing authority of fire protection districts situated wholly within the parish of East Baton Rouge are hereby authorized to collect service charges by use of any means authorized by law for the collection of taxes. The governing authority of a fire protection district may submit to the assessor a certified list, either in hard or electronic form, reflecting the service charge amounts due, the property upon which each amount is levied, and the last owner of record of such property. Upon receipt of such information, the assessor shall place the service charges on the tax roll. If the list is received by the assessor on or before October fifteenth, then the service charges shall be placed on the roll for the current year. If the list is received by the assessor after October fifteenth, then the service charges shall be placed on the roll for the next tax year. Upon filing with the recorder of mortgages, the roll shall operate as a lien against all property against which the service charges have been assessed as provided by Chapter 3 of Subtitle III of Title 47 of the Louisiana Revised Statutes of 1950. All service charge amounts reflected on the roll shall be subject to interest in the same manner as ad valorem taxes. The

assessor shall be reimbursed in the same manner as provided in R.S. 47:1993.1(C), but the governing authority of a fire protection district shall not be required to pay such reimbursement in advance. The sheriff, as ex officio tax collector, shall collect and remit all service charges in the same manner as all other ad valorem taxes are collected and shall retain the same commission as he receives for the collection of ad valorem taxes. Such means of collection shall include but are not limited to tax sales as provided for in Chapter 5 of Subtitle III of Title 47 of the Louisiana Revised Statutes of 1950.

(2) Fire protection service charge liens in East Baton Rouge Parish shall prime all other liens, mortgages, and privileges against the property, except those for prior recorded taxes and local and special assessments.

RS 40:1502.2 — Service charge authorized for Fire Protection District Number Three of
of

Beauregard Parish is hereby authorized to establish, by majority vote of the members of the authority, a service charge of fifty dollars for each residential or commercial structure for a term not to exceed ten years to be assessed persons owning each structure, whether occupied or unoccupied, located wholly or partly within the boundaries of the fire protection district, subject to the provisions of Subsection B of this Section. For purposes of this Section, each residential or commercial unit in a structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2 shall be considered a structure. The service charges shall be used for the costs of any or all fire protection services.

B. Service charges so established shall be assessed by resolution of the governing authority of the fire protection district. However, the resolution assessing said service charges shall be adopted by the governing authority only after the question of the assessment and its duration have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted in accordance with the election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held.

C. Service charges assessed for fire protection services as provided in this Section shall become due and delinquent at the same time as ad valorem taxes become due and delinquent. The sheriff of Beauregard Parish may use any reasonable means to collect and enforce the collection of such service charges, including any means authorized by law for collection of taxes.

RS 40:1502.3 — Service charge authorized for Richland Parish; assessment and collection

of Richland Parish is hereby authorized to establish, by majority vote of the members of the authority, a service charge or rates of service charges to be assessed persons owning each residential or commercial structure, whether occupied or unoccupied, located wholly or partly within the boundaries of the fire protection district, subject to the provisions of Subsection B of this Section. For purposes of this Section, each residential or commercial unit and each housing unit within a multiple dwelling structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2

shall be considered a structure. The service charges or rates of service charges shall be equal for all structures, except that factory-built homes shall be charged no less than fifty percent and no more than eighty percent of the service charge, and shall be framed to cover and shall be used for the costs of any or all fire protection services. The fire protection district shall provide a receipt to each property owner paying the service charge. All insurers and all insurance agents shall have proof of a current service charge receipt before considering any reduced rates because of fire district protection.

B. Service charges or rates of service charges so established shall be assessed by resolution of the governing authority of the fire protection district. However, the resolution assessing said service charges shall be adopted by the governing authority only after the question of the assessment and the amount of the service charge or rates of service charges established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted in accordance with the election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held.

C.(1) The governing authority of any fire protection district assessing a service charge or rates of service charges for fire protection services as provided in this Section shall also have the authority to use any reasonable means to collect and enforce the collection of such service charges, including any means authorized by law for collection of taxes.

(2) The governing authority of any such district shall also have the authority to place liens for fire protection service charges upon the structure subject to the charge, upon the building, if any, in which the structure is located if it is owned by the owner of the structure, and upon the lot of ground not exceeding one acre on which the structure is situated if such lot of ground belongs to the person who owns such structure; however, if such structure or building is owned by a lessee of the lot of ground, the lien shall exist only against the lease and shall not affect the owner of the lot. Such lien shall be placed upon property only in the event of the refusal of the owner of a structure to pay said service charges when requested to do so by said governing authority within thirty days of receipt by the owner of such a request by registered or certified letter. The governing authority may file a statement reflecting the amount of the unpaid charges in the mortgage office of Richland Parish, which, when so filed and recorded, shall operate as a lien and privilege in favor of the district against property as provided herein. In addition, the governing authority of the district shall be entitled to recover the amount of said charges, together with all costs of court and attorney fees, by ordinary process in the Fifth Judicial District. Said governing authority may also provide, by resolution, for interest on the amount of said charges, which shall be paid prior to cancellation of the lien. The rate of interest charged shall not exceed the rate of legal interest, as provided in R.S. 9:3500, and shall be computed from the date of recordation of the lien until paid.

RS 40:1502.4 — Service charge authorized for Madison Parish, Caldwell Parish, and Franklin

I boundaries of Madison Parish, the governing authority of any fire protection district situated wholly within Caldwell Parish, and the governing authority of any fire protection district situated wholly within Franklin Parish are hereby authorized to establish,

by majority vote of the members of the authority, a service charge or rates of service charges to be assessed persons owning each residential or commercial structure, whether occupied or unoccupied, located wholly or partly within the boundaries of the fire protection district, subject to the provisions of Subsection B of this Section. For purposes of this Section, each residential or commercial unit and each housing unit within a multiple dwelling structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2 shall be considered a structure. The service charges or rates of service charges shall be equal for all structures, except that factory-built homes shall be charged eighty percent of the service charge, and shall be framed to cover and shall be used for the costs of any or all fire protection services. The fire protection district shall provide a receipt to each property owner paying the service charge.

(2) The requirement in Paragraph (1) of this Subsection that factory-built homes be charged eighty percent of the service charge is not applicable to Crowville Fire District #1.

B. Service charges or rates of service charges so established shall be assessed by resolution of the governing authority of the fire protection district. However, the resolution assessing said service charges shall be adopted by the governing authority only after the question of the assessment and the amount of the service charge or rates of service charges established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted in accordance with the election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held.

C.(1) The governing authority of any fire protection district assessing a service charge or rates of service charges for fire protection services as provided in this Section shall also have the authority to use any reasonable means to collect and enforce the collection of such service charges, including any means authorized by law for collection of taxes.

(2)(a) The governing authority of any such district shall also have the authority to place liens for fire protection service charges upon the structure subject to the charge, upon the building, if any, in which the structure is located if it is owned by the owner of the structure, and upon the lot of ground not exceeding one acre on which the structure is situated if such lot of ground belongs to the person who owns such structure; however, if such structure or building is owned by a lessee of the lot of ground, the lien shall exist only against the lease and shall not affect the owner of the lot. Such lien shall be placed upon property only in the event of the refusal of the owner of a structure to pay said service charges when requested to do so by said governing authority within thirty days of receipt by the owner of such a request by registered or certified letter.

(b) The governing authority may file a statement reflecting the amount of the unpaid charges in the mortgage office of Madison Parish, Caldwell Parish, or Franklin Parish, which, when so filed and recorded shall operate as a lien and privilege in favor of the district against property as provided herein.

(c) In addition, the governing authority of the district shall be entitled to recover the amount of said charges, together with all costs of court and attorney fees, by ordinary process in the Sixth Judicial District for Madison Parish, the Thirty-Seventh Judicial District for

Caldwell Parish, and the Fifth Judicial District for Franklin Parish. Said governing authority may also provide, by resolution, for interest on the amount of said charges, which shall be paid prior to cancellation of the lien. The rate of interest charged shall not exceed the rate of legal interest, as provided in R.S. 9:3500, and shall be computed from the date of recordation of the lien until paid.

RS 40:1502.5 — Service charge authorized for West Carroll Parish; assessment and collection

ies of West Carroll Parish is hereby authorized to establish, by majority vote of the members of the authority, a service charge or rates of service charges to be assessed persons owning each residential or commercial structure, whether occupied or unoccupied, located wholly or partly within the boundaries of the fire protection district, subject to the provisions of Subsection B of this Section. For purposes of this Section, each residential or commercial unit and each housing unit within a multiple dwelling structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2 shall be considered a structure. The service charges or rates of service charges shall be equal for all structures, except that factory-built homes shall be charged no less than fifty percent and no more than eighty percent of the service charge, and shall be framed to cover and shall be used for the costs of any or all fire protection services. The fire protection district shall provide a receipt to each property owner paying the service charge. All insurers and all insurance agents shall have proof of a current service charge receipt before considering any reduced rates because of fire district protection.

B. Service charges or rates of service charges so established shall be assessed by resolution of the governing authority of the fire protection district. However, the resolution assessing said service charges shall be adopted by the governing authority only after the question of the assessment and the amount of the service charge or rates of service charges established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted in accordance with the election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held.

C.(1) The governing authority of any fire protection district assessing a service charge or rates of service charges for fire protection services as provided in this Section shall also have the authority to use any reasonable means to collect and enforce the collection of such service charges, including any means authorized by law for collection of taxes.

(2)(a) The governing authority of any such district shall also have the authority to place liens for fire protection service charges upon the structure subject to the charge, upon the building, if any, in which the structure is located if it is owned by the owner of the structure, and upon the lot of ground not exceeding one acre on which the structure is situated if such lot of ground belongs to the person who owns such structure; however, if such structure or building is owned by a lessee of the lot of ground, the lien shall exist only against the lease and shall not affect the owner of the lot. Such lien shall be placed upon property only in the event of the refusal of the owner of a structure to pay said service charges when requested to do so by said governing authority within thirty days of receipt by the owner of such a request by registered or certified letter.

(b) The governing authority may file a statement reflecting the amount of the unpaid charges in the mortgage office of West Carroll Parish, which, when so filed and recorded, shall operate as a lien and privilege in favor of the district against property as provided herein.

(c) In addition, the governing authority of the district shall be entitled to recover the amount of said charges, together with all costs of court and attorney fees, by ordinary process in the Sixth Judicial District. Said governing authority may also provide, by resolution, for interest on the amount of said charges, which shall be paid prior to cancellation of the lien. The rate of interest charged shall not exceed the rate of legal interest, as provided in R.S. 9:3500, and shall be computed from the date of recordation of the lien until paid.

(d) Alternatively, the lien authorized by this Paragraph may be enforced by assessing the amount of the lien against the immovable as a tax against the immovable, to be enforced and collected as any ordinary property tax lien to be assessed against the property. Said lien may be collected in the manner fixed for collection of taxes and shall be subject to the same civil penalties for delinquencies. After the governing authority of the fire protection district has incurred such costs and expenses as constitute the lien on the property, including any costs of court, attorney fees, and interest, said governing authority may send an attested bill of said costs and expenses to the assessor of West Carroll Parish, who shall add the amount of said bill to the next tax bill of the owner. Such lien shall prime all other liens or privileges against the property, except other tax liens, filed after the statement specified in this Paragraph is filed with the recorder of mortgages, regardless of the date on which said lien is perfected.

RS 40:1502.6 — Service charge authorized for Morehouse Parish; assessment and collection

of Morehouse Parish is hereby authorized to establish, by majority vote of the members of the authority, a service charge or rates of service charges to be assessed persons owning each residential or commercial structure, whether occupied or unoccupied, located wholly or partly within the boundaries of the fire protection district, subject to the provisions of Subsection B of this Section. For purposes of this Section, each residential or commercial unit and each housing unit within a multiple dwelling structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2 shall be considered a structure. The service charges or rates of service charges shall be framed by the governing authority of the district to cover and shall be used for the costs of any or all fire protection services. The fire protection district shall provide a receipt to each property owner paying the service charge. All insurers and all insurance agents shall have proof of a current service charge receipt before considering any reduced rates because of fire district protection.

B. Service charges or rates of service charges so established shall be assessed by resolution of the governing authority of the fire protection district. However, the resolution assessing said service charges shall be adopted by the governing authority only after the question of the assessment and the amount of the service charge or rates of service charges established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted in accordance

with the election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held.

C.(1) The governing authority of any fire protection district assessing a service charge or rates of service charges for fire protection services as provided in this Section shall also have the authority to use any reasonable means to collect and enforce the collection of such service charges, including any means authorized by law for collection of taxes. Such means shall include the assessor carrying the fire protection service charges on the tax rolls for Morehouse Parish and the sheriff of Morehouse Parish collecting such service charges at the time ad valorem taxes are collected and with the same authority with which such taxes are collected. If any fire protection service charge becomes delinquent and unpaid, the sheriff shall send "Final Notices" to the delinquent property owners by registered or certified mail. He shall also publish the delinquent property owners' names and addresses in the parish journal setting forth the date and place of property sale to enforce collection in the same manner as ad valorem taxes. Such fire protection service charge obligations shall prime all other liens, mortgages, and privileges against the property except those for taxes and prior recorded local and special assessments. The governing authority may compensate the sheriff and tax assessor for such collection upon mutual agreement of the governing authority and the sheriff and tax assessor.

(2)(a) The governing authority of any such district shall also have the authority to place liens for fire protection service charges upon the structure subject to the charge, upon the building, if any, in which the structure is located if it is owned by the owner of the structure, and upon the lot of ground not exceeding one acre on which the structure is situated if such lot of ground belongs to the person who owns such structure; however, if such structure or building is owned by a lessee of the lot of ground, the lien shall exist only against the lease and shall not affect the owner of the lot. Such lien shall be placed upon property only in the event of the refusal of the owner of a structure to pay said service charges when requested to do so by said governing authority within thirty days of receipt by the owner of such a request by registered or certified letter.

(b) The governing authority may file a statement reflecting the amount of the unpaid charges in the mortgage office of Morehouse Parish, which, when so filed and recorded, shall operate as a lien and privilege in favor of the district against property as provided herein.

(c) In addition, the governing authority of the district shall be entitled to recover the amount of said charges, together with all costs of court and attorney fees, by ordinary process in the Fourth Judicial District. Said governing authority may also provide, by resolution, for interest on the amount of said charges, which shall be paid prior to cancellation of the lien. The rate of interest charged shall not exceed the rate of legal interest, as provided in R.S. 9:3500, and shall be computed from the date of recordation of the lien until paid.

(d) Alternatively, the lien authorized by this Paragraph may be enforced by assessing the amount of the lien against the immovable as a tax against the immovable, to be enforced and collected as any ordinary property tax lien to be assessed against the property. Said lien may be collected in the manner fixed for collection of taxes and shall be subject to the same civil penalties for delinquencies. After the governing authority of the fire protection district

has incurred such costs and expenses as constitute the lien on the property, including any costs of court, attorney fees, and interest, said governing authority may send an attested bill of said costs and expenses to the assessor of Morehouse Parish, who shall add the amount of said bill to the next tax bill of the owner. Such liens shall prime all other liens or privileges against the property, except other tax liens, filed after the statement specified in this Subsection is filed with the recorder of mortgages, regardless of the date on which said lien is perfected.

RS 40:1502.7 — Service charge authorized for East Carroll Parish; assessment and collection

ies of East Carroll Parish is hereby authorized to establish, by majority vote of the members of the authority, a service charge or rates of service charges to be assessed persons owning each residential or commercial structure, whether occupied or unoccupied, located wholly or partly within the boundaries of the fire protection district, subject to the provisions of Subsection B of this Section. For purposes of this Section, each residential or commercial unit and each housing unit within a multiple dwelling structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2 shall be considered a structure. The service charges or rates of service charges shall be equal for all structures, except that factory-built homes shall be charged no less than fifty percent and no more than eighty percent of the service charge, and shall be framed to cover and shall be used for the costs of any or all fire protection services. The fire protection district shall provide a receipt to each property owner paying the service charge. All insurers and all insurance agents shall have proof of a current service charge receipt before considering any reduced rates because of fire district protection.

B. Service charges or rates of service charges so established shall be assessed by resolution of the governing authority of the fire protection district. However, the resolution assessing said service charges shall be adopted by the governing authority only after the question of the assessment and the amount of the service charge or rates of service charges established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted in accordance with the election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held.

C.(1) The governing authority of any fire protection district assessing a service charge or rates of service charges for fire protection services as provided in this Section shall also have the authority to use any reasonable means to collect and enforce the collection of such service charges, including any means authorized by law for collection of taxes.

(2)(a) The governing authority of any such district shall also have the authority to place liens for fire protection service charges upon the structure subject to the charge, upon the building, if any, in which the structure is located if it is owned by the owner of the structure, and upon the lot of ground not exceeding one acre on which the structure is situated if such lot of ground belongs to the person who owns such structure; however, if such structure or building is owned by a lessee of the lot of ground, the lien shall exist only against the lease and shall not affect the owner of the lot. Such lien shall be placed upon property only in the event of the refusal of the owner of a structure to pay said service

charges when requested to do so by said governing authority within thirty days of receipt by the owner of such a request by registered or certified letter.

(b) The governing authority may file a statement reflecting the amount of the unpaid charges in the mortgage office of East Carroll Parish, which, when so filed and recorded, shall operate as a lien and privilege in favor of the district against property as provided herein.

(c) In addition, the governing authority of the district shall be entitled to recover the amount of said charges, together with all costs of court and attorney fees, by ordinary process in the Sixth Judicial District. Said governing authority may also provide, by resolution, for interest on the amount of said charges, which shall be paid prior to cancellation of the lien. The rate of interest charged shall not exceed the rate of legal interest, as provided in R.S. 9:3500, and shall be computed from the date of recordation of the lien until paid.

(d) Alternatively, the lien authorized by this Paragraph may be enforced by assessing the amount of the lien against the immovable as a tax against the immovable, to be enforced and collected as any ordinary property tax lien to be assessed against the property. Said lien may be collected in the manner fixed for collection of taxes and shall be subject to the same civil penalties for delinquencies. After the governing authority of the fire protection district has incurred such costs and expenses as constitute the lien on the property, including any costs of court, attorney fees, and interest, said governing authority may send an attested bill of said costs and expenses to the assessor of East Carroll Parish, who shall add the amount of said bill to the next tax bill of the owner. Such lien shall prime all other liens or privileges against the property, except other tax liens, filed after the statement specified in this Paragraph is filed with the recorder of mortgages, regardless of the date on which said lien is perfected.

RS 40:1502.8 — Service charge authorized for Grant Parish; assessment and collection

Grant Parish is hereby authorized to establish, by majority vote of the members of the authority, a service charge or rates of service charges to be assessed persons owning each residential or commercial structure, whether occupied or unoccupied, located wholly or partly within the boundaries of the fire protection district, subject to the provisions of Subsection B of this Section. For purposes of this Section, each residential or commercial unit within a structure and each housing unit within a multiple dwelling structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2 shall be considered a structure. The service charges or rates of service charges shall be equal for all structures, except that factory-built homes shall be charged no less than fifty percent and no more than eighty percent of the service charge, and shall be framed to cover and shall be used for the costs of any or all fire protection services. The fire protection district shall provide a receipt to each property owner paying the service charge. All insurers and all insurance agents shall have proof of a current service charge receipt from owners so assessed before considering any reduced rates because of fire district protection.

B. Service charges or rates of service charges so established shall be assessed by resolution of the governing authority of the fire protection district. However, the resolution assessing said service charges shall be adopted by the governing authority only after the

question of the assessment and the amount of the service charge or rates of service charges established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted in accordance with the election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held.

C.(1) The governing authority of any fire protection district assessing a service charge or rates of service charges for fire protection services as provided in this Section shall also have the authority to use any reasonable means to collect and enforce the collection of such service charges, including any means authorized by law for collection of taxes.

(2)(a) The governing authority of any such district shall also have the authority to place liens for fire protection service charges upon the structure subject to the charge, upon the building, if any, in which the structure is located if it is owned by the owner of the structure, and upon the lot of ground not exceeding one acre on which the structure is situated if such lot of ground belongs to the person who owns such structure; however, if such structure or building is owned by a lessee of the lot of ground, the lien shall exist only against the lease and shall not affect the owner of the lot. Such lien shall be placed upon property only in the event of the refusal of the owner of a structure to pay said service charges when requested to do so by said governing authority within thirty days of receipt by the owner of such a request by registered or certified mail.

(b) The governing authority may file a statement reflecting the amount of the unpaid charges in the mortgage office of Grant Parish, which, when so filed and recorded, shall operate as a lien and privilege in favor of the district and against the property as provided herein.

(c) In addition, the governing authority of the district shall be entitled to recover the amount of said charges, together with all costs of court and attorney fees, by ordinary process in the Thirty-fifth Judicial District Court. Said governing authority may also provide, by resolution, for interest on the amount of said charges, which shall be paid prior to cancellation of the lien. The rate of interest charged shall not exceed the rate of legal interest, as provided in R.S. 9:3500, and shall be computed from the date of recordation of the lien until paid.

RS 40:1502.9 — Service charge authorized for Red River Parish; assessment and collection

of Red River Parish is hereby authorized to establish, by majority vote of the members of the authority, a service charge or rates of service charges to be assessed persons owning each residential structure, whether occupied or unoccupied, located wholly or partly within the boundaries of the fire protection district, subject to the provisions of Subsection B of this Section. For purposes of this Section, each residential unit and a factory-built home as defined in R.S. 9:1149.2 shall be considered a structure, and each multiple dwelling structure, regardless of the number of separate housing units contained within the structure, shall be considered as one structure and not as separate structures. The service charges or rates of service charges shall be equal for all structures, except that factory-built homes shall be charged no less than fifty percent and no more than eighty percent of the service charge, and shall be framed to cover and shall be used for the costs of

any or all fire protection services. The fire protection district shall provide a receipt to each property owner paying the service charge. All insurers and all insurance agents shall have proof of a current service charge receipt before considering any reduced rates because of fire district protection.

B. Service charges or rates of service charges so established shall be assessed by resolution of the governing authority of the fire protection district. However, the resolution assessing said service charges shall be adopted by the governing authority only after the question of the assessment and the amount of the service charge or rates of service charges established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted in accordance with the election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held.

C.(1) The governing authority of any fire protection district assessing a service charge or rates of service charges for fire protection services as provided in this Section shall also have the authority to use any reasonable means to collect and enforce the collection of such service charges, including any means authorized by law for collection of taxes.

(2) The governing authority of any such district shall also have the authority to place liens for fire protection service charges upon the structure subject to the charge, upon the building, if any, in which the structure is located if it is owned by the owner of the structure, and upon the lot of ground not exceeding one acre on which the structure is situated if such lot of ground belongs to the person who owns such structure; however, if such structure or building is owned by a lessee of the lot of ground, the lien shall exist only against the lease and shall not affect the owner of the lot. Such lien shall be placed upon property only in the event of the refusal of the owner of a structure to pay said service charges when requested to do so by said governing authority within thirty days of receipt by the owner of such a request by registered or certified letter. The governing authority may file a statement reflecting the amount of the unpaid charges in the mortgage office of Red River Parish, which, when so filed and recorded, shall operate as a lien and privilege in favor of the district against property as provided herein. In addition, the governing authority of the district shall be entitled to recover the amount of said charges, together with all costs of court and attorney fees, by ordinary process in the Thirty-ninth Judicial District. Said governing authority may also provide, by resolution, for interest on the amount of said charges, which shall be paid prior to cancellation of the lien. The rate of interest charged shall not exceed the rate of legal interest, as provided in R.S. 9:3500, and shall be computed from the date of recordation of the lien until paid.

RS 40:1502.10 — Service charge authorized for Fire Protection District No. 1, Fire

ring authority of Fire Protection District No. 1, the governing authority of Fire Protection District No. 3, and the governing authority of Fire Protection District No. 7 of Caddo Parish are hereby authorized to establish, by majority vote of the members of the authority, a service charge or rates of service charges to be assessed persons owning each residential or commercial structure, whether occupied or unoccupied, located wholly or partly within the boundaries of

the fire protection district, subject to the provisions of Subsection B of this Section. For purposes of this Section, each residential or commercial unit in a structure and each housing unit within a multiple dwelling structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2 shall be considered a structure. The service charges or rates of service charges shall be established by the governing authority of the district and shall be framed to cover and shall be used for the costs of any or all fire protection, emergency medical transportation, and all emergency services incidental thereto.

B. Service charges or rates of service charges so established shall be assessed by resolution of the governing authority of the fire protection district. However, the resolution assessing said service charges shall be adopted by the governing authority only after the question of the assessment and the amount of the service charges or rates of service charges to be established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted in accordance with the election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held, or the governing authority may call a special election at a date determined upon its own initiative.

C.(1) The governing authority of the fire protection district assessing a service charge or rates of service charges for fire protection services and emergency services as provided in this Section shall also have the authority to use any reasonable means to collect and enforce the collection of such service charges, including any means authorized by law for the collection of taxes. Such means shall include the assessor carrying the fire protection service charges on the tax rolls for Caddo Parish and the sheriff of Caddo Parish collecting such service charges at the same time as ad valorem taxes are collected and with the same authority with which such taxes are collected. If any fire protection service charge becomes delinquent and unpaid, the sheriff shall send a "Final Notice" to the delinquent property owner by registered or certified mail. The sheriff shall also publish notice of the pending delinquent property sale in the parish journal, setting forth the names and addresses of the delinquent property owners and the date and place of the sale to enforce collection and he shall enforce the collection in the same manner as ad valorem taxes are collected. Such fire protection and emergency service charge obligations shall prime all other liens, mortgages, and privileges against the property, except those for taxes and prior recorded local and special assessments. The governing authority may compensate the sheriff and the tax assessor for such collection upon mutual agreement of the governing authority and the sheriff and tax assessor.

(2)(a) The governing authority of the district shall also have the authority to place liens for fire protection service charges upon the structure subject to the charge, upon the building, if any, in which the structure is located if it is owned by the owner of the structure, and upon the lot of ground not exceeding one acre on which the structure is situated if such lot of ground belongs to the person who owns such

structure; however, if such structure or building is owned by a lessee of the lot of ground, the lien shall exist only against the lease and shall not affect the owner of the lot. Such lien shall be placed upon property only in the event of refusal of the owner of a structure to pay said service charges when requested to do so by said governing authority within thirty days of receipt by the owner of such a request by registered or certified letter.

(b) The governing authority may file a statement reflecting the amount of the unpaid charges in the mortgage office of the parish, which, when so filed and recorded, shall operate as a lien and privilege in favor of the district against property as provided herein.

(c) In addition, the governing authority of the district shall be entitled to recover the amount of said charges, together with all costs of court and attorney fees, by ordinary process in the First Judicial District Court of Caddo Parish.

(d) Said governing authority may also provide, by resolution for interest on the amount of said charges, which shall be paid prior to cancellation of the lien.

RS 40:1502.11 — Springhill Fire Protection District No. 11; fire service charge

No. 11 is hereby authorized to

establish, by majority vote of the members of the authority, a fire service charge not to exceed four dollars. The person owning or occupying each residential or commercial structure located wholly or partly within the boundaries of the fire protection district who has made a deposit for the water service for the structure shall be assessed the service charge, subject to the provisions of Subsection B of this Section. The service charge shall be used for the costs of fire protection services. For purposes of this Section, each residential or commercial unit within a structure and each housing unit within a multiple dwelling structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2 shall be considered a separate structure.

B. The governing authority of the fire protection district may use any legal, proper, necessary, and expedient means to collect and enforce the collection of such charge, including contracting with the city of Springhill water department and the Dorcheat Acres Water System. Any water company, as collection agency for the fire service charge, may add the charge levied by said fire protection district to the water bills of its customers. On or before the tenth day of the month following the collection of the charge the collection agency shall remit to the fire protection district all funds collected for the purposes of fire protection, less a small and reasonable service charge for administrative purposes of collection.

C. The governing authority of the district, acting through its collection agency, shall have the authority to discontinue the water service connected to any structure upon refusal of the owner to pay charges levied against said structure in accordance with the provisions of this Section. Water service shall be discontinued upon the expiration of a three-day period following receipt of a written delinquency notice.

RS 40:1502.12 — Tangipahoa Parish Rural Fire Protection District No. 2; assessment and collection

referred to as the "district", may establish, by majority vote of the members of the authority, a fire protection tax for each residential or commercial structure for a term not to exceed ten years to be assessed persons owning each such structure, whether occupied or unoccupied, located wholly or partly within the boundaries of the district, subject to the provisions of Subsection B of this Section.

(2) For purposes of this Section, each residential or commercial unit in a structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2 shall be considered a structure. The fire protection tax shall be equal for all structures of a given class and shall be framed to cover and shall be used for the costs of any or all fire protection services or emergency services.

B. Fire protection taxes or the various rates thereof so established shall be assessed by resolution of the governing authority of the district. However, the resolution assessing said tax shall be adopted by the governing authority only after the question of the levy, its duration, and the amount of the taxes established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted in accordance with the election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held.

C.(1) In levying a fire protection tax as provided in this Section, the governing authority of the district may use any reasonable means to collect and enforce the collection of such tax, including any means authorized by law for collection of other taxes.

(2)(a) The governing authority of the district may place liens for fire protection taxes upon the structure subject to the charge, upon the building, if any, in which the structure is located if it is owned by the owner of the structure, and upon the lot of ground not exceeding one acre on which the structure is situated if such lot of ground belongs to the person who owns such structure; however, if such structure or building is owned by a lessee of the lot of ground, the lien shall exist only against the lease and shall not affect the owner of the lot. Such lien shall be placed upon property only in the event of the refusal of the owner of a structure to pay said service charges when requested to do so by said governing authority within thirty days of receipt by the owner of such a request by registered or certified letter.

(b) The governing authority may file a statement reflecting the amount of the unpaid taxes in the mortgage office of Tangipahoa Parish, which, when so filed and recorded, shall operate as a lien and privilege in favor of the district against property as provided herein.

(c) In addition, the governing authority of the district shall be entitled to recover the amount of said taxes, together with all costs of court and attorney fees, by ordinary process in any court having proper jurisdiction.

(d) The governing authority may also provide, by resolution, for interest on the amount of said taxes, which shall be paid prior to cancellation of the lien. The rate of interest charged shall not exceed the rate of legal interest, as provided in R.S. 9:3500, and such interest shall be computed from the date of recordation of the lien until paid.

RS 40:1502.13 — Fire protection districts within East Feliciana Parish; assessment and collection

boundaries of East Feliciana Parish may establish, by majority vote of the

members of the authority of the district, a fire protection tax for a term not to exceed ten years to be assessed persons owning each residential or commercial structure, whether occupied or unoccupied, located wholly or partly within the boundaries of the fire protection district, subject to the provisions of Subsection B of this Section.

(2) For purposes of this Section, each residential or commercial unit and each housing unit within a multiple dwelling structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2 shall be considered a structure. The fire protection tax shall be equal for all structures, except that factory-built homes shall be taxed at a rate no less than fifty percent and no more than eighty percent of the general tax rate, and shall be framed to cover and shall be used for the costs of any or all fire protection services and emergency services provided by the district, including the acquisition, maintenance, and operation of equipment and facilities therefor.

B. Fire protection taxes or the various rates thereof so established shall be levied by resolution of the governing authority of the district. However, the resolution levying the tax shall be adopted by the governing authority only after the question of the levy, its duration, and the amount of the taxes established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted in accordance with the election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held.

C.(1) The governing authority of any fire protection district levying a fire protection tax as provided in this Section may use any reasonable means to collect and enforce the collection of such tax, including any means authorized by law for collection of other taxes.

(2)(a) The governing authority of any such district may place liens for fire protection taxes upon the structure subject to the charge, upon the building, if any, in which the structure is located if it is owned by the owner of the structure, and upon the lot of ground on which the structure is situated if such lot of ground belongs to the person who owns such structure; however, if such structure or building is owned by a lessee of the lot of ground, the lien shall exist only against the lease and/or the structure and shall not affect the owner of the lot. Such lien shall be placed upon property only in the event of the refusal of the owner of a structure to pay said tax when requested to do so by said governing authority within thirty days of receipt by the owner of such a request by registered or certified letter.

(b) The governing authority may file a statement reflecting the amount of the unpaid taxes in the mortgage office of East Feliciana Parish, which, when so filed and recorded, shall operate as a lien and privilege in favor of the district against property as provided herein.

(c) In addition, the governing authority of the district may recover the amount of said taxes, together with all costs of court and attorney fees, by ordinary process in the Twentieth Judicial District.

(d) The governing authority may also provide, by resolution, for interest on the amount of said taxes, which shall be paid prior to cancellation of the lien. The rate of interest charged shall not exceed the rate of legal interest, as provided in R.S. 9:3500, and shall be computed from the date of recordation of the lien until paid.

(e) Alternatively, the lien authorized by this Paragraph may be enforced by assessing the amount of the lien against the immovable as a tax against the immovable, to be enforced and collected as any ordinary property tax lien to be assessed against the property. The lien may be collected in the manner fixed for collection of taxes and shall be subject to the same civil penalties for delinquencies. After the governing authority of the district has incurred such costs and expenses as constitute the lien on the property, including any costs of court, attorney fees, and interest, the governing authority may send an attested bill of said costs and expenses to the assessor of East Feliciana Parish, who shall add the amount of said bill to the next tax bill of the owner. Such lien shall prime all other liens or privileges against the property, except other tax liens, filed after the statement specified in this Paragraph is filed with the recorder of mortgages, regardless of the date on which the lien is perfected.

RS 40:1502.14 — Exemption from proof of service charge receipts in the parish of Morehouse

insurance agents have proof of a current service charge receipt from an insured prior to considering granting any reduced rate because of fire district protection to the insured shall not apply in the parish of Morehouse.

RS 40:1502.15 — Service charge authorized for fire protection districts in the parish of Caddo;

parish of

Caddo is hereby authorized to establish, by majority vote of the members of the authority, a service charge or rates of service charges to be assessed persons owning each residential or commercial structure, whether occupied or unoccupied, located wholly or partly within the boundaries of the district, subject to the provisions of Subsection B of this Section. For purposes of this Section, each residential or commercial unit in a structure and each housing unit within a multiple dwelling structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2 shall be considered a structure. The service charges or rates of service charges shall be established by the governing authority of the district and shall be framed to cover and shall be used for the costs either incurred or for contracting of any or all fire protection, emergency medical transportation, and all emergency services incidental thereto.

B. Service charges or rates of service charges so established shall be assessed by resolution of the governing authority of the district. However, the resolution assessing said service charges shall be adopted by the governing authority only after the question of the assessment and the amount of the service charges or rates of service charges to be established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted in accordance with the election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held, or the governing authority may call a special election at a date determined upon its own initiative.

C.(1) The governing authority of the district assessing a service charge or rates of service charges for fire protection services and emergency services as provided in this Section shall also have the authority to use any reasonable means to collect and enforce the collection of such service charges, including any means authorized by law for the collection of taxes. Such means shall include the assessor carrying the fire protection service charges on the tax rolls for the parish and the sheriff of the parish collecting such service charges at

the same time as ad valorem taxes are collected and with the same authority with which such taxes are collected. If any fire protection service charge becomes delinquent and unpaid, the sheriff shall send a "Final Notice" to the delinquent property owner by registered or certified mail. The sheriff shall also publish notice of the pending delinquent property sale in the parish journal, setting forth the names and addresses of the delinquent property owners and the date and place of the sale to enforce collection and he shall enforce the collection in the same manner as ad valorem taxes are collected. The governing authority may compensate the sheriff and the tax assessor for such collection upon mutual agreement of the governing authority and the sheriff and tax assessor.

(2)(a) The governing authority of the district shall also have the authority to place liens for fire protection service charges upon the structure subject to the charge, upon the building, if any, in which the structure is located if it is owned by the owner of the structure, and upon the lot of ground not exceeding one acre on which the structure is situated if such lot of ground belongs to the person who owns such structure; however, if such structure or building is owned by a lessee of the lot of ground, the lien shall exist only against the lease and shall not affect the owner of the lot. Such lien shall be placed upon property only in the event of refusal of the owner of a structure to pay said service charges when requested to do so by said governing authority within thirty days of receipt by the owner of such a request by registered or certified letter.

(b) The governing authority may file a statement reflecting the amount of the unpaid charges in the mortgage office of the parish, which, when so filed and recorded, shall operate as a lien and privilege in favor of the district against property as provided herein.

(c) In addition, the governing authority of the district shall be entitled to recover the amount of said charges, together with all costs of court and attorney fees, by ordinary process in the district court of the parish.

(d) The governing authority may also provide, by resolution for interest on the amount of said charges, which shall be paid prior to cancellation of the lien.

RS 40:1502.16 — Service charge authorized for DeSoto Parish; assessment and collection

rotection District No. 2 and DeSoto Parish Fire Protection

District No. 3 may establish a service charge or rates of service charges to be assessed persons owning each residential or commercial structure, whether occupied or unoccupied, located wholly or partly within the boundaries of the respective fire protection district, subject to the provisions of Subsection B of this Section. For purposes of this Section, each residential or commercial unit in a structure and each housing unit within a multiple dwelling structure shall be considered a separate structure, and a factory-built home as defined in R.S. 9:1149.2 shall be considered a structure. The service charges or rates of service charges shall be framed to cover and shall be used for the costs of any or all fire protection and emergency medical transportation and emergency services incidental thereto.

B. Service charges or rates of service charges so established shall be assessed by resolution of the governing authority of the fire protection district; however, the resolution assessing the service charges shall be adopted by the governing authority only after the question of the assessment and the amount of the service charges or rates of service charges

to be established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. Such election shall be conducted in accordance with the election laws of the state and shall be held at the same time that an election authorized by the provisions of R.S. 18:402 is held.

C.(1) The governing authority of the fire protection district assessing a service charge or rates of service charges as provided in this Section may also use any reasonable means to collect and enforce the collection of such service charges, including any means authorized by law for the collection of taxes. Such means shall include the assessor carrying the fire protection service charges on the tax rolls for DeSoto Parish and the sheriff of DeSoto Parish collecting such service charges at the same time as ad valorem taxes are collected and with the same authority with which such taxes are collected. If any fire protection service charge becomes delinquent and unpaid, the sheriff shall send a "Final Notice" to the delinquent property owner by registered or certified mail. The sheriff shall also publish notice of the pending delinquent property sale in the parish journal, setting forth the names and addresses of the delinquent property owners and the date and place of the sale to enforce collection, and he shall enforce the collection in the same manner as ad valorem taxes are collected. The governing authority may compensate the sheriff and the tax assessor for such collection upon mutual agreement of the governing authority and the sheriff and tax assessor.

(2)(a) The governing authority of the district may also place liens for fire protection service charges upon the structure subject to the charge, upon the building, if any, in which the structure is located if it is owned by the owner of the structure, and upon the lot of ground not exceeding one acre on which the structure is situated if such lot of ground belongs to the person who owns such structure; however, if such structure or building is owned by a lessee of the lot of ground, the lien shall exist only against the lease and shall not affect the owner of the lot. Such lien shall be placed upon property only if the owner of a structure refuses to pay the service charges when requested to do so by the governing authority within thirty days after receipt by the owner of such a request by registered or certified letter.

(b) The governing authority may file a statement reflecting the amount of the unpaid charges in the mortgage office of the parish, which, when so filed and recorded, shall operate as a lien and privilege in favor of the district against property as provided by this Subsection.

(c) Such fire protection and emergency service charge obligations shall prime all other liens, mortgages, and privileges against the property, except those for taxes and prior recorded local and special assessments.

(d) In addition, the governing authority of the district may recover the unpaid charges, together with all costs of court and attorney fees, by ordinary process in the Forty-Second Judicial District Court.

(e) The governing authority may also provide, by resolution for interest on the unpaid charges, which shall be paid prior to cancellation of the lien.

RS 40:1503 — West Baton Rouge Parish Fire Protection District No. 1; creation; subdistricts; boards; powers, duties, and functions

Council" means the West Baton Rouge Parish Council.

(2) "District" means West Baton Rouge Parish Fire Protection District No. 1.

(3) "Fire protection service" means, but is not necessarily limited to:

- (a) Acquiring and maintaining land for a fire station site.
- (b) Acquiring, constructing, maintaining, and operating fire protection facilities.
- (c) Acquiring, maintaining, and operating fire trucks and other fire protection or emergency equipment.
- (d) Obtaining water for fire protection purposes, including charges for fire hydrant rentals and service.
- (e) Paying salaries of firemen.

(4) "Parish" means West Baton Rouge Parish.

B. In addition to other authority granted by law, the West Baton Rouge Parish Council may create a fire protection district in the manner and subject to the limitations and restrictions contained in this Section. The district shall be designated as "West Baton Rouge Parish Fire Protection District No. 1" and may include two or more fire protection subdistricts.

C. The boundaries of the district shall be coterminous with the boundaries of the parish.

D. Subject to the provisions of this Section, the district shall be a political subdivision within the meaning of the laws of the state relating to voting and levying of special maintenance taxes, voting and levying of service charges or fees, incurring debt, and issuing bonds therefor, including but not limited to the provisions of Subtitle II, Chapter 4, of Title 39 of the Louisiana Revised Statutes of 1950.

E.(1) Notice of intention to create the district shall be ordered by resolution of the council only if concurred in, by resolution, by each municipal governing authority in the parish. The resolution shall state that all of the parish shall be within the district and set forth the boundaries proposed for the subdistricts. The notice shall state that the council shall, in open session, on a date and at an hour and place named, proceed to create the proposed district.

(2) This notice shall be published once a week for two successive weeks, the first publication being not less than fifteen days before the date fixed for the hearing, in the parish's official journal.

F. At the place and time specified in the notice provided for in Subsection E of this Section, the council shall hold a public hearing concerning the creation of the proposed district.

G-L. Repealed by Acts 2013, No. 129, §2, eff. June 5, 2013.

RS 40:1503.1 — Fort Pike Fire Protection District

ich shall be known as the Fort Pike Fire Protection District, referred to in this Section as the "district". The district shall be a political subdivision of the state as defined in the Constitution of Louisiana.

B. Boundaries. The boundaries of the district shall be defined as that area east of Chef Menteur Pass and west of the Rigolets Pass.

C. Purpose. The purpose and intent of this Section is to provide additional fire protection personnel and services within the boundaries of the district which shall be supplemental to and not in lieu of personnel and services provided in the district by the city of New Orleans.

D. Governance. (1) In order for the orderly development and effectuation of the services to be furnished by the district and to provide for the representation in the affairs of the district of those persons and interests immediately concerned with and affected by the purposes and development of the area included within the district, the affairs of the district shall be managed by the members of the governing board of the Fort Pike Volunteer Fire Department District One, referred to in this Section as the "board".

(2) The board may adopt bylaws or such other rules and regulations as it deems necessary for conducting its business affairs. The board may appoint and retain all employees it deems advisable and fix the powers, duties, and compensation of such employees. The board shall hold regular meetings and may hold special meetings as shall be provided in the bylaws.

(3) The members of the board shall select from among themselves a president and a secretary and such other officers as they deem appropriate. The duties of the officers shall be fixed by bylaws adopted by the board.

(4) A majority of the members of the board shall constitute a quorum for the transaction of business. The minute books and archives of the district shall be maintained by the board's secretary. The monies, funds, and accounts of the district shall be in the official custody of the board.

(5) The members of the board shall serve without compensation.

E. Powers and duties. The district, acting through the board, shall have the following powers and duties:

- (1) To sue and be sued.
- (2) To adopt, use, and alter at will a corporate seal.
- (3) To receive and expend funds collected pursuant to Subsection F of this Section and in accordance with a budget adopted as provided by Subsection H of this Section.
- (4) To enter into contracts with individuals or entities, private or public.
- (5) To engage in the operation of firefighting equipment, the prevention of fire hazards, and the extinguishing of fires within the district.
- (6) To acquire by gift, grant, purchase, lease, or otherwise such property as may be necessary or desirable for carrying out the objectives and purposes of the district and to mortgage or sell such property.
- (7) To procure and maintain liability insurance against any personal or legal liability of a board member that may be asserted or incurred based upon his service as a member of the board or that may arise as a result of his actions taken within the scope and discharge of his duties as a member of the board.
- (8) To perform or have performed any other function or activity necessary or appropriate to carry out the purposes of the district.

F. Funding. (1) The board may, when necessary, levy annually an ad valorem tax not to exceed five mills on the dollar of assessed valuation of all property, provided that the amount, term, and purpose of the tax, as set out in a proposition submitted to a vote in accordance with the Louisiana Election Code, shall be approved by a majority of the qualified electors in the district voting in an election held for that purpose.

(2) The proceeds of the tax shall be used solely and exclusively for the purpose and benefit of the district.

G. Additional contributions. The district may solicit and accept additional voluntary contributions and grants to further the purposes of the district.

H. Budget. (1) The board shall adopt an annual budget in accordance with the Louisiana Local Government Budget Act, R.S. 39:1301 et seq.

(2) The district shall be subject to audit by the legislative auditor pursuant to R.S. 24:513(B).

I. The provisions of this Section shall not be construed as changing or affecting the structure and organization or the distribution and redistribution of the powers and functions of the city of New Orleans. The city of New Orleans shall continue to provide fire protection personnel and services as authorized by applicable general and local laws and the powers granted to the district pursuant to the provisions of this Section shall be supplemental to and shall not supercede the powers granted to the city by any such general or local law.

RS 40:1504 — Fire protection districts within Pointe Coupee Parish; governance

icts created by the parish. Any such ordinance may provide

for the creation of one or more supervising boards to govern such districts. Any ordinance that creates a supervising board shall provide for the appointment and compensation of board members.

RS 40:1505 — Parcel fee; submission to voters

el fee shall be imposed

by resolution or ordinance of the governing authority of the district only after the question of the imposition of the parcel fee and the purpose, rate, and duration of the parcel fee has been approved by a majority of the voters of the district voting at an election held therein.

The proceeds of such parcel fee shall be expended for the purposes of acquiring, constructing, maintaining and operating fire protection facilities and equipment, including the cost of obtaining water for fire protection purposes and salaries of firemen, and all purposes incidental thereto. Any parcel fee imposed pursuant to this Section shall be levied and collected and be due and owing annually. Such fee may be carried on the tax rolls for the parish in which such district is located and collected at the same time as parish ad

valorem taxes.

(2) If any parcel fee is not paid when due, such district shall proceed against the parcel for the collection of the amount of the fee unpaid and delinquent, any collection costs incurred by such district plus interest at a rate not exceeding twelve percent on the unpaid amount of the parcel fee, and in the event legal proceedings are necessary to effect collection, court costs and reasonable attorney's fees. However, attorney's fees shall be payable by the parcel owner only if demand by the governing authority of such district has been made on the parcel owner by registered or certified mail, and such parcel owner has failed to pay the amount due within ten days after such demand.

(3) A judgment obtained for nonpayment of a parcel fee, upon being recorded in the mortgage records in the parish in which a district is located, shall prime all other liens except those for taxes and prior recorded local or special assessments. If there are one or more property mortgages on such parcel and the mortgage holder or holders have notified the tax collector in the parish of such recorded mortgage in accordance with the requirements of R.S. 47:2180.1, the district, prior to proceeding against such parcel for failure to pay a parcel fee, shall give notice to each mortgagee of the amount of the parcel fee due and owing on such parcel and that such parcel fee must be paid within twenty days after the mailing of the notice or proceedings will be commenced against the parcel. The notice shall be sent to each such mortgage holder by certified mail, return receipt requested, or made by personal or domiciliary service on such mortgage holder.

(4) Alternatively, the lien authorized by this Subsection may be enforced by assessing the amount of the lien against the immovable as a tax against the immovable, to be enforced and collected as any ordinary property tax lien to be assessed against the property. The lien may be collected in the manner fixed for collection of taxes and shall be subject to the same civil penalties for delinquencies. After the governing authority of a fire protection district has incurred such costs and expenses as constitute the lien on the property, including any cost of court, attorney fees, and interest, the governing authority may send an attested bill of such costs and expenses to the assessor of the parish in which such district is located, who shall add the amount of the bill to the next tax bill of the property owner. The lien shall prime all other liens or privileges against the property, except other tax liens, filed after the statement specified in this Subsection is filed with the recorder of mortgages, regardless of the date on which the lien is perfected.

B.(1) Each district may incur debt and issue bonds payable from an irrevocable pledge and dedication of all or a portion of the proceeds of a parcel fee, provided, however, that the question of funding said proceeds into bonds shall have been approved by a majority of the voters of the district voting at an election held therein and the State Bond Commission has approved the issuance of the bonds. The question or proposition with respect to the funding of the proceeds of the parcel fee into bonds may be voted upon at the election held to authorize the imposition of the parcel fee or may be submitted at a separate election held for that purpose. The maturities of the bonds shall be so arranged that the total amount of principal and interest falling due in any year, together with that falling due in such year on all bonds theretofore issued payable from such parcel fee, shall not exceed eighty percent of

the estimated proceeds to be received from the levy of such parcel fee in the calendar year in which the bonds are issued.

(2) The bonds may be sold at public or private sale and shall be issued pursuant to the provisions of a resolution adopted by the governing authority of the district, provided, however, the bonds shall mature over a period not to exceed the period for which the parcel fee, the proceeds of which are to be used to pay principal and interest on the bonds, is authorized. The bonds and the income therefrom shall be exempt from taxation by the state and by any parish, municipality, or political subdivision thereof.

C. Each district may incur debt and issue certificates of indebtedness pursuant to the provisions of R.S. 33:2921 to R.S. 33:2925, inclusive, subject to the approval of the State Bond Commission.

D.(1) A "parcel" as used in this Section shall mean a lot, a subdivided portion of ground or an individual tract upon which is located, either in whole or in part, a residential or commercial structure, regardless of the structure's being occupied or unoccupied.

(2)(a) Notwithstanding the provisions of Paragraph (1) of this Subsection, within Fire Protection District 8-C in Lafourche Parish, the term "parcel" shall also mean each improved portion of ground upon which a residential or commercial structure has been or may be situated and to which a mailing address has been assigned by a local governmental subdivision, a landowner, or a lessor.

(b) In the case of mobile home parks or other commercial property where spaces are leased for residential or commercial structures, the landowner is responsible for the parcel fee for each portion of ground described in Subparagraph (a) of this Paragraph.

(c) No parcel fee shall be levied on any parcel defined in this Paragraph unless the question of levying such fee has been approved by a majority of the registered voters of the district who vote on the proposition at an election held for that purpose in accordance with the Louisiana Election Code. Any such parcel fee shall be imposed by resolution or ordinance of the governing authority of the district.

RS 40:1505.1 — Richland Parish; additional parcel fee in certain districts

Richland Parish and in which fire protection services are to be provided by the city of Rayville pursuant to a local services agreement may levy a parcel fee, not to exceed one hundred fifty dollars per parcel per year, for purposes of securing such services by means of such an agreement.

B. The parcel fee shall be imposed by resolution or ordinance of the governing authority of the district only after the question of the imposition of the parcel fee and its purpose, rate, and duration have been approved by a majority of the voters of the district voting at an election held for such purpose in accordance with the elections laws of the state.

C.(1) Any such parcel fee shall be levied, collected, and enforced in the manner provided by R.S. 40:1505(A).

(2) "Parcel" shall have the same meaning as provided by R.S. 40:1505(D).

RS 40:1505.2 — City of Springhill; additional parcel fee

es agreement, may levy a parcel fee, not to exceed six dollars per parcel per year, for purposes of securing such services by means of such an agreement.

B. The parcel fee shall be imposed by resolution or ordinance of the governing authority of the district only after the question of the imposition of the parcel fee and its purpose, rate, and duration have been approved by a majority of the voters of the district voting at an election held for such purpose in accordance with the elections laws of the state.

C.(1) Any such parcel fee shall be levied, collected, and enforced in the manner provided by R.S. 40:1505(A).

(2) "Parcel" shall have the same meaning as provided by R.S. 40:1505(D).

RS 40:1506 — Special fire protection districts; creation; subdistricts; boards; powers, duties, and functions

d of commissioners of a district created pursuant to this Section.

(2) "District" means a fire protection district created pursuant to this Section.

(3) "Fire protection service" means but is not necessarily limited to the following:

- (a) Acquiring and maintaining land for a fire station site.
- (b) Acquiring, constructing, maintaining, and operating fire protection facilities.
- (c) Acquiring, maintaining, and operating fire trucks and other fire protection or emergency equipment.
- (d) Obtaining water for fire protection purposes, including charges for fire hydrant rentals and service.
- (e) Paying salaries of firemen.

(4) "Subdistrict" means any subdistrict of a district.

B. In addition to other authority granted by law, a parish governing authority may create a fire protection district in the manner and subject to the limitations and restrictions contained in this Section. The district shall include two or more fire protection subdistricts.

C. The district shall include:

- (1) The nonincorporated area of the parish, excluding any area created as an industrial area; and
- (2) The area within the corporate limits of each municipality which concurs in being included in the district.

D. Subject to this Section, the district shall be a political subdivision within the meaning of the laws of the state relating to voting and levying of special maintenance taxes, and service charges or fees, incurring debt, and issuing bonds therefor, including but not limited to the provisions of Subtitle II, Chapter 4, of Title 39 of the Louisiana Revised Statutes of 1950.

E.(1) Notice of intention to create the district shall be ordered by resolution of the parish governing authority only if concurred in, by resolution, by the municipal governing authority of each municipality to be included in the district. The resolution shall state the boundaries proposed for the district and the boundaries proposed for the subdistricts. The notice shall state that the parish governing authority shall, in open session, on a day and at an hour and place named, proceed to create the proposed district.

(2) This notice shall be published once a week for two successive weeks, the first publication being not less than fifteen days before the date fixed for the hearing, in the parish's official journal.

F.(1) At the place and time specified in the notice provided for in Subsection E, the parish governing authority shall hold a public hearing concerning the creation of the proposed district and the proposed boundaries of the subdistricts. At this hearing, the parish governing authority may change the boundaries of the proposed subdistricts.

(2) After the hearing, the parish governing authority may adopt an ordinance creating the district and fixing the boundaries of each subdistrict.

(3) The ordinance shall:

- (a) Contain the method or formula by which the district's revenues shall be allocated to the subdistricts for fire protection purposes.
- (b) Provide that any subsequent revision of the method or formula of allocation, or termination thereof, shall occur only upon adoption of an ordinance setting forth the proposed action by the parish governing authority and upon concurrence, by resolution, of the governing authority of each municipality included in the district.
- (c) Provide that the entire area of any municipality within the district shall be included within one subdistrict.
- (d) Provide that any area annexed by a municipality, which is included in the district, that is not within the same subdistrict as the annexing municipality shall be included within the same subdistrict as the municipality. The parish governing authority shall adopt an ordinance changing the boundaries of the subdistricts only to the extent necessary to comply with this Subparagraph.
- (e) Not become effective until it has been concurred in, by resolution, by the governing authority of each municipality in the district.

(4) Thereafter, notice of the formation of the district and the subdistricts shall be given immediately by one publication in the parish's official journal.

G.(1) The district shall be governed by a board of commissioners consisting of one representative of each subdistrict appointed by the governing body of the subdistrict. Each subdistrict representative on the board shall be a resident of the subdistrict and may be a member of the governing body of the subdistrict.

(2) Each board member shall serve at the pleasure of the governing body making the appointment.

(3) Annually, the board shall elect a chairman and may elect such other officers as the board may deem necessary.

(4) The board shall select a secretary and a treasurer, or a combined secretary-treasurer, who may be members of the board.

H. The board, as governing body of the district, shall:

(1) Fix the time and place of its regular meetings.

(2) Deposit all funds collected or otherwise received by the district in a separate account with the board's fiscal agent and disburse such funds in accordance with law.

(3) Allocate funds to the subdistricts as provided by ordinance.

(4) Adopt a procedure by which a subdistrict may make application for and receive supplemental funding from the district.

(5) Have the district's books and records audited by the legislative auditor under the provisions contained in R.S. 24:513. The audit report shall be made available to the board, to the parish governing authority, and to the governing authority of each municipality in the district.

(6) Prepare a budget for its operations in the ensuing year. Upon receipt of funds sufficient to finance its budget, the board may proceed to act thereunder.

I. The board, as governing body of the district may:

(1) Incur debt and contract obligations.

(2) Sue and be sued.

(3) Accept grants or donations of any type.

(4) Enter into contracts necessary or desirable to fund fire protection service within the district, including entering into contracts and agreements with any federal, state, or local agency or instrumentality as is necessary to procure aid and grants.

(5) With the concurrence of the parish governing authority and the governing authority of each municipality in the district, levy a special tax of not more than ten mills on the dollar of a period of not more than ten years for the purpose of providing fire protection service within the district. However, the resolution levying the tax shall be adopted by the board only after the question of the levy and the amount of the tax have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. The cost of the election shall be borne by the district.

(6)(a) With the concurrence of the parish governing authority and the governing authority of each municipality in the district, establish, by majority vote of the members of the board, a service charge or rates of service charges to be assessed persons occupying residential or nonresidential structures and persons owning unoccupied structures located wholly or partly within the district as customers of the district, subject to Subparagraph (b) of this Paragraph. The service charges or rates of service charges shall be equal for all customers and shall be framed so as to cover and shall be used for the costs of fire protection service within the district.

(b) Service charges or rates of service charges shall be assessed by resolution of the board. However, the resolution assessing the service charges shall be adopted by the board only after the question of the assessment and the amount of the service charge or rates of service charges established have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. The cost of the election shall be borne by the district.

(7)(a) With the concurrence of the parish governing authority and the governing authority of each municipality in the district, levy within the district a sales and use tax not exceeding one percent, which tax may exceed the limitation set forth in Article VI, Section 29(A) of the Constitution of Louisiana. However, the levy shall be adopted by the board only after the question of the levy and the amount of the tax have been submitted to and approved by a majority of electors of the district voting at an election held for that purpose. The cost of the election shall be borne by the district.

- (b) The tax shall be imposed by resolution of the board and shall be levied upon the sale at retail, the use, the lease or rental, the consumption, the distribution and storage for use or consumption of tangible personal property, and upon the sales of services within the district, all as presently or hereafter defined in R.S. 47:301 et seq.
 - (c) Except where inapplicable, the procedure established by R.S. 47:301 et seq. shall be followed in the imposition, collection, and enforcement of the tax, and procedural details necessary to supplement the provisions of those Sections and to make said provisions applicable to the tax herein authorized shall be fixed in the resolution of the board imposing the tax.
 - (d) The tax shall be imposed and collected uniformly throughout the district.
 - (e) The proceeds of the tax may be used by the board for fire protection purposes within the district, but the proceeds of the tax shall be dedicated solely for the purposes approved by the electorate, including the funding of the proceeds of such tax into bonds in the manner provided by Subpart F, Part III, Chapter 4, Subtitle II of Title 39 of the Louisiana Revised Statutes of 1950, which funding may be submitted to the voters in the same proposition the tax is submitted.
 - (f) The resolution imposing the tax herein authorized shall be adopted by the board only after the question of the imposition of the tax shall have been submitted to the qualified electors of the district at an election conducted in accordance with the election laws of the state and a majority of those voting in the election shall have voted in favor of the imposition of the tax. All expenses of the election shall be borne by the district.
 - (8) The board may use any necessary and proper means to collect and enforce the collection of any tax or service charge, including contracting with any political subdivision within the parish or any official or agency of the parish to effect the collection.
 - (9) Adopt rules and procedures.
 - (10) Do and perform all acts necessary and proper for the purpose of providing funding for fire protection service within the district.
- J. The district and any subdistrict may be revised or dissolved only in the manner and subject to the limitations and restrictions applicable to the creation of the district and the subdistricts.
- K.(1) If no municipality is included within a subdistrict, the parish governing authority shall be the governing body of the subdistrict.
- (2) If a municipality is included within a subdistrict, the governing body of the municipality shall be the governing body of the subdistrict.
 - (3) The governing body of each subdistrict shall:
 - (a) Fix the time and place of its regular meetings.
 - (b) Deposit and maintain all funds received for the use of the subdistrict in a separate account with the governing body's fiscal agent and disburse such in accordance with law.
 - (c) The subdistrict's books and records shall be audited by the legislative auditor under the provisions contained in R.S. 24:513. The audit report shall be made available to the board, to the parish governing authority, and to the governing authority of each municipality in the district.
 - (d) Prepare a budget for its operations in the ensuing year.
 - (4) Upon receipt of funds sufficient to finance its budget, the governing body may proceed to act thereunder.
 - (5) The governing body of each subdistrict may:
 - (a) Sue and be sued.
 - (b) Accept grants or donations of every type.
 - (c) Enter into contracts necessary or desirable to carry out the purpose of the subdistrict, including entering into contracts and agreements with any federal, state, or local agency or instrumentality as is necessary to procure aid and grants to assist the subdistrict in carrying out the purpose for which it was created.
 - (d) Adopt rules and procedures and fix the time and place of its regular meetings.
 - (e) Do and perform all acts necessary and proper for the purpose of providing fire protection service within the subdistrict.
 - (f) If and only if there is being levied and collected a special tax pursuant to Paragraph I(5) of this Section, a service charge pursuant to Paragraph I(6) of this Section, or a sales and use tax pursuant to Paragraph I(7) of this Section, levy a

special tax of not more than ten mills on the dollar for a period of not more than ten years or the termination of all district levies and assessments, whichever occurs first, for the purpose of providing fire protection service within the subdistrict. However, the resolution levying the tax shall be adopted by the governing body only after the question of the levy and the amount of the tax have been submitted to and approved by a majority of electors of the subdistrict voting at an election held for that purpose. The cost of the election shall be borne by the subdistrict.

(g)(i) If and only if there is being levied and collected a special tax pursuant to Paragraph I(5) of this Section or a service charge pursuant to Paragraph I(6) of this Section, establish, by majority vote of the members of the governing body, a service charge or rates of service charges to be assessed persons occupying residential or nonresidential structures and persons owning unoccupied structures located wholly or partly within the subdistrict as customers of the subdistrict, subject to the provisions of Subparagraph (ii) of this Subparagraph. The service charges or rates of service charges shall be equal for all customers and shall be used for the costs of fire protection service within the subdistrict.

(ii) Service charges or rates of service charges shall be assessed by resolution of the governing body. However, the resolution assessing the service charges shall be adopted by the governing body only after the question of the assessment and the amount of the service charges or rates of service charges established shall have been submitted to and approved by a majority of electors of the subdistrict voting at an election held for that purpose. The cost of the election shall be borne by the subdistrict.

(iii) The service charge authorized pursuant to this Subparagraph shall automatically terminate upon the cessation of all district levies and assessments.

(h) The governing body may use any necessary and proper means to collect and enforce the collection of any tax or service charge, including contracting with another political subdivision within the parish or any official of the parish to effect the collection.

L. If any area is transferred from one subdistrict to another, whether through annexation or otherwise, the governing body of the subdistrict from which the area is taken shall continue to levy existing taxes in that area for the retirement of any outstanding tax secured or revenue-secured bonds and may continue to levy any maintenance tax or service charge previously authorized for the full period of the authorization. However, the governing body of that subdistrict shall not thereafter levy any new maintenance tax or assess any new service charges in the area which has been transferred to another subdistrict. If the subdistrict thereafter issues any tax secured bonds, the assessed value of that area shall not be used in computing the bonding capacity of the subdistrict and no tax shall be levied in that area for the retirement of new bonds of the subdistrict.

RS 40:1508 — Limitation of authority to levy fire service charge without vote of electorate; 1992 Regular Session

y of a fire protection district manned with any volunteer fireman may, solely by majority vote of the authority, without approval by a vote of the electorate of the district, levy a fire service charge of more than one dollar for each housing unit within a hotel or motel. Further, for the purposes of levying any fire service charge authorized by any Act of the 1992 Regular Session without approval by a vote of the electorate of the district, no residential unit within a structure or individual housing unit within a multiple dwelling structure may be considered a separate structure, rather the entire structure containing the residence or housing unit shall be considered as one structure.

B. This Section shall supersede any Act of the 1992 Regular Session of the Legislature to the extent that the provisions of this Section conflict with the provisions of such Act.

RS 40:1509 — Appointment of board of commissioners of certain fire protection districts

hes of Avoyelles, Lincoln, St. John the Baptist, and Webster shall be comprised of at least one member from each ward located within the boundaries of the district. The respective parish governing authorities shall implement this Section by providing for appointment of members, including those from municipalities, in such manner, and by adding such members, as shall be necessary to implement these provisions.

RS 40:1510 — Expenditure of public funds for awards, recognition, and meals

teer fire department may expend public funds in

connection with the following activities:

(1) The purchase of a plaque, trophy, certificate, medal, or similar memento to

acknowledge outstanding achievement or valiant act of personnel not to exceed one hundred dollars.

(2) Meals, snacks, or refreshments for firefighters involved in fire department related meetings, workshops, training programs, or performing of emergency services not to exceed twenty-five dollars per person.

(3) The implementation and execution of a length of service awards program. For the purposes of this Paragraph, a length of service awards program means a program established by the fire protection district, municipal fire department, or volunteer fire department that provides a monetary benefit, based upon service, to eligible firefighters as determined by the fire protection district, municipal fire department, or volunteer fire department. The length of service awards program shall not be considered a vested right nor entitle the recipient to any other benefit not directly related to the program's monetary benefit. The length of service award shall not be considered permanent and may be discontinued at any time.

B. The provisions of this Section shall not be construed to prohibit or restrict the use of public funds to pay or defray the reasonable expenses of travel and lodging required for attendance at any conference or convention for the purpose of educating or training fire department personnel with regard to their public duties and responsibilities.

RS 40:1531 — Administration; sessions; subjects of instruction

time and place determined by the department. At these sessions it shall instruct the representatives of the paid, part-paid, and volunteer fire departments of the state who are sent there in all the approved modern methods of fire-fighting, rendering first aid in case of drowning or asphyxiation, etc., and in all the modern methods of preserving life and property.

RS 40:1532 — Transfer of administration

college and the expenses of the same shall be included in the annual budget submitted by the Louisiana State University and Agricultural and Mechanical College.

RS 40:1541 — State fire marshal; official agency for training

firefighters on a statewide basis in which firefighters from any and all duly constituted fire departments and private or commercial industrial and allied emergency services may participate, and to coordinate and conduct other firefighter training programs at other training locations as provided in this Part and transfer such training to the office of state fire marshal. This Part shall not be construed as affecting the authority of any fire department to conduct training for its own personnel.

B. The office of state fire marshal shall conduct training programs and perform its functions as provided in this Part with the advice and guidance of the Louisiana Fire and Emergency Training Commission created by this Section.

C.(1) The Louisiana Fire and Emergency Training Commission, referred to in this Part as the "commission", is hereby created.

(2) The commission shall be composed of eleven members as follows:

(a) One member shall be the state fire marshal or his designee.

(b) One member shall be the Louisiana State University-Baton Rouge chancellor or his designee.

- (c) Two members shall be selected by the Louisiana State Firemen's Association.
 - (d) Two members shall be selected by the Louisiana Fire Chiefs Association.
 - (e) Two members shall be selected by the Professional Firefighters' Association of Louisiana.
 - (f) One member shall be a Louisiana citizen with knowledge and experience in the field of fire and emergency services appointed by the governor.
 - (g) One member shall be a person who is currently in active service with a Louisiana fire department and has been active for at least ten years, appointed by the governor upon recommendation of the commission.
 - (h) One member shall be a person with knowledge and experience and active in the field of industrial fire and emergency services, appointed by the governor upon recommendation of the commission.
- (3) Members shall serve at the pleasure of the appointing authority. A vacancy shall be filled in the manner of the original appointment.
- (4) Members shall serve without compensation or reimbursement for expenses.
- (5) The commission annually, at the first meeting of the calendar year, shall elect from its members a chairman and vice chairman. The chairman and vice chairman shall serve as such for a period of one year from the date of election.
- (6) Commission members shall be considered state officers for purposes of R.S. 9:2798.1 and Chapter 16-A of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950.
- (7) The commission shall meet at least quarterly. Other meetings may be called by the chairman on his own initiative and shall be called by him at the request of three or more members of the commission within fourteen days of such request. Each member shall be notified by the chairman in writing of the time and place of a meeting at least seven days before the meeting.
- (8) The commission shall adopt rules for the conduct of commission functions. Any decision of the commission may be made only by the favorable vote of at least two-thirds of those members in attendance at the meeting provided that a quorum is established prior to the vote. A majority of members of the commission shall constitute a quorum.
- D. The commission shall provide advice, guidance, and recommendations to the office of state fire marshal relative to the approval of matters including but not limited to the following:
- (1) Approval of an organizational chart outlining the arrangement of personnel needed for the conduct of the office of state fire marshal's functions pursuant to this Part.
 - (2) All aspects of the conduct of fire and emergency training and training programs, including curricula and performance of the office of state fire marshal's functions pursuant to this Part.
 - (3) Prioritization of training throughout the state.
 - (4) Recommendations to be made by the office of state fire marshal to the legislature relative to the office of state fire marshal's functions pursuant to this Part.
 - (5) The acceptance of any and all appropriate donations and grants of money,

equipment, supplies, materials, and services and their receipt, use, and disposal. The commission shall be apprised of all grant opportunities available to the office of state fire marshal Fire and Emergency Training Academy and all grant applications submitted on behalf of the academy individually or in conjunction with other institutions or programs of the office of state fire marshal.

E. The state fire marshal, subject to the approval of the commission, shall appoint a qualified person to serve as the superintendent of the Louisiana Fire and Emergency Training Academy.

F. Notwithstanding any provision of law to the contrary, the commission may certify educators to conduct fire-based emergency medical services training in preparation for licensure, and such training shall be accepted by the Bureau of Emergency Medical Services.

RS 40:1542 — Standards

§1; Acts 1975, No. 576, §1; Acts 1979, No. 528, §1, eff. July 18, 1979.

RS 40:1543 — Certification

shall develop a program to issue a reciprocity

certification to a person who has been timely certified by an accreditation by the International Fire Service Accreditation Congress, at the appropriate accredited certification level.

RS 40:1544 — Administration of federal funds

bit local governmental

subdivisions or Delgado Community College from applying for, receiving, and administering federal funds for fire training and education.

RS 40:1546 — Coordination of state, private, and federal efforts

he firefighter training program through the office

of state fire marshal to prevent duplication of efforts, duplication of cost, and to ensure standardization. The office of state fire marshal is hereby designated as the state agency for the coordination of training for the fire service provided by any federal government agency.

RS 40:1547 — Office of state fire marshal Fire and Emergency Training Academy Film Library

Rouge is hereby authorized to create an office of state fire marshal Fire and

Emergency Training Academy Film Library Fund for the establishment of a film library.

B. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated to pay all obligations secured by the full faith and credit of the state which become due and payable within a fiscal year, the treasurer in each fiscal year shall pay into a special fund, which is hereby created in the state treasury and designated as the office of state fire marshal Fire and Emergency Training Program Film Library Fund, the sum of fifty thousand dollars to be appropriated by the legislature. The sum appropriated in this Subsection shall be in addition to any other appropriations made to the office of state fire marshal Fire and Emergency Training Academy.

C. The Film Library created by this Section shall provide training films, public education fire service films, and fire prevention films to be used by the volunteer fire departments, paid fire departments, and industrial fire brigades of the state of Louisiana. The library shall be operated by and under the jurisdiction of the Fire and Emergency Training

Program of the office of state fire marshal located at Baton Rouge.

RS 40:1551 — Creation; authority of parish governing authorities; purpose

empowered, upon their own initiative, to form and

create a fire and emergency training services district as a political subdivision of the state.

B. The purpose of a fire and emergency training services district, hereinafter

sometimes referred to as "district" and the governing bodies created pursuant to this Chapter

shall be to maintain and operate a well-equipped educational and training institution or

facility to teach and train fire fighting and emergency services personnel. The production of

well-qualified personnel will serve only to enhance the state's fire protection and emergency

services provision efforts, which in turn shall benefit all of the citizens of this state.

C. In providing training for the fire service, the district shall coordinate such efforts

with the office of state fire marshal Fire and Emergency Training Academy to prevent

duplication of efforts and duplication of cost, and to ensure standardization in accordance

with R.S. 40:1541 et seq. In addition, all aspects of the training, including but not limited

to personnel, participants, programs, and courses, shall be certified by and through the Fire

and Emergency Training Academy of the office of state fire marshal.

RS 40:1552 — Board of commissioners; membership; qualifications; appointment; terms; vacancies; removal; officers; meetings

of this Chapter shall be governed by a board of commissioners composed of qualified voters of the district, all to be

appointed by the parish governing authority or parish governing authorities, in the instance of a multiparish district. The

board shall be comprised of such number as determined by the parish governing authority or governing authorities but

shall not be less than five. The appointing authorities shall determine the terms the board members shall serve.

B. Any vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

Any commissioner may be removed from office for cause and his appointment rescinded by a two-thirds vote of the elected membership of the appointing parish governing authority.

C. The first meeting of the board of commissioners shall be within sixty days of the date of the appointment of all the

members. At that time, a chairman and vice chairman of the board shall be elected, and a director of the district shall be

appointed. Thereafter, the board of commissioners shall hold a minimum of three meetings annually. The parish

governing authority or governing authorities or the chairman of the board of commissioners may call additional meetings of the board.

RS 40:1553 — Corporate status of district; authority of board

all the power and right to incur debts and contract obligations, to sue and be sued, and to do and perform any and all acts

in its corporate capacity and its corporate name necessary and proper for the carrying out of the purposes for which the

district was created. Any obligation, debt, or liability incurred by the district shall not constitute or create an obligation,

either general or special, debt, or liability of the parish or parishes or the state of Louisiana within the meaning of any constitutional or statutory provision whatsoever.

B. The district shall be domiciled as designated by the parish governing authority or authorities and the board of commissioners of the district shall have the following authority:

(1) To operate and maintain a well-equipped, state-of-the-art fire fighting and emergency services training center.

(2) To represent the public interest in providing fire fighting and emergency training services in the district.

(3) To make, alter, amend, and promulgate rules and regulations governing the conduct of the district.

(4) To conduct hearings and pass on complaints by or against any officer or employee of the district.

(5) To review and modify or to set aside any action of the officers or employees of the district as the board determines to be desirable or necessary in the public interest.

(6) To appoint a director and staff of the district, as further provided in R.S. 40:1554.

- (7) To appoint the standing and special committees which may be necessary to carry out the purposes of this Chapter.
 - (8) To establish charges or rates of pay for the use of facilities provided by the district.
 - (9) To designate a bank to act as agent for depositing funds.
 - (10) To designate rules and regulations for safekeeping of the funds acquired, collected, or loaned by or to the district and to provide for regular audits of the accounts of the district.
 - (11) To purchase, construct, or improve educational and training facilities and other educational- and training-related facilities.
 - (12) To acquire necessary or desirable equipment and furnishings therefor, including but not limited to technology and computer equipment and software.
 - (13) To repair, maintain, and rehabilitate existing educational or training facilities.
 - (14) To acquire or improve lands for building sites.
 - (15) To perform such other duties as are required and authorized by law.
- C. All lands, buildings, and facilities acquired either by donation, purchase, exchange, or otherwise shall be owned, in full, by the district.

RS 40:1554 — Director; staff

es as director of the district, shall receive a salary fixed by the board, and shall serve at the pleasure of the board.

B. The board shall appoint such staff as is necessary to assist the director in the operation of the district.

RS 40:1555 — Federal, state, and private aid and grants

federal government, the state, or other public or private sources as may be necessary to procure aid and grants to assist the district in carrying out the purpose for which it was created.

RS 40:1558.1 — Purpose

n volunteer fire departments is vital to public safety; therefore, it is crucial to the future of emergency services in this state to encourage participation in volunteer fire departments.

B. It is the purpose of this Part to provide for the creation of the Volunteer Firefighters' Tuition Reimbursement Fund, wherein the state may financially reimburse eligible students who volunteer with volunteer fire departments.

RS 40:1558.2 — Definitions

ment" means a department whose personnel is composed of both volunteer and professional firefighters.

(3) "Recipient" means a person who has met the eligibility requirements and is awarded tuition reimbursement from the Volunteer Firefighters' Tuition Reimbursement Fund.

RS 40:1558.3 — Volunteer Firefighters' Tuition Reimbursement Fund

fter referred to as the "fund", which shall consist of monies appropriated annually by the legislature for the purpose set forth in this Part to the extent that state general funds are available; federal funds; public or private donations, gifts, or grants from individuals, corporations, nonprofit organizations, or other business entities which may be made to the fund; and any other monies that may be provided by law.

B.(1) Notwithstanding any other provision of law to the contrary, after compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and after a sufficient amount is allocated from the Bond Security and Redemption Fund to pay all of the obligations secured by the full faith and credit of the state that become due and payable within any fiscal year, the treasurer shall pay into the Volunteer Firefighters' Tuition Reimbursement Fund an amount equal to the amount provided for in Subsection A of this Section.

(2) Monies appropriated from the fund shall be used solely as provided by Subsection C of this Section and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. The monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to the fund following compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund.

C. Subject to annual appropriation by the legislature, the monies in the Volunteer Firefighters' Tuition Reimbursement Fund shall be used solely for providing tuition reimbursement to eligible volunteer firefighters attending a state funded public college, university, or vocational or technical school.

D. Notwithstanding any provision of law to the contrary, no monies from the state general fund (direct) shall be deposited or appropriated to the fund unless and until two-thirds of the elected members of each house of the legislature consent to such deposit or appropriation.

RS 40:1558.4 — Volunteer Firefighters' Tuition Reimbursement Board; creation; membership

and Corrections, office of state fire marshal, code enforcement and building safety.

B. The Volunteer Firefighters' Tuition Reimbursement Board shall be composed of seven members as follows:

- (1) The state fire marshal or his designee.
- (2) The president of the Senate or his designee.
- (3) The speaker of the House of Representatives or his designee.
- (4) One member appointed by the governor.
- (5) One member appointed by the Louisiana State Firemen's Association.
- (6) Two members appointed by the Louisiana Fire Chiefs Association, one of whom shall be the chief of a predominantly volunteer fire department.

C. Each board member shall serve without compensation.

D. The board shall adopt rules and regulations providing for the governance of the board, including but not limited to the following:

- (1) Procedures for the election of board officers and terms of office.
- (2) Methods and grounds for removal of board members, which shall include but not be limited to conviction of a felony and failure to meet attendance rules.
- (3) Procedures for filling vacancies created by removal, resignation, or death of any member prior to the end of the member's term, which shall follow those used for the initial appointment of members to the board.

E. Four members shall constitute a quorum and shall be required to conduct the business of the board. A majority vote of the members constituting a quorum shall be necessary for any action taken by the board.

RS 40:1558.5 — Powers and duties of the board

in R.S. 40:1558.6 and any rules or regulations promulgated by the board.

- (3) Disburse to recipients an amount equal to the tuition charged by the state funded college, university, or vocational or technical school selected by the recipient.
- (4) Require the fire chiefs of recipients to file voluntary status affidavits with the board for each semester for each recipient.
- (5) Require recipients to file education progress reports with the board after each semester.

B. The board shall determine recipients based on eligible applicants in the order in which the applications were received by the board.

RS 40:1558.6 — Eligibility of applicants

two-year associate degree program or completed two years of a four-year degree program at a public college or university or completed one year at a public vocational or technical school.

(3) Volunteered for a minimum of two years with a volunteer or combination fire department prior to application and, at the time of application, is serving as a volunteer firefighter.

B. A recipient shall be disqualified from receiving tuition reimbursement from the fund if the board determines either of the following:

- (1) That the recipient has failed to maintain good standing with the attending college, university, or vocational or technical school.
- (2) That the recipient has discontinued service as a volunteer firefighter.

RS 40:1558.7 — Rules and regulations

310, §2.

RS 40:1561 — Recognition; appointment; term; compensation; qualifications

The state fire marshal shall have the following qualifications:

- (1) have a college degree or have at least ten years experience in the fire service with five of such years as a district chief or higher position or chief of a fire prevention bureau or equivalent experience;
- (2) have at least two years experience in management and personnel supervision;
- (3) have been continuously engaged in the fire protection field for at least five years; and
- (4) has demonstrated through his past endeavors his ability to perform the functions assigned to his office.

B. The office of fire marshal of the State of Louisiana shall be subject to and regulated by the provisions of Chapter 1 of Title 39 and particularly with respect to the requirements of budgetary control and central purchasing.

C. The state fire marshal shall receive a minimum annual salary of seventeen thousand five hundred dollars. The qualifications set forth in this section shall take effect as of the day beginning the next gubernatorial term.

RS 40:1562 — Assistants and deputies

fire marshal.

B. The fire marshal may also appoint such deputies, counsel, and other officers and employees as he thinks necessary for the proper performance of the duties imposed upon him by the provisions of this part. In these appointments, the fire marshal shall use the funds necessary for such purpose and available to him from the fire marshal fund in the state treasury and from appropriations made by the legislature.

RS 40:1562.1 — Organization of fire marshal's office

(3) Inspection.

(4) Investigation.

(5) Fire and emergency training.

RS 40:1563 — Powers and duties generally; use of deputies; responsibilities of local governing

rshal shall take all steps necessary and proper to protect life and property from the hazards of fire and of panic which may arise from fire or from the threat of fire or explosion.

B. Except for those open structures and process structures as defined in Subsection J of this Section the fire marshal shall supervise the following:

- (1) The construction and maintenance of exits, including fire escapes, exit doors, and emergency lighting.
- (2) The installation and operation of heating, air conditioning, and ventilating systems.
- (3) The use of flammable materials for decorative purposes in places of public assembly.
- (4) The inspection of all structures, except one- and two-family dwellings and movables, for the purpose of reducing or eliminating fire hazards.

C.(1) The fire marshal shall not conduct or supervise inspections pursuant to the provisions of Paragraphs (B)(1), (2), (3), and (4) of this Section within the jurisdiction of any local governing authority in which a fire prevention bureau has been properly established by special ordinance and accompanying resolution as provided in this Section, except as provided in Paragraph (5) of this Subsection.

(2) The local governing authority may properly establish a fire prevention bureau by special ordinance and accompanying resolution as provided in this Section and a fire prevention bureau thus established may apply for certification by the fire marshal to perform inspections on behalf of the fire marshal solely through adoption of the special ordinance which conforms to the following requirements which are applicable to existing fire prevention bureaus:

(a) The fire prevention bureau must be headed by a chief of a fire department or a person designated by the chief of a fire department.

(b) The fire prevention bureau shall be staffed with qualified individuals whose credentials have been reviewed by the fire marshal and who have successfully completed, according to criteria established by the fire marshal, special training in fire inspection and fire codes in a course approved by the fire marshal at the office of state fire marshal Fire and Emergency Training Academy or a course deemed equivalent or superseding by the fire marshal.

(c) Requiring adoption as a minimum standard those codes as adopted and enforced by the state fire marshal.

(d) Requiring copies of inspection reports to be filed with the state fire marshal's office on forms acceptable to the fire marshal.

(e) Requiring continuing education as necessary to maintain standing through a training program recognized by the fire marshal.

(f) Recognizing the authority of the fire marshal to monitor the performance of the fire prevention bureau in the performance of those functions which would otherwise be performed by the fire marshal.

(3) The fire marshal shall revoke certification of a local fire prevention bureau for cause, including but not limited to failure to submit reports of inspections for six consecutive months, after notice and an administrative hearing, in accordance with the Administrative Procedure Act.

(4) The fire marshal shall remain responsible for all institutional occupancies requiring a state or federal license, detention, colleges, universities, state-owned and state-leased buildings, and schools where applicable, and the applicable federal and state life safety codes shall be the codes applying to these facilities. Nothing contained herein shall limit the right of the local fire department to consult with the fire marshal or otherwise restrict the authority of the local fire department to conduct fire preplanning for any occupancy within its jurisdiction.

(5) The fire marshal shall not conduct or supervise inspections in all remaining matters where a fire prevention bureau is properly certified unless specifically requested by the fire prevention bureau or the local governing body of that jurisdiction or upon complaint of any citizen. The fire marshal may, at his discretion, report any complaint received from a citizen to the appropriate fire prevention bureau and the fire marshal may conduct a joint inspection with the fire prevention bureau.

(6) The monitoring function conferred upon the fire marshal by this Section is solely intended to achieve the equal, effective enforcement of the state's adopted fire protection, life

safety, and accessibility laws, codes, rules, and regulations. It is not intended that the fire marshal shall retain or assume responsibility or liability for inspections performed by fire prevention bureaus. The local governing authority shall, by specific resolution accompanying the ordinance creating the fire protection bureau, assume the responsibility for and release the fire marshal and any other state entity from responsibility or liability for those inspections performed by the fire prevention bureau, or the consequences thereof, within the jurisdiction of the governing authority.

D. For the purpose of this Part, a "fire prevention bureau" is defined as any agency of a locally governed jurisdiction staffed by qualified individuals whose qualifications have been reviewed by the fire marshal whose responsibility it is under the laws or ordinances of that locally governed jurisdiction to inspect structures, watercraft, and movables for compliance with the appropriate fire code applicable as provided in R.S. 40:1578.6 and equivalencies as determined by the fire marshal pursuant to R.S. 40:1574(K) and to conduct investigations of fires in accordance with the provisions of R.S. 40:1566 and 1568.

E. In the execution of the duties imposed upon him by this Part, the fire marshal may designate any of his regular, salaried deputies to act for him except with respect to matters of appeal from notices for the abatement of hazardous conditions, as provided in R.S. 40:1577.

F. The fire marshal shall have the authority in order to carry out the purposes of this Part or any other law for which he is given responsibility for supervision or enforcement, including but not limited to R.S. 40:1561 et seq., R.S. 49:148 et seq., R.S. 51:650 et seq., and R.S. 51:911.21 et seq., to prepare, adopt, and promulgate rules and regulations in accordance with the Administrative Procedure Act, and he shall compile a written set of current rules and regulations setting forth state laws and regulations governing fire hazards and life safety requirements and shall distribute to building owners copies of such compilation upon request. He shall also have available copies of said regulations for release upon request of any interested person and copies of state laws and regulations shall be distributed to all fire fighting agencies within the state.

G.(1) The fire marshal shall have authority to charge fees for conducting inspections, both as to private persons, and the state. Such fees shall be designed to cover, but not exceed, the actual cost of the inspections. The inspection fee shall be based on the time required for the inspection multiplied by 2.5 times the average hourly pay rate for inspectors; provided however, all nonpublic elementary and secondary schools shall be exempt from the payment of such fees imposed herein.

(2) As used in this Subsection, the following definitions shall apply:

(a) "Inspection" (INSP) means a survey of a single-story building, each floor of a multi-story building, or buildings having multiple occupancies or multiple building additions separated by horizontal two-hour fire rated construction which require separate surveys.

(b) "Reinspection" (REINSP) means a follow-up to an inspection or final inspection to determine if proper remedial action was taken to correct deficiencies.

(c) "Final inspection" (FINAL INSP) means an inspection to determine if a new construction, renovation, remodeling, addition, or change of occupancy in accordance with

R.S. 40:1574 is in compliance with applicable state laws and regulations.

H.(1) The fire marshal, in order to carry out the purposes of this Part or any other law for which he is given responsibility for supervision, enforcement, licensure, or regulation, including but not limited to R.S. 40:1662.1 et seq., R.S. 51:650 et seq., R.S. 51:911.21 et seq., and R.S. 40:1484.1 et seq., upon reasonable suspicion that a violation of the foregoing has occurred or is about to occur, shall have the authority to swear out and, upon issuance by a judge, execute search warrants.

(2) A court may issue search warrants on application of the fire marshal, in accordance with law, which warrant shall authorize the search for and seizure of anything within the territorial jurisdiction of the court in aid of the enforcement of the laws under the supervision, enforcement, licensure, or regulation of the office of fire marshal.

(3) The search warrant shall be directed to the fire marshal or his designated representative and shall describe the premises to be searched. The fire marshal or his designated representative to whom the warrant is directed shall make proper return thereon of the action taken on it and shall describe all property or records seized, if any. Any property or records seized shall be retained under the custody and control of the fire marshal or his designated representative until further order of the court or as may be provided by law.

I.(1) The fire marshal, in order to carry out the purposes of this Part or any other law for which he is given responsibility for supervision, enforcement, licensure, or regulation, including but not limited to R.S. 40:1662.1 et seq., R.S. 51:650 et seq., R.S. 51:911.21 et seq., and R.S. 40:1484.1 et seq., shall have the authority to request the issuance of subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence before him in any matter over which he has jurisdiction.

(2) A court, upon application and acceptable presentation, may order a subpoena or subpoena duces tecum to be issued requiring a witness to appear before the fire marshal to give testimony or to produce evidence. Upon filing such order in the office of the clerk of the appropriate court, the clerk shall issue the subpoena or the subpoena duces tecum according to law.

(3) Punishment for failure to comply with a subpoena or a subpoena duces tecum, proof of service of which appears of record, shall be subject to the sanctions available by law to the issuing court.

J.(1) Process structures as defined herein shall conform to the requirements of the National Fire Protection Association's Life Safety Code as provided in R.S. 40:1578.6, except that stairs, guard rails, and hand rails shall comply with the applicable worker safety requirements of the Occupational Safety and Health Administration.

(2) "Open structure" means a structure that supports equipment and operations not enclosed within building walls, but which may include a roof or canopy, found in oil refining, chemical processing plants, power plants, pulp and paper mills.

(3) "Process structure" means a naturally ventilated structure enclosed within building walls whose primary function is to protect equipment from the environment in oil refining, chemical processing plants, power plants, pulp and paper mills, and which structure is normally not occupied.

K. The fire marshal shall take steps that are necessary and proper to perform services as required by the state emergency operations plan.

L.(1) The state fire marshal shall have the authority to conduct plan reviews for plans or specifications of a facility licensed, certified, or seeking licensure or certification by the Louisiana Department of Health.

(2) In consultation with the Louisiana Department of Health, the state fire marshal shall develop and promulgate rules in accordance with the Administrative Procedure Act to implement the provisions of this Subsection. The rules shall be applicable to both public and private entities.

M. The state fire marshal or his designee shall, as an approved third-party inspector by the Louisiana Gaming Control Board, have the authority to conduct inspections of a riverboat landside facility licensed or seeking licensure or certificates of compliance by the Louisiana Gaming Control Board pursuant to R.S. 27:44.2.

N.(1) The fire marshal or his designee shall have the authority to require the owner or lessee of a structure that was in existence as of August 1, 2014, and is utilized as a hotel to install a carbon monoxide alarm system when he determines, as a result of a plan review, investigation, or inspection, that a carbon monoxide source within or attached to the building or structure poses a threat of carbon monoxide poisoning. The source of carbon monoxide may include but not be limited to an attached enclosed garage or fossil-fuel burning appliance or appliances.

(2) For purposes of this Subsection, the following terms mean:

(a) "Attached enclosed garage" means a structure or portion of a structure without openings or openings on only one side that is used for the parking or storage of private motor vehicles.

(b) "Hotel" means a building or structure that was in existence as of August 1, 2014, which is utilized as a residential occupancy building containing sleeping units where the occupants are primarily transient in nature, including boarding houses, hotels, and motels.

O. The fire marshal shall take all steps necessary and proper to perform inspections as required by R.S. 40:2009.25.

RS 40:1563.1 — Authority to make arrests and carry firearms; arson task force

or municipal arson investigators, while engaged in the performance of their duties as such, shall have the authority to investigate and cause the arrest of individuals suspected of having violated the following criminal laws:

(1) R.S. 14:51, aggravated arson.

(2) R.S. 14:52, simple arson.

(3) R.S. 14:52.1, simple arson of a religious building.

(4) R.S. 14:53, arson with intent to defraud.

(5) R.S. 14:54, placing combustible material.

(6) R.S. 14:54.1, communicating false information of planned arson.

(7) R.S. 14:54.2, manufacture and possession of delayed action incendiary devices.

(8) R.S. 14:54.3, manufacture and possession of a bomb.

(9) R.S. 14:54.5, fake explosive devices.

(10) R.S. 14:59(A)(2), criminal mischief relating to the giving of any false alarm of fire.

(11) R.S. 14:204, fire-raising on lands of another by criminal negligence.

(12) R.S. 14:205, fire-raising on lands of another with malice.

(13) R.S. 14:206, fire prevention interference.

(14) R.S. 14:327, obstructing a fireman.

(15) R.S. 22:1924, insurance fraud.

(16) R.S. 22:1925, insurance fraud.

(17) R.S. 14:51.1, injury by arson.

(18) R.S. 15:562.5, failure to register.

(19) R.S. 40:1621, violation of fire marshal's orders. This Paragraph shall be limited to fire marshal orders related to activities or instances determined by the fire marshal to pose an immediate danger to life.

(20) R.S. 14:206.1, engaging in life safety and property protection contracting without authority.

(21) Any other criminal laws making unlawful an attempt or conspiracy to commit the foregoing offenses.

B. The officials enumerated in this Section shall also have the power to seize contraband subject to forfeiture as described in R.S. 14:54.4, in accordance with the procedure established in that provision.

C. The fire marshal, the first assistant fire marshal, and each deputy fire marshal shall have the authority to investigate and cause the arrest of any person suspected of having committed any offense connected to the investigation of any of the offenses enumerated in Subsection A of this Section, or connected to the investigation of a burn injury report submitted to the office of state fire marshal in accordance with R.S. 14:403.4.

D. The fire marshal shall issue a commission to any state arson investigator who qualifies as P.O.S.T. certified to carry firearms allowing him to carry and use firearms and to arrest individuals suspected of violating the crimes enumerated in this Section.

E. The governing authority of a political subdivision may authorize the chief of each fire protection district, each fire department, and each volunteer fire department which is within that political subdivision to issue a commission to any local arson investigator allowing him to carry and use firearms and to arrest individuals suspected of violating crimes enumerated in this Section. The issuance of a commission pursuant to this Subsection, the powers granted by those commissions, and the use of firearms by the persons to whom those commissions are issued shall be subject to all of the following provisions:

(1) The chief of each fire protection district, each fire department, and each volunteer fire department who issues a commission to a local arson investigator may require that the local arson investigator be certified by the Council on Peace Officer Standards and Training or be qualified by the Council on Peace Officer Standards and Training, or both.

(2) The chief of each fire protection district, each fire department, and each volunteer fire department who requires that local arson investigators to whom that chief issues commissions be P.O.S.T. certified or P.O.S.T. qualified, or both, shall pay the cost of

providing to those local arson investigators the training necessary to obtain the P.O.S.T. certification or the P.O.S.T. qualification, or both.

(3) Local arson investigators who are required by their chief to be P.O.S.T. certified or P.O.S.T. qualified, or both, are specifically authorized to attend any school or training course which is operated by a commercial entity or which is operated by a public agency and which is open to peace officers from more than one law enforcement agency. Each person or agency operating a school or a training course which is attended by local arson investigators shall award the appropriate document or documents to each local arson investigator who successfully completes the requirements for P.O.S.T. certification or for P.O.S.T. qualification, or both. The Louisiana Commission on Law Enforcement and Administration of Criminal Justice and the Council on Peace Officer Standards and Training shall make the provisions which are necessary to enable local arson investigators to attend the required schools and training courses and for those local arson investigators who successfully complete the requirements for P.O.S.T. certification or P.O.S.T. qualification, or for both, to receive the appropriate documents to demonstrate the P.O.S.T. certification or P.O.S.T. qualification, or both.

(4) Possession of a P.O.S.T. certification or P.O.S.T. qualification, or both, by a local arson investigator shall not grant to that local arson investigator any authority other than the authority granted by a commission issued pursuant to this Subsection.

(5) The authority granted by a commission which is issued under the provisions of this Subsection shall be limited to the powers, functions, duties, and responsibilities which are set forth for local arson investigators in this Section. A commission which is issued under the provisions of this Subsection shall not grant any authority other than the powers, functions, duties, and responsibilities which are set forth for local arson investigators in this Section.

(6) The authority to carry and use firearms which is granted to local arson investigators by a commission which is issued under the provisions of this Subsection is limited to the power to carry weapons while acting in the course and scope of their duties as local arson investigators. Local arson investigators may carry concealed weapons while acting in the course and scope of their duties, and the provisions of R.S. 14:95 shall not apply to local arson investigators who carry concealed weapons while acting in the course and scope of their duties.

F. The fire marshal shall have the authority to commission local certified arson investigators to serve on a multi-jurisdictional arson task force operated by the fire marshal. The fire marshal shall have the power to promulgate rules and regulations to accomplish the operations and functions of the task force and to issue orders for the enforcement of such rules and regulations.

RS 40:1563.2 — Inspection of family child care providers; inspection fees

B.(1) The state fire marshal shall collect a fee for all required inspections pursuant to R.S. 17:407.66. The state fire marshal shall not collect any other fees for the inspections, and all fees collected shall be used to employ personnel to perform the inspections and audits and to implement and maintain supportive technologies.

(2) All inspections shall be conducted on an annual basis.

(3) The inspections shall assure that the family child care provider meets the minimum requirements set forth by the Department of Children and Family Services and the Department of Education.

C. All fees collected by the office of state fire marshal for these inspections shall be deposited immediately upon receipt into the state treasury.

RS 40:1563.3 — Restriction on the use of the titles "fire marshal" and "deputy fire marshal"

ion of the state except employees of the office of state fire marshal, code enforcement and building safety, Department of Public Safety and Corrections, shall use or allow to be used the title of "fire marshal" or "deputy fire marshal".

RS 40:1563.4 — Imposition of civil penalties by the state fire marshal for violations

ne of up to one thousand dollars, for violation of any statute, rule promulgated through the Administrative Procedure Act, regulation, or code for which he is responsible for enforcing or any lawful order issued by him in writing and only after deadlines imposed in the order have expired. Where applicable, each day of violation shall constitute a separate violation. The state fire marshal shall, in accordance with the Administrative Procedure Act, promulgate a schedule of fines to be applicable to each area of enforcement responsibility.

B. All such penalties imposed may be appealed in accordance with the provisions of the Administrative Procedure Act.

C. All monies collected pursuant to a fine imposed under this Section shall be made payable to the office of state fire marshal, code enforcement and building safety and shall be deposited immediately upon receipt into the state treasury.

RS 40:1563.5 — Inspection fees

87, §2; Acts 2023, No. 126, §2.

RS 40:1564 — Cost of performing functions

d by R.S. 22:835 and with other such funds as may be appropriated by the legislature for such purposes.

RS 40:1565 — Account of money; audit

al report.

The legislative auditor or other appropriate officer shall annually audit the transaction of the fire marshal's office.

RS 40:1566 — Investigation of fires; reports; records of fires

icer of each special fire protection district created under Part I of this chapter, the town marshal of towns and villages which have no fire department, or the sheriff of each parish, insofar as the territory outside the limits of any incorporated municipality or of any special fire protection district is concerned, shall investigate the cause, origin, and circumstances of every fire occurring within their respective jurisdictions. This investigation shall specifically determine, insofar as possible, the cause of and circumstances surrounding the fire. The investigation shall be made at the earliest possible time following the start of the fire. The officer making the investigation shall immediately notify the fire marshal if the circumstances indicate that the possible cause of the fire is human design or criminal neglect. Upon receiving such a report of possible arson or fire caused by design or criminal neglect, the fire marshal shall assign one or more deputies to direct the investigation.

Local officers making investigations hereunder shall transmit monthly a written statement of all facts relating to the cause and the origin of the fire, the kind, value, and ownership of the property destroyed or damaged, the amount of insurance which may have been in force upon the property at the time of the fire, and any other information called for by the fire marshal.

The fire marshal shall keep in his office a record of each fire occurring in the state, together with all facts, statistics, and circumstances thereof, including the origin of the fire, that have been determined by the investigations provided for in this section or otherwise.

RS 40:1566.1 — Fire safety inspection

zed agent may petition the local district court to order that he be allowed to make such inspection. This order shall be granted immediately where the fire marshal demonstrates an immediate need to inspect the premises to guarantee the safety and welfare of the public from any possible hazards. The owner and/or leasee shall be served with a petition to show cause why the inspection should not be conducted.

RS 40:1567 — Fire departments; fire department identification number; fire reports

by its local governing authority, shall obtain a fire department identification (FDID) number from the state fire marshal.

(b) If an individual, organization, or other entity is not recognized by the local governing authority to conduct traditional fire department-related activities, the state fire marshal shall not issue the organization an FDID number.

(c) Any individual, organization, or other entity engaged in traditional fire department activities without an FDID number shall be in violation of R.S. 14:112.2.

(2) For purposes of this Subsection, "traditional fire department-related activities" includes firefighting, fire prevention, fire investigation, fire protection, and emergency duties and services.

B. Organizations which have been issued an FDID number shall submit structural fire reports electronically pursuant to the standards set by the state fire marshal.

C. Annual implementation of the standards prescribed by the fire marshal regarding the fires which require investigation or inspection reports and the content of those reports shall be subject to review by the board of review established by R.S. 40:1578.1.

RS 40:1567.1 — Fees for copies of fire and investigation reports

other reports on letter size paper and five dollars per page for investigation reports and other reports on legal size paper.

RS 40:1568 — Special investigations of fires of suspicious origin

any fire reported to have been caused by design.

B. In the performance of this duty, the fire marshal or his authorized representative may take or cause to be taken testimony from persons supposed to be cognizant of any fact which may relate to the cause of any fire. To this end, he may secure testimony under oath and have it reduced to writing. In the furtherance of this investigation, the fire marshal or his authorized representative has the power to issue subpoenas and subpoenas duces tecum to compel the testimony of witnesses and the production of documents, papers, books, records, and other evidence, and to administer oaths and affirmations to those persons subpoenaed. Any fire marshal employee shall serve any subpoena or subpoena duces tecum directed to him by the fire marshal or his authorized representative.

C. If, after this investigation, the fire marshal or his authorized representative is of the opinion that there is evidence sufficient to charge any person with the crime of arson, he shall have the person arrested and so charged and shall furnish to the district attorney of the judicial district in which the fire occurred all the evidence, together with the names of the witnesses and all the information obtained by him, including a copy of all pertinent and material testimony taken in the case.

D.(1) If any person refuses to obey any such subpoena, to give testimony, or to produce evidence as required thereby, any judge of the district court for the parish of East Baton Rouge may, upon ex parte application and proof of such refusal, make an order awarding process of subpoena or subpoena duces tecum out of the district court for the witness to appear before the fire marshal or his authorized representative and to give testimony and to produce evidence. Upon filing such order in the office of the clerk of the district court, the clerk shall issue process of subpoena, as directed under the seal of the court requiring the person to whom it is directed, to appear at the time and place therein designated.

(2) If any person served with any such subpoena refuses to obey the order and to give testimony and to produce evidence as required by the order, the fire marshal or his authorized representative may apply to any judge of the district court for an attachment against such person for contempt. The judge, upon satisfactory proof of such refusal, may issue an attachment, directed to any sheriff, constable, or law enforcement officer, for the arrest of such person and, upon his

being brought before such judge, proceed to a hearing on the matter. The judge shall have the power to enforce obedience to such subpoena, the answering of any question, and the production of any evidence that may be proper, by a fine not exceeding one hundred dollars, by imprisonment, or by both fine and imprisonment, and to compel such witness to pay the costs of such proceeding.

(3) Proceedings held pursuant to the provisions of this Subsection shall be summary in nature.

(4) Any violation of a subpoena issued by the clerk or of any order issued by the judge may be punishable by the judge as contempt.

RS 40:1568.2 — Investigation of fires; duty to disclose by insurance companies, the Property Insurance Association of Louisiana, the Louisiana Joint Reinsurance Association and the Louisiana Insurance Underwriting A

ssociation; protection from liability

A.(1) In the course of an examination of a fire of suspicious origin, conducted pursuant to R.S. 40:1568 or other lawful authority, the fire marshal or his authorized representative or any lawfully constituted law enforcement agency or investigative unit of any lawfully constituted fire department may request any insurance company investigating a loss of immovable or movable property, the Property Insurance Association of Louisiana, the Louisiana Joint Reinsurance Association, and the Louisiana Insurance Underwriting Association to release any information in its possession relative to that loss.

(2) The company, the Property Insurance Association of Louisiana, the Louisiana Joint Reinsurance Association, and the Louisiana Insurance Underwriting Association shall release the information and cooperate with the investigating officer requesting such information.

(3) The information shall include but is not limited to:

(a) Any insurance policy relevant to a loss under investigation and any application for such a policy.

(b) Policy premium payment records.

(c) History of previous claims made by the insured for fire loss; and

(d) Material relating to the investigation of the loss including statements of any person, proof of loss, and any other relevant evidence.

B. An insurance company, the Property Insurance Association of Louisiana, the Louisiana Joint Reinsurance Association, and the Louisiana Insurance Underwriting Association having reason to believe that a loss to its insured's real or personal property was caused by incendiary means shall notify the fire marshal, and may additionally notify the chief executive officer of a lawfully constituted law enforcement agency or fire department, and furnish him or them with all relevant material acquired during its investigation of the loss, cooperate with and take such action as may be requested of it by any law enforcement agency, and permit any person ordered by a court to inspect any of its records pertaining to its policy and the loss.

C. No person who furnishes information on behalf of an insurance company, the Property Insurance Association of Louisiana, the Louisiana Joint Reinsurance Association, and the Louisiana Insurance Underwriting Association is or shall be liable for damages in a civil action or subject to criminal prosecution for any oral or written statement or statements made or any other action taken to supply information required pursuant to this Section, and all such insurance companies, the Property Insurance Association of Louisiana, the Louisiana Joint Reinsurance Association, the Louisiana Insurance Underwriting Association, and persons shall be granted civil and criminal immunity for any such information furnished in good faith in the absence of fraud or malice to the fire marshal or law enforcement agency or fire department during the course of the investigation.

D.(1) Investigating officers and other state officials receiving information furnished pursuant to this Section shall hold the information in confidence until such time as its release is required pursuant to criminal or civil proceedings.

(2) The fire marshal, his authorized representative, or the appropriate law enforcement or fire department officials and personnel may be required to testify as to any information in his or their possession regarding the fire loss of real or personal property in any civil action in which any person seeks recovery under a policy against an insurance company, the Property Insurance Association of Louisiana, the Louisiana Joint Reinsurance Association, and the Louisiana Insurance Underwriting Association for the fire loss.

RS 40:1570 — Examination of premises; searches and seizures

Part, enter upon and examine any building or premises where any fire has occurred and other buildings or premises adjoining or near thereto. He, or his authorized representative, may make an affidavit before any justice of the peace in the state or any other officer authorized by law to issue search warrants that he believes or has reason to believe that by a search of certain premises, designated in the affidavit, he will obtain evidence tending to show the origin of a fire to have been incendiary. Upon receiving this affidavit, the justice of the peace, or other officer shall issue a warrant authorizing the fire marshal or his representative to search the premises named in the affidavit and designated in the warrant.

RS 40:1571 — Investigations may be private

quired to be present by the provisions of this Part may be excluded from the place where the investigation is held.

RS 40:1572 — Separation of witnesses

d to communicate with each other until they have been examined.

RS 40:1573 — Definitions

building containing not more than two dwelling units in which one or each dwelling unit is occupied by members of a single family with not more than three outsiders, if any, accommodated in rented rooms.

(3) "Structure" means any building or structure of any nature or kind whatsoever except the interior of a single private and one- or two-family dwelling as defined by the Louisiana State Uniform Construction Code.

(4) "Watercraft" means any vessel, boat, or other watercraft of any size, nature, or kind except ocean-going vessels, commercial fishing vessels, or coastwise vessels, or private pleasure craft.

RS 40:1573.1 — Historic buildings renovation initiative

e, life safety, or accessibility regulations and when implementing the applicable provisions of R.S. 40:1574, the state fire marshal shall have the authority to take into consideration the impact of these requirements on the historic integrity of existing facilities.

B. Where it is determined by the state fire marshal that public safety is not jeopardized and a minimum acceptable level of safety is achieved, the state fire marshal shall have the authority to consider alternatives to the specific requirements of the adopted laws, codes, rules, and regulations.

RS 40:1574 — Construction or repair of structures

rshal and appear to him to satisfactorily comply with the laws, rules, regulations, and codes of the state.

B. No repair, remodeling, or addition shall be made to any structure, watercraft, or movable affecting the exits, stairs, seating arrangement, fire protection, or other details of construction covered by this Part until plans and specifications therefor have been submitted to and reviewed by the fire marshal and appear to him to satisfactorily comply with the laws, rules, regulations, and codes of the state.

C. If within any twelve month period, alterations or repairs costing in excess of fifty percent of the then physical value of the building are made to an existing building, such building shall be made to conform to the requirements of the code for new construction.

D. Where an entire floor of a facility, building, or structure is substantially renovated, that floor shall be made to conform with the requirements of the code for new construction to such extent as the state fire marshal may determine to be practicably feasible, provided however, and notwithstanding the provisions of R.S. 40:1578.1(A), the board of review shall be the final authority on issues of practical feasibility.

E. Altered elements in existing facilities shall be made to conform to the requirements of the code for new construction to such extent as the state fire marshal may determine is practicably feasible, provided however, and notwithstanding the provisions of R.S. 40:1578.1(A), the board of review shall be the final authority on issues of practical feasibility.

F. The physical value of a building in Subsection C of this Section may be established by an appraisal not more than three years old, provided that said appraisal was performed by a certified appraiser, or by the tax assessor in the parish where the building is located. In the absence of such an appraisal, the physical value of the building in Subsection C of this Section shall be established by the state fire marshal.

G. The cost of alterations or repairs in Subsection C of this Section may be established by an estimate signed by a licensed architect, by a licensed general contractor, or in the absence of either such licensed person, by the state fire marshal.

H. Persons who wish to appeal a decision of the state fire marshal relative to the physical values of buildings or the estimations of the cost of alterations or repairs in Subsection C of this Section may request an opinion from the board of review as provided in R.S. 40:1578.1 through 1578.5.

I. If the occupancy of an existing building is entirely changed, the building shall be made to conform to the requirements of the code for the new occupancy. If the occupancy of only a portion of an existing building is changed, and that portion is properly separated from the remainder, then only such portion need be made to conform.

J. Repairs and alterations, not covered by the preceding Subsections of this Section, restoring a building to its condition previous to damage or deterioration, or altering it in conformity with the provisions of the code will be made in such manner as will not extend or increase an existing nonconformity or hazard.

K. The state fire marshal shall have the authority to take into consideration practical difficulties and unreasonable economic hardships before applying the strict requirements of this Section. In cases of practical difficulty or unreasonable economic hardship, the state fire marshal may upon appeal allow alternative arrangements provided a minimum acceptable level of life safety is achieved to the satisfaction of the state fire marshal.

L. An owner or lessee of a hotel, as defined by R.S. 40:1563(M), or the agent of such owner or lessee, shall declare the presence of a carbon monoxide source or the attachment of a parking garage to the hotel at the time building plans and specifications for the hotel are submitted to the fire marshal for review.

RS 40:1574.1 — Costs of handling plans

, code enforcement and building safety a plan review or document fee based on the following schedule:

(1)

Assembly occupancy

Area in square feet

Fee

0 - 2500

\$

30.00

2501 - 4500

60.00

4501 - 10,000

180.00

10,001 - 50,000

280.00

50,001 - 100,000

380.00

100,001+

530.00

(2)

Educational

Area in square feet

Fee

0 - 5,000

\$

30.00

5001 - 10,000

60.00

10,001 - 30,000

100.00

30,001 - 80,000

200.00

80,001 - 150,000

300.00

150,001+

400.00

(3)

Health care/detention

(a) Area in square feet

Fee

0 - 10,000

\$

180.00

10,001 - 20,000

280.00

20,001 - 50,000

380.00

50,001 - 100,000

480.00

100,001+

680.00

(b) High rise (all new)

830.00

(4)

Hotels, dormitories, apartments, lodgings,

rooming houses, residential & board

care facilities

(a) Area in square feet

Fee

0 - 2500

\$

30.00

2501 - 10,000

60.00

10,001 - 30,000

180.00

30,001 - 80,000

280.00
80,001 - 150,000
380.00
150,001+
480.00
(b) High rise (all new)
680.00
(5)
Mercantile/business
(a) Area in square feet
Fee
0 - 3000
\$
30.00
3001 - 10,000
60.00
10,001 - 30,000
90.00
30,001 - 50,000
150.00
50,001 - 150,000
200.00
150,001+
300.00
(b) High rise (all new)
500.00
(6)
Industrial, storage, special structures
Area in square feet
Fee
0 - 10,000
\$
30.00
10,001 - 20,000
60.00
20,001 - 50,000
90.00
50,001 - 100,000
120.00
100,001+
200.00
(7)

Storage tank (tank installation only)

Single tank

\$

50.00

Plus \$30.00 for each additional tank

(8)

Sprinkler systems

(a)

Number of sprinkler heads per floor

(Tenant spaces submitted separately are
considered a floor for fee purposes)

1 - 50

\$

30.00

51 - 300

60.00

301 - 450

120.00

451+

150.00

(b)

Hydraulic calculations

40.00

(c)

20 head or less shop drawing

exemption request

10.00

(9)

Fire suppression systems, other than
sprinkler systems

(a)

Number of devices

0 - 10

\$

30.00

11 - 25

60.00

26 - 50

120.00

51 - 75

180.00

76 - 100

200.00

101+

300.00

(b)

Calculations

40.00

(10)

Fire detection and alarm systems

Number of devices

Fee

(Tenant spaces submitted separately are
considered a floor for fee purposes)

0 - 25

\$

50.00

26 - 50

80.00

51 - 75

110.00

76 - 100

140.00

101+

140.00

Plus \$30.00 for each additional 25 devices above 101

(11)

Exemptions/Go-to-Work Requests

(industrial plant temporary trailers/modulars,
nonrequired/nonconforming fire protection
system requests, architectural modifications)

Per request

\$

20.00

(12)(a) Facsimile transmissions and record requests

Fee

Paper copies per page

\$

2.00

Fax per page

4.00

Electronic copies (per floppy diskette)

25.00

Database report (plus \$100.00 per every

1000 records)

500.00

(b)

However, postage and handling fees shall not apply to exemption requests and facsimile transmissions.

(13)

Appeal requests

Fee

(a)

Accessibility

\$

25.00

(b)

Life safety/fire code appeals:

(i)

Smoke control reviews (\$50.00 for resubmission)

100.00

(ii)

Timed egress (\$50.00 for resubmission)

100.00

(iii)

Other appeals (\$50.00 for resubmission)

100.00

(14)

The fee for performance-based reviews shall be twice the amount of the review fees imposed by this Subsection, plus an additional fee of \$100.00 (\$50.00 for resubmission) for smoke control reviews and timed egress.

B.(1) In order to comply with the requirements of R.S. 40:1574, only one set of plans shall be submitted to the state fire marshal for review.

(2) When the plans are reviewed by the office of state fire marshal, code enforcement and building safety, the original set of plans properly stamped "Reviewed" by the state fire marshal shall be retained by the contractor for the construction, renovation, or remodeling for the project in question as long as the structure, watercraft, or movable is in the process of construction, renovation, or remodeling.

(3) Upon final completion of the project the contractor shall turn the plans over to the owner.

(4)(a) The state fire marshal shall furnish to the parties submitting the plans which appear to him to satisfactorily comply with the laws, rules, regulations, and codes of the state and the regulations of the state fire marshal the original set of plans, blueprints, or both stamped reviewed along with a letter which shall state that the plans appear to him to satisfactorily comply with the laws, rules, regulations, and codes of the state and the regulations of the fire marshal.

(b) This letter from the fire marshal stating that the plans and specifications for the construction, renovation, or remodeling for the project in question appear to satisfactorily comply with the laws, rules, regulations, and codes of the

state, in no way permits and authorizes any omission or deviation from those laws, rules, regulations, and codes so that in no way does this review procedure permit, authorize, or otherwise increase or incur any liability by the state for failure to recognize and point out any such omission or deviation in those requirements.

(c) The letter and reviewed plans of the fire marshal shall be kept at the site of the project for inspection by the fire marshal or his deputies for as long as the structure, watercraft, or movable is in the process of construction, renovation, or remodeling.

(5) The office of state fire marshal, code enforcement and building safety shall no longer retain any copy of the reviewed plans or blueprints and is hereby authorized to destroy all such plans and blueprints currently in the archives of the state fire marshal after one year has passed from the effective date of this Section.

(6) The owners of all structures, watercraft, and movables shall retain blueprints including the original building plans and specifications which have been stamped "Reviewed" by the state fire marshal in a safe place for as long as the structure, watercraft, or movable is occupied, used, or both.

C.(1) In the event that plans do not appear to the fire marshal to satisfactorily comply with the laws, regulations, and codes of Louisiana and the regulations of the state fire marshal, the state fire marshal shall furnish a letter to the party submitting the plans which shall list the particular requirements of the state fire marshal which must be met before the plans can be stamped "Reviewed" and before construction or renovation or remodeling can begin. However, where plans for projects are submitted in violation of R.S. 37:155(A)(4), no list of requirements shall be provided.

(2) Review of the plans submitted constitutes compliance with this Section if construction begins within one hundred eighty days of the review.

(3) State and local political subdivisions shall be exempt from the payment of all other charges provided herein, for the first submission only. Thereafter, for all subsequent submissions, state and local political subdivisions shall pay the required fees.

D. All fees collected pursuant to Subsection A of this Section shall be used exclusively for the maintenance and operation of the planning review section of the office of the state fire marshal, code enforcement and building safety.

RS 40:1575 — Inspection of premises; orders for repair or removal of dangerous conditions

orized representatives may inspect any structure, watercraft, or movable within the state except the interiors of private and one- or two-family dwellings.

B. Whenever the inspecting officer finds any such structure, watercraft, or movable, which, for any cause, is especially liable to fire or dangerous to life or which is so situated as to endanger other property or the occupants thereof, he shall order the dangerous materials removed, the condition of the premises remedied, or the premises razed. The occupant of the structure, watercraft, or movable shall not permit it to be used until the fire marshal certifies that the hazardous conditions have been eliminated.

C. Among the causes which render a structure, watercraft, or movable especially liable to fire or dangerous to life are the following:

- (1) Want of repairs.
- (2) Age or deteriorated condition.
- (3) Lack of sufficient fire alarm or fire extinguishing apparatus.
- (4) Lack of adequate means of ingress and egress.
- (5) Lack of adequate, unrestricted passageways to the entrances and exits.
- (6) Presence of combustible, explosive, or inflammable material.

RS 40:1576 — Service of order

nally or by registered or certified mail, or to any person in charge of the premises. If no person is found upon the premises, the order may be served by affixing a copy thereof in a conspicuous place on the door at the entrance to the premises. Whenever it is necessary to serve an order upon the owner of the premises, it may be served either by delivering a copy to the person as herein provided or, if the owner is absent from the jurisdiction of the officer making the order, by mailing the copy to the owner's last known post office address.

RS 40:1577 — Appeal from order

rshal. The fire marshal shall, within five days, review the order and advise the owner or occupant of his decision thereon.

The owner or occupant may, within five days after the making or affirming of any such order of the fire marshal, file an application with the board of review as provided in R.S. 40:1578.1 in accordance with the regulations promulgated for application by that board, praying for a review of the order or such other relief as is provided by law. The board of review shall render its decision within five calendar days, excluding Saturdays, Sundays, and legal holidays, of the review of the order. If, and only if, the order of the fire marshal is not appealable to the fire marshal board of review under R.S.

40:1578.1, within the time period set forth in this Section, the owner or occupant may file his petition with the district court of the district in which the premises or building affected by the orders is situated, praying for a review of the order or such other relief as is provided by law.

RS 40:1578 — Compliance with order

eriod specified in the order, by the owner or occupant of the premises or building.

If an appeal is taken or a review petitioned for, pursuant to the provisions of R.S. 40:1577, the order, unless revoked, shall be complied with, as last modified, after it becomes final, either immediately or, if a time is specified, within the period specified in the order, or in the decision of the fire marshal, or in the decision of the court, as the case may be.

RS 40:1578.1 — Board of review

of review is properly submitted. The board of review shall not

have the power to waive fire prevention and protection requirements, but shall

determine whether the suggested alternative provides equivalent or better

protection within the context of the intent of the law. The board of review

shall be composed of the following membership:

(1) One chief of a fire department which is predominantly volunteer;

(2) One chief of a fire department with predominantly full-time personnel;

(3) One registered architect;

(4) One registered engineer;

(5) One individual representing building owners-managers interests;

(6) One individual representing mercantile-industrial interests;

(7) One representative of the Louisiana Rating and Fire Prevention bureau selected by the bureau;

(8) Two individuals to represent the general public who have no vested interests directly or indirectly in the construction industry, or the ownership or management of commercial buildings; and

(9) One representative of the fire marshal's office, ex officio and non voting selected by the fire marshal;

(10) The fire marshal, ex officio and non voting.

Those members designated in Paragraphs 1 through 6 shall be appointed by the governor for a term of four years. A voting member of the board shall be elected by its membership as chairman for a term of one year.

B. Five members of the board shall constitute a quorum. No board member shall act in any case in which he has a personal pecuniary interest.

C. A complete record shall be made of all proceedings before the board including a complete verbatim transcript of all testimony; upon appeal of a decision of the board or the fire marshal after review to a court of competent

jurisdiction, the record made of the proceeding before the board shall be the only record allowed in the appeal to the court which shall not try the matter de novo but only as an appeal. All decisions shall include reasons for the decisions. The vote of each member participating shall be recorded.

D. The board shall establish rules and regulations for its own procedures not inconsistent with the provisions of this part of the Administrative Procedure Act, R.S. 49:950 et seq. The board shall meet at regular intervals to be determined by the chairman, or in any event, the board shall meet within ten days after notice of review has been received. The board shall issue a decision within a period of twenty days after the board meets on such matter.

E. Members of the board who are not ex officio members shall receive a per diem of fifty dollars per day plus actual and reasonable expenses incurred in the performance of the duties imposed upon them by the provisions of this Act.

F. In order to stagger terms of the board membership, the chiefs of the volunteer and full paid fire departments shall originally be appointed for a period of one year; the registered engineer and architect for two years; and the owners-managers member and mercantile industrial member for three years. Thereafter, all members shall serve a term of four years.

RS 40:1578.2 — Appeal to board

e suspended without posting of security until such time as the board renders a final decision.

RS 40:1578.3 — Emergency closure during appeal

s jurisdiction over the structure or movable to require closure of such during the pendency of proceedings before the board of review or after the board renders a final decision. The court shall order such immediate closure if it finds that public health, safety or welfare imperatively requires emergency action and incorporates a finding to such effect in its order. These proceedings shall be promptly instituted and determined.

RS 40:1578.4 — If no appeal taken

he fire marshal after all necessary delays for appeal have expired.

RS 40:1578.5 — Appeals from decision of board of review

rendering of the decision of the board of review.

RS 40:1578.6 — National Fire Protection Association's Life Safety Code; Southern Standard

A. Adequate protection for life safety shall be afforded in every structure or movable as those terms are defined in R.S. 40:1573. To afford such protection, all newly constructed structures and movables shall comply with the rules and regulations to be promulgated by the fire marshal in conformity with the Administrative Procedure Act which shall establish as minimum standards the provisions of the Life Safety Code of the National Fire Protection Association, and Section 518 - Special Provisions for High Rise, of Chapter IV of the Southern Standard Building Code, applicable to high rise structures as both are annually or periodically amended, and the fire marshal shall be the authority having jurisdiction

to enforce compliance with such regulations. The effective date for enforcement shall be one hundred eighty days after adoption and promulgation under the Administrative Procedure Act.

B. A parish or municipality which, prior to January 1, 1975, had adopted and is enforcing a nationally recognized model building code and/or fire prevention code or a code equal to a nationally recognized building code and/or fire prevention code may continue to enforce such codes in place of the codes required in the paragraph above; however, such codes shall contain requirements that are substantially equal to the fire marshal's code with respect to high rise buildings, mandatory automatic sprinkler and extinguishment systems, and fire detection systems.

C. This Section shall not apply to existing buildings, except as provided for by R.S. 40:1641 et seq., which were lawfully constructed and maintained unless the fire marshal deems that a serious life hazard exists due to a particular condition, at which time he can require the institution of proper fire protection measures to alleviate the particular hazards noted according to the chapter on existing buildings of the latest edition of the N.F.P.A. Life Safety Code, as most recently adopted by administrative rule by the office of the state fire marshal, code enforcement and building safety. Such directives of the fire marshal may be appealed to the board of review. "Lawfully constructed and maintained" as used in this Subsection means in conformance with the laws, codes, rules, and regulations in force at the time of original construction.

NOTE: §1578.6 eff. July 1, 2026. See Acts 2024, No. 534.

§1578.6. Louisiana State Uniform Construction Code; applicability to structures; minimum standards; existing hazardous buildings; appeal

A. Adequate protection for life safety shall be afforded in every structure or movable as those terms are defined in R.S. 40:1573. To afford such protection, all newly constructed structures and movables shall comply with the rules and regulations to be promulgated by the Louisiana State Uniform Construction Code Council in conformity with the Administrative Procedure Act which shall establish as minimum standards the provisions of the Louisiana State Uniform Construction Code as applicable to structures, including high rise buildings, as both are periodically amended, and the fire marshal shall be the authority having jurisdiction to enforce compliance with the fire protection, egress, and accessibility provisions of such regulations.

B. In addition to the provisions of Subsection A of this Section, the facilities provided for in R.S. 40:1563(C)(4) shall comply with the provisions of the Life Safety Code of the National Fire Protection Association as promulgated by the fire marshal in conformity with the Administrative Procedure Act.

C. A parish or municipality which, prior to January 1, 1975, had adopted and is enforcing a nationally recognized model building code or fire prevention code or a code equal to a nationally recognized building code or fire prevention code may continue to enforce such codes in place of the codes required in the paragraph

above; however, such codes shall contain requirements that are substantially equal to the fire marshal's code with respect to high rise buildings, mandatory automatic sprinkler and extinguishment systems, and fire detection systems.

D.(1) This Section shall not apply to existing buildings, except as provided for by R.S. 40:1641 et seq., which were lawfully constructed and maintained unless the fire marshal deems that a serious life hazard exists due to a particular condition, at which time the fire marshal can require the institution of proper fire protection measures to alleviate the particular hazards noted according to either of the following:

(a) The chapter on existing buildings of the 2015 edition of the N.F.P.A. Life Safety Code for facilities pursuant to R.S. 40:1563(C)(4) and structures that are permitted for construction prior to January 1, 2026.

(b) The International Code Council's International Existing Building Code as adopted by the Louisiana State Uniform Construction Code Council in accordance with R.S. 40:1730.28 for structures that are permitted for construction on or after January 1, 2026.

(2) Such directives of the fire marshal may be appealed to the board of review.

(3) "Lawfully constructed and maintained" as used in this Subsection means in conformance with the laws, codes, rules, and regulations in force at the time of original construction.

RS 40:1578.7 — State Uniform Fire Prevention Code

slature that the protection of life and

property will be enhanced by adoption of the National Fire Prevention Code, as it is published by the National Fire Protection Association. It is also hereby found and declared by the legislature that the adoption of NFPA 1 will complement and not conflict with the National Fire Protection Association's Life Safety Code.

B. The National Fire Prevention Code, known as NFPA 1, 1997 edition, published and maintained by the National Fire Protection Association, is hereby adopted as the State Uniform Fire Prevention Code to the extent that it does not conflict with the National Fire Protection Association's Life Safety Code. Application of requirements that pertain to buildings shall be limited to structures, watercraft, and movables as defined by R.S. 40:1573.

C. If a fire prevention code is adopted by any political subdivision of the state, it must adopt the State Uniform Fire Prevention Code.

D. Nothing in this Section shall be construed so as to prevent the state fire marshal from enforcing the National Fire Protection Association's Life Safety Code, nor any other laws of the state, the enforcement of which are his statutory and regulatory responsibility.

E. The state fire marshal shall have the power and authority to promulgate those rules and regulations as may be necessary to incorporate or adopt any subsequent amendments or additions to the State Uniform Fire Prevention Code to conform to NFPA 1, as it is subsequently amended or issued as a new edition by the National Fire Protection Association.

NOTE: Subsections A, B, C, D, and E eff. July 1, 2026. See Acts 2024, No. 534.

- A. It is hereby found and declared by the legislature that the protection of life and property will be enhanced by adoption of the National Fire Prevention Code, as it is published by the National Fire Protection Association, or the International Fire Code, as it is published by the International Code Council.
- B. The National Fire Prevention Code, known as NFPA 1, or the International Fire Code, known as the IFC, is hereby adopted as the State Uniform Fire Prevention Code.
- C. If a fire prevention code is adopted by any political subdivision of the state, it shall adopt the State Uniform Fire Prevention Code.
- D. Nothing in this Section shall be construed to prevent the state fire marshal from enforcing the fire protection, egress, and accessibility provisions of the Louisiana State Uniform Construction Code, excluding the provisions for one- and two-family dwellings, as adopted by the Louisiana State Uniform Code Council in accordance with R.S. 40:1730.28, nor any other laws of the state, the enforcement of which are his statutory and regulatory responsibility.
- E. The state fire marshal shall have the power and authority to promulgate those rules and regulations as may be necessary to incorporate or adopt any subsequent amendments or additions to the State Uniform Fire Prevention Code to conform to NFPA 1 or the IFC, as they are subsequently amended or issued as a new edition by the National Fire Protection Association or by the International Code Council.
- F. If the governing authority of any municipality or parish finds that the State Uniform Fire Prevention Code does not meet its minimum needs, that local governing authority may provide more stringent requirements than those specified in the State Uniform Fire Prevention Code when such requirements are based upon local climatic, geologic, topographic, or public safety factors after prior review and approval by the state fire marshal to ensure that such variances achieve equivalent or enhanced levels of protection as the State Uniform Fire Prevention Code.
- G. Nothing contained in this Section shall be construed as requiring any political subdivision to establish an office or any other kind of governmental unit in order to enforce provisions of the State Uniform Fire Prevention Code.
- H. Nothing contained in this Section shall be construed as imposing any new or additional requirements upon any petroleum refining or chemical manufacturing facility which is subject to the United States Occupational Safety and Health Administration Hazard Communication Standard, 29 CFR 1910.1200.
- I. The provisions of this Section shall not apply to any political subdivision that has adopted a model fire prevention code as of July 9, 1999, including review and approval by the state fire marshal of any future amendments, additions, or new editions of the model fire prevention code adopted by the political subdivision.

RS 40:1579 — Ingress by firemen

court accessible to a street, which can be opened from the outside in case of fire in the structure, watercraft, or movable so as to furnish immediate ingress to the story or stories of the structure, watercraft, or movable.

RS 40:1580 — Fire exit maps; hotel or motel rooms

emergency.

RS 40:1580.1 — Fire alarms; hotel or motel rooms

of hearing in case of fire

in accordance with the requirements of Section 9 of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) table 9.1.2 and 9.1.3.

B. In hotels or motels not covered by Subsection A which have fewer than fifty rooms one system shall be available. In such hotels or motels with more than fifty but fewer than one hundred rooms at least two systems shall be available. In such hotels or motels with more than one hundred rooms four systems shall be available. The availability of such system shall be posted in every room.

RS 40:1581 — Smoke detectors; carbon monoxide detectors; one- or two-family dwellings

able ten-year, sealed lithium battery smoke detector.

B. All existing one- or two-family dwellings at the time of sale or lease shall contain, at a minimum, an operable carbon monoxide detector with a long-life, sealed battery. The carbon monoxide detector may be combined with smoke detection.

C. Professional installers who install generators in one- or two-family dwellings shall include with installation of a home generator, at minimum, an operable carbon monoxide detector with a long-life, sealed battery. The carbon monoxide detector may be combined with smoke detection.

D. Failure to comply with the provisions of this Section shall not be a reason for nonpayment of any insurance claims.

E. Failure to comply with the provisions of this Section shall not cause a delay or a stoppage in the transfer of the property.

F. The real estate agent shall not be liable for the seller's failure to comply with the provisions of this Section.

RS 40:1582 — Emergency elevator access; master key; substitute emergency measures; enforcement; penalty; rulemaking authority

but not limited to hotels and condominiums, which is constructed or substantially renovated after January 1, 2009, all of the keys for elevators that allow public access, including but not limited to service and freight elevators, shall be keyed so as to allow all elevators to operate in fire emergency situations with one master elevator key.

B. Each existing building in this state which is six or more stories in height shall comply with Subsection A of this Section before January 1, 2012. Each building in this state, except for one- and two-family dwellings, which is five or fewer stories in height in which a new elevator is installed after January 1, 2013, shall comply with Subsection A of this Section.

C. In addition to elevator owners, owners' agents, elevator contractors, state-certified inspectors, and state agency representatives, master elevator keys shall be issued only to the fire department in whose jurisdiction the building is located and shall not be issued to any other emergency response agency. A person shall not duplicate a master elevator key for issuance to, or issue such a key to, anyone other than the authorized fire department personnel. Each master elevator key shall be marked "DO NOT DUPLICATE".

D. If it is technically, financially, or physically impossible to bring a building into compliance with this Section, the state fire marshal may allow substitute emergency measures that will provide reasonable emergency elevator access.

E. The office of state fire marshal shall enforce this Section. Any person who fails to comply with the requirements of this Section is subject to an administrative fine of not more than one thousand dollars, in addition to any other penalty provided by law. All administrative fines shall be deposited into the Louisiana Fire Marshal Fund.

F. Architects and builders shall make every effort to use new technology and developments in keying systems which make it possible to convert existing equipment so as to provide efficient emergency elevator access.

G. The office of state fire marshal shall adopt rules, pursuant to the Administrative Procedure Act, to implement the provisions of this Section.

H. For the purposes of this Section, "substantially renovated" means an existing building which has alterations or repairs costing in excess of fifty percent of the then physical value of the building. The cost of alterations or repairs shall be established by an estimate signed by a licensed architect, by a licensed general contractor, or in the absence of either such licensed person, by the state fire marshal.

RS 40:1583 — Locking, bolting, or obstructing exits or passageways

moveable is in use for public assemblage.

RS 40:1591 — Enforcement of Part

state fire marshal, the violation of which would constitute a misdemeanor offense. The state fire marshal may delegate some or all of such enforcement authority to the chief of a fire department of a political subdivision and his authorized representatives. This enforcement authority shall include the power to issue misdemeanor summons.

B. The law enforcement officers of each political subdivision of the state shall enforce this Part and all other laws under the jurisdiction of the state fire marshal and other lawful orders of the state fire marshal.

RS 40:1592 — Application of Part

s existing on or before July 28, 1948, whenever he determines that reasonable steps have been taken in connection therewith to protect life and property from the hazards of fire and of panic which may arise from fire or from the threat of fire or explosion.

RS 40:1593 — Volunteer firefighters; medical and life insurance

d provided for in R.S. 22:347(A) a group insurance policy to provide medical benefits, death benefits, and burial benefits for volunteer firefighters of the state suffering injury or death while engaged in the scope of their duties as volunteer firefighters. Such policy shall cover all bona fide volunteers starting the day upon which their membership begins without any prior certification to the state fire marshal's office or to the insurer. The state fire marshal shall deliver to each volunteer unit a printed notice concerning the policy requirements as to written notice of claim and written proof of loss including the period in which such must be filed. The volunteer unit shall post such notice in a conspicuous place at its facilities.

RS 40:1593.1 — Volunteer members of fire companies; legislative findings; insurance;

gs

hereinafter ascribed to them:

(1) "Fire company" means any organization established to provide fire prevention and suppression services for the general public.

(2) "Volunteer member" means any individual who is carried on the membership list of the fire company as an active participant in the normal functions of the organization and who receives either nominal or no remuneration for his services.

B. The legislature of the state of Louisiana finds all of the following:

(1) That the fire prevention and suppression services provided by volunteer fire companies are vital to the protection of the citizens of the state.

(2) That the provisions of this Section are intended to empower the state fire marshal with a means by which he may provide insurance coverage to volunteer members of fire companies for the treatment of heart and lung disease, stroke, and certain types of cancer.

(3) That the remedies provided for by this Section shall constitute the exclusive remedy, as described in R.S. 23:1032, available to any volunteer member against a fire company.

C. For the purposes of this Section, the state fire marshal is authorized to negotiate

for and purchase out of funds available in the Two Percent Fire Insurance Fund, provided for in R.S. 22:347, a group critical illness policy to provide for a lump sum benefit for volunteer members.

D.(1) When a volunteer member is diagnosed with any disease or infirmity of the heart or lungs, stroke, or cancer, the disease, infirmity, stroke, or cancer shall be presumed to have been caused by or to have resulted from his service as a volunteer member of a fire company due to exposure to heat, smoke, fumes, or other carcinogenic, poisonous, toxic, or chemical substances. This presumption shall be rebuttable by evidence meeting the appropriate legal standard.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, the provisions of this Section shall be applicable only to certain types of cancer. Any type of cancer meeting all of the following criteria shall be deemed to meet the requirements of this Subsection:

(a) Diagnosed as leukemia, lymphoma, or multiple myeloma or any other type of cancer that may be caused by exposure to heat, smoke, radiation, or a known or suspected carcinogen as defined by the International Agency for Research on Cancer.

(b) Diagnosed as originating in the bladder, brain, breast, colon, liver, lungs, pancreas, reproductive tract, skin, kidney, testicle, or gastrointestinal tract.

E.(1) In the event that a volunteer member is diagnosed with heart or lung disease, stroke, or a type of cancer meeting the requirements of Subsection D of this Section, all of the following criteria shall apply in determination of the eligibility of the volunteer member for receiving the benefits provided pursuant to the group policy described in Subsection C of this Section:

(a) The volunteer member shall have completed five or more years of service with the fire company.

(b) The name of the member must have been carried on the membership list of the fire company immediately prior to when his membership with the fire company ceased.

(2)(a) In the event a volunteer member is determined to be eligible to receive a benefit pursuant to this Section, the option to enroll for this benefit shall be offered to the volunteer member for no less than ninety days from the date his membership ceased as a volunteer member with the fire company.

(b) Any eligible volunteer member who enrolls to receive the benefit shall be entitled to receive the benefit through the age of seventy with coverage terminating when the volunteer member attains the age of seventy-one.

F.(1) The state fire marshal shall deliver to each fire company a printed or electronic notice concerning the policy requirements as to written notice of claim and written proof of loss including the period in which a claim must be filed. The fire company shall post such notice in a conspicuous place at its facilities.

(2) A fire company shall provide to the state fire marshal, upon request and within a reasonable time period, any documents, materials, or other information necessary to administer the provisions of this Section.

(3) The state fire marshal is authorized to promulgate any rules or regulations

necessary to administer the provisions of this Section in accordance with the Administrative Procedure Act, R.S. 49:950, et seq.

RS 40:1596.1 — Purpose

rshal, by establishing specific time limits during which said records shall be retained and after which such records may be destroyed.

RS 40:1596.2 — Administration

d may issue rules and regulations which he considers necessary to its administration.

RS 40:1596.3 — Definitions

cations submitted to the fire marshal for approval in accordance with R.S. 40:1574.

(2) "Inspection reports" means all reports of inspections and other documents attached or pertaining thereto made, developed, and collected by the office of state fire protection pursuant to the inspections required by R.S. 40:1575.

(3) "Investigation reports" means all documents made, developed and collected by the office of state fire protection pursuant to R.S. 40:1566 through R.S. 40:1575.

(4) "Records of proceedings" means all records of any proceedings held pursuant to R.S. 40:1578.1 through R.S. 40:1578.6 and R.S. 40:1666 through R.S. 40:1666.8.

(5) "Records" means all of the documents defined in Paragraphs (1), (2), (3) and (4) above, and all other documents made, developed or collected by the office of state fire protection.

(6) "Time limitation" means the period of time during which the records or documents in question shall be retained by the office of state fire protection of the Department of Public Safety, and upon the expiration of which such records may be destroyed.

(7) "Types of occupancies" shall be as defined in the Life Safety Code in Pamphlet No. 101 published by the National Fire Protection Association, 1973 edition.

RS 40:1596.4 — Specific time limits

residential occupancies--twenty years.

(2) Places of public assembly and mercantile occupancies--ten years.

(3) Business, industrial, and storage occupancies--five years.

(4) All other occupancies and records--one year.

RS 40:1596.5 — Method of retention

e of retaining the records, however, no original record may be destroyed until at least one year has elapsed from the date of the making of such record or final disposition of the matter involving the record, whichever is longer.

RS 40:1597.1 — Short title

ating this website,

RS 40:1597.2 — Purpose; administration and enforcement; initial study

well as to promote public safety awareness by

requiring conveyance device inspections by licensed elevator inspectors.

(2) The use of unsafe and defective conveyance devices increases the probability of injury to the persons exposed to these unsafe devices. The prevention of these injuries is in the best interest of the people of this state.

(3) Adequate protection for safety should be afforded in every conveyance device to which this Subpart applies. The study shall include a determination of whether such protection standards shall comply with the latest editions of the American Society of Mechanical Engineers (ASME) Safety Code for Elevators and Escalators, ASME A17.1;

ASME Performance-Based Safety Code for Elevators and Escalators, A17.7; the ASME Safety Code for Existing Elevators and Escalators, A17.3; the ASME Safety Standards for Platform Lifts and Stairway Chairlifts, A18.1; ASME Standard for the Qualification of Elevator Inspectors, QEI-1; and Automated People Mover Standards, ASCE 21.

B. Repealed by Acts 2022, No. 252, §3.

RS 40:1601 — Novelty lighters

commonly used by consumers to

ignite tobacco products and mechanical devices primarily used to ignite fuel for fireplaces or for charcoal or gas grills. The term does not include matches. This term includes novelty lighters.

(2) "Novelty lighter" means a lighter that has a toylike appearance, has entertaining audio or visual effects, or resembles in any way in form or function an item that is commonly recognized as appealing, attractive, or intended for use by young children, particularly those ten years of age or younger, including such a device that takes toylike physical forms, including but not limited to toy animals, cartoon characters, cars, boats, airplanes, common household items, weapons, cell phones, batteries, food, beverages, musical instruments, and watches or has flashing lights or other entertaining features. Novelty lighters may operate on any fuel, including butane or liquid fuel.

B. The retail, sale, offer of retail sale, gift, or distribution of any novelty lighter in the state of Louisiana is prohibited.

C. This Section shall not apply to:

(1) Novelty lighters that were made before January 1, 1980.

(2) Novelty lighters that are considered to be collectable items.

(3) Repealed by Acts 2013, No. 147, §2.

(4) Lighters incapable of being fueled or lacking a device necessary to produce combustion or flame.

(5) The active transportation of novelty lighters through this state.

(6) The storage of novelty lighters in a warehouse or distribution center in this state that is closed to the public for purposes of retail sales.

(7) Wholesale or retail dealers selling their existing inventory of novelty lighters before January 1, 2010, where such inventory was purchased prior to August 15, 2009.

(8) Novelty lighters that are in compliance with 16 CFR Part 1210 et seq.

D.(1) The fire marshal shall adopt such rules and regulations as are necessary to implement and enforce the provisions of this Section.

(2) The fire marshal or an authorized representative, upon oral or written demand, may inspect the inventory of novelty lighter manufacturers, wholesale or retail dealers, and transporters as the fire marshal or the authorized representative deems necessary to ensure compliance with this Section.

(3) Whenever the fire marshal or an authorized representative, law enforcement personnel, or any authorized personnel discover novelty lighters for retail or sale or offered for retail sale, gift, or distribution, such personnel are hereby authorized and empowered to seize and take possession of such lighters. The confiscated lighters shall be turned over to

the fire marshal and shall be forfeited to the state as contraband. Novelty lighters seized pursuant to this Section shall be destroyed. Destruction shall be witnessed by at least two employees of the fire marshal and documentation of such destruction shall be made which describes the contraband, time and location of the destruction, witnesses to the destruction, and such other information as required by the fire marshal.

(4) Any person who knowingly violates the provisions of this Section shall be fined not more than two hundred fifty dollars per violation.

(5) The penalties collected as provided in this Section shall be deposited into the Louisiana Life Safety and Property Protection Trust Dedicated Fund Account within the state treasury as provided for in R.S. 40:1664.9. The monies shall be deposited to the credit of the account and shall, in addition to any other monies available for such purpose, be available to the state fire marshal to support fire safety and prevention programs.

RS 40:1602 — Burn ban; authority of the state fire marshal; civil citation
this state.

B.(1) The state fire marshal or his representative or the commissioner of the Department of Agriculture and Forestry or his representative may impose a civil fine of two hundred fifty dollars for the violation of an order issued pursuant to this Section.

(2) Any penalties imposed pursuant to this Subsection may be appealed in accordance with the provisions of the Administrative Procedure Act.

(3) The penalties collected pursuant to this Subsection shall be deposited into the Louisiana Life Safety and Property Protection Trust Dedicated Fund Account within the state treasury as provided for in R.S. 40:1664.9. The monies shall be deposited to the credit of the account and shall, in addition to any other monies available for such purpose, be available to the state fire marshal to support fire safety and prevention programs.

C. This Section shall not apply to prescribed burning as defined in R.S. 3:17.

RS 40:1603 — Fire-resistant material applicators; registration; fines
t material" means cementitious or fibrous materials that are sprayed
onto a surface to provide fire-resistant protection of the substrate.

(2) "Fire-resistant material applicator" means an individual who applies fire-resistant material.

B.(1) Every fire-resistant material applicator shall undergo training to apply fire-resistant material according to manufacturer specifications.

(2) Every fire-resistant material applicator shall annually register with the office of the state fire marshal.

(3) When a fire-resistant material applicator satisfactorily completes training and registers as required by this Subsection, the state fire marshal shall issue a certificate which indicates that the fire-resistant material applicator is certified to apply fire-resistant material.

C. Any person applying fire-resistant material who does not receive the training, register, and obtain a certificate as required in Subsection B of this Section shall be fined up to two hundred fifty dollars per violation.

D. The provisions of this Section shall be implemented, including a procedure for the appeal of penalties, and enforced pursuant to the Administrative Procedure Act.

RS 40:1605 — Rubbish

any alley or sidewalk or on any premises within thirty feet of a building longer than twelve hours or overnight.

RS 40:1613 — Tents; fire resistant

a fire resistant material or has been treated to render it fire resistant. The fire marshal may prescribe specific requirements to carry out the purpose of this section.

B. The fire marshal shall be responsible for the enforcement of this section. Upon complaint of any person or upon his own initiative when he thinks necessary, the fire marshal or any of his authorized representatives may inspect any tent being offered for sale or sold in this state or the premises of any establishment engaged in the manufacture of tents in this state for the purpose of determining compliance with this section. Whenever the inspecting officer finds any incidence of noncompliance with this section he shall issue an appropriate order to assure compliance, to have the tents removed from the premise or to remedy the incidence of noncompliance in whatever manner he may deem appropriate.

C. Whoever fails to comply with an order of the fire marshal under the provisions of this section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both. Each violation hereunder shall constitute a separate offense.

RS 40:1614 — Mattresses and box springs; fire retardant

erial or has been treated to render it fire retardant such that it meets the standards of resistance to open flames. This Subsection shall not apply to any mattress or box spring manufactured prior to January 1, 2007. The fire marshal may promulgate regulations to implement the purpose of this Section.

B. The fire marshal shall be responsible for the enforcement of this Section. Upon complaint of any person or upon his own initiative when he thinks necessary, the fire marshal or any of his authorized representatives may inspect any mattress or box spring being offered for sale or sold in this state or the premises of any establishment engaged in the manufacture of mattresses or box springs in this state for the purpose of determining compliance with this Section.

Whenever the inspecting officer finds any incidence of noncompliance with this Section he shall issue an appropriate order to assure compliance, to have the mattresses or box springs removed from the premises or to remedy the incidence of noncompliance in whatever manner he may deem appropriate.

C. Whoever fails to comply with an order of the fire marshal under the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both. Each violation hereunder shall constitute a separate offense.

D. Upon the enactment of a federal statute, rule, or regulation which requires that mattresses and box springs be flame resistant, this provision shall be null and void.

RS 40:1615 — Class B fire fighting foam containing fluorinated organic chemicals

clearly indicates otherwise:

(1) "Class B fire fighting foam" means any foam designed to extinguish flammable liquid fires.

(2) "Person" means an individual, association, joint venture, partnership, corporation, limited liability company, political subdivision, municipality, or public or private organization of any character, including any agency, department, board, bureau, office, commission, district, corporation, and quasi-public corporation of the federal, state, municipal, or local government.

(3) "PFAS chemicals" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom, including perfluoroalkyl and polyfluoroalkyl substances, and designed to be fully functional in Class B fire fighting foam formulations.

(4) "Testing" means calibration testing, conformance testing, or fixed system testing.

B. On and after January 1, 2022, no person shall discharge or otherwise use Class B fire fighting foam that contains intentionally added PFAS chemicals unless such discharge

or other use occurs in fire prevention or in response to an emergency fire fighting operation.

C. Nothing in this Section shall be construed to do any of the following:

- (1) Restrict the manufacture, sale, or distribution of Class B fire fighting foam that contains intentionally added PFAS chemicals or restrict the discharge or other use of Class B fire fighting foam in response to an emergency fire fighting operation.
- (2) Prevent the use of nonfluorinated foams, including other Class B fire fighting foams, for the purposes of training or testing for fire fighting operations at a facility that has implemented containment, treatment, and disposal measures to prevent the uncontrolled releases of such fire fighting foam into the environment.

RS 40:1621 — Violation of fire marshal's orders; penalty

40, R.S. 40:1569 excepted, shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both. Each day's violation of an order constitutes a separate offense and may be punished as such at the discretion of the court.

RS 40:1622 — Violation of Part; criminal and civil liability

compliance order is issued, and that violation is the proximate cause of an incident giving rise to response by firemen or first response personnel who suffer loss of life or bodily injury while responding to the incident, then the person or entity responsible for compliance with the order shall be liable for all damages resulting from the loss of life or bodily injury suffered by any such firemen or first response personnel if the compliance order has not been complied with within the time period stated in the compliance order.

B. Notwithstanding any provision to the contrary, for any loss of life suffered by firemen or first response personnel under the conditions described in this Section, there shall be a rebuttable presumption that the death resulted from criminal negligence.

RS 40:1626 — Title

any technical difficulties navigating this website,

RS 40:1627 — Definitions

Revenue to purchase and affix stamps on packages of cigarettes.

(2) "Cigarette" means any roll for smoking, whether made wholly or in part of tobacco or any other substance, regardless of size or shape, and whether or not such tobacco or substance is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other material except where the wrapper is wholly or in greater part made of tobacco.

(3) "Manufacturer" means any of the following:

(a) Any entity which manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that such manufacturer intends to be sold in this state, including cigarettes intended to be sold in the United States through an importer.

(b) The first purchaser anywhere that intends to resell in the United States cigarettes, manufactured anywhere, that the original manufacturer or maker does not intend to be sold in the United States.

(c) Any entity that becomes a successor of an entity described in Subparagraph (a) or (b) of this Paragraph.

(4) "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. Such a program ensures that the testing repeatability remains within the required repeatability values pursuant to R.S. 40:1628(A) for all test trials used to certify cigarettes in accordance with this Act.

(5) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent of the time.

(6) "Retail dealer" includes every dealer other than a wholesale dealer, or manufacturer who sells or offers for sale cigars, cigarettes, or other tobacco products, irrespective of quantity or the number of sales.

(7) "Sale" means any transfer of title or possession or both, exchange, or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefor. In addition to cash and credit sales, the giving of cigarettes as samples, prizes, or gifts and the exchanging of cigarettes for any consideration other than money are considered sales.

(8) "Sell" means an act of selling, or to offer or agree to sell.

(9) "Wholesale dealer" means a dealer whose principal business is that of a wholesaler, who sells cigarettes, cigars, or other tobacco products to retail dealers for purpose of resale, who is a bona fide wholesaler, and fifty percent of whose total tobacco sales are to retail stores other than its own or its subsidiaries within Louisiana. Wholesale dealer shall include any person in the state who acquires cigarettes solely for the purpose of resale in vending machines, provided such person services fifty or more cigarette vending machines in Louisiana other than his own, and a Louisiana dealer who was affixing cigarette and tobacco stamps as of January 1, 1974. Wholesale dealer also shall include a bona fide tobacconist engaged in receiving bulk smoking tobacco for the purpose of blending such tobacco for retail sale at a particular retail outlet where fifty percent or more of the total purchases for the preceding twelve months were purchases of tobacco products, excluding cigarettes.

RS 40:1628 — Test method and performance standard

d in this state unless the cigarettes have been tested in accordance with the test method and meet the performance standards specified in this Section, a written certification has been filed by the manufacturer with the state fire marshal in accordance with R.S. 40:1629, and the cigarettes have been marked in accordance with R.S. 40:1630.

(1) Testing of cigarettes shall be conducted in accordance with the American Society for Testing and Materials (ASTM) standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes".

(2) Testing shall be conducted on ten layers of filter paper.

(3) No more than twenty-five percent of the cigarettes tested in a test trial in accordance with this Section shall exhibit full-length burns. Forty replicate tests shall comprise a complete test trial for each cigarette tested.

(4) The performance standard required by this Section shall only be applied to a complete test trial.

(5) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization (ISO), or other comparable accreditation standard required by the state fire marshal.

(6) Laboratories conducting testing in accordance with this Section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than nineteen-hundredths.

(7) This Section does not require additional testing if cigarettes are tested consistent with this Act for any other purpose.

(8) Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the performance standard required shall be conducted in accordance with this Section.

B. Each cigarette listed in a certification submitted pursuant to R.S. 40:1629 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standards set forth in this Section shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least fifteen millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least fifteen millimeters from the lighting end and ten millimeters from the filter end of the tobacco column, or ten millimeters from the labeled end of the tobacco column for non-filtered cigarettes.

C. A manufacturer of a cigarette that the state fire marshal determines cannot be tested in accordance with the test method prescribed in this Section shall propose a test method and performance standards for the cigarette to the state fire marshal. Upon approval of the proposed test method and a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in this Section, the manufacturer may employ such test method and performance standard to certify such cigarette pursuant to R.S. 40:1629. If the state fire marshal determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standards that are the same as those contained in this Act*, and the state fire marshal finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standards for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's laws or regulations under a legal provision comparable to this Section, then the state fire marshal shall authorize that manufacturer to employ the alternative test method and performance standards to certify

that cigarette for sale in this state, unless the state fire marshal demonstrates a reasonable basis why the alternative test should not be accepted under this Act*. All other applicable requirements of this Section shall apply to the manufacturer.

D.(1) Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years and shall make copies of these reports available to the state fire marshal or the attorney general upon written request.

(2) Any manufacturer who fails to make copies of these reports available within sixty days of receiving a written request shall be subject to a civil penalty not to exceed five thousand dollars for each day after the sixtieth day that the manufacturer does not make such copies available.

E. The state fire marshal may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that such subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standards in this Section.

F. The state fire marshal shall review the effectiveness of this Section and report every three years to the legislature its findings and, if appropriate, recommendations for legislation to improve the effectiveness of this Act*. The report and legislative recommendations shall be submitted no later than June thirtieth following the conclusion of each three-year period.

G. The requirements of this Section shall not prohibit:

(1) A wholesale dealer or retail dealer from selling its existing inventory of cigarettes on or after August 31, 2009, if the wholesale dealer's inventory was purchased prior to August 31, 2009.

(2) The sale of cigarettes solely for the purpose of consumer testing. For purposes of this Subsection, the term "consumer testing" means an assessment of cigarettes that is conducted directly by, or under the direction and control of, a manufacturer, for the purpose of evaluating consumer acceptance of such cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment.

H. This Section shall be implemented in accordance with the implementation and substance of the New York Fire Safety Standards for Cigarettes.

RS 40:1629 — Certification and product change

tification has been tested in accordance with R.S. 40:1628.

(2) Each cigarette listed in the certification meets the performance standards set forth in R.S. 40:1628.

B. Each cigarette listed in the certification shall be described with the following information:

(1) Brand or trade name on the package.

(2) Style, such as light or ultra light.

(3) Length in millimeters.

(4) Circumference in millimeters.

(5) Flavor, such as menthol or chocolate, if applicable.

(6) Filter or non-filter.

(7) Package description, such as soft pack or box.

(8) Marking pursuant to R.S. 40:1630.

(9) The name, address, and telephone number of the laboratory, if different from the manufacturer that conducted the test.

(10) The date that the testing occurred.

C. Copies of the certifications shall be made available to the Department of Revenue for the purposes of ensuring compliance with this Section.

D. Each cigarette certified under this Section shall be recertified every three years.

E. For each certification, a manufacturer shall pay to the state fire marshal a maximum fee of two hundred fifty dollars.

F. If a manufacturer has certified a cigarette pursuant to this Section, and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this Act, that

cigarette shall not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards set forth in R.S. 40:1628 and maintains records of that retesting as required by this Act. Any altered cigarette which does not meet the performance standards set forth in this Act may not be sold in this state.

RS 40:1630 — Marking of cigarette packaging

marking shall be in eight-point type or larger and consist of one of the following:

(1) Modification of the UPC Code to include a visible mark printed at or around the area of the UPC Code. The mark may consist of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed in conjunction with the UPC.

(2) Any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap.

(3) Printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards set forth in this Act*.

B. A manufacturer shall use only one marking and shall apply this marking uniformly for all packages, including but not limited to packs, cartons, or cases, or brands marketed by that manufacturer.

C. The state fire marshal shall be notified in writing as to the marking that is selected.

D. Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to the state fire marshal for approval. Upon receipt of the request, the state fire marshal shall approve or disapprove the marking offered, except the state fire marshal shall approve the following:

(1) Any marking in use and approved for sale in New York pursuant to the New York Fire Safety Standards for Cigarettes.

(2) The letters "FSC", which signifies Fire Standards Compliant appearing in eight-point type or larger and permanently printed, stamped, engraved, or embossed on the package at or near the UPC code.

E. Proposed markings shall be deemed approved if the state fire marshal fails to act within ten business days of receiving a request for approval.

F. No manufacturer shall modify its approved marking unless the modification has been approved by the state fire marshal in accordance with this Section.

G. Manufacturers certifying cigarettes in accordance with this Section shall provide a copy of the certifications to all wholesale dealers and agents to which they sell cigarettes, and shall also provide sufficient copies of an illustration of the package marking utilized by the manufacturer pursuant to this Section for each retail dealer to which the wholesale dealers or agents sell cigarettes. Wholesale dealers and agents shall provide a copy of these package markings received from manufacturers to all retail dealers to which they sell cigarettes. Wholesale dealers, agents, and retail dealers shall permit the state fire marshal, the Department of Revenue, the attorney general, and their employees to inspect markings of cigarette packaging marked in accordance with this Section.

RS 40:1631 — Implementation

eff. Aug. 31, 2009.

*Acts 2007, No. 409

RS 40:1632 — Inspection; seizure

Authorized representatives, and other law enforcement personnel are hereby authorized to examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises. Every person in the possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale is hereby directed and required to give the attorney general, the Department of Revenue, the office of alcohol and tobacco control, and the state fire marshal, their duly authorized representatives, and other law enforcement personnel the means, facilities, and opportunity for the examinations authorized by this Section.

B. The Department of Revenue, the office of alcohol and tobacco control, the attorney general, and the state fire marshal, or their duly authorized representatives, and other law enforcement personnel in the regular course of conducting inspections of wholesale dealers, agents, and retail dealers, may inspect cigarettes to determine if the cigarettes are

marked as required by R.S. 40:1630.

RS 40:1633 — Penalties; forfeiture

pack of such cigarettes sold or offered for sale, provided that in no case shall the penalty against any such person or entity exceed fifty thousand dollars during any thirty-day period.

B. In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to R.S. 40:1629 shall be subject to a civil penalty not less than twenty-five thousand dollars and not to exceed one hundred thousand dollars for each such false certification.

C. Any person violating any other provision of this Act shall be subject to a civil penalty for a first offense not to exceed one thousand dollars. The penalty for any subsequent violation shall not exceed five thousand dollars.

RS 40:1634 — Remedy

ate fire marshal, the Department of Revenue, the office of alcohol and tobacco control, or attorney general may file an action in a court of competent jurisdiction for a violation of this Act*, including petitioning for injunctive relief, for recovery of any costs or damages suffered by the state because of a violation of this Act, for enforcement costs relating to the specific violation, and for court costs and attorney fees. Each violation of this Act or of rules or regulations adopted under this Act constitutes a separate civil violation for which the state fire marshal, the Department of Revenue, the office of alcohol and tobacco control, or attorney general may obtain relief.

RS 40:1635 — Deposit of penalties; existing account

Fund Account within the state treasury as

provided for in R.S. 40:1664.9. The monies shall be deposited to the credit of the account and shall, in addition to any other monies available for such purpose, be available to the state fire marshal to support fire safety and prevention programs.

RS 40:1636 — Out-of-state sales

garettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in this state.

RS 40:1641 — Purpose

res are particularly dangerous due to the fact that present fire fighting apparatus can only reach floor levels below seventy-five feet in height, leaving upper floors in high rise facilities vulnerable to the unchecked spread of fire, thereby endangering the occupants of those upper floor levels.

B. It is therefore the policy of this state in order to protect life and property from the hazards of fire and panic which may arise from fire or from the threat of fire in high rise buildings to require existing high rise buildings to be protected throughout by an approved fire protection sprinkler system.

RS 40:1642 — Definitions

engineering standards. The system must be supplied from a reliable, constant, and sufficient water supply such as a gravity tank, fire pump, reservoir or pressure tank, or connection by underground piping to a city main or any combination of these. The portion of the sprinkler system above ground is considered the fire protection sprinkler system for purposes of this Subpart and is a network of specially sized or hydraulically designed piping installed in a building, structure, or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system includes a controlling valve and device for actuating an alarm when the system is in operation. The system is usually activated by heat from a fire and discharges water over the fire area. Fire protection sprinkler system, dry-pipe systems, preaction systems, deluge systems, combined dry-pipe and preaction systems, antifreeze systems, and circulating closed loop systems, have meanings as defined and continuously revised in National Fire Protection Association Pamphlet 13, entitled Standard for the Installation of Sprinkler Systems.

(2) "Existing high rise buildings" means any building having floor surfaces used for human occupation located more than seventy-five feet above the lowest level of fire department vehicle access constructed before January 1, 1975.

(3) "Master plan" means a specific scheme or plan detailing the number of floors, total square footage, present occupancy and a proposed completion date of each phase and completion date of total compliance with the requirement of this Subpart.

RS 40:1643 — Fire protection sprinkler system required in existing high-rise buildings; exceptions
e protection sprinkler system.

B. All existing high-rise buildings shall comply with the rules and regulations to be promulgated by the fire marshal in conformity with the Administrative Procedure Act, which shall establish as minimum standards the provisions of NFPA 13 as published by National Fire Protection Association, and the fire marshal shall be the authority having jurisdiction to enforce compliance with such regulations.

C.(1) Notwithstanding any provision to the contrary, all existing high-rise buildings as defined in this Subpart shall be protected throughout by an approved fire protection sprinkler system by January 1, 1999. However, if the state fire marshal determines that an extension can be granted without creating an undue risk to human safety, the fire marshal may grant a one-year extension to those building owners who have made a good faith effort to comply with the fire protection sprinkler system requirement.

(2) The fire marshal may grant one-year extensions of time to complete the installation of a fire protection sprinkler system to those existing high-rise buildings that were not in compliance with the fire protection sprinkler system requirement on January 1, 1999, but which have a written plan to install such a system that has been approved by the fire marshal including but not limited to shop drawings, contracts, or architectural engineering design documents, provided that the building has sufficient and adequate fire protection systems to assure that undue risk to human life and safety is not created by occupancy above the seventy-five foot level.

(3) The fire marshal may grant a reasonable extension of time for compliance with the fire protection sprinkler system requirement upon a showing of each of the following:

(a) A statement of certification that such building shall be demolished or substantially remodeled within five years after July 14, 1999.

(b) Sufficient and adequate fire protection systems to assure that undue risk to human life and safety is not created by occupancy above the seventy-five foot level.

(4) Any state-owned building utilized as a state hospital or parish prison shall have until January 1, 2005, to complete installation of the required fire sprinkler system, provided the building has sufficient and adequate fire protection systems such that human occupancy above the seventy-five foot level does not create an undue risk to human life and safety.

(5) For the purposes of this Subpart, the following shall be sufficient and adequate fire protection systems such that undue risk to human life and safety are not created:

(a) Twice the number of fire extinguishers as requested by the NFPA 10.

(b) A fire watch in accordance with the NFPA 601.

(c) A method of occupant notification of emergency conditions.

(d) Persons designated as fire wardens who have access to two-way communication systems, who are trained to use portable fire extinguishing equipment, and who know the emergency evacuation rules and procedures.

(e) Compliance with the means of egress, protection of vertical openings, emergency lighting, and alarm and detection requirements specified by the 1967 edition of the NFPA 101 Life Safety Code.

D. The owners of existing high-rise buildings which are not, as of September 1, 1988, protected throughout by an approved fire protection sprinkler system shall submit a written master plan to the state fire marshal on or before January 1, 1991, detailing with specificity a schedule for compliance with this Subpart.

E. Notwithstanding any other provision of law to the contrary, the state fire marshal may authorize alternative approaches for existing high-rise telephone equipment buildings occupied solely by telecommunications service providers which were not, as of September 1, 1988, protected throughout by an approved fire protection sprinkler system but which will provide an equivalent level of safety as provided by an approved automatic sprinkler system. Such alternative approaches shall be implemented on or before January 1, 1999. To obtain such approval, the telecommunications service provider shall submit a written master plan or a completed fire safety evaluation form, as published by the National Fire Protection Association, to the state fire marshal on or before January 1, 1993. Upon receipt, such master plan or fire safety

evaluation shall be evaluated by the state fire marshal to ensure that the building complies with either:

(1) The 1967 edition of the NFPA 101 (Life Safety Code). Such plan or evaluation shall also indicate that an equivalent level of safety is achieved by the proposed alternative.

(2) The compartmentation exception of Section 506 of the 1988 Standard Building Code. Such compliance shall be documented by a certificate signed by a licensed architect or civil engineer.

RS 40:1644 — Cost

assessed by the state fire marshal as detailed in R.S. 40:1574.1.

RS 40:1645 — Penalty

han five hundred dollars or to imprisonment of not more than six months, or both.

RS 40:1646 — State fire marshal; owners; life safety systems and equipment inspections; penalties;

ction, certification, and testing of all life safety systems and equipment in the state,

whether in public or private buildings, upon receipt of a complaint, during installation, or

after installation to determine compliance with applicable codes, standards, and manufacturer specifications.

B.(1) Except as provided in Paragraph (2) of this Subsection, the owner of any building containing a life safety system and equipment, or the owner's designated representative, shall cause at a minimum an annual inspection and certification to be made of the life safety system and equipment in that building to assure compliance with applicable safety standards and to determine whether structural changes in the building or in the contents of the building mandate alteration of a system.

(2)(a) The provisions of this Subsection shall not apply to the owner of a building with two stories occupied by a single tenant wherein employees of the tenant are regularly inside of the building. The building described in this Paragraph shall not be construed to include a one- or two-family dwelling as defined in R.S. 40:1573.

NOTE: Subparagraph (B)(2)(b) eff. July 1, 2028. See Acts 2025, No. 297.

(b) The owner of a building described in this Paragraph shall cause, at a minimum, a full-load safety test of the conveyance device in five-year intervals to assure compliance with applicable safety standards and to determine whether structural changes in the building or in the contents of the building mandate alteration of the conveyance device.

(3) The owner of any building containing a conveyance device shall cause at a minimum an annual inspection and certification, as outlined in Paragraph (1) of this Subsection, to be physically witnessed by an inspector appointed by the fire marshal.

C. Life safety systems and equipment includes but is not limited to fire sprinkler, fire alarm, fire suppression, special locking systems and equipment, portable fire extinguishers, and conveyance devices.

D. The installing contractor of new life safety systems and equipment shall be on-site for the final inspection by the fire marshal or his designated representative.

E.(1) Whenever the inspecting officer finds that the owner has failed to comply with the provisions of this Section, he shall order the owner to comply with the requirements of this Section.

(2) Whenever the inspecting officer finds life safety systems and equipment to be inoperable or not in compliance with applicable safety standards, the inspecting officer shall

order the owner to have the life safety systems and equipment inspected and brought into compliance with applicable safety standards.

(3)(a) Whoever fails to comply with an order issued by the fire marshal may be issued a first warning and ordered to comply with the initial order.

(b) Whoever fails to comply with a second order issued by the fire marshal may be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(4) The fire marshal may authorize a fire prevention bureau to enforce the provisions of this Section. Nothing in this Section shall be construed to prevent the fire marshal from enforcing the provisions of R.S. 40:1621.

F. A licensed conveyance device mechanic shall be onsite for the final acceptance inspection by a conveyance device inspector.

G.(1) The provisions of this Subsection apply only to inspections of conveyance devices.

(2) When the fire marshal finds that the owner has failed to comply with the provisions of this Section, he shall order the owner's compliance.

(3) When the fire marshal receives a report from an inspector licensed by the office that a conveyance device is inoperable or not in compliance with applicable safety standards, he shall order the owner to have the conveyance device inspected and brought into compliance with applicable safety standards.

(4) Whoever fails to comply with an order issued by the fire marshal shall be first issued a warning and ordered to comply with such order.

(5) The fire marshal may promulgate rules and regulation in accordance with the Administrative Procedure Act to implement to provisions of this Subsection.

H. This Section shall not apply to private outdoor recreational structures pursuant to R.S. 40:1730.30.

RS 40:1646.1 — Inspectors

he fire marshal, or by qualified employees of certified fire protection sprinkler contractors, as such term is defined in R.S. 40:1625(2), or by licensed engineers or licensed architects as provided by law.

RS 40:1646.2 — Inspection and test reports; attachment to system

current National Fire Protection Association standards, to be included on all inspection and test reports.

B. One copy of the inspection and test report shall be attached by the inspector in a conspicuous place on the fire sprinkler system. One copy shall be retained by the inspector. One copy shall be retained by the owner of the building or his authorized representative. One copy shall be forwarded to the Property Insurance Association of Louisiana. The original shall be forwarded to the office of the fire marshal.

RS 40:1646.3 — Inoperative or deficient systems; remediation; hearings

ort.

B. The fire marshal, as soon as practicable after receipt of this report, shall notify the building owner by certified mail or hand delivery of the date by which remediation must be made.

C. If the owner disputes the findings of the report, he may request, within fifteen days of the date on which the fire marshal's notice was posted or delivered, a hearing to resolve the dispute. The hearing shall be conducted as soon as possible and in accordance with the Administrative Procedure Act.

D. A final determination by the fire marshal may be appealed to any court of competent jurisdiction.

E. If remedial action is finally determined to be necessary, the owner shall cause an inspection to be made after completion of the remediation in the same manner as other inspections required by this Subpart.

RS 40:1660.2 — Repealed by Acts 2003, No. 512, §2.

on Rouge, Louisiana 70804-9062

RS 40:1664.1 — Short title

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RS 40:1664.2 — Purpose; administration and enforcement

ction systems and equipment and to prohibit the use of life safety and property protection systems and equipment which are not properly labeled in accordance with the rules adopted by the state fire marshal in the interest of safeguarding lives and property.

B. The state fire marshal shall administer and enforce the provisions of this Subpart and may issue rules and regulations which he considers necessary to such administration and enforcement pursuant to the Administrative Procedure Act. In formulating necessary rules and regulations, the state fire marshal may use recognized standards, including those of the National Fire Protection Association, those recognized by federal law or regulation, those published by nationally recognized standards-making organizations, those industry standards established by accepted practices or trade associations, or those contained in manufacturers' installation manuals.

C. The state fire marshal shall have the authority to charge and collect such fees as provided for in this Subpart.

D. The Louisiana Life Safety and Property Protection Advisory Board shall advise the state fire marshal with respect to administration and enforcement of the provisions of this Subpart and shall exercise those functions specified in this Subpart.

RS 40:1664.3 — Definitions

(2) "Apprentice" means a person who is licensed to work under the direct supervision and accompaniment of a technician who is licensed to the same firm and holding a valid license to perform the same acts.

(3) "ASCE" means the American Society of Civil Engineers.

(4) "ASME" means the American Society of Mechanical Engineers.

(5) "Automotive" means concerned with or related to, but not limited to, motor vehicles, automobiles, trucks, motorcycles, recreational vehicles, all-terrain vehicles, snowmobiles, campers, boats, and other watercraft.

(6) "Automotive locksmith endorsement" means the document issued by the state fire marshal to a firm or employee authorizing either to engage in property protection activity of automotive locks and equipment, including programming of automotive key fobs and transponder devices.

(7) "Automotive locksmith technician" means an individual who sells, repairs, rebuilds, recodes, rekeys, programs, services, adjusts, installs, manipulates, or bypasses automotive locks and equipment, which includes key fobs and automotive transponder devices, and the creation and duplication of automotive keys.

(8) "Bank-locking specialist" means an individual licensed to certify, inspect, install, integrate, sell, and service mechanical or electronic locks within the confines of a bank, credit union, or other financial institution.

(9) "Bank-locking system" means locking systems and equipment within a financial institution. The term includes but is not limited to safes, vaults, time locks, safety deposit box locks, combination and electronic locks, key operated locks, teller under counter

equipment, master key systems, interchangeable cores, cash dispensers, drive-up systems, money tubes, and other commercial bank furnishings. The scope of work includes selling, installing, and servicing these systems and equipment. Bank-locking systems are a subclassification of locksmith. The term does not include special locking or security systems and equipment as defined in this Subpart.

(10) "Board" means the Louisiana Life Safety and Property Protection Education Board.

(11) "Builders' hardware" or "architectural hardware" or "door hardware" means stand alone electro/mechanical locks, latches, exit hardware, closures, and hinges mounted onto doors intended to operate and secure the door properly. The term does not include special locking systems.

(12) "Certify" means to attest to the proper functionality, inspection, installation, integration, programming, and service of life safety and property protection systems and equipment in accordance with all applicable engineered specifications, manufacturer specifications, and submitted plans and per the inspection, testing and maintenance chapters as set forth in the applicable NFPA, ASME, ANSI, and ASCE codes, standards, and manufacturer specifications.

(13) "Closed circuit television alarm specialist" means an individual licensed to certify, inspect, install, integrate, sell, and service closed circuit television alarm systems.

(14) "Closed circuit television alarm system" means a system that provides video surveillance of events, primarily by means of transmission, recording, or transmission and recording of visual signals through the use of cameras, receivers, monitors, computer, and other visual imaging systems. Closed circuit television alarm systems are a subclassification of security.

(15) "Conveyance" or "conveyance device" means any of the following, except those located in one- or two-family dwellings as defined in R.S. 40:1573:

(a) Hoisting and lowering mechanisms, including elevators, platform lifts, and stairway chair lifts equipped with a car or platform, which move between two or more landings.

(b) Power-driven stairways and walkways, including escalators and moving walks, for carrying persons between landings.

(c) Hoisting and lowering mechanisms, including dumbwaiters and material lifts with dumbwaiters with automatic transfer devices equipped with a car, and which serve two or more landings, and are restricted to the carrying of material by their limited size or limited access.

(16) "Conveyance device inspector" means any person engaged in the certification or inspection of a conveyance device.

(17) "Conveyance device mechanic" means any person engaged in the erecting, constructing, installing, altering, servicing, dismantling, maintaining, or testing of a conveyance device.

(18) "Designated agent" means an owner or a manager of an alarm contracting company or single station fire alarm contracting company, a locksmithing services company,

or closed circuit television alarm system contracting company who has been assigned the responsibility of submitting any notice required by this Subpart to the state fire marshal.

(19) "Detention locking specialist" means an individual licensed to certify, inspect, install, integrate, and service locks and locking systems within the confines of a penal institution only.

(20) "Detention locking system" means locking systems and equipment within a penal institution. The term includes but is not limited to doors, frames, high security locking, and commercial locking systems. The term also includes locks of various types including pin tumbler-standard and mogul types, lever and wafer tumbler mechanical locks, electromechanical, full electronic, and pneumatic controlled locks. Detention locking systems are a subclassification of locksmith. The term does not include special locking, security, or closed circuit television alarm systems and equipment as defined in this Subpart.

(21) "Direct supervision" means oversight of a firm's operations by a qualifier or onsite supervision by a licensed technician or specialist of an apprentice or consultant. The technician or specialist can supervise an apprentice or consultant only in areas he is licensed to perform. Both the technician and apprentice must be licensed to the same firm.

(22) "Door hardware specialist" means an individual who consults and provides technical advice regarding builders' hardware, architectural hardware, or door hardware.

(23) "DOT" means the United States Department of Transportation.

(24) "DOT hydrostatic testing" means pressure testing fire protection cylinders by approved hydrostatic methods and in accordance with NFPA codes and the U.S. Department of Transportation.

(25) "DOT hydrostatic testing specialist" means an individual licensed to certify, inspect, and service fire protection cylinders by approved hydrostatic methods and in accordance with NFPA codes and the United States Department of Transportation.

(26) "Employee" means a person who performs services for wages or salary and receives a W-2 tax form from his employer.

(27) "Engineered fire suppression system" means fire suppression systems individually integrated or altered in accordance with nationally recognized fire protection system design standards and manufacturer's guidelines.

(28) "False alarm" means a security alarm signal eliciting a response by police when a situation requiring such a response does not exist, including but not limited to the activation or transmission of any alarm signal caused by human error, mechanical or electronic malfunction, negligence of the alarm system user or user's agent or employee, whether or not the exact cause of the alarm activation is determined, or any other activation or transmission of any alarm signal where no actual police emergency exists.

(29) "Fire detection and alarm systems" means those assemblies of wiring, electronic transmitting devices, detection devices, and related equipment for the detection of products of combustion or flammable gases, heat and for alerting occupants, including fire department personnel, of a fire emergency.

(30) "Fire detection and alarm system owner specialist" means an individual who is employed by the owner of a fire detection and alarm system and who is licensed only to

perform routine inspection and minor service and repair of fire detection and alarm systems within his employer facilities.

(31) "Fire detection and alarm system specialist" means an individual licensed to certify, inspect, install, integrate, and service nonrequired fire detection and alarm systems.

(32) "Fire detection and alarm system technician" means an individual licensed to certify, inspect, install, integrate, and service both required and nonrequired fire detection and alarm systems.

(33) "Fire hose" means a flexible conduit used to convey water.

(34) "Fire protection systems and equipment" means those life safety and property loss systems, whether commercial or residential, intended to protect a structure's occupants or property from the risk and dangers of fire or explosion. Fire protection systems and equipment include but are not limited to portable fire extinguishers, fire detection and alarm systems, fire suppression systems, fire hoses, kitchen hood, and duct installation and cleaning. However, the term "fire protection system and equipment" shall not include a single station smoke or heat detector installed in a private residence by a fire department, the state fire marshal, a public agency, a volunteer association, or their designated representatives where no compensation is received for such installation.

(35) "Fire sprinkler systems and equipment" means those life safety systems intended to protect a structure's occupants or property from the risk and dangers of fire or explosion. Fire sprinkler systems and equipment include but are not limited to water-based fire protection systems, fire pumps, standpipe systems, and hose stations.

(36) "Fire sprinkler systems and equipment inspector" means an individual licensed to certify and inspect water-based fire protection systems, fire pumps, standpipe systems, fire hoses, and hose stations.

(37) "Firm" means a sole proprietorship, partnership, corporation, limited liability company, or any other entity.

(38) "Firm license" means that document authorizing a firm to perform life safety and property protection contracting for those endorsements held.

(39) "Fixed fire suppression systems" means those assemblies of piping, conduits, or containers that convey liquid, powder, or gases to dispersal openings or devices protecting one or more hazards by suppressing or extinguishing fires, but shall not include fire sprinkler systems, as defined in this Subpart.

(40) "Fixed fire suppression systems technician" means an individual licensed to certify, inspect, install, integrate, and service fixed fire suppression systems.

(41) "General endorsement" means a broad category of license authorizing its holder to perform multiple aspects of life safety and property protection contracting.

(42) "Household fire warning system" means a fire alarm, fire alarm system, or portion of such an alarm or system intended to detect or warn of smoke or fire and intended for use in a residential one- or two-family dwelling or wholly within the confines of an individual living unit in a residential multifamily structure. Household fire warning systems are a subclassification of security.

(43) "Household fire warning system specialist" means an individual licensed to

certify, inspect, install, integrate, and service household fire warning systems.

(44) "Individual license" means that document authorizing an individual to perform life safety and property protection contracting for those endorsements held.

(45) "Inspect" means a visual examination of life safety and property protection systems or equipment to verify that it appears to be in operating condition and is free of physical damage.

(46) "Install" means the initial placement of life safety and property protection systems or equipment or an extension of such after initial placement.

(47) "Integrate" means the act of utilizing accepted and approved life safety and property protection systems or equipment and components in accordance with manufacturers' direction to develop a unified and functioning system meeting applicable NFPA codes and standards.

(48) "Intrusion alarm" or "intrusion alarm system" means an alarm, alarm system, or portion of such an alarm or system intended to detect an unauthorized entry or other emergency, not including a fire, in a structure.

(49) "Kitchen suppression specialist" means an individual licensed to certify, inspect, install, integrate, and service pre-engineered fire suppression systems protecting kitchen appliances.

(50)(a) "Life safety and property protection contracting" means performing certification, inspection, installation, integration, programming, sale, or service of systems and equipment designed to protect life and property. Life safety and property protection systems and equipment include but are not limited to mechanical or electronic locks, special locking systems and equipment, security systems and equipment, fire sprinkler systems and equipment, fire detection and alarm systems and equipment, fire suppression systems and equipment, portable fire extinguishers, fire hoses, and conveyance devices. Life safety and property protection contracting includes but is not limited to the sale, lease, rent, planning with the intent to prewire, prewiring, hydrostatic testing, erection, construction, dismantling, maintenance, repair, testing, modification, improvement, or alteration of life safety systems and equipment, holding oneself or one's firm out for hire to perform any such task, or otherwise offering to perform any such task for compensation, either directly or indirectly.

(b) Notwithstanding any other provision of this Subpart, a person licensed as provided in this Subpart shall not install primary power sources of one hundred volts or greater when such power source is being installed to operate low voltage systems, unless the person is licensed by the State Licensing Board for Contractors to perform such installations.

(51) "Limited conveyance device mechanic" means an individual who is licensed through the state fire marshal and erects, constructs, installs, alters, services, repairs, or maintains only platform lifts, stairway chairlifts, and limited-use-limited-application, or LULA, elevators in commercial and industrial structures.

(52) "Limited conveyance device mechanic endorsement" means an endorsement that allows the holder to erect, construct, install, alter, service, repair, or maintain only platform lifts, stairway chairlifts, and limited-use-limited-application, or LULA, elevators in commercial and industrial structures.

(53) "Limited locksmith endorsement" means the document issued by the state fire marshal to a firm or employee authorizing either to engage in property protection activity of automotive locks and equipment, including programming of automotive transponder devices, and mechanical locks in commercial and residential structures that are nonpowered, whether by electrical current or battery. This endorsement does not authorize the holder to engage in property protection activity of special locking systems or equipment.

(54) "Limited locksmith technician" means an individual who sells, repairs, rebuilds, recodes, rekeys, programs, services, adjusts, installs, manipulates, or bypasses automotive locks, stand-alone electro-mechanical locking systems, and mechanical locking systems or devices for controlled access to automobiles or egress to premises, safes, vaults, doors, lock boxes, or other nonpowered locking systems and equipment and devices for safeguarding automobiles or commercial or residential structures or areas. This activity includes the creation and duplication of keys for automotive locks and mechanical locking systems or devices. This endorsement does not authorize the holder to engage in property protection activity of special locking systems or equipment.

(55) "Limited security endorsement" means the document issued by the state fire marshal to a firm or employee authorizing either to engage in property protection activity of security, household fire warning, or closed circuit television systems and equipment. This endorsement does not authorize the holder to engage in property protection activity of special locking systems or equipment.

(56) "Limited security technician" means an individual who engages in property protection activity of security, household fire warning, or closed circuit television systems and equipment. This endorsement does not authorize the holder to engage in property protection activity of special locking systems or equipment.

(57) "Locksmith technician" means an individual who sells, repairs, rebuilds, recodes, services, adjusts, installs, manipulates, or bypasses a special locking system, mechanical locking device or electronic locking devices for controlled access or egress to premises, safes, vaults, safe doors, lock boxes, automatic teller machines, or other devices for safeguarding areas or certifies, inspects, installs, integrates, sells and services closed circuit television alarm systems.

(58) "Mechanical locks" means a mechanical device or door hardware intended to control access or egress to or from a structure or area.

(59) "NFPA" means the National Fire Protection Association.

(60) "Officer" means the president, vice president, secretary, treasurer, comptroller, or any other person who performs functions for a life safety and property protection contracting firm corresponding to those performed by those officers.

(61) "Operating location" means a physical address that houses an entity that performs life safety and property protection contracting. All business records including but not limited to payroll records, sales invoices, inspection reports, and service records shall be maintained at the operating location. The operating location shall be open during normal business hours for the inspection of records. The use of a storage facility, telephone answering service, or post office box shall not constitute a location for purposes of this

Subpart.

(62) "Person" means a natural person or individual.

(63) "Portable fire extinguisher" means any portable device that contains liquid, powder, or gases for suppressing or extinguishing fires.

(64) "Portable fire extinguisher and fire hose technician" means an individual licensed to certify, inspect, install, and service portable fire extinguishers and fire hoses.

(65) "Pre-engineered fire suppression specialist" means an individual licensed to certify, inspect, install, integrate, and service pre-engineered fire suppression systems.

(66) "Pre-engineered fire suppression system" means packaged fire suppression systems which consist of system components intended to be installed according to pre-tested limitations as approved or listed by a testing laboratory.

(67) "Principal" means a person or entity that has a controlling interest of a life safety and property protection firm regardless of the form of organization. "Principal" includes a person or entity entitled to exercise the prerogatives or indicia of ownership or control of a property protection firm whether by direct action, assignment, or any other kind of substitution or subrogation.

(68) "Property protection systems and equipment" means those life safety and property protection systems intended to protect lives and property from the risk of theft, unauthorized entry, or other physical harm to a structure's occupants or property. Property protection systems and equipment include but are not limited to intrusion alarms, closed circuit television, automotive locks, mechanical locks, and electronic locks.

(69) "Qualifier" means a person who possesses the appropriate training or experience credentials enabling a firm to obtain a life safety and property protection license. A qualifier shall be a paid employee of the firm for which he qualifies and works a minimum of thirty-two hours per week. A qualifier shall be actively involved in overseeing the life safety and property protection contracting for the firm for which he qualifies. An individual may only qualify one firm.

(70) "Security sales specialist" means an individual licensed to sell or specify security systems and equipment.

(71) "Security systems and equipment" means those life safety and property protection systems intended to protect lives and property from the risk of theft, unauthorized entry, or other physical harm to a structure's occupants or property. Security systems and equipment include but are not limited to intrusion alarms, closed circuit television, household fire alarm, and special locking systems.

(72) "Security technician" means an individual licensed to certify, inspect, install, integrate, sell, and service security systems and equipment or special locking systems.

(73) "Sell" means to solicit another on behalf of a property protection firm by any means, including but not limited to telephone or electronic device, public notice or advertisement, door-to-door or any other type of personal interaction. The term includes designing property protection systems.

(74) "Service" means to repair or maintain.

(75) "Specialist" means an individual who is trained and certified to perform life

safety and property protection contracting within a specific limited endorsement.

(76) "Special locking specialist" means an individual who certifies, designs, inspects, installs, integrates, sells, or services a special locking system protecting a controlled access area or egress to premises.

(77) "Special locking systems" means an electro-mechanical lock, electronic lock, or electronic locking arrangement intended to control access or egress to a structure or area.

(78) "Specialty endorsement" means a narrow category of license authorizing its holder to perform only one aspect of life safety and property protection contracting.

(79) "State fire marshal" means the Department of Public Safety and Corrections, office of state fire marshal, code enforcement and building safety, and its authorized representatives empowered to enforce the provisions of this Subpart.

(80) "Technical endorsement" means a broad category of license authorizing its holder to perform multiple aspects of life safety and property protection contracting within a certain endorsement.

(81) "Technician" means an individual who is trained and certified to perform life safety and property protection contracting within a technical endorsement.

RS 40:1664.4 — License required

s Subpart. Each operating location of a firm shall hold a separate firm license.

B. No person or company shall aid, abet, facilitate, or otherwise assist any unlicensed person or firm in engaging in life safety and property protection contracting as defined in this Subpart when such person or firm knew or should have known that the person or firm assisted was unlicensed.

C. The state fire marshal may, by rule, license the owner of a life safety and property protection system or equipment and an employee of the owner to allow such employee to perform routine inspections and minor service and repairs of the life safety systems or equipment solely within the facilities of the owner. The owner shall document such service or repair and assume responsibility for all such service or repair. Such employee shall not engage in certifying, installing, or integrating such systems or equipment.

D. Each person who acts as an apprentice performing life safety and property protection contracting shall apply to the state fire marshal for an apprentice license. The state fire marshal shall establish the qualifications of an apprentice by rule. An apprentice may perform such services only under the direct supervision of a technician holding a valid license pursuant to this Subpart who works for the same firm as the apprentice.

RS 40:1664.5 — Exemptions to licensure and equipment

United States, this state, or any political

subdivision of either, while engaged in the performance of his official duties within the course and scope of his employment with the United States, this state, or any political subdivision of either. However, no person or entity excepted from licensure pursuant to this Subpart shall engage in the certification, inspection, installation, integration, sale, or service of special locking, fire detection and alarm, fire sprinkler, fire suppression systems, or portable fire extinguishers and fire hoses.

(2) Any sworn police, fire, or other peace officer or certified medical technician may open any lock or locked motor vehicle while engaged in the performance of his official duties within the course and scope of his employment, provided that he receives no additional compensation for such services.

(3) Any owner, management firm, or public institution and such person's or entity's

employees while such person or entity is certifying, inspecting, installing, integrating, selling, and servicing mechanical locks, intrusion alarm systems, or closed circuit television alarm systems, only on the premises of the owner or public institution during the normal course and scope of his duties.

(4) A general contractor licensed by the State Licensing Board for Contractors and his direct employees or a building owner and his direct employees performing the installation or removal of complete mechanical lock sets when doing so in the course of residential or commercial new construction or remodeling.

(5) Any automotive service dealer, lock manufacturer, or manufacturer's employee engaged in servicing, installing, repairing, or rebuilding automotive locks.

(6) Any employee of a towing service, or an automobile club, while such person is opening automotive locks in the normal course of his duties.

(7) Any merchant or retail store that is in the business of selling, servicing, or installing intrusion alarms for motor vehicles. This exception from licensure shall also apply to the employees of the merchant or retail store but only as to work performed by them on behalf of the exempted employer.

(8) Any merchant or retail store that is in the business of selling intrusion alarm systems or closed circuit television systems or household fire warning systems at retail to an individual end user for self-installation. This exception from licensure shall also apply to the employees of the merchant or retail store but only as to work performed by them on behalf of the exempted employer.

(9) Any merchant or retail store that is in the business of re-coding new locks on the retail premises only or duplicating keys, except for those keys which are proprietary and those marked "do not duplicate" or "master key". This exception from licensure shall also apply to the employees of the merchant or retail store but only as to work performed by them on behalf of the exempted employer.

(10) Any manufacturer, and his employee or representative, who acts as a consultant to a licensed firm in the certifying, inspecting, installation, integrating, programming, selling, and servicing of life safety and property protection systems regulated by this Subpart while under the direct supervision of the licensed firm.

(11) Any gate manufacturer or merchant that is in the business of installing, servicing, repairing, rebuilding, reprogramming, or maintaining electronic garage door devices. This exception from licensure shall also apply to the employees of the manufacturer or merchant but only as to work performed by them on behalf of the exempted employer.

(12) Repealed by Acts 2020, No. 339, §3, eff. June 13, 2020.

(13) A mechanical contractor licensed by the State Licensing Board for Contractors and holding a statewide mechanical work license classification issued by that board or, where applicable, a plumber licensed by the State Plumbing Board who only certifies, inspects, installs, and services water supply piping supplying sprinkler systems, stand pipe, and hose station systems, or fire pumps.

(14) A mechanical contractor licensed by the State Licensing Board for Contractors and holding a statewide mechanical work license classification issued by that board or, where

applicable, a plumber licensed by the State Plumbing Board who only installs piping within a fixed fire suppression system.

B. The provisions of this Subpart shall not apply to a conveyance device located within a one- or two-family dwelling as defined in R.S. 40:1573.

RS 40:1664.5.1 — Limited exemption to licensure; electrical contractors

Contractors pursuant to R.S. 37:2156.1 and

2156.2 shall be authorized only to install wire, conduit, or other wire raceways, its associated boxes or fittings, and fire alarm initiating and notification devices or intrusion alarm systems or closed circuit television systems or special locking systems in either commercial or residential property without a license issued pursuant to this Subpart. The activity specified in this Paragraph shall not include final termination in a fire alarm control panel, security control panel, access control panel, or closed circuit television systems controls, which shall be performed only by a firm and individual holding a valid license issued pursuant to this Subpart. This limited exemption shall also apply to an employee of a firm or person who performs work on behalf of the electrical contractor, as defined by R.S. 37:2150.1.

(2) The provisions of Paragraph (1) of this Subsection shall not apply to a person or entity selling, installing, servicing, or maintaining wireless security and fire systems.

B. Electrical contractors are not permitted to certify, inspect, or service any life safety and property protection system or equipment.

RS 40:1664.6 — Application for a firm license; requirements to maintain

ation doing business in the state and the firm must apply for each discipline for which it shall perform life safety and property protection contracting.

B. An applicant for a firm license shall submit the following to the state fire marshal:

(1) A completed firm application.

(2) Documentation that the firm is an entity duly authorized to conduct business within this state. If the firm is physically located in Louisiana, documentation shall be in the form of a local or parish occupational license and if incorporated, registration with the secretary of state. If the firm is physically located outside of the state, documentation shall be in the form of registration with the secretary of state as a foreign corporation including the name of the firm's registered agent of service.

(3) An original certificate of insurance documenting that the firm has a minimum of five hundred thousand dollars general liability coverage.

(4) An original certificate of insurance documenting that the firm has a current and valid worker's compensation insurance policy as required by state law.

(5) The name of the person who will serve as the designated agent of the company.

(6) Proof of employment of a qualifying individual with the proper certification and training at each of its operating locations for each endorsement held.

(7) The application fee authorized by this Subpart.

C. A firm holding a property protection endorsement must be located within the physical boundaries of the state.

D. A firm holding a security endorsement must provide the name of each firm providing monitoring services.

E. Each firm as a condition of licensure shall be open for inspection by the state fire marshal or his designated representative at any reasonable time for the purpose of observation and collection of facts and data relating to proper enforcement of this Subpart. No person acting on behalf of the firm shall refuse to admit the state fire marshal or his designated representative to an operating location. Firms physically located outside of Louisiana may be charged for the travel expenses of the state fire marshal to conduct such an inspection.

F. As a further condition of licensure, the acceptance of a license by a firm shall be deemed as consent to submit to the reasonable requests for documentation by the office of the state fire marshal, code enforcement and building safety, or his designated representatives and to cooperate in a lawful investigation by the office of the state fire marshal, code enforcement and building safety. Refusal to cooperate with any lawful investigation by the office of the state fire marshal, code enforcement and building safety, shall be subject to any penalty as outlined in this Section, including suspension or revocation of license.

G. Each firm shall clearly display its license in a conspicuous location at its place of business.

H. The designated agent of a life safety and property protection firm shall notify the state fire marshal within ten days of the following:

- (1) Any change in the business address of the firm.
- (2) Any change in ownership of or interest in the firm.
- (3) Any change in the employment of a person holding an individual license.
- (4) For firms with a property protection endorsement, any owner, partner, or other principal with an interest in the firm who has been convicted of a felony or entered a plea of guilty or nolo contendere to a felony charge or received a first-time offender pardon. A felony that has been dismissed pursuant to Code of Criminal Procedure Article 893 or equivalent judicial dismissal shall not apply to this Paragraph.
- (5) For firms with a security endorsement only, a change of the firm providing monitoring services.

I. No life safety and property protection firm shall contract for the independent services of a holder of an individual license under this Section.

RS 40:1664.7 — Application for an individual license; requirements to maintain

discipline for which he shall perform life safety and property protection contracting. Such license shall authorize its holder to engage in life safety and property protection contracting for the endorsements listed. Each individual license holder shall maintain his license on his person while engaging in life safety and property protection contracting. Each such license holder shall present his license for inspection upon demand by an employee of the office of the state fire marshal, fire department, or a law enforcement officer.

B. As a further condition of licensure, the acceptance of a license by a firm shall be deemed as consent to submit to the reasonable requests for documentation by the office of the state fire marshal or his designated representatives and to cooperate in a lawful investigation by the office of the state fire marshal. Any person refusing to cooperate with any lawful investigation by the office of the state fire marshal shall be subject to any penalty as outlined in this Section, including suspension or revocation of license.

C. Each individual license holder shall notify the state fire marshal, on a form specified and provided by the state fire marshal, within ten days of the following:

- (1) Any change in business or home address.
- (2) Any separation from an employer or change in employer.
- (3) For a person holding a property protection endorsement, any conviction for a felony or entry of a plea of guilty or nolo contendere to a felony charge or receipt of a first-time offender pardon.

D. No individual licensed under this Section shall contract for his services as an independent contractor or agent with any life safety and property protection firm or with any other license holder under this Section.

E. Meet all certification, continuing education, training, and testing requirements as established by the board.

F. An individual may act as a temporary apprentice for a thirty-day calendar period commencing on the date the fire marshal receives an application from the applicant. Applications for property protection endorsements shall be accompanied by a criminal record check of the applicant. Such license shall expire on the thirtieth calendar day after its commencement or on the date of issuance of an apprentice or technician license, whichever is earlier.

RS 40:1664.8 — Criminal background checks; provisional license

or to the firm receiving a license pursuant
to this Subpart.

B. Each person holding a property protection endorsement shall undergo and pass a criminal background check prior to receiving a license pursuant to this Subpart, except as provided in R.S. 40:1664.7(F).

C. No person or officer or principal of a firm applying for a property protection license shall have been convicted of a felony, received a first-time offender pardon for a felony, or entered a plea of guilty or nolo contendere to a felony charge. A person whose felony conviction has been dismissed pursuant to Code of Criminal Procedure Article 893 or the equivalent judicial dismissal shall be eligible for property protection licensure if the conviction was not a felony crime of violence specifically enumerated in R.S. 14:2(B), a sex offense as defined in R.S. 15:541(24)(a), with the exception of R.S. 14:92(A)(7) and R.S. 14:80, or a felony offense against property as enumerated in R.S. 14:51 through 62.8.

D. A conviction or a plea of guilty or nolo contendere to a felony charge or receipt of a first-time offender pardon shall not constitute an automatic disqualification as otherwise required pursuant to Subsection C of this Section if ten or more years has elapsed between the date of application and the date of successful completion or service of any sentence, deferred adjudication, or period of probation or parole.

E. Subsection D of this Section shall not apply to any person convicted of a felony crime of violence specifically enumerated in R.S. 14:2(B), a sex offense as defined in R.S. 15:541(24)(a), with the exception of R.S. 14:92(A)(7) and R.S. 14:80, or a felony offense against property as enumerated in R.S. 14:51 through 62.8.

F. A felony conviction for any offense includes a conviction for the offense under the laws of another state or military, territorial, foreign, tribal, or federal law which is the equivalent to an offense in this state.

G. The office of state fire marshal, code enforcement and building safety, may consider the seriousness and circumstances of the offense and subsequent arrests pursuant to this Section.

H. The state fire marshal is authorized to order fingerprint analysis or any other analysis or documents deemed necessary by the state fire marshal for the purpose of verifying the criminal history of a person or named officer or principal of a firm applying for a license. The state fire marshal shall have the authority to conduct criminal history verification on a local, state, or national level. All costs for verifying criminal history shall be borne by the applicant.

I.(1) The state fire marshal may issue a provisional license to a property protection applicant for a period not to exceed sixty days from the date of issuance while verification of the applicant's criminal history is pending. The issuance of this provisional license is contingent upon the applicant's attestation that he has never been convicted of a felony, received a first-time offender pardon for a felony, or entered a plea of guilty or nolo contendere to a felony charge. Any person with a provisional license issued pursuant to this Subsection shall work under the direct supervision and accompaniment of a technician who is licensed to the same firm and holding a valid license to perform the same acts.

(2) The fire marshal shall revoke the provisional license issued pursuant to Paragraph (1) of this Subsection if the applicant fails to pass the criminal background check or is in

violation of R.S. 14:133.

RS 40:1664.9 — Fees; license endorsements for firms and persons; certifications; Louisiana Life

assess and collect fees pursuant to this

Subpart. License endorsements are separated into the two general categories of Property Protection and Life Safety. The Property Protection category is subdivided into the Technical Endorsements of Locksmith, Door Hardware, and Security. The Life Safety category is subdivided into the Technical Endorsements of Fire Sprinkler, Fire Suppression, Fire Alarm, Portable Fire Extinguishers and Hoses, Conveyance Devices, and DOT Hydrostatic Testing. Technical endorsements may further be divided into specialty endorsements. A technical endorsement holder is authorized to perform all life safety and property protection contracting authorized by the specialty endorsements within the specific technical endorsement category. Specialty endorsement holders are limited to only life safety and property protection contracting authorized by that specialty endorsement.

B. The amount of licensing fees for a firm shall be as follows:

Firm endorsement

Initial fee

Renewal fee

(1)(a) Technical Endorsement-Locksmith

\$250

\$50

(b) Specialty Endorsement:

(i) Bank locking

\$250

\$50

(ii) Detention locking

\$250

\$50

(iii) Limited Locksmith

\$250

\$50

(iv) Automotive Locksmith

\$250

\$50

(2) Technical Endorsement-Door hardware

\$250

\$50

(3)(a) Technical Endorsement-Security

\$250

\$50

(b) Specialty Endorsement:

(i) Closed Circuit Television

\$250

\$50
(ii) Household fire
\$250
\$50
(iii) Special Locking
\$250
\$50
(iv) Limited Security
\$250
\$50
(4) Technical Endorsement-Fire Sprinkler
\$500
\$250
(5)(a) Technical Endorsement-
\$350
\$100
Fixed Fire Suppression
(b) Specialty Endorsement:
(i) Pre-engineered
\$350
\$100
(ii) Kitchen suppression
\$350
\$50
(6)(a) Technical Endorsement-Fire Alarm
\$350
\$100
(b) Specialty Endorsement:
(i) Fire alarm (Non-required)
\$350
\$50
(ii) Fire alarm owner
\$350
\$50
(7) Technical Endorsement-
\$350
\$150
Portable Fire Extinguishers/Hoses
(8) Technical Endorsement-
\$350
\$50
DOT hydrostatic testing

C. The amount of licensing fees for a person are as follows:

Employee endorsementInitial feeRenewal fee

(1)(a) Technical Endorsement-Locksmith

\$100

\$50

(b) Specialty Endorsement:

(i) Bank locking

\$100

\$50

(ii) Detention locking

\$100

\$50

(iii) Limited Locksmith

\$100

\$50

(iv) Automotive Locksmith

\$100

\$50

(2) Technical Endorsement-Door hardware

specialist

\$100

\$50

(3)(a) Technical Endorsement-Security

\$100

\$50

(b) Specialty Endorsement:

(i) Closed Circuit Television

\$100

\$50

(ii) Household fire

\$100

\$50

(iii) Security sales

\$100

\$50

(iv) Special Locking

\$100

\$50

(v) Limited Locksmith

\$100

\$50

(vi) Limited Security

\$100

\$50

(4) Technical Endorsement-

\$100

\$50

Fire Sprinkler Qualifier

(5) Technical Endorsement-

\$100

\$50

Fire Sprinkler Inspector

(6)(a) Technical Endorsement-

\$50

\$50

Fixed Fire Suppression

(b) Specialty Endorsement:

(i) Pre-engineered

\$50

\$50

(ii) Kitchen suppression

\$50

\$50

(7)(a) Technical Endorsement-Fire Alarm

\$50

\$50

(b) Specialty Endorsement:

(i) Fire alarm (Non-required)

\$50

\$50

(ii) Fire alarm owner

\$50

\$50

(8) Technical Endorsement-

\$50

\$50

Portable Fire Extinguishers/Hoses

(9) Technical Endorsement-

\$25

\$25

DOT hydrostatic testing

(10) Specialty Endorsement-Apprentice

\$50

\$50

(11) Technical Endorsement - Conveyance Device

(a) Conveyance Device Inspector

\$100

\$50

(b) Conveyance Device Mechanic

\$100

\$50

(12) Speciality Endorsement-

Limited Conveyance Device Mechanic

\$100

\$50

(13) Conveyance device inspection fee

\$150

\$150

D.(1) The technical endorsements provided for in Paragraph (C)(11) of this Section shall be issued to a person who has received certification developed and approved in accordance with R.S. 40:1664.11(G) or (H), or one of the following as applicable:

(a) Certified Elevator Technician (CET) certification provided by the National Association of Elevator Contractors.

(b) Certification provided by the National Elevator Industry Educational Program.

(c) Qualified Elevator Inspectors (QEI) certification provided by the National Association of Elevator Safety Authorities or the Qualified Elevator Inspectors Training Fund.

NOTE: Paragraph (D)(2) ceased to be effective Jan. 1, 2022. See Acts 2018, No. 598, §6.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, a person may obtain a technical endorsement as provided for in Paragraph (C)(11) of this Section and shall not be prohibited from actively working pursuant to the issuance of the license endorsement; however, such person shall obtain the certification as required in Paragraph (1) of this Subsection within one year from the date the technical endorsement was issued.

(3)(a) Notwithstanding the provisions of Paragraph (1) of this Subsection, a conveyance device mechanic license shall be issued to a person who, through his licensed conveyance device firm, submits an application for licensure to the office of state fire marshal, with either of the following:

(i) An attestation submitted in the form of notarized affidavit that the person who seeks licensure has worked as a conveyance device mechanic, as defined in this Subpart, for not less than four years and six thousand hours, within the last five years, without immediate or direct supervision prior to application for licensure.

(ii) An attestation submitted in the form of notarized affidavit that the person who seeks licensure has worked as a conveyance device mechanic, as defined in this Subpart, for not less than two years and three thousand hours, within the last three years, without immediate or direct supervision prior to application for licensure and that the person has

received a National Association of Elevator Contractors Associate Elevator Technician (AET), or Level 1 certification or equivalent, or is enrolled in the National Association of Elevator Contractors Certified Elevator Technician (CET) program.

(b) A conveyance device mechanic firm shall submit an application for licensure pursuant to this Subsection on or before July 1, 2025.

(4) All continuing education requirements developed and approved for persons who hold technical endorsements provided for in Paragraph (C)(11) of this Section shall be in accordance with R.S. 40:1664.11(G) or (H).

E. All licenses are valid for one year, unless a multi-year license is created, and shall be renewed within thirty days of its expiration date to remain valid. The state fire marshal may create a prorated fee system to allow employee license renewal dates to coincide with the firm license renewal date.

F. A license not renewed within thirty days of its expiration date shall be considered past due and subject to late fees. The late fee penalty shall be twenty-five dollars for a license not renewed before thirty-one to forty-five days past the expiration date and fifty dollars for a license not renewed before forty-six to sixty days past the expiration date.

G. A license shall be suspended if not renewed within sixty days of its expiration date or if the license holder has not maintained the license. The cost to reinstate a suspended license shall be the cost of the initial fees plus twenty dollars.

H. The cost for a duplicate or replacement firm or individual license is twenty dollars, regardless of how many endorsements are carried.

I. The cost to transfer an individual license from one firm to another is twenty dollars.

J. The cost of a Quick Response (QR) code decal or hanging tag for purposes of electronically tagging life safety and property protection systems and equipment, with the exception of portable fire extinguishers and hoses, is one dollar and fifty cents.

K. The fees established in this Section shall not be refundable except under such conditions as the state fire marshal may establish.

L.(1) A temporary conveyance device mechanic license may be issued by the office of state fire marshal upon receipt of either the following:

(a) An attestation from the requesting licensed conveyance device mechanic firm that, despite its best efforts, there is an insufficient number of licensed conveyance device mechanics needed to perform conveyance device mechanic activities or an imminent increase in conveyance device mechanic activities.

(b) An attestation from the requesting licensed conveyance device mechanic firm certifying that the person who seeks temporary licensure has an acceptable combination of documented experience and education to perform conveyance device mechanic activities without direct or immediate supervision as determined by the office of state fire marshal.

(2) All attestations shall be submitted in the form of notarized affidavit.

(3) A temporary conveyance device mechanic license shall be valid for a period of one hundred eighty days from the date of issuance and is valid only for the work performed for the licensed conveyance device mechanic firm that requested the temporary license

pursuant to this Section.

(4) Temporary licenses may be approved by the office of state fire marshal for renewal. The requesting licensed conveyance device mechanic firm shall provide a notarized attestation to the office of state fire marshal certifying that, despite its best efforts, there continues to be an insufficient number of licensed conveyance device mechanics needed to perform conveyance device mechanic activities or an imminent increase in conveyance device mechanic activities.

(5) The office of state fire marshal may refuse to renew a temporary license for a person that the office determines has had adequate opportunity to obtain a license pursuant to the provisions of this Subpart.

(6) Initial and renewal fees for temporary licenses shall be in accordance with Subparagraphs (C)(11)(a) and (b) of this Section.

M.(1) An emergency conveyance device mechanic license may be issued by the office of state fire marshal when an emergency exists in the state due to a natural disaster, as declared by the president of the United States or the governor, or major work stoppage, and the requesting licensed conveyance device mechanic firm submits an attestation to the office of state fire marshal certifying each of the following:

(a) The number of licensed conveyance device mechanics in the state is insufficient to cope with the emergency or work stoppage, creating a shortage.

(b) The shortage of licensed conveyance device mechanics in the state jeopardizes the safety of the public.

(2) The requesting licensed conveyance device mechanic firm shall submit an attestation to the office of state fire marshal certifying that the person who seeks emergency licensure has an acceptable combination of documented experience and education to perform conveyance device mechanic activities without direct or immediate supervision as determined by the office of state fire marshal.

(3) The emergency license shall be valid for a minimum period of sixty days from the date of issuance, shall entitle the licensee to the rights and privileges of a licensed conveyance device mechanic, and is valid only for the work performed for the licensed conveyance device mechanic firm that made the request pursuant to this Section. The emergency license may be extended but shall not exceed three hundred sixty-five days from the date of initial issuance, unless mitigating circumstances regarding the emergency declaration or work stoppage exist and are formally recognized by the state fire marshal and an extension of the emergency license is determined to be necessary.

(4) All attestations shall be submitted in the form of a notarized affidavit.

(5) Initial and renewal fees for emergency licenses shall be in accordance with Subparagraphs (C)(11)(a) and (b) of this Section.

N.(1) The owner or his designee of an installed conveyance device, except those exempt pursuant to R.S. 40:1664.5, shall register the conveyance device with the office of state fire marshal.

(2) A firm that installs a conveyance device shall register the conveyance device with the office of state fire marshal within thirty days of its installation.

(3) The owner or his designee of an installed conveyance device, except those exempt pursuant to R.S. 40:1664.5, shall have the conveyance device inspected yearly by a conveyance device inspector. A conveyance device inspector shall pay the fees established in Paragraph (C)(13) of this Section in exchange for a certificate of operation provided by the office of the fire marshal which will then be attributed to a conveyance device that has passed inspection.

O.(1) Subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, all monies received by the state fire marshal pursuant to this Subpart, including but not limited to fees and fines, shall be deposited immediately upon receipt in the state treasury and shall be credited to the Bond Security and Redemption Fund. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing such remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury by the state fire marshal pursuant to this Subpart into a special statutorily dedicated fund account which is hereby created in the state treasury and designated as the Louisiana Life Safety and Property Protection Trust Dedicated Fund Account.

(2) The monies in the Louisiana Life Safety and Property Protection Trust Dedicated Fund Account shall be used solely for implementation, administration, and enforcement of this Subpart, and thereafter, for fire education or emergency response by the state fire marshal and only in the amounts appropriated each year to the state fire marshal or the board by the legislature. Any surplus monies and interest remaining to the credit of the account on June thirtieth of each year after all such appropriations of the preceding fiscal year have been made shall remain to the credit of the account, and no part thereof shall revert to the state general fund. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

RS 40:1664.10 — Powers and duties of state fire marshal

ion and preservation of life and property and for the enforcement of this Subpart.

(2) Evaluate the qualifications of firms or persons applying for or maintaining a license pursuant to this Subpart.

(3) Have authority to conduct examinations to ascertain the qualifications and fitness of applicants for a license pursuant to this Subpart.

(4) Issue full or provisional licenses to firms and persons that meet the qualifications established by this Subpart.

(5) Evaluate the qualifications of firms seeking approval as testing laboratories.

(6) Have authority, after notice and opportunity for hearing, to increase or decrease the limits of insurance coverage and authorize acceptance of surplus lines coverage if the state fire marshal determines that due to loss experience, market conditions, or other good

reason, the liability insurance coverage required by this Subpart is unavailable to applicants for or holders of licenses.

(7) Have authority to conduct inspections of licensed firms, whether in state or out of state, for the purpose of observation and collection of facts and data relating to proper enforcement of this Subpart.

(8) Investigate all written complaints lodged against firms or individuals who are alleged to have violated this Subpart and pursue administrative action against the firms or individuals.

(9) Upon notification by a fire chief or his designee, order a special investigation of any conveyance device accident resulting in any human injury or death within this state.

RS 40:1664.11 — Life Safety and Property Protection Education Board

Corrections as further provided by R.S.

36:409(E)(4). The board shall be composed of fifteen members, as follows:

(1)(a) Fourteen members shall be appointed by the governor from a list of nominees submitted to the governor by any licensed firm, the Louisiana Life Safety and Security Association, the Louisiana Fire Sprinkler Association, the Louisiana Automatic Fire Alarm Association, or any conveyance device trade association.

(b) The board shall consist of members representing all aspects of life safety and property protection. Each of the technical endorsements shall be represented by at least one board member licensed for such. Members who have only a specialty endorsement may be appointed if all the technical endorsements have representation.

(c) Any person appointed to the board shall be licensed pursuant to this Subpart and shall have been engaged in life safety and property protection contracting for a minimum of four years prior to his appointment, except that two members may be from an associate industry to life safety and property protection for which no license is required but shall be legally registered to do business in Louisiana.

(2)(a) One member shall be an employee of the office of the state fire marshal designated by the state fire marshal.

(b) Such member shall serve as the chairman of the board but shall not vote except in the event of a tie vote of the members present and voting.

B.(1) Each appointed member shall serve a term of four years.

(2) The member designated by the state fire marshal shall serve a term concurrent with the term of the state fire marshal making such designation.

(3) No member shall serve more than two consecutive terms except the member designated by the state fire marshal.

(4) A vacancy on the board occurring prior to expiration of a term shall be filled in the manner of the original appointment for the remainder of the term.

C. The board shall meet upon the call of the chairman or upon the written request of any three members of the board. Notice of any such meeting shall be given to board members and the public at least seven days in advance.

D. Eight members of the board shall constitute a quorum for the transaction of business. The board may take action by a majority vote of its members present and voting.

E. Each appointed member of the board may be reimbursed for travel and related expenses incurred, not to exceed those expenses authorized for reimbursement by the State Travel Guide, for each day that the member engages in board business.

F. No member of the board shall be liable in a civil action for any act performed in good faith in the execution of his duties as a board member.

G. The board shall have the authority to approve all training, certification, and examination requirements for licensure under this Subpart. The board shall have the authority to approve written training programs as acceptable equivalents for meeting the training or examination requirements of this Subpart. The board may also accept, as such an equivalent, licensure of a firm or person by a jurisdiction outside this state which has standards and requirements of practice which substantially conform to the provisions of this Subpart. The board shall also establish continuing education requirements.

H. In the absence of an appointed board, the state fire marshal shall determine and approve licensing equivalencies, written training programs, examination requirements, and continuing education requirements.

RS 40:1664.12 — Prohibited acts

(2) Aid and abet an unlicensed individual, employee, or firm in life safety and property protection contracting.

(3) Certify, dismantle, inspect, install, integrate, program, sell, or service life safety and property protection systems contrary to plans submitted for review, applicable NFPA, ASME, ANSI, or ASCE codes, standards, or manufacturer specifications without specific written authorization from the office of the state fire marshal.

(4) Submit an application or any other document to the office of the state fire marshal when the person reasonably should have known that the document contained false or misleading information.

(5) Engage in false, misleading, or deceptive acts or practices.

(6) Fail to maintain a valid license as required by this Subpart.

(7) Fail to maintain a valid insurance policy as required by this Subpart.

(8) Refuse to admit the state fire marshal or his designated representative to an operating location or refuse to cooperate in the purposes of such admittance as required by this Subpart.

(9) Fail to maintain his license on his person and to present it for inspection as required by this Subpart.

(10) Fail to return the lockout, installer, or programming code of a life safety or property protection system to the factory default setting.

(11) Refuse to cooperate with any lawful investigation by the office of the state fire marshal.

(12) Fail to abide by the administrative rules promulgated pursuant to this Subpart.

RS 40:1664.13 — Notice, hearing, and revocation of certificate or license

Upon a finding that a person or firm:

(1) Willfully violated any provision of this Subpart or any rule, regulation, or order adopted hereunder.

(2) Used deceit or false or misleading information in obtaining any certificate or license pursuant to this Subpart.

(3) Has been professionally incompetent or grossly negligent.

(4) Has assisted any person attempting to evade the provisions of this Subpart, or any rules or regulations adopted hereunder.

RS 40:1664.14 — Penalties

conduct, or practice constituting a violation of any provision of this Subpart, directing such person or firm to cease and desist from such activity, conduct, or practice. Such order shall be issued in the name of the state of Louisiana under the official seal of the state fire marshal.

(2) If the person or firm to whom the state fire marshal directs a cease and desist order does not cease and desist the prohibited activity, conduct, or practice immediately after service of such cease and desist order by certified mail or personal service, the state fire marshal may seek, in any court of competent jurisdiction and proper venue, a writ of injunction enjoining such person or firm from engaging in any activity, conduct, or practice prohibited by this Subpart.

(3) Upon a proper showing by the state fire marshal that such person or firm has engaged in any activity, conduct, or practice prohibited by this Subpart, the court shall issue a temporary restraining order restraining the person or firm from engaging in unlawful activity, conduct, or practices pending the hearing on a preliminary injunction, and in due course a permanent injunction shall be issued after a hearing, commanding the cessation of the unlawful activity, conduct, or practices.

(4) A temporary restraining order, preliminary injunction, or permanent injunction issued under this Subpart shall not be subject to being released upon bond.

(5) In the suit for an injunction, the state fire marshal may demand of the defendant a penalty of fifty dollars per day for each violation, reasonable attorney fees, and court costs. Judgment for penalty, attorney fees, and court costs may be rendered in the same judgment in which the injunction is made absolute.

B. If the state fire marshal finds that any person or firm has violated any provision of this Subpart or any regulation, rule, or order issued hereunder, he may impose upon that person or firm a fine in an amount not to exceed five thousand dollars for each violation.

C. Procedures for the imposition of fines and appeals of such fines shall be governed by the Administrative Procedure Act.

RS 40:1664.15 — Purchased life safety and property protection system

I return the lockout, installer, or programming code of the system to the factory default setting within five business days following notification when the consumer cancels the contract with the firm provided all original contractual obligations are fulfilled.

B. In addition to the penalties provided in this Subpart, any life safety and property protection contracting firm who violates this Section shall have its license revoked and be subject to a civil fine pursuant to this Subpart.

RS 40:1664.16 — Effect on local regulation, effective date

, or regulation regulating firms and

persons subject to licensure pursuant to this Subpart.

B. This Subpart shall supersede any existing parish or municipal ordinance, rule, or regulation requiring certification or licensure of firms and persons engaged in life safety and property protection contracting and such ordinances, rules, and regulations shall be null and void and have no effect.

C. This Subpart shall not prevent local governing authorities of any municipality or parish from enacting ordinances governing false alarm activations and responses. However, security firms and its employees and security monitoring firms and its employees shall not be subjected to or liable for civil penalties and fines assessed or imposed by a municipality or parish for false alarms.

RS 40:1664.17 — Local governing authorities; exemption

e such standard or code, and

in such instances, no additional inspections shall be required under the provisions of this Subpart; however, such standard or code shall contain requirements that are substantially equal to the fire marshal's code with respect to conveyance devices.

RS 40:1665 — Financial security for surviving spouses and children of firemen in certain cases

r the financial security of surviving spouses and dependent children of firemen

when firemen suffer death as a result of any injury arising out of and in the course of the performance of their official duties as firemen, or arising out of any activity while on or off duty in the protection of life or property or as provided in Paragraph (C)(3) of this Section.

B. Firemen, within the meaning of this Section, shall include all paid, regularly employed firemen and all volunteer firemen of any municipality, parish, federally or state-recognized Indian tribe or tribal unit, or fire protection district maintaining a fire department, or of any volunteer fire department. Firemen shall also include any firefighter who is a Louisiana resident and is employed by or under the control of one of the following federal agencies if the injury resulting in death occurred in Louisiana: the Department of Defense, the Department of Veterans Affairs, the Department of Agriculture, the Department of the Interior, or the Federal Emergency Management Administration.

C.(1) In any case in which a fireman suffers death as a result of an injury arising out of and in the course of the performance of his official duties as a fireman, or arising out of any activity while on or off duty, in his capacity as a fireman, in the protection of life and property, the sum of two hundred fifty thousand dollars shall be paid to the surviving spouse of the fireman or, if not survived by a spouse, the sum of two hundred fifty thousand dollars shall be paid to the surviving child or children or, if not survived by a spouse nor a child or children, then the sum of two hundred fifty thousand dollars shall be paid to the named beneficiary listed on the fireman's designation form or, if there is no beneficiary designation form at the time of the fireman's death, and no surviving spouse nor a child or children, then the sum of two hundred fifty thousand dollars shall be paid to the fireman's estate. Each fireman shall complete a beneficiary designation form. In addition, if the fireman is survived by a dependent child or children, the sum of fifty thousand dollars shall be paid for each of the dependent children, such sums to be paid to the duly appointed and qualified tutor or the legal representative of the child or children. Payment shall be made by the state risk manager out of the Self-Insurance Fund created in R.S. 39:1533(A).

(2) In order to facilitate the operation of this Section, within one year after the employing authority has knowledge of the death of a fireman under circumstances covered by this Section or under circumstances believed by him or by the surviving spouse, parent or parents, or the legal representative of an eligible surviving child or children to be covered by the provisions of this Section, he shall notify the Law Enforcement Officers and Firemen's Survivor Benefit Review Board of the death, the date thereof, and the circumstances surrounding the death, and shall furnish such other information as may be requested by the Law Enforcement Officers and Firemen's Survivor Benefit Review Board.

(3) If a fireman is engaged in extinguishing a fire, or protecting and saving life or property due to a fire or other emergency, and such activities would be considered to be

within the course and scope of his employment, except for the fact that the fireman was off duty or that the location of the fire was outside of the jurisdiction within which the fireman was employed or his area of responsibility, such activities are considered to be within the scope of the performance of his official duties for purposes of Paragraph (1) of this Subsection. This Paragraph shall not apply if the fireman is performing activities for which he is paid by another employer or contractor.

(4) If, at the time of his death, the fireman is not married to the other natural parent of any minor child or children who are entitled to receive a payment pursuant to this Section, the payment shall be made to any person designated as a trustee by the fireman on a form provided by his employer.

D-F. Repealed by Acts 1989, No. 308, §3.

RS 40:1665.1 — Financial security for surviving spouses and children of firemen and law

merated in R.S. 40:1665 and 1665.2, a

fireman or law enforcement officer, as defined in R.S. 40:1665.2(B) whose death is the direct and proximate result of a heart attack or a stroke shall be presumed to have died as the direct and proximate result of an injury sustained in the performance of his official duties for the purposes of R.S. 40:1665 and 1665.2 if:

(1) While on duty, the fireman or law enforcement officer engaged in an activity which was stressful or physical including but not limited to fire suppression, rescue, hazardous material response, foot pursuits, use of force encounters, hostage and victim rescues, tactical missions, emergency medical services, disaster relief, or other emergency response activity, or participated in a training exercise that involved stressful or strenuous physical activity.

(2) The fireman or law enforcement officer died as a result of a heart attack or stroke suffered while engaging or participating, or on duty after engaging or participating, in the activities or exercises described in Paragraph (1) of this Subsection or no later than twenty-four hours after engaging or participating in the activities or exercises described in Paragraph

(1) of this Subsection.

B. The presumption created by this Section shall be irrebuttable despite medical evidence to the contrary.

C. The surviving spouse and children of a fireman or law enforcement officer whose death meets the requirements under Subsection A of this Section shall be eligible for the payment of benefits enumerated in R.S. 40:1665 for firemen or R.S. 40:1665.2 for law enforcement officers.

D. Payment of benefits pursuant to this Section shall be made according to the provisions of R.S. 40:1665 and 1665.2 and shall be subject to review by the Law Enforcement Officers and Firemen's Survivor Benefit Review Board.

E. Payments pursuant to this Section shall be made by the state risk manager from the Self-Insurance Fund provided for in R.S. 39:1533.

RS 40:1665.2 — Financial security for surviving spouses and children of law enforcement officers

er,

to provide for the financial security of surviving spouses and dependent children of law

enforcement officers where such officers suffer death as a result of any injury arising out of and in the course of the performance of his official duties as such officer, or arising out of any activity, while on or off duty, in the protection of life or property.

B. Law enforcement officers, within the meaning of this Section, shall include the following:

- (1) All sheriffs and deputy sheriffs in the state employed on a full time basis.
- (2) All members of the state police thus employed including any cadet participating in the Louisiana State Police Training Academy on or after July 1, 2018, when the cadet has been assigned and is performing police duties or training, even though the cadet has not been commissioned as an enforcement agent.
- (3) All municipal police officers employed on a full-time basis.
- (4) All enforcement personnel of the Louisiana Wildlife and Fisheries Commission including any cadet participating in the Department of Wildlife and Fisheries Enforcement Training Academy on or after July 1, 2018, when the cadet has been assigned and is performing wildlife enforcement duties or training, even though the cadet has not been commissioned as an enforcement agent.
- (5) All state probation and parole officers, including juvenile probation and parole officers.
- (6) All security personnel and cottage parents working at state adult and juvenile correctional institutions.
- (7) Any police cadet of a political subdivision, as defined in Article VI, Section 44 of the Constitution of Louisiana of 1974, when such cadet has been assigned and is performing police duties, even though said cadet has not been commissioned as a police officer therein.
- (8) All correctional officers and cottage parents employed at any facility under the jurisdiction of the Department of Public Safety and Corrections.
- (9) All members of the Capitol Police.
- (10) All reserve or auxiliary law enforcement officers. For the purposes of this Paragraph, a reserve or auxiliary law enforcement officer shall be defined as a volunteer, non-regular, sworn member of a law enforcement agency who serves with or without compensation and has regular police powers while functioning as an agency's representative, and who participates on a regular basis in agency activities including, but not limited to those pertaining to crime prevention or control, and the preservation of the peace and enforcement of the law.
- (11) All full-time harbor police of any port, harbor and/or terminal district of this state.
- (12) All members of the Louisiana National Guard who are killed in the line of duty while on active state duty with the National Guard providing assistance during a period of civil disturbance or natural disaster or imminent danger thereof.
- (13) Commissioned Security officers of the Department of Public Safety.
- (14) All commissioned state park wardens.
- (15) All investigators of the investigation division of the Louisiana Department of

Justice and the Elections Compliance Unit of the Louisiana Department of State.

(16) All city marshals and city constables and their deputies and all constables of justice of the peace courts and their deputies.

(17) Federal law enforcement officers or employees whose permanent duties include making arrests, performing searches and seizures, executing criminal arrest warrants, and executing civil seizure warrants.

(18) University and college police officers at state universities and colleges.

(19) Personnel who are employed as police officers by educational institutions which are members of the Louisiana Association of Independent Colleges and Universities.

(20) On and after January 1, 2011, all state employees conducting investigations, serving subpoenas, warrants, pleadings, or other orders of the court, or collecting evidence concerning the affairs of a person upon a reasonable belief that the person has engaged in, or is engaging in, an act or practice that violates state law.

(21) All full-time tribal law enforcement officers regularly employed by a federally or state-recognized Indian tribe or tribal unit.

(22) All enforcement and emergency services personnel of the office of the state fire marshal.

C.(1) In any case in which a law enforcement officer suffers death as a result of any injury arising out of and in the course of the performance of his official duties as such officer, or arising out of any activity, while on or off duty, in his capacity as a law enforcement officer, in the protection of life or property, the sum of two hundred fifty thousand dollars shall be paid to the surviving spouse of each officer or, if not survived by a spouse, the sum of two hundred fifty thousand dollars shall be paid to the surviving child or children or, if not survived by a spouse nor a child or children, then the sum of two hundred fifty thousand dollars shall be paid to the named beneficiary listed on the officer's beneficiary designation form or, if there is no designation form at the time of the officer's death, and no surviving spouse nor a child or children, then the sum of two hundred fifty thousand dollars shall be paid to the officer's estate. Each officer shall complete a beneficiary designation form. In addition, if the officer is survived by a dependent child or children, the sum of fifty thousand dollars shall be paid for each of the dependent children, such sums to be paid to the duly appointed and qualified tutor or the legal representative of the child or children. Payment shall be made by the state risk manager out of the Self-Insurance Fund created in R.S. 39:1533(A).

(2) In order to facilitate the operation of this Section, within one year after the employing authority has knowledge of the death of a law enforcement officer under circumstances covered by this Section or under circumstances believed by the employing authority or by the surviving spouse or the legal representative of an eligible surviving child or children to be covered by the provisions of this Section, he shall notify the Law Enforcement Officers and Firemen's Survivor Benefit Review Board of the death, the date thereof, and the circumstances surrounding the death, and shall furnish such other information as may be requested by the Law Enforcement Officers and Firemen's Survivor Benefit Review Board.

(3) If, at the time of his death, the officer is not married to the other natural parent of any minor child or children who are entitled to receive a payment pursuant to this Section, the payment shall be made to any person designated as a trustee by the officer on a form provided by his employer.

(4) The provisions of Paragraph (1) of this Subsection apply to a law enforcement officer identified in Paragraph (B)(17) of this Section only if the injury was sustained in Louisiana while the officer was participating in the enforcement of Louisiana laws.

D. Notwithstanding the provisions of R.S. 49:112 or of any other law to the contrary, any person or persons who were entitled to claim benefits under the provisions of Article XIV, Section 15.2, of the Constitution of Louisiana of 1921

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, for a surviving spouse and dependent children of a law enforcement officer, who suffered death from physical violence while engaged in the direct apprehension of a person during the course of the performance of his duties, may assert such claim according to the procedures provided by this Section

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but according to the factual criteria required and limited to the amount of the benefits provided for such survivors under said Article XIV, Section 15.2, at the time of the officer's death.

E. Honorary law enforcement officers shall not be considered or interpreted to be law enforcement officers under this Section.

F. In addition to the provisions of Subsection A of this Section, the surviving spouse or child of a law enforcement officer who is a commissioned law enforcement officer and who is certified by the Council on Peace Officers Standards and Training at the time of his death shall be entitled to the payments provided for in Paragraph (C)(1) of this Section, if either of the following occur:

(1) The officer was traveling to or from a public safety emergency or was responding to a request for law enforcement assistance regarding the health, safety, or welfare of the public.

(2) The officer was traveling to or from his residence and his authorized work area while using a law enforcement vehicle provided by his employing agency.

G.(1) The employer of a law enforcement officer who suffers death as a result of any injury arising out of and in the course of the performance of his official duties as an officer, or arising out of any activity while on or off duty in his capacity as a law enforcement officer in the protection of life or property shall provide and pay for health insurance coverage for the law enforcement officer's surviving spouse for two years following the death of the law enforcement officer.

(2)(a) The employer of a law enforcement officer who suffers death as a result of any injury arising out of and in the course of the performance of his official duties as an officer, or arising out of any activity while on or off duty in his capacity as a law enforcement officer in the protection of life or property shall provide and pay for health insurance coverage for the law enforcement officer's child, stepchild, or adopted child who is either:

- (i) Under the age of eighteen.
 - (ii) Under the age of twenty-three and enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university.
 - (iii) Physically or mentally disabled.
- (b) The employer shall provide and pay for the health insurance provided pursuant to this Paragraph for two years following the death of the law enforcement officer or until the child no longer meets the qualifications provided in this Paragraph, whichever comes first.
- (3) If health insurance coverage is offered by the employer to active members, the health insurance provided to a surviving spouse or child pursuant to this Subsection shall be equal in coverage to that offered to active members.
- (4)(a) The surviving spouse shall have the option to decline the health insurance coverage provided in Paragraph (1) of this Subsection.
- (b) The surviving parent or legal guardian of each child, stepchild, or adopted child of the deceased law enforcement officer shall have the option to decline the health insurance coverage provided in Paragraph (2) of this Subsection for the child.

RS 40:1665.3 — Law Enforcement Officers and Firemen's Survivor Benefit Review Board; payment of claims

ivor Benefit Review Board, hereinafter referred to as the "board", which shall consist of the attorney general, the legislative auditor, and the state risk manager or their named designees. The board shall also include an active P.O.S.T.-certified peace officer as defined in R.S. 40:2402, to be appointed by the governor. The board shall hear and decide by unanimous vote all claims for survivor benefits within sixty days after documentation is received. The board may request any information necessary to make a determination of eligibility for survivor benefits. Nothing in this Section shall prevent the board from initiating proceedings before being notified by the employing authority.

B. Within ten days after the board has reached its decision, it shall notify the spouse and/or dependent children of its decision by certified mail. If the board denies the claim, the spouse and/or dependent children shall have one year from the date of denial to file suit against the state through the board in the parish where the incident that brought about the death occurred. The date of denial shall be calculated as one year from date of receipt of the decision from the board.

C.(1) "Spouse", as used in this Section, means the lawfully married spouse of any law enforcement officer or fireman from whom there has not been obtained a judicial separation of bed and board or divorce at the time of the law enforcement officer's or fireman's death.

(2) "Child" or "children", as used in this Section, means any unmarried child under the age of eighteen years, or an unmarried student under the age of twenty-three years, who is the issue of a marriage of a law enforcement officer or fireman; the legally adopted child of a law enforcement officer or fireman; the natural child of a female law enforcement officer or fireman; the child of a law enforcement officer or fireman if a court of competent jurisdiction has made an order of filiation declaring the paternity of such law enforcement officer or fireman for the child; or the child of a male law enforcement officer or fireman who has been acknowledged in accordance with law by the male law enforcement officer or fireman. In addition, the term "child" or "children" shall include a child of any age who meets the definition of "child" or "children", excepting the age requirement, who has a physical or mental disability, if medical or psychological information indicates such child is totally and permanently disabled and who is solely dependent upon the law enforcement officer or fireman for support.

RS 40:1665.4 — Duty firearm of deceased law enforcement officer

(2), (3), and (18) who suffers death

has the right of first refusal to purchase his duty firearm at fair market value, subject to the approval of the head of the law enforcement agency, unless the family member is prohibited from possessing a firearm under the provisions of R.S. 14:95.1 or any other state or federal

law.

B. Unless the deceased officer has designated a specific immediate family member as the beneficiary to purchase his firearm upon his death, the following immediate family members have the right of first refusal to purchase the firearm in the following order of precedence:

- (1) The surviving spouse of the deceased officer.
- (2) A child of the deceased officer. If more than one child seeks to purchase the firearm, the oldest child who seeks to purchase the firearm precedes all other children who seek to purchase the firearm in the right of first refusal.
- (3) A parent of the deceased officer.
- (4) A sibling of the deceased officer. If more than one sibling seeks to purchase the firearm, the oldest sibling who seeks to purchase the firearm precedes all other siblings who seek to purchase the firearm in the right of first refusal.

C. If the firearm is part of an ongoing investigation or is being used or is needed as evidence, the provisions of this Subsection do not apply until the firearm is no longer part of the investigation or is no longer needed or being used as evidence. In such case, the immediate family member with the right of first refusal to purchase the firearm may request the release of the firearm pursuant to R.S. 15:41.

RS 40:1666 — Purpose of law

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RS 40:1666.1 — Extra compensation

or by the

Chitimacha Tribe of Louisiana or the Coushatta Tribe of Louisiana, hereinafter referred to as "tribe", or by any nonprofit corporation contracting with any such political subdivision to provide fire protection services to every paid, regularly employed employee, as distinguished from part-time employees and volunteers of such fire department, who are carried on the payroll of such fire department, and every employee as defined in this Subsection who is paid from funds of the parish or municipality or tribe obtained through lawfully adopted bond issues, lawfully assessed taxes, or other funds available for such purpose, either directly or through a board or commission set up by law or ordinance of the parish or municipality or tribe, shall be paid extra compensation by the state in the amount of six hundred dollars per month for each such paid employee who has completed or who hereafter completes one year of service. The provisions of Paragraph (5) of this Subsection shall govern the requirements for length of service for employees who were ordered to active military duty in the armed services of the United States during their initial term of employment.

- (2) The term "employee" as used herein expressly excludes any person hired primarily to perform secretarial and clerical duties, switchboard operators, secretaries, record clerks, maintenance personnel, and mechanics; it shall expressly exclude employees hired after March 31, 1986, who have not completed and passed a certified fireman's training program from a Pro Board accredited agency or an International Fire Service Accreditation Congress approved entity equal to National Fire Protection Association Standard 1010 or 1001 Firefighter I Certification validated by the Louisiana Fire and Emergency Training

Academy in accordance with R.S. 40:1541 et seq.; and it shall also expressly exclude part-time employees and volunteers of such municipal, parish, tribe, or fire protection district fire departments.

(3)(a) A municipality, parish, fire protection district, or other political subdivision maintaining a fire department, or the Chitimacha Tribe of Louisiana or the Coushatta Indian Tribe of Louisiana, or any nonprofit corporation contracting with any such political subdivision to provide fire protection services may enhance the first-year salary of every paid, regularly employed employee in the amount equivalent to the state supplemental pay, or any portion thereof, that the employee shall be entitled to be paid after one year of service pursuant to this Part, so long as the first-year salary, exclusive of the enhancement, meets the minimum wage obligations of the Fair Labor Standards Act, 29 U.S.C. 201 et seq.

(b) Any such municipality, parish, fire protection district, or other political subdivision maintaining a fire department, or the Chitimacha Tribe of Louisiana or the Coushatta Indian Tribe of Louisiana, or nonprofit corporation contracting to provide fire protection services shall disclose, in writing, at the time the employee is hired that such enhancement shall be paid only during the first year of employment.

(c) Notwithstanding any other provision of law to the contrary, no municipality, parish, fire protection district, or other political subdivision maintaining a fire department, or the Chitimacha Tribe of Louisiana or the Coushatta Indian Tribe of Louisiana, or any such nonprofit corporation contracting to provide fire protection services, shall be subject to penalty for reducing the salary of any employee whose salary has been enhanced pursuant to this Paragraph for one year by an amount not exceeding the amount of such enhancement. Any such reduction shall not be void as provided in R.S. 40:1666.4.

(4)(a) Every fire protection officer who is employed on a full-time basis by a port authority headquartered in the city of New Orleans shall be paid by the state extra compensation in the amount of six hundred dollars per month in addition to the compensation now paid to him by his employer out of self-generated revenue attributable to the agency employing such fire protection officers. To be eligible for the extra compensation, each such fire protection officer shall have completed one year of service, and any such fire protection officer hired after March 31, 1986, shall also have completed and passed a certified fireman's training program from a Pro Board accredited agency or an International Fire Service Accreditation Congress approved entity equal to National Fire Protection Association Standard 1010 or 1001 Firefighter I Certification validated by the Louisiana Fire and Emergency Training Academy in accordance with R.S. 40:1541 et seq., or other state or federally approved maritime firefighter training program.

(b) In the event that supplemental pay is increased as provided for in Paragraph (1) of this Subsection, then the same amount of supplemental pay shall be increased for the officers provided for in this Paragraph.

(5)(a) An employee who was ordered to active military duty in the armed services of the United States before the completion of one year of service, and who had completed and passed a certified fireman's training program required under this Subsection prior to such military service, shall be eligible to receive extra compensation beginning one year from his

initial hiring date.

(b) An employee who was ordered to active military duty in the armed services of the United States before the completion of one year of service, and who had not yet completed and passed a certified fireman's training program required under this Subsection prior to such military service, shall be eligible to receive extra compensation immediately upon returning to employment and completion of a certified fireman's training program required under this Subsection.

(6)(a) Every fire protection officer who is employed on a full-time basis by the Plaquemines Port Harbor and Terminal District shall be paid by the state extra compensation in the amount of six hundred dollars per month in addition to the compensation now paid to him by his employer out of self-generated revenue attributable to the agency employing the fire protection officers. To be eligible for the extra compensation, each fire protection officer shall have completed one year of service, and any fire protection officer hired after March 31, 1986, shall also have completed and passed a certified fireman's training program from a Pro Board accredited agency or an International Fire Service Accreditation Congress approved entity equal to National Fire Protection Association Standard 1010 or 1001 Firefighter I Certification validated by the Louisiana Fire and Emergency Training Academy in accordance with R.S. 40:1541 et seq., or other state or federally approved maritime firefighter training program.

(b) In the event that supplemental pay is increased as provided for in Paragraph (1) of this Subsection, then the same amount of supplemental pay shall be increased for the officers provided for in this Paragraph.

(7)(a) Every fire protection officer who is employed on a full-time basis by the Port of South Louisiana shall be paid by the state extra compensation in the amount of six hundred dollars per month in addition to the compensation now paid to him by his employer out of self-generated revenue attributable to the agency employing the fire protection officers. To be eligible for the extra compensation, each fire protection officer shall have completed one year of service, and any fire protection officer hired after March 31, 1986, shall also have completed and passed a certified fireman's training program from a Pro Board accredited agency or an International Fire Service Accreditation Congress approved entity equal to National Fire Protection Association Standard 1010 or 1001 Firefighter I Certification validated by the Louisiana Fire and Emergency Training Academy in accordance with R.S. 40:1541 et seq., or other state or federally approved maritime firefighter training programs.

(b) In the event that supplemental pay is increased as provided for in Paragraph (1) of this Subsection, then the same amount of supplemental pay shall be increased for the officers provided for in this Paragraph.

B. In computing the period of service required by Subsection A of this Section, prior service of employees who have returned or who hereafter return to such service shall be included; provided that service in any municipal, parish, tribe, or fire protection district fire department, whether with the same fire department or not, shall be used in computing such prior service. Notwithstanding the provisions of Subsection A of this Section to the contrary, any employee who received state supplemental pay prior to March 31, 1986, and returns to

such service shall be entitled to receive state supplemental pay whether or not such employee completes and passes a certified fireman's training program from a Pro Board accredited agency or an International Fire Service Accreditation Congress approved entity equal to National Fire Protection Association Standard 1010 or 1001 Firefighter I Certification validated by the Louisiana Fire and Emergency Training Academy in accordance with R.S. 40:1541 et seq.

C.(1) Notwithstanding any other provision of law to the contrary, the compensation for tribal officers of the Chitimacha Tribe of Louisiana shall be for no more than ten such firemen.

(2) Notwithstanding any other provision of law to the contrary, the compensation for tribal officers of the Coushatta Indian Tribe of Louisiana shall be for no more than ten such firemen.

RS 40:1666.2 — Special fund

hich the appropriations hereinafter made shall be credited, and the funds so credited shall be and remain dedicated to the payment of such supplemental salaries and expenses of administration, as provided in R.S. 40:1666.1 and R.S. 40:1666.6.

RS 40:1666.3 — Warrants

the

respective municipalities or parishes coming under the provisions of this Part, which warrants shall have attached to them a detailed list of the names of the employees for whose benefit any particular warrant is drawn, together with the completed years of service of such employees and such other information as the Department of Public Safety and Corrections may require.

B. The mayors or parish officials of the respective municipalities or parishes shall forward the approved and certified warrants to the Department of Public Safety and Corrections and, after obtaining approval of the board as provided in R.S. 40:1666.8, on the basis of such warrants, the Department of Public Safety and Corrections shall issue payments representing the amount to be paid out of state funds to each employee in accordance with the provisions of this Subsection. The secretary shall issue payments to the individual employees in whose favor they are drawn by such means as he shall determine.

C. The mayor, fire chief, or other municipal or parish officer of the municipalities or parishes employing persons entitled to additional compensation from the state under the provisions of this Part, who is charged with the responsibility of preparing the pay rolls for such employees, shall include the additional compensation paid by the state to such employees in the calculation and deduction from the pay of such employees of the sums required by state or federal law to be withheld by an employer, such as federal income tax and social security tax or contributions to local retirement systems. Any officials charged with withholding sums from the pay of the municipal or parish paid fire department employees shall be further charged with the responsibility of transmitting the sums withheld in accordance with the law or laws requiring the withholding.

D. The additional compensation paid by the state to municipal or parish fire department employees as provided by this Part shall be included in the calculation and

computation of the total wages paid to the employee in the determination of employer contributions to any retirement system or pension fund of which such employee may be a member as well as in the determination of retirement eligibility and benefits which may accrue to the employee under any retirement system or pension fund, as well as in the determination of any other employee benefits, sick leave, or disability pay to which the employee might be entitled.

RS 40:1666.4 — Salary reductions; void

ns of any civil service law, or otherwise, shall be void where it is made solely by reason of the additional compensation by the state, provided for in this Part. Any appropriation made by the legislature which results in a salary adjustment to the state supplemental pay program under this Part shall not have the effect of reducing or replacing any base salary or benefits paid by the local governing authority from other revenue sources.

RS 40:1666.5 — Fireman's Supplemental Pay Board

the governor. Each

appointment by the governor shall be submitted to the Senate for confirmation. In making his appointments, the governor shall select three persons who are members in good standing of the Professional Firefighters Association of Louisiana, two persons who are members in good standing of the Louisiana State Fireman's Association, and two persons who are members in good standing of the Louisiana Fire Chiefs Association. The board shall elect a chairman from its membership to serve a two-year term.

B. Each member of the board shall serve a term concurrent with that of the governor appointing him.

C. Repealed by Acts 1997, No. 740, §1.

D. If more than thirty days have passed since the governor has been notified of a vacancy on the board and no new appointment has been made or if more than thirty days have passed since the governor has taken his oath of office for the term and no initial appointment for that position for that term has been made, then a member in good standing of the same firefighter's or fire chief's organization as the member who created the vacancy or whose term expired, as applicable, shall be appointed by such organization so that the board shall at all times consist of three persons who are members in good standing of the Professional Firefighters Association of Louisiana, two persons who are members in good standing of the Louisiana State Fireman's Association, and two persons who are members in good standing of the Louisiana Fire Chiefs Association. Any member serving pursuant to the provisions of this Subsection shall serve until the governor makes his appointment for such position pursuant to Subsection A of this Section.

E. A majority of the board shall constitute a quorum for the transaction of any and all business of the board; and the members of the board shall elect their chairman and vice-chairman.

RS 40:1666.6 — Compensation; expenses

ss. The per

diem and the reimbursement of mileage expenses shall be made by the Department of Public Safety and Corrections and shall be payable out of the special fund provided in R.S.

40:1666.2, provided, however, that no such expense shall be payable unless a residual remains in the special fund after payment of all amounts due as extra compensation under

the provisions of R.S. 40:1666.1.

RS 40:1666.7 — Meetings

Meetings shall be given to each member of the board by the chairman of the board at least ten days before each meeting.

RS 40:1666.8 — Determination of eligibility

All of the facts relating thereto, shall be submitted to the board herein created for determination, and the decision of the board with regard to eligibility shall be final.

RS 40:1666.9 — Authorization of back supplemental pay; payment procedure

The board shall certify such due payment to the Joint Legislative Committee on the Budget. Upon receipt of such certification, the Joint Legislative Committee on the Budget may, in its discretion, approve payment of all or a portion of the due supplemental pay from the special fund created in R.S. 40:1666.2.

RS 40:1667 — Purpose

enforcement of state laws by municipal police officers and full-time commissioned deputy sheriffs.

RS 40:1667.1 — Rate of compensation; prior service; supplemental monthly compensation; police

included in this

Part or by the Chitimacha Tribe of Louisiana, the Coushatta Tribe of Louisiana, or the Tunica-Biloxi Tribe of Louisiana, hereinafter referred to as "tribe" or "tribal", to any police officer, every police officer employed by any municipality or tribe which employs one or more police officers who devotes his full working time to law enforcement, and for those hired after March 31, 1986, who have completed and passed a council-certified training program as provided in R.S. 40:2405, shall be paid by the state extra compensation in the amount of six hundred dollars per month for each full-time municipal or tribal law enforcement officer who has completed or who hereafter completes one year of service.

(2)(a) Every sworn, commissioned law enforcement officer employed on a full-time basis by a bona fide police agency of the state or its political subdivisions, other than the Department of Public Safety and Corrections and the Department of Wildlife and Fisheries, and headquartered in either the city of New Orleans or Lake Charles, and who serves the welfare of the public in the capacity of a police officer by providing police services to the general public through effecting arrests, issuing citations, and serving warrants while patrolling levees, waterways, and riverfront areas, or while patrolling bridges that are within the boundaries of the city of New Orleans or the city of Lake Charles shall be paid by the state extra compensation in the amount of six hundred dollars per month in addition to the compensation now paid to him by his employer out of self-generated revenue attributable to the agency employing such officers. To be eligible for the extra compensation, each such law enforcement officer shall have completed one year of service, and any such law enforcement officer hired after March 31, 1986, shall also have completed and passed a council-certified training program, as provided in R.S. 40:2405.

(b) For purposes of qualifications, computations, and other applicable provisions of this Section, references to "municipality" and "municipal" shall include in their meaning the bona fide police agency of the state or its political subdivisions that employ full-time sworn, commissioned law enforcement officers made eligible in this Paragraph.

(c) In the event that supplemental pay is increased as provided for in R.S.

40:1667.1(A)(1), and R.S. 40:1667.7(B) and (G), then the same amount of supplemental pay shall be increased for the officers provided for in Paragraph (2) of Subsection A of this Section.

(d) In the event that a P.O.S.T.-certified law enforcement officer employed on a full-time basis by the Department of Public Safety and Corrections, the Department of Wildlife and Fisheries, the division of probation and parole, or a retired state police officer who receives compensation pursuant to the provisions of R.S. 40:1457, transfers or begins employment with any other law enforcement agency, the officer shall receive credit for prior service with the agencies listed in this Subparagraph for purposes of computing the period of service requirement provided for in Subparagraph (a) of this Paragraph.

(3)(a) A municipality included in this Part or the Chitimacha Tribe of Louisiana, the Coushatta Indian Tribe of Louisiana, or the Tunica-Biloxi Tribe of Louisiana may enhance the first-year salary of a law enforcement officer in the amount equivalent to the state supplemental pay, or any portion thereof, that the officer shall be entitled to be paid after one year of service pursuant to this Part.

(b) Any municipality or tribe provided for in Subparagraph (a) of this Paragraph shall disclose, in writing, at the time the law enforcement officer is hired that such enhancement shall be paid only during the first year of employment.

(c) Notwithstanding any other provision of law to the contrary, no municipality or tribe provided for in Subparagraph (a) of this Paragraph shall be subject to penalty for reducing the portion of the salary that represents the state supplemental pay of any law enforcement officer whose salary has been enhanced pursuant to this Paragraph for one year by an amount not exceeding the amount of such enhancement. Any such reduction shall not be void as provided in R.S. 40:1667.4.

B.(1) In computing the period of service required by Subsection A of this Section, service as a police officer and as chief of police with peace officer standards and training (POST) certification in the municipality or tribe shall include prior service for those police officers and chiefs of police who have returned or hereafter return to such service. In addition, in computing the period of service required by Subsection A of this Section, service as a police officer and as chief of police in the municipality or tribe shall include prior service as a commissioned deputy sheriff receiving extra compensation under the provisions of R.S. 40:1667.7, shall include prior service as a P.O.S.T.-certified law enforcement officer employed on a full-time basis by the Department of Wildlife and Fisheries or the Department of Public Safety and Corrections, including the division of probation and parole, shall include prior service of retired state police officers who received extra compensation under the provisions of R.S. 40:1457, and shall include prior service as a police officer certified pursuant to R.S. 40:2405 employed on a full-time basis by an official law enforcement agency.

(2) In computing the period of service required for the payment of extra compensation to a commissioned deputy sheriff pursuant to the provisions of R.S. 40:1667.7, service as a full-time commissioned deputy sheriff shall include prior service as a full-time police officer receiving extra compensation under the provisions of Subsection A of this

Section, shall include prior service as a P.O.S.T.-certified law enforcement officer employed on a full-time basis by the Department of Wildlife and Fisheries or the Department of Public Safety and Corrections, including the division of probation and parole, and shall include prior service of retired state police officers who received extra compensation under the provisions of R.S. 40:1457.

C. For purposes of this Part a municipal or tribal police officer entitled to additional pay out of state funds shall mean and refer to:

(1) Any person employed on a full-time basis by a municipality or tribe and all of whose compensation out of public funds is paid solely from municipal or tribal funds for full-time work as a duly commissioned law enforcement officer for the performance of primary duties which encompass the enforcement of state laws and municipal or tribal ordinances, including actual enforcement of state and local traffic laws, the making of physical arrests, testifying in court, bearing arms and other like functions.

(2) Any person employed on a full-time basis by a municipality or tribe and all of whose compensation out of public funds is paid solely from municipal or tribal funds for full-time work as a duly commissioned law enforcement officer for the performance of supervisory police work or work otherwise involving the supervision or direction of line officers.

(3) Any person employed on a full-time basis by a municipality or tribe and all of whose compensation out of public funds is paid solely from municipal or tribal funds for full-time work as a duly commissioned law enforcement officer in providing necessary services to line officers in the performance of their duties.

(4) Any person employed on a full-time basis by a municipality or tribe and all of whose compensation out of public funds is paid solely from municipal or tribal funds for full-time work as a desk sergeant or identification technician; provided, however, that the persons referred to in this Paragraph are duly commissioned police officers. Such persons shall be entitled to receive the additional pay out of state funds as provided for in this Paragraph and shall not be denied the payment of such extra compensation by any of the provisions of Paragraph (1) of Subsection D of this Section.

(5) Any person employed on a full-time basis by a municipality or tribe and all of whose compensation out of public funds is paid solely from municipal or tribal funds for full-time work as a radio dispatcher.

(6) Any municipal or tribal marshal or constable or deputy marshal or constable who serves as a chief of police or who is employed on a full-time basis by a municipality or tribe and whose major source of income from public employment is derived from and paid by a municipality or tribe, including the constable and deputy constables of the First City Court of the city of New Orleans.

(7) Any person employed on a full-time basis by the city of New Orleans and all of whose compensation out of public funds is paid solely from funds of the city of New Orleans for full-time work as a commissioned special officer of the police department of the city of New Orleans assigned to the Civil District Court for the Parish of Orleans; provided that there be no more than two persons employed in this capacity.

(8)(a) Any person elected to the office of chief of police of a municipality or tribe who is otherwise qualified as a duly commissioned law enforcement officer to receive additional pay out of state funds as provided for in this Part. Any person who has been sworn in as an elected chief of police and who resigned a position as a duly commissioned law enforcement officer of a municipality or tribe to run for the office of chief of police and who was receiving additional pay out of state funds prior to his resignation shall continue to be entitled to receive additional pay out of state funds, notwithstanding any interruption in service between his resignation from the position of a duly commissioned law enforcement officer and his swearing-in as chief of police.

(b) Any person who was sworn in as an elected marshal of a municipality or tribe on January 1, 1991, who had retired from a position as a duly commissioned law enforcement officer of a municipality or tribe, and who was receiving supplemental pay out of state funds prior to his retirement. Such a person shall be entitled to receive supplemental pay out of state funds beginning on January 1, 1991, which shall be computed including prior years of law enforcement service completed, and shall not be required to complete a peace officer training program, notwithstanding any interruption in service between his retirement as a peace officer and his election to the office of marshal.

(c) Notwithstanding any other provisions of this Section to the contrary, any person who is sworn in as an elected marshal of a municipality or tribe on January 1, 1997, or thereafter, shall, immediately upon taking office, be eligible to receive such supplemental compensation as provided by Subsection A of this Section, if such person meets the POST certification requirements provided by R.S. 40:2405. The effective date for beginning such supplemental compensation shall be the date on which such person is sworn into office, if the certification requirements have been completed within the periods stipulated in R.S. 40:2405(A) or (E).

(d) Any person who was sworn in as an elected chief of police of a municipality or tribe after having resigned from a position as a duly commissioned law enforcement officer of a municipality or a tribe, who complied with peace officer training requirements prior to his resignation, and who was a recipient of supplemental pay out of state funds through the authorization of the provisions of R.S. 40:2405(C) prior to his resignation. Such a person shall be entitled to receive supplemental pay out of state funds and shall not be required to complete a peace officer training program, notwithstanding any interruption in service between his resignation as a law enforcement officer and his election to the office of chief of police. The effective date for beginning such supplemental compensation shall be on the date on which such person is sworn into office.

(9) In the event the additional pay hereunder is denied to any person previously receiving same, such person shall have the right to an appeal to the board of review which may reinstate the additional pay, provided notice of such appeal is filed in writing with the board within thirty days following the denial of the additional pay. The board shall hold a hearing and render a decision within thirty days of the filing of the notice of appeal.

(10) Notwithstanding any law to the contrary, any person who receives additional pay out of state funds as provided for in this Part shall continue to receive said additional

state pay during any period of disability resulting from an injury sustained in the line of duty. The additional pay out of state funds shall continue to be paid to such person until such time that said person is determined to be permanently disabled and no longer able to return and perform the duties of his employment, and is separated from his employment either through normal retirement or is determined to be eligible for disability retirement benefits.

D. For purposes of this Part the following classes of persons, whether or not duly commissioned as police officers or having the power to make arrests, shall not be deemed to be a municipal or tribal police officer entitled to additional pay out of state funds:

(1) Personnel employed primarily to perform purely clerical or nonenforcement duties, including but not necessarily restricted to the following types of duties of persons: typographical; office machine operators; switchboard operators; filing clerks; stenoclerks; stenographers; dog pound keepers; school crossing guards; and secretaries except those classified under the municipal fire and police civil service law and those classified as secretary to the chief of police in a classified municipal police employees civil service system or a classified municipal employees civil service system created by legislative Act.

(2) Personnel whose compensation for the performance of law enforcement work is not paid solely from municipal or tribal funds, except town marshals, city marshals, and constables employed and paid partially by the municipality or tribe and partially by the parish; or

(3) Personnel employed as law enforcement officers on less than a full-time basis or on an hourly basis.

E. Notwithstanding any law to the contrary, the state shall not be liable for any action of the officers based on the payments of the supplemental pay provided for in this Section.

F.(1) Notwithstanding any other provision of law to the contrary, the compensation for tribal officers of the Chitimacha Tribe of Louisiana shall be for no more than twenty such law enforcement officers.

(2) Notwithstanding any other provision of law to the contrary, the compensation for tribal officers of the Tunica-Biloxi Tribe of Louisiana shall be for no more than thirteen such law enforcement officers.

(3) Notwithstanding any other provision of law to the contrary, the compensation for tribal officers of the Coushatta Indian Tribe of Louisiana shall be for no more than eight such law enforcement officers, subject to approval by the sheriff of Allen Parish.

G. Notwithstanding any other provision of this Section to the contrary, a person who is employed by a municipality shall include an employee of any consolidated city-parish government who is paid out of the funds of such consolidated government.

RS 40:1667.2 — Special fund

s hereinafter made shall be credited, and the funds so credited shall be and remain dedicated to the payment of such supplemental salaries, as provided in R.S. 40:1667.1.

B. For the payment of the supplemental salaries provided by R.S. 40:1667.7, there is hereby created an additional special fund in the treasury of the state of Louisiana, to which the annual appropriations hereafter made shall be credited, and the funds so credited shall be and remain dedicated to the payment of such supplemental salaries as provided in R.S. 40:1667.7.

RS 40:1667.3 — Disbursement of funds

s of the

respective municipalities coming under the provisions of this Part, which warrants shall have attached to them a detailed list of the names of the individuals for whose benefit any particular warrant is drawn and such other information as the Department of Public Safety and Corrections may require.

(2) If a person who is required to sign a warrant fails to sign it, the person shall forward by certified mail to the Department of Public Safety and Corrections a letter which includes a justification for the failure to sign the warrant and supporting documentation. The board of review may approve a warrant that does not include all required signatures.

B. The mayors, chiefs of police, or marshals of the respective municipalities shall forward the approved and certified warrants to the Department of Public Safety and Corrections and, on the basis of such warrants, the Department of Public Safety and Corrections shall issue payments in accordance with the provisions of this Part.

C. The mayor and chief of police or other municipal officer of the municipalities employing the individuals entitled to additional compensation from the state under the provisions of this Part, who is charged with the responsibility of preparing the payrolls for such individuals, shall include the additional compensation paid by the state to such individuals in the calculation and deduction from the pay of such individuals the sums required by state or federal law to be withheld by an employer, such as federal income tax and social security tax or contributions to state or local retirement systems. Any officials so charged with withholding sums from the pay of the individuals shall be further charged with the responsibility of transmitting the sums so withheld in accordance with the law or laws requiring the withholding.

D. The additional compensation paid by the state to individuals as herein provided shall be included in the calculation and computation of the total wages paid to the individual in the determination of employer contributions to any retirement system or pension fund of which the individual may be a member as well as in the determination of retirement eligibility and benefits which may accrue to the individual under any retirement system or pension fund, as well as in the determination of any other employee benefits, sick leave, or disability pay to which the individual might be entitled with the exception of workers' compensation benefits pursuant to R.S. 23:1021 et seq.

E.(1) As used in this Section, references to "municipality" and "municipal" shall include political subdivisions whose employees are peace officer standards and training (POST) certified and who are entitled to extra compensation from the state.

(2) As used in this Section, reference to "mayor" includes his designee and also includes the executive director of a political subdivision whose employees are peace officer standards and training (POST) certified and who are entitled to extra compensation from the state.

RS 40:1667.4 — Salary reductions; void; police

e provisions of any civil

service law, or otherwise, shall be void where it is made solely by reason of the additional

compensation by the state in this Part. Any appropriation made by the legislature which results in a salary adjustment to the state supplemental pay program under this Part shall not have the effect of reducing or replacing any base salary or benefits paid by the local governing authority from other sources.

RS 40:1667.5 — Parishes having no incorporated municipalities; extra compensation for deputy sheriffs

ies, by providing better enforcement of law and particularly the enforcement of state laws by deputy sheriffs in such parishes, every deputy sheriff employed on a full time basis for law enforcement work by the sheriff of each of the parishes of Cameron, Plaquemine, St. Bernard, St. Charles and St. John the Baptist shall be paid by the state extra compensation in addition to the compensation paid him out of the sheriff's salary fund.

B. Out of the funds appropriated by the legislature for the payment of the extra compensation provided by Subsection A of this Section there shall be distributed to each of the parishes named therein, the sum of one dollar for each inhabitant within the parish as shown by the most recent federal census. The sums to be so distributed shall be disbursed upon warrants drawn by the sheriffs of the respective parishes and shall be paid into the sheriff's salary fund of the respective parishes. The sheriff of each parish shall expend such sums so paid into his sheriff's salary fund of the respective parishes. The sheriff of each parish shall expend such sums so paid into his sheriff's salary fund to deputy sheriffs employed by him on a full-time basis for law enforcement work, the amount to be paid to each deputy to be within the discretion of the sheriff and to be based upon the length of service of the deputy insofar as is practicable.

RS 40:1667.6 — Board of review; powers and duties

ion or a representative of the division of
administration selected by him.

(2) A member of the Louisiana Association of Chiefs of Police selected by the
director of the association.

(3) The deputy secretary for public safety services of the Department of Public Safety
and Corrections or a representative from the department selected by the deputy secretary.

(4) A member of the Louisiana Commission on Law Enforcement and
Administration of Criminal Justice selected by the chairman of the commission.

(5) A representative of the Council on Peace Officer Standards and Training selected
by the chairman of the council. The member who serves pursuant to this Paragraph shall be
a nonvoting member.

(6) A member of the Louisiana Municipal Association selected by the director of the
association.

(7) The state examiner of municipal fire and police civil service or a representative
of the office of state examiner of municipal fire and police civil service selected by the state
examiner. The member who serves pursuant to this Paragraph shall be a nonvoting member.

(8) A member of the Louisiana City Marshals and City Constables Association
selected by the president of the association.

(9) A member of the Justices of the Peace and Constables Association selected by
the president of the association. The member who serves pursuant to this Paragraph shall be
a nonvoting member.

B. Whenever any question arises as to the eligibility of any person to receive
additional pay out of state funds as provided by this Part, the question thereof, together with
all of the facts relating thereto, shall be submitted to the board of review herein created for
determination, and the decision of the board with regard to eligibility shall be final.

RS 40:1667.7 — Extra compensation for commissioned full-time deputy sheriffs of all parishes

rcement of law and particularly the enforcement of state laws by deputy

sheriffs, every commissioned deputy sheriff employed on a full-time basis shall be paid by the state extra compensation out of monies appropriated therefor from the fund established by R.S. 40:1667.2. For the purposes of this Section any deputy sheriff hired after March 31, 1986, primarily to perform purely clerical or nonenforcement duties, including but not limited to typists, office machine operators, switchboard operators, filing clerks, stenoclerks, stenographers, animal shelter personnel, school crossing guards, secretaries, cooks, mechanics, and maintenance personnel, whether or not a duly commissioned deputy sheriff or post-certified, shall not be deemed to be a commissioned deputy sheriff entitled to additional compensation out of state funds.

B. Out of the funds appropriated by the legislature for the payment of the extra compensation provided by Subsection A of this Section, there shall be distributed to the sheriff of each parish monthly to pay additional compensation for full-time commissioned deputy sheriffs, and for those hired after March 31, 1986, who have completed and passed a council-approved training program as provided in R.S. 40:2405 and who are paid a salary of not less than three hundred fifty dollars per month, the amount of six hundred dollars per month for each full-time commissioned deputy sheriff at the completion of one year of service.

C. On or before the tenth day of each month; the sheriff in each parish and in Orleans Parish, the criminal sheriff and the civil sheriff, shall certify to the state treasurer the number of full-time commissioned deputy sheriffs in his employ and the number of years of service of each such officer. Based on the total number of such officers reported from throughout the state each month and the period of service of such officers and the amount of moneys remaining from the appropriation made therefor, the state treasurer shall calculate a monthly allowance to be paid to each such officer in an amount not to exceed the amounts provided in Subsection B herein. The state treasurer shall specify the amount of compensation to be paid to each such officer and shall remit such sums of money to the sheriff of each parish for credit to the sheriff's general fund of the respective parishes. The sheriff of each parish, and in Orleans Parish the criminal sheriff and the civil sheriff, shall expend such sums so paid into his sheriff's general fund solely for paying the additional compensation herein provided by granting an allowance in the amount specified by the state treasurer to each full-time commissioned deputy sheriff.

D. In computing the period of service required by Subsection A, for the payment of extra compensation to a commissioned deputy sheriff, prior service as a sworn state police officer receiving extra compensation under the provisions of R.S. 40:1457 shall be included.

E. Any person who was sworn in as a full-time commissioned deputy sheriff of a parish on May 1, 1988, who had retired from a position as a sworn state police officer after completion of a peace officer training program, and who was receiving supplemental pay out of state funds prior to his retirement shall be entitled to receive supplemental pay out of state funds beginning July 1, 1991, which shall be computed including prior years of law enforcement service completed, and shall not be required to complete a peace officer training

program, notwithstanding any interruption in service between his retirement as a sworn state police officer and his return as a full-time deputy sheriff, provided that application for supplemental pay has been filed with the Deputy Sheriffs Supplemental Pay Board on or before September 1, 1991.

F. Any person who was sworn in as a full-time commissioned municipal police officer of a municipality on June 4, 1965, who had retired from a position as a sworn municipal police officer after completion of a peace officer training program, and who was receiving supplemental pay out of state funds prior to his retirement shall be entitled to receive supplemental pay out of state funds beginning July 1, 1992, which shall be computed including prior years of law enforcement service completed, and shall not be required to complete a peace officer training program, notwithstanding any interruption in service between his retirement as a sworn municipal police officer and his return as a full-time deputy sheriff, provided that application for supplemental pay has been filed with the Deputy Sheriff's Supplemental Pay Board on or before September 1, 1992.

G. Notwithstanding the provisions of Subsections A and B of this Section, any full-time deputy sheriff employed as a field representative or process server and who is paid a salary of not less than three hundred fifty dollars per month shall be entitled to receive extra compensation in the amount of six hundred dollars per month at the completion of one year of service. However, to be eligible for such extra compensation, a field representative or process server shall have completed and passed a council-approved training program as provided in R.S. 40:2405.

RS 40:1667.8 — Authorization of back supplemental salary payment

0:1667.7, are due eligible recipients for back periods of time, the board shall certify to the Joint Legislative Committee on the Budget that such payment is due. Upon receipt of such certification, the Joint Legislative Committee on the Budget may, in its discretion, approve payment of all or a portion of such supplemental salary from the appropriate special fund created in this Part; however, no payment shall be made to any one recipient in excess of ten thousand dollars at any one time.

RS 40:1667.9 — Extra compensation for commissioned full-time harbor police, fireboat personnel,

ator, and bridge police officer, every harbor police officer, fireboat employee, and bridge police officer who is a full-time employee and who is paid a salary of not less than eight hundred dollars per month and who has completed and passed a post-certified training program as provided in R.S. 40:2405 and who has completed or who hereafter completes one year of service shall be paid by the state extra compensation in the amount of six hundred dollars per month. The provisions of this Section shall only apply to employees of a political subdivision of the state.

RS 40:1667.10 — Extra compensation for commissioned full-time levee district police authorized

e officer who is a full-time employee, is paid a salary of not less than eight hundred dollars per month, has completed and passed a P.O.S.T.-certified training program as provided in R.S. 40:2405, and has completed or hereafter completes one year of service, may be paid extra compensation by the levee district by which they are employed with district funds in an amount up to but not greater than the amount authorized for harbor police officers, fireboat operators, and bridge police officers by law.

RS 40:1667.11 — Furlough

tional

pay out of state funds as provided in this Part.

RS 40:1668 — Benefits for disabled firemen and law enforcement officers in certain cases

in benefits to firemen and law enforcement officers determined to be

permanently and totally disabled as the direct and proximate result of a catastrophic injury

arising out of and in the course of the performance of their official duties.

B. As used in this Section, the following words have the following meanings:

(1) "Board" means the Law Enforcement Officers and Firemen's Survivor Benefit

Review Board created and provided for in R.S. 40:1665.3.

(2) "Catastrophic injury" means an injury incurred on or after July 1, 2016, caused

by an individual having the specific intent to kill the officer who is engaged in the

performance of his official duties, the direct and proximate consequences of which, as

provided by clear and convincing evidence unaided by any presumption of disability, leaves

the officer permanently and totally disabled.

(3) "Law enforcement officer" means the following:

(a) All sheriffs and deputy sheriffs in the state employed on a full-time basis.

(b) All members of the state police employed on a full-time basis.

(c) All municipal police officers in the state employed on a full-time basis.

(d) All university and college police officers at state universities and colleges employed on a full-time basis.

(4) "Officer" includes firemen as defined in R.S. 40:1665 and law enforcement

officers as defined in Paragraph (3) of this Subsection.

(5) "Permanently and totally disabled" means the officer is unable to engage in any

employment or self-employment on a full-time basis, regardless of the nature or character of the employment or self-employment.

C.(1) In any case in which an officer is determined by the board or a court of competent jurisdiction pursuant to Paragraph (E)(2) of this Section to be permanently and totally disabled as the direct and proximate result of a catastrophic injury arising out of and in the course of the performance of the officer's official duties, the following shall be paid by the state risk director pursuant to R.S. 39:1533(A)(2) on behalf of the officer from the date of the catastrophic injury as long as the officer is permanently and totally disabled:

(a)(i) Premiums due from the officer for the amount and type of life, health, accident, accidental death and dismemberment, hospital, surgical, and medical expense insurance covering the officer and maintained by the officer through the officer's employer at the time of the catastrophic injury.

(ii) If the injured officer no longer qualifies under Item (i) of this Subparagraph, premiums due for insurance that provides for life, health, accident, accidental death, and dismemberment, hospitals, surgical, and medical expense insurance similar to that maintained by the officer through his employer at the time of the catastrophic injury.

(iii) This Subparagraph shall not apply to any premium due from the officer for insurance covering any individual other than the officer.

(b) Copayments, coinsurance, and deductibles applicable to any insurance policy for which premiums are paid pursuant to Item (a)(i) or (ii) of this Paragraph for healthcare benefits received by the officer.

(2) The premiums, deductibles, coinsurance, and copayments paid pursuant to this Section shall be in addition to any other benefit or income available and paid to the injured officer for the disability due to the catastrophic injury.

D.(1) In order to facilitate the operation of this Section, within one year after the employing authority has knowledge of the permanent and total disability of an officer under circumstances covered by this Section, the employing authority or officer shall notify the Law Enforcement Officers and Firemen's Survivor Benefit Review Board of the disability, the date of the catastrophic injury for which the disability is a result, the circumstances surrounding the injury, and such other information as may be requested by the board.

(2) The officer seeking the benefits provided in this Section may notify the board providing the information listed in Paragraph (1) of this Subsection.

(3) Nothing in this Section shall prevent the board from initiating proceedings before being notified by the employing authority or officer.

E.(1) The board shall hear and decide by unanimous vote all claims for disability benefits within sixty days after documentation is received. The board may request any information necessary to make a determination of eligibility for disability benefits.

(2) Within ten days after the board has reached its decision, it shall notify the officer of its decision by certified mail. If the board denies the claim, the officer shall have one year from the date of denial to file suit against the state through the board in the parish where the incident that brought about the permanent and total disability occurred. The date of denial shall be calculated as one year from date of receipt of the decision from the board.

F. If the board determines the officer qualifies for the benefit payable under this Section, the board shall notify the state risk director.

G. No benefit shall be payable pursuant to this Section if any of the following applies:

(1) The catastrophic injury was caused by the intentional misconduct of the officer or by the officer's intention to bring about his death, disability, or injury.

(2) The officer was voluntarily intoxicated at the time of his catastrophic injury.

(3) The officer was performing his duties in a grossly negligent manner at the time of his catastrophic injury.

(4) Repealed by Acts 2018, No. 656, §2, eff. June 1, 2018.

H. The board may adopt rules and regulations to implement the provisions of this Section.

RS 40:1669 — Law Enforcement Recruitment Incentive Program

to in this Chapter as the

"fund". Monies in the fund shall be used solely for payments made in accordance with the Law Enforcement Recruitment Incentive Program as provided in this Section.

B. Monies in the fund shall be invested in the same manner as monies in the state general fund. Interest earned on investment of monies in the fund shall be credited to the fund. Until the termination of the program, unexpended and unencumbered monies in the

fund at the end of the fiscal year shall remain in the fund.

C. The Law Enforcement Recruitment Incentive Program, hereinafter referred to in this Chapter as the "program", is hereby established to aid in the recruitment of law enforcement officers within the state. The purpose of the program is to provide one-time incentive payments of five thousand dollars to certain newly employed law enforcement officers in the state.

D. For purposes of this Section, the following terms shall have the following meanings:

- (1) "Eligible agency" means a sheriff's office, municipal police department, or the office of state police within the Department of Public Safety and Corrections.
- (2) "Law enforcement officer" means an officer whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and who is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, or highway laws of this state. "Law enforcement officer" shall not include any elected or appointed head of a law enforcement department.
- (3) "Municipality" means an incorporated city, town, or village.
- (4) "Newly employed officer" means a person who gains or is appointed to full-time employment as a law enforcement officer with a Louisiana eligible agency on or after July 1, 2023, and who has never before been employed as a law enforcement officer in this state.

E. To qualify for the incentive payment, a newly employed officer shall meet the following criteria:

- (1) Attain POST-certification within one year of the date on which employment begins.
- (2) Maintain continuous full-time employment with an eligible agency for a least two years from the date on which employment begins. The required two-year employment period may be satisfied by maintaining employment at one or more eligible agencies, but such period shall not contain any break in service longer than fifteen calendar days.

F.(1) An incentive payment made pursuant to this Section shall be reimbursed by the officer who received payment to the state treasurer under any of the following circumstances:

- (a) The officer voluntarily separates from employment with an employing agency prior to completion of two years of employment, as provided in Paragraph (E)(2) of this Section.
- (b) The officer has a break in service of more than fifteen days.
- (c) The officer is dismissed for cause by the employing agency.

- (2) The employing agency shall notify the treasurer if an officer who received payment does not meet the required two-year employment period.
- (3) The treasurer shall send a determination letter to any officer who is required to reimburse an incentive payment pursuant to this Subsection to the officer's last-known mailing address. Reimbursement of the incentive payment shall be made to the treasurer within twelve months of the date on the determination letter.

G.(1) Any request for an incentive payment for a deputy sheriff shall be submitted by the sheriff of the respective parish to the Deputy Sheriff's Supplemental Pay Board for

review and approval. The board shall submit the approved request to the state treasurer for payment. The treasurer shall remit payments from the fund for deputy sheriffs to the sheriff's office of the respective parish. The sheriff of each parish shall expend such funds solely for paying the incentive payment.

(2) Any request for an incentive payment for a municipal police officer shall be submitted by the chief of police of the respective municipality to the Supplemental Pay Board of Review for Municipal Police Officers for review and approval. The board shall submit the approved request to the state treasurer for payment. The treasurer shall remit payments from the fund for municipal police officers to the police department of the respective municipality. The chief of police of each municipality shall expend such funds solely for paying the incentive payment.

(3) Any request for an incentive payment for a law enforcement officer employed by the office of state police shall be submitted pursuant to rules promulgated by the State Police Commission. The treasurer shall remit payments from the fund for the officer to the office of state police. The office of state police shall expend such funds solely for paying the incentive payment.

(4) Every request submitted pursuant to this Subsection shall include:

(a) Certification from the submitting party that the newly employed officer meets the eligibility criteria for receiving the incentive payment.

(b) A form signed by the newly employed officer acknowledging the reimbursement requirements for failure to maintain eligibility.

H. Payments shall be made on a first-come, first-served basis upon receipt of the approved request of any entity as provided for in Subsection G of this Section. Payments shall cease when all monies in the fund have been expended.

I. To the extent necessary, any local civil service system shall promulgate rules for the effective implementation of this Section within its jurisdiction.

J. The provisions of this Section shall terminate on July 1, 2027. Upon termination of the program, the treasurer is hereby authorized and directed to transfer any unexpended and unencumbered monies in the fund to the state general fund.

RS 40:1671 — Application of Part

website,

RS 40:1672 — Scaffolds, supports, or other mechanical contrivances

, alteration, removing, or painting of any building, bridge, viaduct, or other structure shall be constructed, placed, and operated so as to give proper and adequate protection to any person employed or engaged thereon or passing under or by it, and in such a manner as to prevent the falling of any material that may be used or deposited thereon.

RS 40:1673 — Safety rails for scaffolding or staging

d more than twenty feet from the ground or floor, shall have, where practicable, a safety rail properly bolted, secured, and braced and rising at least thirty-four inches above the floor or main portion of the scaffolding or staging and extending along the entire outside length and along the ends thereof. Also, such scaffolding or staging shall be so fastened as to prevent it from swaying from the building or structure.

RS 40:1674 — Construction of scaffolds, etc., to bear certain weight; overcrowding or overloading

es the maximum weight required to be dependent thereon when in use. These platforms, scaffolds, or similar devices shall not be so loaded or crowded as to render them unsafe or dangerous.

RS 40:1675 — Inspection of scaffolding, etc.; notice of defects; reconstruction

ular city that the scaffoldings, stays, hangers, blocks, pulleys, slings, braces, ladders, irons, or ropes of any swinging or stationary scaffolding, platform, or other similar device used in the construction, repairing, alteration, removing, cleaning, or painting of any structures therein are liable to prove dangerous to the safety of any person, he shall immediately cause an inspection to be made of the scaffolding, platform, or device, or of the parts thereof.

If the scaffolding, platform, or device, or any parts thereof are found to be dangerous to the safety of any person, the local authority shall immediately notify the person responsible for the maintenance thereof and warn him against its use, maintenance, or operation. He shall further require that the thing be altered and reconstructed so as to avoid any danger.

This notice may be served personally upon the one responsible for the erection of the thing declared unsafe or by conspicuously affixing it to the scaffolding, platform, or other device, or part thereof, declared to be unsafe.

After the notice has been served or affixed, the person responsible therefor shall cease using and immediately remove the thing declared unsafe or shall alter or strengthen it in such manner as to render it safe.

The officer whose duty it is to examine or test any such scaffolding, platform, or similar device, or part thereof, under this Section shall have free access at all times during reasonable hours to any buildings or structures containing such scaffolding, platforms, or similar devices or parts thereof or where they may be in use.

RS 40:1676 — Lower scaffolding for protection of workmen on working scaffold or staging

ter pipe, stand pipe, smoke stack, chimney, tower, steeple, pole, staff, dome, or cupola, with the use of any scaffold, staging, swing hammock, support, temporary platform, or other similar contrivance for such labor shall keep and maintain at all times while that labor is being performed and the mechanical device is in use or operation a safe and proper scaffold, stay, support, or other suitable device, not less than sixteen feet below the working device when the work is being performed at a height of thirty-two feet or more, for the purpose of protecting the person performing the labor from falling in case of any accident to the working device.

RS 40:1677 — Intermediate support for joists; floor strength; railings for floor openings

s is more than twenty-four feet in the clear, there shall be built and maintained proper intermediate supports for the joists.

These supports shall be brick work walls, iron or steel columns, beams, trusses or girders of wood, or other material of sufficient strength. The floors in all such houses, buildings, or structures in the process of erection or construction shall be designed and constructed in such manner as to be capable of bearing on all their parts, in addition to the floor construction, partitions, and permanent fixtures and mechanisms that may be set upon them, a live load of twenty-five pounds for every square foot of surface. Every opening in such floor shall be railed all around with a substantial railing four feet in height. Every owner, builder, lessee, contractor, or sub-contractor of any such house, building, or construction, or the superintendent or agent of any of them, shall see that all the provisions of this Section are complied with.

RS 40:1678 — Maximum floor load during construction; display of placards

hall affix and display conspicuously on each floor of the building a placard stating the load per square foot of the floor surface which may safely be applied to that particular floor during construction. If the strength of the floor varies in different places, he shall affix placards for each varying part of the floor.

All such placards shall be verified and approved by the city engineer or inspector of buildings or other proper authority of the city charged with the enforcement of building laws.

No one shall load any such floor or any part thereof to a greater extent than the load indicated on the placard.

RS 40:1679 — Completion of flooring as building progresses

etween the beams or where the floors are fireproof material or brick work, shall complete the flooring or filling in as the building progresses, to not less than within three tiers or beams below and on which the iron work is being erected. If the plans or specifications do not require the filling in between the beams with brick or fireproof material, the contractor shall lay in the under flooring or a safe temporary floor, on each story as the building progresses to not less than within two stories of the floor below, to which the building has been erected and where double floors are not to be used shall keep

planks over the floor, to two stories of the floor below the story where the work is being performed, and if the floor beams are not of iron or steel, the contractor for the iron or steel work in the course of construction or the owner shall thoroughly plank over the entire tier of iron or steel beams, on which the structural iron or steel work is being erected, except such places as are necessary for the proper construction of the iron or steel work, and for raising or lowering of material to be used on the building. All openings in the floor shall be railed as required by R.S. 40:1677.

RS 40:1680 — Enclosure of shafts or openings in buildings under construction

ial, the contractor, owner, or lessee shall cause all shafts or openings in the floors, such as stairways, ladder openings, or elevator shafts, to be enclosed or fenced all around by a substantial railing at least four feet in height.

RS 40:1681 — Placing of hoisting apparatus; floor re-enforcement

o place such a machine or engine on any floor above the ground floor, the floor shall be properly and securely supported with a foundation capable of sustaining twice the weight of the machine or engine.

If the building in course of construction is three stories or over in height, no material needed for the construction shall be hoisted or lifted over any public street or alley, unless the street or alley is barricaded from use by the public or is so covered as to prevent injury to pedestrians.

RS 40:1682 — Communication system for mechanical elevating machines or hoisting apparatus used in construction work

re used in the construction, alteration, or removal of any structure, the owner, contractor, or sub-contractor shall, during the use and operation of the elevating machine or hoisting apparatus, provide and maintain an adequate system of communication by signals, so that prompt and perfect communication may be had at all times between the operator of the engine or motive power of the elevating machine or hoisting apparatus and the employees or persons engaged thereon or using or operating it. The officers of the city charged with the enforcement of the building laws shall enforce this Section.

If such officers fail to do so, the police authorities shall, pursuant to the terms of this Part, enforce the provisions of this Section.

RS 40:1683 — Penalty

of this Part shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned for not less than three months nor more than two years, or both.

RS 40:1701 — Safety bolts on certain windows; penalty for failure

Its on all windows opening on the second or any higher floor to safeguard employees engaged in window cleaning, window repair work, or the installation of window awnings.

Whoever violates this Section shall be fined not more than two hundred and fifty dollars.

RS 40:1711 — Definitions

ny glazing material such as tempered glass, laminated glass, wire glass or rigid plastic, which meets the test requirements of ANSI Standard Z-97.1-1966 and such further requirements as may be adopted by the Louisiana State Fire Marshal and which are so constructed, treated, or combined with other materials as to minimize the likelihood of cutting and piercing injuries resulting from human contact with the glazing material.

(2) "Hazardous locations" means those installations, glazed or to be glazed in commercial and public buildings, known as framed or unframed glass entrance doors; and those installations, glazed or to be glazed in residential buildings and other structures used as dwellings, commercial buildings, and public buildings, known as sliding glass doors, storm doors, shower doors, bathtub enclosures which because of their location present a barrier in the normal path traveled by persons going into or out of these buildings, and because of their size and design may be mistaken as means of ingress or egress; and any other installation, glazed or to be glazed, wherein the use of other than safety glazing materials would constitute an unreasonable hazard as determined by the Louisiana State Fire Marshal; whether or not the glazing in such doors, panels, enclosures and other installations is transparent.

For the purposes of this part wood panel doors with small lights thirty-six inches or more above the floor, French doors and doors with leaded glass lights are not to be considered hazardous and these installations are not to be included within the definition of hazardous locations as set forth hereinabove.

RS 40:1712 — Labeling required

shall be permanently labeled by such means as etching, sandblasting, firing of ceramic material on the safety glazing material, or by other suitable means. The label shall identify the labeler, whether manufacturer, fabricator or installer, and the nominal thickness and the type of safety glazing material and the fact that said material meets the test requirements of ANSI Standard Z-97.1-1966. The label must be legible and visible after installation.

B. Such safety glazing labeling shall not be used on other than safety glazing materials.

RS 40:1713 — Safety glazing materials required

than safety glazing materials in, or for use in, any hazardous location, as defined herein above, after the effective date of this Part. This Part shall not be construed as being retroactive and shall become effective on January 1, 1973.

RS 40:1715 — Penalty

one thousand dollars, or to imprisonment of not more than six months, or both.

RS 40:1721 — Declaration of policy

dings, there is hereby created a Louisiana Building Code for State Owned Buildings consisting of the various building codes and standards designated in this Part.

The provisions of this Part should not be construed to supercede any local building codes or standards except as they apply to state owned buildings.

RS 40:1722 — Louisiana Building Code

rules and

regulations to be promulgated by the Facilities Planning and Control Department of the Division of Administration in conformity with the Administrative Procedure Act, which rules and regulations shall establish as minimum standards the provisions of the Louisiana Building Code provided in Subsection B hereof.

B. The Louisiana Building Code shall consist of the following designated and described codes and standards:

(1) The Life Safety Code, Standard 101, 1973 Edition as published by the National Fire Protection Association.

(2) The International Plumbing Code, the International Building Code, Chapter 29-Plumbing Systems, and the International Residential Code, Part VII-Plumbing.

(3) The International Building Code, 2000 Edition as published by the International Code Council.

(4) The International Mechanical Code as published by the International Code Council.

(5) The National Electric Code (NFPA No. 70-1975) as published by the National Fire Protection Association.

C. Repealed by Acts 2003, No. 387, §2, eff. Jan. 1, 2004.

D. Repealed by Acts 2014, No. 836, §3, eff. Jan. 1, 2016.

E.(1) In all cases of conflict between the provisions of the Louisiana Building Code and any local building code in connection with the construction or occupancy of any state-owned building, the provisions of the Louisiana Building Code shall be used.

(2) In all cases wherein the Louisiana Building Code is used in connection with the construction or occupancy of any state-owned building, the permit, and issuance thereof, or performance of any duties associated therewith by any parish or municipality, or the state under this Part, shall have all rights, privileges, and immunities accorded permits under Part

IV-A of Chapter 8 of Title 40 and Subpart E of Part I of Chapter 14 of Title 33 of the Louisiana Revised Statutes of 1950.

RS 40:1723 — Administration; exception

However, nothing contained herein shall affect the state fire marshal and his jurisdiction on matters of life safety and related areas as provided by Part III of Chapter 7 of this Title.

RS 40:1724 — Building permits and occupancy permits

re marshal, the secretary of the Louisiana Department of Health, and the office of facility planning and control within the division of administration prior to commencement of work. Nothing herein shall be construed to impose a duty upon the parish or municipality in which the building is located to inspect a state-owned building for compliance with the local building code.

B. State-owned buildings shall not be subject to local permitting, review, or oversight but shall be required to comply with the flood zone requirements of the National Flood Insurance Program.

C. The occupancy permit will be issued to the using agency when the building construction has been approved by the state fire marshal, secretary of the Louisiana Department of Health and the office of facility planning and control within the division of administration.

D. The office of facility planning and control may promulgate rules, pursuant to the Administrative Procedure Act, concerning:

(1) The level of review to be given to projects based upon the size and scope of the project and such other criteria as set forth in the rules.

(2) Alternative methods of compliance and approval.

(3) The establishment of reasonable permitting and plan review fees, provided that no permitting and plan review fees shall be levied or assessed for any project funded through the annual Capital Outlay Act.

RS 40:1730.21 — Public policy for state uniform construction code

h the public health, safety, and welfare of its citizens.

B. This Part is enacted to enable the state of Louisiana to promulgate a state uniform construction code to govern the construction, reconstruction, alteration, and repair of buildings and other structures and the installation of mechanical devices and equipment therein. The state uniform construction code shall establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort, and security balanced with affordability for the residents of this state who are occupants and users of buildings, and will provide for the use of modern methods, devices, materials, and techniques. The state uniform construction code will encourage the use of construction materials of the greatest durability, lower long-term costs, and provide greater storm resistance.

C. To clarify the intent of the legislature and address questions which might arise or have arisen with respect to provisions of the nationally known codes which have been or are in place, only those portions or provisions of the nationally known building and safety codes which relate to building standards and safety are binding upon a state or local governmental entity or agency which adopts the building and safety codes authorized or required by this Part.

D. To further clarify the intent of the legislature, this Part continues to apply to a person who may act under authority of the Department of Public Safety and Corrections and that the allocation of inspection duties among local officials is not dictated by this Part but remains a matter for the local authority.

E. To secure these purposes, the Louisiana State Uniform Construction Code Council shall certify a person performing building codes enforcement including building officials, plans reviewers, and inspectors.

RS 40:1730.21.1 — State preemption of natural gas utility service

, land use restriction or general or specific

plan provision or part of a code, ordinance, land use regulation or general or specific plan provision adopted by a parish or municipality may prohibit or have the effect of restricting a person's or entity's ability to use the services of a utility provider that is capable and authorized to provide the utility service at a person's or entity's property.

B. A parish or municipality may not deny a permit application based on the utility provider proposed to provide utility service to the project.

C. A parish or municipality issuing a building permit shall ensure that all applicable permits and associated fees assessed on a building permit applicant contain requirements and amounts that do not exceed the requirements and amounts for use of other utility providers and do not have the effect of restricting a permit applicant's ability to use the services of a utility provider that is capable and authorized to provide utility service.

D. This Section does not prohibit a parish or municipality from recovering reasonable costs associated with reviewing a building permit, issuing a building permit, and performing inspections to verify code compliance.

E. A parish or municipality may not impose a fine, penalty, or other requirement that has the effect of restricting a utility provider's authority to operate or serve customers.

F. This Section does not affect the authority of a parish or municipality to manage the public highways within its boundaries or to exercise its police powers to review and approve an application before issuing a permit to perform work in the public highways or to enforce associated permit conditions.

G. This Section does not affect the authority of a parish or municipality to manage or operate a publicly-owned utility.

H. For the purposes of this Section, "utility service" means natural gas provided to an end user.

I. The provisions of this Section shall supersede any contrary provision of law.

RS 40:1730.22 — Louisiana State Uniform Construction Code Council; membership; function of

fter in this

Part referred to as the "council", is hereby created and shall consist of seventeen members as follows:

(a) The fire marshal or his designee.

(b) Two building code enforcement officers registered with the Louisiana State Uniform Construction Code Council.

(c) One member who shall have had the greater part of their professional experience as licensed electrician or licensed plumber.

(d) One member who shall have had the greater part of his professional experience as a licensed mechanical engineer.

(e) Two members each of whom shall have had the greater part of his professional experience as a licensed architect, one of whom shall be a member of the American Institute

of Architects of Louisiana.

(f) One member who shall have had the greater part of his professional experience as a licensed structural engineer.

(g) One member representing the Louisiana Home Builders Association.

(h) One member representing the Associated Builders and Contractors.

(i) One member who shall have had the greater part of his professional experience as a licensed residential contractor.

(j) One member who shall have had the greater part of his professional experience as a licensed commercial contractor and who is a member of the Louisiana Associated General Contractors.

(k) One member who shall have had the greater part of his professional experience in the insurance industry.

(l) One member representing the Building Officials Association of Louisiana.

(m) One member representing the Louisiana Building Code Alliance.

(n) Two members at-large.

(2) With the exception of the fire marshal or his designee, who shall serve by virtue of his position, each member of the council shall be appointed by the governor, subject to Senate confirmation, and shall serve at the pleasure of the governor. With the exception of the fire marshal or his designee, each term for a member of the council shall be four years where a member shall serve no more than two consecutive terms. Each member of the council shall serve without compensation but may be reimbursed for actual expenses and mileage incurred while attending council meetings in accordance with state travel regulations promulgated by the division of administration. The executive director shall have the authority to use the board funds for the operations of the Louisiana State Uniform Construction Code Council.

B. A vacancy must be filled in the manner of the original appointment.

C. The primary function of the council is to review and adopt the State Uniform Construction Code, provide for training and education of code officials, and accept all requests for amendments of the code. Specifically, the council shall establish the requirements and process for the certification and continuing education of code enforcement officers, code enforcement inspectors, and building officials and determine if any amendments to the State Uniform Construction Code are justified. If the council determines that an amendment is justified, it may enact such an amendment after a finding on the record that the modification provides a reasonable degree of public health, safety, affordability, and welfare. The council shall adopt rules in accordance with the Administrative Procedure Act in order to implement the provisions of this Part.

D.(1) The council shall elect from its members a chairman and vice chairman. The council shall adopt regulations under the Administrative Procedure Act in order to implement the provisions of this Part. A meeting may be called by the chairman on his own initiative and must be called by him at the request of three or more members of the council within fourteen days of such request. Each member shall be notified by the chairman in writing of the time and place of the meeting at least seven days before the meeting. Each meeting shall

be open to the public and any official decision of the council may be made only by a vote of at least two-thirds of those members in attendance at the meeting provided that a quorum is established prior to a vote. A majority of members of the council shall constitute a quorum.

(2) The domicile of the council shall be East Baton Rouge Parish. The council shall meet bi-monthly in East Baton Rouge Parish, unless directed to meet more often by the chairman.

(3) The governor may remove any member of the council for cause or at the request of the chairman for failure to attend more than half of regularly scheduled meetings within a twelve-month period.

E. The council and its members shall be immune from personal liability for actions taken in good faith in the discharge of their responsibilities. The state shall hold the council and its members harmless from all costs, damages, and attorney fees arising from claims and suits against them with respect to matters to which such immunity applies.

F.(1) Training and technical assistance in the implementation of the Louisiana State Uniform Construction Code residential and commercial building energy code provisions shall be the responsibility of the technology assessment division of the Department of Conservation and Energy in collaboration with the council, as provided for in Subsection C of this Section.

(2) The technology assessment division of the Department of Conservation and Energy shall continue training and technical assistance as funding allows.

G. The executive director of the State Licensing Board for Contractors shall serve as the executive director of the council and shall not have voting privileges.

H. Notwithstanding any other provisions to the contrary and to the extent deemed necessary or appropriate for the efficient implementation of its responsibilities under this Chapter, the State Licensing Board for Contractors is hereby vested with the authority to delegate its powers and duties to its staff. The executive director shall have the authority to designate the board's staff to the Louisiana State Uniform Construction Code Council as needed.

RS 40:1730.22.1 — Repealed by Acts 2014, No. 836, §5, effective Jan. 1, 2016.
rience any technical difficulties navigating this website,

RS 40:1730.23 — Enforcement of building codes by municipalities and parishes
es, parishes, and the fire marshal

NOTE: Subsection A eff. until July 1, 2026. See Acts 2024, No. 534.

A. Notwithstanding any other law to the contrary relating to the authority of local governments to enforce construction codes, all municipalities and parishes in this state shall enforce only the construction codes provided for in this Part. All municipalities and parishes shall use building code enforcement officers or certified third-party providers contracted by the municipality, parish, or regional planning commission to act in the capacity of a building code enforcement officer to enforce the provisions of this Part. Enforcement procedures by building code enforcement officers or third-party providers acting in the capacity of a building code enforcement officer shall include examination or review of plans, drawings, or specifications; the conducting of inspections; and the issuance, denial, or revocation of

permits. A building code enforcement officer, third-party provider, or third-party provider contracted by a jurisdiction as provided for in R.S. 40:1730.24(A) shall not conduct plan review or inspections on a commercial or residential structure if such officer or provider owns any interest in the legal entity that constructed such commercial or residential structure or receives any compensation from the legal entity other than the fees that are charged for plan review or inspections. Nothing in this Subsection shall be construed to prevent a commercial or residential contractor or homeowner from using a third-party provider as provided for in R.S. 40:1730.24(B). Nothing in this Subsection shall be construed to prevent a commercial contractor or commercial owner from using the office of state fire marshal as a third-party provider as provided for in R.S. 40:1730.24(B) on commercial structures in any parish within the state with a population of less than forty thousand and whose boundaries lie completely north of the one hundred ten mile per hour wind line, as shown in the American Society of Civil Engineers (ASCE-7) basic wind speeds map published in the latest edition of the International Building Code.

NOTE: Subsection A as amended by Acts 2024, No. 534, eff. July 1, 2026.

A.(1) Notwithstanding any other law to the contrary relating to the authority of local governments to enforce construction codes, all municipalities and parishes in this state shall enforce only the construction codes provided for in this Part. All municipalities and parishes shall use building code enforcement officers or certified third-party providers contracted by the municipality, parish, or regional planning commission to act in the capacity of a building code enforcement officer to enforce the provisions of this Part. Enforcement procedures by building code enforcement officers or third-party providers acting in the capacity of a building code enforcement officer shall include examination or review of plans, drawings, or specifications; the conducting of inspections; and the issuance, denial, or revocation of permits. A building code enforcement officer, third-party provider, or third-party provider contracted by a jurisdiction as provided for in R.S. 40:1730.24(A) shall not conduct plan review or inspections on a commercial or residential structure if such officer or provider owns any interest in the legal entity that constructed such commercial or residential structure or receives any compensation from the legal entity other than the fees that are charged for plan review or inspections. Nothing in this Paragraph shall be construed to prevent a commercial or residential contractor or homeowner from using a third-party provider as provided for in R.S. 40:1730.24(B). Nothing in this Paragraph shall be construed to prevent a commercial contractor or commercial owner from using the office of state fire marshal as a third-party provider as provided for in R.S. 40:1730.24(B) on commercial structures in any parish within the state with a population of less than forty thousand and whose boundaries lie completely north of the one hundred ten mile per hour wind line, as shown in the American Society of Civil Engineers (ASCE-7) basic wind speeds map published in the latest edition of the International Building Code.

(2) Nothing in this Section shall be construed to prevent the fire marshal from enforcing the fire protection, egress, and accessibility provisions of the Louisiana State Uniform Construction Code, excluding the provisions for one- and two-family dwellings, as adopted by the council in accordance with R.S. 40:1730.28.

B. Nothing in this Part shall conflict with the Federal Department of Housing and Urban Development's regulations regarding manufactured housing construction or the provisions of R.S. 51:912.21 et seq., as it relates to manufactured housing installation. Further, it is the intent of the legislature that any service, renovation, repair, or warranty work performed on a manufactured home shall be handled under the appropriate federal standards governing manufactured housing construction or state standards governing installation, and all such work be under the jurisdiction of the Louisiana Manufactured Housing Commission. Additionally, the exemption for manufactured housing provided for in this Subsection shall extend to and include driveways, steps, decks, or other similar accessory structures or work, but shall not include any additional living area or other type of heated and cooled space outside of the original footprint of the manufactured home.

C. In connection with the construction of any building, structure, or other improvement to immovable property, neither the performance of any enforcement procedure nor any provision of a building code shall constitute or be construed as a warranty or guarantee by a governmental enforcement agency as to durability or fitness, or as a warranty or guarantee by a governmental enforcement official or a third-party provider who contracts with a municipality or parish as provided for in R.S. 40:1730.24(A), that said building, structure, or other improvement to immovable property or any materials, equipment, or method or type of construction used therein is or will be free from defects, will perform in a particular manner, is fit for a particular purpose, or will last in any particular way. In the enforcement of any provision of a construction code provided for in this Part, or any regulations governed by R.S. 33:4771 et seq., the performance or non-performance of any procedure by a governmental enforcement agency, contract employee, or official shall be deemed to be a discretionary act and shall be subject to the provisions of R.S. 9:2798.1.

D.(1) Notwithstanding any provision of Title 33 of the Louisiana Revised Statutes of 1950 or any other law to the contrary, no municipality or parish shall require that residential building plans for one and two family dwellings be prepared or stamped by a certified architect or engineer if the dwelling falls within the prescriptive standards of the latest edition of the International Residential Code or its referenced amendments as provided for in R.S. 40:1730.28.

(2) The provisions of this Section shall be effective for both the duration of the emergency wind and flood mitigation provisions as provided for in R.S. 40:1730.27 and after this Part becomes effective statewide as provided for in R.S. 40:1730.28(B).

E.(1) Upon receipt of the certificate of occupancy issued by a local building official or third-party provider for a new residential construction, a lender who provides a residential mortgage loan for the purchase of such new residential construction shall file a copy of the certificate of occupancy in the conveyance records of the parish where the new residential construction is located. Failure of the lender to file such document in the local conveyance records shall not invalidate the legal effects of any transaction related to that property, including but not limited to the construction, purchase, sale, or transfer of title of the new residential construction.

(2) The homeowner of the new residential construction shall provide the lender a

copy of the certificate of occupancy.

(3) Any lender that files a copy of the certificate of occupancy in the local conveyance records pursuant to the provisions of this Subsection shall be entitled to assess a reasonable charge to the borrower for all costs associated with the filing of the certificate, not to exceed the amount charged by that parish for filing such documents.

(4) If the provisions of this Chapter cease to be enforced in a parish, the provisions of this Section shall become null and void in that parish.

F. Municipalities and parishes in areas where windblown debris storm shutters are required by the state uniform construction code may allow occupancy upon receipt of an affidavit from the property owner stating that the owner has ordered the shutters and will install the shutters upon receipt. The shutters shall be installed within ninety days of occupancy. During the ninety-day period, the owner shall notify the parish or municipality that the shutters have been installed and a final inspection by the parish or municipality shall be made to verify that the shutters were installed.

G. Any municipality or parish which issues a permit for construction pursuant to this Part shall provide a list of registered certified building inspectors to the applicant for the permit at the time the permit is issued.

H. A parish or municipality may accept determinations made by the state fire marshal as they pertain to life safety and fire protection as required in this Part.

I. The building official for the parish, municipality, or regional planning commission, as authorized in R.S. 40:1730.24 and appointed pursuant to R.S. 40:1730.25, or a qualified building code enforcement officer designated by the building official, shall have the authority to enforce the plumbing provisions adopted pursuant to this Part.

J. For purposes of code enforcement pursuant to this Section, a building code enforcement officer or a certified third-party provider shall conduct all inspections of any commercial or residential structure and for all inspections, other than roofing inspections, shall be present on site for such inspections. A building code enforcement officer or a certified third-party provider may accept photographs or videos that are location verified with geotagging for required roofing and reroofing inspections of any commercial or residential structure.

K. Any municipality or parish which issues a permit for construction pursuant to this Part shall do all of the following:

(1) Permit and inspect all buildings, other than one- and two-family dwellings, for roof construction and reroofing in compliance with the International Building Code Chapter 15 requirements as adopted and promulgated by the Louisiana State Uniform Construction Code Council.

(2) Permit and inspect one- and two-family dwellings for roof construction and reroofing in compliance with the International Residential Code Chapter 8 and 9 requirements as adopted and promulgated by the Louisiana State Uniform Construction Code Council.

RS 40:1730.24 — Agreements with other governmental entities for provision of services; private agreements

rtified third-party providers to issue permits and enforce the state uniform construction code in order to provide the services required by this Part. In the event of the establishment of such an agreement, the maximum fees applicable to the issuance of permits and the enforcement of the code shall be established by the governing body of the municipality or parish. The council may assist in arranging for municipalities, parishes, or certified third-party providers to provide the services required by this Part to other municipalities or parishes if a written request from the governing body of the municipality or parish is submitted to the council.

B. Commercial and residential contractors and homeowners who are excepted from the contractor licensing law under R.S. 37:2170 may establish agreements with certified third-party providers to conduct plans review and inspections and enforce the state uniform construction code. On and after January 1, 2007, a third-party provider shall meet the requirements imposed by the council for certificates of registration; however, beginning January 1, 2008, upon application and fulfillment of all other requirements necessary to obtain a certificate of registration, a third-party provider who is a Louisiana licensed architect or engineer shall be granted a certificate of registration without certification by a recognized code organization. Once the council meets for the first time, certified third-party providers shall notify the council of their intention to do business within the state, and the council shall maintain a listing of all certified third-party providers.

C. Municipalities and parishes that establish agreements with other governmental entities of the state or certified third-party providers to enforce the state uniform construction code shall not impose a fee for inspections not performed by the municipality or parish if a fee for the inspection was collected by the governmental entity or third-party provider that actually performed the inspection.

RS 40:1730.25 — Appointment of building official or contractual arrangement for such services; affidavit for exemption

th other governmental entities or third parties as authorized in R.S. 40:1730.24 of this Part so that the unincorporated area of the parish is under the jurisdiction of a council-certified building official. A parish or municipality may use a certified building inspector in lieu of a certified building official for a period not to exceed four years from the date the state uniform construction code becomes effective in the parish or municipality. No building official or certified building inspector shall be appointed if he has any interest in any legal entity that performs commercial or residential construction within the jurisdiction in which he would be appointed. Nothing in this Part shall prevent a municipality or parish from appointing and employing other council-certified personnel and assistants necessary to perform the required inspections and technical duties and prescribing fees for construction permits and inspections as provided by law.

RS 40:1730.26 — Adoption and promulgation of certain building codes and standards as State codes

referenced in R.S. 40:1730.28 and 1730.28.1, provided that:

- (1) The council shall promulgate rules and regulations to modify portions of the State Uniform Construction Code referenced in R.S. 40:1730.28 of this Part pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. Such rules and regulations may include, but not be limited to use of certain mapping systems regarding soil testing.
- (2)(a) The council shall promulgate rules and regulations to adopt portions of the State Uniform Construction Code referenced in R.S. 40:1730.28.1 pursuant to the procedures established by the Administrative Procedure Act, R.S. 49:950 et seq. Notwithstanding the provisions of R.S. 49:966(B)(12), the Senate Committee on Commerce, Consumer Protection, and International Affairs; the Senate Committee on Health and Welfare, the House Committee on Commerce; and the House Committee on Health and Welfare, shall have oversight of the initial adoption of the portions of the State Uniform Construction Code referenced in R.S. 40:1730.28.1.
- (b) The Senate Committee on Commerce, Consumer Protection, and International Affairs and the House Committee on Commerce shall receive notice of intent to modify

portions of the State Uniform Construction Code and shall have oversight of any such modifications pursuant to the provisions of the Administrative Procedure Act.

(3)(a) The council shall review, evaluate, and update the State Uniform Construction Code no later than five years from the date of publication of the appropriate code as provided for in R.S. 40:1730.28. The council shall submit the updated State Uniform Construction Code to the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs for oversight and approval. Additionally, the council shall provide the members of each house of the legislature a summary of the major proposed changes to the International Residential Code at the time of submission to the oversight committees.

(b) The council shall have the authority to suspend the five-year deadline as referenced in Subparagraph (a) of this Paragraph for a period of up to one year due to extraordinary circumstances.

(c) "Extraordinary circumstances" means a federally declared disaster, a gubernatorially declared disaster or emergency, a pandemic, or other acts of God.

(4) The council shall, pursuant to the Administrative Procedure Act, adopt or modify, or both, provisions of the State Uniform Construction Code to satisfy the requirements of any consent decree or order relative to maintaining or building a public sewage system which is entered in a federal court of competent jurisdiction. Such provisions shall specify in which municipalities or parishes the rules and regulations adopted pursuant to this Paragraph shall apply.

RS 40:1730.27 — Adoption and enforcement of emergency wind and flood mitigation requirements

nal Residential Code, as modified in R.S. 40:1730.28(A)(3), shall apply within the parishes of Calcasieu, Cameron, Vermilion, Iberia, St. Tammany, Orleans, Jefferson, St. Bernard, Plaquemines, Terrebonne, and Lafourche.

B. Emergency wind and flood building requirements adopted in this Section shall remain in force until January 1, 2007.

C. Except as otherwise provided herein, the emergency wind and flood mitigation requirements adopted by this Section shall be enforced pursuant to R.S. 40:1730.23 and 1730.24 of this Part. If municipalities and parishes are unable to enforce the emergency wind and flood mitigation requirements prescribed in this Section on the effective dates provided for in Subsection D of this Section, the Louisiana Department of Public Safety and Corrections shall enforce them as long as they remain in effect.

D. The provisions of this Section shall go into effect thirty days from November 29, 2005, for parishes and municipalities that have code enforcement procedures in place on November 29, 2005. For those parishes and municipalities without code enforcement procedures, the provisions of this Section shall be applied no later than ninety days from November 29, 2005.

E. The Department of Public Safety and Corrections, office of state fire marshal, may establish contract agreements with parishes, municipalities, and third-party providers in order to provide enforcement of this Section.

RS 40:1730.28 — Mandatory adoption of certain nationally recognized codes and standards as the

tion, the council shall evaluate,

adopt, and amend only the latest editions of the following as the State Uniform Construction Code:

NOTE: Paragraph (A)(1) eff. until July 1, 2026. See Acts 2024, No. 534, eff. July 1, 2026.

(1) International Building Code, not including Parts I-Administrative, Chapter 11-Accessibility, and Chapter 27-Electrical. The applicable standards referenced in that code

are included for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption.

NOTE: Paragraph (A)(1) eff. July 1, 2026. See Acts 2024, No. 534, eff. July 1, 2026.

(1) International Building Code, not including Parts I-Administrative, and Chapter 27-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption.

(2) International Existing Building Code, not including Parts I-Administrative, and the standards referenced in that code for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(3)(a) International Residential Code, not including Part I-Administration and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the International Residential Code, and extensive alterations; however, a municipality, parish, or regional planning commission may enforce Appendix J of the code at its option. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption, with the exception of Appendix J, Existing Buildings and Structures, which shall not be adopted by the council and may be adopted and enforced only at the option of a parish, municipality, or regional planning commission. For the purposes of this Part, IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall apply only to the International Residential Code, 2003 edition:

(i) Amendment of R301.2.1.1 (Design Criteria).

(ii) Item 6, the American Concrete Institute,
Guide to Concrete Masonry Residential
Construction in High Winds Areas
, shall be added.

(iii) Item 7, Institute for Business & Home Safety,
Optional Code-plus Fortified for
Safer Living
, shall be added.

(iv) Item 8, Federal Alliance for Safe Homes,
Optional Code-plus Blueprint for
Safety
, shall be added.

(b) For purposes of this Paragraph, an extensive alteration shall mean an alteration when the total area of all the work areas included in the alteration exceeds fifty percent of

the area of the dwelling unit.

(c) For purposes of this Paragraph, "reconstruction" and "alteration" shall have the same meaning as such terms are defined in Appendix J of the 2006 edition of the International Residential Code. For purposes of this Paragraph, "addition" shall have the same meaning as such term is defined in Part II of the 2006 edition of the International Residential Code.

(d) The council shall not adopt any part of the International Residential Code that is excluded by Subparagraph (A)(3)(a) of this Section. Further, any rule that adopts or has been adopted to add an excluded part of the code shall be deemed invalid.

(e) The council shall not adopt or enforce any part of the International Residential Code or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings.

(f) Factory-built homes shall be inspected in accordance with the codes in effect for the locality where the home will be ultimately sited, on the date construction begins in the factory.

(g) Repealed by Acts 2022, No. 635, §2.

(h) Repealed by Acts 2014, No. 836, §4, eff. Jan. 1, 2016.

(4) International Mechanical Code and the standards referenced in that code for regulation of construction within this state. The appendices of the code provided in this Paragraph may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(5) The International Plumbing Code. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption.

(6) International Fuel Gas Code and the standards referenced in that code for regulation of construction within this state. The appendices of the code provided in this Paragraph may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(7) International Energy Conservation Code and all optional compliance paths contained therein, and the standards referenced in that code.

(8) National Electric Code.

B. The initial code adopted by the council under the provisions of this Part shall become effective on January 1, 2007.

C. For purposes of Paragraph (A)(3) of this Section, the 2006 edition of the International Residential Code is hereby adopted and amended to include Section R301.2.1.1 of the 2003 edition of the International Residential Code in lieu of Section R301.2.1.1 of the 2006 edition. The code adopted and amended above in this Subsection shall remain in effect until the 2009 edition of the International Residential Code is published, at which time such edition of the code shall be adopted by the council as provided in Subparagraph (A)(3)(a) of this Section. Thereafter, the council shall evaluate and adopt the latest edition of the

International Residential Code as provided in Subparagraph (A)(3)(a) of this Section.

D.(1) The state health officer may provide the council with recommended amendments to the plumbing provisions adopted pursuant to this Section. All recommended amendments provided to the council by the state health officer shall be presented to the council for review. The council shall review recommended amendments and vote on whether or not to include such amendments as part of the State Uniform Construction Code at the next regularly scheduled meeting of the council, but no sooner than thirty days after receipt.

(2) Nothing in this Section nor any provisions adopted pursuant to this Section shall lessen the licensing qualifications and requirements provided in R.S. 37:1361 et seq.

RS 40:1730.28.1 — Mandatory adoption of plumbing provisions of certain nationally recognized codes and standards; amendments; effective date

amend the latest editions of the following as part of the State Uniform Construction Code:

- (1) The International Building Code, Chapter 29-Plumbing Systems.
- (2) The International Residential Code, Part VII-Plumbing.
- (3) The International Plumbing Code.

B. The codes listed in Subsection A of this Section as adopted by the council shall become effective January 1, 2016.

C.(1)(a) The Plumbing Transition Commission, provided for in R.S. 40:1730.22.1, hereinafter in this Section referred to as the "commission", may provide the council with amendments to include in the plumbing provisions adopted pursuant to this Section.

(i) The council shall include amendments in the plumbing provisions adopted pursuant to this Section that are provided by the commission pursuant to R.S. 40:1730.22.1(B)(2)(a).

(ii) The council shall vote, in accordance with the voting requirements in R.S. 40:1730.22(D), on whether or not to include amendments which are provided pursuant to R.S. 40:1730.22.1(B)(2)(b) in the plumbing provisions adopted pursuant to this Section.

(b) The council shall be in receipt of all amendments from the commission to be included in the plumbing provisions to be adopted pursuant to this Section by June 15, 2015. The commission shall not provide any further amendments to the council for the plumbing provisions adopted pursuant to this Section after June 15, 2015.

D. Nothing in this Section nor any provisions adopted pursuant to this Section shall lessen the licensing qualifications and requirements provided in R.S. 37:1361 et seq.

RS 40:1730.28.2 — State Uniform Construction Code; requirements and prohibitions

g back into the public water system.

- (2) Prohibit plumbing vent systems using air admittance valves.
- (3) Require that a trap seal primer valve be installed where a trap seal is subject to loss by evaporation.

B. The council shall adopt rules and regulations in accordance with R.S. 40:1730.26(2)(a) to implement the provisions of this Section. Any modifications to the rules and regulations adopted pursuant to this Section shall be adopted in accordance with the provisions of R.S. 40:1730.26(2)(b).

RS 40:1730.28.3 — Authority of the Louisiana Department of Health

:

- (1) Regulating stored water temperatures through enforcement of the Sanitary Code.
- (2) Regulating medical gas and medical vacuum systems.

RS 40:1730.28.4 — Energy Code Commission: members; purpose; procedure; termination

the following voting members:

- (1) The president of the Louisiana Home Builders Association (LHBA) or his designee.
- (2) The president of the Building Officials Association of Louisiana, Inc., or his designee.
- (3) The president of AIA Louisiana or his designee.
- (4) The president of the New Orleans ASHRAE Chapter or his designee.
- (5) The president of the Apartment Association of Louisiana, Inc., or his designee.
- (6) The president of the Greater New Orleans Housing Alliance or his designee.
- (7) The chairman of the Associated Builders and Contractors of Louisiana or his designee.
- (8) The general president of the Laborers' International Union of North America or his designee.
- (9) The state president of the HVACR Association of Louisiana or his designee.
- (10) The president of the Louisiana Associated General Contractors, Inc., or his designee.
- (11) The chairman of the Louisiana Chemical Association or his designee.
- (12) The president of the Louisiana REALTORS or his designee.
- (13) A designee of the Southeast Louisiana Coalition of the Air Conditioning Industry who is a RESNET HERS rater designated by the president of the Southeast Louisiana Coalition of the Air Conditioning Industry.

B. In addition to the voting members of the commission, the commission shall be composed of the following nonvoting members:

- (1) The secretary of the Department of Conservation and Energy or his designee.
- (2) The director of the facilities planning and control department, division of administration, or his designee.
- (3) The chairman of the Technical Committee of the Louisiana State Uniform Construction Code Council, Department of Public Safety and Corrections, or his designee.

C. The names of the members chosen or designated as provided in Subsections A and B of this Section shall be submitted to the chairman of the council on or before August 1, 2022.

D. The commission shall cease to exist and have no authority upon the adoption of the 2021 International Energy Conservation Code as provided by R.S. 40:1730.28(7) pursuant to the council's authority to promulgate rules in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

E.(1) The primary function of the commission shall be to provide amendments to the code delineated in R.S. 40:1730.28.5 in order to address energy efficiency requirements to reduce the long-term energy cost burden for building occupants in this state.

(2) A vote on proposed amendments shall take place only when a quorum of the commission members is present. A simple majority of the commission shall constitute a quorum.

(3) The commission shall provide amendments to the council that have been approved by a majority vote of the total members of the commission present and voting, and

those amendments shall be included in the provisions of the code adopted by the council pursuant to R.S. 40:1730.28.5.

RS 40:1730.28.5 — Mandatory adoption of the energy code provisions of certain nationally evaluate, adopt, and amend

the latest editions of the following as part of the State Uniform Construction Code:

- (1) The International Energy Conservation Code.
- (2) The International Residential Code, Part IV Energy Efficiency.

B. The codes listed in Subsection A of this Section as adopted by the council shall become effective July 1, 2023.

C.(1) The commission shall provide the council with amendments to include in the energy code provisions adopted pursuant to this Section.

(2) The council shall adopt only amendments to the energy code provisions adopted pursuant to this Subsection that are provided by the commission pursuant to R.S. 40:1730.28.4(E)(3).

(3) The council shall be in receipt of all amendments from the commission to be included in the energy efficiency provisions to be adopted pursuant to this Section by December 31, 2022, and the commission shall not provide any further amendments to the council after this date.

RS 40:1730.29 — Regulation of construction or improvement of industrial facilities

nstruction or improvement inside the secured or fenced confines of the following types of industrial facilities that are engaged in activities defined or classified under one or more of the following subsectors, industry groups, or industries of the 2012 North American Industry Classification System (NAICS):

- (1) 22111 electric power generation.
- (2) 3211 saw mills and wood preservation.
- (3) 322 paper manufacturing.
- (4) 324 petroleum and coal products manufacturing.
- (5) 325 chemical manufacturing.
- (6) 326 plastics and rubber products manufacturing.
- (7) 331 primary metal manufacturing.
- (8) 562211 hazardous waste treatment and disposal.
- (9) 562212 solid waste landfill.
- (10) 424710 petroleum bulk stations and terminals.
- (11) 486110 pipeline transportation of crude oil.
- (12) 486910 pipeline transportation of refined petroleum products.
- (13) 482610 pipeline transportation of natural gas.
- (14) 486990 all other pipeline transportation.
- (15) 211112 natural gas liquid extraction.
- (16) 211 oil and gas extraction.
- (17) 3212 veneer, plywood, and engineered wood product manufacturing.
- (18) 486 pipeline transportation.
- (19) 213 support activities for mining.

B. The council may adopt by rule, in accordance with the Administrative Procedure Act, compatible NAICS code designations updates.

RS 40:1730.30 — Regulation of construction or improvement of farm, recreational, and residential accessory structures; authority to issue building permits

a structure which is constructed on a farm, other than a residence or a structure attached to it, for use on the farm including but not limited to barns, sheds, and poultry houses but not public livestock areas. For purposes of this Section, "farm structure" does not include a structure originally qualifying as a "farm structure" but later converted to another use.

(2) For purposes of this Section, "residential accessory structure" means a structure not exceeding five hundred square feet in footprint, and not attached to a residence that is used as an accessory to the primary use of the residence, and not constructed in regions where the basic wind speeds from Figure R301.2(4) of the International Residential Code, as promulgated by the council, equal or exceed one hundred miles per hour, or forty-five meters per second, in hurricane-prone regions or one hundred ten miles per hour, or forty-nine meters per second, elsewhere.

B. The governing authority of a parish or municipality shall not enforce that portion of the state uniform construction code which regulates the construction or improvement of a farm structure or private outdoor recreational structure, other than a residence or structure attached to a residence, such as a hunting or fishing camp or residential accessory structure.

However, a municipality with a population in excess of forty-five thousand according the latest federal decennial census may enforce that portion of the state uniform construction code which regulates the construction or improvement of a residential accessory structure.

C. For residential construction, the standards published by the Federal Emergency Management Agency for the National Flood Insurance Program shall apply.

D. The provisions of this Section shall not affect the power of the governing authority of a parish or municipality to issue building permits before the construction or improvement of a farm or private outdoor recreational structure.

RS 40:1730.31 — Mandamus and injunctive relief for violation of code or regulation; penalties

in further construction of the project as provided by local ordinance. The municipal, district, or parish attorney, attorney general, or other appropriate authorities of a political subdivision, in addition to other remedies, may apply for injunctive relief, mandamus, or other appropriate proceeding in the district court of the parish where the violation occurred.

RS 40:1730.32 — Imposition of fees

as provided by law.

RS 40:1730.33 — Codes applicable to building inspections

ct for the locality on the date

of the issuance of the original building permit when performing inspections on residential structures for the purposes of allowing occupancy and reconnecting utilities. When conducting inspections to allow occupancy or reconnecting utilities to an existing residential structure, the intent of the inspection is to ascertain the general safety of the structure and its appropriateness for occupancy.

(1) If no date of issuance of an original building permit can be found, an inspector shall conduct the inspection using the requirements of the codes in effect on the date of submission of the original building permit application.

(2) If no date of application for, or date of issuance of, the original building permit is available, the building official of the applicable parish planning and development service or similar agency shall use court records and other available documents, such as transfer of property records, mortgage records, tax records, or rent records, to ascertain the nearest date possible to the issuance of the original building permit. If the building official is able to determine a date pursuant to the requirements of this Paragraph, an inspector shall conduct

the inspection using the requirements of the codes in effect on the date established by the building official.

(3) If ambiguity exists after attempting to determine an applicable date under Paragraphs (1) and (2) of this Subsection, an inspector shall conduct an inspection using the requirements of the least restrictive codes in effect during the period of time beginning one calendar year prior to and ending one calendar year subsequent to the earliest recorded date of transfer of the property to be inspected.

B. Nothing in this Section shall be construed to authorize an inspector to have or use discretion in determining what codes shall apply to an inspection pursuant to this Part.

RS 40:1730.34 — Responsibility of Louisiana State Construction Code Council for registration of building codes enforcement officers; record of hearings and proceedings; register of applications for certificates of registration

A. The Louisiana State Uniform Construction Code Council is responsible for the registration of building codes enforcement officers pursuant to this Part. When used in this Part "building codes enforcement officer" means a person employed by a public entity who is primarily responsible for the overall inspection or enforcement of applicable building code requirements within the jurisdiction of the employer.

B. The council or its designated representatives may conduct hearings and proceedings required by law or considered necessary by the council. The council and its members shall be subject to the Open Meetings Law, the Public Records Law, and the Code of Governmental Ethics, provided however, that when any member of the council has a real or perceived conflict of interest upon an issue before the council, he shall recuse himself from participation in that issue by providing a verbal explanation of the real or perceived conflict to the council. The Department of Public Safety and Corrections shall employ and supervise personnel necessary for the administration of this Part. The council may promulgate regulations under the provisions of the Administrative Procedure Act for the proper enforcement of this Part.

C. The council shall keep a record of its hearings and proceedings and a register of applications for the certificates of registration showing the date of application, name, qualifications, and addresses of the business and residence of the applicant and whether the certificate is approved or denied. The council shall publish at least annually the applications in the register which are approved. Applicants and registrants shall notify the council of changes in required information within ten days of a change.

RS 40:1730.35 — Application and issuance of certificates of registration; provisional certificates of registration; registration

ired by this Part shall apply to the council for a certificate of registration.

B. An applicant shall furnish satisfactory proof to the council of valid certification by a recognized code organization or testing agency that is prescribed by the council in the general or special capacity in which he desires to be registered; however, beginning August 1, 2008, and upon application and fulfillment of all other requirements necessary to obtain a certificate of registration, an employee of the state of Louisiana or one of its political subdivisions who is a Louisiana licensed architect or engineer shall be granted a certificate of registration without certification by a recognized building code organization or testing agency. Special certificates of registration authorize the registrant to practice in the named specialty only. General certificates of registration are not restricted. The council or its designated representatives shall review the guidelines employed by the organization or agency in order to determine their continued compatibility with the requirements considered by the council to be consistent with this Part.

C.(1) Certificates of registration may be issued without certification by a recognized code organization or testing agency to building code enforcement officers employed in code enforcement on January 1, 2007, only for the position and locality held at the time of registration pursuant to this Section. Such provisional certificates of registration are valid for the time period stipulated by regulation of the council for each registration classification from the date of issuance. The certificates of registration provided for in this Paragraph may not be renewed except as provided in Subsection B of this Section.

(2) Certificates of registration may be issued without certification by a recognized code organization or testing agency to building code enforcement officers who have been employed in building code enforcement for at least ten years on January 1, 2007, only for the position and locality held at the time of registration pursuant to this Section. Building code enforcement officers who are registered pursuant to this Paragraph shall comply with all continuing education requirements established by the council.

D. Upon initial employment by a parish, municipality, or other political subdivision, an individual must be granted a provisional certificate of registration without certification by a recognized code organization or testing agency, provided that such individual is under the supervision of a code enforcement officer who is certified by the International Code Council. Such provisional certificate of registration is valid for the time period stipulated by regulation of the council for each registration classification from the date of issuance. The provisional certificate of registration may not be renewed except as provided in Subsection B of this Section.

E. The council shall have the authority to suspend or revoke certificates of registration upon any violation of this Part after notice and a proper hearing. The council shall implement rules for such proceedings under the Administrative Procedure Act.

RS 40:1730.36 — Registration required to practice as code enforcement officer; violations; penalty

s provided in this Part. A person violating the provisions of this Part shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than two hundred dollars or imprisoned not more than thirty days. Each day the violation continues is a separate offense.

RS 40:1730.37 — Injunction to restrain person from violating this Part

it may order the person immediately to refrain from the conduct. The council may apply to the district court of the parish for an injunction restraining the person from the conduct. The court may issue a temporary injunction ex parte not to exceed ten days and upon notice and full hearing may issue other orders in the matter it considers proper. No bond is required of the council by the court as a condition to the issuance of an injunction or other order pursuant to this Part.

RS 40:1730.38 — Duration of certificates; renewal; continuing education requirements; funding

onth of issuance. Renewal of all registrations must be based upon a determination by the council of the applicant's participation in council-approved continuing education programs. The council must promulgate regulations setting forth the continuing education requirements for building code enforcement officers. A person failing to make timely renewal of his certificate is not registered unless qualified in the manner provided for new registrants under R.S. 40:1730.35(B) and may not practice until registered in accordance with this Part.

RS 40:1730.39 — Powers of state fire marshal

ts with municipalities

and parishes in order to provide code enforcement on behalf of the municipality or parish as provided in R.S. 40:1730.24 of this Part.

NOTE: Paragraph (A)(1) eff. July 1, 2026. See Acts 2024, No. 534, eff. July 1, 2026.

A.(1) The state fire marshal may enter into agreements by letter of intent with municipalities and parishes in order to provide code enforcement on behalf of the municipality or parish as provided in R.S. 40:1730.24.

(2)(a) The agreement may include a provision that permits the state fire marshal to take into consideration practical and unreasonable economic hardships before applying the strict requirements of this Part. Pursuant to the contractual agreement with a municipality or parish executed in accordance with the provisions of this Subsection and upon appeal of the professional of record for a plan review of a structure, except one- or two-family dwellings, the state fire marshal may allow alternative materials, design, and methods of construction and equipment that comply with the provisions of the International Building Code, Chapter

1-Scope and Administration, relative to alternative materials, design, and methods of construction and equipment.

(b) The state fire marshal may adopt, in accordance with the Administrative Procedure Act, the provisions set forth in the International Building Code, Chapter 1-Scope and Administration, relative to alternative materials, design, and methods of construction and equipment.

B. Nothing in this Part shall be construed so as to prevent the state fire marshal from enforcing the fire protection, life safety, accessibility, and high rise laws of this state, the enforcement of which are his statutory and regulatory responsibility.

NOTE: Subsection C eff. until July 1, 2026. See Acts 2024, No. 534, eff. July 1, 2026.

C. Nothing in this Part shall be construed so as to prevent the state fire marshal from enforcing the Commercial Building Energy Conservation Code as provided in R.S. 40:1730.41 et seq.

NOTE: Subsection C eff. July 1, 2026. See Acts 2024, No. 534, eff. July 1, 2026.

C. The fire marshal shall enforce the fire protection, egress, and accessibility provisions of the Louisiana State Uniform Construction Code, excluding the provisions for one- and two-family dwellings, with referenced standards as adopted by the council in accordance with R.S. 40:1730.28.

RS 40:1730.40 — Municipalities and parishes; home rule charter

functions, and duties of local governments or the structure and organization or the particular distribution and redistribution of the powers and functions of any local government operating under a home rule charter, or otherwise prohibit a local government from adopting ordinances for the local administration of the construction code provided for in this Part or for any procedures in connection with the local enforcement of the provisions of this Part.

B. In the enforcement of any provision of the construction code provided for in this Part, if any provision of this Part conflicts with the provisions of a home rule charter pertaining to the powers, functions, and duties of local governments or the structure and organization or the particular distribution and redistribution of the powers and functions of such local government, the provisions of such home rule charter shall supersede the conflicting provisions of this Part.

C. Nothing in this Section shall allow any local government to avoid enforcement or otherwise amend any of the mandatory construction code provisions required by R.S. 40:1730.28 or prohibit commercial and residential contractors or homeowners from using certified third-party providers pursuant to R.S. 40:1730.24.

RS 40:1730.40.1 — Plumbing provisions of or adopted pursuant to this Part; court orders or consent decrees

federal court of competent jurisdiction shall supercede the plumbing provisions of this Part or plumbing provisions adopted pursuant to this Part.

RS 40:1730.40.2 — Plumbing provisions; manufactured housing

provisions in federal law. Manufactured homes shall not be subject to state plumbing regulations, regardless if the manufactured home is connected to a public or private sewer system; however, such connection shall be completed and maintained by a Louisiana licensed plumber.

RS 40:1730.41 — Short title

2022, No. 635, §1.

RS 40:1730.42 — Definitions

cal

government.

(2) "International Energy Conservation Code" means the document developed by the International Code Council, Inc., entitled "International Energy Conservation Code", also referred to as "IECC".

RS 40:1730.43 — Purpose

state-funded buildings within Louisiana.

RS 40:1730.44 — Scope of State Building Energy Conservation Code

facility planning and control section of the division of administration may modify the specific requirements of this Part for state-owned historic buildings and may provide alternate requirements which will result in a reasonable degree of energy efficiency.

RS 40:1730.45 — Adoption of State Building Energy Conservation Code; enforcement; rules

te Uniform Construction Code Council, as defined by R.S.

40:1730.28(A), with state amendments, is hereby adopted as the State Building Energy Conservation Code.

B.(1) For state-owned facilities, statewide enforcement of the provisions of this Part shall be the responsibility of the facility planning and control section of the division of administration.

(2) No construction shall commence on any new state-owned facility unless the facility planning and control section of the division of administration has determined that the building plans, specifications, and energy code compliance documents are in compliance with the State Building Energy Conservation Code.

(3) No alterations or repairs to any existing state-owned facility shall commence unless the facility planning and control section of the division of administration has determined that the building plans, specifications, and energy code compliance documents for that portion being altered or repaired are in compliance with the applicable part of the State Building Energy Conservation Code.

C. The facility planning and control section of the division of administration shall have the power to promulgate rules and regulations necessary to enforce the provisions of this Part.

RS 40:1730.46 — Repealed by Acts 2022, No. 635, §2.

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RS 40:1730.47 — Repealed by Acts 2022, No. 635, §2.

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RS 40:1730.48 — Repealed by Acts 2022, No. 635, §2.

aton Rouge, Louisiana 70804-9062

RS 40:1730.49 — Louisiana major facility project; energy efficiency and conservation; requirements

nd regulations which:

(1) Optimize the energy performance of state-funded buildings throughout the state.

(2) Increase the demand for building and construction materials, finishes, furnishings, and other products made in or incorporating materials produced in Louisiana.

- (3) Improve environmental quality in this state by decreasing the discharge of pollutants from state-funded buildings and their manufacture.
- (4) Conserve energy and utilize local and renewable energy sources.
- (5) Protect and restore this state's natural resources by avoiding development of inappropriate state-funded building sites.
- (6) Reduce the burden on public water supply and treatment by reducing potable water consumption.
- (7) Establish life cycle assessment as the appropriate and most efficient analysis to determine a state-funded building project's environmental performance level.
- (8) Encourage obtaining ENERGY STAR designation from the United States Environmental Protection Agency to further demonstrate a building project's energy independence.

B. Each major facility project must be designed, constructed, and certified to exceed the requirements of the state energy code by at least thirty percent where it is determined by the office of facility planning and control that such thirty percent efficiency is cost effective based on a life cycle cost analysis with a payback at no more than thirty years. Certification shall be performed by a professional engineer using IRS/DOE approved software methodology.

C. In order to achieve sustainable building standards, construction projects may utilize a nationally recognized high performance environmental building rating system, provided, however, that any such rating system that uses a material or product-based credit system which is disadvantageous to materials or products manufactured or produced in Louisiana shall not be utilized. The office of facility planning and control of the division of administration shall designate rating systems which meet these criteria and may establish its own rating system.

D. A certified third-party commissioning agent shall certify that the major facility project's systems for heating, ventilation, air conditioning, energy conservation, and water conservation are installed and working properly to ensure that each major facility project performs according to the major facility project's overall environmental design intent and operational objectives.

E.(1) For purposes of this Section, a major facility project shall mean either of the following:

- (a) A facility greater than five thousand gross square feet.
 - (b) A state-funded renovation project which involves more than fifty percent of the replacement value of the facility or a change in occupancy.
- (2) A major facility project shall not mean a building, regardless of size, which does not have conditioned space as defined by the International Energy Conservation Code, published by the International Code Council, as adopted by the council pursuant to R.S. 40:1730.28.

RS 40:1730.51 — Title

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RS 40:1730.52 — Legislative findings

which can substantially reduce construction costs, and the mass production of buildings presents unique problems with respect to the establishment of uniform health and safety standards and inspection procedures.

B. Due to the nature of the construction of modular building units, which arrive at the site of installation with some or all of the electrical, mechanical, plumbing, and other systems already built into the unit and not able to be inspected at the site without disassembly or destruction, it is the purpose of this Part to provide for the inspection of modular building units for compliance with the building code at the place of manufacture.

RS 40:1730.53 — Definitions

(1) "Account" means the Industrialized Building Program Dedicated Fund Account.

(2) "Building code" means the Louisiana State Uniform Construction Code provided for in R.S. 40:1730.21 et seq.

(3) "Commercial building" means a structure used for any purpose other than a one- and two-family dwelling or accessory to a one- and two-family dwelling.

(4) "Construction site building" means a commercial structure that is not open to the public and used for any purpose at a commercial site by a person constructing a building, road, bridge, utility, or other infrastructure or improvement to real property.

(5) "Council" means the Louisiana State Uniform Construction Code Council.

(6) "Industrialized building" means a commercial structure that is the following:

(a) Erected or installed using one or more modules or one or more modular components that are constructed at a location other than the commercial site.

(b) Designed to be used as a commercial building when the module or the modular component is transported to the commercial site and erected or installed.

(c) Includes the structure's plumbing, heating, air conditioning, and electrical systems.

(d) Includes a permanent commercial structure and a commercial structure designed to be transported from one commercial site to another commercial site.

(e) Does not exceed three stories or forty-nine feet in height measured from the finished grade to the peak of the roof.

(7) "Modular component" means a structural part of a building constructed at a location other than the commercial site in a manner that prevents the construction from being adequately inspected for building code compliance at the commercial site without damage or removal and reconstruction of a part of the building.

(8) "Module" means a three-dimensional section of industrialized building designed and approved to be transported as a single section independent of other sections, with or without modules or modular components, that prevents the construction from being adequately inspected for building code compliance without damage or removal and reconstruction of a part of the building.

(9) "Secretary" means the secretary of the Department of Public Safety and Corrections.

RS 40:1730.55 — Third-party providers

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RS 40:1730.56 — Standards

accordance with R.S. 40:1574 through 1593.

B. Industrialized buildings constructed prior to January 1, 2007, shall meet or exceed the requirements established by the parish or municipality in which the building is to be located at the time of construction of the industrialized building. If the parish or municipality has not established requirements, compliance with the wind and flood provisions as adopted by the Louisiana State Uniform Construction Code Council shall be required as a minimum standard. A change in the use of an industrialized building shall be subject to the requirements established for renovations. An industrialized building which is not accessible by the public may be relocated within the state without the requirement of modification or alteration. In addition, a change in use of such building shall not be subject to the requirements established for renovations unless the change in use allows access by the public.

C. Documentation indicating the date of construction of the industrialized building shall be presented to the building official in that jurisdiction upon application for a permit.

D.(1) Any temporary housing, typically used for daily living purposes, that is provided for temporary workers shall comply with the provisions of this Part.

(2) The provisions of this Subsection shall not apply to one- or two-family dwellings, manufactured homes, or other commercial structures being lawfully used to house temporary workers.

RS 40:1730.57 — Building code enforcement; municipality or parish

occupancy, any requirement more stringent than the standards provided for in this Part.

RS 40:1730.58 — Building code amendments

been modified or altered shall not be required to comply with an amendment to the building code approved by the council.

B. Any elements that are altered in existing industrialized buildings shall be made to conform to the requirements of the building code for new construction to the extent as the state fire marshal may determine is practically feasible.

C. The owner of an industrialized building that bears an approved decal or insignia indicating the building complies with the building code and that is modified or altered after the date the council approves a building code amendment must ensure one of the following:

(1) The entire building complies with the building code or building code amendment if the cost of the modification or alteration to the building is at least fifty percent of the value of the modules or modular components used in the construction of the building.

(2) The modified or altered portion of the building complies with the building code or building code amendment if the cost of the modification or alteration is less than fifty percent of the value of the modules or modular components.

RS 40:1730.59 — Design review

compliance with the building code.

RS 40:1730.60 — Approval of design

t forth in R.S. 40:1730.59.

RS 40:1730.61 — Equivalent methods of compliance

s concerning building code equivalency or alternative materials or methods of construction or as approved by the Louisiana State Uniform Construction Code Council.

RS 40:1730.62 — Inspections

ved designs, plans, and specifications.

B. To ensure compliance with the building code or approved designs, plans, and specifications, the state fire marshal or a registered third-party inspector shall inspect the construction of industrialized buildings.

C. A building code enforcement officer, a registered third-party inspector, or the state fire marshal or his designee shall inspect construction involving the installation of industrialized buildings to ensure compliance with designs, plans, and specifications, including the inspection of:

- (1) The construction of the foundation system.
- (2) The erection and installation of the modules or modular components on the foundation.

RS 40:1730.63 — Decals or insignia

building code.

B. The state fire marshal may exempt by rule a construction site building from the requirements of this Section.

C. The state fire marshal may exempt by rule an industrialized building that is installed in a manner other than on a permanent foundation and is either not open to the public or less than one thousand five hundred square feet in total area and used other than as a school or a place of religious worship.

RS 40:1730.64 — Reciprocity

other state.

B. The state fire marshal may authorize an inspection of industrialized buildings constructed in this state for use in another state.

C. The state fire marshal may enter into a reciprocity agreement with the equivalent regulatory agency of the other state as necessary to implement this Section.

D. The state fire marshal may approve previously manufactured industrialized buildings when the state fire marshal determines that the adopted standards of other states are reasonably consistent with those of the building code in effect at the time of unit manufacture. The previously manufactured industrialized building shall be required to bear a data plate indicating the codes in effect at the time of unit manufacture and any other state labels that are applicable.

RS 40:1730.65 — Local government authority

nts.

- (3) Side and rear yard requirements.
- (4) Site planning and development and property line requirements.
- (5) Subdivision control.
- (6) Landscape architectural requirements.

B. Requirements and regulations not in conflict with this Part or with other state law relating to transportation, erection, installation, or use of industrialized buildings must be reasonably and uniformly applied and enforced without distinctions as to whether the buildings are manufactured or are constructed on-site.

C. A parish or municipality that regulates the on-site construction or installation of industrialized buildings may:

- (1) Require and review, for compliance with the building code, a complete copy of designs, plans, and specifications bearing the state fire marshal's stamped approval for each installation of industrialized buildings.
- (2) Require that all applicable local permits and licenses be obtained before construction begins on a building site.
- (3) Require, in accordance with rules established by the state fire marshal, that all modules or modular components bear an approved decal or insignia indicating inspection by the department.
- (4) Establish procedures for the inspection of the following:
 - (a) The erection and installation of industrialized buildings to ensure compliance with the building code and council rules.
 - (b) All foundation and other on-site construction, to ensure compliance with approved designs, plans, and specifications.

D. Procedures described by Paragraph (C)(4) of this Section may require the following:

- (1) Before occupancy, a final inspection or test in accordance with the building code.
- (2) Correction of any deficiency identified by the test or discovered in the final inspection.

RS 40:1730.66 — State fire marshal; state health officer; authority

high-rise laws of this state.

B. Nothing in this Part shall be construed as to prevent the state fire marshal from enforcing the Commercial Building Energy Conservation Code as provided in R.S. 40:1730.41 et seq.

C. Nothing in this Part shall be construed as to prevent the state health officer from enforcing any applicable requirements of the State Sanitary Code as provided in R.S. 40:4.

D. Nothing in this Part shall be construed to authorize the state fire marshal to adopt or amend the Louisiana State Uniform Construction Code.

RS 40:1730.67 — Fees

following:

- (1) Manufacturer registration, three hundred fifty dollars per year per location.
- (2) Dealer registration, two hundred fifty dollars per year.
- (3) Plan review:
 - (a) Shall not exceed five hundred dollars for buildings of two thousand square feet or less.
 - (b) Shall not exceed thirty cents per square foot for buildings over two thousand square feet.
- (4) Code equivalency review, one hundred dollars per review.
- (5) Inspections, forty dollars per hour, including travel time.
- (6) Decal or insignia issuance:
 - (a) For modules, seven cents per square foot of floor area, with a minimum fee of twenty-five dollars.
 - (b) For components, two cents per square foot of surface area, with a minimum fee of sixty cents.

RS 40:1730.68 — Industrialized Building Program Dedicated Fund Account; distribution

or any other source pursuant to the provisions of this Part shall

be deposited with the state treasurer. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana, the state treasurer shall, each fiscal year and subject to an annual appropriation by the legislature, credit to the "Industrialized Building Program Dedicated Fund Account", hereafter referred to in this Section as the "account", which is hereby created in the treasury as a special designated fund account, an amount equal to the amount of money paid into the treasury by the secretary pursuant to the provisions of this Section. All unexpended and unencumbered monies in the account at the end of each fiscal year shall remain in the account. The monies in the account shall be invested by the state treasurer in the same manner as monies in the state general fund. All interest earned on monies in the account invested by the state treasurer shall be deposited in the account. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

B. Monies from the account shall be appropriated and paid to the secretary at the beginning of each fiscal year to be distributed to the office of state fire marshal, code enforcement and building safety, and shall be used for the implementation of this Part.

RS 40:1730.71 — Installation of modular housing

tion Code. Installation shall be done by a contractor licensed by the Louisiana Manufactured Housing Commission under R.S. 51:911.26 et seq. who may obtain local permits for the installation.

B. Installation of a modular home with a value equal to or greater than thirty-seven thousand five hundred dollars shall be done pursuant to the Louisiana State Uniform Construction Code. Installation shall be done by a residential building contractor licensed by the State Licensing Board for Contractors under R.S. 37:2150 et seq.

C. For the purposes of this Section, the value of the installation shall not include the cost of the component parts of the modular home in the condition each part leaves the factory. The seller shall maintain an itemized list of all other related costs. The installer, if not the seller, shall also maintain an itemized list of all installation costs.

D. For the purposes of this Section, "modular home" means a structure designed for residential occupancy, designed and constructed to the standards of the Louisiana State Uniform Construction Code, which is manufactured in one or more sections in a factory for installation on a permanent foundation at its final location. The term does not include manufactured housing as defined by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C.A. §§5401-5426.

RS 40:1731 — Purposes

nity

from exercising their rights and privileges as citizens. Denial of access further impairs the ability of the disabled community to secure an education, to find and maintain gainful employment, to live independently, and to otherwise participate fully in society. The legislature further finds that a large proportion of the population is disabled and that this state has a moral interest in securing equal rights for all its citizens and an economic interest in the removal of architectural barriers which keep members of the disabled community on public assistance programs and from becoming productive citizens.

B. It is therefore the policy of this state to bring to an end, as quickly as possible, the undue hardship caused by architectural barriers. The state shall enable persons who are disabled to achieve maximum personal independence, to become gainfully employed, and to use and enjoy all buildings and facilities. It is the intent of the legislature to implement the removal of architectural barriers so that members of the disabled community will share equally in the right to use and enjoy the man-made environment, including but not limited to places of employment, recreation, entertainment, shopping, and education.

RS 40:1732 — Definitions

means the 2010 Americans with Disabilities Act Standards for Accessible Design as adopted by the United States Department of Justice pursuant to the ADA and any subsequent amendments or additions to or editions adopted by the Department of Justice.

(3) "Alteration" means deliberate reconstruction of an existing building in whole or in part in order to bring it up to date in conformity with present uses of the structure and to which other rules and regulations on the upgrading of health and safety provisions are applicable. It shall also include "alteration" as defined in the ADA Standards. For purposes of this Part, alteration shall also mean any change in occupancy as defined by the Life Safety Code.

(4) "Building" means a structure to which the general public customarily has access or utilizes as defined in the ADA Standards.

(5) "Dwelling unit" means a single unit of residence for a household of one or more persons.

(6) "Fire marshal" means the fire marshal of the state of Louisiana.

(7) "Improved area" includes parking lots, curbing, sidewalks, streets, harbors, parks, beaches, public telephones, recreational areas, drinking fountains, camping grounds, and restrooms.

(8) "Private building or facility" means a commercial facility or a place of public accommodation as such terms are defined by the ADA Standards or in the Life Safety Code.

(9) "Public building or facility" means a building, structure, or facility designed, constructed, or altered by, on behalf of, or for the use of a quasi public agency, the state, or any agency or department thereof, or any political subdivision or any governmental agency or department thereof or as defined by the ADA Standards.

(10) "Structure" means that which is built or constructed; an edifice or building of any kind; temporary or permanent.

NOTE: §1732 eff. July 1, 2026. See Acts 2024, No. 534, eff. July 1, 2026.

§1732. Repealed by Acts 2024, No. 534, §2, eff. July 1, 2026.

RS 40:1733 — ADA Standards

ADA are hereby adopted as of October 1, 2011, and requirements therein, shall be complied with.

B. The Americans with Disabilities Act Accessibility Guidelines in effect on September 1, 1994, shall remain in effect through September 30, 2011.

C. The state fire marshal shall have the power and authority to promulgate those rules and regulations as may be necessary to incorporate or adopt any subsequent amendments or additions to or editions of the ADA Standards, as it is subsequently amended or issued as a new edition adopted by the United States Department of Justice.

NOTE: §1733 eff. July 1, 2026. See Acts 2024, No. 534, eff. July 1, 2026.

§1733. Standards to prevent architectural barriers

The International Building Code Chapter 11-Accessibility, as adopted by the Louisiana State Uniform Construction Code Council in accordance with R.S. 40:1730.28 and requirements therein, including the referenced ICC A117.1 Accessible and Usable Buildings and Facilities, shall be complied with.

RS 40:1734 — Accessibility features required of new public buildings or facilities; private buildings

r private building or facility shall

be made accessible pursuant to ADA Standards subject only to the limitations or exceptions provided for therein. However, any altered public building or facility or private building or facility shall not be made to comply with Sections 202.4 and F202.4 of the ADA Standards relative to path of travel.

B. Any dwelling unit in a facility which incorporates four or more dwelling units shall be made accessible in accordance with the ADA Standards and rules promulgated by the fire marshal pursuant to the Administrative Procedure Act.

C.(1) Any courthouse, except as provided for in Paragraph (5) of this Subsection, shall be made accessible pursuant to ADA Standards subject only to the limitations or exceptions provided for therein. Any multistory courthouse shall have at least one-half of all of its elevators in proper working service at all times and shall be made accessible in accordance with the ADA Standards and rules promulgated by the state fire marshal pursuant

to the Administrative Procedure Act.

(2) The owner of the multistory courthouse shall contact the elevator repair company within twenty-four hours of the time the elevator became inoperable and no elevator shall remain out of service for repairs and maintenance for more than twenty-one consecutive days from the day the elevator became inoperable, unless the state fire marshal determines that extenuating circumstances necessitate that the elevator remain out of service for a longer period of time. In such an instance, the state fire marshal shall extend the time period and shall notify the owner of the deadline for compliance with this Paragraph.

(3) Failure to comply with Paragraphs (1) and (2) of this Subsection shall be considered a "de facto admission of fault" under the ADA Standards.

(4) The natural or juridical person who owns the building is responsible for the maintenance of the elevator. In addition to the penalties provided in R.S. 40:1743, any building owner who violates or fails to comply with the provisions of this Subsection shall be subject to a fine of two thousand five hundred dollars per day which shall be paid by the natural or juridical person who owns the building and is responsible for maintenance of the elevator.

(5) The provisions of this Subsection shall not apply to any building no longer occupied for the public or private sessions of a court, with its various offices. This includes but is not limited to historical courthouses no longer used for judicial proceedings and museums.

(6) This Subsection shall only apply to a courthouse that contains two or more elevators.

NOTE: §1734 eff. July 1, 2026. See Acts 2024, No. 534, eff. July 1, 2026.

§1734. Repealed by Acts 2024, No. 534, §2, eff. July 1, 2026.

RS 40:1735 — Public buildings or facilities or private buildings or facilities to display signs

Public buildings or facilities or private buildings or facilities shall display signs indicating entrances, facilities, directions, accommodations for persons with disabilities, and other signs as required by and also in accordance with such standards.

NOTE: §1735 eff. July 1, 2026. See Acts 2024, No. 534, eff. July 1, 2026.

§1735. Repealed by Acts 2024, No. 534, §2, eff. July 1, 2026.

RS 40:1736 — Obstruction of common or emergency exits prohibited; standards of accessibility;

Public buildings or facilities or private buildings or facilities shall remain free of any obstruction which would prevent a person with a disability from using same. Common and emergency entrances and exits shall conform to the ADA Standards.

B. Iron posts not used for structural support or similar barricades at common or emergency entrances and exits of public facilities or facilities used by the public that are existing, under construction, or under contract for construction which would prevent a person with a disability from using such entrances or exits shall be removed.

NOTE: §1736 eff. July 1, 2026. See Acts 2024, No. 534, eff. July 1, 2026.

§1736. Repealed by Acts 2024, No. 534, §2, eff. July 1, 2026.

RS 40:1737 — Violations; enforcement by fire marshal

ardship, the state fire marshal may,

after consultation with Louisiana Rehabilitation Services, grant exceptions from the literal requirements of the standards and specifications required by this Part or permit the use of other methods or materials. Unless a written exception is granted by the fire marshal, any unauthorized deviation from ADA Standards shall be rectified by full compliance within ninety days after discovery of the deviation and delivery of a copy of the order requiring remedying of the deviation to the occupant or any person in charge of the premises personally or by registered or certified mail. If no person is found on the premises, the order may be served by affixing a copy thereof in a conspicuous place on the door at the entrance of the premises.

NOTE: Subsection A eff. July 1, 2026. See Acts 2024, No. 534, eff. July 1, 2026.

A. In cases of practical difficulty or unnecessary hardship, the state fire marshal may, after consultation with Louisiana Rehabilitation Services, grant exceptions from the literal requirements of the standards and specifications required by this Part or permit the use of other methods or materials. Unless a written exception is granted by the fire marshal, any unauthorized deviation from International Building Code Chapter 11-Accessibility shall be rectified by full compliance within ninety days after discovery of the deviation and delivery of a copy of the order requiring remedying of the deviation to the occupant or any person in charge of the premises personally or by registered or certified mail. If no person is found on the premises, the order may be served by affixing a copy thereof in a conspicuous place on the door at the entrance of the premises.

B. The fire marshal may grant an extension not to exceed sixty days in cases of practical difficulty or unnecessary hardship prior to imposing fines pursuant to R.S. 40:1740.

RS 40:1738 — Review of plans and specifications before construction begins

shall be issued, no state contracts shall be awarded, nor shall any change in new building plans which affect compliance with ADA Standards be approved concerning any public buildings or facilities or private buildings or facilities until the fire marshal has reviewed and stated that the plans and specifications regarding accessibility appear to him to comply with the ADA Standards.

B. In each case the application for review shall be accompanied by the plans and full, complete, and accurate specifications which shall comply in every respect with any and all requirements prescribed by the ADA Standards.

NOTE: Subsections A and B eff. July 1, 2026. See Acts 2024, No. 534, eff. July 1, 2026.

A. No building permits shall be issued, no state contracts shall be awarded, nor shall any change in new building plans which affect compliance with the International Building Code Chapter 11-Accessibility be approved, concerning any public buildings or facilities or private buildings or facilities until the fire marshal has reviewed and stated that the plans and specifications regarding accessibility appear to him to comply with the the International Building Code Chapter 11-Accessibility.

B. In each case, the application for review shall be accompanied by the plans and full, complete, and accurate specifications which shall comply in every respect with any and

all requirements prescribed by the the International Building Code Chapter 11-Accessibility.

C. The application shall be accompanied by a filing fee in accordance with R.S.

40:1574.1(A).

D. The fire marshal shall consult with Louisiana Rehabilitation Services in identifying the requirements necessary to comply with this Part.

RS 40:1739 — Repealed by Acts 2011, No. 398, §2.

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RS 40:1740 — Enforcement of Part

A Standards

are not complied with the local building code authorities and the health authorities shall have authority to enforce these standards. Written approval by the fire marshal shall be presumptive evidence of compliance with ADA Standards but shall not be considered conclusive and local building code authorities and health authorities shall have the power to review all construction within their jurisdiction to the end that the intent of this legislation shall be enforced.

B. Local building code authorities, health authorities, or any individual may seek an injunction to halt construction or require compliance with ADA Standards of any public building or facility or private building or facility which has been constructed or is being constructed in violation of this Part. All actions shall be brought in the district court of the parish in which the public building or facility or private building or facility, or portion thereof, that is not in compliance, is situated.

NOTE: §1740

July 1, 2026. See Acts 2024, No. 534, eff. July 1, 2026.

A. For purposes of enforcing this Part, in any instance in which the International Building Code Chapter 11-Accessibility is not complied with, the local building code authorities and the health authorities shall have authority to enforce these standards. Written approval by the fire marshal shall be presumptive evidence of compliance with the International Building Code Chapter 11-Accessibility but shall not be considered conclusive, and local building code authorities and health authorities shall have the power to review all construction within their jurisdiction to the end that the intent of this legislation shall be enforced.

B. Local building code authorities, health authorities, or any individual may seek an injunction to halt construction or require compliance with the International Building Code Chapter 11-Accessibility of any public building or facility or private building or facility which has been constructed or is being constructed in violation of this Part. All actions shall be brought in the district court of the parish in which the public building or facility or private building or facility, or portion thereof, that is not in compliance is situated.

RS 40:1741 — Educational program by Louisiana Rehabilitation Services and fire marshal

ating the public and working with officials of cities, local building code inspectors, parishes, municipalities and other political subdivisions, private architects, designers, planners, and other interested parties in order to encourage and help them make all buildings, facilities, and improved areas accessible to and usable by persons with disabilities for purposes of rehabilitation, employment, business, recreation, and all other aspects of normal living. They shall work with

architectural schools of the state and the State Board of Architectural Examiners to develop for inclusion in the architecture curriculum a course on barrier free design and to develop for inclusion in the architectural licensing test a section on barrier free design.

RS 40:1742 — Parking spaces for certain persons with disabilities

I, in accordance with applicable zoning and building codes, provide and maintain a minimum number of specially designed and marked motor vehicle parking spaces, referred to hereafter in this Chapter as "accessible parking spaces", for the exclusive use of persons whose vehicles are identified by license plates, hang tags, or special parking cards for persons with mobility impairments issued pursuant to R.S. 47:463.4 or 463.4.1. The accessible parking spaces shall adhere to the ADA Standards and shall include accessible loading and unloading areas, access aisles, access ramps, and curb cuts. The minimum number of such parking spaces shall be as established by the ADA Standards. Public building or facility and private building or facility, as the terms are used in this Section, shall be as defined in R.S. 40:1732, and shall include public and private property which is open to the public and to which the public is invited for commercial or governmental purposes.

(2) The fire marshal may, in cases of extreme hardship, waive any provisions of this Section after consultation with Louisiana Rehabilitation Services.

(3) Any owner or lessee of a facility who fails to provide and maintain spaces reserved and designated for the exclusive use of vehicles bearing a special license plate or parking card issued to a driver with a mobility impairment free of obstructions shall be fined not more than five hundred dollars.

(4)(a) In addition to the ADA Standards specifications, each access aisle, or any other area of the pavement adjacent to a parking space reserved for persons with mobility impairments that is designated for the loading and unloading of vehicles parked in the space, shall have the phrase "NO PARKING" written upon the pavement area using letters that are not less than twelve inches tall.

(b) Violations of this Paragraph shall be subject to the penalties provided for in R.S. 40:1743.

(c) The provisions of this Paragraph shall apply to all parking spaces newly constructed or existing parking spaces whose markings are repainted after August 1, 2013.

B.(1) No person shall park any vehicle in an accessible parking space unless such person has a license plate or hang tag for persons with mobility impairments issued pursuant to R.S. 47:463.4 or a properly displayed special parking card issued pursuant to R.S. 47:463.4.1.

(2)(a) The law enforcement officer shall be authorized to issue a citation or take whatever law enforcement action is deemed necessary or both. Furthermore, when an individual found to be in violation of these provisions refuses a request by a law enforcement officer to move the vehicle found in violation, the officer shall be authorized to have such vehicle towed.

(b) The citation shall contain information concerning the nature, date, time, and location of the alleged violation, the state vehicle license plate number, and the make of vehicle. In those cases where a license plate is not visible or legible, the vehicle identification number shall be used in lieu of the state vehicle plate number. The citation shall also contain information advising the person charged of the manner and the time in which he may contest the violation charged in the citation. The citation shall also provide that a failure to timely answer or appear before a court of competent jurisdiction shall be considered a prima facie admission of the violation set forth in the citation, in which the court may assess the appropriate fine or fines and all penalties incidental thereto.

(c) The citation issued pursuant to the provisions of this Subsection shall be personally served upon the operator of the vehicle by affixing the parking citation to the vehicle in a conspicuous place thereon. The original parking citation shall bear the name or initials and identification number of the issuing officer who shall affirm the truth of the facts set forth therein. An operator of a vehicle who is not the owner, but who uses or operates the vehicle with permission of the owner, expressed or implied, shall be considered the agent of the owner to receive the citation required to be served upon the operator or registered owner of a vehicle in accordance with the provisions of this Subsection. When a citation is issued for an alleged violation of the laws governing parking in an accessible parking space, loading and unloading areas, access aisles, access ramps, and curb cuts, there shall be a rebuttable presumption that a person in whose name the vehicle is registered was the operator of the vehicle when the alleged violation was committed.

(d) In the event that the registered owner or operator of a vehicle drives the vehicle away from or in any manner leaves the site of the violation while the issuing officer is preparing the citation, or refuses service of the parking citation and drives away from or in any manner leaves the site of the violation, this fact shall be duly noted on the original and all copies of the parking citation. This original and all copies of a parking citation shall constitute a business record of the law enforcement agency issuing the citation and shall constitute prima facie evidence that the citation was issued and that an attempt at service was made in accordance with the provisions of this Subsection.

(3) The first violation of the provisions of this Subsection shall be punished by a fine of two hundred seventy-five dollars. A subsequent violation shall be punished by a fine of five hundred dollars.

(4) If the violator is other than an individual, a fine of five hundred dollars shall be imposed.

(5) In addition to such fine, the violator may also be required to pay the towing fee and any storage costs which are incurred.

(6) The state of Louisiana shall recognize parking cards or other removable windshield placards and special license plates which have been issued by authorities of other states and countries for the purpose of identifying vehicles permitted to utilize parking spaces reserved for persons with mobility impairments.

(7) No fine issued pursuant to this Section shall be reduced or suspended.

C. Subsection B of this Section shall not be construed to affect or preempt any ordinance of any local governmental subdivision or to prohibit any local governmental subdivision of the state from adopting ordinances regulating accessible parking which ordinances may provide for penalties and enforcement as deemed appropriate by the local governing authority. The governing authorities of local governmental subdivisions may adopt such ordinances pursuant to R.S. 32:41 or 42, R.S. 33:1236(28), any applicable provisions of a home rule charter, or any other applicable provision of law. Except as provided in R.S. 46:2583(A)(2), the provisions of local ordinances shall control in all aspects of enforcement of such ordinances.

RS 40:1742.1 — Additional fine for enforcement of accessible parking regulations

city which institutes a formal accessible parking enforcement program to assist the law enforcement agency in enforcing such regulations may, by ordinance, provide for and enforce an additional twenty-five dollar fine for each violation of such regulations. The proceeds of such additional fine shall be used by such parish or municipal governing authority exclusively to fund such program.

RS 40:1742.2 — Local variances in accessible parking restrictions

ngs or facilities, as defined in R.S. 40:1732, is essential to protecting the civil rights of persons with disabilities. To this end, the state, through the fire marshal, has insisted on compliance with the ADA Standards, and the legislature has set substantial fines for accessible parking violations.

(2) The legislature recognizes, however, that parking spaces for a facility may not always be used for that facility. Often, a facility is not in use at particular times, and the general parking spaces are available for use by persons visiting other facilities.

(3) The legislature finds that as a matter of policy, there is a clear conceptual distinction between reserving accessible parking spaces for a facility that is in use and reserving such spaces associated with a facility that is not in use and at which the general parking spaces are being used for another facility. This distinction is in part grounded in the logic of the accessibility guidelines themselves. The guidelines relate each reserved parking space to a particular facility in requiring an accessible route from the parking space to the facility. In a case where the facility is not in use, there is no presumption that there is an accessible route from an accessible parking place to any other facility. Thus, if there is no legitimate reason for any person to be visiting a facility, the reservation of parking spaces for visitors with mobility impairments at that facility is unnecessary.

(4) Pursuant to such findings, the legislature hereby establishes the possibility of distinctions in enforcement based on use or nonuse of facilities at certain educational institutions. It is the intent of the legislature that the provisions of this Section are to be narrowly construed. If, because of a variance granted pursuant to this Section, a person with a mobility impairment is denied access to a parking space at a facility at which he has a legitimate reason for visiting, he may initiate an action under the Americans with Disabilities Act against the parish governing authority.

B.(1) The governing authority of any parish or municipality may, by ordinance, provide for time variances applicable to the reservation of parking spaces for persons with mobility impairments at facilities identified in Paragraph (2) of this Subsection. By such a variance, the governing authority may establish times during which particular accessible parking spaces are available for general use and no citations for accessible parking violations shall be issued for use of the parking space. Any such variance shall be indicated by signage displayed at each parking space subject to the variance, and signs indicating the times during which parking is not reserved shall be mounted on the same post or, if not on a post, in the same manner as and in close proximity to the accessible parking sign itself. Different time variances may be applied to different spaces at the same facility.

(2) A parish or municipal governing authority may grant a variance for parking spaces at athletic facilities or stadiums on high school campuses. No such variance shall be granted unless the school administration formally requests such a variance.

RS 40:1743 — Penalties

by Acts 1977, No. 625, §1. Acts 1995, No. 880, §1.

RS 40:1745 — Repealed by Acts 1995, No. 880, §2.

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RS 40:1746 — Repealed by Acts 1995, No. 880, §2.

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RS 40:1748 — Access to government services

o such services by persons with physical disabilities. A consumer of such government services who has a visible disability, and the person who is providing assistance to him in securing such services, shall be entitled to priority treatment when such services involve waiting periods.

B. The state agency or political subdivision shall provide for regulations to implement the requirements of R.S. 40:1748(A). Such regulations shall further provide for the reasonable enforcement of these provisions.

RS 40:1749 — Access to restrooms

ny building or structure which contains multiple units which are used or intended for use for the sale at retail of goods or services and which units are connected by common areas other than streets, sidewalks, or parking areas.

B. Each shopping mall for which construction begins on or after September 12, 1980, shall comply with the requirements hereinafter set forth.

If the shopping mall has an enclosed area of fifty thousand square feet or more, the shopping mall shall contain adequate restroom facilities located in the common areas of the mall for use by the general public. The facilities shall be clearly and conspicuously marked and designated for public use. Any directory located within the mall shall contain directions to the public facilities. Adequate signs directing the public to the location of the facilities shall be posted throughout the mall.

C. All shopping malls in existence on the effective date of this law, and those thereafter constructed, shall clearly and adequately designate and mark public restroom facilities.

RS 40:1749.1 — Asbestos and hazardous component materials detection program established; finding and purpose; rules; duties and responsibilities; definitions; exceptions

stos containing materials and other hazardous component materials in any environment occupied by human beings creates a serious hazard to health. The existence of such hazards should not be tolerated in the public buildings in this state, and it is incumbent upon state government to take initiative to see that such hazards are detected and that appropriate abatement actions are taken.

B. It is the purpose of this Section to provide a mechanism by which the presence of friable asbestos containing materials and other hazardous component materials in the public buildings in this state can be detected so that appropriate abatement actions are taken in order that the occupants in those buildings may work and live in an environment which does not threaten their welfare in any manner.

C.(1) The secretary of the Department of Environmental Quality shall establish a program to insure that whatever action as may be necessary is taken for the detection and appropriate abatement of friable asbestos containing materials and

other hazardous component materials in public buildings, except those buildings constructed after 1978, unless it is determined that there is a possibility of the presence of these hazardous component materials. The secretary shall promulgate rules and regulations implementing an asbestos and hazardous component materials detection program which shall include but not be limited to visual assessment and air monitoring.

(2) Until the secretary adopts a level by regulation, the maximum allowable asbestos level for the protection of the general public shall be 0.01 fibers per cubic centimeter of air, measured during normal occupancy and calculated as an eight-hour time-weighted average in accord with 29 CFR Part 1910.1001, Appendix A, protocols for phase contrast microscopy (PCM). In the event that airborne asbestos fiber levels exceed such a level, a second test of samples may be collected during normal occupancy, analyzed by transmission electron microscopy (TEM) analysis and calculated as an eight-hour time-weighted average in accord with 29 CFR Part 1910.1001, Appendix A, and that value shall be controlling in determining whether the maximum allowable level is being exceeded.

(3) Such rules and regulations shall be promulgated after public hearing thereon in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. The secretary shall promulgate rules and regulations as required by this Section no later than January 1, 1989.

D. The secretary may contract with any agencies, individuals, or groups for the provision of necessary services, subject to appropriation, and shall issue and from time to time amend such rules and regulations as may be necessary.

Contracts entered into with individuals or groups shall be subject to the public bid laws.

E. For the purposes of this Section, "friable asbestos" and asbestos containing materials shall have the same meaning as defined in R.S. 30:2343.

F. For the purpose of this Section, "public building" means those buildings owned or leased by the state of Louisiana, except those buildings constructed after 1978, unless it is determined that there is a possibility of the presence of these hazardous component materials.

RS 40:1749.11 — Short title; purpose

to the protection of property, workmen, and citizens in the immediate vicinity of an underground facility or utility from damage, death, or injury and to promote the health and well-being of the community by preventing the interruption of essential services which may result from the destruction of, or damage to, underground facilities or utilities.

RS 40:1749.12 — Definitions

es a farm and is

directly involved in the cultivation of land or crops or who raises livestock.

(2) "Commissioner" means the commissioner of conservation.

(3) "Damage" means any defacing, scraping, gouging, breaking, cutting, or displacement of, impact upon or removal of an underground facility or utility or its means of primary support.

(4) "Demolisher" means any person engaged in the act of demolishing as defined in Paragraph (2) of this Section.

(5) "Demolition" means the total or partial wrecking, razing, rendering, moving, or removing of any building or structure, movable or immovable.

(6) "Emergency" means any crisis situation which poses an imminent threat or danger to life, health, or property, which requires immediate action, if such action is taken.

The term also includes an unplanned utility outage, which requires immediate action, if such action is taken.

(7) "Excavation" or "excavate" means any operation causing movement or removal of earth, rock, or other materials in or on the ground or submerged in a marine environment that could reasonably result in damage to underground or submerged utilities or facilities by the use of powered or mechanical or manual means, including but not limited to pile driving,

digging, blasting, augering, boring, back filling, dredging, compaction, plowing-in, trenching, ditching, tunneling, land-leveling, grading, and mechanical probing. "Excavation" or "excavate" shall not include manual probing, normal commercial farming operations, or any activity resulting from force majeure related occurrences, including but not limited to an act of God or an act of nature.

(8) "Excavator" means any person who engages in excavation operations.

(9) "Forestry excavator" means an excavator who is a logger, prescribed burner, site preparation operator, or tree planter for commercial forestry operations.

(10) "Inclement weather" means weather that prohibits or impedes a worker's use of his locating equipment or causes undue risk to himself or his equipment such as lightning, heavy rain, tornadoes, hurricanes, floods, sleet, snow, or flooding conditions.

(11) "Large project excavation or demolition" means excavation or demolition activity within a contiguous area that cannot reasonably be completed within twenty calendar days for routine demolition or excavation or within thirty calendar days for agricultural, forestry, or marine excavation or demolition activity.

(12) "Marine excavator" means an excavator or demolisher who is performing excavation or demolition in areas such as swamps, wetlands, shallow water, waterways, rivers, bayous, bays, lakes, the sea, and arms of the sea.

(13) "Mark-by time" is the date and time provided by the regional notification center by which the utility or facility operator is required to mark the location or provide information to enable an excavator or demolisher, using reasonable and prudent means, to determine the specific location of the utility or facility as provided for in R.S. 40:1749.14(D). The mark-by time may be extended if mutually agreed upon and documented between the excavator and operator.

(14) "Normal commercial farming operations" means the following operations or activities for agriculture cultivation purposes:

(a) Operations or activities that do not encroach upon a private utility or pipeline servitude, public right-of-way, or a public franchise area.

(b) Operations or activities that do encroach upon a private utility or pipeline servitude and the depth of the excavation is less than twelve inches in the soil below the existing surface grade.

(15) "Operator" means any person who owns or operates a public or private underground facility or utility which furnishes a service or material or stores, transports, or transmits electric energy, steam, oil, gases, natural gas, gas, mixture of gases, petroleum, petroleum products, hazardous or flammable fluids, toxic or corrosive fluids/gases, including telephone or telegraph system, fiber optic electronic communication systems, or water or water systems, or drainage, sewer systems, or traffic control systems or other items of like nature.

(16) "Person" means an individual, firm, partnership, association, limited liability company, corporation, joint venture, municipality, governmental agency, political subdivision, or agent of the state or any legal representative thereof.

(17) "Pipeline" means all intrastate and interstate pipeline facilities defined by 49

CFR 192.3 and 49 CFR 195.2.

(18) "Regional notification center" means any one of the following:

(a) An entity designated as nonprofit by the Internal Revenue Service under Section 501(c) of the Internal Revenue Code and which is organized to protect its members from damage and is certified by the Department of Public Safety and Corrections in accordance with this Part.

(b) An organization of operators, consisting of two or more separate operators who jointly have underground utilities or facilities in three or more parishes in Louisiana, which is organized to protect its own installation from damage and has been certified by the Department of Public Safety and Corrections in accordance with this Part.

(c) An operator who has underground utilities or facilities in a majority of parishes in Louisiana and is organized to protect its own installation from damage, and has been certified by the Department of Public Safety and Corrections in accordance with this Part.

(19) "Routine excavation or demolition" means excavation or demolition activity that requires no more than twenty calendar days to be completed, and no more than thirty calendar days for agricultural, forestry, or marine excavation or demolition activity.

(20) "Service line or lines" means underground facilities or utilities which provide power, gas, natural gas, communication, or water capabilities to a building or structure or buildings or group of structures.

(21) "Underground facility or utility" means any pipe, conduit, duct, wire, cable, valve, line, fiber optic equipment, or other structure which is buried or placed below ground or submerged for use in connection with storage, conveyance, transmission, or protection of electronics communication system, telephone or telegraph system, or fiber optic, electric energy, oil, natural gas, gas, gases, steam, mixture of gases, petroleum, petroleum products, hazardous or flammable fluids/gases, toxic or corrosive fluids/gases, hazardous fluids/gases, or other substances of like nature or water or water systems, sewer systems or traffic, drainage control systems, or other items of like nature.

(22) "Wildfire" means an uncontrolled combustion of natural vegetation.

RS 40:1749.13 — Excavation and demolition; prohibitions

or near the location of an

underground facility or utility, or on the premises of a customer served by an underground facility or utility without having first ascertained, in the manner prescribed in Subsection B of this Section, the specific location as provided in R.S. 40:1749.14(D) of all underground facilities or utilities in the area which would be affected by the proposed excavation or demolition. The marking of an operator's facility or utility shall be provided for excavation or demolition purposes only.

B.(1) Except as provided in R.S. 40:1749.15, prior to any excavation or demolition, each excavator or demolisher shall serve telephonic or electronic notice of the intent to excavate or demolish to the regional notification center or centers serving the area in which the proposed excavation or demolition is to take place. Such notice shall be given to the notification center at least forty-eight hours, but not more than one hundred twenty hours, excluding weekends and holidays, in advance of the commencement of any excavation or

demolition activity. If an excavation or demolition does not commence within one hundred twenty hours of the mark-by-time, not counting weekends and holidays, the excavator or demolisher shall be found in violation of this Section, except in the case of mutual agreement with the facility owner or operator to extend the time or extraordinary circumstances.

Extraordinary circumstances are circumstances which make it impractical or impossible for the excavator or demolisher to comply with the provisions of this Part due to weather-related events, equipment malfunction or failure, or unavailability of vital supplies and equipment. Holidays shall consist of the following: New Year's Day; Martin Luther King, Jr. Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Eve; and Christmas Day.

(2) This notice shall contain the name, address, and telephone number of the person filing the notice of intent, and, if different, the person responsible for the excavation or demolition; the starting date, anticipated duration, and description of the specific type of excavation or demolition operation to be conducted; the specific location of the proposed excavation or demolition; and a statement as to whether directional boring or explosives are to be used. The notice shall be confined to the actual area of proposed excavation or demolition that will occur during the twenty-day time period pursuant to R.S. 40:1749.14(C).

(3) Telephonic notice shall be recorded on tape or stored into an electronic data bank by the regional notification center and a record of the notice shall be retained for a three-year period from the date of notification. A record of an electronic notice shall also be retained by the regional notification center for a three-year period from the date of notification.

(4) The excavator or demolisher shall provide the specific location for excavation or demolition with either telephonic or electronic notice. Telephonic notice shall require the excavator or demolisher to physically mark the proposed route or area of excavation or demolition using white paint, flags, stakes, or similar means under American Public Works Association guidelines prior to submitting notice.

(5) The excavator or demolisher shall wait at least forty-eight hours, beginning at 7:00 a.m. on the next working day, following notification, unless mutually agreed upon and documented by the excavator and operator to extend such time, before commencing any excavation or demolition activity, except in the case of an emergency as defined in the provisions of this Part or if informed by the regional notification center that no operators are to be notified. However, if no agreement for an extension of time can be reached between the excavator and the operator and the excavation or demolition activity could impact a pipeline located on or in water, upon request by the operator, the commissioner may delay the mark-by time prior to the commencement of any excavation or demolition activity in order to allow for the accurate marking of such pipeline.

(6) At least one person on any underground or submerged excavation or demolition site shall have proof of completion of the training and education provided by the Regional Notification Center. Training is required on an annual basis through the Regional Notification Center and shall be available through its website free of charge. Excavators or demolishers certified by an operator qualification program subject to 49 CFR Part 192 or 195 shall be exempt from this requirement.

C. This Part shall not apply to activities by operators or land owners excavating their own underground utilities or facilities on their own property or operators' exclusive right-of-way provided there is no encroachment on the rights-of-way of any operator.

D. For purposes of this Section, any physical markings or electronic drawings identifying a specific location as provided for in Subsection B of this Section shall not exceed the actual area of excavation or demolition.

E.(1) The purpose of this Subsection is to allow for voluntary agreements in writing between operators of underground utilities or facilities and excavators and demolishers in conflict to determine the mark-by time, as well as the duration of excavation and demolition projects that cannot be reasonably completed within the time frame required for routine excavation or demolition.

(2) Unless hereinafter specifically excepted, all other provisions of this Subsection shall apply to large project excavations or demolitions.

(3) Upon an excavator or demolisher contacting the regional notification center to provide notice of excavation or demolition, the excavator or demolisher may request that the excavation or demolition be recognized as a large project excavation or demolition, at which time the regional notification center shall notify all affected underground utility and facility operators that a large project excavation or demolition request has been submitted.

(4) A large project excavation or demolition request shall only be submitted electronically to the regional notification center at least ten business days prior to the commencement of the excavation or demolition.

(5) The submission of a large project excavation or demolition request shall also include the names and contact information of any and all subcontractors of the excavator or demolisher who will be working on the project.

(6) Upon receipt of the large project excavation or demolition notification request, operators of underground utilities or facilities and the requesting excavator or demolisher may attempt to reach a mutual agreement in writing to determine the scope of work, the mark-by-times, and any other details of the project that the operator and excavator or demolisher mutually agree need to be included in the written agreement, such as the marking schedule and additional parties to be included in the notification request. In no event shall an agreement be entered into pursuant to this Subsection for a duration of more than ninety calendar days.

(7) If a mutual agreement between all parties in conflict in an area cannot be reached within thirty calendar days from the date submitted to the Regional Notification Center, the large project excavation or demolition notification request shall be deemed null and void, and the requesting excavator or demolisher shall cancel the large project excavation or demolition notice and request a routine excavation or demolition notice in accordance with this Section.

RS 40:1749.14 — Regional notification center

rticipate in, and share the

cost of a regional notification center, except as provided for in R.S. 40:1749.19. Each regional notification center shall have the capability to receive emergency locate requests

twenty-four hours a day and to disseminate the information as soon as it is received to the appropriate operators and all affected regional notification centers in this state.

B. A regional notification center receiving a notice of intent to excavate shall notify all member operators having underground utilities or facilities in or near the site of the proposed excavation, except for the operator who provided the notice of intent and requested not to receive such notification. All member operators shall furnish the regional notification center with current emergency contact or notification information, including twenty-four hour telephone numbers.

C.(1) Each operator of an underground facility or utility, after having received the notification request from the regional notification center of an intent to excavate or an intent to conduct normal commercial farming operations, shall supply, prior to the proposed excavation or normal commercial farming operation, the following information to the person responsible for the excavation or normal commercial farming operation:

(a) The specific location and type of all of its underground utilities or facilities which may be damaged as a result of the excavation or demolition. If the surface over the buried or submerged line is to be removed, supplemental offset markings may be used. Offset markings shall be on a uniform alignment and shall clearly indicate that the actual facility is a specific distance away.

(b)(i) Unless otherwise required by federal or state statutes, the specific location and type of underground utility or facility may, at the operator's option, be marked to locate the utilities or facilities. If the utilities or facilities are visibly marked by the operator, they shall be marked by the operator by color coded paint, flags, or stakes or similar means using the American Public Works Association color code.

(ii) The location of underground fiber optic cables shall be identified in accordance with the provisions of this Subparagraph and such identification shall also include an added special marking that is uniquely associated with fiber optic cables.

(iii) When the utility or facility operator has marked the location of underground facilities or utilities, the marking shall be deemed good as long as visible, but not longer than twenty calendar days, including weekends and holidays, from the mark-by time, unless the notice was designated as a large project excavation or demolition and a written agreement has been reached between the operator and the excavator or demolisher. However, if the proposed excavation or demolition activity could impact a pipeline located on or in water, the commissioner may extend the time period allowed for completion of the excavation or demolition. An additional notice to the regional notification center shall be given by the excavator or demolisher in accordance with the provisions of this Part when the marks are no longer visible or if the excavation or demolition cannot be completed within twenty calendar days from the mark-by time for routine excavation or demolition or ninety calendar days for large project excavation or demolition.

(iv) The excavator shall use all reasonable and prudent means, within common industry practice, to protect and preserve all marks of the underground utility or facility.

(v) In the case whereby a forestry excavator, agricultural excavator, or marine excavator has requested that the utilities and facilities be marked for location, the operator

of a utility or facility shall mark the area of their utilities or facilities. The markings provided by the operator shall be deemed good as long as the markings are visible or up to thirty calendar days from the time that the markings were made, whichever is shorter.

(2) If the operator does not visibly mark the location of these utilities or facilities, the operator shall provide information to enable an excavator using reasonable and prudent means to determine the approximate location of the utility or facility. The information provided by the operator shall include a contact person and a specific telephone number for the excavators to call. After the operator has received the notification request, the information on location, size, and type of underground utility or facility must be provided by the operator to the excavator prior to excavation.

(3) In the event of inclement weather as defined in this Part, the mark-by time shall be extended by a duration equal to the duration of the inclement weather. The owner or operator shall notify the excavator or demolisher before the expiration of the mark-by time of the need for such extension.

(4) Should an underground utility or facility operator determine that its underground facilities are not in conflict with the location of the request or determine that its underground facilities are not fully marked for locating purposes, a notification shall be sent to the excavator prior to the mark-by time. A notification to the regional notification center that generated the location request shall suffice for compliance with this Section as it pertains to positive response.

D. For the purpose of this Section, the specific location of the underground facilities is defined as an area not wider than the width of the underground facility or utility as marked plus eighteen inches on either side.

E.(1) An excavator or demolisher who has given notice and otherwise complied with the provisions of this Part shall be immune from civil liability for damages in the area of the proposed excavation or demolition caused by such excavation or demolition to any owner or operator who:

(a) Was required by the provisions of this Part to become a member, participate in, or share the cost of a regional notification center, and failed to do so.

(b) Failed to mark or provide information as required by the provisions of this Part.

(2) The immunity provided by this Subsection shall not apply to civil liability for damages caused by the negligence of the excavator or demolisher.

F. Should an owner or operator file suit against an excavator or demolisher for damages to underground facilities or utilities and the court finds in favor of the owner or operator, in addition to damages provided for by this Part, the owner or operator shall be entitled to recover reasonable attorney fees and costs. If the court finds in favor of the excavator or demolisher, the excavator or demolisher shall be entitled to recover reasonable attorney fees and costs.

RS 40:1749.15 — Emergency excavation; notice required; penalty
notice of the emergency excavation

shall be given as soon as practicable to the regional notification center or each operator having underground utilities and facilities located in the area and, if necessary, emergency

assistance shall be requested from each operator in locating and providing immediate protection to its underground utilities and facilities.

B. The excavator shall certify in the notice required in Subsection A of this Section that the situation poses an imminent threat or danger to life, health, or property or is the result of an unplanned utility outage and requires immediate action and that the excavator, owner, or operator has personnel on site.

C. There is a rebuttable presumption that the excavator failed to give notice as required pursuant to this Section if the excavator failed to give any notice to the regional notification center within the following time periods:

- (1) Within two hours from the discovery of the need for an emergency excavation.
- (2) In the case of a gubernatorially declared state of emergency due to a weather or homeland security-related event, within twelve hours of the beginning of the emergency excavation within the parishes to which the emergency declaration applies.
- (3) In the case of a wildfire, within twenty-four hours after control of the emergency.

D. The owner or operator of the underground utilities, facilities, or submerged infrastructure shall respond to an emergency notice as soon as practicable under the circumstances.

E. Emergency excavation notices are valid for as long as the emergency situation exists. The type of work and location shall remain consistent with the work described in the emergency excavation notice. If the type of work and location become inconsistent with the emergency excavation notice, then a new excavation notice is required.

RS 40:1749.16 — Precautions to avoid damage

onsible for an

excavation or demolition operation shall do the following:

- (1) Plan the excavation or demolition to avoid damage to or minimize interference with underground facilities in and near the construction area.
- (2) Maintain a safe clearance between the underground utilities or facilities and the cutting edge or point of any power or mechanized equipment, taking into account the known limit of control of the cutting edge or point to avoid damage to utilities or facilities.
- (3) Provide support for underground facilities or utilities in and near the construction area, during excavation and back filling operations, as may be reasonably necessary to protect the utility or facility.
- (4) Potholing to determine the actual location of such facilities or utilities if an excavation or demolition operation could result in damage to underground utilities or facilities handling electricity, gas, natural gas, oil, petroleum products, or other flammable, toxic, or corrosive fluids or gases. For forestry excavation operations that could result in damage to underground utilities or facilities handling electricity, gas, natural gas, oil, petroleum products, or other flammable, toxic, or corrosive fluids or gases, the forestry excavator and the utility or facility owner or operator shall cooperate to determine the actual location of such facilities or utilities.

RS 40:1749.17 — Excavation or demolition; repair of damage

I, immediately upon discovery of that

damage, notify the owner or operator of the utility or facility of the location and nature of the damage and shall allow the owner or operator reasonable time to accomplish necessary repairs before continuing the excavation, demolition, or back filling in the immediate area of damage.

B. Each person responsible for an excavation or demolition operation or normal commercial farming operation which results in damage to an underground facility or utility permitting the escape of any flammable, toxic, or corrosive fluids/gases shall, immediately upon discovery of that damage:

(1) Notify the owner or operator of the utility or facility as provided in Subsection A, and all other appropriate emergency response personnel, including 911 and the local law enforcement and fire departments and allow the owner or operator reasonable time to accomplish necessary repairs before continuing the excavation, demolition, or back filling in the immediate area of damage.

(2) Take any other action as may be reasonably necessary to protect persons and property and to minimize hazards until arrival of the owner or operator's personnel and police or fire department.

(3) Comply with any other notification process required by law or regulation.

C. For the purposes of this Part, failure to comply with the provisions of Subsection B shall constitute a single violation, except as provided below by Subsection D.

D. After discovery of the damage, each day that an excavator or demolisher fails to comply with the provisions of Subsection B shall be considered a separate violation.

RS 40:1749.18 — Certification of a regional notification center by Department of Public Safety and
ns in accordance with the Administrative Procedure Act to establish a certification program for regional notification centers in this state.

B. For the purposes of promoting cost effectiveness, ease of use, safety, and the protection of property, workmen, and citizens from damage, injury, and death, the rules and regulations shall include but not be limited to requirements that any regional notification center, that is either certified or that applies for certification pursuant to the provisions of this Chapter, shall have and maintain the following:

(1) Ability to accept and timely process and locate requests as required by law, including providing of ticket numbers, copies of tickets, notifications, and other procedures and information.

(2) Ability to accept and timely process short notice, priority, and emergency locate requests.

(3) Voice recording of all incoming calls and retention of voice tapes for at least three years.

(4)(a) Specifically defined geopolitical services areas that are coterminous with parish boundaries and do not overlap any other defined service area.

(b) The provisions of this Paragraph shall apply only to those regional notification centers described in R.S. 40:1749.12(13)(a).

(5) Any other requirements that may be necessary for a regional notification center to properly perform the duties and functions required under this Part.

C. The department shall include in the rules and regulations procedures for certification by the department and may charge a fee for the certification process, not to exceed two thousand five hundred dollars. The rules and regulations required by this Section shall be promulgated by the department within six months after June 29, 1999.

D. An entity operating in this state as an authorized regional notification center prior to and upon June 29, 1999, shall have six months from the date of final adoption of the rules and regulations required by this Section to seek and obtain compliance certification from the Department of Public Safety and Corrections. Failure to obtain such certification shall result in the cessation of activities by the regional notification center.

E. An entity not operating in this state as an authorized regional notification center prior to and upon June 29, 1999, shall obtain compliance certification from the Department of Public Safety and Corrections prior to performing the operations of a regional notification center in or for this state.

RS 40:1749.19 — Voluntary participation by incorporated municipalities and parish governments

strict or districts created pursuant to constitutional or statutory authority, a drainage system, a sewer system, drainage, water or water system, traffic control system, an electrical energy system and/or a gas or natural gas system underground facility within its local jurisdiction which would otherwise be included in R.S. 40:1749.14, and which does not desire to be so included, shall adopt an ordinance indicating this desire by December 31, 1998. The ordinance shall be filed with the secretary of state for verification purposes. An incorporated municipality or parish government which fails to adopt the ordinance shall be subject to the provisions of this Part on and after December 31, 1998.

B. Each municipality or parish government which owns or operates in its own right, or through a special district or districts created pursuant to law, a drainage system, a sewer system, water or water system, telephone or telegraph, fiber optic, electronics equipment system, traffic control system, an electrical energy system, natural gas system, and/or a gas system underground facility within its local jurisdiction which would otherwise be included in R.S. 40:1749.17, and which is incorporated or created subsequent to July 1, 1997, and which does not desire to be so included, shall comply with the provisions of Subsection A of this Section within one year of the date of its first municipal elections or within one year of the date of creation of a special district.

RS 40:1749.20 — Violations; penalties

to a civil penalty of not more than two hundred fifty dollars for the first violation and not more than one thousand dollars for each subsequent violation. A subsequent violation shall be deemed to have occurred if the person fails to become a member of, participate in, or share the cost of, a regional notification center as required within ninety days after issuance of a citation for the previous violation.

(2) A person who participates in a regional notification center and who fails to mark or provide information regarding the location of underground utilities and facilities used to store, transport, or convey that which is not regulated pursuant to Chapter 16 of Subtitle II of Title 30 of the Louisiana Revised Statutes of 1950, otherwise known as the Hazardous Materials Information Development, Preparedness, and Response Act, shall be subject to a civil penalty of not more than one thousand dollars. A subsequent violation shall be deemed to have occurred if a person fails to provide information or markings within two years of the issuance of a prior citation for the same or similar conduct.

(3) A person who is required by law to participate in a regional notification center and who fails to provide information or markings to indicate hazardous material as defined in Title 30 of the Louisiana Revised Statutes of 1950 shall be subject to the following:

- (a) For the first violation, a warning letter shall be given.
- (b) For a second violation, a civil penalty of not more than two hundred fifty dollars.
- (c) For a third violation, a civil penalty of not more than five hundred dollars.
- (d) For a fourth violation, a civil penalty of not more than one thousand dollars.

(e) For a fifth and each subsequent violation, a civil penalty of not less than two thousand dollars nor more than twenty-five thousand dollars.

B. An excavator or demolisher who violates the provisions of R.S. 40:1749.13, 1749.16, or 1749.17(B) shall be subject to the following:

(1) For the first violation, a warning letter shall be given.

(2) For a second violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than two hundred fifty dollars.

(3) For a third violation of a similar nature within a two-year period from a previous violation, a civil penalty of not more than five hundred dollars.

(4) For a fourth violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than one thousand dollars.

(5) For a fifth and each subsequent violation of a similar nature within a two-year period from the previous violation, a civil penalty of not less than two thousand nor more than twenty-five thousand dollars.

(6) For any violation involving hazardous materials as defined in Title 30 of the Louisiana Revised Statutes of 1950, a civil penalty of not less than two thousand dollars nor more than twenty-five thousand dollars.

(7) An excavator or demolisher who is issued a citation for a violation shall immediately stop all excavation or demolition activity until the requirements of this Part are met. Failure to do so shall subject the excavator or demolisher to an additional citation and civil penalty of not more than twenty-five thousand dollars for each such subsequent citation issued.

C. An excavator or demolisher who violates the provisions of R.S. 40:1749.15 shall be subject to the following:

(1) For the first violation, a civil penalty of not more than fifty dollars.

(2) For a second violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than two hundred dollars.

(3) For a third violation of a similar nature within a two-year period from a previous violation, a civil penalty of not more than five hundred dollars.

(4) For a fourth and each subsequent violation of a similar nature within a two-year period from the previous violation, a civil penalty of not less than five hundred dollars nor more than five thousand dollars.

D. A person may be cited with a violation and held liable for a civil penalty pursuant to this Section although the commission of the offense did not occur in the presence of a law enforcement officer if the evidence is sufficient to establish that the defendant has committed the offense.

RS 40:1749.21 — Miscellaneous provisions

including damage to

underground facilities or utilities.

B. Nothing in this Part shall affect any permitting process granted to a parish, municipal, local, or state governing authority. If a permit is issued in conjunction with excavation or demolition subject to the provisions of this Part, upon issuing the permit, the governing authority is encouraged to distribute to the permittee information regarding compliance with the provisions of this Part. The regional notification centers shall provide the information to the governing authority for distribution. The failure of the governing authority to distribute the information shall not for that reason alone create any liability on the part of the governing authority or permittee nor otherwise reduce or limit the duties and responsibilities of excavators or demolishers under this Part.

C. Repealed by Acts 2024, No. 75, §2, eff. Jan. 1, 2025.

D. Repealed by Acts 2024, No. 75, §2, eff. Jan. 1, 2025.

RS 40:1749.22 — Preemption

ict with the provisions of this Part.

RS 40:1749.23 — Enforcement and adjudication; administration; levy of civil penalties

Safety and Corrections or by any local law

enforcement agency. The Department of Public Safety and Corrections or its designee may provide forms, including citation, complaint, and incident report forms, to other law enforcement agencies for use in enforcement of the provisions of this Part.

B. The deputy secretary for the office of public safety services in the Department of Public Safety and Corrections or any local law enforcement agency shall have the right to:

(1) Exclusively monitor excavation or demolition that is subject to the provisions of this Part to ensure compliance with the provisions of this Part, including requesting the production by the excavator or demolisher of the locate request number issued by the regional notification center.

(2) Issue citations for violations of the provisions of this Part in addition to other enforcement powers provided by law.

(3) Seek restraining orders, injunctions, or other civil remedies to halt or prevent violations of the provisions of this Part.

C. Proceedings and adjudications for the levying of civil penalties under this Part shall be conducted by the division of administrative law in accordance with regulations adopted pursuant to the Administrative Procedure Act.

D. The secretary of the Department of Public Safety and Corrections or his designee may promulgate rules and regulations for the implementation and administration of the provisions of this Part relative to enforcement, which shall include developing a procedure for reporting and investigating complaints of violations of this Part that includes the following:

(1) Establishing a centralized complaint reporting point using a toll-free phone number that is available to contractors, utility operators, and the general public.

(2) Establishing a uniform complaint form to record the complainant's name and identifying information, the nature and details of the complaint, the geographic location of the complaint, any information about excavators, the date and time of the complaint, the date and time of the complaint report, and whether any collateral damage or off-site impact occurred including information about that impact or damage.

(3) Establishing a procedure to investigate the validity of the complaint using information provided by but not limited to certified regional notification centers with jurisdiction in the reported geographic area.

(4) Establishing a procedure for determining the appropriate law enforcement agency in the reported geographic area that will be responsible for investigating the complaint and for forwarding the complaint report to that law enforcement agency.

(5) Establishing a procedure for the law enforcement agency to completely investigate a complaint and obtain the information needed to issue a citation and adjudicate the complaint.

(6) Establishing a procedure for receiving citations issued by law enforcement agencies, determining whether the cited party wishes to contest the charge, and transferring

contested citations to the division of administrative law for adjudication.

(7) Establishing a procedure for recording the number of citations issued and their disposition.

(8) Establishing procedures for collecting civil penalties for deposit into the Underground Damages Prevention Fund and disbursing those civil penalties according to the provisions of this Part.

RS 40:1749.24 — Collection and distribution of fines or civil penalties; Underground Damages Prevention Fund

state treasury for credit to the Underground Damages Prevention Fund created by this Section and shall be disbursed from the fund as follows:

(1) Fifty percent shall be retained by the Underground Damages Prevention Fund.

(2) Within one year of the civil penalty being deposited into the Underground Damages Prevention Fund, the agency responsible for administering R.S. 40:1749.23 shall disburse the remaining fifty percent of the civil penalties to the law enforcement agency that issued the citation.

B. All funds received by the Department of Public Safety and Corrections under the provisions of this Part shall be retained in the Underground Damages Prevention Fund.

C. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required by Subsection B of this Section shall be credited to a special fund hereby created in the state treasury to be known as Underground Damages Prevention Fund. After disbursements as authorized in this Section, the monies in this fund shall be used solely as provided by Subsection D of this Section and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in this fund at the end of the fiscal year shall remain in such fund. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund and interest earned on the investment of these monies shall be credited to this fund, following compliance with the requirement of Article VII, Section 9(B) relative to the Bond Security and Redemption Fund.

D. The monies in the Underground Damages Prevention Fund shall be used by the Department of Public Safety and Corrections or its designee solely for administration of the provisions of this Part, including payment to the division of administrative law for adjudication services. Expenditures may also be made for information and programs designed to enhance awareness of the duties and responsibilities of persons governed by the provisions of this Part and the duties and responsibilities of persons who enforce and administer the provisions of this Part.

RS 40:1749.25 — Department of Transportation and Development; compliance

ct and set forth in Title 70 of the Louisiana Administrative Code, constitute compliance with the provisions of this Part only insofar as this Part imposes upon the Department of Transportation and Development the duties of a regional notification center or operator.

RS 40:1749.27 — Enforcement for the prevention of damage to pipelines; authority of the

of R.S. 40:1749.23, the commissioner shall

have exclusive authority to enforce the provisions of this Part as it applies to the prevention of damage to pipelines.

(2) The provisions of this Section shall not be construed in any manner to limit or otherwise restrict either of the following:

(a) The general powers of the commissioner as authorized by Subtitle I of Title 30 of the Louisiana Revised Statutes of 1950.

(b) The authority of the Department of Public Safety and Corrections as established pursuant to the Hazardous Materials Information Development, Preparedness, and Response Act, R.S. 30:2361 et seq. or the Hazardous Materials Transportation and Motor Carrier

Safety Act, R.S. 32:1501 et seq.

B. For the prevention of damage to pipelines, the powers of the commissioner shall include but are not limited to the following:

- (1) Monitoring any excavation or demolition, including requests for the excavator or demolisher to provide the locate request number issued by a regional notification center.
- (2) Issuing citations or ordering other penalties or remedies.
- (3) Seeking restraining orders, injunctions, or any other available civil remedies.
- (4) Utilizing any other enforcement powers that may be provided by law.

C. The commissioner or his designee shall promulgate rules and regulations in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., for the necessary and proper implementation and administration of the provisions of this Part, including the implementation of a procedure to report and investigate any reasonable complaint regarding a violation of this Part. The procedure shall include all of the following:

- (1) Establishing a centralized complaint reporting point using a toll-free phone number that is available to contractors, excavators, pipeline owners or operators, and the general public. The centralized complaint reporting system shall neither be combined with nor in conflict with the Hazardous Incidents Tracking System hazardous material hotline.
- (2) Establishing a uniform complaint form to record the complainant's name and identifying information, the nature and details of the complaint, the geographic location of the complaint, any information about parties involved in the complaint or incident, the date and time of the complaint, the date and time of the complaint report, and whether any collateral damage or off-site impact incurred, including information about the impact or damage. The uniform complaint form shall neither replace nor conflict with the uniform complaint form provided for in R.S. 40:1749.23(D).
- (3) Investigating the validity of any complaint using any relevant information, including but not limited to any information provided by excavators, pipeline owners or operators, or a regional notification center with jurisdiction in the reported geographic area.
- (4) Obtaining all information needed to issue a citation, order any other appropriate remedy, or otherwise adjudicate any complaint determined to be valid.

D.(1)(a) The commissioner shall adjudicate all violations involving the prevention of damage to pipelines and assess civil penalties or other civil remedies for those violations of this Part.

(b) All civil penalties or other civil remedies assessed by the commissioner pursuant to this Part shall be assessed in the same manner as prescribed by R.S. 30:544, including consideration of all of the following factors:

- (i) The nature, circumstances, and gravity of the relevant violation.
- (ii) The degree of culpability, history of prior violations, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty, and such other matters as justice requires with respect to the person found to have committed the violation.

(c) Damage prevention education shall be a component of each penalty or remedy

imposed by the commissioner.

(2) All monies received or collected by the commissioner pursuant to his enforcement of the provisions of this Part as they apply to the prevention of damage to pipelines shall be deposited immediately upon receipt in the state treasury and shall be credited to the Oil and Gas Regulatory Dedicated Fund Account, R.S. 30:21.

RS 40:1751 — Definitions

manual reloading by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, and any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun. The term shall not include items that are not required to be registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives.

RS 40:1752 — Manufacture, transfer, or possession of machine guns unlawful; exceptions

Section shall not apply to any of the following:

- (1) A transfer to or from, or possession by or under the authority of, the United States or any department or agency thereof.
- (2) A transfer to or from, or possession by or under the authority of, any state of the United States or a department, agency, or political subdivision thereof.
- (3) Any machine gun that is lawfully manufactured, transferred, or possessed under federal law.

RS 40:1753 — Repealed by Acts 2023, No. 120, §2.

aton Rouge, Louisiana 70804-9062

RS 40:1754 — Repealed by Acts 2023, No. 120, §2.

aton Rouge, Louisiana 70804-9062

RS 40:1755 — Penalty

ted of, or found not guilty by reason of insanity

for, a crime of violence as defined in R.S. 14:2(B) which is a felony, or an attempt to commit a crime of violence as defined in R.S. 14:2(B) which is a felony, who thereafter violates any of the provisions of R.S. 40:1752 shall be imprisoned at hard labor for not less than three years nor more than ten years.

RS 40:1781 — Definitions

porter engaged in this state

in the business of selling any firearm. The term includes wholesalers, pawnbrokers, and other persons dealing in used firearms.

(2) "Department" means the Department of Public Safety.

(3) "Firearm" means a shotgun having a barrel of less than eighteen inches in length; a rifle having a barrel of less than sixteen inches in length; any weapon made from either a rifle or a shotgun if the weapon has been modified to have an overall length of less than twenty-six inches; any other firearm, pistol, revolver, or shotgun from which the serial number or mark of identification has been obliterated, from which a shot is discharged by an explosive, if that weapon is capable of being concealed on the person; or a machine gun,

grenade launcher, bazooka, rocket launcher, excluding black powder weapons, or gas grenade; and includes a muffler or silencer for any firearm, whether or not the firearm is included within this definition. Pistols and revolvers and those rifles and shotguns which have not previously been defined in this Paragraph as firearms from which serial numbers or marks of identification have not been obliterated are specifically exempt from this definition.

(4) "Importer" means any person who imports or brings into the state any firearm.

(5) "Machine gun" means any weapon which shoots, is designed to shoot, or can be readily restored to shoot automatically more than one shot without manual reloading by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, and any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun. The term shall not include items that are not required to be registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives.

(6) "Manufacturer" means any person who is engaged in this state in the manufacture, assembling, alteration, or repair of any firearm.

(7) "Muffler" or "silencer" includes any device for silencing or diminishing the report of any portable weapon such as a rifle, carbine, pistol, revolver, machine gun, submachine gun, shotgun, fowling piece, or other device from which a shot, bullet, or projectile may be discharged by an explosive and is not limited to mufflers and silencers for firearms as defined in this Section.

(8) "Transfer" includes the sale, assignment, pledge, lease, loan, gift, or other disposition of any firearm.

RS 40:1782 — Exemptions from Part

air official capacity.

(2) The arms, accoutrements, and equipment of the military and naval forces of the United States or of other officers of the United States authorized by law to possess weapons of any kind.

(3) The arms, accoutrements, and equipment of the militia.

(4) Any firearm which is unserviceable and which is transferred as a curiosity or ornament.

RS 40:1783 — Repealed by Acts 2013, No. 398, §2.

on Rouge, Louisiana 70804-9062

RS 40:1784 — Repealed by Acts 2013, No. 398, §2.

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RS 40:1785 — Possession or dealing in unregistered or illegally transferred weapons

red in accordance with Title 18 or Title 26 of the United States Code as applicable.

RS 40:1786 — Repealed by Acts 2013, No. 398, §2.

on Rouge, Louisiana 70804-9062

RS 40:1787 — Repealed by Acts 2013, No. 398, §2.

on Rouge, Louisiana 70804-9062

RS 40:1788 — Identification with number or other mark; obliteration or alteration of number or

her identification mark approved by the department and shall mark or stamp or otherwise place the number or mark thereon in a manner approved by the department.

B. No one shall obliterate, remove, change, or alter this number or mark.

RS 40:1789 — Records of importers, manufacturers, or dealers

in this Part as the department requires.

RS 40:1790 — Rules and regulations; importation of firearms

y the department, any firearm may be imported or brought into this state or possessed or transferred when the purpose thereof is shown to be lawful.

RS 40:1791 — Penalty

ard labor for not less than one nor more than five years. For any subsequent violation of this Part the penalty shall be a fine of not less than two thousand dollars nor more than five thousand dollars and imprisonment at hard labor for not less than five years nor more than ten years.

RS 40:1792 — Possession of unidentifiable firearm; particular penalties; identification of source of firearm

any firearm which has been illegally obtained or from which the serial number or individual identifying mark, as required by R.S. 40:1788, has been intentionally obliterated, altered, removed, or concealed.

B. The provisions of this Section shall not apply to any firearm which is an antique or war relic and is inoperable or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade, or which was originally manufactured without such a number.

C. Except as otherwise provided in this Section, whoever violates the provisions of this Section may be fined not more than one thousand dollars and shall be imprisoned at hard labor for five years without benefit of probation, parole, or suspension of sentence.

D. Prior to sentencing for a conviction under this Section, the defendant shall be given the opportunity to identify the source of the firearm upon which the conviction was based. If the defendant reveals the identity of the source of the weapon and the identity of the source is confirmed by the prosecutor or the court, the defendant shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

E. Nothing in this Section shall be construed to prevent the prosecution of an individual who obtained the firearm by theft, robbery, deception, or by other unlawful means from the lawful owner of the firearm.

F. Any illegally obtained firearm or a firearm from which the serial number or identifying mark required by R.S. 40:1788 has been obliterated or altered is hereby declared to be contraband and shall be seized by the law enforcement agency of jurisdiction. If it is determined that a person other than the owner was responsible for removing, altering, or obliterating the serial number or identifying mark, the firearm shall be returned to its lawful owner or may be disposed of according to law but only after a new serial number has been permanently fixed on the firearm. If a new serial number is not so affixed, the firearm shall be destroyed by the law enforcement agency in possession of the firearm.

RS 40:1796 — Preemption of state law

utive or

legislative action more restrictive than state law concerning in any way the manufacture, sale, purchase, possession, carrying, storage, ownership, taxation, transfer, transportation, license, or registration of firearms, ammunition, components of firearms or ammunition, firearms accessories, knives, edged weapons, or any combination thereof. Any existing ordinance, order, regulation, policy, procedure, rule, or any other form of executive or legislative action in violation of this Subsection shall be null and void and of no effect.

B. A political subdivision shall repeal, rescind, or amend to conform any ordinance,

order, regulation, policy, procedure, rule, or any other form of executive or legislative action in violation of this Section within six months after August 1, 2024.

C. A person or an organization whose membership is adversely affected by any ordinance, order, regulation, policy, procedure, rule, or any other form of executive or legislative action promulgated or caused to be enforced in violation of this Section may file suit against an offending political subdivision in any court of this state having jurisdiction for declaratory and injunctive relief. A court shall award a prevailing plaintiff in any such suit reasonable attorney fees and costs including expert witness fees and expenses.

D. Nothing in this Section shall prohibit a local governing authority in a high-risk area from developing a plan with federally licensed firearms manufacturers, dealers, or importers to secure the inventory of firearms and ammunition of those licensees in order to prevent looting of the licensee's premises during a declared state of emergency or disaster. Such plan shall be renewed on a periodic basis. The information contained in the plan shall be deemed security procedures as defined in R.S. 44:3.1 and shall be released only to the sheriffs of the parishes or police chiefs of municipalities in which the declared state of emergency or disaster exists.

E. For the purposes of this Section:

(1) "Declared emergency or disaster" means an emergency or disaster declared by the governor or parish president pursuant to the provisions of the Louisiana Homeland Security and Emergency Assistance and Disaster Act.

(2) "High-risk area" means the parishes of Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, and Vermilion.

F. This Section shall not apply to the levy and collection of sales and use taxes, license fees and taxes, and permit fees, nor shall it affect the authority of political subdivisions to prohibit the possession of a weapon or firearm in the commercial establishments and public buildings enumerated in R.S. 40:1379.3(N).

RS 40:1797 — Law enforcement officers; possession of a firearm in courtroom; prohibition

while attending any session of state, parish, city, municipal, family, juvenile, drug, or traffic court as a party to a proceeding.

RS 40:1798 — Firearms; disposal by law enforcement agencies

e Louisiana Department of Wildlife and Fisheries, and each law enforcement agency of a political subdivision of the state shall dispose of firearms which are lawfully seized by and forfeited to those agencies in the manner provided for in this Section.

B. For the purpose of this Section, the following words shall have the following meanings:

(1) "Contraband" means any firearm which cannot be lawfully owned or possessed by any state or local law enforcement agency or by any private citizen.

(2) "Firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, or assault rifle, which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

(3) "Forfeited" means that the ownership of the firearm has been transferred to a law enforcement agency by a court order and that the firearm is not being held as evidence or for any other purpose related to an investigation or prosecution of criminal activity.

(4) "Law enforcement agency" means the Louisiana Department of Public Safety and Corrections, office of state police, the Louisiana Department of Wildlife and Fisheries, the sheriff of any parish, or the police department of any municipality.

(5) "Seized" means lawfully taken and held by a law enforcement agency in connection with an investigation or prosecution of criminal activity.

C. If the seized or forfeited firearm is contraband, the law enforcement agency shall destroy the seized or forfeited firearm.

D. If the seized or forfeited firearm is not contraband, and if the law enforcement agency knows the owner of the seized or forfeited firearm, and if the owner did not commit any violation of any federal or state law or local ordinance in which the seized or forfeited firearm was involved, and if the owner may lawfully possess the seized or forfeited firearm, the law enforcement agency shall return the seized or forfeited firearm to the owner.

E. If the provisions of Subsections C and D do not apply, the law enforcement agency shall dispose of the seized or forfeited firearm in accordance with the following provisions:

(1) If the firearm is of a type which can lawfully be possessed and used by a law enforcement agency, the law enforcement agency may dispose of the firearm in one of the following ways:

(a) The law enforcement agency may retain and use the firearm.

(b) The law enforcement agency may sell or donate the firearm to another law enforcement agency or may use the firearm as consideration or partial consideration in an exchange with another law enforcement agency.

(c) The law enforcement agency may sell the firearm to a firearms dealer or a firearms manufacturer, or may use the firearm as consideration or partial consideration in an exchange with a firearms dealer or a firearms manufacturer, provided the firearms dealer or the firearms manufacturer is licensed to buy, sell, or trade that type of firearm.

(d) The law enforcement agency may destroy the firearm.

(2) If the firearm is of a type which can lawfully be possessed and used by a private citizen, the law enforcement agency may dispose of the firearm in one of the following ways:

(a) The law enforcement agency may retain and use the firearm.

(b) The law enforcement agency may sell or donate the firearm to another law enforcement agency or may use the firearm as consideration or partial consideration in an exchange with another law enforcement agency.

(c) The law enforcement agency may sell the firearm to a firearms dealer or a firearms manufacturer, or may use the firearm as consideration or partial consideration in an exchange with a firearms dealer or a firearms manufacturer, provided the firearms dealer or the firearms manufacturer is licensed to buy, sell, or trade that type of firearm.

(d) The law enforcement agency may sell the firearm to a private citizen. A sale of a firearm to a private citizen shall be at a public auction in the same manner as a sale of surplus property. A sale of a firearm to a private citizen shall comply with all federal laws, state laws, and local ordinances which apply to that sale, and the law enforcement agency shall perform the background checks on the purchaser which are required by state and federal laws for sales of firearms by licensed firearms dealers.

(e) The law enforcement agency may destroy the firearm.

F. Before a law enforcement agency destroys a seized or forfeited firearm under the provisions of Subsections D and E, the law enforcement agency shall ensure that any security interest attached to the firearm to be destroyed is satisfied in favor of the party holding the security interest in the firearm.

G. A law enforcement agency may dispose of its own surplus firearms in accordance with the applicable provisions of this Section.

RS 40:1799 — Preemption of state law; liability of manufacturer, trade association, or dealer of

governmental authority of the state is precluded and preempted from bringing suit to recover against any firearms or ammunition manufacturer, distributor, trade association, or dealer for damages for injury, death, or loss or to seek other injunctive relief resulting from or relating to the design, manufacture, marketing, or sale of firearms or ammunition. The authority to bring such actions as may be authorized by law shall be reserved exclusively to the state.

B. This Section shall not prohibit the governing authority of a political subdivision or local or other governing authority of the state from bringing an action against a firearms or ammunition manufacturer, distributor, trade association, or dealer for breach of contract as to firearms or ammunition purchased by the political subdivision or local authority of the state.

C. If a governing authority violates the provision of this Section, the defendant may be entitled to court costs and attorney fees.

D. The court shall award reasonable attorney fees, court costs, compensation for loss of income, and all expenses to the defendant in any civil action if the court finds that the action was improperly brought under this Section.

RS 40:1800 — Firearms; hold agreements; limitation of liability
of

Title 18 of the United States Code.

(2) "Firearm" means an instrument as defined in 18 U.S.C. 921, R.S. 14:37.4 or 95.1, or R.S. 40:1781.

(3) "Firearm hold agreement" means a private transaction between a federal firearms licensee and an individual firearm owner where the licensee takes physical possession of the owner's lawfully possessed firearm at the owner's request, holds the firearm for an agreed period of time, and returns the firearm to the owner according to the terms of the transaction.

B.(1) No person shall have a cause of action against a federal firearms licensee operating lawfully in the state of Louisiana for any act or omission arising from a firearm hold agreement and resulting in personal injury or death of any natural person, including the return of any firearms to the individual firearm owner by a federal firearms licensee at the termination of a firearm hold agreement.

(2) The immunity from civil liability provided in Paragraph (1) of this Subsection shall not apply to any action arising from a firearm hold agreement if such action was the result of otherwise unlawful conduct on the part of the licensee.

(3) This Section shall not apply to firearm transfers pursuant to the Domestic Violence Prevention Firearm Transfer as provided in Title XXXV of the Code of Criminal Procedure.

RS 40:1801 — Repealed by Acts 2011, No. 130, §1.
on Rouge, Louisiana 70804-9062

RS 40:1802 — Repealed by Acts 2011, No. 130, §1.
on Rouge, Louisiana 70804-9062

RS 40:1803 — Repealed by Acts 2011, No. 130, §1.
on Rouge, Louisiana 70804-9062

RS 40:1804 — Repealed by Acts 2011, No. 130, §1.
on Rouge, Louisiana 70804-9062

RS 40:1810 — Definitions

e of equivalent density and hardness, truncated cone, and is designed for use in a pistol or revolver as a body armor or metal piercing bullet; or

(2) Has been primarily manufactured or designed, by virtue of its shape, cross-sectional density, or any coating applied thereto, to breach or penetrate body armor when fired from a handgun.

RS 40:1811 — Prohibitions

one thousand dollars or imprisoned with or without hard labor for not more than one year, or both.

RS 40:1812 — Exemptions

agencies conducting a firearms training course, operating a forensic ballistics laboratory, or specializing in the development of ammunition or explosive ordinance.

(3) Department of Corrections officials and employees authorized to carry firearms while engaged in the performance of their official duties.

(4) Members of the armed services or reserve forces of the United States or Louisiana National Guard while engaged in the performance of their official duties.

(5) Federal officials authorized to carry firearms while engaged in the performance of their official duties.

(6) The lawful manufacture, importation, sale, purchase, possession, or transfer of armor-piercing bullets exclusively to or for persons authorized by law to possess such bullets.

(7) A bona fide collector licensed by the Department of Public Safety.

RS 40:1841 — Creation of commission; domicile; membership; terms; officers of commission

ed in the city of Baton Rouge. The commission shall consist of five members, one of whom shall be the secretary of the Department of Public Safety and Corrections or his designee, who shall serve as an ex officio member; two members shall be appointed by the governor, and two members shall be appointed by the governor from a list of four names selected in the manner hereinafter provided by a majority vote of the liquefied petroleum gas dealers, as that term is hereinafter defined. In default of such nomination by the liquefied petroleum gas dealers, the governor shall make the appointments. All appointments by the governor shall be subject to confirmation by the Senate.

B. For the purpose of voting on the selection of the two members of the commission to be appointed by the governor, each liquefied petroleum gas dealer shall be entitled to one vote per permit held, to be cast by the person designated in a duly executed power of attorney from the dealer he represents. The power of attorney shall be filed with the commission and shall remain effective for such purposes until revoked. Any natural person may be selected. The Louisiana Liquefied Petroleum Gas Commission shall conduct the selection process. The selection process shall be held thirty days prior to a new gubernatorial inauguration and every four years thereafter, beginning in the year 2000.

C.(1) Each of the four members appointed by the governor shall serve a term which shall be concurrent with the term of the governor making the appointment. Each appointment by the governor shall be submitted to the Senate for confirmation. The secretary of the Department of Public Safety and Corrections or his designee shall serve for a term corresponding with the term of his official appointment.

(2) A majority of the membership shall constitute a quorum for the transaction of business.

D. The commission shall elect its chairman and vice chairman, and the director hereinafter provided for shall be the secretary of the commission.

RS 40:1842 — Definitions

temperature and pressure, and those maintained in the liquid state at normal atmospheric temperature by means of suitable pressure.

(2) "Liquefied petroleum gas dealers" means those persons, firms, or corporations engaged in the storage, sale, or transportation of liquefied petroleum gases over the public highways of this state, in the installation of storage tanks or systems for the use of liquefied petroleum gases, and in the installation of liquefied petroleum gas appliances for the use of liquefied petroleum gases who are required, by this Part and the rules and regulations of the Liquefied Petroleum Gas Commission, to obtain the permit and furnish the insurance required by this Part as a prerequisite to the right to carry on their respective businesses.

(3) "Commission" means the Liquefied Petroleum Gas Commission created by R.S. 40:1841.

(4) "Retail station" means that portion of property where liquefied petroleum gases used as motor fuel are stored and dispensed from fixed equipment into liquefied petroleum gas fuel tanks of motor vehicles and where such dispensing is an act of retail motor fuel sale.

(5) "Motor fuel" means liquefied petroleum gases of a type distributed for use as a fuel in self-propelled agricultural or industrial equipment, and vehicles designed for use on public streets, roads, and highways.

(6) "Retail motor fuel sale" means the dispensing of liquefied petroleum gas motor fuel at a retail station to the general public for cash or credit. As used in this Subpart, retail motor fuel sale does not include the dispensing of liquefied petroleum gas motor fuel under a gas card-lock or fuel card-lock system or other system in which a purchaser, under a previously entered into contractual arrangement with the seller, is provided a card, key, or other item or device to unlock or operate the dispensing equipment when no employee is present on the premises.

(7) "End user" means any person, firm, or corporation which has the use of or legal authority or control over any system which utilizes liquefied petroleum gas as defined by this Section.

(8) "Liquefied petroleum gas system" means any tank, container, heat or cold producing device, appliance, or piping that utilizes or has liquefied petroleum gas connected thereto. As used in this Subpart, liquefied petroleum gas system shall include but is not limited to ranges, hot water heaters, air conditioners, containers, tanks, furnaces, spaceheaters, piping used in the transfer of liquefied petroleum gas from one point to another, internal combustion engines, both stationary and mobile, grain dryers, or any combination thereof.

(9) "Owner" means any person, firm, or corporation who holds a written bill of sale under which title was transferred to the subject property.

(10) "Manufacturer of liquefied petroleum gases" means any person, firm, or corporation which derives liquefied petroleum gas from raw materials, such as crude oil or natural gas, through an artificial process that gives the raw materials new qualities or combinations that are suitable for use in some form other than in their raw state.

(11) "Manufacturer of products of which liquefied petroleum gas forms a component part" means any person, firm, or corporation which uses liquefied petroleum gas as a raw material or in combination with other materials to form another product.

(12)(a) "Reseller" means a person, firm, or corporation who:

(i) Holds title or ownership of liquefied petroleum gas as it leaves the facility or plant of a manufacturer of liquefied petroleum gas, or the facility or plant of a manufacturer of products of which liquefied petroleum gas form a component part, or of a commercial storage facility.

(ii) Transfers such title or ownership to another without substantially changing the form of the liquefied petroleum gas.

(iii) Transfers such title or ownership to another reseller, or to a liquefied petroleum gas dealer for sale at retail.

(b) This definition shall include a manufacturer of liquefied petroleum gas or a manufacturer of products of which liquefied petroleum gas forms a component part, if title or ownership transfers directly from the manufacturer to a liquefied petroleum gas dealer for sale at retail.

(c) This definition shall not include a manufacturer of liquefied petroleum gas or a manufacturer of products of which liquefied petroleum gas forms a component part, if title or ownership transfers to another manufacturer of liquefied petroleum gas, to another manufacturer of products of which liquefied petroleum gas forms a component part, or to a reseller.

RS 40:1843 — Compensation of members

travel regulations for meals, lodging, and mileage for state employees for attendance at meetings of the commission.

RS 40:1844 — Meetings

vided, however, that the commission may hold three of its monthly meetings at places in the state elsewhere than at its domicile.

RS 40:1845 — Director; other personnel; salaries

ork may require, and shall prescribe their duties and fix their compensation. It may appoint such secretarial, stenographic and clerical help as may be required to carry out the duties of the commission and shall fix their salaries.

RS 40:1846 — Rules and regulations of commission; exceptions; reporting; data sharing; permit

ions of Chapter 13 of Title 49 of the Louisiana

Revised Statutes of 1950, the commission has the power to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases over the highways of the state, the installation of tanks or systems for the use of liquefied petroleum gases, and the installation and use of liquefied petroleum gas appliances as the commission may deem necessary in the interest of public safety.

B. In adopting rules and regulations, the commission shall be governed by the following provisions:

(1) The commission may adopt, as its own, the published regulations of the National Fire Protection Association, or any other nationally recognized agency, by reference thereto, or it may adopt any other reasonable rules and regulations it deems necessary in the interest of public safety.

(2) The rules and regulations relating to design and construction of liquefied petroleum gas containers shall be in reasonably substantial conformity with recognized published national standards.

(3) The rules and regulations shall provide that a dealer shall not serve any liquefied petroleum gas system which the dealer knows is improperly installed or in a dangerous condition. The rules and regulations shall require the following provisions relative to liquefied petroleum gas systems:

(a) In the interest of safety and for the protection of life and property, any end user who authorizes the maintenance and/or repair, installation, adjustment, and servicing of a liquefied petroleum gas system in the state of Louisiana shall insure that any person, firm, or corporation that may be employed and/or authorized to make such repairs has a current permit or registration and cards of competency from the Louisiana Liquefied Petroleum Gas Commission to perform maintenance and/or repair, installation, adjustment and/or servicing of that system.

(b) Any end user authorizing any action listed in R.S. 40:1846(B)(3)(a), where such actions are completed by any person, firm, or corporation other than the liquefied petroleum gas dealer who normally services the liquefied petroleum gas system, shall notify, as soon as possible, the servicing dealer authorized to service the affected liquefied petroleum gas system. This notification shall include:

(i) Name of the person, firm, or corporation that performed the service.

(ii) Actions taken to the affected liquefied petroleum gas systems such as adding piping, spaceheaters, and other such appliances. The end user shall make the described notification within five working days after completion of the action or before the liquefied petroleum gas system is next serviced with liquefied petroleum gas, whichever occurs first.

(c) It is unlawful for any person, firm, or corporation to repair, install, adjust, and/or service any liquefied petroleum gas system without meeting the requirements of the Louisiana Liquefied Petroleum Gas Commission.

(d) No person, firm, or corporation, except the owner thereof, or person, firm, or corporation authorized in writing by said owner, shall fill, refill, buy, sell, offer for sale, give,

take, loan, dispose of, or traffic in, a liquefied petroleum gas container or tank.

(e) Any person, firm, or corporation convicted of violating any provision of this Paragraph shall be subject to penalties as provided in R.S. 40:1846.1(E).

(f) No person, firm, or corporation shall use, sell, or distribute liquefied petroleum gas for use in mobile air conditioning systems; however, the prohibition shall not apply to a refrigerant included on the list published by the Environmental Protection Agency as a safe, alternative motor vehicle air conditioning substitute for chlorofluorocarbon-12, pursuant to 42 U.S.C. 7671k(c). For purposes of this Subparagraph "mobile air conditioning system" means mechanized vapor compression equipment which is used to cool the driver's or passenger's compartment of any motor vehicle. So that it may be determined whether the refrigerant is a liquefied petroleum gas, the proper shipping name shall be used on any product intended for use as a refrigerant in a mobile air conditioning system. Proper shipping names with a U.N. number and a hazard class and division number of liquefied petroleum gas per the United States Department of Transportation hazardous materials tables shall be prima facie evidence that the refrigerant is liquefied petroleum gas and is prohibited. Any advertising or other literature published by the manufacturer of the refrigerant promoting it as a replacement or drop-in for CFR-12 or HFC 134a, or both, shall be prima facie evidence that it is being sold for mobile air conditioning systems.

(4) The rules and regulations shall require each dealer to transmit a notice, once each year, to each customer stating that liquefied petroleum gas systems are potentially dangerous, that a leak in the system could result in a fire or explosion, and that systems should be inspected periodically.

(5) The rules and regulations shall require the following provisions regarding odorization and verification of odorization of liquefied petroleum gases:

(a) Except as otherwise provided in Subparagraph (b) of this Paragraph, each refinery, commercial storage facility, natural gas processing plant, pipeline, or other person which sells liquefied petroleum gas to a transporter, dealer, or distributor for distribution into the distribution chain to consumers shall odorize the liquefied petroleum gas in accordance with this Chapter.

(b) Liquefied petroleum gas shall not be required to be odorized if it is to be delivered to a manufacturer of products of which liquefied petroleum gas forms a component part, to any facility for further processing, to a commercial storage facility for storage, a natural gas processing plant, a refinery, a pipeline, or when odorization would be harmful in further use or processing of the gas and would not serve a useful purpose as a warning agent in further use or processing of the gas.

(c) Liquefied petroleum gas which is required to be odorized shall be effectively odorized by an approved agent of such character as to indicate positively, by a distinctive odor, the presence of gas down to concentrations in air of not over one-fifth the lower limit of flammability. The presence of odorization, when required, shall be positively verified by the dealer by a sniff test or other means, and the results shall be documented prior to delivery into his bulk plant or, when a shipment bypasses a bulk plant, prior to the delivery to a consumer. It is the intent of this Paragraph to prohibit the sale or delivery of liquefied

petroleum gas by a dealer to a consumer without the required odorization.

(d) The odorization requirements shall be considered to be met by the use of one pound of ethyl mercaptan, one pound of thiophane, or one and four tenths pounds of amyl mercaptan per ten thousand gallons of liquefied petroleum gas, subject to the provisions of Subparagraph (e) of this Paragraph.

(e) In order to maintain the minimum concentration of odorant in the liquefied petroleum gas at the point of use by the consumer, the rules and regulations shall recommend that each person who is required to odorize gas under this Chapter use one and one-half pounds of odorant per ten thousand gallons of liquefied petroleum gas at the point of odorization.

(6) The only approved odorants are those specified in this Chapter; however, the rules and regulations may authorize the use of other odorants which are equal in effectiveness to the odorants specified in this Chapter.

(7) The rules and regulations shall require each person which transports liquefied petroleum gas which is exempt from the odorization requirements of this Chapter to keep records of all purchases of unodorized gas for three years. The records shall include bills of lading, loading tickets, and records of all deliveries of unodorized gas. Each delivery ticket and bill of lading shall be identified by reference to the bill of lading number.

(8) The rules and regulations adopted by the commission shall not be in conflict with the provisions of this Chapter.

C. The rules and regulations adopted by the commission shall be available to the public on the website of the commission. Any applicant, upon filing a formal application for a permit or registration, shall be mailed a copy of these rules and regulations upon receipt of his request. These rules and regulations may be supplemented from time to time in accordance with Administrative Procedure Act, R.S. 49:950 et seq. No other form of promulgation shall be required to make such rules and regulations or supplements thereto effective.

D. The power of regulation vested in the commission shall not extend to the plant site of a manufacturer of liquefied petroleum gases, or to the plant site of a manufacturer of products of which liquefied petroleum gases form a component part, or to installations or storage or delivery of such gases within the plant site of any such manufacturer.

E. This Part does not apply to manufacturers of liquefied petroleum gases, as defined in R.S. 40:1842(10), or to manufacturers of products of which liquefied petroleum gas forms a component part, as defined in R.S. 40:1842(11), who manufacture or purchase liquefied petroleum gases for use or consumption in their operations or who sell all or part of the liquefied petroleum gases so manufactured or purchased exclusively to a manufacturer of liquefied petroleum gases, to a manufacturer of products of which liquefied petroleum gas forms a component part, or to resellers as defined in R.S. 40:1842(12).

F. The commission shall cooperate with the deputy secretary of the Department of Public Safety and Corrections to develop a means of sharing data regarding the location of storage tanks and other relevant data necessary to implement the information management system required to be reported under R.S. 30:2361, et seq. The administrative costs of

transferring this data to the information management system shall be paid by the commission out of permit fees presently collected by the commission.

G.(1) Liquefied petroleum gas dealers and resellers, as defined in this Part, shall be subject to the provisions of this Part, including the obtaining of a permit, payment of a permit fee, and obtaining the required insurance. The permit fee amount shall be based on the cost of the liquefied petroleum gases or the sales price of those gases, whichever is greater.

(2) A manufacturer of liquefied petroleum gases or a manufacturer of products of which liquefied petroleum gas forms a component part, who is also a dealer or reseller within the meaning of this Part, shall not include within the term "annual gross sales", for the purpose of computing the permit fee as a dealer or reseller, those sales of liquefied petroleum gas made by such manufacturer to a manufacturer of liquefied petroleum gases, to a manufacturer of products of which liquefied petroleum gas forms a component part, or to resellers.

(3) It is the intent of this Part to make all sales, except those specifically exempted, subject to a permit fee at the reseller's point of sale and at the retail dealer's point of sale.

H. It shall be an affirmative defense to an action against any person engaged in this state in the business of selling at retail, supplying, handling, or transporting liquefied petroleum gas that an alleged injury, damage, or loss was caused by either of the following:

(1) The alteration, modification, or repair of liquefied petroleum gas equipment or a liquefied petroleum gas appliance if the alteration, modification, or repair was done without the knowledge of the liquefied petroleum gas seller, supplier, handler, or transporter.

(2) The use of liquefied petroleum gas equipment or a liquefied petroleum gas appliance in a manner or for a purpose other than that for which the equipment or appliance was intended and that purpose could not reasonably have been expected.

I. The commission or its appointed designee, may suspend any of the commission's rules and regulations in Chapter 1, 2, or 15 of Part IX of Title 55 of the Louisiana Administrative Code that do not materially affect safety during the time period of declaration of an emergency or disaster by the governor. The commission shall promulgate rules and regulations pursuant to the Administrative Procedure Act providing for such suspension prior to exercising the authority granted in this Subsection.

RS 40:1846.1 — Powers of investigation; penalties; civil liability

d papers directly connected with any violation of its regulations under investigation, to take testimony under commission, and to punish for contempt as fully as is provided by law for the district courts.

B. Each dealer facility subject to the regulation of the commission shall submit to an inspection by a representative of the commission at least once every three years, which inspections may be conducted without prior notice by the commission or its representative.

C.(1) No individual shall be subject to a criminal fine or imprisonment under this Chapter as a result of any willful and wrongful acts of a fellow employee or subordinate employee whose willful and wrongful act was carried out without the knowledge of the individual.

(2) Whoever is found to be guilty of any of the following acts shall be fined not more than fifty thousand dollars, or imprisoned with hard labor for not more than ten years, or both:

(a) Willful or knowing violation of a rule or regulation of the commission which endangers human life or health.

(b) Failure to properly odorize gas or to verify the presence of odorant as required by this Chapter.

D.(1) Anyone violating this Chapter shall also be liable for all damages resulting from any fire or explosion involving that shipment.

(2) The liability imposed by this Section may not be delegated by contract or practice to any transporter or subcontractor responsible for the transportation of the liquefied petroleum gas.

E.(1) The commission may assess a civil penalty of not less than one hundred nor more than one thousand dollars for each violation of this Chapter or the rules and regulations adopted under the provisions of this Chapter.

(2) Civil penalties may be assessed only by a ruling of the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

(3) The commission may institute civil proceedings to enforce its rulings in the district court for the parish in which the commission is domiciled or the district court for the parish in which the violation occurred.

RS 40:1847 — Permits; bonds; insurance; reciprocal agreements

ways of the state of Louisiana or to his or its right to install storage tanks or systems for the use of liquefied petroleum gases, or to his or its right to install liquefied petroleum gas appliances, shall obtain a permit or registration from the commission and shall comply with the applicable requirements of the rules and regulations of the commission including the execution and filing of the insurance policy required herein with the commission. The registration applies only to plumbers who hold a masters plumber's license issued by the state of Louisiana, or mechanical contractors who hold a current occupational license from the proper issuing authority and who meets all rules and regulations of the Liquefied Petroleum Gas Commission.

(2) As a further prerequisite to the issuance of such permit or registration, the applicant shall furnish evidence of liability insurance in the minimum sum of one hundred thousand dollars covering the applicant's legal liability for such phases of his operations as the commission may require, but this shall not serve to lower any insurance requirements otherwise provided by law.

(3) In lieu of such insurance, the applicant may post with the commission bonds or other securities issued by the United States of America or the state of Louisiana, or certificates of deposit or similar instruments issued by a lending institution regulated by an agency of this state or of the federal government, in the above amounts, which bonds or securities shall be held in trust by the commission for the benefit of any person, firm, or corporation to which such legal liability may accrue.

B. The commission shall grant Class I liquefied petroleum gas dealer permits to nonresident applicants only after the commission has reached a reciprocal agreement with the liquefied petroleum gas regulating authority of the state in which the applicant resides. Such agreement shall provide for the granting of Class I dealer permits in that state to resident Louisiana liquefied petroleum gas Class I dealer applicants on an equal basis between the states for the granting of such permits. The granting of a Class I dealer permit by the commission to such nonresident applicant shall be subject to the provisions of such agreement. The provisions of such agreement shall not serve to reduce the requirements hereinabove prescribed for qualifying for Class I liquefied petroleum gas dealer permits to operate within the state of Louisiana.

RS 40:1847.1 — Permits; exceptions

ed by the manufacturer shall be required to obtain a permit as required in R.S. 40:1847 prior to the selling of said equipment if the tractors and other farm equipment so sold are serviced by a duly authorized and licensed dealer in liquefied petroleum products. Any person, firm, or corporation hereby exempted from the requirement to obtain a permit may, however, make simple carburetor adjustments to farm tractors and other farm equipment sold by them.

B.(1) Any person, firm, or corporation engaged in the business of plumbing who holds a "master plumber's" license issued by the state of Louisiana and is qualified to install liquefied petroleum gas or anhydrous ammonia piping, may install liquefied petroleum gas or anhydrous ammonia piping and make alterations or modifications to existing piping systems only after complying with all of the following conditions:

(a) The person, firm, or corporation is properly registered with the Liquefied Petroleum Gas Commission.

(b) The person, firm, or corporation passes a competency examination and receives a card of competency from the Liquefied Petroleum Gas Commission.

(c) The provisions of NFPA Pamphlet #54 (National Fuel Gas Code) and NFPA Pamphlet #58 (Standard for the Storing and Handling of Liquefied Petroleum Gas) and ANSI K 61.1 - 1989 are followed.

- (d) The applicable rules and regulations of the Liquefied Petroleum Gas Commission are followed.
- (e) All proper fees have been paid including a registration fee which registration fee shall not exceed thirty-seven dollars and fifty cents.
- (2) The provisions of this Subsection shall not apply to the sales of liquefied petroleum gases or anhydrous ammonia, or to the storage or transportation of liquefied petroleum gases or anhydrous ammonia over the highways of this state, or to the sales or installation of liquefied petroleum gas or anhydrous ammonia containers or tanks.
- C.(1) Any person, firm, or corporation engaged in the mechanical contracting business, and who is qualified to install liquefied petroleum gas or anhydrous ammonia appliances and equipment, may install liquefied petroleum gas or anhydrous ammonia appliances and equipment and make alterations and modifications to existing liquefied petroleum gas or anhydrous ammonia appliances and equipment, only after complying with all of the following conditions:
 - (a) The person, firm, or corporation is properly registered with the Liquefied Petroleum Gas Commission.
 - (b) The person, firm, or corporation passes a competency examination and receives a card of competency from the Liquefied Petroleum Gas Commission.
 - (c) The provisions of NFPA Pamphlet #54 (National Fuel Gas Code) and NFPA Pamphlet #58 (Standard for the Storing and Handling of Liquefied Petroleum Gas) and ANSI K 61.1 - 1989 are followed.
 - (d) The applicable rules and regulations of the Liquefied Petroleum Gas Commission are followed.
 - (e) All proper fees have been paid including a registration fee which registration fee shall not exceed thirty-seven dollars and fifty cents.
 - (2) The provisions of this Subsection shall not apply to the sales of liquefied petroleum gases or anhydrous ammonia, or to the storage or transportation of liquefied petroleum gases or anhydrous ammonia over the highways of this state, or to the sales or installation of liquefied petroleum gas or anhydrous ammonia containers or tanks.
- D. No person, firm, or corporation engaged in the selling of liquefied petroleum gas only in small consumer quantities in U.S. Department of Transportation specification 2Q containers shall be required to obtain a permit as required in R.S. 40:1847. These quantities shall not exceed one liter per container.
- E. Those persons, firms, or corporations engaged in the transportation of liquefied petroleum gas in containers which qualify for the exemption provided for in R.S. 40:1849(C)(1)(b), shall not be required to obtain a permit as required by R.S. 40:1847, provided their normal and routine business is not primarily the transportation of liquefied petroleum gases.

RS 40:1848 — Revocation of permits

- mply with such rules and regulations provided the second or succeeding penalty or penalties have been imposed for violations of, or failure to comply with the regulations of the commission committed after the imposition of the first penalty or forfeiture, reserving to the dealer the right to resort to the courts for reinstatement of the permit suspended or revoked.
- B. The commission may suspend or revoke the permit of any person who violates the provisions of R.S. 40:1846.1(C)(2)(a) and (b) or who fails to pay any civil penalty imposed by the commission under the provisions of R.S. 40:1846.1(E) within thirty days after the assessment becomes final.
- C. Any dealer who continues to operate after such permit is revoked or during the period of such suspension shall be liable to prosecution under the provisions hereof in the same manner as if no such permit had ever been issued.
- D. A permit may be revoked or suspended only by a ruling of the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.
- E. The commission may institute civil proceedings to enforce its rulings in the district court for the parish in which the commission is domiciled or in the district court for the parish in which the violation which gave rise to the suspension or revocation occurred.

RS 40:1849 — Permit fees; minimum; maximum; transport registration fees; personnel qualification

in Subsection E of this Section, every applicant for a permit shall, at the time of the issuance of the permit by the Liquefied Petroleum Gas Commission and annually thereafter pay to the commission a permit fee which shall be fixed by the commission in an amount which shall not exceed four-tenths of one percent of the

gross annual sales of liquefied petroleum gas of such dealer or permit holder. The minimum permit fee shall be not less than seventy-five dollars. No permit or renewal permit shall be issued by the commission except upon payment of such fee as herein provided. The commission may formulate and enforce necessary rules and regulations for the renewal of permits and the collection of the fees.

B. No tanker truck with a water capacity of one thousand gallons or more shall be used to transport liquefied petroleum gas, including anhydrous ammonia, in Louisiana until it has been registered with the Liquefied Petroleum Gas Commission and an annual registration fee for each vehicle has been paid therefor to the Liquefied Petroleum Gas Commission. From August 1, 2025, until July 31, 2030, such fee shall be up to one hundred dollars, and thereafter, such fee shall be up to one hundred fifty dollars. Upon payment of the fee, the commission shall issue a registration decal valid for the year of issuance. This registration decal shall be permanently affixed to the motor vehicle in a prominent location as provided by the regulations which the commission shall adopt. No dealer shall deliver any liquefied petroleum gas from any transport motor vehicle to which a current registration decal is not permanently affixed.

C.(1)(a) All service and installation personnel, fuel transfer personnel, carburetion mechanics, and tank truck drivers employed by a dealer shall have successfully taken the personnel competency test administered by the commission and shall possess a current personnel competency card, which must be renewed annually. Each applicant to take the personnel competency test shall pay to the Liquefied Petroleum Gas Commission a personnel qualification fee of twenty dollars, the payment of which shall entitle him to take the test one time and, upon receipt of a satisfactory score, he shall be entitled to a personnel competency card valid for the year in which it is issued. Each applicant to renew his personnel competency card shall pay an annual renewal fee of ten dollars to the Liquefied Petroleum Gas Commission.

(b) The provisions of this Paragraph shall not apply to drivers transporting three hundred gallons or less of liquefied petroleum gas, in twenty-five gallon or more, maximum liquefied petroleum gas capacity containers, which containers conform to United States Department of Transportation specifications, if the driver's normal and routine duties are not the transportation of liquefied petroleum gases.

(2) The commission may adopt rules to provide for reciprocal agreements with other states regarding examination requirements and accept as its own the reciprocal state's examination. The commission shall ensure that the reciprocal state's examination contains substantially equivalent requirements. Each participating state in any such reciprocal agreement shall retain its own fee structure regarding examinations and other applicable fees.

D.(1) Except for the assessment established in R.S. 40:1851, all fees, penalties, and other revenues received by the commission shall be deposited immediately upon receipt in the state treasury.

(2) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to the monies being placed in the state general fund, an amount equal to the funds received shall

be credited to the special statutorily dedicated fund account hereby created in the state treasury to be known as the "Liquefied Petroleum Gas Commission Rainy Day Dedicated Fund Account", hereafter referred to in this Section as the "account". The monies in the account shall be used solely as provided in this Subsection, and only in the amounts appropriated by the legislature. The monies in the account shall be invested by the state treasurer in the same manner as the monies in the state general fund. Subject to the provisions of, and after compliance with, Article VII, Section 9(B) of the Constitution of Louisiana, all interest earned on the monies in the account shall be credited to the account. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

(3) At the end of each fiscal year, the unexpended and unencumbered monies which remain in the account, up to a maximum of two hundred fifty thousand dollars, shall remain in the account and shall be used by the commission for the purposes set forth in this Subsection.

(4) The monies in the account shall be used for the following purposes:

(a) For all purposes provided for under this Part.

(b) For covering all reasonable administrative costs, as determined by the deputy secretary of public safety services, of transferring data from the commission to the information system established under the Hazardous Materials Information Development, Preparedness, and Response Act, R.S. 30:2361 et seq. Monies authorized for this purpose shall be transferred through an interagency transfer through the appropriate form and expedited procedures through the budgetary process.

(5) At the end of each fiscal year, the unexpended and unencumbered monies which remain in the account in excess of the two hundred fifty thousand dollar maximum provided in Paragraph (3) of this Subsection, not to exceed three hundred thousand dollars, shall be deposited in the separate interest-bearing account established under the authority of R.S. 40:1851(D) and shall be used solely for market development purposes as required by R.S. 40:1851.1(B).

E. In order to offset any projected increase in the total fees collected from truck registrations, competency tests, and competency card renewals from Fiscal Year 1999 to Fiscal Year 2000, the Liquefied Petroleum Gas Commission shall, prior to January 1, 2000, promulgate rules to reduce the liquefied petroleum gas permit fees authorized in Subsection A of this Section. The reduction in permit fees shall be in an amount equal to or exceeding the increase in truck registration, competency test, and competency card fees provided for in Subsections B and C of this Section. The actual 1998-1999 Fiscal Year sales dollars for permit fee calculations, number of truck registrations, number of competency tests given, and number of competency cards renewed shall be used in calculating the reduction in permit fees. The reduction in permit fees as well as the increase in truck registration fees, competency test fees, and competency card renewal fees set forth in this Section, shall become effective on January 1, 2000.

RS 40:1850 — Penalties

e public highways of Louisiana any liquefied petroleum gases without having first obtained the permit, and obtained the insurance required by this Part, or who installs any tank or system for the use of liquefied petroleum gases without having obtained such permit, and obtained such insurance, or who installs any liquefied petroleum gas appliance without having obtained such permit, and obtained such insurance, or who violates the requirements of R.S. 40:1849(B), shall be guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction, shall pay a fine of not more than one thousand dollars or be imprisoned in the parish jail for not more than sixty days, or both. This Section shall not apply to any of the aforesaid acts or operations which by law are placed beyond the regulatory powers of the Liquefied Petroleum Gas Commission.

RS 40:1851 — Assessment

d

petroleum gas of each person who holds a Class I, Class IV, or Class VI permit. The assessment shall be determined in the same manner as the permit fee is determined.

B. Repealed by Acts 2016, No. 422, §2.

C. The assessment shall be paid at the same time as the annual permit fees are paid.

D. The commission may deduct the expenses of collecting and administering the assessment, including the expenses of conducting the referendum, from the proceeds of the assessment. After making those deductions, the commission shall deposit and maintain the proceeds of the assessment in a separate interest-bearing account. If expenses are deducted, they will be deducted each year for that year only and shall be limited to one percent of assessments collected or a maximum of five hundred dollars, whichever is less.

E.(1) The proceeds of the assessment and the interest earned on those proceeds shall be used for market development and promotion of the use of liquefied petroleum gas. Such marketing programs may include advertising on radio, television, newspapers, magazines, billboards, websites, and online venues, as well as sponsorships and participation in trade shows, consumer rebate programs to encourage the purchase of propane appliances, and any other programs as recommended by the Market Development Advisory Committee established under Subsection F of this Section.

(2) All monies received or collected pursuant to R.S. 40:1851.1(A), including any interest which may be earned on such monies, shall be deposited into a separate interest-bearing account established and maintained by the commission. All monies deposited shall be used exclusively for the purposes provided for in R.S. 40:1851.1(B).

F. The commission shall establish a board to advise the commission on the expenditure of funds collected under this Section. One advisory board member shall be appointed by the commission from each commission inspector's area, as designated by the commission, and two members shall be appointed at large. Each member of the advisory board shall be a holder of a Class I, Class IV, or Class VI permit. Each class of permit holders on which this Section levies an assessment shall have at least two members who hold permits for their respective classes on the advisory board. There shall be not more than nine members of the advisory board. The advisory board members shall serve a term concurrent with that of the governor and, in case of resignation, the appointee will fill the unexpired term. Members shall not receive any compensation for serving on the advisory board.

G, H. Repealed by Acts 2016, No. 422, §2.

RS 40:1851.1 — Propane education and research monies

eived by the commission shall be deposited into the separate interest-bearing account as provided in R.S. 40:1851(E) and such monies shall be used exclusively for the purposes as provided in this Section.

B. Monies received or collected under the provisions of this Section shall only be used to enhance consumer and employee safety and training, to provide for research and development of clean and efficient propane utilization equipment, or to inform and educate the public about safety and other issues associated with the use of propane.

RS 40:1852 — Regulations

gases used as motor fuels.

B. The rules and regulations shall be in substantial conformity with the applicable provisions of the published standards of the National Fire Protection Association, covering the storage, handling, and use of liquefied petroleum gases used as motor fuels.

RS 40:1853 — Repealed by Acts 2012, No. 433, §2.

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RS 40:1853.1 — Access to automatic fuel dispensing device; safety requirement

ation may be accessed by the general public.

B. A dealer shall post at each dispenser step-by-step operating instructions readily visible to the operator during transfer operations.

C. The Liquefied Petroleum Gas Commission shall promulgate and adopt rules and regulations, in accordance with the Administrative Procedure Act, providing education and instruction on the safe operation and use of automatic fuel dispensing devices.

RS 40:1891 — Application of Part

Gas transported out of the state.

(2) Gas transported in gas lines for industrial or commercial purposes or for re-sale.

(3) Liquefied petroleum gas.

RS 40:1892 — Malodorants required

sistant

secretary of the office of conservation of the Department of Conservation and Energy, or in the case of liquefied petroleum gas, in accordance with R.S. 40:1846(B)(5) and (6).

RS 40:1893 — Method of use and containers and equipment regulated

t to the approval of the office of

conservation of the Department of Conservation and Energy.

RS 40:1894 — Enforcement of Part; rules and regulations

the office of conservation may

prescribe any rules and regulations on this subject necessary to carry out the purposes of this

Part. In addition to the rights, powers, and duties granted under this Part, the assistant

secretary shall exercise relative to this Part all of the rights, powers, and duties granted under

R.S. 30:501 et seq.; however, the provisions of R.S. 30:544 shall not apply to this Part.

RS 40:1895 — Proposed orders, rules, or regulations

istrative Procedure Act, R.S. 49:950 et seq.

RS 40:1896 — Violation, penalties

tion, or order promulgated or issued under this Part shall be liable to the office of conservation for a civil penalty not to exceed ten thousand dollars for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed five hundred thousand dollars for any related series of violations. The amount of the penalty

shall be assessed by the assistant secretary by written notice. In determining the amount of the penalty, the assistant secretary shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty, and such other matters as justice may require.

B. The legal counsel employed or retained by the assistant secretary may recover the assessed civil penalty by bringing action against the person so assessed in the court having jurisdiction. The assistant secretary may compromise the civil penalty.

C. Any person who willfully and knowingly violates this Part or any rule, regulation, or order issued under this Part shall be deemed guilty of a misdemeanor, and, upon conviction, shall be subject for each offense to a fine of not more than twenty-five thousand dollars or imprisoned for not more than one year, or both, for each violation.

RS 40:1911 — Citation of Part

you experience any technical difficulties navigating this website,

RS 40:1912 — Repealed by Acts 1972, No. 734, §10.

the webmaster.

RS 40:1913 — Definitions

eneit, and boils at this temperature. In commerce, ammonia is compressed to a liquid and stored under pressure. The gauge pressure is 75 pounds per square inch at 50 degrees Fahrenheit and 197 pounds per square inch at 100 degrees Fahrenheit. The pressures exerted by anhydrous ammonia are dangerous unless the proper safety devices are installed in the equipment and care is used in handling it.

B.(1) Dealers in anhydrous ammonia in this Part are persons who buy and sell or distribute, at wholesale or retail, anhydrous ammonia to any person, including agencies, political subdivisions, and municipalities of the state. The provisions of this Part shall not apply to manufacturers of anhydrous ammonia who sell anhydrous ammonia exclusively to other manufacturers of anhydrous ammonia and to dealers as defined in this Subsection, except as provided in R.S. 40:1915(B), relative to furnishing of bond.

(2) Dealers in anhydrous ammonia equipment in this Part are persons who buy and sell or distribute, at wholesale or retail, to users and consumers, including agencies, political subdivisions, and municipalities of the state, equipment used in the installation, storage, handling, utilization, and dispensing of anhydrous ammonia.

(3) Any person owning and maintaining storage facilities for anhydrous ammonia for his own use and accommodation, and for the use and accommodation of his tenant or sharecroppers to whom anhydrous ammonia is distributed without profit, is not to be classed as a dealer within the meaning and intent of this Part.

C. "Commission", as used in this Part, means the Liquefied Petroleum Gas Commission.

RS 40:1914 — Powers and duties of commission

of anhydrous ammonia, the fabrication and installation of systems for the storage and utilization of anhydrous ammonia, and installation of all other anhydrous ammonia equipment as the commission may deem necessary in the interest of public safety. In drafting such regulations, the commission may adopt for its own, in substance, the regulations or standards published by the Compressed Gas Association, Inc. of New York and/or the National Board of Fire Underwriters, or any other such nationally recognized agency. The rules and regulations adopted by the commission relating to the design or construction of anhydrous ammonia containers shall be in reasonable and substantial conformity with the American Society of Mechanical Engineers Code for Construction of Unfired Pressure Vessels and subsequent amendments, revisions, or modifications thereto. Such regulations shall not be extended to the manufacturers of anhydrous ammonia with respect to their operations and equipment on their plant site only, or the manufacturer of products of which anhydrous ammonia forms a component part, or the installation or storage or delivery of such gases within the plant site of any such manufacturer.

B. The Liquefied Petroleum Gas Commission is vested with the duty of administering and enforcing the provisions of this Part and the rules and regulations adopted by the commission, to employ all necessary personnel or inspectors to enforce this law and the rules and regulations adopted by the commission, and such inspectors shall have the authority to enter

the premises of all manufacturers of anhydrous ammonia equipment, dealers in anhydrous ammonia and equipment, and farmers for inspection purposes from time to time as the commission deems necessary or advisable in enforcing the provisions of this law and the rules and regulations of the commission.

C. The commission shall have the right to injunctive relief to prevent the continuing violation of, or failure to comply with the law or any of the rules and regulations of the commission. Any suits for injunctive relief shall be filed in the parish in which such violations occur or in the parish in which the violator is domiciled or has his principal place of business.

RS 40:1915 — Restrictions on sale of anhydrous ammonia; permit; bond; insurance

ing of anhydrous ammonia, as herein defined in R.S.

40:1913(B)(1), within the state of Louisiana, without first having obtained a permit from the Liquefied Petroleum Gas Commission. This permit shall be issued only after the proper written application has been completed and filed, fees paid to the commission, and after all other requirements for such dealers have been complied with by the applicant.

B.(1) Dealers shall inspect their customers' tanks and receptacles annually. A report showing proof of inspection shall be mailed to the office of the director of the Liquefied Petroleum Gas Commission by the twentieth of the month following inspection. Each inspection shall be good for one year only.

(2) Every storage container inspected pursuant to this Subsection shall be tagged by a dealer. Inspection stickers are to be obtained from the Liquefied Petroleum Gas Commission on an annual basis.

C. Before engaging in business as a dealer, the applicant shall satisfy the commission that he is financially responsible. This provision as to financial responsibility will be complied with by filing with the commission evidence that the applicant has applied for insurance, and that his application has been approved, on standard contract forms, and a policy is to be issued by an insurance company licensed to do business in the state in such kind and for such limits as may be prescribed by the commission.

D. Repealed by Acts 1993, No. 586, §2.

RS 40:1916 — Permit fee; transport registration; personnel qualifications fee

quefied Petroleum Gas Commission a permit renewal fee which shall consist of a basic fee of three hundred dollars or a percentage fee of one-half of one percent of the gross annual sales of anhydrous ammonia during the preceding permit year, whichever is greater. A manufacturer of anhydrous ammonia, who is also a dealer within the meaning of this Part, shall not include within the term "gross sales" for the purpose of computing the permit fee as a dealer, those sales of anhydrous ammonia made by such manufacturer to other manufacturers of anhydrous ammonia. No permit nor any renewal thereof shall be issued by the commission except upon the payment of such fee.

B. Any person commencing business as a dealer shall pay the basic permit fee as provided for in this Section, which shall be valid for one calendar year from the date of issue, and shall be renewed annually thereafter as provided in Subsection A of this Section.

C. No tanker truck with a water capacity of one thousand gallons or more shall be used to transport anhydrous ammonia in Louisiana until it has been registered with the Liquefied Petroleum Gas Commission and an annual registration fee of fifty dollars has been paid to the Liquefied Petroleum Gas Commission. Upon payment of the fee, the commission shall issue a registration decal valid for the year of issuance. This registration decal shall be permanently affixed to the truck in a prominent location as provided by the regulations which the commission shall adopt. No dealer shall deliver any anhydrous ammonia from any transport motor vehicle to which a current registration decal is not permanently affixed.

D.(1) All service and installation personnel, fuel personnel, and tank truck drivers employed by a dealer shall have successfully completed the personnel competency test administered by the commission and shall possess a current personnel competency card, which must be renewed annually. Each applicant to take the personnel competency test

shall pay to the Liquefied Petroleum Gas Commission a personnel qualification fee of twenty dollars, the payment of which shall entitle him to take the test one time and, upon receipt of a satisfactory score, shall entitle him to a personnel competency card valid for the year in which it is issued. To renew his personnel competency card, each applicant shall pay an annual renewal fee of ten dollars to the Liquefied Petroleum Gas Commission.

(2) The commission may adopt rules to provide agreements with other states regarding examination requirements and accept as their own results the results of the reciprocal state's examination. The commission shall ensure that the reciprocal state's examination contains substantially equivalent requirements. Each participating state in any such reciprocal agreement shall retain its own fee structure regarding examinations and other applicable fees.

E. The Liquefied Petroleum Gas Commission is hereby granted the authority and power to formulate and enforce necessary rules and regulations for the collection of said fees and shall remit all fees collected to the state treasury as provided for in Article VII, Section 9(A) of the Constitution of Louisiana.

F. The Liquefied Petroleum Gas Commission shall use any increase in total fees from truck registrations, competency tests, and competency card renewals provided for in Subsections C and D herein, from Fiscal Year 1999 to Fiscal Year 2000, to reduce the liquefied petroleum gas permit fees authorized by R.S. 40:1849(A). The Liquefied Petroleum Gas Commission shall, prior to January 1, 2000, promulgate rules to this effect. The reduction in liquefied petroleum gas permit fees shall be in an amount equal to or exceeding the increase in such truck registration, competency test, and competency card fees provided for in Subsections C and D herein. The actual 1998-1999 fiscal year sales dollars for permit fee calculations, number of truck registrations, number of competency tests given, and number of competency cards renewed, as provided in this Section, shall be used in calculating the reduction in permit fees. The reduction in permit fees and the increase in truck registration fees, competency test fees, and competency card renewal fees set forth in this Section shall become effective on January 1, 2000.

RS 40:1917 — Penalty

2010, No. 579, §4 from R.S. 3:1357.

RS 40:2001 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:2002 — University Medical Center

as Lafayette Charity Hospital, is hereby designated and shall hereafter be known as University Medical Center.

B. The cancer research and treatment program at the University Medical Center is hereby designated and shall hereafter be known as the Dr. Karuna Kukreja Memorial Cancer Program.

RS 40:2002.1 — Lallie Kemp Regional Medical Center

be known as Lallie Kemp Regional Medical Center.

RS 40:2002.2 — Washington-St. Tammany Regional Medical Center

nd shall hereafter be known as Washington-St. Tammany Regional Medical Center.

RS 40:2002.3 — Huey P. Long Medical Center

as Huey P. Long Medical Center.

RS 40:2002.4 — Villa Feliciana Medical Complex

s Villa Feliciana Medical Complex.

RS 40:2002.5 — Charity Hospital and Medical Center of Louisiana at New Orleans

is hereby designated and shall be hereafter known as Charity Hospital and Medical Center of Louisiana at New Orleans.

RS 40:2002.6 — Earl K. Long Medical Center

wn as Earl K. Long Medical Center.

RS 40:2002.7 — E. A. Conway Medical Center

E. A. Conway Medical Center.

RS 40:2003 — §§2003, 2004 [Blank]

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RS 40:2004.1 — Repealed by Acts 1977, No. 680, §1

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RS 40:2004.2 — Contract for sewer service for Central Louisiana State Hospital

s to be furnished by the

city of Pineville to the Central Louisiana State Hospital. In consideration of the expenditures made by the city of Pineville in providing said sewerage services, the Louisiana Department of Health may agree to pay a minimum charge of three thousand three hundred thirty-three dollars per month for one hundred twenty months to the city of Pineville.

RS 40:2005 — Hospital visitation

are facility within the state of Louisiana.

B. Nothing contained herein shall prohibit hospitals, nursing homes, or other health care facilities from restricting visits to standard designated hours, from restricting visits as the patient's medical condition may require, or from enforcing an injunction barring an individual from entering the premises.

RS 40:2005.1 — Visitation by members of clergy during a declared public health emergency

ent or resident and to protect inpatient health care facilities from costly

lawsuits and administrative complaints on the basis of religious discrimination by affording patient or resident access to members of the clergy provided that those members of the clergy enter the inpatient health care facility on a voluntary basis and comply with the safety requirements of the facility in order to visit and minister to the patient or resident.

B.(1) The Louisiana Department of Health shall promulgate rules, pursuant to the Administrative Procedure Act, to require inpatient health care facilities to allow members of the clergy to visit patients or residents during a public health emergency whenever a patient or resident requests such a visit. Special consideration shall be given to patients or residents receiving end-of-life care.

(2)(a) The rules shall include but not be limited to definitions, minimum requirements including the right to consensual nonsexual physical contact such as hand-holding or hugging, and provisions to protect the health, safety, and welfare of the patients or residents and the staff of the inpatient healthcare facility. However, the rules may not require visitors to submit proof of any vaccination or immunization.

(b) The rules shall allow inpatient health care facilities to adopt reasonable time, place, and manner restrictions on patient or resident visitation that are implemented for the purpose of mitigating the possibility of transmission of any infectious agent or disease or to address the medical condition or clinical considerations of an individual patient.

(3) The rules promulgated pursuant to this Section shall be preempted by any federal statute, federal regulation, or guidance from a federal government agency that requires an inpatient health care facility to restrict patient visitation in a manner that is more restrictive than the rules adopted by the Louisiana Department of Health pursuant to this Section.

C. For purposes of this Section, the following definitions shall apply:

(1) "Inpatient health care facilities" means all of the following:

- (a) A hospital licensed pursuant to Part II of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950 but shall not include a licensed hospital that is designated as a forensic facility.
- (b) A nursing home, as defined in R.S. 40:2009.2.
- (c) An adult residential care home, as defined in R.S. 40:2166.3, including but not limited to assisted living facilities.
- (2) "Patient or resident" means the patient or resident of the inpatient health care facility or the legal or designated representative of the patient or resident.
- (3) "Public health emergency" means a state of public health emergency that is declared pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.

RS 40:2006 — Fees; licenses; penalties

es listed in this Subsection

shall be assessed a fee not to exceed six hundred dollars, payable to the Louisiana Department of Health, at the time an application is made to the department, and once a year thereafter for renewal of the license. This fee is for application and renewal of a license only, and is in addition to any other fees that may be assessed according to the laws, rules, regulations, and standards that are applicable to the individual facilities.

(2) This Subsection shall apply to any licensed:

- (a) Adult day health care facility.
- (b) Behavioral health services provider.
- (c) Ambulatory surgery center.
- (d) Case management provider.
- (e) Urine drug screening provider.
- (f) Home health agency.
- (g) Hospice.
- (h) Hospital.
- (i) Nursing home.
- (j) Rural health clinic.
- (k) Intermediate care facility for people with developmental disabilities (ICF/DD).
- (l) End stage renal disease facility.
- (m) Outpatient abortion facility.
- (n) Psychiatric residential treatment facility.
- (o) Children's respite care center.
- (p) Repealed by Acts 2005, No. 483, §2, eff. July 12, 2005.
- (q) Pediatric day health care facility.

NOTE: The implementation of Subparagraph (A)(2)(r), as enacted by Acts 2017, No. 417, §1, shall only become effective in the event a specific appropriation by the legislature is made for such purposes and the program receives approval by the Centers for Medicare and Medicaid Services. See

RS 40:2006.1 — Fees for Medicare surveys

ccessor

agency within the United States Department of Health and Human Services charged with

administering the Medicare program.

(2) "Initial Medicare survey" means the site visit conducted by the state survey department for the purpose of gathering information on a health care provider's level of compliance with Medicare participation and other federal regulatory requirements. A survey is considered an initial Medicare survey if the survey is required in order for a health care provider to receive Medicare program payment for the first time as a type or class of health care provider or in order to receive Medicare reimbursement under a special Medicare payment methodology. The fact that a health care provider may avoid a survey by obtaining accreditation from a national accrediting body shall not affect a survey's status as an initial Medicare survey.

(3) "State survey budget" means the dollar amount that CMS will pay the state survey department in order to perform its functions as the state survey department during a federal fiscal year.

(4) "State survey department" means the Louisiana Department of Health or its successor.

B. If the state survey department determines that the state survey budget is insufficient to perform all of the initial Medicare surveys it has been requested to perform for the federal fiscal year, or the state survey department has not received final budget appropriation for the state survey budget, the state survey department shall, upon the consent of the party requesting an initial Medicare survey, assess a fee for the initial Medicare survey. The fee shall be commensurate with the cost of performing the initial Medicare survey and shall range from five hundred fifty dollars to two thousand three hundred dollars based upon the provider type for which the initial Medicare survey is requested. Upon approval by the Centers for Medicare and Medicaid Services, and upon execution of a written agreement to pay the fee by the party requesting the initial Medicare survey and the state survey department, the state survey department shall schedule and conduct the initial Medicare survey. Upon determination that the final state survey budget appropriation is insufficient to conduct the requested initial Medicare survey, the state survey department shall transmit an invoice to the party that requested the initial Medicare survey. The invoiced amount shall be the fee agreed upon by the state survey department and the party that requested the initial Medicare survey. The party that requested the initial survey shall pay the invoice no later than June thirtieth of the state fiscal year in which the initial Medicare survey was performed.

C. If the state survey department determines that the state survey budget is insufficient to perform all of the initial Medicare surveys it has been requested to perform during the federal fiscal year or the state survey department has not received final budget appropriation for the state survey budget, the state survey department shall give priority to all initial Medicare surveys requested by a rural hospital as defined in the Rural Hospital Preservation Act. The order of initial Medicare surveys shall be determined on the basis of the order in which parties requesting initial Medicare surveys complete the application process.

D. Upon receipt of an application for a license from any person, partnership, corporation, unincorporated association, or any other legal entity that has made a request for

an initial Medicare survey, under the circumstances in Subsection B of this Section, the state survey department shall make a determination of whether it has sufficient state funds to conduct an initial state licensure survey. In the event that the state survey department determines that it lacks sufficient state funds, upon the consent of the party requesting the initial state licensure survey, the state survey department shall assess a fee to defray the costs associated with such initial state licensure survey. The fee shall be commensurate with the cost of performing the initial state licensure survey and shall range from six hundred dollars to two thousand six hundred fifty dollars based upon the provider type for which the initial state licensure survey is requested. Upon payment of the fee by the party requesting the initial state licensure survey, the state survey department shall schedule and conduct the initial state licensure survey.

RS 40:2006.2 — Expedited licensing process; fees

nsing process for healthcare

facilities and providers that the department licenses.

B. The department shall promulgate, in accordance with the Administrative Procedure Act, any such rules as are necessary to provide for the expedited licensing process authorized by this Section.

C. The fees for the expedited licensing process shall be assessed in an amount not to exceed seven thousand five hundred dollars and shall be payable to the department at the time an expedited licensing application is submitted to the department by a healthcare facility or provider.

D.(1) After the department receives and approves the completed expedited licensing application packet, the department shall notify the applicant to provide a readiness date for the expedited survey. The department shall conduct the expedited licensing survey within ten working days of the readiness date indicated by the facility or provider and in accordance with applicable rules of the department.

(2) The department shall refund the expedited licensing fee if the expedited licensing survey is not conducted within the time period specified in this Section, unless such failure to conduct the survey is due to the unavailability of the facility or provider.

(3) The department shall not utilize existing employees who conduct regular licensing surveys to conduct any expedited licensing survey.

E. The department shall ensure that no facility or provider seeking approval to apply for licensure pursuant to a pre-licensing facility need review process provided for in this Chapter is affected by another provider of the same license type choosing the expedited licensing process instead of the regular licensing process.

RS 40:2007 — Health care providers; requirement of physical separation

ated upon, attached to, or painted on the entrance to the health care provider indicating the legal or trade name and address of the health care provider occupying that building, premises, or physical location.

(2) "Clearly delineated and cognizable boundary" means a separate building or premises or, if within the same building, premises, or physical location of another health care provider, a separate floor within a building; a

common wall from floor to ceiling; or a hallway or intersection within the building.

(3) "Department" means the Louisiana Department of Health.

(4) "Health care provider" means a facility, entity, or operation, in any form whatsoever, that is required to be separately licensed, apart from the license required of physicians or board-certified social workers in private practice, or that must enter into a Medicaid provider agreement with the department before providing the medical services for which it was organized.

The definition of "health care provider" includes but is in no way limited to inpatient hospitals, nursing homes, home health agencies, and ambulatory surgical centers.

B. Any health care provider, including any branches or off-site campus thereof, shall be physically separated from other health care providers by a clearly delineated and cognizable boundary. Any such health care provider shall also be clearly identifiable and distinguishable by appropriate signage from any other health care provider.

C. If more than one health care provider occupies the same building, premises, or physical location, all treatment facilities and administrative offices of one health care provider shall be clearly separated from any treatment facilities or administrative offices of any other health care provider located in and/or on the same building, premises, or physical location by a clearly delineated and cognizable boundary. Treatment facilities shall include but not be limited to consumer beds, wings, and operating rooms.

Administrative offices shall include but not be limited to records rooms and personnel offices.

D. If more than one health care provider occupies the same building, premises, or physical location, each such health care provider shall have its own entrance. This separate entrance shall have appropriate signage and shall be clearly identifiable as belonging to one health care provider. Nothing in this Section shall prohibit a health care provider occupying the same building, premises, or physical location as another health care provider from utilizing the entrance, hallways, stairs, elevators, or escalators of another health care provider to provide access to its separate entrance.

E. Except as provided in Subsection F of this Section, the provisions of this Section shall not apply to any health care provider licensed by the department or having a Medicaid provider agreement, on August 15, 1997, until the occurrence of one of the following:

(1) The termination, revocation, or both of the license applicable to the health care provider for reasons other than as set forth in Subsection H of this Section.

(2) The termination, revocation, or both of the Louisiana Medicaid provider agreement to which the provider is a party, in cases where licensure

of the particular provider by the department secretary is not required or provided. This provision shall not apply to situations in which a Louisiana Medicaid provider agreement is terminated solely because of the change of ownership of a health care provider.

(3) A change in location of the health care provider to a new building or premises.

F. The provisions of this Section shall apply to any branch or off-site campus of a health care provider otherwise exempt under the provisions of Subsection E of this Section when such branch or off-site campus is opened after August 15, 1997, except under any one or more of the following circumstances:

(1) A construction contract for the construction of a branch or off-site campus of a health care provider is signed on or before August 15, 1997.

(2) A contract for renovations to a branch or off-site campus of a health care provider is signed on or before August 15, 1997.

(3) A contract to lease a branch or off-site campus of a health care provider is signed on or before August 15, 1997.

G.(1) The provisions of this Section shall not apply to the activities of any physician in the operation of the physician's office practice so long as the physician's office practice is not separately licensed, apart from the license of the physician himself, or operating as a health care provider as defined in this Section.

(2) Nothing in this Section shall be construed to:

(a) Prohibit the location of an adult day health care center in the same building, premises, or physical location as a nursing home.

(b) Prohibit a hospital, as defined in the applicable hospital licensing standards or statutes, from leasing beds to Louisiana State University or the Louisiana Health Care Authority.

(c) Prohibit a health care provider from occupying or sharing premises, facilities, treatment areas, or administrative areas, whether contiguous or not, with another entity, provided the health care provider and the entity are recognized as related parties by the United States Department of Health and Human Services, Health Care Financing Administration, or its successors, under Medicare regulations at 42 CFR 413.17. Any adverse action taken by the department against any entity or health care provider occupying or sharing premises, facilities, treatment areas, or administrative areas, whether contiguous or not, with another entity or health care provider may apply to each entity or health care provider if the health care providers or entities are recognized as related parties by the United States Department of Health and Human Services, Health Care Financing Administration, or its successors, under Medicare regulations at 42 CFR 413.17.

H. The department may refuse to issue a license or to enter into a

Medicaid provider agreement with, initiate procedures to terminate an existing Medicaid provider agreement of, or initiate procedures to revoke the license of any health care provider as defined in this Section that the licensing agency determines is not in full compliance with the requirements of this Section in accordance with the procedures established by the statutes, laws, rules, and/or regulations applicable to the specific health care provider involved.

I. The provisions and requirements of this Section are in addition to and not to the exclusion of any other statutes, laws, rules, and/or regulations, which also may be applicable to health care providers as defined in this Section, or which may govern the conditions for licensure, the conditions for entering into a Medicaid provider agreement, or the conditions for general operation applicable to the specific types of health care providers as defined herein.

J. The secretary of the department shall have the authority to promulgate rules and regulations, in accordance with the Administrative Procedure Act, in order to enforce and insure compliance with the requirements of this Section.

RS 40:2007.1 — Interruption of provision of health care services; executive order or proclamation
partnership,

corporation, unincorporated association, or other legal entity who, at the time of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724, is operating a licensed health care facility, as listed below, in an area or areas which have been affected by such executive order or proclamation. This Section shall apply to any licensed:

- (a) Adult day health care facility.
- (b) Substance abuse/addiction treatment facility.
- (c) Ambulatory surgery center.
- (d) Case management provider.
- (e) Home health agency.
- (f) Hospice.
- (g) Hospital.
- (h) Nursing home.
- (i) Rural health clinic.
- (j) Intermediate care facility for people with developmental disabilities (ICF/DD).
- (k) End stage renal disease facility.

(2) All licensed health care providers operating in an area or areas which have been affected by an executive order or proclamation of emergency or disaster who seek the protection of the provisions of this Section, shall meet the following criteria:

- (a) The health care provider shall notify in writing the health standards section of the Louisiana Department of Health that the provider has experienced an interruption in the provision of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724. Such notice shall be received no later than December 31, 2005.

(b) The health care provider shall notify in writing the health standards section of the Louisiana Department of Health that the provider intends to resume operating a health care facility.

(c) The provider shall resume operating as a health care facility no later than January 1, 2008. Extensions may be granted by the Louisiana Department of Health for good cause, including but not limited to delays in construction beyond the provider's control.

(3)(a) Notwithstanding the provisions of Paragraph (2) of this Subsection, any nursing home provider located in a parish with a population between sixty-five thousand and seventy thousand according to the latest federal decennial census, which parish was affected by Hurricane Katrina or Rita, who ceased operations solely because of the damage occasioned by the events which were the subject of an order or proclamation of emergency or disaster issued pursuant to R.S. 29:724 and who failed to notify the health standards section of the Louisiana Department of Health in writing by December 31, 2005, of the interruption in services and the intent to resume operation, shall be allowed to request reinstatement of the pre-storm license for the sole purpose of rebuilding or replacing the nursing home, upon meeting the following conditions:

(i) The nursing home provider shall submit the license reinstatement request to the health standards section of the Louisiana Department of Health in writing by December 31, 2008.

(ii) The license reinstatement request shall state the provider's intent to rebuild the nursing home and resume providing nursing home services in that parish.

(iii) The nursing home provider shall resume operation as a nursing home provider in that parish no later than January 1, 2010. Extensions of time may be granted by the Louisiana Department of Health for good cause.

(iv) The nursing home provider shall submit all fees, costs, and cost reports due and owing to the Louisiana Department of Health.

(b) Upon completion of such rebuilding construction, the nursing home provider shall meet all criteria required to remain licensed as a nursing home.

(c) No change of ownership in the nursing home provider shall occur until such nursing home has completed construction and has resumed operations as a nursing home provider.

(d) The provisions of this Subsection shall not apply to a nursing home provider who has voluntarily surrendered its license and ceased operations.

B.(1) No licensed health care facility that experiences an interruption in the provision of services as a result of events that are the subject of an executive order or proclamation of emergency or disaster shall be deemed by the Louisiana Department of Health to have voluntarily surrendered its license solely as a result of such interruption of services.

(2) The interruption of the provision of health care services by a licensed health care facility as a result of events that are the subject of an executive order or proclamation of emergency or disaster shall not constitute the sole cause for the Louisiana Department of Health to terminate or revoke such license.

C. Nothing in this Section shall prohibit the Louisiana Department of Health from

inspecting a health care facility prior to the re-establishment of the provision of health care services whether at a temporary or permanent location.

D.(1) The Louisiana Department of Health shall license, as of the date services commence, any outpatient off-campus facility of a licensed hospital, if the need for the off-campus facility was occasioned by an event which is the subject of an executive order or proclamation of emergency or disaster, issued in accordance with R.S. 29:724. In order to qualify for licensure of such an off-campus facility, the licensed hospital shall, no later than December 31, 2005, comply with the following:

(a) Notify the Louisiana Department of Health that it has commenced operations at an outpatient off-campus facility, regardless of whether such off-campus facility is located in an area that is the subject of the executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724.

(b) Submit to the Louisiana Department of Health an attestation of regulatory compliance specifying that, to the best of the hospital's knowledge, the outpatient off-campus facility is in compliance with all regulatory requirements, including life and safety and public health requirements, as of the date the off-campus facility commenced providing services.

(2) The Louisiana Department of Health shall not require any documentation from a licensed hospital regarding an outpatient off-campus facility other than that listed in this Subsection provided that nothing herein shall relieve the facility from complying with federal regulations and requirements for approval from the Centers for Medicare and Medicaid Services.

RS 40:2008 — Out-of-state providers; prohibitions on licensure, survey

Health care provider" means a facility, entity, operation, or individual, in any form whatsoever, that is required to be licensed by the department before providing the medical services for which it was organized.

B. Except as provided in Paragraph F(1), the department shall not issue a license to or complete a survey upon any health care provider not located within the boundaries of the state. Any license or survey shall only apply to activities and facilities within the boundaries of the state and shall not apply to any branches, off-site campuses, main offices, or units located outside the boundaries of the state.

C. For purposes of this Section, a health care provider shall be located within the boundaries of the state only if the buildings, premises, or physical structures which house its administrative or treatment facilities, or both, are physically located within the boundaries of the state.

D. All emergency medical transportation services, including but not limited to ambulances and air ambulance services, are expressly excluded from the requirements and mandates of this Section.

E. The provisions, prohibitions, and requirements of this Section are in addition to, and not to the exclusion of, any other statutes, laws, rules, or regulations, or any combination thereof, which also may govern the conditions for licensure or the conditions for general operation applicable to the specific

types of health care providers as defined herein.

F.(1) Except as provided in Paragraph (2) of this Subsection, the provisions of this Section shall not apply to any health care provider licensed by the department on August 15, 1997, until the occurrence of any one of the following:

- (a) A change of ownership of the health care provider.
- (b) The termination, revocation, or both, of the applicable license of the health care provider.
- (c) A change in the location of the health care provider to a new building, premises, or other change in physical location, including but not limited to a change in address.
- (d) December 31, 1998.

(2) The prohibitions and restrictions of this Section shall apply to any new branch or off-site campus located outside of the boundaries of the state of any health care provider licensed by the department on August 15, 1997.

G. The secretary of the Louisiana Department of Health may adopt rules and regulations in accordance with the Administrative Procedure Act to enforce and insure compliance with the provisions of this Section.

RS 40:2008.4 — State agency for carrying out federal programs on alcoholism

federal law dealing with the treatment of alcoholism.

B. The state Department of Health is hereby authorized to participate in any programs established by federal law for the treatment of alcoholism.

RS 40:2008.10 — Therapeutic group homes licensed by the Louisiana Department of Health; state action shall apply to the following persons:

- (i) Any person who owns, operates, or manages a licensed therapeutic group home.
- (ii) Any person who has applied for a license to operate a therapeutic group home.
- (iii) Any person who is employed by, is contracted by, volunteers at, or interns with a therapeutic group home.
- (iv) Any person who has applied to be employed or contracted by a therapeutic group home.
- (v) Any person who has applied to volunteer or intern with a therapeutic group home.
- (b) This Section shall not apply to contractors and other individuals providing a service at the therapeutic group home who are not employees, volunteers, interns, or contracted members of the staff of the therapeutic group home, including but not limited to plumbers, landscapers, or visiting resources.
- (2) The Louisiana Department of Health shall request, consistent with the provisions of R.S. 15:587.1.2, from the Bureau of Criminal Identification and Information, information concerning whether or not any of the persons listed in Paragraph (1) of this Subsection has been arrested for, convicted of, or pled nolo contendere to any criminal offense.
- (3) The therapeutic group home shall request information from the Department of Children and Family Services as to whether the individual's name is recorded on the state

central registry as a perpetrator for a substantiated finding of abuse or neglect of a child.

(4) For any individual subject to these provisions that has lived in any other state within the last five years, the Louisiana Department of Health shall request information from the child abuse and neglect registry or repository of each of those states as to whether the individual's name is recorded on that state's registry or repository.

(5) The Louisiana Department of Health may request any information necessary from the therapeutic group home, any person subject to the provisions of this Section, or any other appropriate agency, to ensure compliance with this Section.

(6) The Louisiana Department of Health shall require and provide for the submission of a person's fingerprints in a form acceptable to the Louisiana Bureau of Criminal Identification and Information.

(7) The Louisiana Department of Health may charge a processing fee not to exceed fifteen dollars, and may collect from the therapeutic group home the charges and processing fees charged by the Bureau of Criminal Identification and Information for a state criminal history report, the Federal Bureau of Investigation for a federal criminal history information report, and any other state's registry or repository of abuse and neglect. The Louisiana Department of Health shall timely submit the appropriate charges and processing fees to the appropriate agencies.

B. The Louisiana Department of Health may adopt rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section, including requirements and provisions for utilizing the criminal history information. The department may utilize the process provided in R.S. 49:962 for adoption of the rule.

RS 40:2009 — Mandatory accreditation of facilities participating in the Medicaid

residential supports and services, shall be accredited by the Joint Commission on the Accreditation of Health Care Organizations, the Council on the Accreditation of Rehabilitation Facilities, or the Council on Accreditation for Children and Family Services.

B. The Louisiana Department of Health may adopt rules and regulations to administer and implement this Section.

C. Notwithstanding any law to the contrary, the Louisiana Department of Health shall be the only agency responsible for licensing any facility participating in the Medicaid Residential Treatment Option.

RS 40:2009.2 — Definitions

(2) "Health care facility" means any provider of health services which is approved to receive Medicaid payments or which is a licensed nursing home.

(3) "Nursing facility", "nursing home", or "home" means a private home, institution, building, residence, or other place serving two or more persons who are not related by blood or marriage to the operator, whether operated for profit or not, and including those places operated by a political subdivision of the state of Louisiana, which undertakes, through its ownership or management, to provide maintenance, personal care, or nursing for persons who, by reason of illness, physical infirmity, or age, are unable to properly care for themselves. The term does not include the following:

(a) A home, institution, or other place operated by the federal government or agency thereof, or by the state of Louisiana.

(b) A hospital, sanitarium, or other institution whose principal activity or business is the care and treatment of persons suffering from tuberculosis or from mental diseases.

(c) A hospital, sanitarium, or other medical institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor.

(d) Any municipal, parish, or private child welfare agency, maternity hospital, or lying-in home required by law to be licensed by some other department or agency.

(e) Any sanitarium or institution conducted by and for Christian Scientists who rely on the practice of Christian Science for treatment and healing.

(f) Any nonprofit congregate housing program which promotes independent living by providing assistance with daily living activities such as cooking, eating, dressing, getting out of bed, and the like to persons living in a shared group environment who do not require the medical supervision and nursing assistance provided by nursing homes. No congregate housing program, except those licensed or operated by the state of Louisiana, shall do any of the following:

(i) Use the term "nursing home" or any other term implying that it is a licensed health care facility.

(ii) Administer medications or otherwise provide any other nursing or medical service.

(4) "Office" means either the office of licensing and certification or the office of family services to which the complaint has been referred by the secretary of the Louisiana Department of Health.

(5) "Person" means a natural person or persons, firm, partnership, association or corporation.

Such regulations shall require that nursing homes for which plans are approved, constructed after January 1, 1978, shall comply with the applicable Life Safety Code, in accordance with such federal regulations promulgated pursuant of Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) as may be in force at the time the plans are approved.

(6) "Secretary" means the secretary of the Louisiana Department of Health.

(7) "Unit" means the Medicaid fraud control unit created within the office of criminal law of the Department of Justice and which is certified by the secretary of the United States Department of Health, Education and Welfare or its successor.

RS 40:2009.3 — Licensing of nursing homes; applications; fees; disposition of fees

B. Application to conduct and operate a nursing home shall be made to the department on application forms furnished by it and shall contain such information as the department may require, including information required for health planning pursuant to R.S. 36:256(B). Additional information required by the licensing agency or for health planning shall be provided by the applicant on supplemental forms as needed. The application shall be accompanied by a license fee, the amount of which shall be determined by the department, in accordance with the number of persons for which the home is established to provide care. The fee shall be not less than one hundred dollars plus three dollars per bed.

C. Funds collected by the department as license fees shall be deposited in the operating account of the department and may be used by it for expenses incurred in making investigations required by R.S. 40:2009.1 through R.S. 40:2009.12

and for the enforcement of all laws, rules and regulations relating to the licensing of nursing homes.

D. A provisional license may be issued to a nursing home for a period not to exceed six months in cases where full compliance with regulations, codes or minimum standards require an extension of time. The failure to comply must not be detrimental to the health or safety of the residents and the deficiencies must be cited at the time of issuance.

RS 40:2009.4 — Standards prescribed

er and qualifications of personnel.

(3) Sanitary conditions.

(4) Diet related to the needs of each resident.

(5) Equipment essential to the health and wellbeing of the residents.

(6)(a) The establishment of new or replacement facilities or reestablishment of facilities that have sustained substantial structural damage from a hurricane or substantial structural damage from flooding which are located in areas subject to hurricanes, tidal surges, or flooding. An architect or civil engineer registered in the state shall determine whether a facility has sustained substantial structural damage from a hurricane or substantial structural damage from flooding in accordance with the Louisiana State Uniform Construction Code.

The regulations adopted by the department shall include but not be limited to:

(i) Requirements of building and construction codes and guidelines.

(ii) Restrictions of locations of newly approved facilities that are subject to the provisions of the facility need review process.

(iii) Provisions for the fair allocation of the Medicaid share of facility specific costs directly incurred by a facility as a result of compliance.

(iv) Provisions for reasonable time periods for compliance, not to exceed three years, except when extensions are granted by the department for good cause.

(b) Nothing herein shall be construed to affect or apply to existing operational facilities or to facilities that are under construction and whose construction plans were approved prior to the promulgation of regulations referred to in Subparagraph (a) of this Paragraph.

(7)(a) The requirement for licensed nursing facilities to allow immediate family members and other designated persons to visit residents during a public health emergency whenever a resident requests such a visit with special consideration to be given to residents receiving end-of-life care.

(b) The rules shall include but not be limited to definitions, minimum requirements including the right to consensual nonsexual physical contact such as hand-holding or hugging, restrictions, and provisions to protect the health, safety, and welfare of the residents and the staff of the licensed nursing facility. However, the rules may not require visitors to submit proof of any vaccination or immunization.

(c) The rules shall allow licensed nursing facilities to adopt reasonable time, place, and manner restrictions on resident visitation that are implemented for the purpose of mitigating the possibility of transmission of any infectious agent or disease or to address the medical condition or clinical considerations of an individual resident.

(d) The rules promulgated pursuant to this Paragraph shall be preempted by any federal statute, federal regulation, or guidance from a federal government agency that

requires a licensed nursing facility to restrict resident visitation in a manner that is more restrictive than the rules adopted by the department pursuant to this Paragraph.

(e) For purposes of this Paragraph, the following definitions shall apply:

(i) "Public health emergency" means a state of public health emergency that is declared pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.

(ii) "Resident" means the resident of the licensed nursing facility or the legal or designated representative of the resident.

B. In addition to the authority to prescribe minimum standards, the department may adopt new rules and regulations relating to the operation and conduct of nursing homes and the care, treatment and maintenance of the residents thereof when adequate state funds are made available. The secretary may waive any standard, rule, or regulation adopted pursuant to the authority granted herein in emergency situations for limited periods of time, when the health and welfare of the residents are not adversely affected.

C. The Louisiana Department of Health shall develop and implement policies and procedures to require nursing facilities to notify new residents and their families and guardians of sex offenders living in their facilities upon admission. The notification shall continue for as long as the information is considered a public record. During the annual licensing process, health standards surveyors shall verify the providers' compliance with the policy.

RS 40:2009.4.1 — Supervised automatic sprinkler systems; requirements

ember 31, 2006, completed sprinkler plans for these systems

shall be submitted to the secretary for review and approval. The secretary may grant an extension of time for nursing homes to submit plans by August 31, 2007, provided the nursing home submits to the secretary a written request for an extension including the reason for the delay and the secretary deems the request reasonable. Where means of egress passes through building areas outside of a nursing home, those areas shall be separated from the nursing home by a two-hour rated wall or shall be protected by a supervised automatic fire sprinkler system.

(2) Any nursing home operator that attests that a replacement facility will be licensed, operable, and in compliance with the requirements of Paragraph (1) of this Subsection by December 31, 2009, and presents plans for the replacement facility to the department and the state fire marshal on or before November 1, 2007, shall be in compliance with the requirements of Paragraph (1) of this Subsection.

B.(1) In order to offset the costs of this mandate, a Medicaid-certified nursing home which installs or extends a sprinkler system or renovates its facility to comply with the provisions of this Section shall submit invoices documenting the total cost of complying with the provisions of this Section to the department and shall be reimbursed by Medicaid within a five-year period of the expenditure. Costs reimbursed pursuant to this Section shall not be included in the facility's capital asset calculations. The cost of installation shall not be included in the facility's Medicaid rate calculations but shall be reimbursed in addition to each facility's Medicaid per diem rate.

(2) The Medicaid-certified nursing homes that installed sprinkler systems or two-hour rated walls, or both, after August 1, 2001, and before August 15, 2006, shall be reimbursed for the cost of such installation over a five-year period beginning July 1, 2007, based on each nursing home's

Medicaid cost ratio as computed by the Louisiana Department of Health at the time of completion of the installation. The cost reimbursement shall be calculated as total installation costs less any change in the fair rental value per diem that has been recognized by the department and included in the Medicaid rate as a result of the installation of the sprinkler system or the two-hour walls, or both. The cost of installation shall not be included in the nursing home's Medicaid rate calculations, but shall be reimbursed to the nursing home's Medicaid per diem rate.

(3) The department shall promulgate rules and regulations necessary for the implementation of the provisions in this Section, including but not limited to the establishment of procedures and criteria for reimbursement.

C. Any violation of this Section relating to the untimely submission of plans to the department or installation of sprinkler systems shall be a Class C violation pursuant to R.S. 40:2009.11. However, nothing in this Section shall preclude the department from pursuing other deficiencies or classes of violations.

D. For purposes of this Section, "supervised automatic fire sprinkler system" means a system that operates in accordance with the latest adopted edition of the National Fire Protection Association, Inc., Life Safety Code.

RS 40:2009.5 — Investigation; issuance of license

atisfied that the minimum standards prescribed by it are met, it shall issue a license for a period of one year. The department may, either before or after the issuance of a license, designate the state fire marshal, parish and multiple parish health units, or municipal boards of health to make investigations relating to the minimum standards prescribed by it, and all such agencies shall cooperate with and comply with requests of the department hereunder. The report and recommendations of any such agency shall be in writing and shall state with particularity its findings with respect to compliance or noncompliance with such minimum standards.

RS 40:2009.6 — Denial, revocation, or nonrenewal of license; grounds

imum standards prescribed by the department under R.S. 40:2009.4(A).

(2) Conviction of a felony, as shown by a certified copy of the record of the court of conviction of the applicant; or, if the applicant is a firm or corporation, conviction of any of its members or officers of a felony; or conviction of the person designated to manage or supervise the home of a felony.

(3) If the supervisor of the home is not reputable.

(4) If the staff or a member of the staff is temperamentally or otherwise unsuited for the care of the patients in the home.

B. A license may be revoked, or a renewal thereof denied for any of the following reasons:

(1) Cruelty or indifference to the welfare of the residents.

(2) Misappropriation or conversion of the property of the residents.

(3) Violation of any provision of R.S. 40:2009.1 through 2009.11 or of minimum standards, rules and regulations, or orders of the department promulgated thereunder.

(4) Any ground upon which an application for a license may be denied as prescribed in Subsection A of this Section.

(5)(a) When a nursing facility has failed to timely report or pay a fee or has been delinquent in payment of any fee owed to the department, including specifically provider fees

imposed pursuant to R.S. 46:2625, on more than three occasions. Revocation shall be stayed during the pendency of any agency administrative appeal filed by a health care provider who contests or disputes the delinquency fee or fine.

(b) For purposes of this Paragraph, a nursing facility shall be considered to be delinquent on the tenth day following the date on which the report or fee is due.

RS 40:2009.7 — Notice of reasons for nonrenewal or revocation of license; review;

new a license, or may revoke an

outstanding license, when he finds after investigation that the applicant or licensee is in nonconformance with or in violation of the provisions of R.S.

40:2009.6; provided that in all such cases, the secretary shall furnish the applicant or licensee thirty calendar days' written notice specifying reasons for the action.

B. The secretary, in a written notice of denial, nonrenewal, or revocation of a license shall notify the applicant or licensee of his right to file a suspensive appeal with the office of the secretary within thirty calendar days from the date the notice required in Subsection A of this Section is received by him. This appeal or request for a hearing shall specify in detail reasons why the appeal is lodged and why the appellant feels aggrieved by the action of the secretary.

C. When any appeal authorized by Subsection B of this Section is received by the secretary, if timely filed, he shall appoint an impartial three member board to conduct a hearing on the appeal at such time and place as such members deem proper, and after such hearing to render a written opinion on the issues presented at the hearing. The written decision or opinion of a majority of the members conducting the hearing shall constitute final administrative action on the appeal.

D. Any member of said board or the secretary shall have power to administer oaths and to subpoena witnesses on behalf of the board or any party in interest and compel the production of books and papers pertinent to any investigation or hearing authorized by this Chapter, provided that in all cases witness fees and transportation and similar hearing costs shall be paid by the appellant or by the Louisiana Department of Health if the appellant is found innocent of charges. Any person having been served with a subpoena who shall fail to appear in response to the subpoena or fail or refuse to answer any question or fail to produce any books or papers pertinent to any investigation or hearing or who shall knowingly give false testimony therein shall be guilty of a misdemeanor and shall upon conviction be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment of not less than one month nor more than six months, or by both such fine and imprisonment.

RS 40:2009.8 — Right of inspection by department; records; reports; confidentiality

by an applicant for a license, shall be open at all

reasonable times to inspection by the department and by any agency designated by the department as provided in R.S. 40:2009.5.

B. Every licensee shall keep such records and make such reports as the department shall prescribe and all such records shall be open to inspection by the department.

C. Any information regarding the date and time of a proposed inspection shall be confidential, shall not be transmitted outside of the Louisiana Department of Health, and shall not be transmitted within that department except to the extent necessary to conduct the inspection. Any person who knowingly or willfully violates the provisions of this Subsection shall be fined not more than five hundred dollars or imprisoned for not more than ninety days, or both.

RS 40:2009.9 — Term of license; renewal fee; display; transfer

se of places operated by a political subdivision of the state of Louisiana, shall be accompanied by a renewal fee of one hundred dollars plus three dollars per bed. The license shall be displayed in a conspicuous place inside the home. A license or provisional license shall be valid only in the hands of the person or entity to whom it is issued and shall not be subject to sale, assignment, or other transfer, voluntary or involuntary, nor shall a license or provisional license be valid for any premises other than those for which originally issued.

RS 40:2009.10 — Department reports relating to recipients of public assistance

that has any patrons who are recipients of public assistance.

RS 40:2009.10.1 — Immediate jeopardy violations in a licensed nursing home

jeopardy violation during the course and scope

of a survey of a licensed nursing home, the department shall notify the administrator or his designee of such violation and make available an opportunity to speak via telephone with a department supervisor prior to the surveyor's exiting the facility if the survey is conducted during regular working hours. If the survey is conducted during a time not considered regular working hours, the administrator shall have the opportunity to speak with a department supervisor during the next business morning.

B. If an immediate jeopardy violation is noted, the department shall present the administrator or his designee with a warning that immediate action is required to remedy the violation and preserve appeal rights as significant fines may be imposed by the Centers for Medicare and Medicaid Services. The warning notice shall be clear and in writing in a standard form developed by the department that includes an explanation of the basis for the citation.

C. If the department identifies an immediate jeopardy violation after the department surveyors have exited the licensed nursing home, the department shall notify the administrator or his designee of such violation by telephone, shall forward the notice described in Subsection B of this Section to the administrator or his designee via electronic or facsimile transmission, and shall provide an opportunity to speak via telephone with a department supervisor during the next business morning after such notification. Such notification shall be provided to the nursing home on an expedited basis.

RS 40:2009.11 — Violations; penalties; notice; hearings; appeal; collection and distribution of fines

be a misdemeanor, punishable upon conviction by a fine of not less than one thousand dollars nor more than five thousand dollars, and each day's violation shall constitute a separate offense.

B.(1) No person shall operate a nursing home as herein defined in violation of any provision of R.S. 40:2009.1 through 40:2009.11 or any other state or federal statute, regulation, or any department rule adopted pursuant to the Administrative Procedure Act which govern the administration of nursing home care.

(2) Any person or entity violating these requirements when such violation poses a threat to the health, safety, rights, or welfare of a nursing home resident may be liable to civil fines in addition to any criminal action which may be brought under other applicable laws. The department shall adopt rules in accordance with the Administrative Procedure Act which define specific classifications of violations, articulate factors in assessing civil fines including mitigating circumstances, and explain the treatment of continuing and repeat deficiencies. A schedule of civil fines by class of violation shall be as follows:

(a) Class A - Violations that create a condition or occurrence relating to the operation and maintenance of a nursing home which result in death or serious harm to a resident. Civil fines shall not exceed two thousand five hundred dollars for the first violation and shall not exceed five thousand dollars per day for repeat violations.

(b) Class B - Violations that create a condition or occurrence relating to the operation and maintenance of a nursing home which create a substantial probability that death or serious physical or mental harm to a resident will result from the violation. Civil fines shall not exceed one thousand five hundred dollars for the first violation and shall not exceed three thousand dollars per day for repeat violations.

(c) Class C - Violations that create a condition or occurrence relating to the operation and maintenance of a nursing home which create a potential for harm by directly threatening the health, safety, rights, or welfare of a resident. Civil fines shall not exceed one thousand dollars for the first violation and shall not exceed two thousand dollars per day for repeat violations.

(d) Class D - Violations related to administrative and reporting requirements that do not directly threaten the health, safety, rights, or welfare of a resident. Civil fines shall not exceed one hundred dollars for the first violation and shall not exceed two hundred fifty dollars per day for repeat violations.

(e) Class E - Violations for failure of any nursing home to submit a statistical or financial report in a timely manner as required by regulation. Civil fines shall not exceed fifty dollars for the first violation and shall not exceed one hundred dollars per day for repeat violations.

(3) The aggregate fines assessed for violations determined in any one month shall not exceed five thousand dollars, except that the aggregate fines assessed for Class A repeat violations shall not exceed twenty thousand dollars in any one month, and the aggregate fines assessed for Class B repeat violations shall not exceed fifteen thousand dollars in any one month.

C. The department shall adopt rules and regulations in accordance with the

Administrative Procedure Act to provide for notice to the nursing home of any violation, for an informal reconsideration process, and for an appeal procedure including judicial review. Such appeal shall be suspensive.

D. The nursing home shall furnish, with an appeal, bond in the minimum amount of one and one half times the amount of the fine imposed by the department. The bond furnished shall provide in substance, that it is furnished as security that the nursing home will prosecute its appeal, that any judgment against it, including court costs, will be paid or satisfied from the amount furnished or that otherwise the surety is liable for the amount assessed against the facility. The appeal shall be heard in a summary proceeding which shall be given precedence over other pending matters.

E. The department may institute all necessary civil court action to collect fines imposed and not timely appealed. No nursing home may claim imposed fines as reimbursable costs, nor increase charges to residents as a result of such fines. Interest shall begin to accrue at the current judicial rate on the day following the date on which any fines become due and payable.

F. (1) Civil fines collected under the provisions of this Section shall be deposited immediately into the state treasury.

(2) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to the monies being placed in the state general fund, an amount equal to the amount deposited as provided in Paragraph (1) of this Subsection shall be credited to a special fund hereby created in the state treasury to be known as the "Nursing Home Residents' Trust Fund", hereinafter referred to as "the fund". The monies in the fund shall be subject to annual appropriation and shall be used solely as mandated by the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203), including but not limited to reimbursement of evacuation expenses incurred by nursing homes, subject to approval by the Centers for Medicare and Medicaid Services. The monies in the fund shall be invested by the treasurer in the same manner as the monies in the state general fund, and all interest earned from the investment of monies in the fund shall be deposited in and remain to the credit of the fund. All unexpended and unencumbered monies remaining in the fund at the close of the fiscal year shall remain in the fund.

(3) The secretary of the Louisiana Department of Health is authorized to promulgate rules in accordance with the Administrative Procedure Act to provide for the administration of the fund.

G, H. Repealed by Acts 1990, No. 859, §2.

RS 40:2009.12 — Sleeping potion, sedatives, or injections without prescription; penalties

potion or sedative or any hypodermic injections without a doctor's prescription to any patron of any such nursing home. Any violation of this Section by any employee, operator, or owner of a nursing home shall be cause for cancellation of license in accordance with the provisions of this Chapter, and such violator shall also be subject to the criminal penalties imposed by the Uniform Controlled Dangerous Substances Law, Part X of Chapter 4 of this Title, relating to narcotics or to barbiturates insofar as applicable.

RS 40:2009.13 — Health care provider complaints; procedure; immunity

ally participating health care providers who operate in the state of Louisiana, provided the provisions of these Sections shall not prevent the institution of judicial action. For purposes of said Sections, "licensed health care provider" or "health care provider" means an institution or distinct part of an institution, facility, or agency licensed by the department or certified for participation in either or both of the Medicaid or Medicare programs to provide health care services. "Health care providers" include but are in no way limited to hospitals, nursing facilities, skilled nursing facilities, home health agencies, ambulatory surgical centers, providers of outpatient physical therapy and/or speech pathology services, comprehensive outpatient rehabilitation facilities, hospices, or suppliers of services, including but not limited to independent laboratories, suppliers of portable X-ray services, and end-stage renal disease treatment facilities.

B. Any person who has knowledge that a state law, minimum standard, rule, regulation, plan of correction promulgated by the department, or any federal certification rule pertaining to a health care provider has been violated, or who otherwise has knowledge that a consumer has not been receiving care and treatment to which he is entitled under state or federal laws, may submit a report regarding such matter to the department. The report may be submitted to the department in writing, by telephone, or by personal visit.

C. The office designated by the secretary shall have responsibility to assure that all reports are referred to the Medicaid fraud control unit or processed in accordance with this Section and R.S. 40:2009.14 through 2009.20.

D. If the report involves an alleged violation of criminal law, the department shall refer the reports to the Medicaid fraud control unit of the attorney general's office.

E. Any person, other than the person alleged to be responsible for the violation, who in good faith submits a report pursuant to this Section shall have immunity from any civil liability that otherwise might be incurred or imposed because of such report. Such immunity shall extend to participation in any judicial proceeding resulting from the complaint.

F.(1) If the report involves an alleged violation by an individual of laws governing professional licensure as provided in Title 37 of the Louisiana Revised Statutes of 1950 or rules and regulations promulgated pursuant to a professional practice act, the department shall refer the report to the appropriate professional licensing board.

(2) If the ensuing investigation results in determination that an individual may have violated laws pertaining to the individual's licensure as a health care professional, such investigation results shall be referred to the appropriate licensing board.

RS 40:2009.14 — Procedure for investigation by the office; confidentiality of reports

reasonable grounds for an investigation. No report shall be investigated if in the office's judgment it is not made in good faith, is outdated, or is trivial, or if the report is not within the investigating authority of the office. The office may further determine whether to consider a report as a complaint or as an allegation of noncompliance.

(2) If the office determines that grounds for an investigation do not exist, it shall notify the complainant of its decision and the reasons therefor within fifteen work days after receipt of such complaint.

(3) As used in this Section:

(a) An "allegation of noncompliance" is an allegation that an event has occurred or is occurring that has the potential for causing no more than minimal harm to a consumer or consumers.

(b) A "complaint" is an allegation that an event has occurred or is occurring and has the potential for causing more than minimal harm to a consumer or consumers.

(c) An "outdated report" is a report pertaining to an incident that occurred one hundred twenty or more days prior to its being reported to the office.

(d) A "trivial report" is a report of an allegation that an incident has occurred to a consumer or consumers that causes no physical or emotional harm and has no potential for causing harm to the consumer or consumers.

(e) "Minimal harm" is an incident that causes no serious temporary or permanent physical or emotional damage and does not materially interfere with the consumer's activities of daily living.

(4)(a) If the office determines that grounds for an investigation of a report as a complaint exist, the office shall investigate the complaint within thirty days of receipt of the report submitted under R.S. 40:2009.13(B).

(b) If the office determines that grounds for an investigation of a report as an allegation of noncompliance exist, the office shall investigate the allegation of noncompliance by telephone, provider report, or at the time of the next scheduled visit to

the provider's facility.

(5) Results of any investigation of a complaint shall be communicated in writing to the administrative officer of the facility and the complainant within thirty working days of completion of the investigation.

B.(1) The nature of the complaint or allegation shall be furnished to the provider no earlier than at the commencement of the investigation of the complaint or allegation of noncompliance.

(2) When the nature of the complaint or allegation is furnished to the health care provider, it shall not identify the complainant or the consumer unless the individual has consented to the disclosure either in writing or in a documented telephone conversation with an employee of the department. If disclosure is considered essential to the investigation or if the investigation results in a judicial proceeding, the complainant shall be given the opportunity to withdraw the complaint.

RS 40:2009.15 — Investigation report

of the Louisiana Department of Health, or any federal certification

rule affecting the health care provider, or any standard relating to the health, safety, care, or treatment of consumers has been violated. If such violation is found to exist, the appropriate departmental staff shall promptly provide notice to the secretary or his designee of such violation. The secretary or his designee shall take appropriate action as authorized by Subsection B of this Section.

Results of the investigation, including any notification of violations or deficiencies as provided in Subsection C of this Section, shall be sent by certified mail or hand delivered to the complainant and to the health care provider.

B. Upon receipt of such notice of violation from the department, the secretary shall consider:

(1) For violation of a federal certification rule or standard, appropriate action to terminate the health care provider's participation in the Medicaid program, the Medicare program, or both.

(2) For any violation which jeopardizes the health or safety of the consumer or consumers, appropriate steps to revoke the license pursuant to the authority granted under the licensing law for that type of health care provider.

(3) For any identified violations, imposing a sanction against the health care provider as authorized by law.

C.(1) If deficient practices are identified, the department shall notify the health care provider of the violation, list the rules or laws violated, and solicit a plan of correction from the health care provider.

(2) A health care provider which is required to correct identified violations may submit a written request to the department for informal reconsideration regarding the validity of the violations of the law or rule specified in the notice. This request must be received by the department within ten days of the health care provider's receipt of the notice. The complainant shall also be afforded an opportunity to request an informal reconsideration of the findings. Such a request must be made within thirty days of the complainant's receipt of the results of the investigation. The department shall schedule the requested informal reconsideration in a timely manner.

(3) The time periods specified in this Subsection shall commence with

receipt by the health care provider of the notice specifying the corrective actions to be taken.

RS 40:2009.16 — Hearing

determines that the complaint concerns a consumer in a facility and involves issues that have resulted or are likely to result in serious harm or death to the consumer. In those complaints involving the issues of serious harm or death, as determined by the health standards section, the complainant or the provider may appeal the informal reconsideration finding to the division of administrative law. All appeals and hearings shall conform with the Administrative Procedure Act and rules established by the department and the division of administrative law.

(2) For purposes of this Section, "serious harm" is an incident which involves unconsciousness; physical pain evidenced by objective findings; disfigurement; loss or impairment of the function of a body member, organ, or mental faculty; or severe emotional distress.

B. The hearing by the division of administrative law shall be limited to the evidence presented at the informal reconsideration unless the complainant or provider has obtained additional evidence important to the issues which he could not have with due diligence obtained before or during the informal reconsideration.

C. An administrative law judge shall make a determination on the appeal based on the evidence presented as to whether the investigation was conducted properly or improperly. If the administrative law judge determines that the investigation was not conducted properly, he shall designate in writing and with specificity the methods by which a reinvestigation shall be conducted. No appeal shall lie from a reinvestigation upon a prima facie showing that the reinvestigation was conducted in accordance with the designations of the administrative law judge.

RS 40:2009.17 — Retaliation by health care provider

nication was made to the department or unit, provided the communication is made in good faith for the purpose of aiding the office or unit to carry out its responsibilities. Any person who knowingly or willfully violates the provisions of this Section shall be guilty of a misdemeanor and upon conviction punished by a fine of not less than one hundred dollars nor more than five hundred dollars.

RS 40:2009.18 — Notification of the procedure

et setting forth the

complaint procedure established by R.S. 40:2009.13 through 2009.17. This booklet shall include a summary of costs which the Title XIX nursing home payments cover, a list of most additional kinds of costs which could be incurred but which Title XIX nursing home payments do not cover, and other information the department deems necessary to assist the families, and the individuals admitted, to a better understanding of the adjustments relative to living in a nursing home. The booklet shall be distributed by all licensed nursing homes to all current patients and to all new patients on the date of their admission. In addition, notice of this complaint procedure, complete with the name, address, and telephone number of the licensing and certification section of the office of management and finance of the Louisiana Department of Health, shall be posted conspicuously in the nursing home at places where patients gather, including, but not limited to, the administrative office, the dining hall, the activity room, and all nurses' stations.

RS 40:2009.19 — Notification of change

mulgated by the department and of any changes therein with which the nursing homes will be expected to comply.

RS 40:2009.20 — Duty to make complaints; penalty; immunity

ion of a consumer by means including but not limited to sexual abuse, or exploitation of funds or other things of value to such an extent that his health or mental or emotional well-being is endangered.

(2) "Neglect" is the failure to provide the proper or necessary medical care, nutrition, or other care necessary for a consumer's well-being.

B.(1) Any person who is engaged in the practice of medicine, social services, facility administration, psychological or psychiatric services; or any registered nurse, licensed practical nurse, nurse's aide, home- and community-based service provider employee or worker, personal care attendant, respite worker, physician's assistant, physical therapist, or any other direct caregiver having knowledge that a consumer's physical or mental health or welfare has been or may be further adversely affected by abuse, neglect, or exploitation shall, within twenty-four hours, submit a report to the department or inform the unit or local law enforcement agency of such abuse or neglect. When the department receives a report of sexual or physical abuse, whether directly or by referral, the department shall notify the chief law enforcement agency of the parish in which the incident occurred of such report. Such notification shall be made prior to the end of the business day subsequent to the day on which the department received the report. For the purposes of this Paragraph, the chief law enforcement agency of Orleans Parish shall be the New Orleans Police Department.

(2) Any person who knowingly or willfully violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than two months, or both.

C. Any person, other than the person alleged to be responsible for the abuse or neglect, reporting pursuant to this Section in good faith shall have immunity from any civil liability that otherwise might be incurred or imposed because of such report. Such immunity shall extend to participation in any judicial proceeding resulting from such report.

D. All hospitals shall permanently display in a prominent location in their emergency rooms a copy of R.S. 40:2009.20.

RS 40:2009.21 — Mandatory screening of nursing home Medicaid patients with mental illness or n screening and resident

review requirements for nursing care (other than ICF-DD) provided under Title XIX of the Social Security Act. Section 1919(b)(3)(F) of the Social Security Act prohibits admission of a mentally ill or mentally retarded Title XIX recipient unless the recipient requires the level of services provided by a nursing facility because of his physical and mental condition as determined by the state mental health authority or state mental retardation or developmental disability authority.

B. The Louisiana Department of Health shall establish rules and regulations to implement the mandatory preadmission and resident review requirements for nursing care (other than ICF-DD) provided under Title XIX of the Social Security Act. Such rules and regulations shall require that the department must make a determination of eligibility with regard to the first level of screening within two working days after a request is submitted to the department. If the department determines that a second level of screening is required to ascertain the mental condition of the applicant, the second level of screening shall be conducted and completed within eight working days after the completion of the first level of screening, and the applicant shall be notified of the agency's determination on the date the screening is completed. If the department fails to comply with the time limits provided for in this Subsection, the applicant shall be deemed eligible under Title XIX for placement in a nursing facility without further delay.

C. The Louisiana Department of Health, office of behavioral health shall be the state mental health authority and state developmental disability authority as provided for in the Social Security Act.

RS 40:2009.22 — Certification of nursing homes

caid program shall also be certified

for participation in the Medicare Part A skilled nursing facility program.

B. For any licensing application or renewal on or after July 1, 2004, nursing home providers may be granted a one hundred eighty-day grace period in which to certify for Medicare program participation, any beds that will be enrolled in the Medicaid program. This grace period may be granted by the Louisiana Department of Health, licensing and certification division, upon good cause shown.

C. If at time of license renewal or at any time after a grace period expires, a Medicaid nursing home provider fails to meet the requirements of Subsection A of this Section, such failure may result in Medicaid de-certification of the facility that fails to comply.

D. However, a skilled nursing facility enrolled in the Medicare Part A program shall not be required to enroll in the Medicaid program. If a Medicare certified skilled nursing facility desires to become Medicaid certified, it shall be required to comply with all requirements of the Facility Need Review program as set forth in R.S. 40:2116(B)(1) et seq.

RS 40:2009.23 — Adoption of rules; denial of payments; fines; temporary

e with the Administrative Procedure Act, to

provide remedies mandated by federal law which may include:

- (1) The denial of payment with respect to any individual admitted to a nursing facility when mandated by federal law.
- (2) The use of civil fines assessed and collected for violation of conditions mandated by federal law, such funds to be applied as mandated by federal law.
- (3) The procedure and requirements concerning the appointment of temporary management of a nursing facility as mandated by federal law.
- (4) The closure of a nursing facility, the transfer of residents in such facility, or both, in the case of an emergency, as mandated by federal law.
- (5) Alternate remedies to deter noncompliance and correct deficiencies.

B. The department, by rule adopted pursuant to the Administrative Procedure Act, shall specify criteria as to when and how each remedy is to be applied, the amount of any fine within the limits specified by law, and the severity of the remedies to be used in the imposition of such remedies as mandated by federal law.

C. The department shall enforce rules adopted pursuant to this Section and, when determined necessary, may petition a court of competent jurisdiction to judicially enforce any such rule.

RS 40:2009.24 — Alternative electrical power source required

nt of the loss of primary electrical power
in accordance with this Section.

B. The generator or alternate electrical power source shall have a simultaneous capability of providing sufficient electrical power for all of the following:

- (1) Life safety systems.
- (2) Lighting in patient care areas.
- (3) Medical equipment in patient care areas.
- (4) Electrical components of the approved potable water system.

- (5) Electrical components of the approved sewer systems.
 - (6) Operation of the nursing facility's medication dispensing and medication refrigeration systems.
 - (7) Operation of the nursing facility's dietary services and related refrigeration.
 - (8) Operation of the nursing facility's laundry services.
 - (9)(a) For nursing facilities built or whose construction plans have been approved by the department prior to August 1, 2022, HVAC systems or portions of systems required to maintain a safe indoor temperature to be powered at a minimum fifty percent of the air conditioning systems and fifty percent of the heating systems in the facility.
 - (b) For nursing facilities approved for construction and built on or after August 1, 2022, HVAC systems or portions of systems required to maintain a safe indoor temperature to be powered at a minimum ninety percent of the air conditioning systems and ninety percent of the heating systems in the facility.
- C.(1) The generator or alternate electrical power source shall be permanently installed onsite at the nursing facility and shall have fuel stored onsite at the nursing facility or delivered prior to the emergency event, in the following quantities:
- (a) For nursing facilities built or whose construction plans have been approved by the department prior to August 1, 2022, an amount sufficient to operate the generator or alternative electrical power source under full load for forty-eight hours.
 - (b) For nursing facilities approved for construction and built on or after August 1, 2022, an amount sufficient to operate the generator or alternative electrical power source under full load for seventy-two hours.
- (2) Natural gas is an allowable fuel source and meets the onsite fuel requirement if there is an onsite propane tank sufficient in size to meet the fuel requirements provided for in this Section.
- D. Each nursing facility shall have fuel delivery agreements in place that will extend the uninterrupted operation of the generator or alternative electrical power source under full load to a total period of one hundred sixty-eight hours for a single emergency event. Nursing facilities may interrupt operation of the generator or alternative electrical power source to conduct routine maintenance as recommended by manufacturer's specifications.
- E.(1) For nursing facilities built or whose construction plans have been approved by the department prior to August 1, 2022, the Louisiana Department of Health may provide a waiver for the permanently installed generator or alternative electrical power source required by this Section if it is determined that there is not sufficient physical space available or a governmental ordinance exists that makes it impossible to place a generator or alternative electrical power source and the fuel required by this Section on the premises of the nursing facility.
- (2) Each nursing facility which receives a waiver pursuant to this Subsection shall annually submit to the department for review and approval a plan to provide for the health and safety of the facility's residents in the event of power loss. The annual plan may incorporate but is not limited to mobile generators, chillers, or evacuation.
- F. Nursing facilities shall meet the requirements of this Section no later than June

30, 2023. The department may grant a one-time extension, not to exceed six months, upon written application by a nursing facility that compliance with this Section has been delayed due to extraordinary and unforeseen circumstances. No extension shall be granted if the nursing facility fails to provide sufficient evidence of substantial compliance or good faith efforts to comply with the requirement deadline provided for in this Subsection.

RS 40:2009.25 — Emergency preparedness plans for nursing homes; requirements; Nursing Home

ms have the meaning ascribed to them

in this Subsection:

(1) "Department" means the Louisiana Department of Health.

(2) "Local office of emergency preparedness" means a parish office of homeland security and emergency preparedness established pursuant to R.S. 29:727.

(3) "Nursing home" means a nursing home or nursing facility as defined in R.S. 40:2009.2 which is licensed by the Louisiana Department of Health in accordance with the requirements of R.S. 40:2009.3.

B. Each nursing home shall continue to utilize its emergency preparedness plan that was in effect on March 1, 2022, until the process provided for in Subsection C or D of this Section, whichever is applicable, has been completed. However, during this period, if a nursing home updates or amends its emergency preparedness plan pursuant to nursing home licensing rules in effect at the time, then the nursing home shall utilize the updated emergency preparedness plan until the process provided for in Subsection C or D of this Section, whichever is applicable, has been completed.

C.(1) The provisions of this Subsection shall apply to each nursing home located in the parishes of Acadia, Ascension, Assumption, Calcasieu, Cameron, Iberia, Jefferson, Jefferson Davis, Lafayette, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, and Vermilion.

(2) Each nursing home located in a parish listed in Paragraph (1) of this Subsection shall develop an emergency preparedness plan that comports with the requirements of this Subsection. Each such plan shall include and identify, at a minimum, all of the following:

(a) A primary evacuation site and a secondary evacuation site, verified by one or more contracts or other written agreements, as well as any other alternative evacuation sites that the nursing home may have.

(b) Proof of transportation or a contract with a transportation company, verified by a written transportation agreement or contract.

(c) Staffing patterns for evacuation, including contact information for facility staff.

(d) Detailed provisions which address supply of emergency electrical power in instances when primary electrical power in the nursing home is lost but evacuation from the nursing home is not required.

(e) Any data, other information, documentation, or other content required by administrative rules of the department.

(3) Each nursing home located in a parish listed in Paragraph (1) of this Subsection shall submit a copy of its full, updated emergency preparedness plan to the department in

electronic format. The emergency preparedness plan shall be signed by the nursing home's owner or owners, or any designee of such parties, and its administrator.

(4)(a) The department shall conduct a review of each nursing home emergency preparedness plan submitted to it in accordance with Paragraph (3) of this Subsection.

(b) The departmental review required by this Paragraph shall include transmittal of each nursing home emergency preparedness plan to all of the following entities for review by those entities:

(i) The office of state fire marshal.

(ii) The Governor's Office of Homeland Security and Emergency Preparedness.

(iii) The Department of Transportation and Development.

(iv) The Louisiana Emergency Response Network.

(v) The local office of emergency preparedness of the parish in which the nursing home is located.

(vi) The local office of emergency preparedness of any parish in which an evacuation site, including any unlicensed sheltering site, as identified in the nursing home's emergency preparedness plan is located.

(c) The departmental review required by this Paragraph may include transmittal to any other local, parish, regional, or other state agencies or entities for consultation as the department deems appropriate. Each such agency or entity shall cooperate and contribute to the department's review and approval process.

(5) Each entity listed in Subparagraph (4)(b) of this Subsection shall review each nursing home emergency preparedness plan submitted to it and shall submit one of the following documents to the department within ninety days of receipt of the emergency preparedness plan from the department:

(a) A letter of preliminary approval of the nursing home's emergency preparedness plan.

(b) A letter detailing what changes, amendments, or revisions to the emergency preparedness plan are necessary.

(6) Any entity listed in Subparagraph (4)(b) of this Subsection that does not respond to the department concerning a nursing home emergency preparedness plan within ninety days of receipt of the plan shall be deemed to have granted preliminary approval to the plan.

(7) After review of a nursing home emergency preparedness plan and results of the review of the plan by the entities listed in Subparagraph (4)(b) of this Subsection, the department shall either approve the emergency preparedness plan or require changes, amendments, or other revisions to the emergency preparedness plan. The department shall notify the nursing home that submitted the plan in electronic format of the department's decision.

(8) Within fifteen days of receipt by the nursing home of an electronic notification from the department that requires changes, amendments, or revisions to the nursing home's emergency preparedness plan, the nursing home shall update and revise its emergency preparedness plan to incorporate the required changes, amendments, or revisions, and shall return a copy of the updated and revised emergency preparedness plan to the department.

(9) Upon receipt of a nursing home's updated and revised emergency preparedness plan, the department shall confirm that all required changes, amendments, or revisions have been incorporated into the updated and revised emergency preparedness plan and shall approve the emergency preparedness plan and issue an approval letter to the nursing home. If the required changes, amendments, or revisions have not been incorporated, the department shall reject the emergency preparedness plan and issue a letter of rejection to the nursing home. The department may revoke or deny renewal of a license to a nursing home that has received a letter of rejection of its emergency preparedness plan.

(10) Each nursing home shall transmit a copy of its final, approved emergency preparedness plan and a copy of the approval letter from the department to the office of state fire marshal and the applicable local office or office of emergency preparedness. The nursing home shall submit the final, approved emergency preparedness plan in electronic format, if available, to the recipients listed in this Paragraph. If the nursing home received a letter of rejection from the department, the nursing home shall transmit a copy of that letter to the office of state fire marshal and the applicable local office or office of emergency preparedness.

(11) The review and approval of nursing home emergency preparedness plans by the department and each entity listed in Subparagraph (4)(b) of this Subsection shall be performed pursuant to the department's and those entities' respective areas of knowledge, expertise, or jurisdiction.

D.(1) The provisions of this Subsection shall apply to each nursing home located in the parishes of Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberville, Jackson, LaSalle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, Sabine, St. Helena, St. Landry, Tensas, Union, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana, and Winn.

(2) Each nursing home located in a parish listed in Paragraph (1) of this Subsection shall develop an emergency preparedness plan that comports with the requirements of this Subsection. Each such plan shall include and identify, at a minimum, all of the following:

(a) A primary evacuation site and a secondary evacuation site, verified by one or more contracts or other written agreements, as well as any other alternative evacuation sites that the nursing home may have.

(b) Proof of transportation or a contract with a transportation company, verified by a written transportation agreement or contract.

(c) Staffing patterns for evacuation, including contact information for facility staff.

(d) Detailed provisions which address supply of emergency electrical power in instances when primary electrical power in the nursing home is lost but evacuation from the nursing home is not required.

(e) Any data, other information, documentation, or other content required by administrative rules of the department.

(3) Each nursing home located in a parish listed in Paragraph (1) of this Subsection

shall submit a copy of its full, updated emergency preparedness plan to the department in electronic format. The emergency preparedness plan shall be signed by the nursing home's owner or owners, or any designee of such parties, and its administrator.

(4)(a) The department shall conduct a review of each nursing home emergency preparedness plan submitted to it in accordance with Paragraph (3) of this Subsection.

(b) The departmental review required by this Paragraph shall include transmittal of each nursing home emergency preparedness plan to all of the following entities for review by those entities:

(i) The office of state fire marshal.

(ii) The Governor's Office of Homeland Security and Emergency Preparedness.

(iii) The Department of Transportation and Development.

(iv) The Louisiana Emergency Response Network.

(v) The local office of emergency preparedness of the parish in which the nursing home is located.

(vi) The local office of emergency preparedness of any parish in which an evacuation site, including any unlicensed sheltering site, as identified in the nursing home's emergency preparedness plan is located.

(c) The departmental review required by this Paragraph may include transmittal to any other local, parish, regional, or other state agencies or entities for consultation as the department deems appropriate. Each such agency or entity shall cooperate and contribute to the department's review and approval process.

(5) Each entity listed in Subparagraph (4)(b) of this Subsection shall review each nursing home emergency preparedness plan submitted to it and shall submit one of the following documents to the department within ninety days of receipt of the emergency preparedness plan from the department:

(a) A letter of preliminary approval of the nursing home's emergency preparedness plan.

(b) A letter detailing what changes, amendments, or revisions to the emergency preparedness plan are necessary.

(6) Any entity listed in Subparagraph (4)(b) of this Subsection that does not respond to the department concerning a nursing home emergency preparedness plan within ninety days of receipt of the plan shall be deemed to have granted preliminary approval to the plan.

(7) After review of a nursing home emergency preparedness plan and results of the review of the plan by the entities listed in Subparagraph (4)(b) of this Subsection, the department shall either approve the emergency preparedness plan or require changes, amendments, or other revisions to the emergency preparedness plan. The department shall notify the nursing home that submitted the plan in electronic format of the department's decision.

(8) Within fifteen days of receipt by the nursing home of an electronic notification from the department that requires changes, amendments, or revisions to the nursing home's emergency preparedness plan, the nursing home shall update and revise its emergency preparedness plan to incorporate the required changes, amendments, or revisions, and shall

return a copy of the updated and revised emergency preparedness plan to the department.

(9) Upon receipt of a nursing home's updated and revised emergency preparedness plan, the department shall confirm that all required changes, amendments, or revisions have been incorporated into the updated and revised emergency preparedness plan and shall approve the emergency preparedness plan and issue an approval letter to the nursing home. If the required changes, amendments, or revisions have not been incorporated, the department shall reject the emergency preparedness plan and issue a letter of rejection to the nursing home. The department may revoke or deny renewal of a license to a nursing home that has received a letter of rejection of its emergency preparedness plan.

(10) Each nursing home shall transmit a copy of its final, approved emergency preparedness plan and a copy of the approval letter from the department to the office of state fire marshal and the applicable local office or office of emergency preparedness. The nursing home shall submit the final, approved emergency preparedness plan in electronic format, if available, to the recipients listed in this Paragraph. If the nursing home received a letter of rejection from the department, the nursing home shall transmit a copy of that letter to the office of state fire marshal and the applicable local office or office of emergency preparedness.

(11) The review and approval of nursing home emergency preparedness plans by the department and each entity listed in Subparagraph (4)(b) of this Subsection shall be performed pursuant to the department's and those entities' respective areas of knowledge, expertise, or jurisdiction.

E.(1)(a) On or before October 31, 2023, and annually thereafter, each nursing home located in a parish listed in Paragraph (C)(1) of this Section shall review its emergency preparedness plan. In conducting the review required by this Subparagraph, a nursing home shall consider any changes in state licensing rules and regulations and any changes in federal rules and regulations for nursing homes adopted since the date of its last review of its emergency preparedness plan.

(b) On or before October 31, 2024, and annually thereafter, each nursing home located in a parish listed in Paragraph (D)(1) of this Section shall review its emergency preparedness plan. In conducting the review required by this Subparagraph, a nursing home shall consider any changes in state licensing rules and regulations and any changes in federal rules and regulations for nursing homes adopted since the date of its last review of its emergency preparedness plan.

(2) If a nursing home conducts a review in accordance with Paragraph (1) of this Subsection and determines that no changes, modifications, or amendments to its emergency preparedness plan are necessary, then the nursing home shall notify all of the following entities of this determination on or before November first:

(a) The local office of emergency preparedness of the parish in which the nursing home is located.

(b) The local office of emergency preparedness of any parish in which a sheltering site, alternative sheltering site, or evacuation site, as identified in the nursing home's emergency preparedness plan, is located.

(c) The office of state fire marshal.

(d) The department.

(3)(a) Each notification required by Paragraph (2) of this Subsection shall be in the form of a written attestation signed by the owner or owners, or any designee of such parties, and the administrator of the nursing home submitting the notification. A nursing home may submit an attestation provided for in this Paragraph for no more than four consecutive years.

(b) If a nursing home has submitted an attestation provided for in Subparagraph (a) of this Paragraph for four consecutive years, then, in the year following its last submission, the nursing home shall furnish a full emergency preparedness plan in accordance with the procedures provided in Paragraphs (4) through (12) of this Subsection.

(4)(a) If a nursing home conducts a review in accordance with Paragraph (1) of this Subsection and determines that any changes, modifications, or amendments to its emergency preparedness plan are necessary, or if a nursing home is required by Subparagraph (3)(b) of this Subsection to furnish a full emergency preparedness plan, then the nursing home shall submit its full emergency preparedness plan, inclusive of any updates and revisions, to the department on or before November first. The full emergency preparedness plan shall be signed by the nursing home's owner or owners, or any designee of such parties, and its administrator.

(b) Each emergency preparedness plan shall include and identify, at a minimum, the following:

(i) A primary evacuation site and a secondary evacuation site, verified by one or more contracts or other written agreements, as well as any other alternative evacuation sites that the nursing home may have.

(ii) Proof of transportation or a contract with a transportation company, verified by written transportation agreement or contract.

(iii) Staffing patterns for evacuation, including contact information for facility staff.

(iv) Detailed provisions which address supply of emergency electrical power in instances when primary electrical power in the nursing home is lost but evacuation from the nursing home is not required.

(v) Any data, other information, documentation, or other content required by administrative rules of the department.

(5) The department shall conduct a review of each nursing home emergency preparedness plan submitted to it in accordance with Subparagraph (4)(a) of this Subsection.

(a) The departmental review required by this Paragraph shall include transmittal of each nursing home emergency preparedness plan to all of the following entities for review by those entities:

(i) The office of state fire marshal.

(ii) The Governor's Office of Homeland Security and Emergency Preparedness.

(iii) The Department of Transportation and Development.

(iv) The Louisiana Emergency Response Network.

(v) The local office of emergency preparedness of the parish in which the nursing home is located.

(vi) The local office of emergency preparedness of any parish in which an evacuation site, including any unlicensed sheltering site, as identified in the nursing home's emergency preparedness plan is located.

(b) The departmental review required by this Paragraph may include transmittal to any other local, parish, regional, or other state agencies or entities for consultation as the department deems appropriate. Each such agency or entity shall cooperate and contribute to the department's review and approval process.

(6) Each entity listed in Subparagraph (5)(b) of this Subsection shall review each nursing home emergency preparedness plan submitted to it and shall submit one of the following documents to the department within ninety days of receipt of the emergency preparedness plan from the department:

(a) A letter of preliminary approval of the nursing home's emergency preparedness plan.

(b) A letter detailing what changes, amendments, or revisions to the emergency preparedness plan are necessary.

(7) Any entity listed in Subparagraph (5)(b) of this Subsection that does not respond to the department concerning a nursing home emergency preparedness plan within ninety days of receipt of the plan shall be deemed to have granted preliminary approval to the plan.

(8) After review of a nursing home emergency preparedness plan and results of the review of the plan by the entities listed in Subparagraph (5)(b) of this Subsection, the department shall either approve the emergency preparedness plan or require changes, amendments, or other revisions to the emergency preparedness plan. On or before March first, the department shall notify the nursing home that submitted the plan in electronic format of the department's decision.

(9) Within fifteen days of receipt by the nursing home of an electronic notification from the department that requires changes, amendments, or revisions to the nursing home's emergency preparedness plan, the nursing home shall update and revise its emergency preparedness plan to incorporate the required changes, amendments, or revisions, and shall return a copy of the updated and revised emergency preparedness plan to the department.

(10) Upon receipt of a nursing home's updated and revised emergency preparedness plan, the department shall confirm that all required changes, amendments, or revisions have been incorporated into the updated and revised emergency preparedness plan and shall approve the emergency preparedness plan and issue an approval letter to the nursing home. If the required changes, amendments, or revisions have not been incorporated, the department shall reject the emergency preparedness plan and issue a letter of rejection to the nursing home. The department shall issue the approval letter or rejection letter required by this Paragraph on or before May fifteenth. The department may revoke or deny renewal of a license to a nursing home that has received a letter of rejection of its emergency preparedness plan.

(11) On or before May thirty-first, each nursing home shall transmit a copy of its final, approved emergency preparedness plan and a copy of the approval letter from the department to the office of state fire marshal and the applicable local office or office of

emergency preparedness. The nursing home shall submit the final, approved emergency preparedness plan in electronic format, if available, to the recipients listed in this Paragraph. If the nursing home received a letter of rejection from the department, the nursing home shall transmit a copy of that letter to the office of state fire marshal and the applicable local office or office of emergency preparedness on or before May thirty-first.

(12) The review and approval of nursing home emergency preparedness plans by the department and each entity listed in Subparagraph (5)(b) of this Subsection shall be performed pursuant to the department's and those entities' respective areas of knowledge, expertise, or jurisdiction.

F. With respect to emergency preparedness among nursing homes, the department shall do all of the following:

(1) After considering any recommendations provided by the Nursing Home Emergency Preparedness Review Committee, prescribe and publish, in accordance with the Administrative Procedure Act, rules pertaining to emergency preparedness by nursing homes. The rules shall include but not be limited to all of the following:

- (a) Requirements for nursing homes relating to emergency preparedness.
 - (b) Requirements for the content of nursing home emergency preparedness plans.
 - (c) Requirements for the process by which the department reviews nursing home emergency preparedness plans.
 - (d) Procedures for addressing situations wherein a nursing home makes changes to its emergency preparedness plan on a schedule which deviates from that provided in Subsection E of this Section.
 - (e) Minimum requirements for nursing homes which serve as evacuation sites for other nursing homes.
 - (f) Minimum requirements for nonlicensed sheltering sites identified in nursing home emergency preparedness plans.
 - (g) Any rule recommended or proposed by the Nursing Home Emergency Preparedness Review Committee and approved by the secretary of the department.
- (2) Review and approve nursing home emergency preparedness plans in accordance with its duly adopted rules and the applicable requirements of this Section.
- (3) Prepare findings based upon its review of nursing home emergency preparedness plans, including any summaries of after-action reports as the secretary of the department deems appropriate, to present to the Nursing Home Emergency Preparedness Review Committee.

G.(1) The legislature hereby creates within the department the Nursing Home Emergency Preparedness Review Committee, referred to hereafter in this Subsection as the "committee." The committee shall be composed as provided in Paragraph (2) of this Subsection and shall convene at least annually. The purposes and duties of the committee shall include reviewing the findings of the department with respect to nursing home emergency preparedness plans submitted to the department in accordance with the requirements of this Section. From its review of such findings and summaries of after-action reports, the committee shall develop and provide to the department recommendations for

licensing regulations which address risks and threats; manpower issues for loading, transporting, and unloading residents; evacuation site locations; and evacuation site staffing in order to promote the health, safety, and welfare of nursing home residents.

(2) The committee shall be composed of the following members, all of whom shall serve on the committee without compensation:

- (a) The secretary of the department or his designee.
- (b) The undersecretary of the department or his designee.
- (c) The state health officer or his designee.
- (d) The emergency preparedness manager of the health standards section of the department, who shall serve as the chairperson of the committee.
- (e) Five members appointed by the secretary of the department who are directors or managers of parish or municipal offices of emergency preparedness.
- (f) The secretary of the Department of Transportation and Development or his designee.
- (g) The executive director of the Louisiana Nursing Home Association.
- (h) The chairperson of the emergency preparedness committee of the Louisiana Nursing Home Association.
- (i) The executive director of LeadingAge Gulf States.
- (j) Six members appointed by the secretary of the department who are owners or administrators of nursing homes. The secretary shall select such members in a manner that provides for geographic diversity among the facilities represented by this member cohort.
- (k) The long-term care ombudsman of the governor's office of elderly affairs or his designee.
- (l) The executive director of Disability Rights Louisiana or his designee.
- (m) The director of the Governor's Office of Homeland Security and Emergency Preparedness or his designee.
- (n) The director of the Louisiana Medicaid program of the department or his designee.
- (o) The assistant secretary of the office of aging and adult services of the department or his designee.

(3) Any rule recommended or proposed by the committee shall be subject to review by and approval of the secretary of the department. If approved by the secretary, the department shall promulgate the rule in accordance with the Administrative Procedure Act.

H.(1) Each nursing home's emergency preparedness plan shall identify at a minimum a primary evacuation site location and a secondary evacuation site location for emergencies or disasters. Such evacuation site locations may include the premises of other licensed nursing homes, nonlicensed sheltering sites, or both.

(2)(a) The local office of emergency preparedness of the parish in which a nonlicensed sheltering site is located shall inspect the site prior to October 15, 2022, and annually thereafter. The office shall inspect any new nonlicensed sheltering site identified after May 31, 2023, in a nursing home emergency preparedness plan within thirty days of receiving the plan and annually thereafter. The office may inspect the nonlicensed sheltering

site at such other times as the director of the office deems necessary or appropriate.

(b) On an annual basis, and whenever requested by the secretary of the department, the office of state fire marshal shall inspect each nonlicensed sheltering site identified in a nursing home emergency preparedness plan to determine the suitability and capacity of the site. The office of state fire marshal may inspect the nonlicensed sheltering site at other times as it deems necessary or appropriate.

(c) On an annual basis, the department shall inspect and survey nonlicensed sheltering sites identified in nursing home emergency preparedness plans. The purpose of such inspections and surveys shall be to determine the appropriateness and suitability of the site and whether it can comply with requirements for nursing home evacuations before, during, and after an evacuation. Any refusal by a nonlicensed sheltering site to allow an inspection or survey of the site by the department may result in disqualification of the nonlicensed sheltering site. If such a refusal to allow an inspection or survey occurs when nursing home residents are being sheltered at the site, the department may revoke the license of the nursing home that evacuated residents to the site.

(d) Any nursing home that decides to evacuate residents to a nonlicensed sheltering site shall notify the department of this decision within one hour of the decision being made. Upon receipt of such notification, the department's licensing section and the office of public health shall conduct a site visit at the nonlicensed sheltering site unless time, weather conditions, or other factors do not allow for such visit. The department may conduct onsite inspections of the nonlicensed shelter site at any time deemed necessary or appropriate by the secretary of the department. Such authority of the department shall be in addition to its authority to conduct onsite surveys of the licensed nursing home, regardless of location.

(e) If any nonlicensed sheltering site is located outside of Louisiana, the office of state fire marshal and the department shall coordinate with their state agency counterparts in the state in which the site is located for inspection, review, approval, and surveys of the site.

I.(1) Neither the state, the department, the Department of Transportation and Development, the office of state fire marshal, nor the Governor's Office of Homeland Security and Emergency Preparedness nor, except in the case of willful misconduct, any employee or representative of such entities and offices, engaged in the emergency preparedness activities and responsibilities as established in this Section or in the rules and regulations promulgated pursuant to the provisions of this Section, shall be liable for the death of or any injury to persons or damage to property as a result of such activity. The state and all departments, employees, and representatives thereof shall be immune from any claim based upon the exercise or performance of, or the failure to exercise or perform, the duties as established in this Section or in the rules and regulations promulgated pursuant to the provisions of this Section.

(2) Except in the case of willful misconduct, no member of the Nursing Home Emergency Preparedness Review Committee engaged in the emergency preparedness activities and responsibilities as established in this Section or in the rules and regulations promulgated pursuant to the provisions of this Section shall be liable for the death of or any

injury to persons or damage to property as a result of such activity. The members of the Nursing Home Emergency Preparedness Review Committee shall be immune from any claim based upon the exercise or performance of, or the failure to exercise or perform, the duties as established in this Section or in the rules and regulations promulgated pursuant to the provisions of this Section.

(3) Neither the local office of emergency preparedness, nor, except in the case of willful misconduct, any employee or representative of the local office of emergency preparedness, engaged in the emergency preparedness activities and responsibilities as established in this Section, or in the rules and regulations promulgated pursuant to the provisions of this Section, shall be liable for the death of or any injury to persons or damage to property as a result of such activity. The local office of emergency preparedness and its employees and representatives shall be immune from any claim based on the exercise or performance of, or the failure to exercise or perform, the duties as established in this Section or in the rules and regulations promulgated pursuant to the provisions of this Section.

(4)(a) For purposes of this Paragraph, "LERN" means the Louisiana Emergency Response Network established and provided for in Chapter 34 of this Title.

(b) Neither LERN nor the LERN board, nor, except in the case of willful misconduct, any board member, employee, or representative of LERN or the LERN board, engaged in the emergency preparedness activities and responsibilities as established in this Section or in the rules and regulations promulgated pursuant to the provisions of this Section, shall be liable for the death of or any injury to persons or damage to property as a result of such activity. LERN, the LERN board, and the employees and representatives of LERN and the LERN board shall be immune from any claim based on the exercise or performance of, or the failure to exercise or perform, the duties as established in this Section or in the rules and regulations promulgated pursuant to the provisions of this Section.

J.(1) Nothing in this Section shall be construed to prohibit the department from taking action against a nursing home for a deficiency cited during an emergency or disaster.

(2) Implementation and execution of an emergency preparedness plan shall be the duty and responsibility of the nursing home.

K. The provisions of this Section shall be in addition to all other licensing and certification laws, standards, rules, and regulations for nursing homes.

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RS 40:2009.40 — [Blank]

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RS 40:2009.41 — Repealed by Acts 1985, No. 912, §2.

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RS 40:2009.42 — Disclosure of ownership of nursing homes; penalties

any ownership, interest, or is the owner, in whole or in part, of any mortgage, deed of trust, note, or other obligation secured by a nursing home licensed in this state shall disclose such information to the state licensing authority, except for those nursing homes operated by a political subdivision of the state of Louisiana.

B. Whoever violates any provision of this Section shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars.

RS 40:2009.43 — Culinary therapy authorized

activities may provide culinary therapy as part of a planned patient activity program for residents of said facilities.

RS 40:2009.44 — Nursing home leave of absence days

ment for up to seven leave-of-absence days per spell of illness, at a minimum, for each nursing home facility resident who is Medicaid-eligible, when the resident has been admitted as an inpatient to another licensed health care facility. Further, the department shall promulgate rules and regulations which allow payment for up to fifteen leave-of-absence days per year, at a minimum, for each nursing facility resident who is Medicaid-eligible, when the resident leaves such nursing facility on home leave.

RS 40:2009.45 — Personal needs allowance

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monthly personal needs allowance for an institutionalized couple to an amount not less than one hundred dollars.

B. The Louisiana Department of Health may submit a waiver or a state plan amendment to the Centers for Medicare and Medicaid Services in order to secure federal financial participation for the provisions of this Section.

RS 40:2010 — Itemized statement of billed services by hospitals

of Health

shall have available an itemized statement of billed services for individuals who have received the services from the hospital. The availability of the statement shall be made known to each individual who receives service from

the hospital before the individual is discharged from the hospital, and a duplicate copy of the billed services statement shall be presented to each patient within the specified ten day period. No insurance company, employee benefit trust, self-insurance plan, or other entity which is obligated to reimburse the individual or to pay for him or on his behalf the charges for the services rendered by the hospital shall pay those benefits to the individual when the itemized statement submitted to such entity clearly indicates that the individual's rights to those benefits have been assigned to the hospital. When any insurance company, employee benefit trust, self-insurance plan, or other entity has notice of such assignment prior to such payment, any payment to the insured shall not release said entity from liability to the hospital to which the benefits have been assigned, nor shall such payment be a defense to any action by the hospital against that entity to collect the assigned benefits. However, an interim statement shall be provided when requested by the patient or his authorized agent.

RS 40:2010.1 — Definitions

board,

commission, authority, or any other agency or instrumentality created by the state, or to which the state is a party, or by any parish or municipality, which is responsible for the regulation, visitation, inspection, or supervision of facilities, or which provides services to patients, residents, or clients of facilities.

(2) "Facility" means any nursing home or board and care home licensed by the state or required to be licensed by the state under the terms of R.S. 40:2009.1 through R.S. 40:2009.12, and R.S. 40:2151-2163.

(3) "Office" means the office of the state long term care ombudsman in the office of elderly affairs in the office of the governor.

(4) "Ombudsman" means the administrator of the office of the state ombudsman created pursuant to R.S. 40:2010.1 through R.S. 40:2010.5 in the office of elderly affairs.

(5) "Representative" means any person who meets the qualifications and completes the training required by the office of the state long term care ombudsman, as specified by administrative rule, and who is currently in good standing with the office of the state long term care ombudsman as a local ombudsman.

(6) "Resident" means, any person who is a resident or client of a facility.

RS 40:2010.2 — Establishment of the office of the ombudsman

acilities

within this state. The office shall by administrative rule specify the educational and professional requirements for such ombudsman. Nothing contained in R.S. 40:2010.1 through 2010.5 shall be construed to supersede or modify the ultimate authority exercised over nursing homes by the Louisiana Department of Health pursuant to R.S. 40:2009.1 et seq.

RS 40:2010.3 — Ombudsman; functions and responsibilities

to become acquainted with

residents, residents' families, facility administration and facility personnel; to promote community involvement with residents of facilities; to serve as a liaison between residents, residents' families, facility personnel and facility administration.

(2) To encourage residents in self-advocacy when problems are expressed and to make recommendations to the facility administration for the appropriate resolution of the problem.

(3) To promote the development of citizen organizations to participate in the ombudsman program.

(4) To make referrals and recommendations to the Louisiana Department of Health and the Department of Children and Family Services, where such referral is appropriate.

(5) To provide for the training of the ombudsman, including volunteers and other representatives of the ombudsman, in:

(a) Federal, state, and local laws and regulations, and policies with respect to long term care facilities in state.

(b) Investigative techniques.

(c) Such other matters as the office deems appropriate.

(6) To provide reports to the oversight subcommittee of the joint committee on health and welfare as the subcommittee may require.

B. No officer, employee, or other representative of the office of the state long term care ombudsman may investigate any complaint filed with the office unless the individual has received such training as may be required under Paragraph (A)(5) of this Section and has been approved by the long term care ombudsman as qualified to investigate such complaints.

RS 40:2010.4 — Ombudsman; powers; prohibition of interference; penalties

the administrator or person in charge of his presence upon entering the facility, and shall perform his duties in the manner least disruptive of patient care and activities.

B. In exercising its responsibilities, the office may engage in the following actions:

(1) Communicating privately and confidentially with residents of facilities.

(2) Reviewing or obtaining any books, files, medical, social or financial records, or other relevant records pertaining to a particular resident, provided written consent is obtained from such resident or his legal representative.

(3) The office of the state long term care ombudsman will establish procedures, through the Administrative Procedure Act, for appropriate access by ombudsman to long term care facilities and patient's records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order.

C. Willful interference with representatives of the office of the state long term care ombudsman in the performance of their official duties, as defined by state and federal laws and regulations, shall be unlawful. Retaliation and reprisals by a long term care facility or other entity with respect to any resident or employee of a long term care facility for having filed a complaint with or provided information to the office of the state long term care ombudsman is prohibited. Any person who knowingly or willfully violates the provisions of this Section shall be guilty of a misdemeanor and upon conviction punished by a fine of not less than one hundred or more than five hundred dollars.

D. No representative of the office of the state long term care ombudsman will be liable under state law for the good faith performance of official duties as defined by state and federal laws and regulations.

RS 40:2010.5 — Confidentiality of records; liability

ing the identities of the residents, unless the resident or a legal representative consents in writing to the disclosure or unless ordered by a court to do so.

RS 40:2010.6 — Legislative intent

lature further recognizes the need for these persons to live within the least restrictive environment possible in order to retain their individuality and some personal freedom. It is therefore the intent of the legislature to preserve the dignity and personal integrity of residents of nursing homes through the recognition and declaration of rights safeguarding against encroachments upon nursing home residents' right to self-determination. It is further the intent that the provisions of R.S. 40:2010.6 through R.S. 40:2010.9 complement and not duplicate or substitute for other survey and inspection programs regarding nursing homes.

RS 40:2010.7 — Definitions

try, dental,

audiology, vision, physical therapy, occupational therapy, psychological and social services, and planning services.

(2) "Chemical restraint" includes any drug listed in the schedules of controlled substances under R.S. 40:964 as a substance having a depressant effect on the central nervous system, or chlorpromazine hydrochloride.

(3) "Physical restraint" means, but is not limited to, any article, device, or garment that interferes with the free movement of the resident and that he is unable to remove easily. It also includes a geriatric chair and a locked room door.

(4) "Sponsor" means an adult relative, friend, or guardian of a resident who has an interest or responsibility in the resident's welfare, and preferably who is designated as the responsible party on the resident's admission forms.

RS 40:2010.8 — Residents' bill of rights

nts in accordance

with the provisions of the statement. The statement shall assure each resident the following:

(1) The right to civil and religious liberties, including but not limited to knowledge of available choices, the right to independent personal decision, and the right to encouragement and assistance from the staff of the facility in the fullest possible exercise of these civil and religious rights.

(2)(a) The right to private and uncensored communications, including but not limited to receiving and sending unopened correspondence; access to a telephone; and overnight visitation outside the facility with family and friends in accordance with nursing home policies, physician orders, and Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act regulations, without the loss of his bed.

(b) The right to be granted immediate access to the following:

(i) Any representative of the secretary of the United States Department of Health and Human Services.

(ii) Any representative of the state acting pursuant to his duties and responsibilities under state or federal law.

- (iii) The resident's individual physician.
 - (iv) The state long term care ombudsman.
 - (v) The agency responsible for the protection of and the advocacy system for persons with developmental disabilities.
 - (vi) The agency responsible for the protection of and the advocacy system for persons with mental illness.
 - (vii) Immediate family members, other relatives of the resident, and the resident's clergy subject to the resident's right to deny or withdraw consent at any time.
 - (viii) Others who are visiting with the consent of the resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time.
- (c) The facility shall provide reasonable access to any resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.
- (d) Reasonable restrictions are those imposed by the facility that protect the security of all the facility's residents. The facility may change the location of visits to assist care giving or protect the privacy of other residents.
- (3) The right to present grievances on behalf of himself or others to the nursing home's staff or administrator, to governmental officials, or to any other person; to recommend changes in policies and services to nursing home personnel; and to join with other residents or individuals within or outside the home to work for improvements in resident care, free from restraint, interference, coercion, discrimination, or reprisal. This right includes access to the resident's sponsor and the Louisiana Department of Health and the right to be a member of, to be active in, and to associate with advocacy or special interest groups.
- (4) The right to manage his own financial affairs or to delegate such responsibility to the nursing home, but this delegation may be only to the extent of the funds held in trust by the home for the resident. A quarterly accounting of any transactions made on behalf of the resident shall be furnished to the resident and his sponsor if requested. A copy shall be retained in the resident's records on file in the home.
- (5) The right to be fully informed, in writing and orally, prior to or at time of admission and during his stay, of services not covered under Title XVIII or Title XIX of the Social Security Act or not covered by the basic per diem rates and of bed reservation and refund policies of the home.
- (6) The right to be adequately informed of his medical condition and proposed treatment; to participate in the planning of all medical treatment, including the right to refuse medication and treatment; and to be informed of the consequences of such actions.
- (7) The right to receive adequate and appropriate health care and protective and support services, including services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules promulgated by the Louisiana Department of Health.
- (8) The right to have privacy in treatment and in caring for personal needs; to have closed room doors, and to have facility personnel knock before entering the room, except in

case of an emergency; to have confidentiality in the treatment of personal and medical records; and to be secure in storing and using personal possessions, subject to applicable state and federal health and safety regulations and the rights of other residents. Privacy of the resident's body shall be maintained during but not limited to toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance.

(9) The right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement and oral explanations of the services provided by the home, including statements and explanations required to be offered on an as-needed basis.

(10) The right to be free from mental and physical abuse; and the right to be free from any physical or chemical restraint imposed for the purposes of discipline or convenience, and not required to treat the resident's medical symptoms.

(11)(a) The right to be transferred or discharged only if necessary for his welfare and if his needs cannot be met in the facility; his health has improved sufficiently so that he no longer needs the services provided by the facility; the safety of individuals in the facility is endangered; the health of individuals in the facility would otherwise be endangered; he has failed after reasonable and appropriate notice to pay or have paid for a stay at the facility; or the facility ceases to operate.

(b) Both the resident and his legal representative or interested family member, if known and available, have the right to be notified in writing in a language and manner they understand of the transfer and discharge. The notice must be given no less than thirty days in advance of the proposed action, except that the notice may be given as soon as is practicable prior to the action in the case of an emergency. In facilities not certified to provide services under Title XVIII or Title XIX of the Social Security Act, the advance notice period may be shortened to fifteen days for nonpayment of a bill for a stay at the facility.

(c) The resident or his legal representative or interested family member, if known and available, has the right to appeal any transfer or discharge to the Louisiana Department of Health, which shall provide a fair hearing in all such appeals.

(d) The facility must ensure that the transfer or discharge is effectuated in a safe and orderly manner. The resident and his legal representative or interested family member, if known and available, shall be consulted in choosing another facility if facility placement is required.

(12) The right to select a personal physician; to obtain pharmaceutical supplies and services from a pharmacy of the resident's choice, at the resident's own expense or through Title XVIII or Title XIX of the Social Security Act; and to obtain information about, and to participate in, community-based activities and programs unless such participation would violate infection control or quarantine laws or regulations.

(13) The right to retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other residents. Clothing need not be provided to the resident by the home except in emergency situations. If provided, it shall be of reasonable fit.

(14) The right to have copies of the nursing home's rules and regulations and an

explanation of the resident's responsibility to obey all reasonable rules and regulations of the nursing home and of his responsibility to respect the personal rights and private property of other residents.

(15) The right to be informed of the bed reservation policy for a hospitalization. The nursing home shall inform a private pay resident and his responsible party or sponsor that his bed shall be reserved for any single hospitalization for a period up to thirty days, provided the nursing home receives reimbursement. Notice shall be provided within twenty-four hours of the hospitalization.

(16) The right to receive a prompt response to all reasonable requests and inquiries.

(17) The right of the resident to withhold payment for physician visitation if the physician did not examine the resident.

(18) The right to refuse to serve as a medical research subject without jeopardizing access to appropriate medical care.

(19) The right to use tobacco at his own expense under the home's safety rules and under applicable laws and rules of the state, unless the facility's written policies preclude smoking in patient rooms.

(20) The right to consume a reasonable amount of alcoholic beverages at his own expense, unless not medically advisable as documented in his medical record by the attending physician, or unless alcohol is contraindicated with any of the medications in the resident's current regime or unless expressly prohibited by published rules and regulations of a nursing home owned and operated by a religious denomination which has abstinence from the consumption of alcoholic beverages as a part of its religious belief.

(21) The right to retire and rise in accordance with the resident's personal preference.

(22) The right to have any significant change in his health status immediately reported to him and his legal representative or interested family member, if known and available, as soon as such a change is known to the home's staff.

(23) The right to receive a copy of the most recent Louisiana Department of Health annual licensing survey results, provided by the nursing home.

(24) The right to have a monitoring device installed in his room in accordance with the Nursing Home Virtual Visitation Act, R.S. 40:1193.1 et seq.

B. A sponsor may act on a resident's behalf to assure that the nursing home does not deny the resident's rights under the provisions of R.S. 40:2010.6 et seq., and no right enumerated therein may be waived for any reason whatsoever.

C. Each nursing home shall provide a copy of the statement required by Subsection A of this Section to each resident and sponsor upon or before the resident's admission to the home and to each staff member of the home. The statement shall also advise the resident and his sponsor that the nursing home is not responsible for the actions or inactions of other persons or entities not employed by the facility, such as the resident's treating physician, pharmacists, sitter, or other such persons or entities employed or selected by the resident or his sponsor. Each home shall prepare a written plan and provide appropriate staff training to implement the provisions of R.S. 40:2010.6 et seq., including but not limited to an explanation of the following:

(1) The residents' rights and the staff's responsibilities in the implementation of those rights.

(2) The staff's obligation to provide all residents who have similar needs with comparable services as required by state licensure standards.

D.(1) Any violations of the residents' rights set forth in R.S. 40:2010.6 et seq. shall constitute grounds for appropriate action by the Louisiana Department of Health. Residents shall have a private right of action to enforce these rights, as set forth in R.S. 40:2010.9. The state courts shall have jurisdiction to enjoin a violation of residents' rights and to assess fines for violations not to exceed one hundred dollars per individual violation.

(2) In order to determine whether a home is adequately protecting residents' rights, inspection of the home by the Louisiana Department of Health shall include private, informal conversations with a sample of residents to discuss residents' experiences within the home with respect to the rights specified in R.S. 40:2010.6 et seq., and with respect to compliance with departmental standards.

E. Any person who submits or reports a complaint concerning a suspected violation of residents' rights or concerning services or conditions in a home or health care facility or who testifies in any administrative or judicial proceedings arising from such complaint shall have immunity from any criminal or civil liability therefor, unless that person has acted in bad faith with malicious purpose, or if the court finds that there was an absence of a justiciable issue of either law or fact raised by the complaining party.

RS 40:2010.9 — Civil enforcement

against any nursing home or health care facility responsible for the alleged violation. The action may be brought by the resident or his curator, including a curator ad hoc. The action may be brought in any court of competent jurisdiction to enforce such rights or to enjoin any deprivation or infringement on the rights of a resident. Any plaintiff who prevails in such action shall be entitled to recover reasonable attorney fees, and costs of the action, unless the court finds that the losing plaintiff has acted in bad faith with malicious purpose, and that there was an absence of a justiciable issue of either law or fact, in which case the court shall award the prevailing party his reasonable attorney fees.

B. The remedies provided in this Section shall not be construed to restrict other legal and administrative remedies available to a resident and to the Louisiana Department of Health or other governmental agencies.

C. Any claim brought pursuant to R.S. 40:2010.8 et seq. shall be filed in a court of competent jurisdiction within one year from the date of the alleged act, omission or neglect, or within one year from the date of discovery of the alleged act, omission or neglect; however, even as to claims filed within one year from the date of such discovery, in all events such claims shall be filed at the latest within a period of three years from the date of the alleged act, omission or neglect. The provisions of this Section shall apply to all persons whether or not infirm or under disability of any kind and including, but not

limited to, minors, interdicts and all persons adjudicated to be incompetent of handling their own affairs.

RS 40:2010.10 — Provision of annual licensing survey results to all residents and potential residents of

the applicant

that the applicant may receive a copy of the annual licensing survey as well as the telephone number to report complaints, and the applicant shall sign stating they have been so notified.

B. The failure of a nursing home to comply with the provisions of this Section shall constitute a violation of resident's rights as provided in R.S. 40:2010.8, et seq., and shall constitute grounds for appropriate action by the Louisiana Department of Health.

RS 40:2011 — Immunization information; shingles; pneumonia

Practices of the Centers for

Disease Control and Prevention, the Louisiana Department of Health shall provide licensed nursing homes with educational information on zoster, also known as shingles. The educational information shall include, at a minimum, the risks associated with shingles and how to protect oneself against the varicella-zoster virus. The licensed nursing homes shall disseminate this information to their residents.

B. No later than September first of each year and in accordance with the latest recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, the Louisiana Department of Health shall provide licensed nursing homes with educational information on pneumonia. The educational information shall include, at a minimum, the risks associated with pneumonia and the availability of the pneumococcal immunization. The licensed nursing homes shall disseminate this information to their residents.

C. Nothing in this Section shall be construed to require any licensed nursing home to provide or pay for any immunization against the varicella-zoster virus or pneumonia.

D. The Louisiana Department of Health shall provide the educational information required by Subsections A and B of this Section through the posting of a link to its website where the information can be downloaded by the licensed nursing homes.

RS 40:2012 — Repealed by Acts 1977, No. 680, §19

on Rouge, Louisiana 70804-9062

RS 40:2012.1 — Admission of indigent patients

ed by the Louisiana Department of Health upon the recommendation of any registered physician and upon being found by the superintendent of the hospital to be a fit subject entitled to such admission.

RS 40:2012.2 — Admission of pay patients; disposition of proceeds

the hospital for expenses of their

hospitalization, medical services, drugs, and medicines at rates to be fixed by the department, and the proceeds of fees paid by such patients shall be transmitted to the state treasurer in accordance with state laws.

RS 40:2012.3 — Transportation of indigent patients to hospital; expenses

sion to a state-owned tuberculosis hospital, the parish sheriff shall arrange for the transportation of the patient to such hospital.

B. The sheriff may collect from the parish five cents per mile for the distance the patient is transported from the parish to the hospital designated. Where more than one patient is transported at a time, the sheriff shall receive five cents per mile for each patient transported. This five cents per mile shall be made to cover any means of transportation, sleeping accommodations, and sustenance of patients during their transportation. In addition to these amounts, the sheriff may collect for his own expenses an additional five cents per mile for each mile traveled in transporting the patient or patients to the hospital and in returning. The sheriff shall take the most direct route possible in going to and returning from the hospital. If any parish fails or refuses to pay the transportation charges to any sheriff justly entitled to them, the sheriff may proceed by summary writ of mandamus in the district court, without cost, against the governing authority of the parish to enforce payment.

RS 40:2013 — Louisiana Department of Health as mental health and developmental disabilities
this Chapter, is hereby designated as the sole agency:

(1) For carrying out the purposes of the National Mental Health Act, Public Law 79-487.

1

(2) For carrying out the purposes of the Maternal and Child Health and Mental Retardation Planning Amendments of 1963, Title VII of Public Law 88-156 in relation to planning.

2

(3) For carrying out the Mental Retardation Facilities Construction Act, Part C of Title I of Public Law 88-164.

3

(4) For carrying out the purposes of the Community Mental Health Centers Act, Title II of Public Law 88-164.

4

(5) For carrying out the purposes of the Alcohol, Drug Abuse and Mental Health Administration Reorganization Act, Public Law 102-321

5

.

(6) To administer any and all federal grants in aid funds awarded to the state of Louisiana and any state funds that may be appropriated or made available by the legislature for the establishment and conduct of an approved mental health and developmental disabilities program in the state of Louisiana as contemplated by the provisions of the foregoing federal laws or the provisions of any state law relating to the subjects of this Section.

RS 40:2013.1 — Mental health clinics; authority of physicians to render certain opinions

Health Centers Act, Title II of P.L. 88-164, is hereby required, when requested by a social security claimant who is, or who has been, a patient of the physician at such mental health clinic and who has a treating relationship with the patient in the appropriate field, to provide descriptive statements and opinions for the patient with respect to the patient's medical condition, employability, and ability to function, upon which disability determinations may be based. Nothing in this

Section shall prohibit a medical center from requiring payment for the medical center's current evaluation and management level services, but no such service shall be denied dependent upon a patient's inability to pay. Nothing in this Section shall prohibit Social Security Administration funding from being utilized to pay for such services.

RS 40:2013.2 — Appointment of chaplains; compensation

atholic predominating religious

denomination of patients in each of the hospitals under its administration for persons with mental illness.

B. The Catholic priest shall be appointed by and subject to the Bishop or Archbishop in whose diocese or archdiocese the hospital for persons with mental illness is located. The minister of the other predominating religious denomination shall be selected and appointed by the secretary of the Louisiana Department of Health.

C. The Catholic priest and the minister of the predominating non-Catholic denomination shall be paid a monthly fee to be fixed by the secretary.

D. The secretary may provide for the employment of additional chaplains of any religious denomination on a contractual basis and shall have authority to fix their fees.

RS 40:2013.3 — Superintendent to furnish report on patient's condition

upon written request of the coroner of the

parish from which the patient was committed to furnish a report to the coroner of the patient's condition, showing diagnosis, laboratory findings, treatment prescribed and prognosis; and upon the written request of the attorney of the patient or a near relative shall make the patient's medical record available for inspection by such attorney or relative at such time as may be fixed by the superintendent.

RS 40:2013.4 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2013.5 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2013.6 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2013.20 — Repealed by Acts 1977, No. 680, §26

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RS 40:2013.54 — Department sole agency for federal mental health programs

National Mental

Health Act, Public Law 79-487

1

; the Maternal and Child Health and Mental

Retardation Planning Amendments of 1963, Title VII of Public Law 88-156

2

; the Mental Facilities Construction Act, Part C of Title I of Public Law 88-164

3

; and the Community Mental Health Centers Act, Title II of Public Law 88-164

, shall be assisted by the advisory councils, as required by federal law, hereinafter created and established.

RS 40:2013.71 — Repealed by Acts 1978, No. 680, §3

n Rouge, Louisiana 70804-9062

RS 40:2014 — Repealed by Acts 1977, No. 680, §47

on Rouge, Louisiana 70804-9062

RS 40:2014.1 — Superintendents to furnish reports on patients

ish,

upon written request of the doctor who refers the patient to such hospital, a report to the doctor on such patient when the patient is discharged showing the diagnosis, laboratory and x-ray findings and treatment prescribed and are further authorized and required to furnish the patient or his attorney or the patient's heirs or their attorney, upon written request, a full report on such patient.

RS 40:2016 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2017 — Care of sick persons who are indigent or destitute; maintenance

of this Chapter, exercise the following functions:

- (1) Provide for the care and treatment, in privately owned hospitals and other institutions, of sick persons who are indigent or destitute, including persons with mental illness or who are mentally deficient.
- (2) Furnish to persons who are indigent or destitute proper dental, medical, surgical and other treatment, including their transportation to the point of treatment and return.
- (3) Contract or enter into agreement for such care and treatment upon such terms as may be agreed upon between the parties to the arrangements.
- (4) Employ such physicians, interns and other employees as may, in its opinion, be necessary for the proper care and treatment of persons who are indigent or destitute under this Chapter.
- (5) The department may establish maintenance allowances for officials and employees of the hospitals and schools under its administration and for other purposes.
- (6) Cooperate with other agencies of the state in carrying into effect the laws of the State in relation to any programs designed to improve services rendered persons in need of and eligible for such services.

B. Subject to appropriation by the legislature, the Louisiana Department of Health shall provide for the inclusion of licensed clinical social workers and medical psychologists as providers for the purposes of Medicaid reimbursement. Such licensed clinical social workers and medical psychologists shall have a minimum of three years experience working in private practice. The Louisiana Department of Health shall also establish an administrative services organization for oversight of all behavioral health services.

RS 40:2017.1 — Repealed by Acts 1964, No. 170, §10

on Rouge, Louisiana 70804-9062

RS 40:2017.3 — Regulations fixing minimum standards

r may receive federal aid for construction under the federal act and the state plan in effect and any such hospital is required to comply with the regulations; provided that before adopting any such regulations, the board shall hold a public hearing thereon after first giving reasonable notice to the public of its intention to hold such public hearing and affording all interested parties a reasonable opportunity to appear at such hearing and offer objections to any proposed regulation. Regulations fixing minimum standards adopted under this Chapter shall have the force and effect of law.

RS 40:2017.4 — Additional hospitals; surveys and approval

rmine if there is a need for, and if the need is found to exist to secure approval of the establishment of, additional hospitals in the state of such size and so staffed and equipped as to qualify for internship and residences for medical students who have completed their four year medical course in some recognized medical college or school in the United States. In this connection, the department is empowered to work with state, federal, parish, municipal or private agencies in securing the establishment of additional institutions where approved post-graduate medical training and experience may be obtained by young doctors.

RS 40:2017.5 — Promotion of nurse education program

he establishment wherever feasible of additional schools for training student nurses in state owned institutions where such schools do not exist and in private hospitals.

RS 40:2017.6 — Acceptance of federal funds; notice of public hearing

rt of this Chapter. Moneys received from the federal government for a construction project approved by the surgeon general of the United States shall be used solely for the payments to applicants for work performed and purchases made in carrying out approved projects.

B. Whenever the department schedules a public hearing to review any application for a finding of conformity pursuant to the provisions of Section 1122 of the Social Security Act, as amended*, the department shall notify each legislator whose district encompasses the proposed location of the facility. The notice shall be provided at least five calendar days prior to the public hearing.

RS 40:2017.7 — Enforcement of rules and regulations

purposes he may institute and prosecute mandamus or injunction suits against alleged violators of such rules, standards, regulations or orders in the courts of this state. In any such suits it shall be the duty of the attorney general and the general counsel of the department to represent the secretary.

RS 40:2017.8 — Administration of oaths and taking of testimony

wer to administer oaths and take testimony of witnesses anywhere in the state on matters relating to the business of the department.

RS 40:2017.9 — Medicare; use of information obtained; penalty

of discharging its duties under any agreement with the United States of America through the Department of Health, Education and Welfare or its successor pertaining to Public Law 80-97, popularly known as the Medicare Act, shall be used solely for the purposes of such agreement; and it shall be unlawful, except for said purposes, for any person to solicit, disclose, receive or make use of or to authorize or knowingly permit, participate in or acquiesce in the use of any

information obtained by the Louisiana Department of Health pursuant to, or as a result of, any agreement with the United States of America as aforementioned. Nothing herein contained shall limit the use of records, reports, charts, documents or other papers or information as governed by R.S. 40:2013.3, 2014.1, or 2016 or R.S. 44:7.

RS 40:2017.10 — Emergency medical services program; cooperation of other state departments

provide adequate emergency medical services for persons

injured on the roads and highways of the state, whether through the excessive use of alcoholic beverages or otherwise. The program shall be administered by the department, with such assistance and use of facilities of other agencies of the state and its political subdivisions as will best and most efficiently serve the interests of public health and safety of the citizens of Louisiana through the furnishing of emergency medical services deemed by the department to be best calculated to protect and preserve the health and welfare of persons injured on the roads and highways and in emergency situations contributing to such injuries and report the results of such services. To this end the Department of Public Safety and Corrections and such other boards, commissions, departments, and agencies of the state and its political subdivisions as the department shall deem necessary therefor shall cooperate with and assist the department, at its request.

B. In order to effectuate the emergency medical services program provided for in this Section, the department shall have authority to adopt and enforce rules and regulations pertaining thereto and to do and perform all things and acts which it deems necessary or desirable for the purpose.

RS 40:2017.11 — Fees for review of plans

ther residential living options which are submitted for review to the Department of Public Safety and Corrections, office of state fire marshal, or its designee pursuant to rules promulgated in accordance with the Administrative Procedure Act.

There shall be a minimum charge of twenty-five dollars and a maximum charge of three hundred dollars, plus a postage and handling fee of ten dollars. Such costs shall be paid prior to review by the owner of the project for which the review is requested.

RS 40:2017.12 — Prepayment by hospitals of Medicaid settlement

ents, payable to the

secretary of the Louisiana Department of Health with refund to said hospital to be the amount in Medicaid reimbursement owed said hospital within one hundred twenty days after receipt of prepayment.

B. Definitions:

(1) "Clean claim" shall mean a Medicaid claim for services rendered by any hospital prepared in a manner mandated necessary to specifications and adjudication requirements as decreed by the federal government and the state of Louisiana.

(2) "Hospital" shall mean any hospital licensed by the state of Louisiana pursuant to R.S. 40:2100 et seq.

(3) "Medicaid settlement" shall mean any sum of money owed to a hospital by the state's medical assistance program of a year-end medicaid cost report settlement from any Fiscal Year 1987-88 or earlier.

C.(1) Any hospital which is owed one or more Medicaid settlements, may,

pursuant to rules promulgated by the secretary of the Louisiana Department of Health to implement the provisions of this Section, pay to the secretary of the Louisiana Department of Health an amount equal to the current years' state reimbursement rate as set by the federal government for Louisiana, for said hospital's Medicaid settlement due and owing, or said hospital's anticipated Medicaid settlement as of the date of prepayment.

(2) A "Hospital Prepayment Receipt" shall be issued by the secretary of the Department of Revenue to any hospital participating in prepayment of Medicaid anticipated following receipt of prepayment by the Louisiana Department of Health and notification to the Department of Revenue.

D. Except as provided in Subsection F of this Section, hospitals holding or owning any Hospital Prepayment Receipts may use them in lieu of payment, to satisfy any obligation due and payable to the state of Louisiana on or after July 1, 1989. Notwithstanding any law to the contrary, all payments made pursuant to this Section, and the Hospital Prepayment Receipts issued pursuant to this Section, shall bear no interest except as provided herein.

E. In the event that a hospital chooses to make a payment under the provisions of this Section, that hospital will be paid by the state's medical assistance program, in satisfaction of Medicaid settlements due, the amount due and owing said hospital, in accordance with all "clean claims" presented by said hospital to the secretary of the Louisiana Department of Health. Said payment to the hospital shall be made as soon as possible after receipt of the payment made by the hospital pursuant to this Section, but in no event shall the payment to the hospital be made later than one hundred twenty days from the date of the prepayment from the hospital, according to the date on the Hospital Prepayment Receipt.

F. In the event that a hospital participating under the provisions of this Section, has made a prepayment and is not paid the amount herein specified within one hundred twenty days, then the hospital may send to the secretary of the Louisiana Department of Health, via certified mail, a notice of default. Thereafter, that hospital's Hospital Prepayment Receipt shall bear interest at the rate of three points above the current Treasury Bill rate as affixed on day one hundred and twenty from the day of the Hospital Prepayment Receipt, and the hospital may use said receipt, and any interest due thereon, to satisfy any obligation due and payable to the state of Louisiana on or after July 1, 1989.

G. The secretary of the Louisiana Department of Health shall promulgate rules in accordance with the Administrative Procedure Act and other state and federal laws and regulations to implement the provisions of this Section.

RS 40:2018 — Commission on Perinatal Care and Prevention of Infant Mortality;
hed within the Louisiana Department of
Health, a commission which shall be designated the "Commission on Perinatal
Care and Prevention of Infant Mortality", composed of sixteen members, as
provided in Subsection B of this Section.

B.(1) Fourteen members shall be appointed by the governor as follows:

- (a) Two neonatologists, one of which shall be actively engaged in medical education, and one of which shall be actively engaged in private practice.
- (b) One obstetrician.
- (c) One family practitioner.
- (d) One pediatrician.
- (e) One female health nurse practitioner.
- (f) One representative from a family planning clinic in the state.
- (g) One neonatal nurse specialist.
- (h) Two health care administrators representing the public and private sector respectively.
- (i) One social worker.
- (j) One nutritionist.
- (k) Two perinatologists.

(2) Two members shall be appointed as follows:

- (a) One member of the Louisiana House of Representatives appointed by the speaker of the House of Representatives.
- (b) One member of the Senate appointed by the president of the Senate.

(3) Each appointment by the governor shall serve at his pleasure and shall be subject to Senate confirmation. The legislative members shall serve at the pleasure of the presiding officer of the respective legislative body.

C. The chairman of the Commission on Perinatal Care and Prevention of Infant Mortality shall be elected annually by the commission members and shall serve as chairman without a salary. The chairman shall report directly to the governor.

D. The commission shall hold at least six regular meetings each year at a place designated by the chairman. The commission members shall be compensated for travel in connection with the commission meetings and official commission business as approved by the chairman of the commission. Reimbursement shall be in accord with the travel regulations of the Louisiana Department of Health.

E.(1) The secretary of the Louisiana Department of Health shall assist the commission and provide any data the commission requires that is available to the state, in order to reduce the number of infant deaths and the number of unmarried, teenage pregnancies in the state of Louisiana.

(2) Reports on the status of available perinatal care and other reports as are considered appropriate based on the research shall be made to the commission.

F. The functions of the commission shall be to:

- (1) Research and review all state regulations, guidelines, policies, and procedures that impact perinatal care and, when appropriate, make

recommendations to the secretary of the Louisiana Department of Health.

(2) Research and review all state laws that impact perinatal care and, when appropriate, make recommendations to the legislature.

(3) Accept grants and other forms of funding to conduct maternal and infant mortality studies.

(4) Contract, in accordance with the applicable provisions of state law, for the performance of maternal and infant mortality studies.

G. Within the confines of available resources, the goals of the commission shall be to strive to:

(1) Provide, through comparison of available data and research, a plan that the state of Louisiana can adopt to reduce the number of teenage pregnancies, sick infants, and infant mortalities.

(2) Propose a plan for an equitable system of financing comprehensive health and social services for indigent pregnant women and infants that incorporates the Medicaid program in the most efficient and cost-effective manner available to public and private hospitals in the state of Louisiana.

(3) Compile and analyze information on existing infant mortality education programs and make recommendations for the implementation of public policies, for proposed legislation, and for a statewide program to combat the problem of infant mortality to coordinate and improve the services of the state, local governments, private and voluntary agencies, community organizations, and schools which serve to educate high risk candidates and their families.

(4) Reduce the infant mortality rate to not more than nine deaths per one thousand live births.

(5) Reduce the number of babies born with low birth weight to not more than five percent of all live births.

(6) Reduce the infant mortality rate for each parish and for each racial or ethnic group of the population to not more than twelve deaths per one thousand live births.

(7) Educate women of child-bearing age to be able to choose food wisely and understand the hazards of smoking, alcohol, pharmaceutical products, and other drugs during pregnancy and nursing.

H. The commission shall have the right and authority to analyze any data available through any state system that may improve perinatal outcomes in Louisiana.

I.(1) Notwithstanding any other provision of law to the contrary, the commission or its agent shall be authorized access to medical and vital records in the custody of physicians, hospitals, clinics, other health care providers, and the office of public health in order that it may conduct maternal and infant mortality studies. All such medical and vital records obtained by the commission or its agent in accordance with the provisions of this Subsection,

as well as the results of any maternal and infant mortality study, shall be confidential and shall not be available for subpoena, nor shall such information be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

(2) Nothing in this Subsection shall prohibit the publishing by the commission of statistical compilations relating to maternal and infant mortality which do not identify individual cases or individual physicians, hospitals, clinics, or other health care providers.

RS 40:2018.1 — Louisiana Commission on HIV and Hepatitis C Education, Prevention, and of Health a commission which shall be designated the "Louisiana Commission on HIV and Hepatitis C Education, Prevention, and Treatment". The commission shall be composed of thirty-three members as provided in Subsection B of this Section.

B.(1) Twenty members shall serve at the governor's pleasure and shall be appointed by the governor as follows:

(a)(i) Two persons living with the human immunodeficiency virus, referred to hereafter in this Section as "HIV", at least one of whom represents a racial or ethnic subpopulation.

(ii) Two persons living with hepatitis C, one of whom is co-infected with HIV and at least one of whom represents a racial or ethnic subpopulation.

(b)(i) One representative from a community-based provider organization which provides services to persons living with HIV, and which represents a racial or ethnic subpopulation.

(ii) One medically qualified representative from a medical provider or community-based provider organization which provides services to persons living with hepatitis C or HIV, and which represents a racial or ethnic subpopulation.

(c) One representative from the Louisiana Primary Care Association.

(d) One representative from the statewide HIV Community Planning Group.

(e) One nurse representative from the Louisiana State Nurses Association who serves patients with HIV or hepatitis C.

(f) One social worker representative from the Louisiana Chapter of the National Association of Social Workers.

(g) Four Ryan White HIV/AIDS Treatment Modernization Act grantees consisting of one Part A grantee, one Part B grantee, one Part C grantee, and one Part D grantee.

(h) Two representatives from the faith-based community.

(i) Three representatives from the Louisiana Department of Health who have knowledge of policies related to HIV and hepatitis C and who work in the office of public health, office of behavioral health, and bureau of health services financing, respectively.

(j) One representative from the office of the governor.

(2) The following members shall serve by virtue of their positions:

- (a) The state superintendent of education or his designee.
 - (b) The secretary of the Department of Public Safety and Corrections or his designee.
 - (c) The commissioner of insurance or his designee.
 - (d) The chancellor of the Louisiana State University Health Sciences Center at New Orleans or his designee.
 - (e) The chancellor of the Louisiana State University Health Sciences Center at Shreveport or his designee.
 - (f) The dean of the Tulane University School of Medicine or his designee.
 - (g) The dean of the School of Pharmacy of the University of Louisiana at Monroe or his designee.
 - (h) The dean of the College of Pharmacy of Xavier University of Louisiana or his designee.
 - (i) The president of the Louisiana Psychological Association or his designee.
 - (j) The president of the Louisiana State Medical Society or his designee.
 - (k) The president of the Louisiana Hospital Association or his designee.
- (3) Two members shall be appointed as follows:
- (a) One member of the Senate appointed by the president of the Senate.
 - (b) One member of the House of Representatives appointed by the speaker of the House of Representatives.
- (4) The governor shall strive for diversity in geography, race, sex, and educational background in appointing members to the commission. Each member appointed by the governor shall serve at the pleasure of the governor and shall be subject to Senate confirmation. The legislative members shall serve at the pleasure of the presiding officer of the respective legislative body.
- C. The commission, in open session, shall elect from among its members a chairman, who shall serve as chairman without salary.
- D. The commission shall hold at least six regular meetings each year at a place designated by the chairman. The commission members shall be compensated for travel in connection with commission meetings and official commission business as approved by the chairman of the commission. Reimbursement for travel expenses shall be in accordance with the travel regulations of the division of administration. All meetings of the commission shall be convened in the state of Louisiana.
- E. The functions of the commission shall be to:
- (1) Serve as an advisory body to the governor and the Louisiana Department of Health on matters relating to hepatitis C and HIV.
 - (2) Serve as a coordinating forum on matters relating to hepatitis C and HIV between and among state agencies, local government, and nongovernmental groups.
 - (3) Research and review all state regulations, guidelines, policies, and procedures relative to prevention, treatment, and care of hepatitis C and HIV infection and, when appropriate, make recommendations to the governor, the secretary of the Louisiana Department of Health, and the legislature.
 - (4) Provide a forum for an annual public hearing on matters relating to hepatitis C

and HIV as well as a mechanism for other public comments and peer reviews on federal and state-funded programs related to hepatitis C and HIV.

F. The commission may request administrative and technical support from the Louisiana Department of Health, office of the secretary, HIV program office, and the office of public health to carry out the commission's functions and responsibilities as provided in this Section.

G. Repealed by Acts 2022, No. 326, §3.

RS 40:2018.2 — Community-based AIDS education grants

profit organizations for community-based prevention education programs relating to acquired immune deficiency syndrome (AIDS) aimed at one or more target populations comprised of individuals who are at risk of contracting and transmitting AIDS and the human immunodeficiency virus (HIV). Where a parish or municipality has a health department, grants to be made to a nonprofit organization located in that parish or municipality shall be made in consultation with the parish or municipal health department.

B. Grants shall be awarded to nonprofit organizations, municipalities, or parishes, or any combination of these, provided they meet measurable standards as determined by the department. Awards shall be granted on a competitive basis. Grants shall be awarded to prevention education programs who provide the following services:

(1) Individual face-to-face contact between program outreach personnel and the target population in the areas frequented by such population.

(2) Outreach personnel who are able to communicate effectively with persons in the target population.

(3) Distribution of written information tailored to and easily understandable by the target population, explaining how AIDS and the HIV virus is transmitted and how individuals can reduce their risk of becoming infected.

(4) A system of referring members of the target population, upon request, to HIV testing sites, counseling programs, and health care providers or systems to the extent such sites, programs, or providers exist in that geographic area.

(5) Initial and ongoing training for all outreach personnel on the means by which AIDS and the HIV virus are transmitted, how individuals can reduce their risk of becoming infected and on the program's systems of referrals for testing, counseling, health care, and drug and alcohol treatment.

C. Grants awarded under the provisions of this Section may be used in the distribution of materials or items useful in preventing the transmission of AIDS and the HIV virus.

D. The Louisiana Department of Health, in awarding grants as provided for in this Section, shall give priority to community-based prevention and education programs which are geared toward the provision of services to

target populations identified by the department, to include but not be limited to the following:

- (1) Intravenous drug users.
- (2) Persons who have numerous sexual contacts with intravenous drug users or with other persons who are at a high risk of having the HIV virus.
- (3) Racial or ethnic minorities, including persons whose primary language is not English, who are engaged in high-risk behavior.

E. The Louisiana Department of Health shall coordinate with existing HIV/AIDS related community-based prevention and education programs to plan for the implementation and expansion of such services through this grant program. Grants awarded under the provisions of this Section shall be monitored and evaluated by the Louisiana Department of Health. Ongoing support for these services shall be contingent upon these programs accomplishing stated goals and objectives and effectively reaching the target populations as determined in the measurable standards outlined by the department.

F. The department shall actively solicit and use federal resources to fund this grant program. The provisions of this Section shall be applicable only to the extent that funds are made available from federal sources for this purpose.

RS 40:2018.4 — Repealed by Acts 2022, No. 252, §3.
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RS 40:2018.5 — Healthy Moms, Healthy Babies Advisory Council creation; legislative findings;
that research indicates maternal

mortality, severe maternal morbidity, and unexpected outcomes of pregnancy and birth resulting in significant health consequences are rising in the United States; and that these outcomes occur more frequently in Louisiana than in other states.

B.(1) The legislature hereby creates within the Louisiana Department of Health the Healthy Moms, Healthy Babies Advisory Council, referred to hereafter in this Section as the "council", for the purpose of working with existing state entities focused on maternal death and severe maternal morbidity.

(2) The council shall address racial and ethnic disparities in maternal health outcomes and incorporate a community-engaged, equity-focused lens into current programs and campaigns which seek to prevent maternal mortality and severe maternal morbidity, and shall promote safe and equitable care for every mother and every birth in this state.

(3) The council shall be composed of the following members:

- (a) The secretary of the Louisiana Department of Health or his designee.
- (b) The assistant secretary of the office of public health of the Louisiana Department of Health or his designee.
- (c) The executive director of the office on women's policy within the office of the governor or his designee.
- (d) One member of the House of Representatives appointed by the speaker of the

House of Representatives.

(e) One member of the Senate appointed by the president of the Senate.

(f) Two representatives of community-based organizations that work to prevent maternal mortality appointed by the governor.

(g) One representative of the American College of Obstetricians and Gynecologists appointed by the governor.

(h) One representative of the March of Dimes, Louisiana Chapter.

(i) One representative of an organization providing doula services or community-based support services for women giving birth in Louisiana appointed by the governor.

(j) One representative of the Commission on Perinatal Care and Prevention of Infant Mortality appointed by the secretary of the Louisiana Department of Health.

(k) One representative of the Louisiana State Coroners Association appointed by the president of the Senate.

(l) One representative of a community-based organization providing substance abuse counseling appointed by the president of the Senate.

(m) One representative of the Louisiana Hospital Association appointed by the speaker of the House of Representatives.

(n) One representative of a community-based organization advocating against domestic violence appointed by the speaker of the House of Representatives.

(o) Two at-large representatives appointed by the governor.

(4) The council shall elect from among its members a chairperson.

(5) Members of the council shall serve without compensation.

C.(1) The council shall hold quarterly public meetings unless otherwise provided by vote of the council or by order of the chairperson.

(2) The council may establish subcommittees and appoint persons to those bodies, including persons who are not council members, as it deems necessary and appropriate to accomplish its goals.

(3) The Louisiana Department of Health shall provide staff support to the council.

D. The council shall perform all of the following tasks:

(1) Evaluate functions and activities of existing groups focused on maternal mortality in order to collaborate with and engage stakeholders.

(2) Support and contextualize reporting of maternal outcomes data disaggregated by race and ethnicity where possible.

(3) Incorporate an ongoing community advisory process into existing state committees and collaboratives that generate data, recommendations, and proposals for health system changes relevant to maternal mortality and morbidity, prioritizing representation from organizations led by members of affected, historically marginalized communities.

(4) Establish guidelines for specific data components relevant to birth equity to be included in state and agency reports on maternal mortality and morbidity, including a plan for timely dissemination of reports on maternal mortality, morbidity, and related disparities to legislators, healthcare organizations, and other key stakeholders.

(5) Make recommendations on further policy options to ensure that the state establishes ongoing public health monitoring and activated response to eliminate cases of and disparities in maternal mortality and morbidity.

(6) Issue a report of its findings and recommendations to the Commission on Perinatal Care and Prevention of Infant Mortality, the governor, the speaker of the House of Representatives, and the president of the Senate. Subject to the conditions of Subparagraph

(7)(b) of this Subsection, the report may include any recommendations for legislation that the council deems necessary and appropriate.

(7)(a) Issue research findings, reports, and recommendations for legislation at the discretion of the council.

(b) The council may issue a recommendation for legislation only if approved by a two-thirds vote of council members present and voting.

E.(1) Notwithstanding any other provision of law to the contrary, the council may request that the Louisiana Department of Health produce or provide data to inform the work of the council. All such data shall be confidential and shall not be available for subpoena, nor shall such information be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

(2) Nothing in this Subsection shall prohibit the publishing of statistical compilations relating to maternal mortality or morbidity which do not identify individual cases or individual physicians, hospitals, clinics, or other healthcare providers.

F. This Section shall terminate on March 31, 2021.

RS 40:2018.7 — Palliative Care Interdisciplinary Advisory Council; creation; purpose; termination

atient of any age and at any stage of a life-threatening illness and can reduce medical costs and patient recovery time when provided by an interdisciplinary team of physicians, nurses, social workers, and other healthcare specialists in order to provide an additional source of support to a patient with a life-threatening illness.

B. For purposes of this Section, the following definitions apply:

(1) "Council" means the Palliative Care Interdisciplinary Advisory Council.

(2) "Department" means the Louisiana Department of Health.

(3) "Palliative care" means an approach that improves the quality of life of patients and their families facing the problems associated with life-threatening illnesses, through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and other problems, physical, psychosocial, and spiritual. "Palliative care" services:

(a) Provide relief from pain and other distressing symptoms.

(b) Affirm life and regard dying as a normal process.

(c) Intend neither to hasten or postpone death.

(d) Integrate the psychosocial and spiritual aspects of patient care.

(e) Offer a support system to help patients live as actively as possible until death.

(f) Offer a support system to help the family cope during the patient's illness and in

their own bereavement.

(g) Use a team approach to address the needs of patients and their families, including bereavement counseling, if indicated.

(h) Will enhance quality of life and may also positively influence the course of illness.

(i) Are applicable early in the course of illness, in conjunction with other therapies that are intended to prolong life, such as chemotherapy or radiation therapy, and include those investigations needed to better understand and manage distressing clinical complications.

(j) Include "palliative care for children", which means the care appropriate for children and their families that begins at diagnosis and continues regardless of whether or not the treatment is directed at the disease. Palliative care for children requires healthcare providers to evaluate and alleviate a child's physical, psychological, and social distress through a multi-disciplinary approach that includes the family and makes use of available community resources which can be successfully implemented even if resources are limited. The phrase "palliative care for children" includes active total care of the child's body, mind, and spirit and the support given to the family. Palliative care for children can be provided in tertiary care facilities, in community health centers, and in children's homes.

(4) "Secretary" means the secretary of the Louisiana Department of Health.

C.(1) The legislature hereby creates within the Louisiana Department of Health the Palliative Care Interdisciplinary Advisory Council to assess the availability of patient-centered and family-focused palliative care in this state and make recommendations to the secretary and the legislature. Each member of the council shall have at least two years of experience providing individual or interdisciplinary palliative care to pediatric, youth, or adult populations in inpatient, outpatient, or community settings.

(2) The council shall be composed of the following seventeen members:

(a) Four physician members, including two who are board-certified in hospice and palliative care, one who shall be board-certified in pain management, and one who shall be board-certified in pediatric care appointed by the Louisiana State Board of Medical Examiners.

(b) Three nurse members, including two who are advanced practice registered nurses who are board-certified in hospice and palliative care appointed by the Louisiana State Board of Nursing.

(c) One pharmacist member with experience providing palliative care appointed by the Louisiana Board of Pharmacy.

(d) One social worker with experience providing palliative care appointed by the Louisiana State Board of Social Work Examiners.

(e) One palliative care program administrator or director with current operational experience managing a palliative care program appointed by the governor.

(f) One spiritual care professional with experience providing palliative care appointed by the governor.

(g) One insurance plan administrator with experience in reimbursement coverage and

claims processing for palliative care services appointed by the governor.

(h) Three patient and family advocate members who are independent of a hospital or other healthcare facility appointed by the governor.

(i) The secretary or his designee, who shall be a nonvoting member.

(j) The Medicaid director of the department or his designee.

(3) The council may engage and solicit, as necessary, input, recommendations, and guidance pertaining to palliative care from interested parties and stakeholders including but not limited to the following:

(a) The Louisiana-Mississippi Hospice and Palliative Care Organization.

(b) The American Cancer Society Cancer Action Network.

(c) The HomeCare Association of Louisiana.

(d) Hospice of Acadiana.

(e) Hospice of Baton Rouge.

(f) The Louisiana Nursing Home Association.

(g) The office for citizens with developmental disabilities of the department.

(h) The office of behavioral health of the department.

(i) AARP Louisiana.

(j) The Alzheimer's Association.

(k) Louisiana State Medical Society.

(l) ALS Association Louisiana-Mississippi Chapter.

(4)(a) Members of the council shall serve at the pleasure of their appointing authorities. If any appointed member misses three consecutive meetings, the secretary shall notify the appointing authority and a new appointment shall be made. If a vacancy occurs on the council, the appointing authority shall make a new appointment.

(b) Members of the council shall serve without compensation.

D.(1) The secretary shall call the first meeting of the council at which the members shall elect and establish the duties of a chair and vice chair.

(2) The chair shall set a time and place for regular public meetings of the council, which shall occur at least quarterly each calendar year.

(3) The department shall provide staff support to the council and shall provide a dedicated link on its website for information regarding the council, including meeting dates and times, minutes from meetings, and any reports or data considered by the council.

E. The council shall consult with and advise the secretary on matters related to the establishment, maintenance, operation, and outcome evaluation of the palliative care consumer and professional information and education established by this Section. In doing so, the council shall perform the following tasks:

(1) Conduct an analysis and submit a report of its findings to the Senate and House committees on health and welfare on February first of each year, to include the following:

(a) Availability of palliative care, including palliative care for children, in this state for patients in the early stages of a life-threatening illness.

(b) Barriers to greater access to palliative care.

(c) Policies, practices, and protocols in this state concerning patients' rights related

to palliative care, including the following:

- (i) Whether a palliative care team member may introduce palliative care options to a patient without the consent of the patient's attending physician.
 - (ii) The practices and protocols for discussions between a palliative care team member and a patient on life-sustaining treatment or advance directives decisions.
 - (iii) The practices and protocols on informed consent and disclosure requirements for palliative care services.
- (2) Establish a statewide palliative care consumer and professional information and education program, in consultation with the department, to ensure that comprehensive and accurate information and education about palliative care are available to the public, healthcare providers, and healthcare facilities.

F. To advance the educational initiative of the council set forth in Paragraph (E)(2) of this Section, the department shall make available on its website the following information and resources regarding palliative care:

- (1) Links to external resources regarding palliative care.
- (2) Continuing education opportunities on palliative care for healthcare providers.
- (3) Information about palliative care delivery in the home, primary, secondary, and tertiary environments.
- (4) Consumer educational materials regarding palliative care, including hospice care.

G. Repealed by Acts 2025, No. 90, §1, eff. June 8, 2025.

RS 40:2018.8 — Alzheimer's and Related Dementias Advisory Council; composition;
Dementias Advisory Council, referred to in this
Section as the "council".

B. The council shall consist of the following twenty-two members:

- (1) A person with Alzheimer's disease or related dementia appointed by the governor. If the governor is unable to identify a person with Alzheimer's disease or related dementia, the governor shall appoint a second caregiver of a person with Alzheimer's disease or related dementia.
- (2) A caregiver of a person with Alzheimer's disease or related dementia appointed by the governor.
- (3) A representative of the nursing facility industry appointed by the governor.
- (4) A representative of the assisted living industry appointed by the governor.
- (5) A representative of the adult day services industry appointed by the governor.
- (6) A physician specializing in neurology or geriatric care appointed by the governor.
- (7) A representative from the rural health community appointed by the governor.
- (8) A representative from an organization representing senior citizens appointed by the governor.
- (9) A representative of the governor's office of elderly affairs Louisiana Ombudsman Program appointed by the governor.

(10) The executive director of the Alzheimer's Association, Louisiana Chapter or his designee.

(11) The assistant secretary of the office of behavioral health or his designee.

(12) The assistant secretary of the office of aging and adult services or his designee.

(13) The assistant secretary of the office of public health or his designee.

(14) The assistant secretary of the office of citizens with developmental disabilities or his designee.

(15) The Medicaid executive director or his designee.

(16) The executive director of the governor's office of elderly affairs or his designee.

(17) The secretary of the Louisiana Department of Veterans Affairs or his designee.

(18) The executive director of the Louisiana Commission on Law Enforcement or his designee.

(19) The secretary of Louisiana Works or his designee.

(20) A representative from the home health industry who has experience with dementia.

(21) Two representatives from academic research institutions in Louisiana that conduct dementia disease research appointed by the governor.

C. Members of the council shall serve four-year terms, concurrent with the term of the governor. Members are eligible for reappointment. Any designee shall serve at the pleasure of the designating authority.

D. Council members shall not receive compensation or a per diem for their services or attendance at council meetings, except for those travel-related expenses already provided for by their agency.

E. The chairman shall be elected by the council for a term to be determined by the council. No member shall serve more than two consecutive terms as chairman.

F. The council may establish subcommittees and appoint persons outside of the council to these bodies as it considers necessary and appropriate to carry out its duties.

G. The council shall hold its initial meeting no later than November 1, 2024.

The council shall meet at least quarterly each calendar year and at any other times as it considers necessary.

H. The Louisiana Department of Health shall provide support for the council, including staff, facilities, and resources to facilitate remote participation in meetings to the extent authorized by law.

I. The council shall do all of the following:

(1) Conduct a review and assessment of the current status of Alzheimer's disease and other forms of dementia in this state, including:

(a) Trends in the state's Alzheimer's population and needs, including the changing population with dementia.

- (b) Existing policies regarding dementia.
- (c) Program utilization among people living with dementia.
- (2) Submit a summary of the findings of the review and assessment to the Louisiana Department of Health.
- (3) Review the existing five-year statewide plan to address Alzheimer's disease and related dementias prepared by the Louisiana Department of Health.
- (4) Submit recommendations to the Louisiana Department of Health on revisions to the five-year statewide plan and recommendations on implementation of initiatives to address Alzheimer's disease and related dementias. The recommendations shall address topics including but not limited to all of the following:
 - (a) Gaps identified in the review and assessment.
 - (b) Access to care, support, and treatment.
 - (c) Quality of care for people living with dementia.
 - (d) Risk reduction, early detection, and diagnosis.
 - (e) Coordinated statewide response to Alzheimer's disease and related dementias.

J. The Louisiana Department of Health shall consider all recommendations from the council and shall update the five-year statewide plan. The Louisiana Department of Health, on behalf of the council, shall submit the updated five-year statewide plan to the governor and the legislature every five years.

K. The council shall submit an annual written report on the progress of the five-year statewide plan to the governor and the legislature no later than November first of each year.

RS 40:2019 — Child death investigation

Children of this state is a goal of its

people, and the unexpected death of infants and children is an important public health concern that requires legislative action.

- (b) Collecting data on the causes of unexpected deaths will better enable the state to protect some infants and children from preventable deaths and will help reduce the incidence of such deaths.
- (c) Identifying persons responsible for abuse or neglect resulting in unexpected death will better enable the state to protect other children who may be under the care of the same persons and will help reduce the incidence of such deaths.
- (d) Multidisciplinary and multiagency reviews of child deaths can assist the state in the investigation of child deaths, in the development of a greater understanding of the incidence and causes of child deaths and the methods for preventing such deaths, and in identifying gaps in services to children and families.
- (2) The purpose of this Section is to identify the cause of death of children below the age of fifteen, and thereby reduce the incidence of injury and death to infants and children by requiring that a death investigation be performed in the case of all unexpected deaths of children below the age of fifteen, and establishing the Louisiana State Child Death Review

Panel to collect data from such investigations and report to the legislature regarding the causes of such deaths and share information among local and regional panels, healthcare providers, and state agencies which provide services to children and families.

B. Definitions. For the purpose of this Section, the following terms shall have the following meaning:

(1) "Autopsy" means a post-mortem external and internal physical examination conducted in accordance with accepted medical practice and the laws of this state using a standardized child death investigation protocol performed by a forensic pathologist or, if a forensic pathologist is unavailable, a pathologist licensed or otherwise appointed to conduct such an examination under such laws.

(2) "Death investigation" means the process of determining the cause and manner of death and shall include the following:

(a) A postmortem examination which may be limited to an external examination or may include an autopsy.

(b) An inquiry by any law enforcement agency having jurisdiction into the circumstances of the death, including a death scene investigation and interview with the child's parent, legal guardian, or caretaker, and the person who reported the child's death.

(c) A review of information regarding the child from any other relevant agency, professional, or health care provider.

(3) "Unexpected death" means a death which is a result of undiagnosed disease, or trauma in which the surrounding circumstances are suspicious, obscure, or otherwise unexplained, or other death the circumstances of which are suspicious, obscure, or otherwise unexplained. A clinical diagnosis of death due to Sudden Infant Death Syndrome (SIDS) shall be deemed an unexpected death.

C. Child Death Review Panel. There is established within the Louisiana Department of Health the Louisiana State Child Death Review Panel, hereinafter referred to as the "state panel", which shall be composed of twenty-eight persons. Members of the panel shall include:

(1) The state health officer or his designee.

(2) The secretary of the Louisiana Department of Health or his designee.

(3) The secretary of the Department of Children and Family Services or his designee.

(4) The superintendent of the office of state police or his designee.

(5) The state registrar of vital records in the office of public health or his designee.

(6) The attorney general or his designee.

(7) A member of the Senate appointed by the president of the Senate.

(8) A member of the House of Representatives appointed by the speaker of the House of Representatives.

(9) The commissioner of insurance or his designee.

(10) The executive director of the Highway Safety Commission of the Department of Public Safety and Corrections or his designee.

(11) The state fire marshal or his designee.

(12) The assistant secretary of the office of behavioral health of the Louisiana

Department of Health or his designee.

(13) A representative of the Louisiana Partnership for Children and Families.

(14) A district attorney appointed by the Louisiana District Attorneys Association.

(15) A sheriff appointed by the Louisiana Sheriff's Association.

(16) A police chief appointed by the Louisiana Association of Chiefs of Police.

(17) A forensic pathologist certified by the American Board of Pathology and licensed to practice medicine in the state appointed by the chairman of the Louisiana State Child Death Review Panel subject to Senate confirmation.

(18) A pathologist experienced in pediatrics appointed by the Louisiana Pathology Society.

(19) A coroner appointed by the president of the Louisiana Coroner's Association.

(20) Six persons appointed by the governor, subject to Senate confirmation, for a term of three years as follows:

(a) A health professional with expertise in Sudden Infant Death Syndrome appointed from a list of three names submitted by the Louisiana State Medical Society.

(b) A pediatrician with experience in diagnosing and treating child abuse and neglect appointed from a list of three names submitted by the state chapter of the American Academy of Pediatrics.

(c) Four citizens from the state at large who represent different geographic areas of the state.

(21) The state superintendent of education or his designee.

(22) The director of the bureau of emergency medical services of the Louisiana Department of Health or his designee.

(23) The state child ombudsman or his designee.

D. Functions and duties of panel.

(1) The state panel shall:

(a) Establish a standardized child death investigation protocol which shall require at a minimum that all death investigations be completed within thirty working days of the report of the death. The protocol shall include procedures for all law enforcement agencies and local departments of social services to follow in response to a child death.

(b) Establish criteria for information that must be included in a death investigation report and provide such information to the appropriate agencies and medical providers to be used as a guideline in preparing the death investigation report.

(c) Collect, review, and analyze all death investigation reports prepared in accordance with this Section, and such other information as the state panel deems appropriate, to use in preparation of reports to the legislature concerning the causes of and methods of decreasing unexpected deaths of infants and children.

(d) Recommend changes within the agencies represented on the state panel which may prevent child deaths.

(2) The state panel may:

(a) Establish local and regional panels to which it may delegate some or all of its responsibilities under this Section.

(b) Analyze any data available through any state systems that may decrease the incidence of injury and unexpected death to infants and children below the age of fifteen.

E. Child death investigation.

(1) In each unexpected death of a child below the age of fifteen, a death investigation shall be performed in accordance with the child death investigation protocol established by the Louisiana State Child Death Review Panel which may include, at the discretion of the coroner but not be limited to, a complete autopsy performed by the coroner of the parish where the death occurred pursuant to the death investigation procedure established by R.S. 13:5713. The death investigation findings shall be reported to appropriate authorities including the police, healthcare providers, and the child protective services if appropriate, within three days of the conclusion of the death investigation.

(2) A copy of the death investigation report, or any portion thereof, including law enforcement, coroner, fire department, and medical providers, or any other information relative to the death investigation shall be provided to the state panel within thirty days from the date the state panel requests such information.

(3) Nothing in this Section shall be construed to change, alter, or restrict the authority or jurisdiction of a coroner as established in R.S. 33:1551 et seq.

(4) Nothing in this Section shall be construed as requiring a finding of negligent treatment or maltreatment when the state panel determines that the parents or guardians were treating the child solely according to the tenets and practices of a well-recognized religious method of treatment which has a reasonable, proven record of success.

F. Records; confidentiality; prohibited disclosure and discovery.

(1) Notwithstanding any other provision of law to the contrary, the state panel, and any local or regional panel or its agent thereof, shall be authorized to access medical and vital records in the custody of physicians, hospitals, clinics, other healthcare providers, and the office of public health; and any other information, documents, or records pertaining to the completed investigation of unexpected deaths of infants and children below the age of fifteen in the custody of any law enforcement agency in order that it may perform its functions and duties as provided in Subsection D of this Section.

(2) Notwithstanding any other provision of law to the contrary, including but not limited to the provisions of Children's Code Article 615 and R.S. 46:56, all of the following authorizations shall be effective when an unexpected death of an infant or child below the age of fifteen has occurred:

(a) The state panel, and any local or regional panel or its agent thereof, in order that it may perform its functions and duties as provided in Subsection D of this Section, is authorized to have access to any information, documents, or records in the possession of the Department of Children and Family Services involving a child abuse and neglect investigation which are pertinent to the alleged child abuse or neglect that led to the death of the child.

(b) The Department of Children and Family Services is authorized to have access to any and all information, documents, or records in the possession of the state panel, and any local or regional panel or its agent thereof, for use by the department in any investigation or

child in need of care proceeding.

(3)(a) All such records obtained by the state panel or any local or regional panel or its agent in accordance with the provisions of this Subsection, as well as the results of any child death investigation report, shall be confidential and shall not be available for subpoena nor shall such information be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

(b) No information, document, or record obtained by the state panel or any local or regional panel or its agent from the Department of Children and Family Services involving a report which results in an inconclusive or unsubstantiated finding pursuant to Children's Code Article 615 shall be included or referenced in any manner in any report or other document issued or published by or on behalf of the panel.

(4) The furnishing of confidential information, documents, and reports in accordance with this Section by any person, agency, or entity furnishing such information, documents, and reports shall not expose such person, agency, or entity to liability and shall not be considered a violation of any privileged or confidential relationship, provided the participant has acted in good faith in the reporting as required in this Section.

(5) Nothing in this Subsection shall prohibit the publishing by the state panel of statistical compilations relating to unexpected child deaths of infants and children below the age of fifteen which do not identify individual cases or individual physicians, hospitals, clinics, or other healthcare providers.

G. Report. The state panel shall report to the legislature annually concerning the causes of unexpected deaths of infants and children below the age of fifteen. The report shall include analysis of factual information obtained through review of death investigation reports required in Subsection D of this Section.

RS 40:2020 — Review of deaths of persons served by the Louisiana Department of Health recommended that the

Louisiana Department of Health through the office for citizens with developmental disabilities, the office of behavioral health, and the office of aging and adult services monitor and review deaths of persons receiving services through the offices.

(2) Collection of data on the causes and circumstances of death of these persons will enable the office for citizens with developmental disabilities, the office of behavioral health, and the office of aging and adult services to initiate quality improvement and provider remediation in long-term care services in order to reduce mortality rates.

(3) A complete review of the information obtained by the office for citizens with developmental disabilities, the office of behavioral health, and the office of aging and adult services will enable the offices to identify patterns and systemic problems to support corrective actions and quality improvements in service delivery.

B. For the purposes of this Section, the following terms shall have the following meanings:

(1) "Department" means the Louisiana Department of Health.

(2) "Healthcare provider" means a health care provider as defined in R.S.

13:3734(A), a licensed mental health professional as defined in R.S. 40:2153, and other agencies licensed or certified by the department to deliver health care or related services.

(3) "Office" means the office for citizens with developmental disabilities, the office of behavioral health, or the office of aging and adult services within the Louisiana Department of Health.

C. The duties of the office shall be the following:

(1) In each death reviewed, the offices shall obtain data and records relevant to the causes and circumstances of death from providers, including health care providers, as well as from other sources.

(2) The offices shall identify patterns and systemic problems to determine what changes, if any, should be made in service delivery.

(3) The offices shall each prepare an annual report for public distribution. The report shall set forth aggregate information including the number of deaths reviewed, identify all provider remediation and quality improvements initiated or recommended as a result of the review, and set forth any other information as may be determined by the offices. However, the report shall not disclose names of the deceased or any entities involved or any information which would identify a particular person or entity.

D.(1) Notwithstanding any other provision of law to the contrary, the Louisiana Department of Health, and each office provided for in Paragraph (B)(3) of this Section, shall be authorized to access death certificates in the custody of the department, autopsy reports, coroner reports, and records of all service providers, including medical records in the custody of healthcare providers, of persons being served through the offices at the time of death.

(2) Notwithstanding any other provision of the law to the contrary, all records obtained by the offices in accordance with the provisions of this Section, as well as any work product, chart, or any other document prepared by the offices in death reviews, except for the annual reports required by Paragraph (C)(3) of this Section, shall be confidential, shall not be public record, and shall not be subject to subpoena. Nor shall such information be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding or admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

(3) No person or entity who furnishes information to the offices pursuant to this Section shall be liable or in violation of a duty of confidentiality, provided the person or entity has acted in good faith.

RS 40:2021 — Health care information

re further finds that

one of the causes for such a high utilization rate is the lack of information available to the citizens of this state about alternative facilities to receive health care that are available in their communities such as outpatient clinics and after-hours programs.

B. The secretary of the Louisiana Department of Health shall distribute and make available information that will provide citizens of this state with information concerning the various health care facilities and providers available to provide nonemergent care. Such

information shall be community- specific and distributed in each community in such a manner that the information will be available to the largest number of citizens.

RS 40:2022 — Pertussis; offer of vaccine required; exceptions

n be provided to parents of newborns concerning

the pertussis disease and that hospitals offer the pertussis vaccine to parents of newborns in every instance practicable. Pertussis (whooping cough) is a very contagious disease caused by a type of bacteria called *Bordetella pertussis* and is one of the most commonly occurring vaccine-preventable diseases in the United States.

B.(1) Except as provided in Subsection C of this Section, on and after January 1, 2014, each licensed hospital in this state shall, prior to discharge, offer the pertussis vaccine to each parent of a newborn infant.

(2) If a person who is offered the pertussis vaccine as required in Paragraph (1) of this Subsection wishes to be vaccinated, then the hospital shall administer the vaccine to the person.

(3)(a) If a person who is offered the pertussis vaccine as required in Paragraph (1) of this Subsection declines the offer of the vaccine or indicates intent to defer vaccination, then the hospital shall provide to the person educational information issued by the Louisiana Department of Health on the pertussis disease and the availability of a vaccine to protect against contracting the disease.

(b) The information required by this Paragraph shall include but not be limited to information on the recommendation of the Centers for Disease Control and Prevention that parents receive the Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccine Adsorbed (Tdap) vaccination during the postpartum period to help protect their newborns from the transmission of pertussis.

C. A hospital shall not be required to offer the vaccine as provided in Subsection A of this Section to any person who has already received the vaccine or for whom such vaccination is medically inappropriate.

D. The Louisiana Department of Health is hereby authorized to develop and disseminate to each licensed hospital in the state information consistent with the provisions of this Section.

E. Nothing in this Section shall be construed to require any of the following:

(1) Administration of the pertussis vaccine, contingent upon its availability, by a hospital if the hospital cannot be compensated for administration of the vaccine at the normal or prevailing rate that is at least equal to the product cost plus any administrative costs for delivering the immunization over and above the reimbursement level for inpatient care.

(2) Provision of the pertussis vaccine to any person or health care provider by the Louisiana Department of Health.

(3) Financing of pertussis vaccine administration by the Louisiana Department of Health through any program or service of the department other than one that may presently cover such vaccination.

(4) Obligation for payment by a person or his insurer for pertussis vaccination.

RS 40:2023 — Availability of immunizations recommended by the Centers for Disease Control and Prevention

II, during the period from October first through March first of the following calendar year, in accordance with the latest recommendations of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention, offer the following immunizations to all inpatients sixty-five years of age and older, prior to discharge, unless contraindicated for a patient and contingent upon the availability of a specific payment in addition to the normal or prevailing level of payment, that is at least equal to the product costs and the administrative costs for the immunization over and above the reimbursement for in-patient care and contingent upon the availability of the vaccine:

- (1) Immunization against influenza.
- (2) Immunization against pneumococcal diseases if ordered by the patient's attending physician.

RS 40:2024 — Violence prevention

and health data-based approach.

B. The Louisiana Department of Health shall conduct a review of violence prevention factors, activities, and strategies, taking into consideration the following:

- (1) The specifics of violence, including crimes of violence, gang violence, and domestic violence in communities.
- (2) The root causes of violence in the community, which may include poverty, lack of quality education, lack of affordable housing, food insecurity, unemployment, and untreated trauma.
- (3) Community conditions, which may include a comparison of community conditions and opportunities for communities with a high risk of violence and those with a lesser risk of violence in order to identify and create greater safety for high-risk communities through community surroundings. For the purposes of this Section, community surroundings include but are not limited to streets, parks, schools, community-based organizations, youth and community centers, and places of worship.
- (4) A commitment for violence prevention efforts to focus on addressing and healing individual, interpersonal, and community trauma inflicted as a result of violence.

C. The Louisiana Department of Health shall prepare a written report to the legislature, no later than February 1, 2026, that provides information and recommendations on the following:

- (1) The current violence prevention activities occurring across Louisiana state offices to outline the continuum of current activities related to violence prevention.
- (2) Promotional strategies for supporting conflict resolution and violence prevention-related programs and services.
- (3) Strategies for incorporating a public safety and health approach to improve social determinants of safety and health for communities most affected by violence.

D. The Louisiana Department of Health may coordinate with institutions of higher learning and nongovernmental organizations to collect and evaluate information in developing the recommendations to be presented to the legislature.

RS 40:2024.1 — Title

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RS 40:2024.2 — Definitions

means any individual eighteen years of age or older, or any person under the age of eighteen who has been emancipated by marriage or otherwise.

(2) "Dating partner" means any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. "Dating partner" shall not include a casual relationship or ordinary association between persons in a business or social context.

(3) "Domestic abuse" includes but is not limited to physical or sexual abuse and any offense against the person, physical or nonphysical, as defined in the Louisiana Criminal Code, except negligent injury and defamation, committed by one family member, household member, or dating partner against another. "Domestic abuse" also includes sexual abuse as defined in R.S. 15:1503.

(4) "Domestic abuse fatality" means any death of a person resulting from an incident of domestic abuse or attempted domestic abuse, including the death of a person who is not a family member, household member, or dating partner of the perpetrator, or the suicide of a person where there are implications that a person is the victim of domestic abuse prior to his suicide. For the purposes of this Section, "domestic abuse fatality" shall be interpreted broadly to give the Domestic Abuse Fatality Review Panel discretion to review fatalities that have occurred both directly or peripherally to domestic relationships.

(5) "Family member" means spouses, former spouses, parents, children, stepchildren, unborn children, foster parents, foster children, other ascendants, and other descendants. "Family member" also means the other parent or foster parent of any child or foster child of the offender.

(6) "Household member" means any person presently or formerly living in the same residence with the offender and who is involved or has been involved in a sexual or intimate relationship with the offender, or any child presently or formerly living in the same residence with the offender, or any child of the offender regardless of where the child resides.

(7) "Review" means an examination or re-examination of information regarding a deceased person from relevant agencies, professionals, healthcare providers, or other sources.

RS 40:2024.3 — Louisiana Domestic Abuse Fatality Review Panel; membership; chairman; proxies

be designated as the "Louisiana Domestic Abuse Fatality Review Panel", hereinafter referred to in this Part as "review panel". The review panel shall be comprised of the following members:

- (1) The state health officer or his designee.
- (2) The secretary of the Louisiana Department of Health or his designee.
- (3) The secretary of the Department of Children and Family Services or his designee.
- (4) The assistant secretary of the office of behavioral health of the Louisiana Department of Health or his designee.
- (5) The director of the bureau of emergency medical services of the Louisiana

Department of Health or his designee.

(6) The director of the governor's office on women's policy or his designee.

(7) The superintendent of state police or his designee.

(8) The state registrar of vital records in the office of public health or his designee.

(9) The attorney general or his designee.

(10) A district attorney or assistant district attorney appointed by the Louisiana District Attorneys Association.

(11) A sheriff appointed by the Louisiana Sheriffs' Association.

(12) A police chief appointed by the Louisiana Association of Chiefs of Police.

(13) A coroner appointed by the president of the Louisiana Coroners Association.

(14) The executive director of the Louisiana Coalition Against Domestic Violence or his designee.

(15) The executive director of a community-based domestic violence service organization or his designee.

(16) The president of the Louisiana Clerks of Court Association or his designee.

(17) A forensic pathologist certified by the American Board of Pathology and licensed to practice medicine in the state appointed by the Louisiana State Board of Medical Examiners.

(18) A representative of the Louisiana Protective Order Registry appointed by the judicial administrator of the Louisiana Supreme Court.

(19) A representative of the legal services program funded by the Legal Services Corporation that regularly provides civil legal representation to survivors of domestic violence.

(20) A director or his designee of a local supervised visitation or safe exchange center who is professionally trained to identify the unique safety needs of domestic violence victims.

B. Any additional persons may be appointed to the review panel who are determined to have relevant knowledge regarding domestic abuse and would aid the review panel in fulfilling its duties.

C. The members of the review panel shall elect a chairman to serve the review panel.

D. Notwithstanding the provisions set forth in Subsection A of this Section, each member shall be entitled to appoint a single person to serve as proxy for the duration of his term if the member is unable to attend a meeting of the review panel. The term of the designated proxy shall be the same as the voting member. A member appointing a person to serve as his designated proxy shall make his appointment known to the chairman of the review panel.

RS 40:2024.4 — Functions; duties of the review panel

s in this

state and, if the decedent victim is female, report all of the following:

(a) Whether the decedent was pregnant at the time of death.

(b) Is there medical evidence that indicates that the decedent had been recently pregnant but was no longer pregnant at the time of death.

- (c) Whether the decedent was single, married, or divorced to the extent such information can be determined.
- (2) Research and review trends, data, or patterns that are observed of domestic abuse fatalities.
- (3) Review past events and circumstances of domestic abuse fatalities by reviewing records and other pertinent documents of public and private agencies that are responsible for investigating deaths or treating victims.
- (4) Research and revise, as necessary, operating rules and procedures for review of domestic abuse fatalities including but not limited to identification of cases to be reviewed, coordination among agencies and professionals involved, and improvement of the identification, data collection, and record-keeping of the causes of domestic violence fatalities.
- (5) Recommend systemic improvements to promote improved and integrated public and private systems serving victims of domestic abuse.
- (6) Recommend components for prevention and education programs.
- (7) Recommend training to improve the identification and investigation of domestic violence fatalities that occur in Louisiana.

B. The review panel may do all of the following:

- (1) Establish local and regional panels to which the review panel may delegate some or all of its responsibilities under this Part.
- (2) Analyze data available through any state systems that may decrease the incidence of domestic abuse fatalities in this state.
- (3) Create formal partnerships with existing local and regional fatality review panels to accomplish its responsibilities under this Section.

RS 40:2024.5 — Records; confidentiality; prohibited disclosure and discovery

of a local or regional panel, shall be authorized to access medical and vital records in the custody of physicians, hospitals, clinics, other healthcare providers, and the office of public health, and any other information, documents, or records pertaining to the completed investigation of any domestic abuse fatality in the custody of any law enforcement agency in order that it may perform its functions and duties as provided in this Section.

B. The review panel, or any local or regional panel or agent of a local or regional panel, may request from a person, agency, or entity any relevant information, whether written or oral, to carry out its functions and duties. This information may include but is not limited to the following:

- (1) Medical information.
- (2) Mental health information.
- (3) Information from elder abuse reports and investigation reports which exclude the identity of persons who have made a report and shall not be disclosed.
- (4) Information from child abuse reports and investigations which exclude the identity of persons who have made a report and shall not be disclosed.
- (5) Summary of criminal history, criminal offender record, and local criminal history.

(6) Information pertaining to reports by healthcare providers of persons suffering from physical injuries inflicted by means of a firearm or of persons suffering physical injury where the injury is a result of abusive conduct.

(7) Information concerning a juvenile court proceeding.

(8) Information maintained by a family court or the office of vital records.

(9) Information provided by probation officers in the course of the performance of their duties including but not limited to the duty to prepare reports as well as the information on which these reports are based.

(10) Records of in-home supportive services unless disclosure is prohibited by federal law.

C. The review panel, or any local or regional panel or agent of a local or regional panel, may make a request in writing for the information sought and any person, agency, or entity with information may rely on the request to determine whether information may be disclosed. A person, agency, or entity that has the information and is governed by this Section shall not be required to disclose the information. The intent of this Section is to allow the voluntary disclosure of information by a person, agency, or entity that has the information.

D. Except as provided in this Subsection, information and records obtained by the review panel, or any local or regional panel or agent of a local or regional panel, in accordance with the provisions of this Section, or results of any domestic abuse fatality report, shall be confidential and shall not be available for subpoena nor shall the information be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall the records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court of any reason. Information and records presented to the review panel, or any local or regional panel or agent of a local or regional panel, shall not be immune from subpoena, discovery, or prohibited from being introduced into evidence solely because they were presented to or reviewed by the review panel, or any local or regional panel or agent of a local or regional panel, if the information and records have been obtained from other sources.

E. Any person, agency, or entity furnishing information, documents, and reports in accordance with this Section shall not be liable for the disclosure and shall not be considered in violation of any privileged or confidential relationship, if the person, agency, or entity has acted in good faith in the reporting pursuant to this Section.

F. A member of the review panel, or any local or regional panel or agent of a local or regional panel, may not disclose any information that is confidential under this Section. A person who appears before, participates in, or provides information to the review panel, or any local or regional panel or agent of a local or regional panel, shall sign a confidentiality notice to acknowledge that any information he provides to the review panel, or any local or regional panel or agent of a local or regional panel, shall be confidential. Information identifying a victim of domestic violence whose case is being reviewed, or that victim's family members, or an alleged or suspected perpetrator of abuse upon the victim, or regarding the involvement of any agency with the victim or victim's family members, shall

not be disclosed in any report that is available to the public. Nothing in this Section shall prohibit the publishing by the review panel, or any local or regional panel or agent of a local or regional panel, of statistical compilations relating to domestic abuse fatalities which do not identify a person's case or person's healthcare provider, law enforcement agency, or organization who provides services to victims.

G. When the review panel, or any local or regional panel or agent of a local or regional panel, concludes a review of a domestic abuse fatality or other review, it shall return all information and records that concern a victim or the victim's family members to the person, agency, or entity that furnished the information.

RS 40:2024.6 — Reporting to the legislature; requirements

s, and the president of the Senate.

The report shall not contain information identifying any victim of domestic abuse or that victim's family members, an alleged or suspected perpetrator of abuse upon a victim, or the involvement of any agency with a victim or the victim's family members. The review panel shall issue its initial report on or before January 30, 2023, and every year thereafter. The report may include any recommendations for legislation that the review panel considers necessary and appropriate.

RS 40:2024.7 — Financial and human resources obligations

rnal entities, in order to meet

its obligations as described in this Part.

RS 40:2025.1 — Legislative findings

s of many people, multiple services systems, and lead to profound consequences, including permanent injury and death.

(2) Overdoses caused by heroin, fentanyl, other opioids, stimulants, controlled substance analogs, novel psychoactive substances, and other legal and illegal drugs are a public health crisis that stress and strain the financial, public health, healthcare, and public safety resources in Louisiana.

(3) Overdose fatality reviews, which are designed to uncover the who, what, when, where, why, and how a fatal overdose occurs, allow jurisdictions to examine and understand the circumstances leading to a fatal drug overdose.

(4) Through a comprehensive and multidisciplinary review, overdose fatality review panels can better understand the individual and population factors and characteristics of potential overdose victims.

RS 40:2025.2 — Definitions

cedent by blood or affinity.

(2) "Overdose fatality review" means a process in which a multidisciplinary panel performs a series of individual overdose fatality reviews to effectively identify system gaps and innovative community-specific overdose prevention and intervention strategies.

RS 40:2025.3 — Local overdose fatality review panels; membership

e in accordance with the

provisions of this Part.

(2) Two or more parishes may agree to jointly establish a multiparish overdose fatality review panel. Multiparish review panel members shall execute a memorandum of understanding between the parishes regarding membership, staffing, and operations.

B. The local overdose fatality review panel shall be comprised of the following members. However, any of the following persons who declines, in writing, to participate shall not be counted toward the total membership of the panel nor toward calculating a quorum. The members provided in Paragraphs (8) through (13) of this Subsection shall be appointed by the chief executive of the parish governing authority.

(1) The coroner or his designee.

(2) The director of the regional human services district in which the parish is located or his designee.

(3) The regional director of the Department of Children and Family Services, child welfare division for the region in which the parish is located or his designee.

(4) The regional medical director for the office of public health, Louisiana Department of Health for the region in which the parish is located or his designee.

(5) The parish district attorney or his designee.

(6) The sheriff or his designee.

(7) The chief of police or his designee.

(8) A representative of a local jail or detention center.

(9) A healthcare provider who specializes in the prevention, diagnosis, and treatment of substance use disorders.

(10) A mental health provider who specializes in substance use disorders.

(11) A representative of an emergency medical services provider in the parish.

(12) A representative from parole, probation, and community corrections.

(13) A representative of the judicial district court or drug court if the parish has a drug court.

(14) The director of the local health department if the parish has a local health department or his designee.

C. Any review panel established pursuant to this Part shall submit notice of formation to the secretary of the Louisiana Department of Health through the human services district member represented on the panel. The department shall maintain a registry of active overdose fatality review panels in the state.

D. The members of the review panel shall elect a chairman. The chairman may appoint additional persons to the review panel who are determined to have relevant knowledge regarding overdose fatalities and would aid the panel in fulfilling its duties.

E. Panel members shall not receive compensation or a per diem for their services or attendance at panel meetings, except for those travel-related expenses already provided for by their agency.

F. Meetings of a review panel shall be exempt from the provisions of R.S. 42:11 et seq.

RS 40:2025.4 — Functions; duties of the review panel

of drug overdose fatalities.

- (2) Develop an understanding of the causes and incidence of drug overdose fatalities in the jurisdiction where the review panel operates.
- (3) Plan for and recommend changes within the agencies represented on the panel to prevent drug overdose fatalities.
- (4) Advise local, regional, and state policymakers about potential changes to law, policy, funding, or practice to prevent drug overdoses.
- (5) Establish and implement protocols and procedures.
- (6) Conduct a multidisciplinary review of information received pursuant to this Part regarding a decedent, which shall include but not be limited to:
 - (a) Consideration of the decedent's points of contact with healthcare systems, social services, educational institutions, child and family services, the criminal justice system, including law enforcement, and any other systems with which the decedent had contact prior to his death.
 - (b) Identification of the specific factors and social determinants of health that put the decedent at risk for an overdose.
- (7) Recommend prevention and intervention strategies to improve coordination of services and investigations among member agencies to reduce overdose deaths.
- (8) Collect, analyze, interpret, and maintain local data on overdose deaths.

B. In addition to the duties specified in this Section, a review panel may investigate nonfatal overdose cases that occur within the panel's jurisdiction.

RS 40:2025.5 — Access to information; confidentiality

ary to carry out

the purpose and duties of the review panel, the panel shall be authorized to have access to the following information:

- (1) Information and records regarding the physical health, mental health, and treatment for substance use disorder maintained by a healthcare provider, substance use disorder treatment provider, hospital, or health system for an individual whose death or near death is being reviewed by the review panel.
- (2) Information and records maintained by a state or local government agency or entity, including but not limited to death investigative information, medical examiner investigative information, law enforcement investigative information, emergency medical services reports, fire department records, prosecutorial records, parole and probation information and records, court records, school records, and information and records of the Department of Children and Family Services if the agency or entity provided services to:
 - (a) An individual whose death or near death is being reviewed by the review panel.

(b) The family of the decedent being investigated.

B. A person or entity subject to a records request by a review panel pursuant to this Section may charge the review panel a reasonable fee for the service of duplicating any records requested by the panel.

C. The chair of the review panel or the chair's designee may request the individual whose overdose is under review or, if deceased, the individual's next of kin to sign a consent form for the release of confidential information.

D. An individual, entity, or local or state agency that in good faith provides information or records to the local panel shall not be subject to civil or criminal liability or any professional disciplinary action as a result of providing the information or record.

E. A member of a review panel may contact, interview, or obtain information by request from a family member or friend of an individual whose death is being reviewed by the panel.

F. Information and records obtained by the review panel in accordance with the provisions of this Section and the results of any overdose fatality review report shall be confidential and shall not be available for subpoena, nor shall the information be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall the records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason. Information and records presented to the review panel shall not be immune from subpoena or discovery or prohibited from being introduced into evidence solely because they were presented to or reviewed by the review panel if the information and records have been obtained from other sources.

G. Any person, agency, or entity furnishing information, documents, and reports in accordance with this Section shall not be liable for the disclosure and shall not be considered in violation of any privileged or confidential relationship if the person, agency, or entity has acted in good faith in the reporting pursuant to this Section.

H. A member of the review panel shall not disclose any information that is confidential under this Section. A person who appears before, participates in, or provides information to the review panel shall sign a confidentiality notice to acknowledge that any information that the person provides to the review panel shall be confidential. Information identifying an overdose victim whose case is being reviewed, or that victim's family members, or regarding the involvement of any agency with the victim or victim's family members shall not be disclosed in any report that is available to the public. Nothing in this Section shall prohibit the publishing by the review panel of statistical compilations relating to overdose fatalities which do not identify a person's case or a person's healthcare provider, law enforcement agency, or organization that provides services to victims.

I. When the review panel concludes a review of an overdose fatality or other review, it shall return all information and records that concern a victim or the victim's

family members to the person, agency, or entity that furnished the information.

RS 40:2025.6 — Reporting requirements

parishes served by the review panel. The annual report shall include but not be limited to the following information:

- (1) The total number of fatal overdoses that occurred within the jurisdiction of the overdose fatality review panel.
- (2) The number of fatal overdose cases investigated by the overdose fatality review panel.
- (3) Any recommendations for state and local agencies or the state legislature to assist in preventing fatal and nonfatal overdoses in the state.
- (4) Assessable results of any recommendations made by the overdose fatality review panel, including but not limited to changes in local or state law, policy, or funding made as a result of the panel's recommendations.

B. Each human services district shall compile the reports submitted to it from the review panels and submit the compiled report to the Louisiana Department of Health no later than December thirty-first of each year. The compiled report shall also include any additional recommendations from the human services district based on the data received for the region.

C. The Louisiana Department of Health shall analyze each annual report, shall create a single report containing an aggregate of the data received pursuant to this Section, and shall submit the report to the governor and legislature no later than March fifteenth of each year.

D. Reports submitted pursuant to this Section are not confidential and are subject to the Public Records Law.

RS 40:2100 — Short title

cal difficulties navigating this website,

RS 40:2101 — Purpose

and for the construction, maintenance, and operation of hospitals which, in light of advancing knowledge, will promote safe and adequate treatment of such individuals in hospitals; and for regulating the operation and maintenance of hospitals in Louisiana.

RS 40:2102 — Definitions

ency, public or private,

whether for profit or not, with facilities for the diagnosis, treatment, or care of persons who are suffering from illness, injury, infirmity, or deformity or other physical condition for which obstetrical, medical, or surgical services would be available and appropriate and which operates or is affiliated with facilities for the overnight care, observation, or recovery of those persons. The term "hospital" does not include the following:

- (a) Physicians' offices or clinics where patients are not regularly kept as bed patients for twenty-four hours or more.
- (b) Nursing homes as defined by and regulated under the provisions of R.S. 40:2009.1 through 2009.12.

(c) Persons, schools, institutions, or organizations engaged in the care and treatment of children with intellectual disabilities and which are required to be licensed by the provisions of the Developmental Disability Law (R.S. 28:451.1 et seq.).

(d) Hospitalization or care facilities maintained by the state at any of its penal and correctional institutions provided that nothing herein contained shall prevent a penal or correctional institution from applying for licensure of its hospitalization or care facility.

(e) Hospitalization or care facilities maintained by the federal government or agencies thereof.

(f) Hospitalization or care facilities maintained by any university or college provided that nothing herein contained shall prevent any college or university from applying for licensure of its hospitalization or care facility.

(g) Any other entity licensed for the diagnosis, treatment, or care of persons admitted for overnight stay.

(3) "Person" means the state, and any political subdivision or municipal corporation thereof, an individual, firm, partnership, corporation, company, association or joint stock association, or the legal successor thereof.

(4) "Secretary" means the secretary of the Louisiana Department of Health.

RS 40:2103 — Date licenses must be obtained; moratorium on licensure of long-term

I establish, conduct, or maintain a hospital without a license from the department, except that any hospital in operation at the time of enactment of this Part shall make application for a license and may continue in operation until action has been taken on the application. Such hospitals shall be given a reasonable time, under the particular circumstances, not to exceed one year without department approval from the date of adoption of rules, regulations, and minimum standards as herein provided, within which to comply with such rules, regulations, and minimum standards.

B. A provisional license may be issued to a hospital for periods of six months in cases where sufficient compliance with regulations, codes or minimum standards require an extension of time. The failure to comply must not be detrimental to the health or safety of the residents and the deficiencies must be cited at the time of issuance.

C.(1) Notwithstanding any other provision of law to the contrary, the Louisiana Department of Health shall implement a moratorium, effective August 1, 1997, on the licensure of long-term care hospital facilities and beds in long-term care hospital facilities. The Louisiana Department of Health shall not approve for licensure as a hospital and enrollment as a Medicaid provider any long-term care hospital facility, as defined in 42 CFR 412.23, nor shall it approve for licensure and enrollment as a Medicaid provider any bed in such a facility, until July 1, 2008.

(2) This moratorium shall not apply to facilities licensed and converted to long-term care hospital facilities prior to December 1, 1997, or to Louisiana entities that, prior to July 1, 1997, have filed an application for accreditation

with the Joint Commission on Accreditation of Healthcare Organizations for facilities leased from a major teaching hospital, and have given notice to the Louisiana Department of Health of their intention to obtain long-term care hospital status for such hospital facilities.

(3) Without limiting the generality of the foregoing, the legislature specifically intends that this moratorium shall not apply to the facility in Orleans Parish formerly known as New Orleans General Hospital. Further, to the extent permitted by federal law this moratorium shall apply only to facilities enrolled in the Medicaid program.

RS 40:2104 — Application

mative evidence of ability to comply with such reasonable standards, rules, and regulations as are lawfully prescribed hereunder and information required for health planning pursuant to R.S. 36:256(B). Additional information required by the licensing agency or for health planning shall be supplied on supplemental forms as needed.

B. As a condition of licensure, the department may require hospitals to provide certain information including but not limited to financial, demographic, and census information. The department shall promulgate rules to implement this Subsection in accordance with the Administrative Procedure Act. Such information shall be shared with the Louisiana Hospital Association, which shall be subject to the same confidentiality requirements provided for in this Subpart.

RS 40:2105 — Procedure and investigation relative to issuance of license

ty meet the requirements

established under this Part and the minimum standards adopted in pursuance thereof.

B. Any officer or duly authorized agent of the Louisiana Department of Health, the fire marshal, or either, may enter and inspect any building or premises at any reasonable time to secure compliance with or to prevent the violation of any provision of this Part.

C. The department may, either before or after the issuance of a license, request the cooperation of the fire marshal to make investigations to determine if the applicant or licensee is complying with the minimum standards promulgated by the department. The report and recommendations of any such agency shall be in writing and shall state with particularity its findings with respect to compliance or noncompliance with such minimum standards. It shall be the duty of the fire marshal to cooperate with the department in the enforcement of this Part and the minimum standards adopted in pursuance thereof when called upon by the department.

RS 40:2106 — Confidential nature of financial information and financial records

der the provisions of this Part shall be held confidential and shall not be disclosed except when subpoenaed in a proceeding for the revocation, suspension, or denial of a license.

RS 40:2107 — Fees and limitations

ch is hereby levied as the license fee for operation of a hospital for a period of one year; provided hospitals subject to the licensing requirements of this Part which are owned and operated by the state of Louisiana shall be exempt from payment of the fees stipulated in this Section. The fees herein levied and collected shall be paid into the general fund.

B. Each license issued hereunder shall be for a period of one year from date of issuance unless sooner revoked, shall be on a form prescribed by the Department, shall not be transferable or assignable, shall be issued only for the person and

premises named in the application, shall be posted in a conspicuous place on the licensed premises, and may be renewed from year to year upon application and payment of the license fee as in the case of the procurement of an original license.

RS 40:2109 — Rules, regulations, and minimum standards

after a public hearing, adopt

rules, regulations, and minimum standards, which shall have the effect of law, governing the operation and maintenance of hospitals; thereafter, in accordance with the same procedure the department may modify, amend, or rescind such rules, regulations, and minimum standards.

B. The minimum standards adopted by the secretary governing operation and maintenance of hospitals may contain regulations in relation to:

(1)(a) Construction of hospital buildings, facilities, and equipment, including regulations on plumbing, heating, lighting, ventilation, fire protection, fire prevention devices and equipment, floor space, and other housing conditions designed to ensure the health, safety, and comfort of patients.

(b) No regulation or policy adopted by the secretary or any other department or agency of the state, other than the Department of Transportation and Development, shall make applicable to any vehicle or trailer duly licensed for operation or movement on public highways, any standard for fire protection or fire prevention equipment or any other related or similar requirement greater than that applied to office operations when such trailer is used for the purpose of housing and transporting medical and diagnostic or therapeutic equipment to be used for hospital patients. This Subparagraph shall apply only to regulations and policies adopted prior to four years after July 19, 1990.

(c) The establishment of new or replacement facilities or reestablishment of facilities that have sustained substantial structural damage from a hurricane or substantial structural damage from flooding which are located in areas subject to hurricanes, tidal surges, or flooding. An architect or civil engineer registered in the state shall determine whether a facility has sustained substantial structural damage from a hurricane or substantial structural damage from flooding in accordance with the Louisiana State Uniform Construction Code.

The regulations adopted by the department shall include but not be limited to:

(i) Requirements of building and construction codes and guidelines.

(ii) Provisions for the fair allocation of the Medicaid share of facility-specific costs directly incurred by a facility as a result of compliance.

(iii) Provisions for reasonable time periods for compliance, not to exceed three years, except when extensions are granted by the department for good cause.

(2) Sanitary conditions, practices, and environment and sanitary and sterilization procedures and practices designed to avoid sources and transmission of infections, including regulations governing the isolation of patients with communicable diseases.

(3) Diet related to the needs of each patient based on good nutritional practice and on recommendation of the attending physician; laboratory, X-ray, and pharmacy facilities or access of the hospital to such facilities; personnel having responsibility for any part of the care and treatment of patients.

(4) Equipment essential to the health, care, and maximum well-being of the patients of the hospital.

(5) Such other regulations or standards as will ensure proper care and treatment of patients as may be deemed necessary for an effective administration of this Part.

(6) Classification of hospitals and variation of standards so as to ensure realistic, practical, and uniform standards for the hospitals in each classification.

(7) Minimum number of beds required, which shall be ten. In the case of a parish in which the sole hospital providing inpatient and emergency department services temporarily ceases operations as a result of an event which is the subject of an executive order or a proclamation of emergency or disaster issued in accordance with R.S. 29:724, the Louisiana Department of Health shall waive the minimum bed number. The requirement of a minimum number of beds shall be waived in order that a temporary hospital may be constructed or a modular building designed for inpatient services may be utilized in such parish. Such waiver shall be effective for a period of two years, beginning the date on which the temporary hospital commences operations as an inpatient facility. Extensions shall be granted by the Louisiana Department of Health for good cause, including but not limited to delays in construction beyond the provider's control.

C. Any healthcare facility that proposes to utilize beds for post-hospital extended care, including distinct-part skilled, intermediate, and swing, and admits nursing home patients who receive Medicaid payments to those beds shall meet all licensure requirements for nursing homes. Such requirements shall include but not be limited to a nursing home license, employment of a nursing home administrator, social service designee, and a patient activity coordinator, and all need criteria and resource goals promulgated by the Louisiana Department of Health pursuant to 42 U.S.C. 1320a-1. A review for need shall be conducted by the Louisiana Department of Health utilizing the State Health Plan resource goals and departmental need criteria regardless of whether there is a capital expenditure. If need is not established in accordance with the need criteria and resource goals, license shall be denied for utilization of those beds. Distinct-part skilled and swing beds approved for utilization pursuant to the provisions of this Subsection shall be limited to twenty such beds per hospital.

D. Any healthcare facility which, on the effective date of this Subsection, has in operation any distinct-part skilled or swing beds or has been notified by the division of policy, planning, and evaluation of the Louisiana Department of Health that such proposed beds do not require health planning review, and which would otherwise be subject to the provisions of this Section, shall be exempted from health planning review to determine need for such beds. However, nothing herein shall be construed to allow the participation in the Medicaid program of such classification of beds unless the facility and beds possess a Title XIX provider agreement prior to September 1, 1987.

E.(1) The secretary shall adopt rules, regulations, and minimum standards providing for the disposition of patients' medical records upon closure of a hospital. Such regulations may require submission by a hospital which is closing of a plan for the disposition of patients' medical records to the secretary for his approval. Notwithstanding the provisions

of R.S. 40:2144, the secretary may approve any plan which he deems to be in the best interest of the patients.

(2) The provisions of this Subsection shall not be construed to authorize the secretary to close any hospital without approval as otherwise provided by law.

F. In addition to any other standard for licensure adopted in this Section and any other applicable state or federal law or regulation, the minimum standards adopted by the secretary shall provide that hospitals may not pay or reimburse, directly or indirectly, any sum for leave-of-absence days for any patient admitted to the hospital, directly or indirectly, from a nursing home facility. Any such payment or reimbursement as prohibited by this Section shall be deemed to be payment for referral within the meaning of applicable law.

RS 40:2109.1 — Hospital reports on complications of surgical procedures resulting from an
report to the department on patients who present for treatment in the

emergency department as a result of complications after an abortion as defined in R.S. 14:87.1. The report shall be confidential, shall be exempt from disclosure pursuant to the Public Records Law, R.S. 44:1 et seq., and shall not contain the name or address of the patient.

B. The Louisiana Department of Health, in consultation with the Louisiana State Board of Medical Examiners, shall promulgate rules regarding the electronic coding, reporting, and tracking of complications after any abortion that is treated at any hospital.

C.(1) The report required by Subsection A of this Section shall include the following information, if known:

(a) The date of the abortion.

(b) The name and address of the facility where the abortion was performed or induced.

(c) The nature of the abortion complication diagnosed or treated.

(d) The name and address of the facility where the post-abortion care was performed.

(2) Each facility that is subject to the requirements of this Section shall ensure that a staff member of the facility attempts to obtain the information required by Paragraph (1) of this Subsection from any patient prior to the patient's discharge from the facility who presents for treatment in the emergency department of the facility as a result of complications after an abortion.

(3) The report shall be submitted on a form created by the Louisiana Department of Health. The Louisiana Department of Health shall publicly report aggregate data annually by facility where the abortion was performed or induced.

RS 40:2109.2 — Hospitals; passenger elevators equipped with telephone or intercom
ich maintains and

operates one or more passenger elevators in such hospital shall equip each passenger elevator with a telephone or an intercom system. The Louisiana Department of Health may adopt necessary rules, regulations, and minimum standards for the purposes of this Section. The license of any such hospital may be suspended upon failure of the hospital to comply with the provisions of this Section.

RS 40:2109.3 — Pediatric advanced life support training for nurses

pecially designated area, floor, or section in a hospital that is recognized as the area, floor, or section where infants and children can be treated.

(2) "Registered nurse" means any person licensed under R.S. 37:920 to engage in the practice of nursing.

B. No later than January 1, 1995, every registered nurse who works primarily in a hospital emergency room or pediatric ward shall be trained in an emergency nursing pediatric course that includes training in pediatric trauma and pediatric advanced life support and that has been conducted pursuant to guidelines established by the Louisiana State Board of Nursing. Training taken in compliance with this requirement may be used to satisfy continuing education requirements as established by the Louisiana State Board of Nursing. Training may be taught by any person approved pursuant to guidelines established by the Louisiana State Board of Nursing.

RS 40:2110 — Denial, suspension or revocation of license; appeal

r licensee to comply with the requirements of this Part or the rules, regulations and minimum standards adopted by the department, provided in all such cases the secretary shall furnish the applicant or licensee thirty days written notice specifying reasons for the action.

B. Any applicant or licensee who feels aggrieved by the action of the secretary in denying, suspending or revoking a license may appeal suspensively from the action of the secretary in accordance with the delay, notice and other procedures set forth in R.S. 40:2009.7 B, C, and D.

C. Any person aggrieved by an action of the appellate board may, within thirty days after notification of such action, appeal suspensively to the district court for the parish of East Baton Rouge. A record of all proceedings before the board shall be made and kept on file with the board. The board shall transmit to the district court a certified copy of the record. The district court shall try the appeal de novo.

D.(1) Notwithstanding any law to the contrary, the secretary may issue an immediate suspension of a license for a freestanding inpatient psychiatric hospital if an investigation or survey determines that the applicant or licensee is in violation of any provision of this Subpart, in violation of the rules promulgated by the department, or in violation of any other federal or state law or regulation, and the secretary determines that the violation or violations pose an imminent or immediate threat to the health, welfare, or safety of a client or patient. The secretary shall give the licensee five days written notice of the immediate suspension. The suspension of the license shall be effective five days after receipt of the written notice. After the freestanding inpatient psychiatric hospital receives the immediate suspension notice, the department shall assist the hospital with discharge planning, which shall address transition, relocation, and transportation issues, for each patient admitted at the hospital as of the date of receipt of the written notice of the immediate suspension.

(2) The licensee shall have the right to file a devolutive appeal of the immediate suspension notice. The appeal request shall be filed with the office of the secretary within thirty calendar days of the receipt of the written notice of the immediate suspension. The appeal request shall specify in detail the reasons why the appeal is being lodged.

(3) The licensee shall have the right to file for injunctive relief from the immediate suspension of the license. The injunctive relief shall be filed with the Nineteenth Judicial District Court for the parish of East Baton Rouge. Before injunctive relief may be granted, the licensee shall prove by clear and convincing evidence that the secretary's decision to issue the immediate suspension of the license was arbitrary and capricious.

E. If a license for a freestanding inpatient psychiatric hospital is revoked or renewal of a license for a freestanding inpatient psychiatric hospital is denied other than for cessation of business or non-operational status, or if the license is surrendered in lieu of an adverse action, any owner that had direct knowledge of the practices that led to the immediate suspension or any on-site administrator of the licensee may be prohibited from owning, managing, directing, or operating another freestanding inpatient psychiatric hospital in the state of Louisiana.

RS 40:2111 — Penalty for violation specified

be fined not more than one hundred dollars for the first offense and not more than two hundred dollars for each subsequent offense, and each day of a continuing violation after conviction shall be considered a separate offense. The district attorneys of the several parishes shall represent the State in proceedings under this Part in their respective parishes.

RS 40:2112 — Enforcement by injunction authorized

junction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management, or operation of a hospital without a license under this Part.

RS 40:2113 — Charges for hospitalization and drugs

o are eligible to receive medical assistance benefits from any agency or insurance company or other entity public or private administering or in any way participating in any federal medical assistance program shall, if admitted to a state hospital, be charged fees for their hospitalization and drugs rendered them at rates to be established by agreement between the state hospital and the agency or insurance company or other entity public or private administering or in any way participating in the federal medical assistance program and having the authority to establish such rates by agreement. All funds received from fees paid under the provisions of this Section on behalf of patients shall be paid into the general fund.

RS 40:2113.2 — Rules, regulations, and contracts

properly conduct training

and research programs. Such rules and regulations shall govern contracts and agreements with colleges and universities, both publicly and privately owned, within the state for the purpose of promoting research and training in relation to illnesses of all types. All rules, regulations, and contracts adopted under the former authority of R.S. 46:663.2 are continued in effect and made subject to the provisions herein enacted.

RS 40:2113.3 — Hospital improvement fund

he provisions of Titles 28, 40 and 46 of the Revised Statutes of Louisiana of 1950 shall be deposited in a special account in the State Treasury to be known as the Hospital Improvement Fund, to the credit of the collecting hospital.

B. The monies so collected shall be credited to the account of the aforesaid hospitals in the Fund. For the fiscal year 1970-71 the first four hundred thousand dollars collected by Louisiana Charity Hospital at New Orleans shall be transferred to the Research and Training Account established under the provisions of R.S. 40:2113.1; for the fiscal years 1971-72 and 1972-73 the first two hundred thousand dollars collected by Louisiana Charity Hospital at New Orleans shall be transferred to the Research and Training Account established under the provisions of R.S. 40:2113.1; thereafter, no funds collected by Louisiana Charity Hospital at New Orleans shall be credited to the said Research and Training Account. The first one hundred thousand dollars credited to the account of Confederate Memorial Medical Center for the fiscal year 1970-71 shall likewise be transferred to the Research and Training Account established under the provisions of R.S. 40:2113.1; for the fiscal years 1971-72 and 1972-73 the first fifty thousand dollars credited to the account of Confederate Memorial Medical Center shall also be transferred to the Research and Training Account; thereafter, no monies credited to the account of Confederate Memorial Medical Center shall be transferred to the Research and Training Account. The remaining monies credited to the account of each such hospital in the fund are hereby dedicated without further or special appropriation to the respective hospital and shall be subject to expenditure from time to time for purchase of equipment. No part of the funds of any of said accounts shall revert to the State General Fund at the close of any fiscal year nor shall these funds be considered as other means of financing of the respective hospital.

RS 40:2113.4 — Duty to provide services; penalty

nced by the sale of bonds that are exempt from taxation as provided by Louisiana law, or which receives any other type of financial assistance from the state of Louisiana and which offers emergency room services to the public and is actually offering such services at the time, shall make its emergency services available to all persons residing in the territorial area of the hospital regardless of whether the person is covered by private, federal Medicare or Medicaid, or other insurance. Each person shall receive these services free from discrimination based on race, religion, or national ancestry and from arbitrary, capricious, or unreasonable discrimination based on age, sex, or

physical condition and economic status. However, in no event shall emergency treatment be denied to anyone on account of inability to pay. Any such hospital found to be in violation of this Section shall not receive any client referrals from the Louisiana Department of Health.

B. For purposes of this Section, "emergency" means a physical condition which places the person in imminent danger of death or permanent disability, or in cases of rape; however, the person may be directed to another hospital which has been designated by the coroner of the parish as a facility which specializes in care and treatment of rape victims. "Emergency services" means those services which are available in the emergency room and surgical units in order to sustain the persons' life and prevent disablement until the person is in condition to be able to travel to another appropriate facility without undue risk of serious harm to the person. Those general hospitals which do not have emergency room physician services available at the time of the emergency shall not be in violation of this Section, if after a good faith reasonable effort a physician is unavailable to provide those medical services, which according to law, only physicians are authorized to perform.

C.(1) In all cases in which a child under fourteen has been raped or physically or sexually abused, the coroner of the parish may direct the person to a facility which has been designated by said coroner as a facility which specializes in the care and treatment of such victims.

(2) The coroner, in conjunction with the designated facility and the district attorney and local law enforcement authority, may provide for and equip a room for videotaping a child pursuant to R.S. 15:440.1 through 440.6.

RS 40:2113.5 — Services to persons who are elderly and persons with disabilities

s from being financed by the sale of bonds from the state or guaranteed by the state that are exempt from taxation as provided by Louisiana law, or which receives any other type of financial assistance from the state, is directed to give, when possible, priority to the treatment of persons who are elderly and persons with physical or mental disabilities in the delivery of nonemergency health care services.

RS 40:2113.6 — Emergency diagnoses and services; denial for inability to pay;

ana Department of Health shall deny emergency services available at the hospital to a person diagnosed by a licensed physician as requiring emergency services because the person is unable to establish his ability to pay for the services or because of race, religion, or national ancestry. In addition, the person needing the services shall not be subjected by any such person to arbitrary, capricious, or unreasonable discrimination based on age, sex, physical condition, or economic status.

(2) This Section shall not prohibit or apply to any action taken by a hospital, officer, employee, member of the medical staff, or physician which substantially complies with applicable federal law or regulation.

B. No officer, employee, or member of the medical staff of a hospital licensed by the Louisiana Department of Health shall deny a person in need of

emergency services access to diagnosis by a licensed physician on the staff of the hospital because the person is unable to establish his ability to pay for the services or because of race, religion, or national ancestry. In addition, the person needing the services shall not be subjected by any such person to arbitrary, capricious, or unreasonable discrimination based on age, sex, physical condition, or economic status.

C. "Emergency services" means services that are usually and customarily available at the respective hospital and that must be provided immediately to stabilize a medical condition which, if not stabilized, could reasonably be expected to result in the loss of the person's life, serious permanent disfigurement or loss or impairment of the function of a bodily member or organ, or which is necessary to provide for the care of a woman in active labor if the hospital is so equipped and, if the hospital is not so equipped, to provide necessary treatment to allow the woman to travel to a more appropriate facility without undue risk of serious harm.

D. No hospital or any officer or employee who makes a good faith effort to comply with the provisions of this Section shall be found in violation of this Section for the failure of another officer, employee, or member of the medical staff or physician to provide or delegate the provision of medical services or diagnosis as required by this Section.

E. Each hospital to which this Section applies shall provide written notice of the provisions of this Section to all officers, employees, and members of the medical staff, and other appropriate personnel who have duties related to access to and delivery of emergency services.

F. An officer, employee, or member of the medical staff of a hospital who intentionally or recklessly violates the provisions of this Section may be subject to a fine of not more than five thousand dollars and may be suspended from the state medical assistance program. Subsequent intentional or reckless violations shall be punishable by a fine of five thousand dollars and termination of participation in the state medical assistance program. For the purposes of this Section, any violation occurring more than six months after the last such violation shall not be considered a subsequent violation.

RS 40:2114 — Organization of medical and dental staff

ne or osteopathy who are

currently licensed to practice medicine or osteopathy by the Louisiana State Board of Medical Examiners and dentists licensed to practice dentistry by the Louisiana State Board of Dentistry.

B. Each hospital offering care or services within the scope of the practice of psychology, as defined in R.S. 37:2352(5), shall establish rules, regulations, and procedures for consideration of an application for medical staff membership and clinical privileges submitted by a psychologist licensed to practice psychology by the Louisiana State Board of Examiners of Psychologists or a medical psychologist licensed to practice medical

psychology by the Louisiana State Board of Medical Examiners. No hospital shall deny such medical staff membership and clinical privileges solely because the applicant is licensed under R.S. 37:2351 et seq., or R.S. 37:1360.51 et seq.

C. No individual shall be automatically entitled to membership on the medical and dental staff or to the exercise of any clinical privilege solely on the basis of his license to practice in any state, his membership in any professional organization, his certification by any clinical examining board, or his clinical privileges or staff membership at another hospital without meeting the reasonable criteria for membership established by the governing body of the respective hospital.

D. The provisions of this Section shall in no way affect the provisions of R.S. 37:1301.

E. A hospital shall establish rules, regulations, and procedures setting forth the nature, extent, and type of staff membership and clinical privileges, as well as the limitations placed by the hospital on said staff membership and clinical privileges for all health care providers practicing therein.

RS 40:2115 — Smoking in hospitals; prohibition; exceptions

Smoking may, at the discretion of the governing board of the hospital, be permitted in patient rooms, but only:

- (1) Upon the order of the patient's primary treating physician.
- (2) With the consent of all patients in the room, if any.
- (3) In accordance with all standards established by the Joint Commission on Accreditation of Health Care Organizations and all applicable state and federal regulations.

B. For purposes of this Section, "enclosed area" shall be determined by the governing board of the hospital but shall include, at a minimum, all areas of the building that are air conditioned or heated.

C.(1) Notwithstanding the provisions of Subsection A of this Section, the governing board of the hospital may designate a well-ventilated area for smokers. Additionally, the governing board of a private psychiatric hospital and the Department of Public Safety and Corrections shall establish rules and policies to reasonably accommodate inpatients and inmates who smoke.

(2)(a) The Louisiana Department of Health shall establish procedures for treatment of smokers with mental illness in its psychiatric hospitals and forensic facilities which are smoke free. The department shall implement such procedures for patients currently being treated in its psychiatric hospitals and forensic facilities which are smoke free and for new patients at the time of admission.

(b) In carrying out the provisions of this Paragraph, the department shall do all of the following:

- (i) Screen the patient for smoking cessation needs.
- (ii) Seek the consent of the patient to participate in education and treatment regarding smoking cessation.
- (iii) Train psychiatric hospital staff of the department in smoking cessation best practices and monitoring of the patient's treatment plan, symptoms, and medication

adjustments. Psychiatric hospital staff so trained may include tobacco cessation in the patient's treatment plan after a review of the patient's diagnosis and medication history.

(iv) Provide patients in department psychiatric hospitals and forensic facilities with access to smoking cessation assistance, including but not limited to counseling, nicotine replacement therapy, and oral medications.

(v) Provide patients in department psychiatric hospitals and forensic facilities with access to smokeless tobacco cessation assistance.

(vi) Provide information about smoking cessation in discharge planning, including information about smoking cessation resources in the community.

D.(1) Any person who, in violation of this Section, smokes in an area that has not been designated as an area for smokers may be issued a summons by a law enforcement officer. The summons shall be returned to the court having jurisdiction over misdemeanors in the parish or municipality of the domicile of the hospital.

(2) Any violation of this Subsection shall be punishable by a fine not to exceed five hundred dollars or community service not to exceed ten days, or both.

RS 40:2115.1 — Review of standards for licensed psychiatric hospitals and residential

chiatric hospitals and residential substance abuse facilities within the healthcare system is vital to the improvement and overall welfare of the residents in this state.

B. The Louisiana Department of Health shall:

(1) Evaluate the current standards for psychiatric hospitals and residential substance abuse facilities and make recommendations to the legislature for new or revised standards to improve health outcomes and to provide for increased accountability.

(2) Explore potential value-based financial incentives for Medicaid-enrolled psychiatric hospitals that sustain or exceed quality of care criteria.

(3) Conduct a review and evaluation of the standards for psychiatric hospitals and residential substance abuse facilities in this state and submit a report of its findings to the House and Senate committees on health and welfare. The report shall contain recommendations for new or revised standards to improve health outcomes and provide increased accountability and also an evaluation and recommendations of accreditation requirements for psychiatric hospitals and residential substance abuse facilities in this state.

(4) Explore potential value-based financial incentives for Medicaid-enrolled psychiatric hospitals that sustain or exceed quality of care criteria. Data, information, and recommendations on such potential value-based financial incentives and quality of care criteria shall be included in the report required by Paragraph (3) of this Subsection.

C. The department may consult with any agency, department, board, commission, accreditation organization, or other healthcare group or association to conduct its review and evaluation and for preparation of its report.

D. For purposes of this Section, the following definitions shall apply:

- (1) "Department" means the Louisiana Department of Health.
- (2) "Psychiatric hospital" means any freestanding inpatient psychiatric hospital licensed by the department.
- (3) "Residential substance abuse facility" means any licensed behavioral health service provider with a residential substance use disorder treatment facility module.

E. The department shall submit the report required by this Section on or before March 31, 2025, and upon submission of the report, this Section shall terminate.

RS 40:2115.11 — Requirement for approval of hospital acquisitions

le, affordable health care facilities that are responsive to the needs of the communities in which they exist. The state also has a responsibility to protect the public interest in nonprofit hospitals by making certain that the charitable assets of those hospitals are managed prudently. Therefore, no not-for-profit hospital shall be acquired by any person unless and until the acquisition is reviewed and approved by the attorney general.

RS 40:2115.12 — Definitions

al, whether by purchase, merger, lease, gift, or otherwise, that results in a change of ownership or control of thirty percent or greater of either the voting rights or the assets of a hospital, or that results in the acquiring person holding a fifty percent or greater interest in the ownership or control of a hospital.

- (2) "Attorney general" means the attorney general or his designee.
- (3) "Charitable assets" means those tangible and intangible assets in the form of movable and immovable property and equipment, personnel, and services acquired by a hospital through the expenditure of direct and indirect state, federal and local funds, or funds retained by virtue of their non-taxable status, and through money paid through the patronage of members of the community the hospital serves.

RS 40:2115.13 — Application to acquire a hospital

essary and appropriate action consistent with the provisions of this Subpart.

- (2) The notice shall briefly describe the impending acquisition, including any change in ownership of tangible or intangible assets.

B.(1) No person shall acquire a not-for-profit hospital without the seller first having applied for and received the approval of the attorney general pursuant to this Subpart.

- (2)(a) An application shall be submitted to the attorney general on forms provided by the attorney general and shall include the following:

- (i) The name of the seller.
 - (ii) The name of the purchaser or other parties to the acquisition.
 - (iii) The terms of the proposed agreement.
 - (iv) The sale price.
 - (v) A summary of the acquisition agreement.
 - (vi) A financial and economic analysis and report from an independent expert or consultant of the effect of the acquisition under the criteria set forth in R.S. 40:2115.17.
- (b) A copy of the application shall be submitted to the attorney general. The application shall be considered a public record.

RS 40:2115.14 — Review of application; notice

neral circulation in the parish where the hospital is located and shall notify by first class United States mail any person who has requested notice of the filing of such application.

- (2) The notice shall state the following:

- (a) That an application has been received.
- (b) The names of the parties to the agreement.
- (c) A description of the contents of the application.
- (d) The date by which a person may submit written comments about the application to the attorney general.

B.(1) The attorney general shall, within fifteen days after the date an application is received, determine if the application is complete for the purposes of review. The attorney general may find that an application is incomplete if a question on the application form has not been answered in whole or in part, or has been answered in a manner that does not fairly meet the question addressed, or if the application does not include attachments of supporting documents as required by R.S. 40:2115.13.

(2) If the attorney general determines that an application is incomplete, he shall notify the applicant within fifteen days after the date the application was received stating the reasons for his determination of incompleteness with reference to the particular questions for which a deficiency is noted. In the absence of timely notice, the application shall be deemed complete.

C. Within sixty days after receiving a completed application, the attorney general shall review the application in accordance with the standards set forth in this Subpart and approve or disapprove the acquisition pursuant to this Subpart.

RS 40:2115.15 — Public hearing; venue

ar and make a statement.

B.(1) The hearing shall be held not later than thirty days after receipt of a completed application. The hearing shall be held upon ten working days notice, not including days the application is deemed to be incomplete.

(2) The hearing shall be held in the municipality in which the hospital is located. However, if the hospital is not located within a municipality, the hearing shall be held in the municipality nearest to the hospital and within the same parish in which the hospital is located or at the affected hospital itself.

RS 40:2115.16 — Decision; appeal

ication, the attorney general shall either:

- (a) Approve the acquisition, with or without specific modifications.
- (b) Disapprove the acquisition.

(2) If the attorney general does not act within sixty days after receipt of an application, the application is deemed approved.

(3) If the attorney general disapproves the acquisition, he shall seek, from a court of competent jurisdiction, within the time allowed, an order enjoining the acquisition. The court shall grant the injunction, following a hearing, if it finds that the acquisition does not substantially comply with the criteria set forth in R.S. 40:2115.17 and 2115.18. In the event that the seller, purchaser, or attorney general disagrees with the court's decision, they may appeal as otherwise provided by law.

B. Any applicant aggrieved by a final decision of the attorney general may, within thirty days after notification of such action, appeal suspensively to the district court for the parish of East Baton Rouge. A record of all proceedings before the attorney general shall be made and kept on file with the attorney general. The attorney general shall transmit to the district court a certified copy of the record. The district court shall try the appeal de novo.

RS 40:2115.17 — Criteria for decision; attorney general

c interest unless appropriate steps have been taken to safeguard the value of charitable assets and ensure that any proceeds of the transaction are used for appropriate health care purposes as provided for in R.S. 40:2115.18.

B. In determining whether the acquisition meets such criteria under this Subpart, the attorney general shall consider:

- (1) Whether the hospital's board of directors exercised due diligence in deciding to sell, selecting the purchaser, and negotiating the terms and conditions of the sale.
- (2) The procedures used by the seller in making its decision, including whether appropriate expert assistance was used.
- (3) Whether conflict of interest was disclosed, including but not limited to conflicts of interest related to board members of, executives of, and experts retained by the seller, purchaser, or parties to the acquisition.

- (4) Whether the seller will receive fair value for its assets; provided that the attorney general may employ, at the seller's expense, reasonably necessary expert assistance in making this determination.
- (5) Whether funds are placed at unreasonable risk, if the acquisition is financed in part by the seller.
- (6) Whether any management contract under the acquisition is for fair value.
- (7) Whether the sale proceeds will be used for appropriate health care purposes consistent with the seller's original purpose or for the support and promotion of health care in the affected community and whether the proceeds will be controlled as funds independently of the purchaser or parties to the acquisition.
- (8) Whether any corporation established to hold the proceeds of the sale will be broadly based in the community and be representative of the affected community, taking into consideration the structure and governance of such corporation.
- (9) Whether a right of first refusal to repurchase the assets by a successor corporation or foundation has been retained if the hospital is subsequently sold to, acquired by, or merged with another entity.

RS 40:2115.18 — Additional criteria for decision; attorney general

continued existence of accessible, affordable health care facilities that are responsive to the needs of the community. In making this determination, the attorney general shall consider:

- (1) Whether sufficient safeguards are included to assure the affected community continued access to affordable care.
- (2) Whether the purchaser and parties to the acquisition have made a commitment, at least comparable to the seller, to provide health care to the disadvantaged, the uninsured, and the underinsured and to provide benefits to the affected community to promote improved health care. Activities and funding provided by the seller or its successor nonprofit corporation or foundation to provide such health care or to provide support or medical education and teaching programs or medical research programs shall be considered in evaluating compliance with this commitment.
- (3) If health care providers will be offered the opportunity to invest or own an interest in the purchaser or a related entity to the purchaser, whether procedures or safeguards are in place to avoid conflict of interest in patient referral and the nature of such procedures or safeguards.

RS 40:2115.19 — Reports to the attorney general

ion for up to five years after the date of acquisition to ensure compliance with commitments made to the attorney general. The attorney general may subpoena information and documents reasonably necessary to assure compliance.

B. If the attorney general receives information indicating that the acquiring person is not fulfilling the commitment to the affected community as provided for in R.S. 40:2115.18, the attorney general shall hold a hearing upon ten days notice to the affected parties. If after the hearing the attorney general determines that the information is true, it may petition the department to revoke the license issued to the purchaser. Any action by the department to revoke the license shall conform to the procedure in R.S. 40:2109 et seq., and the regulations promulgated thereunder.

RS 40:2115.20 — Violations; license suspension or revocation

as been issued may be revoked or suspended if any of the following occurs:

- (1) There is an acquisition of a hospital without first having received the approval of the attorney general.
- (2) There is an acquisition of a hospital and the attorney general disapproves the acquisition.
- (3) The hospital is not fulfilling its commitment under R.S. 40:2115.18(2) or is not following procedures or safeguards committed pursuant to R.S. 40:2115.18(3).

B. Any decision to refuse to issue or renew a license under this Subpart, and any action to revoke or suspend a license under this Subpart, shall conform to the procedure for issuance, renewal, revocation and suspension of licensure in R.S. 40:2109 et seq., and the regulations promulgated thereunder.

RS 40:2115.21 — Excluded acquisitions

effect prior to the procedures set forth in this Subpart, shall not be subject to the provisions of this Subpart.

RS 40:2115.22 — Prohibited acquisitions

three years prior to the date of sale.

RS 40:2115.23 — Authority for regulation

ursement to qualified persons to assist in determining criteria set forth in R.S. 40:2115.17 and 2115.18.

RS 40:2115.31 — Legislative intent

selves out to the

public as providing emergency medical care.

B. The legislature further finds and declares that emergency medical services should be provided in a licensed hospital.

C. The legislature finds and declares that rural hospitals are an essential part of our state's healthcare delivery safety net and their sustainability warrants protections from competing offsite emergency departments with no inpatient hospital services encroaching into their primary service area.

RS 40:2115.32 — Definitions

y medical services" means those medical services necessary to screen, evaluate, and stabilize an emergency medical condition of recent onset and severity, including severe pain, that would lead a prudent layperson, acting reasonably and possessing an average knowledge of health and medicine, to believe that the absence of immediate medical attention could reasonably be expected to result in placing the health of the individual in serious jeopardy, serious impairment to bodily function, or serious dysfunction of any bodily organ or part.

(3) "Freestanding emergency department" means a healthcare facility that holds itself out to the public as providing emergency medical services and is not licensed as part of the main campus of a hospital or as an off-site campus of a hospital.

(4) "Healthcare facility" means a facility, including but not limited to a hospital, or an office where a healthcare provider furnishes care to patients for health needs or medical conditions.

(5) "Healthcare provider" means a person who is licensed, certified, or otherwise authorized by the laws of this state to provide healthcare or medical treatment in the ordinary course of business or practice of a profession.

(6) "Hospital" means an entity as defined in R.S. 40:2102.

(7) "Off-site campus" means all licensed premises where emergency, inpatient, or outpatient hospital services are provided and that are not a part of or adjoining to the main hospital building or grounds. For licensing purposes, an off-site campus shall be located within thirty-five miles of the main hospital campus.

(8) "Rural hospital" means an entity as defined in R.S. 40:1189.3 or, for purposes of this Subpart, a hospital that is in a parish with a population of greater than seventy thousand but less than ninety thousand as of the latest federal decennial census.

RS 40:2115.33 — Emergency department; licensure; prohibitions

ing Law, R.S. 40:2100 et seq.,

either as a part of the hospital's main campus or as a separate off-site campus of an existing licensed hospital.

B. Freestanding emergency departments shall be prohibited in Louisiana.

C. The department shall not issue a license to any off-site campus emergency department within the primary service area of a rural hospital. For purposes of this Section, "primary service area" for a rural hospital created or ratified pursuant to laws providing for hospital service districts, R.S. 46:1051 et seq., shall be coterminous with the boundaries of its hospital service district. For all other rural hospitals, the primary service area shall have the same meaning as set forth in R.S. 37:1307(6). However, the prohibition in this Subsection shall not apply to a nonprofit licensed hospital that complies with the provisions of Subsection A of this Section and that has obtained a building or construction permit for a new off-site campus or hospital prior to April 1, 2019.

RS 40:2116 — Facility need review

ute

facility need review on licensing or certification to participate in the Title XIX program.

Except as provided in R.S. 40:2116.1, no healthcare provider shall be subject to facility need review unless authorized by the legislature in Subsection B of this Section.

B. The following healthcare providers shall be subject to facility need review to determine the need for a new or additional facility, provider, program, service, or bed:

- (1) Home- and community-based service providers. However, certain services or modules of a home- and community-based service provider may be excluded from the facility need review process at the discretion of the secretary of the Louisiana Department of Health.
- (2) Hospice providers or inpatient hospice facilities.
- (3) Pediatric day health care facilities.
- (4) Behavioral health services providers that provide psychosocial rehabilitation or community psychiatric support and treatment services.
- (5) Opioid treatment programs licensed under a behavioral health services provider license.
- (6) Intermediate care facilities for people with developmental disabilities.
- (7) Residential substance abuse treatment providers, except those that provide services to women and adolescents.

C.(1) The secretary of the Louisiana Department of Health shall appoint a facility need review committee, "FNR committee", that shall consist of the following members:

- (a) The secretary of the Louisiana Department of Health or his designee.
- (b) The assistant secretary of the office of behavioral health of the Louisiana Department of Health or his designee.
- (c) The assistant secretary of the office for citizens with developmental disabilities of the Louisiana Department of Health or his designee.
- (d) The assistant secretary of the office of aging and adult services of the Louisiana Department of Health or his designee.
- (e) The assistant secretary of the office of public health of the Louisiana Department of Health or his designee.
- (f) The Medicaid director of the Louisiana Department of Health or his designee.
- (g) The Medicaid medical director of the Louisiana Department of Health or his

designee.

(2) In addition to the members set forth in Paragraph (1) of this Subsection, the secretary may appoint additional members to the FNR committee when necessary in reviewing applications of opioid treatment programs.

(3) No FNR committee member shall have a proprietary or financial interest in any facility subject to facility need review.

(4) The FNR committee shall issue a decision on a facility need review application within ninety days from receipt of the application or within the deadlines established in a request for proposals or request for applications.

(5)(a) An applicant for facility need review shall provide all written application materials and documentation as may be required by rule. The applicant may include any additional written documentation or written evidence that supports the application for facility need review.

(b) Unless otherwise stated in a specific request for proposals or request for applications, the initial review and decision by the FNR committee shall consider all written materials and documentation submitted by the applicant and shall be conducted as a paper review.

(c)(i) Unless otherwise stated in a specific request for proposals or request for applications, if the initial decision is to reject or deny the facility need review application, then the applicant may request to supplement the application.

(ii) Upon receipt of additional documentation and evidence from the applicant, the FNR committee shall conduct a supplemental application review and shall provide the applicant an opportunity to meet with the FNR committee or its designees as part of the review. The meeting may be conducted in person or, at the discretion of the Louisiana Department of Health, through virtual means, including by telephone or virtual technology that facilitates synchronous interaction.

(iii) After a meeting conducted pursuant to Item (ii) of this Subparagraph, the applicant may submit additional documentation and evidence for consideration during the supplemental application review.

(iv) The decision on the supplemental application review shall be made by the FNR committee.

(d) If the facility need review application is rejected or denied after the supplemental application review, the applicant may request an administrative appeal of the FNR committee's decision with the division of administrative law in accordance with the Administrative Procedure Act. The applicant is not required to request a supplemental review and may elect to proceed directly to an administrative appeal.

(6) If the FNR committee approves the facility need review application, then the applicant may proceed with seeking licensure or certification to participate in the Title XIX program as applicable.

D. The department shall promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section. The rules and regulations shall include but not be limited to the following:

- (1) Criteria for review of healthcare provider applications for facility need review, including provisions for review pursuant to requests for proposals or requests for applications.
- (2) Criteria for review to determine if there is a need for a new or additional facility, provider, program, service, or bed.
- (3) Specific duties of the department and the FNR committee relative to review of applications.
- (4) Appropriate methodology for the collection of data necessary for the administration of the program.
- (5) Procedures for the FNR committee to approve, reject, or deny applications.
- (6) Establishment of application fees.
- (7) Procedures for a supplemental review of applications by the FNR committee.
- (8) Procedures to request a fair hearing from a determination made by the FNR committee.
- (9) Provisions for judicial review from the decision rendered after an administrative appeal.
- (10) Establishment of services and modules of a home- and community-based service provider that will be subject to the facility need review process.
- (11) Provisions and procedures for the revocation, suspension, and expiration of facility need review approvals.

E. No healthcare provider as provided for in Subsection B of this Section shall be certified to participate in the Title XIX program without first obtaining facility need review approval and complying with any and all licensing regulations promulgated by the department. Any person establishing, managing, or operating a new facility, service, or bed without the approval required by this Section shall be prohibited from participating in the Title XIX program.

RS 40:2116.1 — Nursing facilities; facility need review; moratorium; exceptions
ity need review process for nursing facilities consistent

with the regulations for licensure and for Title XIX of the Social Security Act.

(2) The department shall promulgate rules and regulations in accordance with the Administrative Procedure Act to provide for facility need review. The rules and regulations shall include but not be limited to the following:

- (a) Criteria for review of nursing facility beds to determine if there is a need for additional beds.
- (b) Specific duties of the department to review proposals for new facilities and determine the need therefor.
- (c) Appropriate methodology for the collection of data necessary for the administration of the program.
- (d) Procedures to grant and revoke approvals.
- (e) Establishment of application fees.
- (f) Procedures for review of applications by the department.
- (g) Procedures to request a fair hearing from a determination made by the

department.

(h) Provisions for judicial review from the decision rendered after a fair hearing.

(3) No new facility, service, or bed shall be licensed and certified to participate in the Title XIX program without the approval of the department based upon a determination of a need therefor in accordance with the provisions of this Section. Any person establishing, managing, or operating a new facility, service, or bed without the approval required by this Section shall be prohibited from participating in the Title XIX program.

B.(1) There shall be a moratorium on nursing facilities and additional beds for nursing facilities which shall be in effect until July 1, 2027.

(2) The moratorium provided for in Paragraph (1) of this Subsection shall not apply to the following:

(a) Replacement of existing facilities, provided that there is no increase in existing nursing home beds at the replacement facility. However, a nursing home which has relocated as the result of an executive order or declaration of emergency or disaster issued in accordance with R.S. 29:724 shall not be allowed to permanently relocate such facility outside of the geographic area for which the original facility was licensed.

(b) Replacement of nursing facility beds with adult residential care home beds, either through new construction or through renovation and conversion. Such replacement shall be subject to licensing rules and regulations and budget neutrality provisions promulgated by the Louisiana Department of Health.

(c) A nursing facility located in a service area which has less than ninety-three percent occupancy that temporarily converts a number of licensed beds to an alternate use. The beds may be converted for alternate health care use until such time as the average annual occupancy in the service area exceeds ninety-three percent and an adjoining service area exceeds ninety-three percent based on the department's LTC-2 Report or its successor and the facility is notified of the same. The facility shall then either relicense the beds as nursing home beds within one year of receipt of the notice from the department, or the beds will be deemed expired. Nothing in this Paragraph shall be construed to preclude nursing facilities from taking beds out of alternate use at any time and using them as licensed beds unless they are deemed expired.

(d) Nursing home beds in alternate use.

C.(1) Except as provided in Paragraphs (2), (3), and (4) of this Subsection, the Louisiana Department of Health shall suspend approval, certification, and enrollment of nursing facility beds which were previously approved to participate in the Title XIX program under a facility need review process, Section 1122 process, or any predecessor needs review process, unless the beds are certified and enrolled in the Title XIX program by December 31, 1997. The suspension shall be for the length of the moratorium imposed pursuant to Subsection B of this Section.

(2) The suspension shall not apply to existing approvals for replacement of existing nursing facilities, or approvals which are under judicial review, on August 15, 1997. The suspension shall not apply to approvals for alternate use of previously approved beds.

(3) In the case of previously approved but unbuilt nursing facilities or beds, the

department shall not suspend approval, certification, and enrollment if construction has actually begun by June 30, 1998, and construction is completed and the facilities or beds are actually certified and enrolled in the Title XIX program by December 31, 1999. In such cases, the department shall suspend approval, certification, and enrollment of previously approved beds not certified and enrolled by December 31, 1999.

(4) In the case of previously approved but unbuilt nursing facilities or beds, if construction has actually begun by June 30, 1998, and construction is not completed and the facilities or beds are not actually certified and enrolled in the Title XIX program by December 31, 1999, the secretary of the Louisiana Department of Health may authorize the certification and enrollment of the beds by December 31, 2001. However, the extension shall not be granted unless the secretary determines that construction has not been completed due to circumstances beyond the control of the applicant, a written request for an extension was made prior to December 31, 1999, and financing has been approved for the beds. These provisions shall only be applicable in the case of a facility, the primary purpose of which is to replace an existing facility, but also in so doing, enrolling additional beds.

RS 40:2116.2 — Nursing facilities; cost effective measures

lowing:

- (1) A bed abeyance program to reduce nursing facility beds by ten percent or more. Such an abeyance program shall include a timeframe in which a determination is made as to whether beds should be brought out of abeyance based upon a ninety-three percent occupancy rate within a service area.
- (2) An increase in the minimum occupancy level required for a nursing facility to fully recover its capital cost.
- (3) A buy-back program, provided such a buy-back program is approved by the Centers for Medicare and Medicaid Services and is eligible for federal funds participation.
- (4) A bed exchange program that allows a nursing facility to create adult residential care beds based on the permanent elimination of existing nursing facility beds.

RS 40:2116.31 — Scope; purpose; definitions

vision of high quality

home care to the residents of Louisiana in a coordinated and cost-effective manner through the promulgation of minimum standards by the Louisiana Department of Health.

B. For the purpose of this Part unless the context clearly otherwise requires:

- (1) "Authorized healthcare provider" means a physician, nurse practitioner, clinical nurse specialist, or physician assistant licensed, certified, registered, or otherwise authorized to order home healthcare services consistent with state law.
- (2) "Clinical record" means those documents maintained on all patients accepted for care by a home health agency. The records will be retained in accordance with existing state law.
- (3) "Department" means the Louisiana Department of Health.
- (4) "Home health agency" means a state-owned and -operated agency, or a subdivision of such an agency or organization, or a private nonprofit organization, or a proprietary organization which provides for the skilled home health care to the public, under

the order of an authorized healthcare provider and in the place of residence of the person receiving the care, which includes at least skilled nursing and one other service listed in the minimum standards which may be physical therapy, speech therapy, occupational therapy, medical social services, home health aides, or such others as may be listed in the minimum standards.

(5) "Home health aide services" means semi-skilled assistance by qualified personnel with activities of daily living provided to the patient who requires assistance in at least two areas of functioning and monitoring of vital signs, reporting to a professional under a written plan of care, and requiring clinical note for each patient visit.

(6) "Secretary" means the secretary of the Louisiana Department of Health.

(7) "State agency" means the division of licensing and certification of the office of the secretary of the Louisiana Department of Health.

RS 40:2116.32 — Licensing of home health agencies; applications; fees, disposition of fees

a home health agency without a license from the department.

B. Except as provided in Subsection D of this Section, no license shall be issued to any home health agency unless that agency meets the minimum standards for home health agencies promulgated by the secretary and all licensure requirements as provided in this Part.

C. All initial applicants shall submit a request in writing to the department on application forms furnished by it. Additional information required by the department shall be provided by the applicant on supplemental forms as needed. The application shall be accompanied by a non-refundable application fee, the amount of which shall be promulgated in the minimum standards. Licenses shall be renewed on an annual basis only for those agencies who are in substantial compliance with minimum standards. In addition the applicant shall:

(1) Provide a line of credit from a licensed lending agency for at least seventy-five thousand dollars as proof of adequate finances to sustain an agency for at least six months.

(2) Show proof of general and professional liability insurance and worker's compensation of at least the amount promulgated in the minimum standards.

(3) Submit resumes for the individuals designated as administrator, director of nursing, alternate administrator, and alternate director of nursing, and other proof of qualifications as determined by the secretary or department. Any changes in the individuals designated or in their qualifications must be submitted prior to the initial survey.

(4) Agree to become fully operational and prepared for initial survey within ninety days after payment of the application fee. If the agency is unable to do so, the application shall be considered closed and the agency shall be prohibited from submitting a new application for one year.

(5) Disclose all felony convictions by submitting proof of criminal background investigations for the owner, administrative persons, and, if the agency is a corporation, all directors.

(6) Disclose in writing any financial or familial relationship with any other entity providing home health care services in the state.

D. A provisional license may be issued to those existing agencies which do not meet

criteria for full licensure. Any agency with a provisional license shall pay an additional amount equal to the annual fee for each follow-up survey. Fees shall be paid to the state agency prior to survey being performed and shall be non-refundable. Any such license shall be valid for six months or until its termination date. Such licenses may be issued by the department to any agency when the agency:

- (1) Receives more than five violations of minimum standards in a one-year period.
- (2) Receives more than three valid complaints in a one-year period.
- (3) Has placed a patient at risk according to a documented incident.
- (4) Fails to correct deficiencies within sixty days of being cited.
- (5) Fails to submit assessed fees after notification by the department.
- (6) Has an owner, administrator, or director of nurses that has pled guilty to, pled nolo contendere to, or been convicted of a felony, as shown by a certified copy of the record of the court of conviction, or if the applicant is a firm or corporation, when any of its members or officers, or the person designated to manage or supervise the home care, has been convicted of a felony.
- (7) Fails to notify the department, in writing, within thirty days of a change as provided in this Paragraph. Any notification of change shall be accompanied by the appropriate fee. No notification of change can be processed until the appropriate fee has been received by the department. A change shall include a change in any of the following:
 - (a) Controlling ownership or management.
 - (b) Administrator/alternate.
 - (c) Director of nursing/alternate.
 - (d) Address/telephone number.
 - (e) Hours of operation.
 - (f) After-hours contact procedure.

E. An administrative provisional license may be issued to an existing agency that has paid the annual renewal fee when the survey process has not been completed before the expiration of the annual license.

F.(1) The United States Department of Health and Human Services, Health Care Financing Administration has amended its contract with the state, changing the allocation of resources and effectively eliminating all funding for initial licensure surveys and reducing funding for resurveys, complaint investigations, and other activities directly related to quality of care and public safety. Therefore, except for those instances in which the survey is eligible for priority funding under federal guidelines in effect on June 1, 1995, the secretary shall not issue any licenses pursuant to this Part until the department finally publishes a rule, pursuant to the Administrative Procedure Act, in which it certifies to the legislature that the department has sufficient funds to adequately conduct initial licensure surveys after adequately conducting all renewal surveys, complaint investigations, and other activities affecting public safety as required by state law, federal law, and regulation. Said certification shall state whether the department has adequate and sufficient funding to conduct on a timely basis surveys for all pending and expected applications hereunder. If the department's certification states that it has adequate funding for some but not all of the pending and

expected applications, said certification shall be accompanied by a rule which shall be promulgated according to the Administrative Procedure Act and which shall set forth the department's proposed method for deciding how applicants will be prioritized for initial surveys. No rules promulgated under this Subsection shall be issued as emergency rules.

(2) At any time after July 1, 2008, if the department is not conducting new licensing surveys, the House Committee on Health and Welfare and the Senate Committee on Health and Welfare, meeting jointly pursuant to their oversight authority, may by a majority vote of each committee recommend to the governor that he instruct the department to promulgate the rules provided in Paragraph (1) of this Subsection and the department shall promulgate such rules.

G. Funds collected by the state agency as license fees shall be deposited in the self-generating fund of the division of licensing and certification and may be used by it for the expenses incurred in administering and enforcing the laws, rules, and regulations relating to the licensing of such organizations and agencies.

RS 40:2116.33 — Home health agencies; jurisdiction

ng the operation of such agencies or organizations. However, nothing in this Part shall be construed to prohibit the delivery of personal care, homemaker, respite, and other in-home services by a person or entity not licensed under this Chapter unless provided with other home health services.

RS 40:2116.34 — Minimum standards; rules and regulations

shall include but not be limited to the following:

- (1) Requiring all such home health agencies to admit patients for skilled care only on the order of an authorized healthcare provider. Signed authorized healthcare provider's orders shall be obtained by the agency.
- (2) Providing skilled nursing services and at least one other defined service.
- (3) Adopting procedures for the administration of drugs and biologicals.
- (4) Maintaining clinical records on all patients accepted for skilled care. The records will be retained in accordance with existing state law.
- (5) Requiring all agencies to establish patient care policies and personnel policies.
- (6) Requiring all agencies to have services available at least eight hours a day five days a week and available on an emergency basis twenty-four hours a day, seven days a week.
- (7) Requiring agencies to make service available to an individual in need within twenty-four hours of a referral unless otherwise ordered by an authorized healthcare provider.
- (8) Requiring each agency to have a designated director of nurses who is a full-time employee of the agency and is available at all times during operating hours and additionally as needed.
- (9) Requiring each agency to have a designated alternate director of nurses who meets the criteria for director of nurses and functions in that capacity whenever the director of nurses is not available. At a minimum, the alternate director of nurses must be employed for no less than twenty hours per week as defined in the minimum standards.

(10) Requiring the administrator of the agency to be a person who is designated in writing, is administratively responsible and available in person or by telecommunication at all times for all aspects of facility operation, who has three years management experience in health care delivery service, and who meets one of the following conditions:

(a) Is a licensed physician.

(b) Is a registered nurse.

(c) Is employed as an administrator on or after January 13, 2018, and is a college graduate with a bachelor's degree.

(d) Is employed as an administrator prior to January 13, 2018, and has had three additional years of documented experience in a health care delivery service.

(e) Is an administrator who has experience in health service administration with at least one year of supervisory or administrative experience related to home health care or a home health care program.

(f) Repealed by Acts 2021, No. 181, §2, eff. June 11, 2021.

(11) Governing the licensing and operation of home health care agencies, which may include rules relating to licensure information, licensing procedure, agency policies, qualifications and responsibilities of service disciplines, clinical records, and requirements for recordkeeping.

(12) Requiring the administrator of each agency to comply with the minimum continuing education requirements established by the secretary.

B. Repealed by Acts 2022, No. 252, §3.

RS 40:2116.35 — Issuance of license

location of a home health agency located outside of a fifty-mile radius of an existing licensed home health agency must be licensed. Each location of a home health agency located within a fifty-mile radius of an existing licensed home health agency must be registered with the department.

B.(1) Only agencies which have a valid license shall be allowed to change controlling ownership. The purchaser shall accept all responsibility for the patients and functions of the agency on the date of the sale. The purchaser also shall assume responsibility for deficiencies identified on the most recent survey as well as corrective measures required by the department and imposed upon the agency prior to the date of sale. Purchasers of agencies must meet all criteria for initial application for licensure. All purchasers are required to meet ownership qualifications as set forth in minimum standards. Upon purchase and payment of the licensure fee, the department shall issue a new license to allow the new owner to continue operation of the agency. The seller of any agency who enters into a merger, change of controlling ownership, or control of the entity must notify the department in writing in advance of the transaction. He must surrender the license with a written explanation of the transaction to the department on the date of the sale.

(2) For the purposes of this Section, "change of controlling ownership" shall have the same meaning as that contained in federal law and regulation applicable to home health agencies.

RS 40:2116.36 — Denial, revocation, or nonrenewal of license; grounds

y the secretary of the Louisiana Department
of Health.

B. A license to operate may be suspended pending proceedings for revocation or other action if the department finds the public health, safety, or welfare clearly requires emergency action.

C. A license shall be immediately denied or revoked if the department determines that the agency knowingly and willfully or through gross negligence allowed or directed

actions which resulted in:

- (1) Cruelty to patients.
- (2) Failure to uphold patient rights resulting in actual or potential harm or injury.
- (3) Failure to protect patients/persons in the community from harmful actions of the agency employees, including but not limited to coercion, threat, intimidation, solicitation, and harassment.
- (4) Failure to notify an appropriate governmental agency of any suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause harm to the patient.
- (5) Acceptance of a patient when the agency has insufficient capacity to provide care for that patient.
- (6) Misrepresentation or other fraudulent conduct in any aspect of the conduct of the home care business.
- (7) Bribery, harassment, or intimidation of any person designed to cause that person to use the services of any particular home health agency.
- (8)(a) Pleading guilty to, pleading nolo contendere to, or conviction of a felony by an owner, administrator, or director of nursing as shown by a certified copy of the record of the court of conviction, or if the applicant is a firm or corporation, when any of its members or officers, or the person designated to manage or supervise the home care, has been convicted of a felony.
- (b) For purposes of this Paragraph "conviction of a felony" means and includes:
 - (i) Conviction of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or Title XX services program since the inception of those programs.
 - (ii) Conviction of a felony relating to violence, abuse, and/or neglect of a person.
 - (iii) Conviction of a felony related to the misappropriation of property belonging to another person.

D. A license may be denied, revoked, or not renewed for failure to correct any violation of law and regulation for which a provisional license may have been issued under R.S. 40:2116.32(D) and this Section.

E. A license may be denied, revoked, or not renewed for failure to allow surveyors entry when the department attempts to conduct a survey or for denial to department surveyors of access to records.

RS 40:2116.37 — Notice of reasons for nonrenewal or revocation of license; review; hearing

n, or for the refusal to renew or for the revocation of a license within five days, exclusive of holidays, of his decision. Any applicant or licensee who feels aggrieved by the action of the secretary in denying, refusing to renew, or revoking a license may, within fifteen days exclusive of legal holidays from the date the notice of such action is received by him, appeal suspensively from the action of the secretary by filing in the office of the secretary within such fifteen-day period a written request addressed to the secretary asking for a hearing by the department. The request for a hearing shall specify in detail the reasons why the appeal is lodged and why the appellant feels aggrieved by the action of the secretary and must be received in the office of the secretary within the period allowed for appeal.

B. When any appeal authorized by Subsection A of this Section is received by the secretary, if timely filed, he shall appoint a three-member board to conduct a hearing on the appeal at such time and place as such members deem proper.

The review, hearing, and appeal shall be conducted in accordance with the Administrative Procedure Act.

RS 40:2116.38 — Records; reports

ment.

RS 40:2116.39 — Term of license; renewal fee; display; transfer

se of places operated by the state of Louisiana, shall be accompanied by a renewal fee as set forth in the minimum standards. The license shall be displayed in a conspicuous place in the business location of the agency. A license shall be valid only in the hands of the person to whom it is issued and shall not be subject to sale, assignment, or other transfer, voluntary or involuntary. The license shall not be relocated out of the geographic area for which it was originally issued.

RS 40:2116.40 — Violations; penalties

imum standard, rule, regulation, or order entered by the board thereunder when such violation results in harm to a patient, shall be a misdemeanor, and upon conviction, punishable by a fine of not less than one thousand dollars nor more than ten thousand dollars and/or imprisonment for not more than six months.

RS 40:2117.1 — Definitions

Health.

(2) "Dialysis" means a process by which dissolved substances are removed from an individual's body by diffusion, osmosis, and convection (ultrafiltration) from one fluid compartment to another across a semipermeable membrane.

(3) "End stage renal disease" means that stage of renal impairment that appears irreversible and permanent and that requires a regular course of dialysis or kidney transplantation to maintain life.

(4) "End stage renal disease facility" or "ESRD facility" means a facility that provides dialysis treatment or dialysis training to individuals diagnosed with end stage renal disease. For purposes of this Part, "end stage renal disease facility" does not include the following:

(a) A facility which provides only transplantation services.

(b) End stage renal disease facilities maintained by the state at any of its penal and correctional institutions, provided that nothing herein contained shall prevent a penal or correctional institution from applying for licensure of its end stage renal disease facilities.

(5) "Transplantation services" means a process by which a kidney is excised from a live or cadaveric donor and is implanted in an end stage renal disease patient, and supportive care is furnished to the living donor and to the recipient following implantation.

RS 40:2117.2 — Licenses; application and fee; survey; provisional

e department.

B. An application for an initial license shall be made to the department on forms provided by the department, shall contain such information as the department requires, and shall be accompanied by a license fee as provided in R.S. 40:2006(A)(1).

C. After the completion of the application process, the department shall conduct an on-site survey of the ESRD facility. Upon determination that the ESRD facility is in compliance with the minimum requirements for licensure and all applicable state and local laws and regulations, and the minimum standards, rules, and regulations as promulgated by the department are met, the department shall issue the ESRD facility a license.

D. The department may issue a provisional license to an ESRD facility for a period not to exceed six months when the facility fails to fully comply with all applicable rules, regulations, or minimum standards established by the department. The failure to comply with such applicable regulations, rules, or minimum standards must be cited at the time the provisional license is issued.

RS 40:2117.3 — Term of license; renewal fee; display; transfer

ly.

B. All applications for renewal shall be accompanied by a renewal fee. Such renewal fee shall be in an amount as provided in R.S. 40:2006(A)(1).

C. The license shall be displayed in a conspicuous place inside the ESRD facility at all times.

D. A license shall be valid only in the hands of the person or entity to whom it is issued and shall not be subject to sale, assignment, or other transfer, voluntary or involuntary, nor shall a license be valid for any premises other than those for which it is issued.

RS 40:2117.4 — Minimum standards, rules, and regulations

Procedure Act, including but not limited to standards, requirements, policies, and procedures for the following:

(1) Maintenance of the quality of care and of the health, safety, and well-being of patients, including but not limited to:

- (a) Patient rights.
- (b) Provision and coordination of treatment and services.
- (c) Referrals for appropriate services.
- (d) Quality care requirements as determined by current acceptable standards of practice.

(2) Operational capability and compliance, including but not limited to the following:

- (a) Data and information management.
 - (b) Written policy and procedure.
 - (c) Current standards of administration practice.
- (3) Qualifications and responsibilities of facility personnel.
- (4) Applications for initial and renewal licenses.
- (5) On-site surveys for licensure.
- (6) Monitoring of facilities.
- (7) Denial, nonrenewal, and revocation of licenses, and administrative appeals therefrom.
- (8) Civil fines for violations and administrative appeals therefrom.
- (9) Requirements for physical plant design and space and other procedures related to dialysis.

RS 40:2117.5 — Denial, nonrenewal, or revocation of license; grounds; notification; appeal

may be revoked, for any of the following reasons:

- (1) Violation of any provision of this Part or of the minimum standards, rules, or regulations promulgated thereunder by the department.
- (2) Conviction or entry of a plea of nolo contendere of the applicant for a felony. If the applicant is an agency, the head of that agency must be free of such conviction. If a subordinate employee is so convicted, the matter must be handled administratively to the satisfaction of the department.
- (3) Documented information of past or present conduct or practices of facility personnel which are detrimental to the welfare of the facility's patients, including but not limited to illegal activities, coercion, or falsification of records.
- (4) Cruelty or indifference to the welfare of the facility's patients.
- (5) Misappropriation or conversion of the property of the facility's patients.
- (6) Permitting, aiding, or abetting the unlawful, illicit, or unauthorized use, sale, or distribution of drugs or alcohol on or near the premises of the facility.

B. The department shall furnish an applicant or licensee with written notification of

any action taken pursuant to Subsection A of this Section and of the reasons for which the action was taken.

C. An applicant or licensee aggrieved by any action taken by the department pursuant to Subsection A of this Section may appeal such action suspensively by sending a written request for a hearing to the secretary of the department. The request for a hearing shall be received by the secretary within fifteen days exclusive of legal holidays after the applicant or licensee receives the written notice of the department's action and shall specify in detail the reasons for the request. If the department determines that the health or safety of the patients served at the facility is in jeopardy, a license may be revoked immediately with appeal rights granted after the facility ceases operation and the patients are removed from the facility.

D. The administrative appeal hearing shall be conducted in accordance with the Administrative Procedure Act.

RS 40:2117.6 — Right of inspection by department; records; reports

ke such reports as the department shall prescribe, and all such records shall be open to inspection by the department.

RS 40:2117.7 — Civil fines for violations; appeals

all be available, in accordance with R.S. 40:2199.

RS 40:2118 — Fluoroscopy procedures in a hospital setting

e or by a radiology technician licensed in the state and who is under the direct supervision of a radiologist or other physician.

RS 40:2120.1 — Purpose

cts 2005, No. 483, §1, eff. July 12, 2005; Acts 2008, No. 839, §3, eff. July 8, 2008.

RS 40:2120.2 — Definitions

ce worker, home health aide, companion, or homemaker.

(2) "Caregiver registry" means a person or legal entity that establishes a registry that facilitates referrals or matches between individuals seeking caregivers and caregivers whose services will not be reimbursed by a federal or state government program.

(3) "Department" means the Louisiana Department of Health.

(4) "Financial viability" means that the provider seeking a home- and community-based service provider license is able to provide verification and maintenance of:

(a) A line of credit issued from a federally insured, licensed lending institution in the amount of at least fifty thousand dollars.

(b) General and professional liability insurance of at least three hundred thousand dollars.

(c) Worker's compensation insurance.

(5) "Home- and community-based service provider" means an agency, institution, society, corporation, person or persons, or any other individual or group that provides one or more home- and community-based services as defined in this Section. The term "home- and community-based service provider" shall not include any of the following:

(a) Any person, agency, institution, society, corporation, group, or entity that solely

prepares and delivers meals, that solely provides sitter services, or that solely provides housekeeping services.

(b) Any person, agency, institution, society, corporation, group, or entity who provides gratuitous home- and community-based services.

(c) Any individual licensed practical nurse or registered nurse who has a current Louisiana license in good standing, and who provides personal nursing services in the home to an individual, provided that the nurse has contracted with the individual or family for such services and payment of such services.

(d) Staffing agencies which supply contract workers to a health care provider licensed by the department.

(e) Any person who is employed as part of a department authorized self-direction program.

(f) A caregiver registry which establishes or maintains a registry that facilitates referrals or matches for individuals seeking caregivers, and which meets the requirements of R.S. 40:2120.8, and includes the referred caregivers who perform services for referred individuals.

(6) "Home- and community-based services" means one or more of the following services:

(a) Personal care attendant services, which are defined as services required by a person with a disability in order to become physically independent or to remain in or return to the community.

(b) Respite care services, which are defined as the temporary care and supervision of a person with a disability or an infirm elderly person so that the primary caregiver can be relieved of such duties. Respite care services may be performed either in the home of the person with a disability or infirm elderly person or in a facility owned by the home- and community-based service provider who provides respite care services. For the purposes of this Section, "person with a disability" shall mean a person with a physical, mental, or medical condition or an adult who requires assistance with activities of daily living.

(c) Supervised independent living services, which are defined as necessary training, social services, and medical services to enable a person who has mental illness or who has developmental disabilities and who is living in congregate or individual apartments to live as independently as possible in the community.

(d) Family support services, which are defined as advocacy services, family counseling, including genetic counseling, family subsidy programs, parent-to-parent outreach, legal assistance, income maintenance, parent training, homemaker services, minor home renovations, marriage and family education, and other related programs.

(e) Adult day care services, which are defined as a group program designed to meet the individual needs of functionally impaired adults which is structured and comprehensive and which provides a variety of health, social, and related support services in a protective setting for a portion of the twenty-four hour day. The group program shall provide for ten or more functionally impaired adults who are not related to the owner or operator of the home- and community-based service provider. For the purposes of this Section,

"functionally impaired adults" shall mean individuals aged seventeen years of age and older who are physically, mentally, or socially impaired to a degree that supervision is necessary.

(f) Waiver program services, which are defined as other services approved by the Centers for Medicare and Medicaid Services for home- and community-based waivers for the Louisiana Medicaid Program.

(7) "Infirm elderly" means an individual sixty years of age or older who requires continuous care and supervision due to the infirmities of old age. Out-of-home services for the elderly are restricted to no less than twenty-four hours and no more than five days per visit.

RS 40:2120.3 — Licensure of home- and community-based service providers

s unless licensed to perform such services by the department.

B. A license issued to a home- and community-based service provider shall be valid for only one geographic location, and shall be issued only for the person and premises named in the license application.

C. A license issued under this Part shall be valid for one year from the date of issuance, unless revoked prior to that date.

D. A license issued under this Part shall expire on the last day of the twelfth month after the date of issuance, unless otherwise renewed, or as set forth in rules promulgated by the department.

E. A license issued under this Part shall be on a form prescribed by the department.

F. A license issued under this Part shall not be transferrable or assignable.

G. A license issued to a home- and community-based service provider shall be posted in a conspicuous place on the licensed premises and shall list the types of home- and community-based services that the provider is licensed to provide.

H. Repealed by Acts 2008, No. 839, §5, eff. July 8, 2008.

RS 40:2120.4 — Rules and regulations; licensing standards

dards, in accordance with the

Administrative Procedure Act, to provide for the licensure of home- and community-based service providers, and to provide for the health, safety, and welfare of persons receiving services from such facilities or providers, and to provide for the safe operation of such facilities or providers. The rules, regulations, and licensing standards shall become effective upon approval of the secretary of the department in accordance with the Administrative Procedure Act. These rules, regulations, and licensing standards shall have the effect of law.

B. The licensing agency of the department shall prescribe, promulgate, and publish rules, regulations, and licensing standards to include but not be limited to the following:

(1) Licensure application and renewal application procedures and requirements.

Licensure procedures and requirements shall include provisions for granting deemed status to home- and community-based service providers that either obtain accreditation through a recognized national, not-for-profit accrediting body approved by the department, or comply with any other procedure developed by the department to ensure that every home- and community-based provider meets minimum standards for the delivery of services and is in compliance with all applicable federal and state regulations; the licensure procedures and requirements may include provisions for denying and revoking deemed status, for complaint surveys and investigations of providers holding deemed status, and for approved accreditation organizations. Deemed status shall not be available to persons or entities seeking initial licensure with the department.

- (2) Operational and personnel requirements.
- (3) Practice standards to assure quality of care.
- (4) Practice standards to assure the health, safety, welfare, and comfort of patients, clients, and persons receiving services.
- (5) Survey and complaint investigations.
- (6) Initial and annual renewal of license, including the requirement of a showing of financial viability not in excess of the requirement for initial licensure.
- (7) Provisional license.
- (8) Denial, revocation, suspension, and nonrenewal of licenses, and the appeals therefrom.
- (9) Planning, construction, and design of the facility or provider to ensure the health, safety, welfare, rights, and comfort of patients, clients, and persons receiving services.
- (10)(a) Such other regulations or standards as will ensure proper care and treatment of patients, clients, and persons receiving services, including provisions relative to civil money penalties, as may be deemed necessary for an effective administration of this Part.
- (b) Such standards should include rules that subject providers of home and community-based services to civil money penalties by class of violation.
- (c) Such penalties shall be similar to those relative to providers of nursing facility services and to providers of services in an intermediate care facility for people with developmental disabilities.
- (d) Such penalties shall be applied consistently with respect to all providers of home and community-based services.

C. Such rules and regulations shall not provide for the licensure of residential orientation and adjustment programs for blind persons as home- and community-based service providers.

D. The secretary of the department is further authorized to set and collect fees for the licensure of home- and community-based service providers; however, no fees shall be collected from any council on aging pursuant to this Section. The license fees shall not exceed the cost of licensure and shall not exceed the following:

- (1) Six hundred dollars per year for the base license for home- and community-based service providers who provide in-home services.
- (2) An additional two hundred dollars per year for home- and community-based service providers who provide adult day care services.
- (3) An additional two hundred dollars per year for home- and community-based service providers who provide out-of-home respite care.

RS 40:2120.5 — License issuance; application; onsite inspection

ed by the licensing agency and shall

contain such information as that agency may require. Additional information required by the licensing agency shall be provided by the applicant as requested.

B. Each application for licensure and application for renewal of licensure shall be accompanied by a nonrefundable license fee in the amount set by the licensing agency in accordance with R.S. 40:2120.4.

C.(1) Following receipt of the completed application and licensing fee, the licensing agency shall perform an onsite survey and inspection. If, after the onsite survey and inspection, the licensing agency finds that the facility or provider meets the requirements established under this Part and the licensing standards adopted pursuant to this Part, a license shall be issued.

(2) The licensing agency shall work to ensure that surveys are coordinated to the greatest extent possible with other state regulatory agencies in order to reduce duplication of effort on the part of the state, as well as the regulated provider. This provision shall not apply to complaint investigations.

D. As a condition for a renewal of a license, the licensee shall submit to the licensing agency a completed annual renewal application on forms prescribed by the licensing agency and containing such information as required by the agency; additionally, the annual renewal licensing fee shall be submitted with the annual renewal application. Upon receipt of the completed annual renewal application and the annual renewal licensing fee, the licensing agency shall determine if the facility or provider continues to meet the requirements established pursuant to this Part and the licensing standards adopted pursuant to this Part. The licensing agency may perform an onsite survey and inspection upon annual renewal. If the facility or provider continues to meet the requirements established pursuant to this Part and the licensing standards adopted pursuant to this Part, a license shall be issued which is valid for one year.

E. The licensing agency may perform an onsite inspection at reasonable times as necessary to ensure compliance with the provisions of this Part.

RS 40:2120.6 — Operation without license; penalty

facility or provider operating without a license shall be guilty of a misdemeanor and upon conviction shall be fined no less than two hundred fifty dollars nor more than one thousand dollars. Each day of violation shall constitute a separate offense. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to assure enforcement.

B. If a home- and community-based service provider is operating without a license issued by the licensing agency, the department shall have the authority to issue an immediate cease and desist order to that facility or provider. Any such facility or provider receiving such a cease and desist order from the department shall immediately cease operations until such time as that provider is issued a license by the applicable licensing agency.

C. The department shall seek an injunction in the Nineteenth Judicial District Court against any facility or provider who receives a cease and desist order from the department under Subsection B of this Section and who does not cease operations immediately. Any such facility or provider against whom an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

RS 40:2120.7 — Fees on home- and community-based service providers; disposition of fees

community-based service provider and to adopt rules and regulations relative to the imposition of such fees. The amount of any fee shall not exceed the total cost to the state of providing the service subject to such fee. In addition, the amount of the fees imposed shall not exceed six percent of the gross revenues of such agency or program.

(2) Any fee authorized by and imposed pursuant to this Section shall be considered an allowable cost for purposes of insurance or other third-party reimbursements and shall be included in the establishment of reimbursement rates.

(3) All fees collected pursuant to this Section shall be paid into the state treasury and after compliance with Article VII, Section 9(B) of the Constitution of Louisiana, relative to the Bond Security and Redemption Fund, shall be deposited into the state general fund.

(4) The department shall not impose, adopt, or collect any fee authorized under the provisions of this Section until written approval is received from the secretary of the United States Department of Health and Human Services that home- and community-based service providers may be considered a "class of providers" for the purposes of 42 CFR 433.56.

B.(1) The department is hereby authorized and directed to adopt and promulgate, pursuant to the Administrative Procedure Act, such rules and regulations as are necessary to administer the fees imposed pursuant to this Section, including but not limited to rules and regulations regarding the collection and payment of the fees and the records necessary to be maintained and made available by the providers on whom the fees are imposed. Any such information, other than the amount of fees collected from each provider and the total amount of revenues generated by the fees collected pursuant to this Section, which is received by any department or agency of the state pursuant to this Part, shall be held confidential.

(2) The department is authorized and directed to adopt and promulgate, pursuant to the Administrative Procedure Act, rules and regulations governing the rights and obligations of those on whom said fees will be imposed. Such rules and regulations shall include the administrative appeal rights and procedures governing disputes arising out of the collection or administration of the fees authorized pursuant to this Section. The department is authorized to collect the fees permitted pursuant to this Section by withholding all or part of a provider's regular Medicaid remittance.

C. The governor, by executive order, may designate any agency, department, or division of state government to collect the fees authorized pursuant to this Section.

RS 40:2120.8 — Caregiver registry

ding clinical oversight of caregivers.

(3) Dictating any term or condition of a referred or matched caregiver's care relationship with an individual to whom the caregiver is referred or matched.

B. A caregiver registry shall provide information regarding licensed healthcare providers and facilities through which the caregiver may need to operate to provide care giving services.

C. A caregiver registry shall not constitute a home health agency as defined in R.S. 40:2116.31(B), a home- and community-based service provider as defined in R.S. 40:2120.2, or a nurse staffing agency as defined in R.S. 40:2120.13.

D. A caregiver registry shall conduct a background check on the healthcare providers listed on the registry.

E. A caregiver registry shall not refer, match, or place any caregiver to a licensed healthcare facility.

RS 40:2120.9 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:2120.11 — Short title

any technical difficulties navigating this website,

RS 40:2120.12 — Purpose

cies.

RS 40:2120.13 — Definitions

ed a Nurse Aide

Training and Competency Evaluation Program approved by the state as meeting the requirements of 42 CFR 483.151 and 483.154 or has been determined competent as provided in 42 CFR 483.150(a) and (b) and is listed as certified and in good standing on the state's Certified Nurse Aide Registry.

- (2) "Department" means the Louisiana Department of Health or any office or agency thereof designated by the secretary of the department to administer the provisions of this Part.
- (3) "Healthcare facility" means any person, partnership, corporation, unincorporated association, or other legal entity licensed pursuant to R.S. 40:2006(A)(2) and operating or planning to operate within the state.
- (4) "Licensee" means any nursing agency properly licensed in accordance with this Part.
- (5) "Nurse" means a registered nurse as defined in R.S. 37:913 or a licensed practical nurse as defined in R.S. 37:961.
- (6) "Nurse staffing agency" means any person, partnership, corporation, unincorporated association, or other legal entity that employs, assigns, or refers nurses or certified nurse aides to render healthcare services in a healthcare facility for a fee. However, for purposes of this Part, "nurse staffing agency" does not include the following:
- (a) A nurse staffing agency that solely provides services in Louisiana under a contract or other agreement with the state of Louisiana, or any executive branch department or agency thereof, as a result of a declared disaster, emergency, or public health emergency.
 - (b) The federal or state government department or agency that provides nursing staff or certified nurse aides to any health care provider setting, evacuation site, or shelter location as a result of a declared disaster, emergency, or public health emergency.
- (7) "Secretary" means the secretary of the Louisiana Department of Health or his designee.

RS 40:2120.14 — Licensure required

ntity may

establish, operate, maintain, or advertise as a nurse staffing agency in this state unless the person, partnership, corporation, unincorporated association, or other legal entity is licensed by the department in accordance with this Part.

RS 40:2120.15 — Application for licensure; fees

obtained for each location

from which a nurse staffing agency is operated unless the nurse staffing agency is owned and managed by the same entity, person, or persons.

B. The application shall contain all of the following information:

- (1) The name and address of the person, partnership, corporation, unincorporated association, or other legal entity that is the applicant.
- (2) If the applicant is a corporation, a copy of its articles of incorporation, a copy of its current bylaws, and the names and addresses of its officers, directors, and shareholders owning more than five percent of the corporation's stock.
- (3) The names and addresses of the person or persons under whose management or supervision the nurse staffing agency will be operated.
- (4) A statement of financial solvency.
- (5) A statement detailing the experience and qualifications of the applicant to operate a nurse staffing agency.
- (6) Evidence of compliance with the Louisiana Workers' Compensation Law, R.S.

23:1020.1 et seq., with a minimum coverage in the amount of one million dollars.

(7) Evidence of professional liability insurance in an amount sufficient to provide coverage in accordance with the total amount recoverable for all malpractice claims as indicated in R.S. 40:1231.2.

(8) Any other relevant information the department determines is necessary to properly evaluate the applicant and application as required by the department by rule.

C. Any person, partnership, corporation, unincorporated association, or other legal entity operating or planning to operate a nurse staffing agency shall be assessed a nonrefundable fee of twelve hundred dollars, payable to the department, at the time an initial licensing application is made to the department and shall be assessed a nonrefundable fee of twelve hundred dollars biennially thereafter for renewal of the license. Any person, partnership, corporation, unincorporated association, or other legal entity shall be assessed a delinquent fee of one hundred dollars for failure to timely renew its license; the delinquent fee shall be assessed and shall become due and payable to the department at 12:01 a.m. on the first day following the expiration date of the license. These licensing fees are for the initial application and renewal of a license only and are in addition to any other fees that may be assessed according to the laws, rules, regulations, and standards that are applicable to a nurse staffing agency.

RS 40:2120.16 — Issuance of a license

cant is qualified to

operate a nurse staffing agency based upon demonstrated compliance with this Part. A license issued by the department in accordance with this Section shall remain effective for a period of two years unless the license is revoked or suspended pursuant to this Part. When a nurse staffing agency is sold or ownership is transferred, the transferee shall notify the department and apply for a new license at least forty-five days prior to the transfer. The transferor shall remain responsible for the operation of the agency until such time as a license is issued to the transferee.

RS 40:2120.17 — Renewal of a license

f the application is

approved, the license shall be renewed for an additional two-year period.

RS 40:2120.18 — Grounds for denial of a license

y this Part as well as

any licensing regulations promulgated by the department.

(2) Conviction of the applicant of a felony offense.

(3) Insufficient financial or other resources to operate the nurse staffing agency in accordance with the requirements of this Part and the minimum standards, rules, and regulations promulgated in this Part.

(4) Failure to establish appropriate personnel policies and procedures for selecting nurses and certified nurse aides for employment, assignment, or referral.

(5) Failure to perform criminal history checks as required by R.S. 40:1203.1 et seq.

(6) Failure to report hours worked by certified nurse aides to the Certified Nurse

Aide Registry.

RS 40:2120.19 — Suspension, revocation, or refusal to issue or renew a license

licensee or applicant fails to comply with this Part or the rules and regulations promulgated by the department in accordance with this Part.

RS 40:2120.20 — Minimum standards; prohibited actions

e not limited to the following:

- (1) The maintenance of written policies and procedures.
- (2) The development of personnel policies, which include a personal interview, a reference check, and an annual evaluation of each employee or contracted staff.
- (3) Licensure application and renewal application procedures and requirements.
- (4) Survey and complaint investigations.
- (5) Provisions for denial, revocation, suspension, and nonrenewal of licenses, and appeals thereof.
- (6) Such other standards or regulations that will ensure proper care and treatment of patients, clients, and persons receiving services.

B. Each nurse staffing agency shall have a nurse serving as a manager or supervisor of all nurses and certified nurse aides.

C. Each nurse staffing agency shall ensure that its employees or contracted staff meet the minimum licensing, training, and orientation standards for which those employees or contracted staff are licensed or certified.

D. A nurse staffing agency shall not employ, assign, or refer for use in a healthcare facility in this state a nurse or certified nurse aide unless the nurse or certified nurse aide is certified or licensed in accordance with the applicable provisions of state and federal laws or regulations. Each certified nurse aide shall comply with all pertinent regulations of the department relating to the health and other qualifications of personnel employed in healthcare facilities.

E. The department may adopt rules to monitor the usage of nurse staffing agency services to determine their impact.

F.(1) Nurse staffing agencies are prohibited from requiring, as a condition of employment, assignment, or referral, that their employees or contracted staff recruit new employees for the nurse staffing agency from among the permanent employees of the healthcare facility to which the nurse staffing agency employees or contracted staff have been assigned or referred.

(2) The healthcare facility is prohibited from requiring, as a condition of employment, its employees to recruit nurse staffing agency employees or contracted staff to become permanent employees at the healthcare facility.

G. Nurse staffing agencies are prohibited from offering or providing financial incentives to their employees or contracted staff for the purpose of inducing permanent employees of healthcare facilities to which they are assigned to become employed or enter into a contract with the nurse staffing agency.

H.(1) Except as provided in Paragraph (2) of this Subsection, a nurse staffing agency shall not require, in any contract with a nurse staffing agency employee or contracted staff

or a facility to which the employee or staff is assigned, the payment of a fee if the employee or contracted staff is hired as a permanent employee of the facility.

(2)(a) A nurse staffing agency may require the payment of a fee if the fee is payable solely by the facility and the contract with the facility specifies that the amount will be reduced pro-rata based on the length of time the nurse staffing agency employee or contracted staff performs services for the facility while in the employment of the nurse staffing agency. The fee shall be reduced to zero over a period of time not to exceed eighteen weeks from the date of the nurse staffing agency's initial assignment of the employee or contracted staff to the facility.

(b) A nurse staffing agency shall not charge a fee if a nurse staffing agency employee or contracted staff was employed by a facility as a permanent employee less than thirty days immediately preceding the agency's initial assignment of the employee or contracted staff to the facility.

RS 40:2120.21 — Investigations; inspections; orders; civil penalties

ng agency is operating without a valid license

issued by the department, investigate any entity, person, or persons.

B. The department may examine the premises of any nurse staffing agency and may examine and inspect books, payrolls, records, papers, documents, and other evidence in any survey or investigation. The nurse staffing agency shall cooperate in any survey or investigation conducted by the department. Failure to cooperate or produce any documentation for inspection or survey may result in action up to and including license revocation.

C. The department shall assess a nurse staffing agency a survey or investigation fee, not to exceed one thousand dollars, for any complaint survey or investigation conducted by the department at which deficiencies are substantiated. This survey or inspection fee shall be imposed by the department only after the nurse staffing agency has completed the administrative process which has upheld the deficiencies or the time for filing any administrative appeal has expired. The survey or investigation fee shall not exceed the cost of performing the survey. This fee shall be in addition to any other sanctions.

RS 40:2120.22 — Operation without a license; penalty

ociation, or other legal

entity operating such an agency without a license shall be guilty of a misdemeanor and upon conviction shall be fined no less than two hundred fifty dollars nor more than one thousand dollars. Each day of violation shall constitute a separate offense. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to ensure enforcement.

B. If a person, partnership, corporation, unincorporated association, or other legal entity is operating a nurse staffing agency without a license issued by the department, the department may have the authority to issue an immediate cease and desist order to that person, partnership, corporation, unincorporated association, or other legal entity. Any such agency receiving a cease and desist order from the department shall immediately cease operations until such time that the agency is issued a license by the department.

C. The department shall seek an injunction in the Nineteenth Judicial District Court against any person, partnership, corporation, unincorporated association, or other legal entity operating an agency that receives a cease and desist order from the department in accordance with Subsection B of this Section and that does not cease operations immediately. Any such person, partnership, corporation, unincorporated association, or other legal entity operating an agency against which an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

RS 40:2120.23 — Implementation

ated by the

department in accordance with the Administrative Procedure Act.

B. Each person, partnership, corporation, unincorporated association, or other legal entity operating an agency that meets the definition of nurse staffing agency as defined in this Part shall submit an initial licensing application and fee to the department within ninety days of the promulgation of the initial rules, regulations, and licensing standards. If the person, partnership, corporation, unincorporated association, or other legal entity is not licensed within one hundred eighty days after submission of its initial licensing application and fee, the person, partnership, corporation, unincorporated association, or other legal entity shall cease operations until such time as the person, partnership, corporation, unincorporated association, or other legal entity is licensed as a nurse staffing agency by the department.

RS 40:2120.24 — Administrative rulemaking

of this

Part.

RS 40:2120.31 — Short title

ties navigating this website,

RS 40:2120.32 — Legislative intent; declaration of purpose and policy

brain injuries and are receiving care in an adult brain

injury facility. In instances in which a brain injury occurs, the functions of the neurons, nerve tracts, or sections of the brain can be affected. If the neurons and nerve tracts are affected, they can be unable to or have difficulty carrying the messages that tell the brain what to do thereby changing the way a person thinks, acts, feels, and moves their body. Brain injury can also temporarily or permanently change the complex internal functions of the body, such as regulating body temperature, bladder control, or blood pressure. Brain injury often causes major stresses in peer and family relationships as well as educational and employment settings, and may result in mild, moderate, or severe impairments in cognition, physical functioning, and psychosocial behavior. Unique care is necessary to rehabilitate and provide for the needs of these individuals in order for them to achieve their fullest capacity. Toward that end, it is the purpose of this Part to provide for uniform statewide minimum standards for the safety and well-being of those suffering from brain injury in such facilities, to ensure the maintenance of these standards, and to regulate conditions in these facilities through a program of licensing.

B. It shall be the policy of the state to ensure protection of all individuals receiving

care in adult brain injury facilities and to encourage and assist in the improvements of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate. This Part shall not give the Louisiana Department of Health jurisdiction or authority to regulate, control, supervise, or in any way be involved in the form, manner, or content of any religious curriculum or instruction of a facility sponsored by a church or religious organization so long as the civil and human rights of the individuals are not violated.

RS 40:2120.33 — Definitions

ry" means an injury to the brain that has occurred after birth

and is not hereditary, congenital, or degenerative. The injury commonly results in a change in neuronal activity, which affects the physical integrity, the metabolic activity, or the functional ability of the cell. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functional disability or psychosocial maladjustment. The term does not refer to brain injuries induced by birth trauma.

(2) "Adult" means an individual eighteen years of age or older.

(3) "Adult brain injury facility" means any of the following:

(a) A facility publicly or privately owned providing a rehabilitative treatment environment which serves four or more adults who suffer from brain injury and are not related to the operator. Services shall include personal assistance or supervision for a period of twenty-four hours continuously per day preparing them for community integration.

(b) A home or apartment publicly or privately owned providing a rehabilitative treatment environment which serves one to six adults who suffer from brain injury and are not related to the operator in a home or apartment setting preparing them for community integration.

(c) A facility publicly or privately owned providing an outpatient rehabilitative treatment environment which serves adults who suffer from brain injury and are not related to the operator in an outpatient day treatment setting in order to advance the individual's independence for higher level of community or transition to a greater level of independence in community or vocational function.

(4) "Behavioral services" means services that identify maladaptive behaviors which interfere with the persons safe integration into the community and the formulation of an inclusive behavior management program to decrease identified maladaptive behaviors.

(5) "Brain injury" means an acquired or traumatic injury to the brain. Such term does not include brain dysfunction caused by congenital disorders, degenerative disorders, or birth trauma but may include brain injuries caused by anoxia due to trauma.

(6) "Client" means an individual receiving care from an adult brain injury facility and shall include only individuals who are medically stable and do not require an IV, feeding tube, or other artificial or mechanical supports for life sustaining processes.

(7) "Cognitive rehabilitation" means a systematic, functionally oriented service of therapeutic cognitive activities based on an assessment and an understanding of the behavior of a client. Services are directed to achieve functional improvement by any of the following

methods:

(a) Reinforcing, strengthening, or re-establishing previously learned patterns of behavior.

(b) Establishing new patterns of cognitive activity or mechanisms to compensate for impaired neurological systems.

(8) "Community integration" means the participation in the mainstream of community life and maintaining social relationships with family members, peers, and others in the community who do not have brain injuries. Integration also means that clients have equal access to and full participation in community resources and activities available to the general public at the maximum amount of safety and independence as possible.

(9) "Department" means the Louisiana Department of Health.

(10) "Functional limitations" means actual behaviors or mental or physical disabilities exhibited by adults with brain injuries or conditions presented by their environments, or both, that shall be modified or minimized in order for clients to fulfill their potential or maximize their functioning.

(11) "Head injury" means a traumatic or acquired brain injury.

(12) "Impairment" means any loss or abnormality of psychological, cognitive, physiological, or anatomical structure or functioning.

(13) "Medication management program" means a systematic, functionally oriented program formulated in consultation with the client's primary provider, and implemented by staff trained by a nursing director. The program shall be based upon an assessment and understanding of the behaviors of the client and recognition of the unique medical and pharmacological needs of the client. It shall also mean an incorporation of the most appropriate level of assistance necessary to advance towards independence.

(14) "Nursing director" means a person who meets the legal requirement of a registered nurse in Louisiana. The goals of a nursing director are to advance community integration through:

(a) Overseeing the medication management program, including staff training to implement the program.

(b) Assisting the client in the restoration and maintenance of maximal health.

(c) Consulting the primary provider to advance the client with their medication management program.

(d) Advancing understanding of their unique medical and pharmacological needs.

(e) Improving the client's quality of life.

(15) "Personal care" means services and supports including but not limited to:

(a) Bathing, hair care, skin care, shaving, nail care, oral hygiene, overall hygiene, and activities of daily living.

(b) Interventions to assist one with eating and bowel and bladder management.

(c) Positioning.

(d) Care of adaptive personal care devices.

(e) An appropriate level of supervision.

(16) "Primary provider" means a provider board certified in his specialty who

currently holds a valid license in Louisiana. The primary provider is responsible for overseeing the decision making process for admission and continued stay of clients.

(17) "Rehabilitation" means the process of providing those comprehensive services deemed appropriate to the needs of a client in a coordinated manner in a program designed to achieve functional objectives of improved health, welfare, maximum physical, cognitive, social, psychological, and community functioning.

(18) "Rehabilitative treatment environment" means a rehabilitation setting that provides for all of the following:

(a) A provision of a range of choices, with personal preference, self-determination, and dignity of risk receiving full respect and consideration.

(b) A variety of social interactions that promote community integration.

(c) An environment of peer support and mentorship.

(d) Professional team involvement.

(e) A physical environment conducive to enhancing the functional abilities of the client.

(f) Necessary therapeutic services. These therapeutic services may include social work, behavioral services, speech therapy, physical therapy, occupational therapy, vocational services, and therapeutic recreational services. All therapeutic providers must be licensed under state and, if applicable, national boards.

(g) A medication management program.

(h) Cognitive rehabilitation activities.

(i) The identification of functional limitations.

(19) "Support" means activities, materials, equipment, or other services designed and implemented to assist the client with a brain injury. Examples include but are not limited to instruction, training, assistive technology, or removal of architectural barriers.

(20) "Therapeutic recreational services" means services that identify leisure activities and assistance in modifying and adapting identified leisure activities to allow safe participation by the client as a means to improve quality of life and aid in integration into the community.

(21) "Traumatic brain injury" means an insult to the brain, not of a degenerative or congenital nature, caused by an external physical force that may produce a diminished or altered state of consciousness, which results in an impairment of cognitive abilities or physical functioning. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functional disability or psychosocial maladjustment.

(22) "Vocational services" means services provided directly or through cooperating agencies to a client in accordance with his individualized plan and designed to improve or enhance skills and behaviors necessary for successful placement in a volunteer or work setting.

RS 40:2120.34 — Licensing; applications; provisional licenses; fees
ch agency, shall be licensed.

B. Application for license shall be to the department upon forms furnished by the department. Upon determination that the facility is in compliance with the minimum requirements for licensure as established by the department and with all other applicable state and local laws and regulations, the department shall issue a license for such period as may be provided for in the published regulations of the department.

C. The department may provide by rule for the issuance of provisional licenses. A provisional license may be issued to an existing facility when the facility is not in full compliance with regulations, codes, or standards except in cases where the failure to comply is detrimental to the health or safety of the clients.

D. A license shall apply only to the location stated on the application, and such license, once issued, shall not be transferable from one place to another or from one person to another. If the location or owner of the facility is changed, the license shall be automatically revoked. A new application form shall be completed prior to all license renewals.

E. The licensee shall display the license in a prominent place at the facility or agency.

F. There shall be an annual license fee to be set by the department not to exceed two hundred fifty dollars for any license issued in accordance with the provisions of this Part. Monies collected for annual fees shall be used for the investigation and enforcement of the provisions of this Part.

RS 40:2120.35 — Rules, regulations, and standards for licenses

he Administrative Procedure Act.

B. The department shall promulgate minimum standards for adult brain injury facilities as defined in this Part which, at a minimum, shall:

(1) Promote the health, safety, and welfare of clients of adult brain injury facilities.

(2) Promote safe, comfortable, and proper physical facilities which, at a minimum, comply with applicable provisions of the Life Safety Code and the Louisiana Sanitary Code.

(3) Ensure adequate supervision of the clients.

(4) Include requirements for all personnel and employees of the facility.

(5) Prohibit discrimination by brain injury facilities on the basis of race, color, creed, sex, disability, as defined in R.S. 51:2232, national origin, or ancestry.

(6) Include procedures for survey and complaint investigations.

(7) Require the licensee to make adequate provisions for clients in its care in the event of an emergency or natural disaster as provided in the licensee's approved emergency and evacuation plan.

(8) Administer a medication management program that includes:

(a) A current medication list to be provided by the prescribing physician(s) on or before admission.

(b) An initial assessment by the primary physician or nursing director in accordance with the client's needs including a review of the client's current medication list.

(c) Identification of the level of assistance the client needs. Assistance with oral medication, inhalant medication, topical applications, suppository medication, eye and ear drops, prescription and non-prescription medication in accordance with the client's medical needs and orders of an authorized prescriber, shall be limited to the following:

(i) Reminding the client to take his medication.

(ii) Informing the client of the medication regimen, as indicated on the container, which may be read to the client and the dosage of the medication, according to the container label, may be checked by staff.

(iii) Physically assisting the client in pouring or handing out medications, including having a staff member open the medicine container.

- (d) Formulation of a treatment plan for the client.
- (e) Implementation of the treatment plan.
- (f) Periodic review and revision of the treatment plan.

RS 40:2120.36 — Inspections

ilities, subject to the provisions of this Part. The department shall also develop and facilitate coordination with other authorized local, state, and federal agencies making inspections of such facilities.

RS 40:2120.37 — Complaints

ion as is authorized by R.S. 40:2120.38 through 2120.40.

B. The department shall receive, record, and dispose of complaints in accordance with R.S. 40:2009.13 et seq.

RS 40:2120.38 — Denial or revocation of license; written notice; appeal procedure

to comply with the requirements of this Part or the rules, regulations, and minimum standards for adult brain injury facilities, provided in all such cases the department shall furnish the applicant or licensee thirty days written notice specifying the reasons for the action.

B. Any applicant or licensee who feels aggrieved by the action of the department in denying or revoking a license may appeal suspensively from the action within thirty days after receipt of the notification of the denial or revocation. This appeal or request for a hearing shall specify in detail reasons why the appeal is lodged and why the appellant feels aggrieved by the action of the department.

C. The appeal hearing shall be conducted in accordance with the Administrative Procedure Act.

RS 40:2120.39 — Operating without license or in violation of departmental regulations; penalty

partment, or in violation of departmental regulations, shall be fined by the department in accordance with a schedule of fines and enforcement procedures promulgated by rules of the department, not to exceed two hundred fifty dollars for each day of such offense.

B. In deciding whether and to what extent to impose fines, the department shall consider the following factors:

- (1) Gravity of violation including the probability that death or serious physical harm to a client will result or has resulted.
- (2) Size of the population at risk as a consequence of the violation.
- (3) Severity and scope of the actual or potential harm.
- (4) Extent to which the provisions of the applicable statutes or regulations were violated.
- (5) Any indications of good faith exercised by the licensee.
- (6) The duration, frequency, and relevance of any previous violations committed by the licensee.
- (7) Financial benefit to the licensee of committing or continuing the violation.

C. Any such fines levied and collected by the department, subject to applicable law, shall be used for the benefit of clients in adult brain injury facilities and shall be distributed in accordance with criteria promulgated by rules of the department.

RS 40:2120.40 — Operating without a license or in violation of departmental regulations; injunctive relief

on of departmental regulations, the department may cause a civil suit to be instituted in a district court in the parish in which the facility is located for injunctive relief, including a temporary restraining order, to restrain the institution, society, agency, corporation, person or persons, or any group operating the facility from continuing the violation.

RS 40:2120.41 — Purpose

tenance of services made available by adult day health care providers.

RS 40:2120.42 — Definitions

ial, care management, and personal

care needs to adults who are functionally impaired. Such services are rendered for a portion of a twenty-four-hour day by utilizing licensed professionals in a center-based nursing

program.

(2) "Adult day health care provider" or "provider" means any place owned or operated for profit or nonprofit by a person, society, agency, corporation, institution, or any other group wherein two or more functionally impaired adults who are not related to the owner or operator of such agency are provided with adult day health care services, as defined in this Section.

(3) "Department" means the Louisiana Department of Health.

(4) "Functionally impaired adults" means persons seventeen years of age or older who are physically or mentally impaired to a degree that they are in need of supervision.

RS 40:2120.43 — Licensure of adult day health care providers

erated or be reimbursed under the Medicaid program for such services unless licensed to perform such services by the department.

B. A license issued to an adult day health care provider shall be valid for only one geographic location and shall be issued only for the person and premises named in the license application.

C. A license issued under this Part shall be valid for one year from the date of issuance, unless revoked prior to that date.

D. A license issued under this Part shall expire on the last day of the twelfth month after the date of issuance, unless otherwise renewed, or as set forth in rules promulgated by the department.

E. A license issued under this Part shall be on a form prescribed by the department.

F. A license issued under this Part shall not be transferable or assignable.

G. A license issued to an adult day health care provider shall be posted in a conspicuous place on the licensed premises.

RS 40:2120.44 — Rules and regulations; licensing standards

h the Administrative Procedure Act,

to provide for the licensure of adult day health care providers and to provide for the health, safety, and welfare of persons receiving services from such providers or programs, and to provide for the safe operation of such providers or programs. The rules, regulations, and licensing standards shall become effective upon approval by the secretary of the department in accordance with the Administrative Procedure Act. These rules, regulations, and licensing standards shall have the effect of law.

B. The department shall prescribe, promulgate, and publish rules, regulations, and licensing standards relative to adult day health care providers, to include but not be limited to the following:

(1) Licensure application and renewal application procedures and requirements.

(2) Operational and personnel requirements.

(3) Practice standards to assure quality of care.

(4) Practice standards to assure the health, safety, welfare, and comfort of patients, clients, and persons receiving services.

(5) Survey and complaint investigations.

(6) Initial and annual renewal of licenses.

(7) Provisional licenses.

(8) Denial, revocation, suspension, and nonrenewal of licenses, and the appeals therefrom.

(9) Planning, construction, and design of the facility to ensure the health, safety,

welfare, and comfort of patients, clients, and persons receiving services.

(10) Such other regulations or standards as will ensure proper care and treatment of patients, clients, and persons receiving services, as may be deemed necessary for an effective administration of this Part.

C. The department may promulgate and publish other rules it deems necessary to streamline the application process and maximize participation of adults in need of adult day health care services. The rules, regulations, and licensing standards shall become effective upon approval by the secretary of the department in accordance with the Administrative Procedure Act. These rules and regulations shall have the effect of law.

RS 40:2120.45 — License issuance; application; onsite inspection

department and shall contain such

information as the department may require. Additional information required by the department shall be provided by the applicant as requested.

B. Following receipt of the completed application, the department shall perform an onsite survey and inspection. If, after the onsite survey and inspection, the department finds that the facility meets the requirements established under this Part and the licensing standards adopted pursuant to this Part, a license shall be issued.

C. As a condition for a renewal of a license, the licensee shall submit to the department a completed annual renewal application on forms prescribed by the department and shall contain such information as required by the department. Upon receipt of the completed annual renewal application, the department shall determine if the facility continues to meet the requirements established under this Part and the licensing standards adopted pursuant to this Part. The department may perform an onsite survey and inspection upon annual renewal. If the facility continues to meet the requirements established under this Part and the licensing standards adopted pursuant to this Part, a license shall be issued which is valid for one year.

D. The department may perform an onsite inspection at reasonable times as necessary to ensure compliance with the provisions of this Part.

RS 40:2120.46 — Operation without license; penalty

of a misdemeanor and upon conviction shall be fined no less than one hundred nor more than five hundred dollars for each such offense. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to assure enforcement.

B. If an adult day health care provider is operating without a license issued by the department, the department shall have the authority to issue an immediate cease and desist order to that provider. Any such provider receiving such a cease and desist order from the department shall immediately cease operation until such time as that provider is issued a license by the department.

C. The department shall seek an injunction in the Nineteenth Judicial District Court against any provider who receives a cease and desist order from the department under Subsection B of this Section and who does not cease operations immediately. Any such provider against whom an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

RS 40:2120.47 — Moratorium; exceptions

t approve

or enroll any new or additional adult day health care providers into the Title XIX program,

except as provided in Subsection B. This moratorium shall become enforceable on August 15, 2006, and shall remain in effect until July 1, 2008.

B. If the department determines that there is a need for new or additional adult day health care providers in a certain geographic location, the department may approve and enroll a new or additional adult day health care provider into the Title XIX program. The department shall promulgate and publish rules in accordance with the Administrative Procedure Act to provide for the following:

- (1) Criteria and processes for determining whether such a need exists.
- (2) Procedures for selecting an adult day health care provider to be approved and enrolled into the Title XIX program once a need has been determined.
- (3) Other such rules or regulations as necessary for the efficiency and effectiveness of approval or enrollment of adult day health care providers into the Title XIX program.

RS 40:2120.51 — Definitions

g assistant or certified nurse aide

employed by a nursing facility or contracted by a nursing facility.

(2) "Department" means the Louisiana Department of Health.

(3) "Medical staffing agency" means any agency, institution, society, corporation, person or persons, or any other group that provides, for profit, the services of certified nurse aides to a nursing facility.

(4) "Nursing facility" means a nursing home licensed by the Louisiana Department of Health pursuant to R.S. 40:2009.1 et seq., and a unit of a licensed hospital certified as a skilled nursing facility unit.

(5) "Secretary" means the secretary of the Louisiana Department of Health or his designee.

RS 40:2120.52 — State registration of certified nurse aides in nursing facilities

ty to provide nursing assistant services to the residents of a nursing facility shall be registered with the department.

(1) Each such certified nurse aide shall apply for registration with the department.

Each application for registration of a certified nurse aide shall be submitted to the department on forms provided by the department and shall contain such information required by the department. Additional information required by the department shall be provided by the applicant as requested.

(2) The registration will be listed on the Louisiana's Certified Nurse Aide Registry.

(3) No certified nurse aide shall be employed by a nursing facility or contracted by a nursing facility to provide nursing assistant services after August 15, 2010, unless the certified nurse aide has a valid and current registration with the department.

B. The department shall establish the following types of registration for such certified nurse aides:

- (1) Unrestricted registration.
- (2) Restricted registration.

C.(1) An individual who successfully completes one semester of a registered or practical nursing program that includes a course on foundational nursing skills may apply to

take a nurse aide competency evaluation examination approved by the department.

(2) A nurse aide who successfully passes an approved nurse aide competency evaluation examination may register with the Louisiana Certified Nurse Aide Registry and shall not be required to complete a nurse aide training program.

RS 40:2120.53 — Rules and regulations; standards

to provide for the registration of certified nurse aides and to provide for the health, safety, and welfare of residents in nursing facilities. These rules, regulations, and standards shall have the effect of law.

B. The department shall prescribe, promulgate, and publish rules, regulations and standards that may include the following:

- (1) Registration application and renewal registration procedures and requirements.
- (2) Minimum training requirements.
- (3) Complaint procedures and investigations.
- (4) Denial, revocation, suspension, non-renewal of registration, and procedures for appeal.
- (5) Unrestricted and restricted registration, and procedures for appeal.
- (6) Such other regulations or standards as deemed necessary by the department.

RS 40:2120.54 — Duties of the department to investigate complaints against certified nurse aides; complaint allegations; restricted registration; reinstatement

state or federal regulation, the department shall investigate the following complaints and allegations against certified nurse aides in nursing facilities:

- (1) Abandonment of duties.
- (2) Failure to perform assigned certified nurse aide duties when such failure results in a potential for more than minimal harm to a resident.
- (3) Conduct unbecoming to a certified nurse aide as defined as any of the following:
 - (a) Insubordination that results in a potential for more than minimal harm to a resident.
 - (b) Failure to display competency in the performance of certified nurse aide duties due to the use of alcohol, drugs, illness, or mental or physical condition.
 - (c) Falsification of documents related to the performance of assigned job duties.

B. If the department substantiates allegations under Subsection A of this Section, the department shall, at its discretion, issue a notice of restricted registration to the certified nurse aide or issue a notice of revocation or suspension of registration to the certified nurse aide.

C. The restricted registration shall impose at least one of the following restrictions:

- (1) The certified nurse aide shall work in a licensed nursing facility only as a direct employee of the nursing facility under the direct supervision of a certified nurse aide supervisor or other licensed healthcare professional, for a minimum of six months.
- (2) The certified nurse aide shall complete mandatory training or education.

D. The department shall place notice of the restricted registration on the Louisiana's Certified Nurse Aide Registry after final administrative determination or after appeal delays have expired.

E. Upon completion of the imposed restrictions pursuant to Subsection C of this Section, the certified nurse aide shall apply for reinstatement of an unrestricted registration.

RS 40:2120.55 — Duties of the nursing facility

nurse aide is currently certified and has a current state registration.

RS 40:2120.57 — Certified nurse aide; medical staffing agencies

e, verify that the certified nurse aide is certified and listed on the Louisiana's Certified Nurse Aide Registry and shall perform or have performed a criminal background check on each certified nurse aide.

B. All medical staffing agencies shall submit to the department any complaints or grievances received against a certified nurse aide whom they have employed.

C. No medical staffing agency shall employ or contract with a certified nurse aide who holds a restricted registration.

D. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars. Each day's violation shall constitute a separate offense.

RS 40:2120.62 — Purpose

All-Inclusive Care for the Elderly (PACE) providers; to provide for the health, safety, welfare, well-being, and comfort of persons receiving services from PACE providers; and to provide for the safe operation and maintenance of PACE providers.

B. The purpose of a PACE provider is to provide prepaid, capitated, comprehensive healthcare service to Medicare and Medicaid recipients or other qualified individuals who are enrolled in PACE services.

RS 40:2120.63 — Definitions

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or office designated by the secretary to administer the provisions of this Part.

(2) "License" means a license issued by the department to a PACE provider.

(3) "PACE enrollee" means a recipient or participant that has been approved by Medicare or the Louisiana Medicaid Program or is otherwise qualified to enroll as a PACE participant for PACE services provided by an approved and licensed PACE provider.

(4) "PACE services" means those healthcare and related services approved by the Centers for Medicare and Medicaid Services for Medicare and Louisiana Medicaid programs as PACE services, including but not limited to primary care, social work services, restorative therapies, personal care and support services, nutrition counseling, recreational therapy, transportation, meals, medical specialists services, laboratory tests, x-rays, durable medical equipment, and other services determined necessary by an interdisciplinary team to improve and maintain the participant's overall health status.

(5) "Program for All-Inclusive Care of the Elderly (PACE) provider" means a facility, place, center, agency, person, institution, corporation, partnership, unincorporated association, group, organization, or other legal entity that meets the requirements of 42 CFR 460 et seq. and is approved and enrolled or intends to be approved and enrolled as a PACE organization by the Centers for Medicare and Medicaid Services for the Medicare and Louisiana Medicaid programs to provide services to Medicare and Medicaid recipients, or other qualified individuals, who choose PACE services.

(6) "Secretary" means the secretary of the Louisiana Department of Health or his designee.

(7) "Standards" means policies, procedures, rules, and other guidelines or standards of current practice contained in this Part, in addition to those rules and standards promulgated by the department for the licensing and operation of PACE

providers.

RS 40:2120.64 — Licensure of PACE providers

nership, unincorporated association, group, organization, or other legal entity providing PACE services may be established, operated, or be reimbursed under the Medicaid program, unless licensed as a PACE provider to perform services by the department.

B. A license issued to a PACE provider shall be all of the following:

(1) Issued only for the entity or person and premises named in the license application.

(2) Valid for only the geographic location listed on the license. The geographic service location for a PACE provider shall be a single geographic administrative region of the Louisiana Department of Health as defined in the licensing rules for the PACE provider.

(3) Valid for twelve months beginning the month of issuance, unless revoked or otherwise suspended prior to that date. The license shall expire on the last day of the twelfth month after the date of issuance, unless otherwise renewed, or as set forth in rules promulgated by the department.

(4) On a form prescribed by the department.

C. A license issued pursuant to this Part shall not be transferrable or assignable.

(1) When a PACE provider is sold or ownership is transferred, the new owner or transferee shall notify the department and apply for a new license at least forty-five days prior to the transfer.

(2) The transferor shall remain responsible for the operation of the PACE provider until such time as a license has been issued to the transferee.

D. A license issued to a PACE provider shall be posted in a conspicuous place on the licensed premises.

RS 40:2120.65 — PACE provider participants; restrictions

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Medicaid Program or are otherwise qualified to become a PACE enrollee. A PACE provider shall not provide services to any person that is not an approved PACE enrollee.

RS 40:2120.66 — PACE provider restrictions

d in R.S. 40:2120.1 et

seq., if the PACE provider is in compliance with state licensing laws, rules, and regulations for home- and community-based services providers, unless otherwise exempted pursuant to promulgated PACE provider licensing regulations.

(2) Adult day healthcare facility services, as defined in R.S. 40:2120.41 et seq., if the PACE provider is in compliance with federal and state licensing laws, rules, and regulations for adult day healthcare facility services, unless otherwise exempted pursuant to promulgated PACE provider licensing regulations.

(3) Home health agency services, as defined in R.S. 40:2116.31 et seq., if the PACE provider is in compliance with federal and state licensing laws, rules, and regulations governing home health agencies, unless otherwise exempted pursuant to the promulgated PACE provider licensing regulations.

B. A PACE organization which has been issued a PACE provider license by the department shall not be required to obtain a separate home- and community-based service provider license, a separate adult day healthcare facility license, or a separate home health agency license in order to provide such services to approved PACE enrollees.

C. A PACE provider may contract with any of the following:

(1) A Louisiana-licensed and certified hospital, nursing facility, or hospice agency to arrange or provide hospital, nursing facility, or hospice services to an approved PACE enrollee.

(2) Other licensed or certified medical or healthcare providers or professionals to provide approved PACE services to an approved PACE enrollee.

D. A PACE provider shall ensure that all services provided to or arranged for a PACE enrollee are provided by either of the following:

(1) Individuals who are licensed by, and in good standing with, the appropriate licensing board in this state and who are practicing within the licensed scope of practice.

(2) Individuals who are certified by, and in good standing with, the appropriate board, authority, or agency in this state and who are acting within the scope of practice or certification.

E. A PACE provider shall not serve any person who is not an approved PACE enrollee.

RS 40:2120.67 — Rules and regulations; licensing standards

Act, to provide

for the licensure of PACE providers; to provide for the health, safety, welfare, well-being, and comfort of persons receiving services from PACE providers; and to provide for the safe operation and maintenance of PACE providers.

B. The department shall promulgate and publish rules, regulations, and licensing standards, which shall include but are not limited to the following:

(1) Licensure application, renewal, and conversion, including forms, procedures, and requirements.

(2) Operational requirements.

(3) Provision of services.

(4) Practice standards to ensure quality of care.

(5) Practice standards to ensure the health, safety, welfare, well-being, and comfort of persons receiving care and services.

(6) Confidentiality of clients' records.

(7) Criteria and protocols to ensure uniform and quality assessment, diagnosis, evaluation, and referral to appropriate level of care.

- (8) Administration, personnel, and staffing requirements.
- (9) Maintenance of written policies and procedures.
- (10) Survey and complaint investigations, including investigations into allegations that a provider is operating without a license.
- (11) License types, including provisional licenses.
- (12) Denial, revocation, suspension, and nonrenewal of licenses, and any appeals.
- (13) Planning, construction, and design of the provider to ensure the health, safety, welfare, well-being, and comfort of persons receiving care and services.
- (14) Requirements for approval of PACE enrollees.
- (15) Other regulations or standards to ensure proper care and treatment of persons receiving care and services at or from a PACE provider as may be considered necessary by the department for an effective administration of this Part.

C. No PACE organization or provider will be required to obtain a license in accordance with this Part until the initial rules, regulations, and licensing standards are promulgated by the department pursuant to the Administrative Procedure Act. Each entity that meets the definition of a PACE provider shall submit an initial licensing application and licensing fee to the department within ninety days of the promulgation of the initial rules, regulations, and licensing standards. If the entity is not licensed within one hundred eighty days after submission of its initial licensing application and fee, the entity shall cease and desist operations until such time as it is licensed as a PACE provider by the department.

RS 40:2120.68 — License issuance; application; fees; onsite inspections
and shall contain information

as the department may require. If a PACE organization operates in more than one departmental region, the PACE organization shall obtain a separate PACE provider license for each region. At a minimum, the licensing application shall contain all of the following information:

- (1) Name, address, and contact information of the person, partnership, corporation, unincorporated association, or other legal entity that is the applicant.
- (2) Names and addresses of the applicant's officers, directors, managers, and administrators, if applicable.
- (3) A line of credit from a federally insured, licensed lending institution in the amount of at least fifty thousand dollars.
- (4) Evidence of compliance with the Louisiana Workers' Compensation Law, R.S. 23:1020.1 et seq.
- (5) Evidence of general and professional liability insurance in the amount of at least three hundred thousand dollars.
- (6) Any other relevant information that the department determines is necessary to properly evaluate the applicant and application as required by the department by rule.

B. Each application for initial licensure shall be accompanied by a

nonrefundable license fee, payable to the department, in an amount not to exceed one thousand five hundred dollars.

C. Following receipt of the completed initial licensing application and licensing fee, the department shall perform an onsite survey and inspection. If, after the onsite survey and inspection, the department finds that the PACE provider meets the requirements of this Part and the licensing standards adopted pursuant to this Part, a license shall be issued.

D. As a condition for renewal of license, the licensee shall continue to be approved and enrolled as a PACE organization by the Centers for Medicare and Medicaid Services for the Medicare and Louisiana Medicaid programs. In addition, the licensee shall submit to the department a completed annual renewal application on the forms prescribed by the department, which shall contain all information required by the department. Additionally, a nonrefundable annual renewal licensing fee in an amount not to exceed one thousand five hundred dollars shall be submitted with the annual renewal application. A PACE provider shall be assessed a delinquent fee of two hundred dollars for failure to timely renew its license. The delinquent fee shall be assessed and shall become due and payable to the department at 12:01 a.m. on the first day following the expiration date of the license.

E. Upon receipt of the completed annual renewal application and the annual renewal fee, and any applicable delinquent fee, the department shall determine if the PACE provider continues to meet the requirements established under this Part and under the licensing standards adopted pursuant to this Part. The department may perform an onsite survey and inspection upon annual renewal. If the provider continues to meet the requirements established under this Part and under the licensing standards adopted pursuant to this Part, a license shall be issued, which shall be valid for up to one year, unless otherwise revoked or suspended.

F. The department may perform an onsite survey or inspection at reasonable times as necessary to ensure compliance with this Part and the licensing standards adopted pursuant to this Part

RS 40:2120.69 — Investigations; surveys

the laws, rules, and regulations applicable to the PACE provider. Further, a PACE provider that has applied for a license or that is licensed pursuant to this Part shall be open at reasonable times for inspection by the department, the state fire marshal, and any other authorized governmental entity.

B. Every applicant or licensee shall keep all records and make all reports as the department shall prescribe, and all necessary records shall be available for inspection by the department or other authorized governmental entity. The department may examine the premises of any PACE provider and may examine and inspect the PACE provider's books, records, documents, and other evidence in any survey or investigation. The PACE provider shall cooperate in any survey or investigation conducted by the department. Failure to cooperate with the survey or

investigation may result in action up to and including license revocation.

C. The department may assess a PACE provider a survey or investigation fee, not to exceed one thousand dollars, for any complaint survey or investigation conducted by the department at which deficiencies are substantiated. This survey or inspection fee shall be imposed by the department only after the PACE provider has completed the administrative process that has upheld the deficiencies or the time for filing any administrative process or appeal has expired. The survey or investigation fee shall not exceed the cost of performing the survey or inspection. This fee shall be in addition to any other sanctions.

RS 40:2120.70 — Operation without license; penalty; exception

ganization, or facility

operating without a license shall be guilty of a misdemeanor and upon conviction shall be fined no less than two hundred fifty dollars nor more than one thousand dollars. Each day of violation shall constitute a separate offense. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to ensure enforcement.

B. If a PACE provider is operating without a license issued by the department, the department shall have the authority to issue an immediate cease and desist order to the provider. Any provider that receives a cease and desist order from the department shall immediately cease operations until the provider is issued a license by the department.

C. The department shall seek an injunction in the Nineteenth Judicial District Court against any PACE provider that receives a cease and desist order from the department in accordance with Subsection B of this Section and does not cease operations immediately. Any PACE provider against whom an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

RS 40:2121 — Citation

website,

RS 40:2122 — Purpose

idential facility for exceptional children when a state owned and operated facility appropriate to the needs of the child does not exist or space therein is not available.

RS 40:2123 — Eligibility for assistance

or training satisfactorily participate in community living is eligible for assistance under this Part, provided that said child shall be a resident of the state at the time of the application for assistance and a diagnostic workup has been performed pursuant to Louisiana Department of Health rules and regulations.

RS 40:2124 — Contribution to cost of care by parent; notification; payment; default

ns of this Part, the parent or

guardian will be required to contribute to the cost of care of the child in a manner which is (1) consistent with applicable federal and state regulations,

(2) commensurate with his ability to pay, and (3) in accordance with a sliding scale which shall be established by the Louisiana Department of Health.

B. The Louisiana Department of Health shall notify parents or guardians of their responsibility to contribute to the cost of care and shall bill the parents or guardians on a periodic basis, but no less often than quarterly, for the amount due.

C. Such payments by parents or guardians shall be made directly to the Louisiana Department of Health and shall be deposited in the state treasury.

D. In the event of default by parents or guardians, the Louisiana Department of Health shall exercise all administrative and legal alternatives provided by law or regulation to enforce the provisions of this Section.

RS 40:2125 — Age; continuation of assistance; discrimination
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years; however, assistance may be continued past age twenty-five if need for continuation of the residence location is necessary to the person's physical or emotional well-being, or both, and such necessity is so certified by appropriate professional authorities approved by the Louisiana Department of Health.

B. Such assistance shall not be provided where an institution or provider discriminates against those seeking services provided herein on the basis of race, color, creed, disability, as defined in R.S. 51:2232, or national origin.

RS 40:2126 — Hospitals for the care of emotionally disturbed children; creation;
by created four hospitals for the care, treatment, and

rehabilitation of emotionally disturbed children, to be located in New Orleans, Baton Rouge, Shreveport, and Alexandria. These hospitals may be converted to full range psychiatric hospitals with satellite community cottages providing services to adults as well as emotionally disturbed children by the secretary of the Louisiana Department of Health upon his determination that there exists a need for such facilities. Each of the said hospitals shall be so limited in size as to allow for not more than three hundred beds.

B. The priority for the construction of the said hospitals shall be in the following order, namely; New Orleans, Baton Rouge, Shreveport, and Alexandria.

C. The secretary of the Louisiana Department of Health shall appoint a superintendent to control and manage each such hospital, subject to the provision of Subsection D hereof. Each superintendent shall be the executive officer of the hospital he is appointed to administer and shall be a classified state employee.

D. Each superintendent, in accordance with law, may appoint necessary employees.

The secretary of the Louisiana Department of Health may make rules and regulations for the operation and management of the said hospitals and, in

accordance with the rules and regulations of the civil service commission, shall fix all salaries.

E. The provisions of this Section are expressly made applicable to the subject matters embraced in R.S. 46:1751 through R.S. 46:1767 to the extent necessary to give full effect to this Section.

RS 40:2127 — Rules and regulations

981, No. 673, §1.

RS 40:2131 — Short title

ng this website,

RS 40:2132 — Purpose

ical centers.

RS 40:2133 — Definitions

y for the purpose of performing surgical procedures, with continuous physician services and registered professional nursing services available whenever a patient is in the facility, which does not provide services or other accommodations for patients to stay overnight, and which offers the following services whenever a patient is in the center:

- (a) Drug services as needed for medical operations and procedures performed.
- (b) Provisions for physical and emotional well-being of patients.
- (c) Provision of emergency services.
- (d) Organized administrative structure.
- (e) Administrative, statistical and medical records.

(2) "Ambulatory surgical center" also means a treatment center that is operated primarily for the purpose of offering stereotactic radiosurgery by use of a Gamma Knife or similar neurosurgical tool.

B. "Licensing agency" shall be the Louisiana Department of Health.

C. "Use agreement" means a written agreement between a licensed ambulatory surgical center and an individual or entity under which the ambulatory surgical center allows the individual or entity to use its facility, or a portion thereof, on a part-time basis to provide the services of an ambulatory surgical center. A use agreement entered into pursuant to this Part shall comply with all applicable federal laws and regulations.

RS 40:2133.1 — Use agreement

luding during the period of use of an ambulatory surgical center under a use agreement, for compliance with all rules, regulations, and minimum licensing standards for ambulatory surgical centers.

RS 40:2134 — Applicability

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RS 40:2135 — Provisional licenses

ds require an extension of time. The failure to comply must not be detrimental to the health and safety of the public.

RS 40:2136 — Rules; regulations; minimum standards

egulations, and minimum

standards becoming effective upon approval of the secretary of the Louisiana Department of

Health.

B. Notwithstanding the provisions of R.S. 49:962, or any other law, rule, or regulation, the licensing agency shall establish rules, regulations, and minimum standards for the licensing of ambulatory surgical centers as defined in R.S. 40:2133 by adopting emergency rules in accordance with the Administrative Procedure Act.

C. The licensing agency shall establish rules, regulations, and minimum standards for a use agreement entered into pursuant to this Part by promulgating rules in accordance with the Administrative Procedure Act.

RS 40:2137 — Procedure and investigation relative to issuance of license

t the requirements established under this Part and the minimum standards adopted in pursuance thereof.

B. Any officer or duly authorized agent of the licensing agency or the fire marshal may enter and inspect any building or premises at any reasonable time to secure compliance with or to prevent the violation of any provision of this Part.

C. The licensing agency may, either before or after the issuance of a license, request the cooperation of the fire marshal to make investigations to determine if the applicant or licensee is complying with the minimum standards promulgated by the licensing agency. The report and recommendations of any such agency shall be in writing and shall state with particularity its findings with respect to compliance or noncompliance with such minimum standards. It shall be the duty of the fire marshal to cooperate with the licensing agency in the enforcement of this Part and the minimum standards adopted in pursuance thereof when called upon by the licensing agency.

RS 40:2138 — Confidential nature of financial information and financial records

ncy under the provisions of this Part shall be held confidential and shall not be disclosed except when subpoenaed in a proceeding for the revocation, suspension, or denial of a license.

RS 40:2139 — Fees and limitations

erely levied as the license fee for operation of an ambulatory surgical center for a period of one year; provided ambulatory surgical centers subject to the licensing requirements of this Part which are owned and operated by the state of Louisiana shall be exempt from payment of the fees stipulated in this Section. The fees herein levied and collected shall be paid into the general fund.

B. Each license issued hereunder shall be for a period of one year from date of issuance unless sooner revoked, shall be on a form prescribed by the licensing agency, shall not be transferable or assignable, shall be issued only for the person and premises named in the application, shall be posted in a conspicuous place on the licensed premises, and may be renewed from year to year upon application and payment of the license fee as in the case of procurement of an original license.

RS 40:2140 — Application

irmative evidence of ability to comply with such reasonable standards, rules, and regulations as are lawfully prescribed hereunder and information required for health planning pursuant to R.S. 36:256(B). Additional information required by the licensing agency or for health planning shall be supplied on supplemental forms as needed.

RS 40:2141 — Denial, suspension or revocation of license; appeal

als, as contained in Louisiana R.S. 40:2110.

RS 40:2142 — Geriatric hospitals and units

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hospital for persons with mental illness and for other persons who are elderly or infirm who are in need of nursing and medical care. Such hospitals or units may be established on sites designated by the department in quarters constructed or designated by the department, provided that no such geriatric hospital or unit may be established on any site located more than five air miles from the administrative office of Eastern Louisiana Mental Health System

or more than one air mile from the administrative office of Central Louisiana State Hospital.

B. Nothing in this Section shall prohibit the department from establishing a geriatric hospital located in the present Ward 14 of Orleans Parish.

C. Persons admitted to such geriatric hospitals or units or their responsible relatives shall pay the cost of their maintenance and care.

D. The Villa Feliciana Medical Complex located at Jackson, Louisiana, shall be administered by the department.

RS 40:2143 — Repealed by Acts 1979, No. 76, §3

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RS 40:2144 — Hospital Records and Retention Act

ion, facility, or institution licensed by the state to provide health care or professional services as a physician, hospital, ambulatory surgical center, dentist, registered or licensed practical nurse, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, or psychologist, or an officer, employee, or agent thereof acting in the course and scope of his employment.

(2) "Hospital" means any hospital as defined in R.S. 40:2102 and ambulatory surgical center as defined in R.S. 40:2133.

(3) "Hospital record" or "hospital chart" means a compilation of the reports of the various clinical departments within a hospital, as well as reports from healthcare providers, as are customarily catalogued and maintained by the hospital medical records department. Hospital records include reports of procedures such as X-rays and electrocardiograms, but they do not include the image or graphic matter produced by such procedures.

(4) "Patient" means a natural person who receives health care from a licensed healthcare provider.

(5) "Representative" means the parent of a minor patient, tutor, curator, trustee, attorney, succession representative, or other legal agent of the patient.

B. Hospital records are subject to reasonable access to the information contained therein by the patient or his authorized representative as hereinafter provided.

C. The patient or his authorized representatives may request and obtain copies of his hospital records in the manner set forth in Subsection D of this Section.

D. Upon request in writing signed and dated by the person initiating the request, the hospital shall, except for good cause shown, such as medical contraindication, furnish the records as soon as practicable and upon payment of the reasonable cost of so providing. Any hospital, its employees, officers, or agents acting in good faith, shall be justified in relying on the reasonable representations of any person making a request. Such hospital, employees, officers, or agents, except for their own negligence, shall not be held liable in damages by reason of their compliance with such request or their inability to fulfill the request.

E.(1) A hospital record or hospital chart may be kept in any written, photographic, microfilm, or other similar method or may be kept by any magnetic, electronic, optical, or similar form of data compilation which is approved for such use in a rule promulgated by the Louisiana Department of Health. No magnetic, electronic, optical, or similar method shall be approved unless it provides reasonable safeguards against erasure or alteration.

(2) A hospital may, at its discretion, cause any hospital record or part thereof to be microfilmed, or otherwise reproduced, in order to accomplish efficient storage and preservation of hospital records.

F.(1) Hospital records shall be retained by hospitals in their original, microfilmed, or similarly reproduced form for a minimum period of ten years from the date a patient is discharged.

(2) Graphic matter, images, X-ray films and like matter that were necessary to produce a diagnostic or therapeutic report shall be retained, preserved, and properly stored by hospitals in their original, microfilmed, or similarly reproduced form for a minimum period of three years from the date a patient is discharged. Such graphic matter, images, X-ray film, and like matter shall be retained for longer periods when requested in writing by any one of the following persons:

- (a) An attending or consultant physician of the patient.
- (b) The patient or someone acting legally in his behalf.
- (c) Legal counsel for a party having an interest affected by the patient's medical records.

G. A certified copy of the hospital record or graphic matter, images, X-ray film, and like matter shall be deemed to be an original for all purposes, and shall be admissible in evidence in all courts or administrative agencies as if it were the original.

H.(1) Subject to such guidelines and limitations as may be promulgated by the Louisiana Department of Health, electronic signatures by licensed healthcare providers on medical records are hereby authorized.

(2) The Louisiana Department of Health may promulgate rules to regulate the use of electronic signatures. Such rules may contain any of the following:

- (a) Limitation on which documents may be signed electronically, but any such limitation shall not prohibit the use of such signatures on discharge summaries and attestations.
- (b) Security requirements, which may include the following:
 - (i) The use of alphanumeric or similar codes, fingerprints, or other identifying methods.
 - (ii) Prohibition against disclosure of codes or other identifiers to other persons.
 - (iii) Healthcare provider responsibility for unauthorized signatures.

(3) The Louisiana Department of Health may promulgate rules to regulate the use of orders for the care and treatment of a patient of a hospital which are given to the hospital verbally or transmitted to the hospital electronically, whether by telephone, facsimile transmission, or otherwise. Such rules may include when and under what circumstances the ordering healthcare provider must sign or countersign the verbal or electronically transmitted order. Any such promulgated rules and regulations shall grant a healthcare provider up to ten days following the date an order is transmitted verbally or electronically to provide the signature or countersignature for such order.

(4) No rule promulgated by the Louisiana Department of Health pursuant to this Subsection shall contradict or be in conflict with the rules or guidelines on the subject

promulgated by the Health Care Financing Administration of the United States or of the standards published by the Joint Commission on Accreditation of Healthcare Organizations.

RS 40:2145 — Electronic signatures

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regulate the use of electronic signatures which may include limitations on which documents may be signed electronically, but any such limitation shall not prohibit the use of electronic signatures on discharge summaries and attestations.

C. The department shall promulgate rules and regulations to implement the provisions of this Section in accordance with the Administrative Procedure Act, all applicable rules and guidelines established by the Health Care Financing Authority, and all standards established by the Joint Commission on Accreditation of Healthcare Organizations.

RS 40:2151 — Short title

difficulties navigating this website,

RS 40:2152 — Purpose

s under one license, to provide for the health, safety, and welfare of persons receiving behavioral health services, and to provide for the safe operation and maintenance of providers and facilities providing such care.

RS 40:2153 — Definitions

meanings:

- (1) "Behavioral health services" means mental health services, substance abuse/addiction treatment services, or a combination of such services, for adults and children. Behavioral health services may be provided, subject to rules and regulations of the Louisiana Department of Health, in a residential setting, in a clinic setting on an outpatient basis, in a home or community setting, or through telehealth.
- (2) "Behavioral health services provider" means a facility, agency, institution, person, society, corporation, partnership, unincorporated association, group, or other legal entity that provides behavioral health services and that presents itself to the public as a provider of behavioral health services.
- (3) "Client" means any person who has been accepted for treatment or services, including rehabilitation services, furnished by a provider licensed pursuant to this Part.
- (4) "Department" means the Louisiana Department of Health or any office or agency thereof designated by the secretary to administer the provisions of this Part.
- (5) "FDA" means the Food and Drug Administration of the United States Department of Health and Human Services.
- (6) "Financial viability" means the provider or facility seeking licensure is able to provide verification and continuous maintenance of all of the following:
 - (a) A line of credit issued from a federally insured, licensed lending institution in the amount of at least fifty thousand dollars.
 - (b) General and professional liability insurance of at least five hundred thousand

dollars.

(c) Workers' compensation insurance.

(7) "License" means a license issued by the department to a behavioral health services provider.

(8) "Licensed Mental Health Professional (LMHP)" means an individual who is currently licensed and in good standing in the state of Louisiana to practice within the scope of all applicable state laws, practice acts, and the individual's professional license, as one of the following:

(a) Medical psychologist.

(b) Licensed psychologist.

(c) Licensed clinical social worker (LCSW).

(d) Licensed professional counselor (LPC).

(e) Licensed marriage and family therapist (LMFT).

(f) Licensed addiction counselor (LAC).

(g) Licensed Advanced Practice Registered Nurse (APRN).

(h) Licensed rehabilitation counselor (LRC).

(9) "Mental health service" means a service related to the screening, diagnosis, management, or treatment of a mental disorder, mental illness, or other psychological or psychiatric condition or problem.

(10) "Outpatient services" means behavioral health services offered in an accessible nonresidential setting to clients whose physical and emotional status allows them to function in their usual environment.

(11) "Physician" means an individual who is currently licensed and in good standing in the state of Louisiana to practice medicine in Louisiana and who is acting within the scope of all applicable state laws and the individual's professional license.

(12) "Physician assistant" means an individual who is currently approved and licensed by and in good standing with the Louisiana State Board of Medical Examiners to perform medical services under the supervision of a physician or group of physicians who are licensed by and registered with the Louisiana State Board of Medical Examiners to supervise a physician assistant, and who is acting within the scope of all applicable state laws and the individual's professional license.

(13) "Secretary" means the secretary of the Louisiana Department of Health or his designee.

(14) "Standards" means policies, procedures, rules, and other guidelines or standards of current practice contained in this Part, in addition to those rules and standards promulgated by the department for the licensing and operation of behavioral health service providers.

(15) "Substance abuse/addiction treatment service" means a service related to the screening, diagnosis, management, or treatment for the abuse of or addiction to controlled dangerous substances, drugs or inhalants, alcohol, problem gambling, or a combination thereof.

(16) "Telehealth" has the meaning ascribed in R.S. 40:1223.3.

RS 40:2154 — Applicability

g facilities or

persons to seek licensure as a behavioral health services provider:

- (1) Hospitals licensed under R.S. 40:2100 et seq.
- (2) Crisis receiving centers licensed under R.S. 40:2180.11 et seq.
- (3) Nursing homes licensed under R.S. 40:2009.3 et seq.
- (4) Psychiatric residential treatment facilities or therapeutic group homes licensed under R.S. 40:2009.
- (5) Facilities or services operated by the federal government.
- (6) Federally qualified health centers certified by the federal government.
- (7) Community mental health centers certified by the federal government.
- (8) Home- and community-based service providers licensed under R.S. 40:2120.1 et seq.
- (9) An individual Licensed Mental Health Professional (LMHP), whether incorporated or unincorporated, or a group practice of LMHPs, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses.
- (10) An individual licensed physician, or a group of licensed physicians, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses.
- (11) An individual licensed physician assistant, or a group practice of licensed physician assistants, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses.
- (12)(a) School-based health clinics and centers that are certified by the Louisiana Department of Health, office of public health, and enrolled in the Louisiana Medicaid program.
- (b) Local public school governing authorities, if such exemption is applicable to only school-based behavioral health services provided through the Medicaid Early and Periodic Screening, Diagnostic, and Treatment program.
- (13) A healthcare provider or entity solely providing case management or peer support services, or a combination thereof.
- (14) Repealed by Acts 2017, No. 33, §2, eff. June 3, 2017.
- (15) An individual licensed advanced practice registered nurse, or a group practice of licensed advanced practice registered nurses, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses.
- (16) Rural health clinics licensed under R.S. 40:2197.
- (17) Facilities or services operated by the Department of Public Safety and Corrections, corrections services.
- (18) Facilities or services operated for the sole purpose of providing substance abuse or mental health services to courts that are recognized and certified by the Louisiana Supreme Court as specialty courts.

NOTE: The implementation of Paragraph (A)(19), as enacted by Acts 2017, No. 417, §1, shall only become effective in the event a specific appropriation by the legislature is

made for such purposes and the program receives approval by the Centers for Medicare and Medicaid Services. See Acts 2017, No. 417, §2.

(19) Community-based care facilities licensed pursuant to R.S. 40:2162.1 et seq.

B. Nothing in this Part shall be construed to authorize any person to provide behavioral health services unless the person is licensed, certified, registered or credentialed as provided in state law, and the services rendered are in accordance with all applicable laws, rules, professional training and ethical standards.

RS 40:2154.1 — Accredited mental health rehabilitation providers; licensure required

ordance with the provisions of this Part prior to April 1, 2018, in order to provide behavioral health services:

(1) Was an accredited mental health rehabilitation provider enrolled in the Louisiana Medicaid program as of February 28, 2012.

(2) Was enrolled with the statewide management organization for the Louisiana Behavioral Health Partnership as of March 1, 2012.

(3) Maintains continuous, uninterrupted accreditation through an approved accreditation organization.

(4) Maintains continuous, uninterrupted enrollment with the statewide management organization for the Louisiana Behavioral Health Partnership.

B. Each healthcare provider required by the provisions of this Section to obtain a license shall submit a completed application to the department for such license on or before December 1, 2017.

RS 40:2155 — Licensure of behavioral health services providers

ership, unincorporated association, group, or other legal entity providing behavioral health services may be established, operated, or reimbursed under the Medicaid program unless licensed as a behavioral health services provider to perform such care by the department.

B.(1) A license issued to a behavioral health services provider shall be valid for only one geographic location and shall be issued only for the person and premises named in the license application.

(2) The geographic service location for a public or private behavioral health services provider licensed pursuant to this Part shall be defined to include all of the following:

(a) The parish in which the provider's business office is located.

(b) Any parish contiguous to the parish in which the provider's business office is located.

(c) Any location within a fifty-mile radius of the provider's business office.

(3) A behavioral health service provider may operate within a fifty-mile radius of one designated offsite location.

(4) A licensed mental health professional or a provisionally licensed mental health professional acting within his scope of practice, who is employed by a behavioral health service provider licensed pursuant to this Part, may provide professional outpatient psychiatric services to any established client or patient, regardless of the client's or patient's particular location within the state.

C. A license pursuant to this Part shall be valid for twelve months, beginning the month of issuance, unless revoked or otherwise suspended prior to that date.

D. A license issued pursuant to this Part shall be on a form prescribed by the department.

E. A license pursuant to this Part shall not be transferrable or assignable.

F. A license issued to a behavioral health services provider shall be posted in a conspicuous place on the licensed premises.

G. A license issued to a behavioral health services provider shall list the types or modules of behavioral health services that the provider is licensed to provide.

RS 40:2156 — Rules and regulations; licensing standards; fees

edure Act, to provide for the licensure

of behavioral health services providers, to provide for the health, safety, and welfare of persons receiving care and services from providers, and to provide for the safe operation and maintenance of providers. The rules, regulations, and licensing standards shall become effective upon approval of the secretary of the department in accordance with the Administrative Procedure Act. The rules, regulations, and licensing standards shall have the effect of law.

B. The department shall prescribe, promulgate, and publish rules, regulations, and licensing standards for behavioral health services providers. The rules, regulations, and licensing standards shall include but are not limited to the following:

(1) Licensure application and renewal application forms, procedures, and requirements.

(2) Operational and personnel requirements.

(3) Practice standards to assure quality of care.

(4) Practice standards to assure the health, safety, welfare, and comfort of persons receiving care and services, including pregnant women as provided for in R.S. 40:2159.2.

(5) Confidentiality of clients' records.

(6) Treatment priorities, residential and outpatient criteria, and residential treatment program requirements including, without limitation, those provided in R.S. 40:2159.1.

(7) Criteria and protocols to assure uniform and quality assessment, diagnosis, evaluation, and referral to appropriate level of care.

(8) Survey and complaint investigations, including investigations into allegations that a provider is operating without a license.

(9) Initial and annual renewal of license, including the requirement of providing verification and continuous maintenance of financial viability for all behavioral health services providers other than those owned by governmental entities.

(10) Provisional licenses.

(11) Denial, revocation, suspension, and nonrenewal of licenses, and the appeals therefrom.

(12) Planning, construction, and design of the facility or provider to ensure the health, safety, welfare, and comfort of persons receiving care and services.

(13) Modules of behavioral health services providers with varying levels or types of

services. The modules for behavioral health services providers shall include at a minimum:

(a) Mental Health Services Module.

(b) Substance Abuse/Addiction Treatment Module.

(14) Requirements for offsite or branch locations.

(15) Other regulations or standards as will ensure proper care and treatment of persons receiving care and services, including provisions relative to civil monetary penalties, as may be deemed necessary for an effective administration of this Part.

(16) Delivery of behavioral health services through telehealth.

C. The department shall have the authority to monitor, survey, and regulate mental health clinics and substance abuse/addiction treatment facilities under the existing licensing regulations for the programs until the department publishes minimum licensing standards for behavioral health services providers and the time for all existing licensed mental health clinics and substance abuse/addiction treatment facilities to apply for the behavioral health services provider license has expired.

RS 40:2157 — License issuance; application; onsite inspection

t and shall contain such information as the department may require. Additional information required by the department shall be provided by the applicant as requested.

B. Each application for licensure and each license renewal application shall be accompanied by a nonrefundable license fee in the amount required pursuant to R.S. 40:2006.

C. Following receipt of the completed initial licensing application and licensing fee, the department shall perform an onsite survey and inspection. If, after the onsite survey and inspection, the department finds that the provider meets the requirements established under this Part and under the licensing standards adopted pursuant to this Part, a license shall be issued.

D. As a condition for renewal of license, the licensee shall submit to the department a completed annual renewal application on the forms prescribed by the department, which shall contain all information required by the department. Additionally, the annual renewal licensing fee shall be submitted with the annual renewal application. Upon receipt of the completed annual renewal application and the annual renewal licensing fee, the department shall determine if the facility continues to meet the requirements established under this Part and under the licensing standards adopted pursuant to this Part. The department may perform an onsite survey and inspection upon annual renewal. If the provider continues to meet the requirements established under this Part and under the licensing standards adopted pursuant to this Part, a license shall be issued which shall be valid for up to one year, unless otherwise revoked or suspended.

E. The department may perform an onsite inspection at reasonable times as necessary to ensure compliance with this Part.

RS 40:2158 — Operation without license; penalty

l be guilty of a misdemeanor and upon conviction shall be fined no less than two hundred fifty dollars nor more than one thousand dollars. Each day of violation shall constitute a separate offense. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to assure enforcement.

B. If a behavioral health services provider is operating without a license issued by the department, the department shall have the authority to issue an immediate cease and desist order to that provider. Any such provider receiving such a cease and desist order from the department shall immediately cease operations until such time as that provider is issued a license by the department.

C. The department shall seek an injunction in the Nineteenth Judicial District Court against any provider who receives a cease and desist order from the department under Subsection B of this Section and who does not cease operations immediately. Any provider against whom an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

RS 40:2159 — Opioid treatment programs

at there is a need for another opioid treatment program in a certain geographic location. The department has promulgated and adopted rules and regulations in accordance with the Administrative Procedure Act to provide for the criteria and processes for determining whether such a need exists and the procedures for selecting an opioid treatment program to be licensed once a need has been determined.

RS 40:2159.1 — Residential substance use disorder facilities

des treatment for opioid use disorder shall

provide all of the following:

(a) Onsite access to at least one form of FDA-approved opioid antagonist treatment.

(b) Onsite access to at least one form of FDA-approved partial opioid agonist treatment.

(2) For purposes of this Section, "onsite access" shall mean delivery of the treatment to the patient at the location of the residential substance use disorder facility. "Onsite access" shall not mean that the residential substance use disorder facility is required to maintain stock of the medication-assisted treatment at the facility.

(3) A residential substance use disorder facility shall not be found to be in violation of this Section if prior authorization from a patient's health insurer, including a Medicaid program, is required and the preapproval request is denied by the patient's health insurer.

B. Each residential substance use disorder facility licensed pursuant to this Part as a behavioral health services provider which provides treatment for opioid use disorder shall submit to the department on its initial licensing application or its annual licensing renewal application an attestation as to whether it is complying with the requirements of Subsection A of this Section. The requirement for submission of the attestation shall commence on January 1, 2021. If the licensed facility is not fully complying with the requirements of Subsection A of this Section, then the attestation that the facility submits shall include a report addressing its progress toward satisfying those requirements.

RS 40:2159.2 — Substance use disorder facilities treating pregnant women

des treatment for opioid use disorder to

pregnant women shall provide onsite access to at least one form of FDA-approved opioid agonist treatment.

(2) For purposes of this Section, "onsite access" shall mean delivery of the treatment to the patient at the location of the substance use disorder facility. "Onsite access" shall not mean that the substance use disorder facility is required to maintain stock of the medication-assisted treatment at the facility.

(3) A substance use disorder facility shall not be found to be in violation of this Section if prior authorization from a patient's health insurer, including the Medicaid program, is required and the preapproval request is denied by the patient's health insurer.

B. Each substance use disorder facility licensed pursuant to this Part as a behavioral health services provider which provides treatment for opioid use disorder to pregnant women shall submit to the department on its initial licensing application or its annual licensing renewal application an attestation as to whether it is complying with the requirements of Subsection A of this Section. The requirement for submission of the attestation shall

commence on January 1, 2023. If the licensed facility is not fully complying with the requirements of Subsection A of this Section, then the attestation that the facility submits shall include a report addressing its progress toward satisfying those requirements.

RS 40:2160 — Right of inspection by department; records; reports

able times for inspection by the department, the state fire marshal, municipal boards of health, and any other authorized governmental entity.

B. Every licensee shall keep all records and make all reports as the department shall prescribe, and all records shall be open to inspection by the department or other authorized governmental entity.

RS 40:2161 — Drug free zone; notice; signs

ule, or within two

thousand feet of such property.

B. The local governing authority which has jurisdiction over zoning matters in which each drug free zone is located shall publish a map clearly indicating the boundaries of each drug free zone in accordance with the specifications in Subsection A of this Section. The drug free zone map shall be made on an official public document and placed with the clerk of court for the parish or parishes in which the drug free zone is located.

C.(1) The secretary of the Louisiana Department of Health shall develop a method by which to mark drug free zones, including the use of signs or other markings suitable to the situation. Signs or other markings shall be located in a visible manner on or near each behavioral health services provider that has a substance abuse/addiction treatment module, indicating that the area is a drug free zone, that the zone extends for a distance of two thousand feet, and that a felony violation of the Uniform Controlled Dangerous Substances Law will subject the offender to severe penalties under law. The posting required in this Subsection is the responsibility and at the expense of the licensed provider.

(2) The Department of Public Safety and Corrections shall coordinate and provide rules for the establishment of toll free telephone numbers for use in submitting anonymous information regarding drug activity to local law enforcement agencies. The telephone numbers shall be displayed on the drug free zone signs that shall be manufactured in correctional institutions subject to the office of corrections in the Department of Public Safety and Corrections.

D.(1) It shall be unlawful for any person to cover, remove, deface, alter, or destroy any sign or other marking identifying a drug free zone as provided in this Section.

(2) Any violation of this Subsection shall be punishable by a fine of not more than one thousand dollars or by a jail sentence of not more than six months, or both.

RS 40:2162 — Specialized behavioral health rehabilitation services in the Louisiana medical

(1) "Behavioral health services provider" means a health care provider as defined in R.S. 40:2153.

(2) "CMS" means the Centers for Medicare and Medicaid Services.

(3) "Community psychiatric support and treatment services", hereinafter referred to as "CPST" services, means CMS-approved Medicaid mental health rehabilitation services designed to reduce disability from mental illness, restore functional skills of daily living, build natural supports, and achieve identified person-centered goals or objectives through

counseling, clinical psycho-education, and ongoing monitoring needs as set forth in an individualized treatment plan.

(4) "Department" means the Louisiana Department of Health.

(5) "Louisiana medical assistance program" means the Louisiana Medicaid program.

(6) "Preliminary accreditation" means accreditation granted by an accrediting body to an unaccredited program seeking full accreditation status.

(7) "Psychosocial rehabilitation services", hereinafter referred to as "PSR" services, means CMS-approved Medicaid mental health rehabilitation services designed to assist the individual with compensating for or eliminating functional deficits and interpersonal or environmental barriers associated with mental illness through skill building and supportive interventions to restore and rehabilitate social and interpersonal skills and daily living skills.

B. Medicaid reimbursement to behavioral health services providers that provide PSR and CPST services in the Medicaid specialized behavioral health rehabilitation services program shall comply with the requirements of this Section, subject to any required CMS approval.

C. In order to be eligible to receive Medicaid reimbursement, all behavioral health services providers providing PSR or CPST services to Medicaid recipients shall meet all of the following requirements:

(1) Be licensed as a behavioral health services provider agency.

(2) Be accredited by a department-approved accrediting organization and meet the following conditions:

(a) The behavioral health services provider shall show proof of full accreditation or obtain preliminary accreditation prior to being contracted with a Medicaid managed care organization.

(b) The behavioral health services provider shall maintain proof of full accreditation or proof of preliminary accreditation.

(c) Repealed by Acts 2022, No. 503, §2, eff. Jan. 1, 2023.

(d) The behavioral health services provider shall maintain continuous full or preliminary accreditation.

(e) The cost of attaining and maintaining accreditation is the responsibility of the behavioral health services provider.

(f) The behavioral health services provider shall report any loss of accreditation, suspension of accreditation, reduction to a preliminary accreditation status, or any other action that could result in the loss of accreditation, to each managed care organization with which it is contracted, within twenty-four hours of receipt of notification from the accreditation body.

(3) Have a National Provider Identification number, hereinafter referred to as "NPI".

The behavioral health services provider agency shall include its NPI number and the NPI number of the individual rendering the PSR or CPST services on its behalf on all claims for Medicaid reimbursement submitted for PSR or CPST services.

(4) Implement a member choice form to be signed by each recipient, or the legal guardian or representative of the recipient, receiving PSR or CPST in order to prevent or

reduce duplication of services.

(5) Be credentialed and in the provider network of the managed care organization that the provider intends to submit claims for Medicaid services, unless the managed care organization has a single case agreement with a licensed and accredited provider agency not in its network.

(6) Meet any other requirements promulgated through rulemaking by the department to ensure the quality and effectiveness of services.

D. In order to be eligible to receive Medicaid reimbursement, all behavioral health services providers shall ensure that any individual rendering PSR or CPST services for the licensed and accredited provider agency meets all of the following requirements:

(1) The individual rendering the PSR or CPST services for the licensed and accredited provider agency shall have an individual NPI number and that NPI number shall be included on any claim by that provider agency for reimbursement related to such services.

(2)(a) Any individual rendering PSR services for a licensed and accredited provider agency shall hold a minimum of one of the following:

(i) A bachelor's degree from an accredited university or college in the field of counseling, social work, psychology, sociology, rehabilitation services, special education, early childhood education, secondary education, family and consumer sciences, criminal justice, or human growth and development.

(ii) Any bachelor's degree from an accredited university or college with a minor in counseling, social work, sociology, or psychology.

(b) Any individual rendering PSR services who does not possess the minimum educational requirements provided for in this Paragraph, but who met all provider qualifications in effect prior to July 1, 2018, may continue to provide PSR services for any licensed and accredited provider agency.

(c) Any individual rendering the assessment and treatment planning components of CPST services for a licensed and accredited provider agency shall be a fully licensed mental health professional.

(d) Any individual rendering any of the other components of CPST services for a licensed and accredited provider agency shall be a fully licensed mental health professional, a provisionally licensed professional counselor, a provisionally licensed marriage and family therapist, a licensed master social worker, a certified social worker, a psychology intern from an American Psychological Association approved internship program, or an individual issued a limited scope license pursuant to R.S. 37:2724(B)(2).

(3)(a) The individual rendering PSR or CPST services for the licensed and accredited provider agency shall meet all other requirements set forth in Medicaid rules, regulations, provider manuals, and policies.

(b) The department shall commence any actions that are required to amend any existing department rule or regulation that is in conflict with the requirements of this Section, including but not limited to any required approval by CMS.

E. The department shall maintain a facility need review program for behavioral health services providers that provide PSR or CPST services. No facility need review

approval for a license to provide PSR or CPST services shall be granted to any applicant unless the department determines that the evidence and data submitted by the applicant establishes the probability of serious, adverse consequences to recipients' ability to access services if the provider is not allowed to seek licensure.

F.(1) In order to be eligible to receive Medicaid reimbursement, each behavioral health services provider that provides PSR or CPST services shall employ at least one full-time physician, or full-time licensed mental health professional as defined in R.S. 40:2153(7)(a), (b), (c), (d), (e), or (g), to serve as a full-time mental health supervisor to assist in the design and evaluation of treatment plans for PSR and CPST services. For the purposes of this Section the term "full-time" shall mean employment by the behavioral health services provider for at least thirty-five hours per week.

(2) Each unlicensed individual rendering PSR or CPST services for the licensed and accredited behavioral health services provider agency shall be required to receive at least one hour per calendar month of personal supervision and training by the provider agency's mental health supervisor.

G. The department shall implement a centralized credentialing verification organization, hereinafter referred to as "CVO", for the Medicaid specialized behavioral health rehabilitation services program. The CVO shall be certified as a CVO by the National Committee for Quality Assurance, hereinafter referred to as "NCQA". The CVO shall perform agency provider credentialing that meets the following criteria:

- (1) NCQA standards.
- (2) Verification of agency license.
- (3) Verification of agency accreditation.
- (4) Any additional requirements imposed by the department for becoming a Medicaid provider reimbursed under the Medicaid specialized behavioral health rehabilitation services program.

H.(1) The Medicaid managed care organizations shall take appropriate actions to recoup Medicaid payments or funds from any behavioral health services provider that renders Medicaid services in violation of the provision of this Section.

(2) The department may refer noncompliant behavioral health services providers to the Louisiana Medicaid Fraud Control Unit within the Louisiana attorney general's office for further fraud investigation.

I. The department may promulgate any rules pursuant to the Administrative Procedure Act and may publish any Medicaid manuals or Medicaid policy to implement and enforce the provisions of this Section.

J. The legislative auditor may conduct performance audits of the department to ensure compliance with the provisions of this Section.

K. The department shall not take any final action that will result in the elimination or reduction of PSR or CPST services unless the action is affirmatively approved by the House Committee on Health and Welfare and the Senate Committee on Health and Welfare.

L. The department and the Medicaid managed care organizations shall take appropriate actions to ensure that recipients of CPST and PSR services are authorized to

receive customized treatment based on the medical necessity of the recipients.

RS 40:2162.1 — Short title

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RS 40:2162.2 — Findings and purpose

order to successfully transition adult patients with a primary diagnosis of mental illness from inpatient psychiatric facilities to the most appropriate outpatient setting.

(2) Repeated admissions of persons to inpatient psychiatric units is a significant problem which often results in inadequate care and a failure to stabilize the patient, especially if the patient is homeless or has unstable living arrangements.

(3) Community-based residential programs are a more cost-effective form of treatment and a more appropriate treatment option for persons with mental illness than emergency room visits, unnecessary long-term stays in psychiatric hospitals, and incarceration.

(4) Licensing of community-based residential programs to operate in state-owned residential buildings presents an opportunity for adaptive and innovative use of those buildings and for optimization of state resources.

(5) Persons with a mental illness who are treated in a psychiatric facility and released without a stable transitional plan of care are at high risk for hospitalization, incarceration, and psychiatric readmission.

(6) It is a fiscal and public health priority of this state to establish a licensing component for adult community-based residential facilities which has historically been missing in the continuum of services for adults with a primary diagnosis of mental illness.

B. The purpose of this Part is to authorize the Louisiana Department of Health to promulgate and adopt rules, regulations, and standards to license and regulate facilities to be operated as community-based care facilities in order to provide for the health, safety, and welfare of persons with mental illness.

RS 40:2162.3 — Definitions

ility license

from the Louisiana Department of Health.

(2) "Client" means any person who has been accepted for treatment or services, including rehabilitation services, furnished by a facility licensed pursuant to this Part.

(3) "Community-based care facility" means a facility where five or more adults with a primary diagnosis of mental illness who are not related to the operator or administrator and who do not require care above intermediate-level nursing care reside and receive care, treatment, or services that are above the level of room and board and include no more than three hours of nursing care per week per resident.

(4) "Community-based care services" means services provided in a community-based care facility licensed pursuant to the provisions of this Part.

(5) "Department" means the Louisiana Department of Health.

(6) "Financial viability" means the ability of the licensee to maintain capital, lines of credit, insurance, and other financial resources at levels deemed sufficient by the

Louisiana Department of Health for operation of a community-based care facility.

(7) "License" means a license issued by the Louisiana Department of Health to a community-based care facility.

RS 40:2162.4 — Licensure of community-based care facilities

department. No facility, agency,

institution, person, society, corporation, partnership, unincorporated association, group, or other legal entity providing community-based care services may be established, operated, or reimbursed through the Medicaid program unless licensed as a community-based care facility by the department.

B. A license issued to a community-based care facility shall be issued only for the owner and premises named in the license application.

C. A license issued pursuant to this Part shall be on a form prescribed by the department and shall be valid for a twelve-month period beginning the month of issuance unless revoked or otherwise suspended prior to that date.

D. A license issued pursuant to this Part shall not be transferable or assignable.

E. Each licensed community-based care facility shall post its license in a conspicuous place on the licensed premises.

RS 40:2162.5 — Rules and regulations; licensing standards

the licensure of

community-based care facilities; to provide for the safe operation and maintenance of those facilities; and to provide for the health, safety, and welfare of clients.

B. The rules, regulations, and licensing standards required by this Section shall include, without limitation, all of the following:

(1) Licensure application and renewal application forms, procedures, and requirements.

(2) Operational and personnel requirements.

(3) Practice standards to assure quality of care.

(4) Practice standards to assure the health, safety, and welfare of clients.

(5) Confidentiality of client records.

(6) Initial and annual renewal of license.

(7) Financial viability requirements and requirements for verification and continuous maintenance of financial viability.

(8) Denial, revocation, suspension, and nonrenewal of licenses and procedures for appeals of such decisions.

(9) Facility construction and design.

(10) Other regulations or standards to ensure proper care and treatment of clients.

RS 40:2162.6 — License application, issuance, and renewal; fees; inspection

vide with the application such information as the department may require by rule.

B. Each application for licensure and each license renewal application shall be accompanied by a nonrefundable license fee in the amount required pursuant to R.S.

40:2006.

C. Following receipt of the completed initial licensing application and license fee, the department shall perform an onsite survey and inspection. After the onsite survey and inspection, if the department finds that the applicant meets the requirements established in this Part and in the licensing standards adopted pursuant to this Part, then the department shall issue a license to the applicant.

D. As a condition for renewal of its license, the licensee shall submit to the department a completed annual renewal application on the forms prescribed by the department, which shall contain all information required by the department along with the annual license renewal fee pursuant to R.S. 40:2006. Upon receipt of the completed annual renewal application and the annual license renewal fee, the department shall determine whether the facility continues to meet the applicable requirements for licensure. The department may perform an onsite survey and inspection after receiving an annual renewal application. If the provider continues to meet the applicable requirements for licensure, then the department shall issue a license which shall be valid for the period specified in R.S.

40:2162.4.

E. The department may perform onsite inspections of community-based care facilities at reasonable times as necessary to ensure compliance with the requirements of this Part.

RS 40:2162.7 — Facility operation in state-owned residential buildings authorized

ntial buildings. The secretary of the department shall direct the staff of the health standards section, and of any other division of the department as he deems appropriate, to cooperate with and give assistance to any applicant who seeks to operate a community-based care facility in one or more state-owned residential buildings and is otherwise qualified for licensure pursuant to this Part.

RS 40:2162.8 — Program approval

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Committee on the Budget.

RS 40:2166.1 — Short title

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RS 40:2166.2 — Purpose

dults receiving residential care and to provide for the safe operation of facilities providing such care. It is the intent of the legislature to support the rights of individuals to live in a residential setting which ensures freedom of choice, independence, and an opportunity to continue to live as integral members of the community, aging with dignity, privacy, and respect.

RS 40:2166.3 — Definitions

ce

that provides personal assistance, lodging, and meals for compensation to two or more adults who are unrelated to the residence licensee, operator, or administrator.

(2) "Adult residential care provider" means a facility, agency, institution, society,

corporation, partnership, company, entity, residence, person or persons, or any other group which provides adult residential care for compensation to two or more adults who are unrelated to the licensee or operator. Adult residential care may include but is not limited to the following services: lodging, meals, medication administration, intermittent nursing services, assistance with self administration of medications, assistance with personal hygiene, assistance with transfers and ambulation, assistance with dressing, housekeeping, and laundry. There shall be four modules of adult residential care providers as described in R.S. 40:2166.5(B)(11). The department shall promulgate rules and regulations for each module, governing the scope of services to be provided thereunder.

(3) "Department" means the Louisiana Department of Health.

(4) "Financial viability" means the provider or facility seeking licensure is able to provide at least one of the following:

(a) Verification of sufficient assets equal to one hundred thousand dollars or the cost of three months of operation, whichever is less.

(b) A letter of credit equal to one hundred thousand dollars or the cost of three months of operation, whichever is less.

(5) "License" means a license issued by the department to an adult residential care provider.

RS 40:2166.4 — Licensure of adult residential care providers

ties, residences, person or persons, or

any other group or groups providing adult residential care, shall be licensed. No facility, agency, provider, institution, society, corporation, partnership, company, entity, residence, person or persons, or any other group providing adult residential care may be established, operated, or reimbursed under the Medicaid program for such care unless licensed to perform such care by the department.

B. A license issued to an adult residential care provider shall be valid for only one geographic location and shall be issued only for the person and premises named in the license application.

C. A license issued under this Part shall be valid for one year from the date of issuance, unless revoked prior to that date.

D. A license issued under this Part shall expire on the last day of the twelfth month after date of issuance, unless otherwise renewed.

E. A license issued under this Part shall be on a form prescribed by the department.

F. A license issued under this Part shall not be transferrable or assignable.

G. A license issued to an adult residential care provider shall be posted in a conspicuous place on the licensed premises.

H. Effective July 1, 2010, the authority to license adult residential care homes shall transfer from the Department of Children and Family Services to the Louisiana Department of Health. Each adult residential care home which has a valid license issued by the Department of Children and Family Services shall apply to the Louisiana Department of Health to become an adult residential care provider sixty days prior to the expiration of the current adult residential care home license. The adult residential care home license shall be

valid until its expiration date, unless otherwise revoked, suspended, or terminated. Effective July 1, 2010, the Louisiana Department of Health shall have authority to monitor, survey, and regulate the adult residential care home under the existing Department of Children and Family Services regulations until the Louisiana Department of Health publishes minimum licensing standards for all modules of adult residential care providers.

I. All waivers in effect on July 1, 2010, granted to adult residential care facilities licensed by the Department of Children and Family Services shall remain in effect when those facilities are transferred to the Louisiana Department of Health subject to licensing rules and regulations. However, any physical space waiver in effect on July 1, 2010, granted to adult residential care facilities licensed by the Department of Children and Family Services shall remain in effect when those facilities are transferred to the Louisiana Department of Health unless there is a renovation, new construction, or relocation of the physical space which is subject to such waiver.

RS 40:2166.5 — Rules and regulations; licensing standards; fees

edure Act, to provide for the licensure

of adult residential care providers, and to provide for the health, safety, and welfare of persons receiving care from such providers, and to provide for the safe operation of such providers. The rules, regulations, and licensing standards shall become effective upon approval of the secretary of the department in accordance with the Administrative Procedure Act. Such rules, regulations, and licensing standards shall have the effect of law.

B. The department shall prescribe, promulgate, and publish rules, regulations, and licensing standards including but not limited to the following:

- (1) Licensure application and renewal application procedures and requirements.
- (2) Operational and personnel requirements.
- (3) Practice standards to assure quality of care.
- (4) Practice standards to assure the health, safety, welfare, and comfort of persons receiving care.
- (5) Survey and complaint investigations.
- (6) Initial and annual renewal of license, including the requirement of a showing of financial viability.
- (7) Provisional licenses.
- (8) Denial, revocation, suspension, and nonrenewal of licenses, and the appeals therefrom.
- (9) Planning, construction, and design of the facility to ensure the health, safety, welfare, and comfort of persons receiving services.
- (10) Other regulations or standards as will ensure proper care and treatment of persons receiving service, including provisions relative to civil monetary penalties, as may be deemed necessary for an effective administration of this Part. Such standards shall include rules that subject adult residential care providers or facilities to civil monetary penalties by class of violation.
- (11) Modules of adult residential care providers with varying levels of services. The modules for adult residential care providers shall be as follows:

(a) Level 1 personal care homes.

(b) Level 2 shelter care homes.

(c) Level 3 assisted living facilities.

(d) Level 4 adult residential care providers.

(12)(a) The requirement for licensed adult residential care providers to allow immediate family members and other designated persons to visit residents during a public health emergency whenever a resident requests such a visit with special consideration to be given to residents receiving end-of-life care.

(b) The rules shall include but not be limited to definitions, minimum requirements including the right to consensual nonsexual physical contact such as hand-holding or hugging, restrictions, and provisions to protect the health, safety, and welfare of the residents and the staff of the licensed adult residential care provider. However, the rules may not require visitors to submit proof of any vaccination or immunization.

(c) The rules shall allow licensed adult residential care providers to adopt reasonable time, place, and manner restrictions on resident visitation that are implemented for the purpose of mitigating the possibility of transmission of any infectious agent or disease or to address the medical condition or clinical considerations of an individual resident.

(d) The rules promulgated pursuant to this Paragraph shall be preempted by any federal statute, federal regulation, or guidance from a federal government agency that requires a licensed adult residential care provider to restrict resident visitation in a manner that is more restrictive than the rules adopted by the department pursuant to this Paragraph.

(e) For purposes of this Paragraph, the following definitions apply:

(i) "Public health emergency" means a state of public health emergency that is declared pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.

(ii) "Resident" means a resident of a licensed adult residential care provider facility or his legal or designated representative.

C. The secretary of the department is further authorized to set and collect fees and fines for the licensure of adult residential care providers as follows:

(1) Each adult residential care provider shall be assessed a fee not to exceed six hundred dollars, payable to the department, at the time an application is made to the department, and once a year thereafter for renewal of license. This fee is for application and renewal of a license only.

(2) Each adult residential care provider shall be assessed an additional application and renewal fee not to exceed five dollars per unit, payable to the department, at the time the application or application for renewal of the license is made. For purposes of Subsection C of this Section, "unit" means room or station.

(3) An adult residential care provider shall be assessed a delinquent fee of one hundred dollars for failure to timely renew its license. This delinquent fee shall be assessed and shall become due and payable to the department at 12:01 a.m. on the first day following the expiration date of the license.

(4) Effective July 1, 2010, an adult residential care provider which had previously been licensed by the Department of Children and Family Services as an adult residential care

home as of June 30, 2010, shall continue to pay the existing fee of two hundred fifty dollars for license renewal. The license fee shall be due once a year for renewal of license.

(5) Effective July 1, 2010, an adult residential care provider which had previously been licensed by the Department of Children and Family Services as an adult residential care home as of June 30, 2010, which operates without a valid license or which operates in violation of state law or department regulations shall be fined by the department in accordance with the existing schedule of fines and enforcement procedures promulgated by rules of the department, not to exceed two hundred fifty dollars for each day of such offense.

RS 40:2166.6 — License issuance; application; on-site inspection

and shall contain such information as the department may require. Additional information required by the department shall be provided by the applicant as requested.

B. Each application for licensure and application renewal of licensure shall be accompanied by a nonrefundable license fee in the amount set by the department in accordance with R.S. 40:2166.5.

C. Following receipt of the completed application and licensing fee, the department shall perform an on-site survey and inspection. If, after the on-site survey and inspection, the department finds that the facility meets the requirements established under this Part and the licensing standards adopted in pursuance thereof, a license shall be issued.

D. As a condition for renewal of a license, the licensee shall submit to the department a completed annual renewal application on forms prescribed by the department which shall contain such information as required by the department. Additionally, the annual renewal licensing fee shall be submitted with the annual renewal application. Upon receipt of the completed annual renewal application and the annual renewal licensing fee, the department shall determine if the facility continues to meet the requirements established under this Part and the licensing standards adopted in pursuance thereof. The department may perform an on-site survey and inspection upon annual renewal. If the facility continues to meet the requirements established under this Part and the licensing standards adopted in pursuance thereof, a license shall be issued which shall be valid for one year.

E. The department may perform an on-site inspection at reasonable times as necessary to ensure compliance with this Part.

RS 40:2166.7 — Operation without license; penalty

of a misdemeanor and upon conviction shall be fined not more than one hundred dollars for each day of operation without a license up to a maximum of one thousand dollars or imprisonment of not more than six months, or both. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to assure enforcement.

B. If an adult residential care provider is operating without a license issued by the department, the department shall have the authority to issue an immediate cease and desist order to that provider. Any such provider receiving such a cease and desist order from the department shall immediately cease operations until such time as that provider is issued a license by the department.

C. The department shall seek an injunction in the Nineteenth Judicial District Court against any provider who receives a cease and desist order from the department under Subsection B of this Section and who does not cease operations immediately. Any such provider against whom an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

RS 40:2166.7.1 — Moratorium on licensure of level 4 adult residential care providers

sure of additional level 4 adult residential care providers

until July 1, 2017. The moratorium shall not apply to a provider which has received facility need review approval from the department for a level 4 adult residential care provider on or before April 25, 2012.

NOTE: Acts 2017, No. 417, §1, amended §2166.7.1 to extend the moratorium from July 1, 2017, to July 1, 2018. Section 2 of that act

provides: "Implementation of the provisions of this Act shall only become effective in the event a specific appropriation by the legislature is made for such purposes and the program receives approval by the Centers for Medicare and Medicaid Services."

§2166.7.1. Moratorium on licensure of level 4 adult residential care providers
Notwithstanding any other provision of law to the contrary, the department shall implement a moratorium on the licensure of additional level 4 adult residential care providers until July 1, 2018. The moratorium shall not apply to a provider which has received facility need review approval from the department for a level 4 adult residential care provider on or before April 25, 2012.

RS 40:2166.8 — Fees on community service providers; disposition of fees

adult residential care provider as well as any other provider of services offered in lieu of institutional placement and to adopt rules and regulations relative to the imposition of such fees. The amount of any fee shall not exceed the total cost to the state of providing the care subject to such fee. In addition, the amount of the fees imposed shall not exceed six percent of the gross revenues of such provider.

(2) Any fee authorized by and imposed pursuant to this Section shall be considered an allowable cost for purposes of insurance or other third-party reimbursements and shall be included in the establishment of reimbursement rates.

(3) All fees collected pursuant to this Section shall be paid into the state treasury and after compliance with Article VII, Section 9(B) of the Constitution of Louisiana, relative to the Bond Security and Redemption Fund, shall be deposited into the state general fund.

(4) The department shall not impose, adopt, or collect any fee authorized under the provisions of this Section until written approval is received from the secretary of the United States Department of Health and Human Services that adult residential care providers may be considered a "class of providers" for the purposes of 42 CFR 433.56.

B.(1) The department shall adopt and promulgate, pursuant to the Administrative Procedure Act, such rules and regulations as are necessary to administer the fees imposed pursuant to this Section, including but not limited to rules and regulations regarding the collection and payment of the fees and the records necessary to be maintained and made available by the providers on whom the fees are imposed. Any such information, other than the amount of fees collected from each provider and the total amount of revenues generated by the fees collected pursuant to this Section, received by any department or agency of the state pursuant to this Section, shall be held confidential.

(2) The department shall adopt and promulgate, pursuant to the Administrative Procedure Act, rules and regulations governing the rights and obligations of those on whom said fees will be imposed. Such rules and regulations shall include the administrative appeal rights and procedures governing disputes arising out of the collection or administration of the fees authorized pursuant to this Section. The department shall be authorized to collect the fees permitted pursuant to this Section by withholding all or part of a provider's regular Medicaid remittance.

C. The governor, by executive order, may designate any agency, department, or division of state government to collect the fees authorized in this Part.

RS 40:2166.9 — Immunization information; influenza

of the Centers for

Disease Control and Prevention, every licensed adult residential care provider shall provide residents educational information on influenza. This educational information shall include, at a minimum, the risks associated with influenza, the availability, effectiveness, and known contraindications of the influenza immunization, the causes and symptoms of influenza, and the means by which influenza is spread.

B. Nothing in this Section shall be construed to require any adult residential care provider to provide or pay for any immunization against influenza.

RS 40:2166.10 — Immunization information; shingles; pneumonia

Practices of the Centers for

Disease Control and Prevention, the Louisiana Department of Health shall provide licensed adult residential care providers with educational information on zoster, also known as shingles. The educational information shall include, at a minimum, the risks associated with shingles and how to protect oneself against the varicella-zoster virus. The licensed adult residential care providers shall disseminate this information to their residents.

B. No later than September first of each year and in accordance with the latest recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, the Louisiana Department of Health shall provide licensed adult residential care providers with educational information on pneumonia. The educational information shall include, at a minimum, the risks associated with pneumonia and the availability of the pneumococcal immunization. The licensed adult residential care providers shall disseminate this information to their residents.

C. Nothing in this Section shall be construed to require any adult residential care provider to provide or pay for any immunization against the varicella-zoster virus or pneumonia.

D. The Louisiana Department of Health shall provide the educational information required by Subsections A and B of this Section through the posting of a link to its website where the information can be downloaded by the licensed adult residential care providers.

RS 40:2171 — Definitions

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by prehospital personnel according to policies and procedures established by the Louisiana Department of Health and who has been found to require transportation to a trauma center.

(3) "Trauma center" means a health care facility which is capable of treating one or more types of potentially seriously injured persons and which has been certified as a trauma center by the Louisiana Department of Health.

RS 40:2172 — Certificates; applications; fees

e facility to the department upon forms furnished by the department. Upon determination that the facility is in compliance with the minimum requirements for certification as established by the department, the department shall issue a certificate for such period as may be provided for in the published regulations of the department.

C. There shall be a certification fee of two hundred dollars for any certificate issued in accordance with the provisions of this Part, renewable every three years.

RS 40:2173 — Rules, regulations, and standards for licenses

ive Procedure Act. The department shall consult with the Louisiana Emergency Response Network (LERN), the Louisiana Hospital Association, and the Louisiana State Medical Society in the development of rules and regulations.

B. The department shall promulgate minimum standards for trauma centers as defined in this Part which shall:

(1) Specify the number and types of trauma patients for whom such centers must provide care in order to ensure that such centers will have sufficient experience and expertise to be able to provide quality care for victims of injury.

(2) Specify the resources and equipment needed by such centers.

(3) Include standards and guidelines for triage and transportation of trauma patients prior to care in designated trauma centers.

- (4) Specify procedures for the certification and evaluation of designated trauma centers.
 - (5) Include procedures for the receipt, recording of, and disposition of complaints.
 - (6) Provide for the right of appeal for those health care facilities for which certification has been refused.
 - (7) Provide for the verification and certification of trauma center status which assign level designations based on resources available within the applicable facility. Rules shall be based upon national guidelines, including but not limited to those established by the American College of Surgeons in Hospital and Pre-Hospital Resources for Optimal Care of the Injured Patient and any published appendices thereto.
 - (8) Provide that LERN may fund the provision of data to the state trauma registry in accordance with the registry's adopted rules, requirements, and reporting cycle.
 - (9) Provide that certified trauma centers participate in LERN regional commissions and LERN regional and state-level trauma system performance improvement and injury prevention activities per American College of Surgeons guidelines once adequate funding has been secured by the certified trauma center.
- C. The regulations promulgated under this Section shall be consistent with the guidelines for designation of trauma centers specified by the American College of Surgeons.
- D. The regulations promulgated under this Section shall require health care facilities applying for certification as a trauma center to obtain a consultation site visit through the Committee on Trauma of the American College of Surgeons.
- E. The department shall designate a health care facility as a trauma center when the requirements of this Section have been fulfilled and upon verification from the American College of Surgeons that the facility has met its criteria for Level I, II, or III. The "trauma center" label shall be reserved exclusively for hospitals with state-issued trauma center certification.
- F. The department shall issue standard forms for applications and for inspection reports, after consultation with LERN and other appropriate organizations.

RS 40:2175.2 — Purpose

omen in outpatient abortion facilities and for the safe operation of such facilities. The rules shall be reasonably related to the purpose expressed in this Section and shall not impose a legally significant burden on a woman's freedom to decide whether to terminate her pregnancy, except when the provisions of R.S. 40:1061.1 apply.

RS 40:2175.3 — Definitions

have the

same meaning as the definitions provided in R.S. 14:87.8.

B. For purposes of this Part, the following definitions apply:

- (1) "Abortion facility professional" or "outpatient abortion facility professional" means an individual who is a physician, surgeon, resident, intern, licensed nurse, nursing aide, emergency medical technician, or a paramedic who diagnoses, examines, or treats a female patient at an outpatient abortion facility.
- (2) "Abortion facility staff member" or "outpatient abortion facility staff member" means an individual who is not an abortion facility professional but who is employed by or contracts with an outpatient abortion facility to provide services and who has any contact with patients at the facility.
- (3) "First trimester" means the time period up to fourteen weeks after the first day of the last menstrual period.
- (4) "Licensee" means the person, partnership, corporation, association, organization, or professional entity on whom rests the ultimate responsibility and authority for the conduct of the outpatient abortion facility.
- (5) "Licensing agency" means the Louisiana Department of Health.

- (6) "Mandatory reporter to law enforcement" means any abortion facility staff member or any abortion facility professional.
- (7) "Outpatient abortion facility" means any outpatient facility, other than a hospital as defined in R.S. 40:2102 or an ambulatory surgical center as defined in R.S. 40:2133, in which any second trimester or five or more first trimester abortions per calendar year are performed.
- (8) "Second trimester" means the time period from fourteen to twenty-three weeks after the first day of the last menstrual period.
- (9) "Secretary" means the secretary of the Louisiana Department of Health.

RS 40:2175.4 — License required

ection B eff. until conditions per Acts 2018, No. 498.

B. A license issued to an outpatient abortion facility is valid for only one location.

NOTE: Subsection B eff. upon conditions per Acts 2018, No. 498.

B. A license issued to an outpatient abortion facility is valid for only one location that shall be physically and financially separate from any facility where publicly funded medical assistance program services are provided, in accordance with R.S. 49:200.51.

C. A license issued to an outpatient abortion facility shall be valid for one year from the date of issuance, unless revoked prior to that date.

D. A license issued to an outpatient abortion facility is not transferable or assignable.

E. A license issued to an outpatient abortion facility shall be posted in a conspicuous place on the licensed premises.

F. The provisions of R.S. 40:1061.1 shall apply to this Part.

RS 40:2175.5 — Rules; regulations; licensing standards

omen

in outpatient abortion facilities and for the safe operation of such facilities.

The rules, regulations, and licensing standards shall become effective upon approval of the secretary of the Louisiana Department of Health in accordance with the Administrative Procedure Act. The initial rules, regulations, and licensing standards shall not become effective until approved by the House Committee on Health and Welfare and the Senate Committee on Health and Welfare. No outpatient abortion facility shall be required to obtain a license under this Part until the initial rules, regulations, and licensing standards are adopted and promulgated in accordance with the Administrative Procedure Act.

RS 40:2175.6 — License issuance; application; on-site inspection

y the agency.

B. Each application must be accompanied by a nonrefundable license fee in an amount set by the licensing agency in accordance with R.S. 40:2006. The fees herein levied and collected shall be paid into the general fund.

C. Following receipt of the application and licensing fee, the licensing agency shall issue a license if, after an on-site inspection, it finds that the outpatient abortion facility meets

the requirements established under this Part and the licensing standards adopted in pursuance thereof. The licensing agency must perform an on-site inspection of the outpatient abortion facility prior to issuance of the initial license.

D. As a condition for renewal of a license, the licensee must submit to the licensing agency the annual renewal application along with the annual renewal licensing fee. Upon receipt of the annual renewal application and the annual renewal licensing fee, the licensing agency shall determine if the outpatient abortion facility continues to meet the requirements established under this Part and the licensing standards adopted in pursuance thereof. The licensing agency may perform an on-site inspection upon annual renewal. If the outpatient abortion facility continues to meet the requirements established under this Part and the licensing standards adopted in pursuance thereof, a license shall be issued which is valid for one year.

E. A provisional license may be issued in cases where additional time is needed for the outpatient abortion facility to comply fully with the requirements established under this Part and the licensing standards adopted in pursuance thereof. The licensing agency may issue a provisional license to an outpatient abortion facility for a period not to exceed six months only if the failure to comply is not detrimental to the health or safety of the women seeking treatment in the outpatient abortion facility. The deficiencies which preclude the outpatient abortion facility from being in full compliance must be cited at the time the provisional license is issued.

F. The licensing agency may perform an on-site inspection at reasonable times as necessary to ensure compliance with this Part.

G. The secretary of the department may deny a license, may refuse to renew a license, or may revoke an existing license, if an investigation or survey determines that the applicant or licensee is in violation of any provision of this Part, in violation of the licensing rules promulgated by the department, or in violation of any other federal or state law or regulation.

(1) The secretary shall furnish the applicant or licensee thirty calendar days' written notice specifying the reasons for the denial, nonrenewal, or revocation.

(2) The applicant or licensee shall have the right to file a suspensive appeal of the denial, nonrenewal, or revocation with the office of the secretary within thirty calendar days from the date of receipt of the written notice. The appeal request shall specify in detail the reasons why the appeal is lodged.

H. Notwithstanding any law to the contrary, the secretary of the department may issue an immediate suspension of a license if an investigation or survey determines that the applicant or licensee is in violation of any provision of this Part, in violation of the rules promulgated by the department, or in violation of any other federal or state law or regulation, and the secretary determines that the violation or violations pose an imminent or immediate threat to the health, welfare, or safety of a client or patient. The secretary shall give the licensee written notice of the immediate suspension. The suspension of the license is effective upon the receipt of the written notice.

(1) The licensee shall have the right to file a devolutive appeal of the immediate

suspension notice. The appeal request shall be filed with the office of the secretary within thirty calendar days of the receipt of the written notice of the immediate suspension. The appeal request shall specify in detail the reasons why the appeal is lodged.

(2) The licensee shall have the right to file for injunctive relief from the immediate suspension of the license; such injunctive relief shall be filed with the district court for the parish of East Baton Rouge. Before injunctive relief may be granted, the licensee shall prove by clear and convincing evidence that the secretary's decision to issue the immediate suspension of the license was arbitrary and capricious.

I. If a license is revoked or renewal of a license is denied other than for cessation of business or non-operational status, or if the license is surrendered in lieu of an adverse action, any owner, officer, member, manager, director, or administrator of the licensee may be prohibited from owning, managing, directing, or operating another outpatient abortion clinic in the state of Louisiana.

J. The provisions of R.S. 40:1061.1 shall apply to this Part.

RS 40:2175.7 — Mandatory reports to law enforcement; human trafficking awareness and

nforcement who has cause to believe that a minor or adult female who presents at an outpatient abortion facility is a victim of human trafficking, trafficking of children for sexual purposes, rape, incest, or coerced abortion shall report such crime immediately, or no later than the end of the business day, to the sheriff's department in the parish or local police department where the outpatient abortion facility is located. If the victim does not reside in the parish where the outpatient abortion facility is located, the mandatory reporter to law enforcement shall also report the crime to the law enforcement agency in the parish or county in which the victim resides, if reasonably ascertainable.

(2) The Louisiana Department of Health shall promulgate a form which may be used by a mandatory reporter to law enforcement to report a crime, pursuant to Paragraph (1) of this Subsection, to the parish or local law enforcement agency.

B.(1) Beginning August 1, 2019, every mandatory reporter to law enforcement shall certify to the Louisiana Department of Health that they have participated in a training on human trafficking awareness and prevention on an annual basis. The department shall maintain the name of each mandatory reporter to law enforcement as confidential, and such information shall not be subject to disclosure pursuant to the Public Records Law.

(2) The Louisiana Department of Health shall promulgate rules to provide for compliance of this Subsection utilizing the online educational videos on human trafficking awareness and prevention provided by the United States Department of Health and Human Services, Administration for Children and Families, office on trafficking in persons or such training tools as may be adopted by the department.

C. The provisions of R.S. 40:1061.1 shall apply to this Part.

RS 40:2175.8 — Patient's right to unimpeded, private, and uncensored telephone communications;

mitted unimpeded, private,

and uncensored communications with persons by telephone. No outpatient abortion facility shall require a patient to forego possession of the patient's mobile phone or cellular phone as a condition for receiving services or patient access to the facility.

B. A violation of this Section shall be considered a violation of a condition of licensure and shall be subject to the penalties provided for in R.S. 40:2199.

C.(1) The provisions of this Section shall not be construed to provide a right to an abortion and are superseded by other provisions of law that restrict or prohibit abortion.

(2) The provisions of this Section are intended to regulate the practice of abortion to provide for the health, safety, and welfare of women in outpatient abortion facilities until such time and to the extent that the state of Louisiana no longer regulates outpatient abortion facilities.

RS 40:2175.9 — Cease and desist order; due process rights; penalty for violation

order to prevent or terminate an unsafe condition or an

illegal practice or for a violation of this Chapter or Chapter 5 of this Title or a violation of any regulation or order of the department issued pursuant thereto whenever the secretary knows or has reasonable cause to believe that such unsafe condition or illegal practice exists or is likely to occur related to an outpatient abortion facility.

B.(1) An aggrieved party who is licensed by this Part and who is affected by the secretary's decision or order may seek an appeal in the same manner as provided for in R.S. 40:2175.6(H).

(2) An aggrieved party who is not licensed by this Part may seek a de novo review of the secretary's decision or order by filing a petition for review in the Nineteenth Judicial District Court for the parish of East Baton Rouge.

C. Any order issued pursuant to this Section shall become effective upon service thereof in person or by registered mail on the violator and shall remain effective except to the extent modified, stayed, terminated, or set aside by action of the secretary or by the Nineteenth Judicial District Court in the parish of East Baton Rouge.

D. If no timely appeal is demanded by the aggrieved party pursuant to Subsection B of this Section, the cease and desist order shall become final.

E. If the violator subsequently engages in activities that violate a final cease and desist order, the secretary may seek the enforcement of such order by civil action filed in the Nineteenth Judicial District Court for the parish of East Baton Rouge.

F. Except as provided in R.S. 40:2175.10, any person who violates a cease and desist order of the secretary after it has become final and while such order is in effect shall, upon proof thereof to the satisfaction of the court, be ordered by the court to forfeit and pay to the attorney general a sum not less than five hundred dollars nor more than five thousand dollars per violation.

RS 40:2175.10 — Procedure for closing outpatient abortion clinics in the event abortion is declared

sions of R.S. 40:1061.1 and 2175.9 and based upon the final decision of the Supreme Court of the United States in the case of *Dobbs v. Jackson Women's Health Organization*, Docket No. 19-1392, the secretary shall issue whichever one of the applicable cease and desist orders apply, as follows:

(1) The outpatient abortion facility shall be ordered closed and the facility shall immediately cease and desist performing abortions because the Human Life Protection Act, R.S. 40:1061, or R.S. 14:87.7 has been enacted and the practice of abortion in Louisiana has

been prohibited by law.

(2) The outpatient abortion facility shall be ordered to cease and desist performing late term abortions, as is prohibited in R.S. 14:87.8, because the Supreme Court of the United States has provided for the states to prohibit abortions when the gestational age of the unborn child is fifteen weeks or more.

B.(1) Any person who violates a cease and desist order of the secretary after it has become final and while such order is in effect shall, upon proof thereof to the satisfaction of the court, be ordered by the court to forfeit and pay to the attorney general a sum not less than ten thousand dollars nor more than fifty thousand dollars per violation.

(2) Each abortion performed in violation of the cease and desist order issued pursuant to this Section shall constitute a separate violation.

C. The provisions of Subsections A and B of this Section shall not apply if the decision rendered by the Supreme Court of the United States in the case of *Dobbs v. Jackson Women's Health Organization*, Docket No. 19-1392, which overrules, in whole or in part, *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), does not restore to the states the authority to prohibit or limit abortion.

RS 40:2175.11 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2175.12 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2175.13 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2175.14 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2175.15 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2176.1 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2179 — Establishment of Direct Service Worker Registry

y the department. Access to the registry

shall be limited to an inquiry for a specific direct care worker.

B.(1) The department shall promulgate rules and regulations necessary for the maintenance of the registry which shall include but not be limited to rules and regulations defining minimum mandatory qualifications and requirements for direct service workers. Such rules shall include the establishment of criteria regarding any parent, stepparent, grandparent, brother, sister, aunt, or uncle of a recipient serving as a paid direct service worker and shall provide for the grandfathering in of any relative serving as a direct support worker as of July 1, 2008.

(2) It is the policy of the state that the parent, stepparent, grandparent, son, daughter, brother, sister, aunt, or uncle of a recipient may not serve that recipient as a paid direct

service worker unless the relative meets the criteria established by rule and has received a waiver issued by the secretary of the department or his designee stating that the relative is the best available appropriate direct service worker for the recipient being served. This Section shall be effective upon approval by Centers for Medicare and Medicaid Services of the necessary waiver and state plan amendments.

C. The provisions of this Part shall apply to direct service workers who are compensated, regardless of the setting, and specifically do not apply to those direct service workers listed on the Certified Nurse Aide Registry established under rules promulgated by the Louisiana Department of Health.

D. The provisions of this Part shall not apply to religious nonmedical nursing personnel providing services through a religious nonmedical health care institution as defined in 42 U.S.C. 1395x.

RS 40:2179.1 — Definition of direct service worker

elderly to enhance their well-being and which involves face-to-face direct contact with the person. Functions performed may include, but are not limited to, assistance and training in activities of daily living, personal care services, and job-related supports.

B. A parent, stepparent, grandparent, brother, sister, aunt, or uncle of a recipient shall meet the criteria established by rule regarding serving as a paid direct support worker unless a waiver is issued by the secretary of the Louisiana Department of Health.

RS 40:2179.2 — Authorization to contract; interagency agreement; issuance of certification cards

Service Worker Registry through an interagency agreement with the Louisiana Department of Health in accordance with applicable federal regulations.

B. The Board of Examiners of Nursing Facility Administrators is authorized to issue certificates or certification cards which indicate registration status on the Direct Service Worker Registry to direct service workers upon request. The Board of Examiners of Nursing Facility Administrators may charge an amount not to exceed the cost of providing such certificates or certification cards.

RS 40:2180 — Definitions

Louisiana Department of Health.

(2) "ICF/DD" means an intermediate care facility for people with developmental disabilities.

RS 40:2180.1 — Licensure of intermediate care facilities for people with developmental disabilities (ICF/DD)

ged in the same shall apply to the department for a license authorizing them to engage in such services.

(1) The license shall indicate the types of developmental disabilities services that a public or private provider is authorized to provide.

(2) Providers who are already licensed are not required by this Section to reapply until the current license expires, except when applying for new developmental disabilities services.

RS 40:2180.2 — Promulgation of rules

following:

(1) Licensure application procedures and requirements.

- (2) Operational and personnel requirements.
- (3) Practice standards to assure quality of supports and services.
- (4) Survey and complaint investigations.
- (5) Initial and annual renewal of license investigations.
- (6) Issuance of a provisional license.
- (7) Denial, revocation, and non-renewal of licenses and the appeals thereof.
- (8) Planning, construction and design to ensure the health, safety, and comfort of persons receiving services.
- (9) Such other regulations of standards as will ensure proper care and treatment as may be deemed necessary for an effective administration of this Part.
- (10) The establishment of new or replacement facilities or reestablishment of facilities that have sustained substantial structural damage from a hurricane or substantial structural damage from flooding which are located in areas subject to hurricanes, tidal surges, or flooding. An architect or civil engineer registered in the state shall determine whether a facility has sustained substantial structural damage from a hurricane or substantial structural damage from flooding in accordance with the Louisiana State Uniform Construction Code. The regulations adopted by the department shall include but not be limited to:
 - (a) Requirements of building and construction codes and guidelines.
 - (b) Restrictions of locations of newly approved facilities that are subject to the provisions of the facility need review process.
 - (c) Provisions for the fair allocation of the Medicaid share of facility specific costs directly incurred by a facility as a result of compliance.
 - (d) Provisions for reasonable time periods for compliance, not to exceed three years, except when extensions are granted by the department for good cause.
- (11)(a) Provisions to allow any close family member of a resident of an ICF/DD to visit the resident during any state of public health emergency declared in accordance with R.S. 29:766 or to address the infectious respiratory disease known as COVID-19. The rules shall include but not be limited to the following:
 - (i) Authorization of visitation for close family members.
 - (ii) Minimum requirements for visitation, including length of visit, location of the visit, and the right to consensual nonsexual physical contact such as hand-holding or hugging.
 - (iii) Requirements for visitors, including health screenings, testing, and personal protective equipment. However, the rules may not require visitors to submit proof of any vaccination or immunization.
 - (iv) Limitations on visitation due to health, safety, and welfare issues, including limitations of visitation provided in an executive order of the governor of the state or an order of the state health officer due to the public health emergency.
 - (v) Prohibition of visitation by any close family member who is infected with COVID-19.
 - (vi) Provisions for off-site visitation, allowing a close family member to visit an ICF/DD resident away from the facility campus, including requirements for allowing the

resident to return to the facility upon certain conditions including testing and isolation.

(vii) Provisions for determinations of dispute resolutions regarding deficiencies related to visitation during a declared health emergency or related to COVID-19, including provisions, subject to federal requirements, for determinations to be issued by the department within thirty-five days after receipt of the request by a facility for an informal dispute resolution of the deficiencies.

(b) The rules promulgated pursuant to this Paragraph shall be preempted by any federal statute, federal regulation or guidance from a federal government agency that requires an ICF/DD to restrict resident visitation in a manner that is more restrictive than the rules adopted by the department pursuant to this Paragraph.

(c) For purposes of this Paragraph, "close family member" shall mean a parent, step-parent, sibling, step-sibling, aunt, uncle, child, step-child, spouse, mother-in-law, father-in-law, grandparent, grandchild, or legal representative of the ICF/DD resident.

(12) The Louisiana Department of Health shall develop and implement policies and procedures to require ICF/DD providers to notify new residents and their families and guardians of sex offenders living in their facilities upon admission. The notification shall continue for as long as the information is considered a public record. During the annual licensing process, health standards surveyors shall verify the providers' compliance with the policy.

RS 40:2180.3 — Input from the office for citizens with developmental disabilities

the office for citizens with developmental disabilities. Such consultation will include assurance that all federal and state laws and regulations, including the provisions of this Chapter regarding program requirements, are included in the licensing requirements.

RS 40:2180.4 — Issuance of license; renewal

as that agency may require. Additional information required by the licensing agency shall be provided by the applicant as requested.

B. Each application for license or renewal of a license for an intermediate care facility for people with developmental disabilities shall be accompanied by a nonrefundable license fee pursuant to R.S. 40:2006.

C. Following receipt of the application and licensing fee, the applicable licensing agency shall perform an on-site inspection. If, after the on-site inspection, the licensing agency finds that the facility meets the requirements established under this Part and the promulgated licensing standards, a license shall be issued.

RS 40:2180.5 — Operation without license; penalty

license shall be guilty of a misdemeanor and upon conviction shall be fined no less than two hundred fifty dollars nor more than one thousand dollars. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to assure enforcement.

B. If a public or private ICF/DD is operating without a license issued by the applicable licensing agency, the department shall have the authority to issue an immediate cease and desist order to that facility. Any such facility or provider receiving such a cease and desist order from the department shall immediately cease operations until such time as that provider is issued a license by the applicable licensing agency.

C. The department shall seek an injunction in the Nineteenth Judicial District Court against any facility or provider who receives a cease and desist order from the department under Subsection B of this Section and who does not cease operations immediately. Any such facility or provider against whom an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

RS 40:2180.11 — Purpose

ization services, including a coordinated system of entry for people in behavioral emergency rooms.

RS 40:2180.12 — Definitions

censed by the Louisiana Department of

Health to provide crisis identification, intervention, and stabilization services for people in behavioral crisis. Crisis receiving centers shall receive, examine, triage, refer, or treat people in behavioral health crisis.

(2) "Department" means the Louisiana Louisiana Department of Health.

RS 40:2180.13 — Licensure of crisis receiving centers

hed or operated or be reimbursed under the Medicaid program for such services unless licensed to perform such services by the department.

B. A license issued to a crisis receiving center shall be valid for only one geographic location, and shall be issued only for the person and premises named in the license application.

C. A license issued under this Part shall be valid for one year from the date of issuance, unless revoked or suspended prior to that date.

D. A license issued under this Part shall expire on the last day of the twelfth month after the date of issuance, unless otherwise renewed, or as set forth in rules promulgated by the department.

E. A license issued under this Part shall be on a form prescribed by the department.

F. A license issued under this Part shall not be transferrable or assignable.

G. A license issued to a crisis receiving center shall be posted in a conspicuous place on the licensed premises.

RS 40:2180.14 — Rules and regulations; licensing standards

rdance with the Administrative Procedure Act, to provide for the licensure of crisis receiving centers, and to provide for the health, safety, and welfare of persons receiving services from such facilities or providers, and to provide for the safe operation of such facilities or providers. The rules, regulations, and licensing standards shall become effective upon approval of the secretary of the department in accordance with the Administrative Procedure Act. These rules, regulations, and licensing standards shall have the effect of law.

B. The licensing agency of the department shall prescribe, promulgate, and publish rules, regulations, and licensing standards to include but not be limited to the following:

(1) Licensure application and renewal application procedures and requirements.

(2) Operational and personnel requirements.

(3) Practice standards to assure quality of care.

(4) Practice standards to assure the health, safety, welfare, rights, and comfort of patients, clients, and persons receiving services.

(5) Survey and complaint investigations.

(6) Initial license, renewal of license, full license, and provisional license.

(7) Denial, revocation, suspension, and nonrenewal of licenses, and the appeals therefrom.

(8) Planning, construction, design, and implementation of the facility or provider to ensure the health, safety, welfare, rights, and comfort of patients, clients, and persons receiving services.

(9) Such other regulations or standards as will ensure proper care and treatment of patients, clients, and persons receiving services.

RS 40:2180.15 — License issuance; application; on-site inspection

hall contain such information as that agency may require. Additional information required by the licensing agency shall be provided by the applicant as requested.

B. Following receipt of the completed application, the licensing agency shall perform an on-site survey and inspection. If, after the on-site survey and inspection, the licensing agency finds that the facility or provider meets the requirements established under this Part and the licensing standards adopted pursuant to this Part, a license shall be issued.

C. As a condition for renewal of a license, the licensee shall submit to the licensing agency a completed annual renewal application on forms prescribed by the licensing agency and shall contain such information as required by the agency. Upon receipt of the completed annual renewal application, the licensing agency shall determine if the facility or provider continues to meet the requirements established under this Part and the licensing standards adopted pursuant to this Part. The licensing agency may perform an on-site survey and inspection upon annual renewal. If the facility or provider continues to meet the requirements established under this Part and the licensing standards adopted pursuant to this Part, a license shall be issued which is valid for one year.

D. The licensing agency may perform an on-site inspection at reasonable times as necessary to ensure compliance with the provisions of this Part.

RS 40:2180.16 — Operation without license; penalty

be guilty of a misdemeanor and upon conviction shall be fined no less than two hundred fifty dollars nor more than one thousand dollars. Each day of violation shall constitute a separate offense. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to assure enforcement.

B. If a crisis receiving center is operating without a license issued by the licensing agency, the department shall have the authority to issue an immediate cease and desist order to that facility or provider. Any such facility or provider receiving such a cease and desist order from the department shall immediately cease operations until such time as that provider is issued a license by the applicable licensing agency.

C. The department shall seek an injunction in the Nineteenth Judicial District Court against any facility or provider who receives a cease and desist order from the department under Subsection B of this Section and who does not cease operations immediately. Any such facility or provider against whom an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

RS 40:2180.22 — Purpose

o provide for the health, safety, welfare, and well-being of persons receiving services at free-standing birth centers; and to provide for the safe operation and maintenance of free-standing birth centers.

RS 40:2180.23 — Definitions

or office

thereof designated by the secretary to administer the provisions of this Part.

(2)(a) "Free-standing birth center" means a facility, place, center, agency, person, institution, corporation, partnership, unincorporated association, group, or other legal entity which provides free-standing birth center services and at which a person is anticipated to give birth following a low-risk pregnancy.

(b) For the purposes of this Part, a free-standing birth center does not include a hospital licensed pursuant to R.S. 40:2100 et seq., nor does it include the place of residence of the person giving birth.

(3) "Free-standing birth center services" means peripartum care, including prenatal, labor, delivery, and postpartum, and services for people with low-risk pregnancies provided at free-standing birth centers. This includes any ancillary ambulatory service provided to a person at low risk for pregnancy complications, if such services are within the scope of practice of the individual providing the service.

(4) "License" means a license issued by the Louisiana Department of Health to a free-standing birth center.

(5) "Low-risk pregnancy" means a normal, uncomplicated, singleton pregnancy that has vertex presentation and is at low risk for development of complications during labor and birth, as determined from an evaluation and examination conducted by a physician or other practitioner or individual acting within the scope of his or her practice.

(6) "Secretary" means the secretary of the Louisiana Department of Health or his designee.

(7) "Standards" means policies, procedures, rules, guidelines, and standards of current practice contained in this Part in addition to those rules and standards promulgated by the Louisiana Department of Health for the licensing and operation of free-standing birth centers.

RS 40:2180.24 — Licensure of free-standing birth centers

tion, corporation, partnership,

unincorporated association, group, or other legal entity providing free-standing birth center services shall be established or operated, or be reimbursed under the Medicaid program, unless licensed as a free-standing birth center by the department to perform such services.

B. A license issued to a free-standing birth center shall be valid for one geographic location and issued to the entity or person and premises named in the license application.

C. A license issued pursuant to this Part shall be valid for twelve months unless revoked or otherwise suspended prior to that date, commencing with the month of issuance.

D. Unless otherwise renewed or stated in the rules promulgated by the department, a license issued pursuant to this Part shall expire on the last day of the twelfth month after the date of issuance.

E. A license issued pursuant to this Part shall be on a form prescribed by the department.

F. A license issued pursuant to this Part shall not be transferrable or assignable.

G. A license issued to a free-standing birth center shall be posted in a conspicuous place on the licensed premises.

RS 40:2180.25 — Rules and regulations; licensing standards

e Procedure Act, and to provide for

all of the following:

(1) The licensure of free-standing birth centers.

(2) The health, safety, welfare, and well-being of persons receiving services at the free-standing birth centers.

(3) The safe operation and maintenance of free-standing birth centers.

B.(1) The rules, regulations, and licensing standards shall become effective upon approval by the secretary of the department in accordance with the Administrative Procedure Act.

(2) The rules, regulations, and licensing standards shall have the effect of law and shall include but not be limited to the following:

(a) Licensure application and renewal, including forms, procedures, and requirements.

(b) Operational requirements.

- (c) Practice standards to assure quality of care.
- (d) Practice standards to assure the health, safety, welfare, well-being, and comfort of persons receiving care and services.
- (e) Confidentiality of clients' records.
- (f) Criteria and protocols to assure uniform and quality assessment, diagnosis, evaluation, and referral to appropriate level of care.
- (g) Administration, personnel, and staffing requirements.
- (h) Survey and complaint investigations, including investigations into allegations that a provider is operating without a license.
- (i) License types, including provisional licenses.
- (j) Denial, revocation, suspension, and nonrenewal of licenses, and the appeals therefrom.
- (k) Planning, construction, and design of the center to ensure the health, safety, welfare, well-being, and comfort of persons receiving care and services.
- (l) The requirement that each free-standing birth center be located within a ground-travel-time distance from a general acute care hospital providing obstetric services which allows for an emergency cesarean delivery to begin within thirty minutes of the decision that a cesarean delivery is necessary.
- (m) Requirements for each free-standing birth center to have agreements or written policies and procedures with other agencies, institutions, or individuals for services to clients including but not limited to:
 - (i) Laboratory and diagnostic services.
 - (ii) Obstetric consultation services.
 - (iii) Pediatric consultation services.
 - (iv) Transport services.
 - (v) Obstetric and newborn acute care in hospitals.
- (n) Requirements for each free-standing birth center to have an established consultation, collaboration, or referral system, in both emergency and non-emergency circumstances, that falls outside the scope of birth center practice, to meet the needs of a mother or baby.
- (o) Requirements for transferring and transporting clients to hospitals; protocols for the transfer of any patient to a licensed hospital; and arrangements with a local ambulance for the transport of emergency patients to a licensed hospital.
- (p) Requirements for documentation of adequate prenatal care during the pregnancy.
- (q) Requirements for documentation and evidence that the delivery is expected to be low-risk, singleton birth, and vertex presentation.
- (r) Requirements for meeting specific national standards for birth centers published or established by the American Association of Birth Centers, as well as requirements for accreditation by the Commission for Accreditation of Birth Centers.
- (s) Other regulations or standards that will ensure proper care and treatment of persons receiving care and services at the free-standing birth center, that may be deemed necessary by the department for an effective administration of this Part.

C.(1) No free-standing birth center shall be required to obtain a license pursuant to this Part until the initial rules, regulations, and licensing standards are promulgated by the Louisiana Department of Health pursuant to the Administrative Procedure Act.

(2) Each entity that meets the definition of free-standing birth center as defined in this Part shall submit an initial licensing application and fee to the department within ninety days of the promulgation of the initial rules, regulations, and licensing standards. If the entity is not licensed within one hundred twenty days after submission of its initial licensing application and fee, the entity shall cease operations until such time as it is licensed as a free-standing birth center by the department.

RS 40:2180.26 — License issuance; application; fees; onsite inspections

he department and shall contain such information

as the department may require. Additional information required by the department shall be provided by the applicant as requested.

B. Each application for licensure and each license renewal application shall be accompanied by a nonrefundable license fee in the amount required pursuant to R.S. 40:2006.

C. Following receipt of the completed initial licensing application and fee, the department shall perform an onsite survey and inspection. If, after the onsite survey and inspection, the Louisiana Department of Health finds that the free-standing birth center meets the requirements of this Part and the licensing standards adopted pursuant to this Part, a license shall be issued.

D. As a condition for renewal of license, the licensee shall submit to the department a completed annual renewal application on the forms prescribed by the department, which shall contain all information required by the department. Additionally, the annual renewal licensing fee shall be submitted with the annual renewal application. Upon receipt of the completed annual renewal application and the annual renewal fee, the department shall determine if the free-standing birth center continues to meet the requirements established pursuant to this Part and the licensing standards adopted pursuant to this Part. The department may perform an onsite survey and inspection upon annual renewal. If the provider continues to meet the requirements established pursuant to this Part and the licensing standards adopted pursuant to this Part, a license shall be issued which shall be valid for up to one year, unless otherwise revoked or suspended.

E. The department may perform an onsite survey or inspection at reasonable times as necessary to ensure compliance with this Part and the licensing standards adopted pursuant to this Part.

RS 40:2180.27 — Operation without license; penalty

violation of these

provisions shall be charged with a misdemeanor. Upon conviction, that center shall be fined no less than two hundred fifty dollars and no more than one thousand dollars. Each day of violation shall constitute a separate offense. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to ensure enforcement.

B. If a free-standing birth center is operating without a license issued by the

department, the department shall have the authority to issue an immediate cease and desist order to the center. Any center receiving a cease and desist order from the department shall immediately cease operations until such time as that provider is issued a license by the department.

C. The department shall seek an injunction in the Nineteenth Judicial District Court against any provider or center who receives a cease and desist order from the department, as provided in Subsection B of this Section, and who does not immediately cease operations. Any provider or center against whom an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

RS 40:2180.28 — Right of inspection; records; reports

inspection by the department, the state fire marshal, and any other authorized governmental entity.

B. Every applicant or licensee shall keep all records and make all reports as the department shall prescribe, and all necessary records shall be available for inspection by the department or other authorized governmental entity.

RS 40:2181 — Short title

he webmaster.

RS 40:2182 — Definitions

thin or

independently of a parent organization.

(2) "Core services" are nursing services, physician services, social work services, counseling services, and support services, including trained volunteers, and bereavement and pastoral care.

(3) "Department" means the Louisiana Department of Health.

(4) "Hospice" means an autonomous, centrally administered, medically directed program providing a continuum of home, outpatient, and homelike inpatient care for the terminally ill patient and his family. It employs an interdisciplinary team to assist in providing palliative and supportive care to meet the special needs arising out of the physical, emotional, spiritual, social, and economic stresses which are experienced during the final stages of illness and during dying and bereavement.

(5) "Interdisciplinary team" includes representatives from all of the core services as evidenced by documentation, planning, and team meetings.

(6) "Palliative care" means the reduction or abatement of pain or other troubling symptoms by appropriate coordination of all services of the hospice care team required to achieve needed relief of distress.

(7) "Terminally ill" refers to a medical prognosis of limited expected survival, of approximately six months or less at the time of referral to a hospice, of an individual who is experiencing an illness for which therapeutic strategies directed toward cure and control of the disease alone are no longer appropriate.

RS 40:2183 — Licensure required; transferability of license; fees; moratorium

cation for licensure shall be made by a hospice to the department on forms furnished by the department. Upon determination that the hospice is in compliance with the minimum requirements for licensure as established by the department and with all other applicable state and local laws and regulations, the department shall issue a license for such period as may be provided in the published regulations of the department, but not to exceed two years.

C. Repealed by Acts 1999, No. 657, §2, eff. July 1, 1999.

D. The license shall be displayed in a conspicuous place inside the hospice program office; shall be valid only in the possession of the person or public agency to which it is issued; shall not be subject to sale, assignment, or other transfer, voluntary or involuntary; and shall not be valid for any hospice other than the hospice for which originally issued.

E. Notwithstanding any other provision of law to the contrary, the department shall implement a moratorium on the issuance of licenses for hospices. The department shall not approve for licensure any new hospice until December 31, 2008, in order to allow the department and the hospice industry to examine the uncontrolled growth in providers and Medicaid expenditures that could adversely affect the quality of care available to patients in Louisiana. The moratorium shall apply only to applications for licensure for hospices not postmarked by July 1, 2007. Applications received by the department shall be postmarked no later than 12:00 a.m. on July 1, 2007, to be accepted and reviewed for application for hospice licensure. Any applications postmarked after 12:00 a.m. July 1, 2007, shall be returned to the applicant. All applications shall be accompanied by a licensing fee and applicants shall be ready to be fully operational and prepared for a licensing survey within ninety days of submission of the application. If an applicant is unable to comply with the survey within ninety days of submission of the application, no license shall be issued under the moratorium. A moratorium would allow the department and hospice industry sufficient time to review the current standards, examine the issues, and promulgate new regulations deemed necessary to resolve uncontrolled growth and other issues identified. The provisions of this Subsection shall not apply to state correctional facilities, including Allen Correctional Center and Winn Correctional Center.

RS 40:2184 — Rules, regulations, and standards for licenses

rnish all forms necessary under the provisions of this Part relative to the licensure of hospices.

(2) Promulgate rules and regulations to carry out the provisions of this Part in accordance with the Administrative Procedure Act. The rules shall include but not be limited to the following:

(a) The qualifications for professional and ancillary personnel in order to adequately furnish hospice care, including a requirement that professional personnel shall possess current Louisiana licenses or certificates which are otherwise required by law. The position of social worker shall not require board certification but shall require a master's degree from an accredited graduate school of social work.

(b) Standards for the organization and quality of patient care.

(c) Procedures for maintaining records.

(d) Standards for inpatient facilities, including minimum requirements for visitation.

The rules shall include the right to consensual nonsexual physical contact, such as hand-holding or hugging, between a patient and his visitor.

(e) Requirements for informed consent.

(f) Standards for contractual arrangements and professional ancillary hospice services.

(g) Policies and procedures for:

(i) Admissions criteria.

(ii) Disclosure of financial information.

(iii) Patient and family rights.

- (iv) Utilization review.
- (v) Confidentiality.
- (vi) Quality assurance.
- (vii) Staff orientation and training.
- (viii) Continuing education of interdisciplinary team members.
- (h) Requirements for minimum volunteer services of at least five percent of the total hours of service.
- (i) Interdisciplinary team requirements.
- (j) Implementation of the provisions of R.S. 40:2192.

RS 40:2185 — Inspections

whenever feasible.

B. It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals, not to exceed one year, or such shorter period as may be deemed necessary by the department, and without previous notice, all hospices subject to the provisions of this Part in order to secure compliance with or prevent violation of this Part and department rules and regulations adopted pursuant to this Part.

RS 40:2186 — Complaints

n as is authorized by this Part.

B. The department shall receive, record, and dispose of complaints in accordance with rules and regulations promulgated in accordance with the provisions of this Part.

RS 40:2187 — Revocation, suspension, or refusal to renew license; issuance of fines; written notice

impose fines, if an applicant has failed to comply with the provisions of this Part or any published rule or regulation of the department relating to hospices. If a license is denied, revoked, or withdrawn, or a fine is imposed, the action shall be effective when made, and the department shall notify the applicant or licensee of such action in writing immediately. The notice shall state the reason for the denial, revocation, or withdrawal of the license or imposition of such fine. No fine imposed pursuant to this Section shall exceed five hundred dollars.

RS 40:2188 — Refusal, revocation, or suspension of license; imposition of fine; appeal procedure

on of a license, or the imposition of a fine, the agency, institution, corporation, person, or other group affected by such action shall have the right to appeal such action by submitting a written request to the secretary of the department within thirty days after receipt of the notification of the refusal, revocation, suspension of a license, or imposition of a fine. The appeal hearings shall take place no later than thirty days after the request therefor, and shall be conducted in accordance with applicable regulations of the department and the provisions of R.S. 46:107, et seq. This provision shall in no way preclude any party aggrieved by any act or inaction of the department from seeking judicial relief by a writ of mandamus to require compliance with this Part.

RS 40:2189 — Operating without or in violation of license; injunctive relief

"hospice" in its name or represents itself as a "hospice"

without being licensed as provided herein, the department may cause a civil suit for injunctive relief to be instituted in a district court in the parish in which the facility is located, including a temporary restraining order, to restrain the institution, agency, corporation, person or persons, or any other group operating the facility from continuing the violation.

Nothing in this Section shall be construed to prohibit the use of the term "hospice" by nonprofit organizations qualifying under the provisions of 26 CFR 1.501(c)(3)-1, for the express purpose of providing support to licensed hospices in Louisiana.

RS 40:2190 — Time for making license application

iate rules and regulations necessary for the administration of this Part, and shall cause the publication in the Louisiana Register of the same not later than February 20, 1989.

C. No hospice as defined in this Part shall operate in Louisiana without a license issued in accordance with the provisions of R.S. 40:2183 after July 1, 1989.

RS 40:2191 — Disposal of deceased patient's unused controlled substances

ed substances under 21 CFR 1308 may transfer to the hospice for immediate disposal pursuant to the following provisions:

- (1) Each hospice shall establish a written procedure to ensure safe disposal of unused controlled substances by a hospice nurse at the time of a patient's death.
- (2) Upon the death of a patient receiving hospice services, in the presence of a witness, the hospice nurse shall record in the medical record the name and quantity of each unused controlled substance.
- (3)(a) The hospice nurse shall conduct immediate disposal of the controlled substance at the site of care by complying with the Environmental Protection Agency and Drug Enforcement Administration guidelines for safe disposal or immediate mail-back to a registered authorized collector pursuant to 21 CFR 1317.40.
- (b) If conducting immediate disposal at the site of care, the hospice nurse shall perform the disposal in the presence of a witness, who shall sign a document indicating their witnessing the disposal.
- (c) If participating in immediate mail-back to a registered authorized collector, the hospice nurse shall deposit the unused controlled substance into the mail-back envelope and seal the envelope at the site of care. This shall be done in the presence of a witness, who shall sign a document indicating their witnessing the hospice nurse sealing the controlled substance in the mail-back envelope. The hospice nurse shall immediately initiate its delivery to the registered authorized collector.
- (4) Hospice employees shall not remove any controlled substances from the site of care, except for the hospice nurse responsible for disposal pursuant to Subparagraph (3)(c) of this Subsection.
- (5) The hospice nurse shall record the method of disposal in the medical record.

B. A copy of the written policy established pursuant to this Section shall be furnished to each patient and to the patient's healthcare representative at the time the patient is enrolled in hospice.

RS 40:2192 — State certified hospice attendant; certification eligibility; registry

license issued by the Louisiana Department of Health who shall be eligible to be employed as a nonlicensed person by a provider licensed to provide hospice services pursuant to this Part if the following provisions are satisfied:

- (1) He shall not have been convicted of a sex offense as defined by R.S. 15:541.
- (2) While incarcerated, he shall have successfully completed the training required by Subsection B of this Section.
- (3) He shall hold a certification issued by the Department of Public Safety and Corrections.

(4) He shall submit notice of his certification to the Louisiana Department of Health in a manner prescribed by the department.

(5) There are no federal restrictions or prohibitions against the person providing hospice services.

B. The Department of Public Safety and Corrections, by a division of the department that has secured hospice provider licensure pursuant to this Part, shall have the authority to provide state certified hospice attendant training to an eligible inmate in state custody under the supervision and direction of a licensed physician or registered nurse. The training shall include a minimum of:

(1) Forty hours of classroom training, which shall include sixteen hours of skills training.

(2) Four hours of orientation to the clinical training site.

(3) Forty hours of clinical training, which shall include hands-on patient or resident care.

C. The Department of Public Safety and Corrections and the Louisiana Department of Health shall jointly approve a program curriculum for training state certified hospice attendants, which shall include the time allotted for each unit or subject and the time allotted to skills instruction including but not limited to:

(1) At least sixteen hours in the following areas, prior to any direct contact with a patient or resident:

(a) Communication and interpersonal skills.

(b) Infection control.

(c) Safety and emergency procedures.

(d) Promoting patient or resident independence.

(e) Respecting patient or resident rights.

(2) At least sixteen hours of supervised skills practical training prior to clinical instruction.

(3) Basic caregiving skills.

(4) Personal care skills.

(5) Mental health and social service needs.

(6) Care of residents with intellectual disabilities or other cognitive impairments.

(7) Basic restorative services.

(8) Residents' rights.

D. Upon successful completion of the training program provided for in Subsection B of this Section, the Department of Public Safety and Corrections shall issue a certificate of completion to the inmate. The Department of Public Safety and Corrections shall promulgate rules and regulations necessary to provide for the issuance of the certificate of completion which shall include the ability to earn the certificate prior to release and any conditions that may be required to maintain certification in good standing until release.

E. The Louisiana Department of Health shall establish a state certified hospice attendant registry for the purpose of maintaining an eligibility roster of individuals who have complied with the provisions of this Section to be employed as a state certified hospice

attendant. Access to the registry shall be limited to an inquiry for a specific state certified hospice attendant. The Louisiana Department of Health shall promulgate rules and regulations necessary for the maintenance of the registry which shall include but not be limited to the form or format in which a certified hospice attendant shall provide and update his information.

F. The Department of Public Safety and Corrections, in consultation with the Louisiana Department of Health, shall publish rules and regulations to implement the curriculum established pursuant to Subsection C of this Section and shall provide for minimum continuing education or training requirements to maintain state certification in good standing.

G. Nothing in this Section shall be construed to establish a right to employment with any licensed hospice provider. However, upon employment the hospice provider shall disclose to its employees, patients, and patients' immediate family members that the state certified hospice attendant has successfully completed all state certification training and registry requirements for employment, including successful completion and release from a sentence served at a state prison.

RS 40:2193 — Short title

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RS 40:2193.1 — Purpose and definitions

y, and welfare

of children in pediatric day health care facilities and to provide for the safe operation of these facilities. The department shall consult with the following organizations in the development of the rules and regulations:

- (1) The Early Steps Program (Part C, IDEA), office of public health, Louisiana Department of Health.
- (2) The Children's Special Health Services Program, office of public health, Louisiana Department of Health.
- (3) The Bureau of Community Supports and Services, Louisiana Department of Health.
- (4) The state interagency coordinating council for Early Steps Program.
- (5) Hospitals that operate Level III regional neonatal intensive care units.
- (6) The Arc of Louisiana.
- (7) The Louisiana Chapter, American Academy of Pediatrics.
- (8) The child care assistance program of the state Department of Education.

B. For purposes of this Part, the following definitions apply:

- (1) "Department" means the Louisiana Department of Health.
- (2) "License" means a license issued by the Louisiana Department of Health to a pediatric day health care facility under this Part.
- (3) "Licensee" means the person, partnership, company, corporation, association, organization, professional entity, or other entity to whom a license is granted by the licensing agency under this Part and upon whom rests the ultimate responsibility and authority for the conduct of the pediatric day health care facility.

(4) "Medically fragile" means an individual who has a medically complex condition characterized by multiple, significant medical problems that require extended care. Medically fragile problems include but are not limited to severe lung disease requiring oxygen, severe lung disease requiring ventilator or tracheotomy care, complicated spina bifida, heart disease, malignancy, asthmatic exacerbations, cystic fibrosis exacerbations, neuromuscular disease, encephalopathies, and seizure disorders.

(5) "Pediatric day health care facility" means a facility that may operate seven days a week, not to exceed twelve hours a day, to provide care for medically fragile children under the age of twenty-one, including technology-dependent children who require close supervision. Care and services to be provided by the pediatric day health care facility shall include but shall not be limited to:

- (a) Nursing care, including but not limited to tracheotomy and suctioning care, medication management, and IV therapy.
 - (b) Respiratory care.
 - (c) Physical, speech, and occupational therapies.
 - (d) Assistance with aids of daily living.
 - (e) Transportation services.
 - (f) Education and training.
- (6) "Secretary" means the secretary of the Louisiana Department of Health.

RS 40:2193.2 — License; requirements

this Part.

B. A license issued to a pediatric day health care facility shall:

- (1) Be valid for one year from the date of issuance, unless revoked or suspended prior to that date.
- (2) Expire on the last day of the twelfth month after date of issuance, unless otherwise renewed.
- (3) Be on a form prescribed by the department.
- (4) Not be transferrable or assignable.
- (5) Be valid for only one geographic location.
- (6) Be issued only for the person and premises named in the license application.
- (7) Be posted in a conspicuous place on the licensed premises.

RS 40:2193.3 — License issuance; application; renewal; on-site inspection

ed by the department.

B. Each application for licensure and application renewal of licensure must be accompanied by a nonrefundable license fee in the amount set by the department in accordance with R.S. 40:2006. The fees herein levied and collected shall be paid into the general fund.

C. Following receipt of the completed application and licensing fee, the department shall issue a license if, after an on-site survey and inspection, it finds that the pediatric day health care facility meets the requirements established under this Part and the licensing standards adopted in pursuance thereof. The department must perform an on-site survey and inspection of the pediatric day health care facility prior to the issuance of the initial license.

D. As a condition for renewal of a license, the licensee must submit to the department a completed annual renewal application on a form prescribed by the department, along with the annual renewal licensing fee. Upon receipt of the completed annual renewal application and the annual renewal licensing fee, the department shall determine if the pediatric day health care facility continues to meet the requirements established under this Part and the licensing standards adopted in pursuance thereof. The department may perform an on-site survey and inspection upon annual renewal. If the pediatric day health care facility continues to meet the requirements established under this Part and the

licensing standards adopted in pursuance thereof, a license shall be issued which is valid for one year.

E. The department may perform an on-site inspection at reasonable times as necessary to ensure compliance with this Part.

RS 40:2193.4 — Department rules; regulations; licensing standards

y into effect the provisions of this

Part. Such rules and regulations shall include but not be limited to the following:

- (1) Licensure application and renewal application procedures and requirements.
- (2) Operational and personnel requirements.
- (3) Practice standards to assure quality of care.
- (4) Practice standards to assure the health, safety, welfare, and comfort of patients and clients.
- (5) Survey and complaint investigations.
- (6) Initial and annual renewal of licenses.
- (7) Provisional licenses.
- (8) Denial, revocation, suspension, and nonrenewal of licenses, and the appeals therefrom.
- (9) Construction and design of the facility to ensure the health, safety, welfare, and comfort of patients and clients.
- (10) General compliance with the current version of "Children with Special Needs Standards from Caring for Our Children" as developed by the American Academy of Pediatrics, the American Public Health Association, and the National Resource Center for Health and Safety in Child Care.
- (11) Such other regulations or standards as will ensure proper care and treatment of patients or clients as may be deemed necessary for an effective administration of this Part.

RS 40:2193.5 — Additional licenses; moratorium; exceptions

iana Department of Health shall

implement a moratorium on additional licenses for pediatric day health care facilities, and shall not approve any additional pediatric day health care facilities.

B.(1) The prohibition established by the provisions of this Section shall apply only to applications for new facilities not approved prior to July 1, 2016. The prohibition shall become enforceable on July 1, 2016, and shall remain in effect until July 1, 2017.

(2) The prohibition established by the provisions of this Section shall not apply to the replacement of existing facilities.

C. The moratorium provided in this Section shall not apply in cases in which a prospective pediatric day health care facility certifies to the department that it will accept no payment for services that is funded wholly or in part by state funds, including but not limited to reimbursement from the state Medicaid program. No pediatric day health care facility that the department licenses pursuant to the exception authorized in this Subsection may enroll as a provider in the Medicaid program of this state.

RS 40:2193.6 — Cameras; condition of licensure

and audio. Compliance

with the provisions of this Section shall be a condition of a pediatric day health care facility's

licensure by the department as provided in this Part.

B. The director of each pediatric day health care facility shall develop and share with all facility employees and parents of children served at the facility a policy relative to cameras at the facility that, at minimum, provides for all of the following:

- (1) The location and placement of cameras in any room, except a location identified in Paragraph (2) of this Subsection, in which children may be cared for.
 - (2) A prohibition against the recording of the interior of a restroom or any other area in which a child's bare body is normally exposed.
 - (3) A requirement that written notice of the cameras be provided to facility employees, parents of children served at the facility, and authorized visitors.
 - (4) A requirement that all employees who provide services at the facility receive training concerning the provisions of this Section.
 - (5) Provisions relative to the duration of retention of video and audio data recorded by the devices required by this Section and procedures for data storage and disposal.
 - (6) Procedures for protecting children's privacy and for determining to whom and under what circumstances video or audio data may be disclosed. Such policies shall restrict authorization to review video or audio data recorded by the devices required by this Section to the following persons, exclusively:
 - (a) The director of the pediatric day health care facility.
 - (b) The secretary of the department or his designee.
 - (c) A parent of a recorded child pursuant to an allegation or evidence of abuse, neglect, or injury.
 - (d) Any member of law enforcement while investigating, in his official capacity, an allegation or evidence of abuse, neglect, or injury.
 - (e) Any party designated in a subpoena issued by a court of law.
 - (7) A requirement that any person who views a recording showing what he believes could be a violation of state or federal law shall report the suspected violation to the appropriate law enforcement agency.
 - (8) A requirement that any camera installed pursuant to this Section be in compliance with the National Fire Protection Association Life Safety Code.
- C. Recordings made by cameras at pediatric day health care facilities installed and operated in accordance with this Section shall be kept confidential and are not public records; however, such a recording may be viewed by a party designated in Paragraph (B)(6) of this Section.
- D. This Section shall be known and may be cited as the "Lane Allen Gottschalck Law".

RS 40:2194.1 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2194.3 — Repealed by Acts 2001, No. 1137, §1.

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RS 40:2194.4 — Repealed by Acts 2001, No. 1137, §1.

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RS 40:2195 — Community-based and rural health care program

th care

program to expand health care and medical services access to local communities and rural areas and to encourage development of greater access to health care services for indigent and low-income citizens of the state.

B. The secretary of the Louisiana Department of Health shall establish by rule and regulation two distinctly separate processes for the criteria, application, consideration, selection, and awarding of a grant for an urban community-based health care program and a rural health care program. In order to formalize the accountability of these two programs, the secretary of the Louisiana Department of Health shall also, by rule and regulation, establish distinctly separate periodic review and reporting requirements for an urban community-based health care program and a rural health care program. Such rules and regulations shall be subject to review and approval by the Joint Legislative Committee on the Budget.

RS 40:2195.1 — State office of rural health

al health care program as provided in

R.S. 40:2195 et seq.

(2) Provide state general funds, as appropriated, to qualified grantees for programs to increase access to primary and preventive health care in rural areas.

(3) Provide state general funds, as appropriated, to qualified grantees as start-up funding for establishing primary care health clinics to serve low-income citizens, particularly in rural areas.

(4) Provide state general funds, as appropriated, to qualified grantees as matching funds for grants designed to provide health services to low-income citizens, particularly in rural areas.

(5) Provide technical assistance and grants to aid qualified rural hospitals in attaining designation as critical access hospitals in accordance with the Medicare rural hospital flexibility program, as provided in 42 U.S.C. 1395i-4.

(6) Provide statewide technical assistance in conjunction with the Louisiana Rural Health Association on establishment of rural health clinics and on grant writing, especially related to rural health outreach grants, telehealth grants, and other grants available to increase rural health access.

(7) Participate in Robert Wood Johnson Foundation's southern rural access program and similar programs to improve access to health services for the rural population.

(8) Initiate efforts for recruitment and retention of primary care professionals through the state loan repayment program as provided in R.S. 40:1205.4, and any other similar programs to increase the number of healthcare professionals in rural areas.

(9) A primary function of this office shall be to increase the supply of physicians and other healthcare providers to the underserved areas of this state. This office may seek grants and financial inducements to entice medical students, nurse practitioners, physician

assistants, and nurses to locate in the rural area. This office may seek funds for equipment and start-up costs for medical providers wishing to locate in underserved areas.

(10) Reorganization of the delivery of medical care shall be undertaken such that rural hospitals become centers of primary and preventive health delivery and medical services, including but not limited to medical education, immunizations, early detection of disease states, and dietary instruction.

(11) Develop and implement a strategic plan for the purposes of maintaining, enhancing, and expanding services currently offered by rural healthcare providers, including rural hospitals as defined in R.S. 40:1189.3, to obtain additional grants and funding from any and all public or private entities, including but not limited to the United States Department of Health and Human Services, the United States Department of Agriculture, and charitable organizations and foundations. In developing and implementing a strategic plan pursuant to this Paragraph, the secretary of the Louisiana Department of Health shall consult with rural healthcare provider organizations. In addition the secretary shall submit a report to the legislature at least sixty days prior to the beginning of each regular session of the legislature detailing the progress in implementing the strategic plan. The report shall also set out the goals and objectives of the strategic plan for the next state fiscal session including the level of funding necessary to achieve those goals and objectives.

B. It is further declared that the Louisiana strategic plan against poverty is the policy and responsibility of the state of Louisiana such that first priority shall be given to the comprehensive, coordinated use of resources, personnel, programs, and services to alleviate the pervasive, persistent poverty that limits the progress of the state and constricts the lives of its citizens. With this concerted effort, the state declares the alleviation of poverty in Louisiana to be its top priority and dedicates all of its resources to supporting and enhancing comprehensive community development in order to strengthen the state's economic and social fabric, thereby moving the state and its people forward.

C. The purpose of this Section is to stimulate business and industrial growth and provide for a better delivery of health and medical services in these areas of the state by the coordination of economic development and healthcare resources, whether such resources originate from state or federal plans or programs, and to create priority healthcare and economic development zones to better serve the citizens of the region.

RS 40:2195.2 — Grants and funding; Community-Based and Rural Health Care Fund

1) Grants to rural hospitals in amounts not to exceed seventy-five thousand dollars per year in order to increase access to emergency health services to indigent and low-income citizens in rural areas.

(2) Start-up funding in amounts not to exceed one hundred fifty thousand dollars for the purpose of providing initial start-up costs for establishment of primary care health clinics designed to serve indigent and low-income citizens.

(3) Matching funds in amounts not to exceed fifty thousand dollars per year to local communities or parishes to encourage physicians to establish their practices in local communities and rural areas by providing minimum salary guarantees.

(4) Matching funds for demonstration projects, including but not limited to

establishment or acquisition of mobile health clinics, to organizations providing healthcare services to indigent and low-income citizens living in local communities and rural areas; however, such projects shall be required to secure other local or federal funding.

(5) Matching funds for federal grants designed to provide health services to indigent or low-income citizens in local communities and rural areas.

B. Repealed by Acts 2001, No. 1185, §8, eff. July 1, 2001.

RS 40:2195.3 — Rural referral centers

provide increased support for hospitals which are classified as rural referral centers.

RS 40:2195.4 — Rules and regulations

for the community-based and rural health care program.

The rules and regulations promulgated by the department shall establish criteria and priorities for granting funds authorized by this Part.

RS 40:2196 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2197 — Licensure of rural health clinics

clinic service under

Medicaid or Medicare, a rural health clinic, as defined herein, shall be licensed as such by the Louisiana Department of Health. Designated Medicaid reimbursement for any service as a rural health clinic in the state, which is not licensed as such, is prohibited.

B. The department shall prescribe and publish minimum standards, rules, and regulations as necessary to effectuate the provisions of this Section. Such rules and regulations shall include but not be limited to all of the following:

- (1) Operational and personnel requirements.
- (2) Practice standards to assure quality of care.
- (3) Licensure application procedures and requirements.
- (4) Initial and annual renewal of license investigations.
- (5) Complaint investigations.
- (6) Reimbursement policies, procedures, and requirements.
- (7) Denial, revocation, and nonrenewal of licenses and the appeals thereof.

C. A license issued under the provisions of this Part is not transferrable or assignable between persons, rural health clinics, or both.

D. For purposes of this Part, a "rural health clinic" means a facility which is engaged in furnishing primary health services to outpatients by physicians, physician assistants, or nurse practitioners, including but not limited to health services related to family medicine, internal medicine, pediatrics, obstetrics, and gynecology, and such services and supplies incident thereto. Such facility shall be located in an area that is not an urbanized area, as defined by the Bureau of the Census, in which there are insufficient numbers of needed healthcare practitioners, as determined by the secretary of the United States Department of Health and Human Services, and which has been determined to be a rural health clinic by the secretary of that department under 42 U.S.C. 1395aa(a).

E. Nothing in this Part shall restrict the ability of any private physician to receive reimbursement under Medicaid or Medicare for services provided other than rural health clinic services.

F.(1) No provision of this Part, or any rule or regulation adopted pursuant thereto, restricting location of a rural health clinic shall apply to an applicant for licensure as a rural health clinic if the applicant or a related entity agreed to establish such clinic as part of an agreement providing for the sale or transfer of a hospital service district hospital approved by the electorate of the district prior to July 1, 1997.

(2) A rural health clinic described in Paragraph (1) of this Subsection shall not be required to be licensed by the state in order to receive certification as a rural health clinic by the Health Care Financing Administration, or its successor, for a period of one year after July 15, 1997.

G. Notwithstanding the provisions of Subsection A of this Section to the contrary, a rural health clinic that meets the definition of the Health Care Financing Administration, or its successor, as hospital-based and is operated by a rural hospital as defined in R.S. 40:1189.3 shall not be required to secure a separate license to receive certification by the Health Care Financing Administration, or its successor, and designated reimbursement under Medicaid and Medicare as long as the rural hospital meets state licensure requirements. Such hospital shall assure that the clinic meets all other requirements of this Section, as well as any pursuant rules and regulations promulgated by the Louisiana Department of Health pertaining to rural health clinics. The provisions of this Subsection shall only become effective if and when the Louisiana Department of Health receives a determination from the Health Care Financing Administration, or its successor, that rural health clinic services are considered outpatient hospital services and eligible for uncompensated care costs reimbursement only if the rural health clinic services are not performed in a separately licensed facility.

RS 40:2198.11 — Definitions

cal Examiners.

(2) "Department" means the Louisiana Department of Health.

(3) "Pain management clinic" means a publicly or privately owned facility which primarily engages in the treatment of pain by prescribing narcotic medications.

(4) "Physician" means an individual who possesses a current, unrestricted license to practice medicine in Louisiana, who during the course of his practice has not been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance and who has not during the course of his practice had board action taken against his medical license as a result of dependency on drugs or alcohol.

RS 40:2198.12 — Licensure of pain management clinics; rules and regulations

an certified in the subspecialty of pain management

by a member board of the American Boards of Medical Specialties. All pain management clinics shall be licensed by the department.

B.(1) The department shall prescribe and publish minimum standards, rules, and regulations as necessary to effectuate the provisions of this Section. Such rules and regulations shall include but not be limited to all of the following:

- (a) Operational and personnel requirements.
 - (b) Practice standards to assure quality of care, including the requirement that prescriptions may be written for the medication to last a period of no longer than thirty days without any refills. A refill may be authorized only if the individual is personally examined by the pain specialist.
 - (c) Licensure application procedures and requirements.
 - (d) Initial and annual renewal of license investigations.
 - (e) Complaint investigations.
 - (f) Reimbursement policies, procedures, and requirements.
 - (g) Denial, revocation, and nonrenewal of licenses and the appeals thereof.
- (2) The board shall prescribe and publish minimum standards with respect to pain management clinics and the physicians who may practice in such clinics.
- C. A license issued under the provisions of this Part is not transferrable or assignable between persons, pain management clinics, or both.
- D.(1) The following shall apply to pain management clinics operating on or before June 15, 2005, pursuant to an occupational license or certificate of operation which has not been suspended or revoked:
- (a) The pain management clinic shall not be owned, either in whole or in part, by or have any contractual relationship, whether through employment or by independent contract, with a physician who during the course of his practice has been denied the privilege of prescribing, dispensing, administering, supplying, or selling any controlled dangerous substance and who has, during the course of his practice had board action taken against his medical license as a result of dependency on drugs or alcohol.
 - (b) The pain management clinic shall be operated by a medical director who shall be a physician.
 - (c) The pain management clinic shall not be owned, in whole or in part, by a person who has been convicted of or who has pled guilty or nolo contendere to an offense that constitutes a felony.
 - (d) The pain management clinic shall not be owned, in whole or in part, by a person who has been convicted of or who has pled guilty or nolo contendere to an offense that constitutes a misdemeanor, the facts of which relate to the distribution or illegal prescription of any narcotic.
 - (e) The pain management clinic shall operate as an urgent care facility, offering primary or acute health services in addition to caring for those with chronic pain and shall have held itself out to the public as such.
 - (f) The pain management clinic shall implement policies and procedures that are consistent with all pain management regulations issued by the State Board of Medical Examiners.
 - (g) A pain management clinic which is exempted from the requirement of being owned and operated by a physician certified in the subspecialty of pain management may relocate and continue to be exempted from the requirement of being owned and operated by a physician certified in the subspecialty of pain management if the new location is in the

same parish in which the original clinic was located.

(h) All pain management clinics shall submit to the department all relevant documentation proving valid operation before June 15, 2005, including but not limited to occupational licenses or certificates of operation issued by local authorities.

(2) A pain management clinic that is not licensed by or has not made an application to the department for licensure under this Part on or before August 1, 2014, shall not be licensed under the exemption to Subsection A of this Section as provided for in this Subsection.

E. The provisions of this Part shall not apply to any of the following:

(1) A medical or dental school or outpatient clinic associated with a medical or dental school.

(2) A hospital, including any outpatient facility or clinic of the hospital that is separated physically from the hospital, or any other medical or dental facility that is licensed and regulated by the department.

(3) A hospice established pursuant to R.S. 40:2181 et seq.

(4) A facility maintained or operated by the state of Louisiana or a governmental entity of this state.

(5) A clinic maintained or operated by the United States or by any of its departments, offices, or agencies.

RS 40:2198.13 — Annual fee; use of proceeds

Monies collected for annual fees shall be used for the investigation and enforcement of the provisions of this Part.

RS 40:2199 — Violations; penalties; fines; notice; hearings; appeal; licensed entities

th care facility, substance abuse/addiction treatment facility,

ambulatory surgery center, case management facility, urine drug screening facility, mobile cholesterol screening facility, end stage renal disease facility, supplier of portable X-ray services, home health agency, hospice, hospital, ICF/DD facility, outpatient abortion facility, or any other healthcare provider licensed or certified by the Louisiana Department of Health.

(2) The opening or operation of a facility without a license or registration therefor shall be a misdemeanor, punishable upon conviction by a fine of not less than one thousand dollars nor more than five thousand dollars. Each day's violation shall constitute a separate offense.

(3) It shall be a violation to operate a facility which holds a current license, registration, or certificate if one of the following apply:

(a) As a result of a licensure or certification survey, it is determined by an agency to be in violation of one or more conditions of licensure or certification and has failed to correct such conditions of violation within the time prescribed by law or by the agency.

(b) As a result of one or more third-party complaints, it is determined by an agency to have been in violation of one or more conditions of licensure or certification resulting directly in the incident which gave rise to such third-party complaint.

(4) Any violation provided for in Paragraph (3) of this Subsection shall entitle both the facility and the complainant to an administrative appeal.

(5) A "facility" shall not include any individual healthcare provider who is licensed

or certified by one of the boards under the Louisiana Department of Health. These boards include but are not limited to the Louisiana Board of Pharmacy, Louisiana Physical Therapy Board, Louisiana State Board of Medical Examiners, Louisiana Board of Dentistry, and the Louisiana State Board of Optometry Examiners.

B.(1) Any person or entity violating the provisions of Paragraph A(3) of this Section when such a violation poses a threat to the health, safety, rights, or welfare of a resident or client may be liable for civil fines in addition to any criminal action which may be brought under other applicable laws. The department shall adopt rules in accordance with the Administrative Procedure Act which define specific classifications of violations, articulate factors in assessing civil fines including mitigating circumstances such as an effective corporate compliance program, and explain the treatment of continuing and repeat deficiencies.

(2) A schedule of civil fines by class of violations shall be as follows:

(a) Class A - Violations that create a condition or occurrence relating to the operation and maintenance of a facility, which result in death or serious harm to a resident or client.

Civil fines shall not exceed two thousand five hundred dollars for the first violation and shall not exceed five thousand dollars per day for repeat violations.

(b) Class B - Violations that create a condition or occurrence relating to the operation and maintenance of a facility which create a substantial probability that death or serious physical or mental harm to a resident or client will result from the violation Civil fines shall not exceed one thousand five hundred dollars for the first violation and shall not exceed three thousand dollars per day for repeat violations.

(c) Class C - Violations that create a condition or occurrence relating to the operation and maintenance of a facility which create a potential for harm by directly threatening the health, safety, rights, or welfare of a resident or client. Civil fines shall not exceed one thousand dollars for the first violation and shall not exceed two thousand dollars per day for repeat violations.

(d) Class D - Violations related to administrative and reporting requirements that do not directly threaten the health, safety, rights, or welfare of a resident or client. Civil fines shall not exceed one hundred dollars for the first violation and shall not exceed two hundred fifty dollars per day for repeat violations.

(e) Class E - Violations for failure of a facility to submit a statistical or financial report in a timely manner as required by regulation. Civil fines shall not exceed fifty dollars for the first offense and shall not exceed one hundred dollars per day for repeat violations.

(3) The aggregate fines assessed for violations determined in any one month shall not exceed five thousand dollars, except that the aggregate fines assessed for Class A repeat violations shall not exceed twenty thousand dollars in any one month, and the aggregate fines assessed for Class B repeat violations shall not exceed fifteen thousand dollars in any one month.

C. The department shall adopt rules and regulations in accordance with the Administrative Procedure Act to provide for notice to the facility of any violation, for an informal reconsideration process, and for an appeal procedure including judicial review.

Such appeal shall be suspensive. The facility shall have the right to a devolutive appeal.

D. The facility shall furnish, with an appeal, a bond in the minimum amount of one and one-half times the amount of the fine imposed by the department. The bond furnished shall provide in substance that it is furnished as security that the facility will prosecute its appeal, that any judgment against it, including court costs, will be paid or satisfied from the amount furnished, or that otherwise the surety is liable for the amount assessed against the facility. The appeal shall be heard in a summary proceeding which shall be given precedence over other pending matters.

E. The department may institute all necessary civil action to collect fines imposed and not timely appealed. No facility may claim imposed fines or interest as reimbursable costs, nor increase charges to residents or clients as a result of such fines or interest. Interest shall begin to accrue at the current judicial rate on the day following the date on which any fines become due and payable.

F.(1) Except as provided in Subsection G of this Section, after compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund and prior to the monies being placed in the state general fund, an amount equal to the civil fines collected under the provisions of this Section shall be credited to a special fund created in the state treasury to be known as the "Health Care Facility Fund", hereinafter referred to as "the fund".

(2) The monies in the fund shall be subject to annual appropriation by the legislature and shall be available exclusively for the use by the Louisiana Department of Health for:

- (a) The protection of health, welfare, rights, or property of those receiving services from the healthcare facilities licensed or certified by the Louisiana Department of Health.
- (b) The enforcement of sanctions against healthcare facilities licensed or certified by the Louisiana Department of Health.
- (c) Education, employment, and training of employees, staff, or other personnel of healthcare facilities licensed or certified by the Louisiana Department of Health.
- (d) Programs designed to improve the quality of care in healthcare facilities.

(3) The monies in the fund shall be invested by the treasurer in the same manner as the monies in the state general fund, and all interest earned from the investment of monies in the fund shall be deposited in and remain to the credit of the fund. All unexpended and unencumbered monies remaining in the fund at the end of the fiscal year shall remain in the fund.

(4) The secretary of the Louisiana Department of Health is authorized to promulgate rules and regulations in accordance with the Administrative Procedure Act to provide for the administration of the fund.

G.(1) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to the civil fines collected from home health agencies under the provisions of this Section and civil fines and monetary penalties imposed or levied by the Centers for Medicare and Medicaid Services against home health agencies and remitted to the state shall be credited to a special fund hereby created in

the state treasury to be known as the "Home Health Agency Trust Fund", hereinafter referred to as the "HHA Trust Fund". The monies in the HHA Trust Fund shall be invested by the treasurer in the same manner as monies in the state general fund and all interest earned from the investment of the monies in the HHA Trust Fund shall be deposited to and remain to the credit of the HHA Trust Fund. All unexpended and unencumbered monies remaining in the HHA Trust Fund at the close of the fiscal year shall remain in the HHA Trust Fund.

(2) The monies in the HHA Trust Fund shall be subject to annual appropriation and shall be used solely in accordance with the provisions of 42 CFR Part 488 and subject to approval by the Centers for Medicare and Medicaid Services.

(3) The treasurer shall transfer an amount equal to any civil fines or penalties from home health agencies remitted to the state by the Centers for Medicare and Medicaid Services prior to the creation of the HHA Trust Fund into the HHA Trust Fund after the effective date of this Act.

(4) The secretary of the Louisiana Department of Health is authorized to promulgate rules in accordance with the Administrative Procedure Act to provide for the administration of the HHA Trust Fund.

RS 40:2199.1 — Adoption of rules; violations; alternate remedies

to provide remedies for healthcare

facilities which have violations of the licensure standards and requirements, of certification requirements, or of the Medicaid standards of participation. Such remedies shall include but are not limited to:

- (1) Denial of Medicaid payment with respect to any individual admitted to or provided services by a facility.
- (2) Denial of new admissions into the facility or by the provider.
- (3) Removal from the freedom of choice list.
- (4) The transfer of residents, clients, patients, or individuals receiving services.
- (5) Suspension of license.
- (6) Alternate remedies to deter noncompliance and correct deficiencies.

B. The department, by rules adopted pursuant to the Administrative Procedure Act, shall specify criteria as to when and how each remedy is to be applied, the severity of the remedies to be used in the imposition of such remedies, and the procedure and requirements for applying each remedy.

C. The department, by rules adopted pursuant to the Administrative Procedure Act, shall provide a process for an administrative appeal of remedies imposed. If the secretary of the department determines the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of any resident, client, patient, or individual receiving services, the imposition of the remedy may be immediate and may be enforced during the pendency of the administrative appeal.

D. The department shall enforce rules adopted pursuant to this Section and, when determined necessary, may petition a court of competent jurisdiction and proper venue to judicially enforce any such rule.

RS 40:2199.11 — Purpose

can be properly addressed, mitigated, and, wherever possible, prevented.

RS 40:2199.12 — Definitions

d any healthcare

professional licensing board transferred to and placed within the department pursuant to R.S. 36:259(A).

(2) "Licensing board" means any board or commission that has the duty to license a regulated entity as defined in this Section.

(3) "Regulated entity" means any healthcare entity such as a licensed healthcare facility listed in R.S. 40:2006(A)(2), a federally qualified health center as defined in R.S. 40:1183.3, a pharmacy permitted in accordance with Part IV of Chapter 14 of Title 37 of the Louisiana Revised Statutes of 1950, and any office of a healthcare provider that treats patients and such office is not otherwise licensed by the state but provides healthcare services delivered by a licensee of a healthcare professional licensing board created in Title 37 of the Louisiana Revised Statutes of 1950. A healthcare entity shall not be considered a regulated entity if it employs five or fewer licensed medical providers, such as a physician, pharmacist, advanced practice registered nurse, physician assistant, or dentist.

(4) "Workplace violence" means violent acts, including battery or the intentional placing of another person in reasonable apprehension of sustaining battery, directed toward persons at work or on duty with their employment.

RS 40:2199.13 — Licensed healthcare facilities; signage addressing workplace violence required

ations of Subsection B of this Section and indicates that abuse of or workplace violence against healthcare staff will not be tolerated and could result in a felony conviction under R.S. 14:38 or other applicable criminal laws.

B. Each sign displayed in accordance with the requirements of this Section shall conform with all of the following specifications:

(1) The sign shall be posted in a conspicuous location in a publicly accessible area of the regulated entity's facility.

(2) The sign shall be at least eighteen inches tall by eighteen inches wide and written in the English language with letters not less than one square inch in size.

RS 40:2199.14 — Healthcare workplace violence; public information

website.

B. The information provided by the department pursuant to this Section shall include, at a minimum, all of the following:

(1) A listing of best practices, toolkits, and resources on the issue of healthcare workplace violence from governmental and private authorities including, without limitation, the Occupational Safety and Health Administration and the Joint Commission.

(2) Actions that regulated entities can take and policies that such entities can adopt to prevent, respond to, report, and mitigate healthcare workplace violence.

(3) A checklist of items for regulated entities to consider when developing a workplace violence prevention plan.

C. The website on which the department publishes information regarding healthcare

workplace violence shall include a downloadable example of text that complies with the provisions of R.S. 40:2199.13(A) relative to signage required to be displayed at facilities of regulated entities.

RS 40:2199.15 — Healthcare workplace violence prevention plans

ing resources:

- (a) Resources for ongoing education on the issue of workplace violence.
 - (b) Resources for prevention of workplace violence.
 - (c) Resources on responding to incidents of workplace violence and debriefing with respect to such incidents and responses thereto.
- (2) Each healthcare workplace violence prevention plan developed pursuant to this Section shall address and encompass all of the following:
- (a) Personnel education and policies requiring all healthcare workers who provide direct care to patients to receive, at least annually, education and training in a format that provides an opportunity for interactive questions and answers with a person knowledgeable about the workplace violence prevention plan. The education and training delivered pursuant to a workplace violence prevention plan shall cover topics including but not limited to all of the following:
 - (i) How to recognize the potential for violence to occur.
 - (ii) When and how to seek assistance to prevent or respond to violence.
 - (iii) How to report violent incidents to law enforcement.
 - (iv) Resources available to employees for coping with incidents of workplace violence.
 - (b) A system for responding to and investigating violent incidents and situations involving violence.
 - (c) A system for regularly, and not less than annually, assessing and improving upon factors that may contribute to or help in preventing workplace violence. This system shall address, without limitation, all of the following aspects of the workplace:
 - (i) Staffing, including staffing patterns that may contribute to, or be insufficient to address, the risk of violence.
 - (ii) Sufficiency of security systems including alarms, emergency response systems, and availability of security personnel.
 - (iii) Job design, equipment, and facilities.
 - (iv) Security risks associated with particular units of the workplace, areas of the regulated entity's facility with uncontrolled access, late night or early morning shifts, and areas surrounding the facility such as employee parking areas.
 - (d) A requirement that the regulated entity maintain and make available to its employees a written safety and security plan.
- B. The department may prescribe additional required content beyond the material required by Subsection A of this Section for workplace violence prevention plans.
- C. Each regulated entity shall orient all permanent and temporary employees of the entity's facility to the workplace violence prevention plan of the entity.
- D. Each regulated entity shall maintain its workplace violence prevention plan in

effect at all times.

RS 40:2199.16 — Acts of workplace violence at licensed healthcare facilities; reporting required

violence prevention plan, any instance of workplace violence that occurs on its property.

B. If an instance of workplace violence at a regulated entity's facility results in injury, involves the use of a firearm or other dangerous weapon, or presents an urgent or emergent threat to the welfare, health, or safety of facility personnel, the regulated entity shall report the incident within twenty-four hours.

RS 40:2199.17 — Retaliation in connection with reporting healthcare workplace violence;

rights an allegation of or an instance of workplace violence.

B. No regulated entity shall prohibit an employee from, or take punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs.

C. No regulated entity shall discharge, demote, suspend, threaten, or harass an employee, or discriminate against an employee in the terms and conditions of his employment, because of any lawful act engaged in by the employee, or taken on behalf of the employee, in reporting to law enforcement a crime or allegation involving workplace violence at the regulated entity's facility.

D. The employee protections provided for in this Section shall be in addition to, and shall not replace, any protections conferred by the provisions of Title 23 of the Louisiana Revised Statutes of 1950.

RS 40:2199.18 — Enforcement

revocation, to enforce the provisions of this Subpart. The department may make appropriate referrals to other state or federal agencies and offices that may have jurisdiction over workplace violence or retaliation allegations.

B. With respect to enforcement of this Subpart, the department shall adopt rules and regulations in accordance with the Administrative Procedure Act to provide for all of the following:

- (1) Penalties associated with violations of particular provisions of this Subpart.
- (2) Notice to a regulated entity of a violation.
- (3) An informal reconsideration process.
- (4) An appeal procedure including judicial review.

RS 40:2199.19 — Rulemaking

this Subpart.

RS 40:2200.1 — Definitions

40:2009.2, that segregates or provides a special program or special unit for residents with a diagnosis of probable Alzheimer's disease or related disorder so as to prevent or limit access by a resident to areas outside the designated or separated area or that advertises, markets, or otherwise promotes the facility as providing specialized Alzheimer/dementia care services.

RS 40:2200.2 — Dementia training; nursing facilities and Alzheimer's special care units

the provisions of this Section, in dementia training issues and

practices that include or are informed by evidence-based care practices.

B. Training requirements for employees of a nursing home, as defined in R.S.

40:2009.2, who provide care on a regular basis to a resident in an Alzheimer's special care unit, shall be the following:

(1) Employees who provide nursing and nursing assistant care to residents shall be required to obtain at least eight hours of dementia specific training within ninety days of employment and five hours of dementia specific training annually. The training shall include an overview of Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, and understanding and dealing with family issues.

(2) Employees who have regular communicative contact with residents but who do not provide nursing and nursing assistant care shall be required to obtain at least four hours of dementia specific training within ninety days of employment and one hour of dementia training annually. This training shall include an overview of dementias and communicating with persons with dementia.

(3) Employees who have only incidental contact with residents shall receive general written information provided by the facility on interacting with residents with dementia.

C. Training requirements for employees of a nursing home who provide care to residents not in an Alzheimer's special care unit shall be the following:

(1) Employees who provide nursing assistant care shall be required to obtain four hours of dementia training within ninety days of employment and two hours of dementia training annually thereafter.

(2) Employees who are not licensed and who have regular communicative contact with residents but who do not provide nursing assistant care shall be required to obtain four hours of dementia specific training within ninety days of employment and one hour of dementia training annually. The training shall include an overview of dementias and communicating with persons with dementia.

(3) Employees who have only incidental contact with residents shall receive general written information provided by the facility on interacting with residents with dementia.

D. Nothing herein shall be construed to increase the number of training hours required by the regulations promulgated by the Louisiana Department of Health and in effect on May 1, 2008.

RS 40:2200.3 — Dementia training for adult residential care providers licensed by the Louisiana

40:2166.3, shall be trained, in accordance with the provisions of this Section, in dementia training issues and practices that include or are informed by evidence-based care practices.

B. Training requirements for employees of an adult residential care provider who provide care to residents in an Alzheimer's special care unit shall be the following:

(1) Employees who provide direct face-to-face care to residents shall be required to obtain at least eight hours of dementia specific training within ninety days of employment and eight hours of dementia specific training annually. The training shall include an overview of Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, and

understanding and dealing with family issues.

(2) Employees who have regular contact with residents but who do not provide direct face-to-face care shall be required to obtain at least four hours of dementia specific training within ninety days of employment and two hours of dementia training annually. This training shall include an overview of dementias and communicating with persons with dementia.

(3) Employees who have only incidental contact with residents shall receive general written information provided by the facility on interacting with residents with dementia.

C. Training requirements for employees of an adult residential care provider who do not work with residents in an Alzheimer's special care unit shall be the following:

(1) Employees who provide direct face-to-face care to residents shall be required to obtain at least two hours of dementia specific training annually. This training shall include an overview of Alzheimer's disease and related dementias and communicating with persons with dementia.

(2) All other employees shall receive general written information provided by the facility on interacting with residents with dementia.

RS 40:2200.4 — Approved dementia training

n and Family

Services may be used to fulfill the training hours required pursuant to this Part.

RS 40:2200.5 — Rules and regulations

lement

this Part. Such rules and regulations shall include but not be limited to the qualifications of the training curriculum and appropriate penalties for violations of the training requirements. The department shall consult with and seek input from the Louisiana Alzheimer's Disease Task Force and the Department of Children and Family Services in the promulgation of such rules and regulations.

RS 40:2200.7.1 — Legislative intent

care professionals on the importance of early detection and timely diagnosis of cognitive impairment and dementia.

(2) It is in the public interest to provide information to increase understanding and awareness of Alzheimer's disease and other dementia diseases.

(3) It is the public policy of this state that healthcare providers in Louisiana have access to guidance and education outreach programs regarding Alzheimer's disease and other dementia diseases.

RS 40:2200.7.2 — Alzheimer's and other dementia diseases training; rulemaking

ders on all of the following:

(1) The importance of effective care planning, including treatment options, support and services, long-term care options, advance directives, and care at every stage of Alzheimer's disease and other dementia diseases to include appropriate counseling.

(2) The use of validated cognitive assessment tools.

B. The office of public health within the Louisiana Department of Health shall

include provisions in its public health outreach programs that, at a minimum, address the following:

- (1) Increasing the awareness of Alzheimer's disease and other dementia diseases including any link to chronic disease, such as vascular risk factors.
- (2) Advising the public of the value of early detection of Alzheimer's disease and other dementia diseases along with information on the early signs of the diseases.
- (3) Educating the public on the importance of identifying and reporting signs of Alzheimer's disease and other dementia diseases to healthcare providers for timely diagnosis.
- (4) Increasing the data and surveillance applicable to Alzheimer's disease and other dementia diseases and encouraging additional data analysis and accurate reporting on death certificates.

C. The Louisiana Department of Health shall consult with the Louisiana chapter of the Alzheimer's Association and other experts, advocates, or associations to facilitate the distribution of educational materials that address Alzheimer's disease and other dementia diseases.

D. The Louisiana Department of Health may promulgate rules and regulations in accordance with the Administrative Procedure Act as are necessary to implement this Subpart. The rules and regulations may include but not be limited to the type of cognitive assessment tools available to healthcare providers. The department shall consult with and seek input from the Louisiana chapter of the Alzheimer's Association and other experts, advocates, or associations in the promulgation of the rules and regulations.

RS 40:2200.11 — Surgical smoke plume evacuation policy required ery.

B. Healthcare facilities licensed pursuant to this Chapter which provide any surgical procedure using heat-producing equipment, including but not limited to electrosurgery and lasers, shall adopt and implement policies for a surgical smoke plume evacuation plan to mitigate and remove the surgical smoke plume.

C. The Louisiana Department of Health shall verify compliance with this Section through onsite surveys that are specific to surgical services, full licensing surveys, full recertification surveys, and complaint surveys if allegations specific to surgical services are alleged.

RS 40:2200.15 — Repealed by Acts 2022, No. 252, §3. aton Rouge, Louisiana 70804-9062

RS 40:2201 — Legislative considerations ed by patients.

(2) The ability of health care providers to maintain, update, and expand their facilities to serve their patients and communities and to meet federal and state standards and regulations.

B. The legislature further recognizes that there must be some incentive for purchasers and providers to strive for more cost-efficient and effective methods of providing quality patient care and more efficient payment for services rendered.

C. Therefore, the state can assist in reducing health care costs by authorizing the formation of preferred provider organizations.

D. The legislature further recognizes that the state and governmental bodies can reduce the cost of providing health care benefits for their employees by contracting with a preferred provider organization.

RS 40:2202 — Definitions

grees to perform specified services. The rate shall be negotiated between purchaser and provider and shall be in effect for a fixed term. It may, but need not, include a discount from the provider's customary fee.

(2) "Governmental body" means any department, commission, council, board, office, bureau, committee, institution, agency, government, corporation, or establishment of the executive branch of this state.

(3) "Group purchaser" shall mean an organization or entity which contracts with providers for the purpose of establishing a preferred provider organization. "Group purchaser" may include:

(a) Entities which contract for the benefit of their insured, employees, or members such as insurers, self-funded organizations, Taft-Hartley trusts, or employers who establish or participate in self-funded trusts or programs.

(b) Entities which serve as brokers for the formation of such contracts, including health care financiers, third party administrators, providers, or other intermediaries.

(4) "Hospital" shall mean any institution, place, building, or agency, public or private, whether for profit or not, including a facility subject to the jurisdiction of a hospital service district, devoted primarily to the maintenance and operation of facilities for ten or more individuals for the diagnosis, treatment, or care of persons admitted for overnight stay or longer who are suffering from illness, injury, infirmity, deformity, or other physical condition for which obstetrical, medical, or surgical services would be available and appropriate. It may also include nursing homes as defined by and regulated under the provisions of R.S. 40:2009.1 through 2009.12.

(5)(a) "Preferred provider organization (P.P.O.)" shall mean a contractual agreement or agreements between a provider or providers and a group purchaser or purchasers to provide for alternative rates of payment specified in advance for a defined period of time in which:

(i) The provider agrees to accept these alternative rates of payment offered by group purchasers to their members whenever a member chooses to use its services.

(ii) There is a tangible benefit to the provider in offering such alternative rates of payment to the group purchaser.

(b) The contractual agreement or agreements may also include incentives which encourage the insured employee or member to utilize the participating providers.

(c) No licensed provider, other than a hospital, who agrees to the terms and conditions of the preferred provider contract shall be denied the right to become a preferred provider to offer health services within the limits of his license.

(d) However, nothing in this Part shall be construed to require any hospital to grant any provider or class of providers medical staff membership.

(e) Preferred provider contracts should include, but not be limited to, the following components:

- (i) Participating in a resource monitoring component to ensure quality control both for patient care and cost effectiveness.
- (ii) Procedures to encourage prompt payment for services rendered.
- (6) "Provider" shall mean one or more entities which offer health care services and shall include but not be limited to hospitals, individuals, or groups of physicians, individuals or groups of psychologists, nurse midwives, ambulance service companies, and other health care entities. Any health care entity which is specifically covered by a group purchaser's insurance policy, employee benefits, self-funded organization or Taft-Hartley trust benefits or plan shall be construed to be a "provider" for purposes of consideration under this Part.
- (7) "Tangible benefit" shall mean but not be limited to:
 - (a) Any reasonable expectation of a demonstrable increase in or maintenance of usage of the provider's services.
 - (b) Contractual provisions requiring quality control of patient care and participation in resource monitoring procedures; or
 - (c) Any reasonable expectation of prompt payment for services rendered.

RS 40:2203 — Authorization for preferred provider organizations

- B. Such agreement shall not be construed to authorize a group purchaser to furnish medical services unless the purchaser is otherwise licensed to do so, nor shall such agreement authorize a group purchaser to direct or control the provision or selection of forms or types of medical services to the group members.
- C. Group purchaser members participating in preferred provider organizations shall be guaranteed access to their standard benefits under the terms of their policy, employee benefits, self-funded organization benefits, or Taft-Hartley trust benefits, regardless of whether they choose a preferred provider or a provider who does not participate in the preferred provider contract.
- D. Any entity serving as a broker or intermediary under the provisions of R.S. 40:2202(3)(b) who contracts to write or sell insurance shall be subject to the provisions of Title 22 of the Louisiana Revised Statutes of 1950. However, any entity which serves as a broker or intermediary for the formation of a preferred provider organization for a governmental body shall not be entitled to collect any fee for serving as such broker or intermediary under this Part.
- E. Any person requiring emergency medical services shall be entitled to use any available provider without being denied the basic benefits provided under his policy or benefits program.

RS 40:2203.1 — Prohibition of certain practices by preferred provider organizations

- ization agreements that are applicable to medical services rendered in this state and to group purchasers as defined in this Part. The provisions of this Section shall not apply to a group purchaser when providing health benefits through its own network or direct provider agreements or to such agreements of a group purchaser.
- B. A preferred provider organization's alternative rates of payment shall not be enforceable or binding upon any provider unless such organization is clearly identified on the benefit card issued by the group purchaser or other entity accessing a group purchaser's contractual agreement or agreements and presented to the participating provider when medical care is provided. When more than one preferred provider organization is shown on the benefit card of a group purchaser or

other entity, the applicable contractual agreement that shall be binding on a provider shall be determined as follows:

(1) The first preferred provider organization domiciled in this state, listed on the benefit card, beginning on the front of the card, reading from left to right, line by line, from top to bottom, that is applicable to a provider on the date medical care is rendered, shall establish the contractual agreement for payment that shall apply.

(2) If there is no preferred provider organization domiciled in this state listed on the benefit card, the first preferred provider organization domiciled outside this state listed on the benefit card, following the same process outlined in Paragraph (1) of this Subsection shall establish the contractual agreement for payment that shall apply.

(3) The side of the benefit card that prominently identifies the name of the insurer, or plan sponsor and beneficiary shall be deemed to be the front of the card.

(4) When no preferred provider organization is listed, the plan sponsor or insurer identified by the card shall be deemed to be the group purchaser for purposes of this Section.

(5) When no benefit card is issued or utilized by a group purchaser or other entity, written notification shall be required of any entity accessing an existing group purchaser's contractual agreement or agreements at least thirty days prior to accessing services through a participating provider under such agreement or agreements.

C. A preferred provider organization agreement shall not be applied or used on a retroactive basis unless all providers of medical services that are affected by the application of alternative rates of payment receive written notification from the entity that seeks such an arrangement and agree in writing to be reimbursed at the alternative rates of payment.

D. In no instance shall any provider be bound by the terms of a preferred provider organization agreement that is in violation of this Part.

E. Any claim submitted by a provider for services provided to a person identified by the provider and a group purchaser as eligible for alternative rates of payment in a preferred provider agreement shall be subject to the standards for claims submission and timely payment according to the provisions of Subpart B of Part II of Chapter 6 of Title 22 of the Louisiana Revised Statutes of 1950.

F. A group purchaser establishing a preferred provider organization shall be prohibited from charging a credentialing fee or any other type of monetary fee, when no access to a group purchaser is provided. Any provider who participates in a preferred provider organization may be charged a reasonable fee either on a periodic basis or based on the tangible benefits received from continued participation in a preferred provider organization. Such fees may be based on actual utilization of alternative rates of payment by group purchasers or other authorized entities or other reasonable basis other than membership.

G. Failure to comply with the provisions of Subsection A, B, C, D, or F of this Section shall subject a group purchaser to damages payable to the provider of double the fair market value of the medical services provided, but in no event less than the greater of fifty dollars per day of noncompliance or two thousand dollars, together with attorney fees to be determined by the court. A provider may institute this action in any court of competent jurisdiction.

RS 40:2204 — Hospital participation; tangible benefit presumed

resumption that such hospital or

governmental body contracted with the expectation of receiving a tangible benefit rather than making a donation of services in violation of Section 14(A) of Article VII of the Constitution of Louisiana.

B. Unless clearly indicated otherwise in a preferred provider organization contractual arrangement, it shall be presumed that the hospital, governmental body, or other provider negotiated the contract with the knowledge that such agreement would result in a tangible benefit to the hospital or governmental body and would not constitute a donation of its services to a group purchaser in violation of the Constitution of Louisiana, Article VII, Section 14(A).

C. Whenever a hospital or governmental body is a party to a preferred provider organization contract, the provisions of R.S. 39:1481 et seq. shall not apply.

D.(1) The state, or any agency of the state authorized by law to contract with or develop preferred provider organizations or other managed health care arrangements, including the Office of Group Benefits, when interested in developing or participating in a preferred provider organization or other managed care arrangement, shall develop criteria governing the state's or the agency's contracting with health care providers or with preferred provider organizations or other managed care arrangements. All such criteria shall be approved by the appropriate standing committees of the legislature having jurisdiction over review of that agency's rules, or the subcommittees on oversight of such standing committees, and the office of state procurement of the division of administration.

(2) Each agency authorized by law to develop or contract with preferred provider organizations or other managed care arrangements shall promulgate rules and regulations to establish a process through which notice of intent to contract with health care providers, preferred provider organizations, or other managed care arrangements is given. The rules and regulations shall contain provisions requiring written or published notice of the agency's intent to seek contracts for the requested services and the availability, upon request, of a detailed explanation of the services sought and of the criteria that are to be used in developing contracts. There shall be a written public announcement of the contractor or contractors awarded the contract. Upon request, any entity submitting a proposal which is not accepted shall be furnished a written explanation for the agency's action. Any contract executed in violation of rules and regulations promulgated under this Subsection shall be void.

(3) All contracts shall be approved by the chief executive officer in the Office of Group Benefits.

(4) The provisions of this Section shall not be applicable to the Louisiana Department of Health.

RS 40:2205 — Utilization reviews; relief from liability and discovery; standards compliance

of care or utilization reviews by a peer review committee, as a peer review committee member or a treating health care provider whose patients are subject to such review and have been contracted, employed, or hired by a group purchaser shall be immune from liability for any act performed during such reviews of the activities of similarly licensed health care providers if such person acts without malice, makes a reasonable effort to obtain the facts, and believes that the action taken is warranted by the facts. A peer review committee shall not be subject to discovery, and no person in attendance at such reviews shall be required to testify as to what transpired at such reviews. The utilization review requirements and administrative treatment guidelines of the peer review committee employed or hired by the group purchaser shall not fall below the appropriate standard of care and shall not impinge upon the independent medical judgment of the treating health care provider.

RS 40:2206 — Obstetrician or gynecological examination; coverage

beneficiary of any such preferred provider organization from selecting an empaneled obstetrician or gynecologist as a provider for routine gynecological care. This selection shall be permitted without penalty or denial of the benefits provided under the preferred provider organization.

(2) Routine gynecological care as used in this Section shall mean a minimum of two routine annual visits, provided that the second visit shall be permitted based upon medical need only, and follow-up treatment within sixty days following either visit if related to a condition diagnosed or treated during the visits, and any care related to a pregnancy. Nothing in this Section shall prevent a policy, program, or plan from requiring that an obstetrician-gynecologist treating a covered patient coordinate that care with the patient's primary care physician, if applicable.

B. Any provision in a preferred provider contract which is delivered, renewed, issued for delivery, or otherwise contracted for in this state which is contrary to this Section shall, to the extent of such conflict, be void.

RS 40:2207 — Requirements of provider contracts

providers which include incentive or specific payment made directly, in any form, to a health care provider or health care provider group as an inducement to deny, reduce, limit, or delay specific, medically necessary, and appropriate services provided with respect to a specific insured or groups of insured with similar medical conditions.

B. Nothing in this Section shall be construed to prohibit contracts that contain incentive plans that involve general payments, such as capitation payments, or shared-risk arrangements that are not tied to specific medical decisions involving specific insured or groups of insured with similar medical conditions. The payments rendered or to be rendered to physicians, physician groups, or other licensed health care practitioners under these arrangements shall be deemed confidential information.

C. As used in this Section, the following definitions shall apply:

(1) "Managed care organization" means a licensed insurance company, hospital, or medical benefit plan or program, health maintenance organization, integrated health care delivery system, an employer or employee organization, or a managed care contractor which operates a managed care plan. A managed care entity may include but it is not limited to a preferred provider organization, health maintenance organization, exclusive provider organization, independent practice association, clinic without walls, management services organization, managed care services organization, physician hospital organization, and hospital physician organization.

(2) "Managed care plan" means a plan operated by a managed care organization which provides for the financing and delivery of health care and treatment services to individuals enrolled in such plan through its own employed health care providers or contracting with selected specific providers that conform to explicit selection, standards, or both. A managed care plan shall also mean a plan that has a formal organizational structure for continual quality assurance, a certified utilization review program, dispute resolution, and financial incentives for individual enrollees to use the plan's participating providers and procedures.

RS 40:2208 — Interpreter services for the deaf and hard of hearing; expenses; coverage

er organizations shall provide coverage for expenses incurred

by any covered patient who is deaf or hard of hearing for services performed by a qualified interpreter/translator, other than a family member of the covered patient, when such services are used by the covered patient in connection with medical treatment or diagnostic consultations performed by the healthcare provider.

RS 40:2210 — Prohibited discrimination; prenatal test results; genetic information

tive to the use of prenatal test results and genetic information.

RS 40:2211 — Definitions

t, uninsured, or

underinsured person enrolled in a qualified plan for the provision of health care services whose enrollment costs are paid wholly or in part by the state under a federal waiver to the Medicaid program.

(3) "Qualified plan" means a basic benefits plan that may be established under a health maintenance organization, health insurance organization, or managed care organization that contracts with the state to provide or coordinate the provision of health care services to an enrollee.

RS 40:2212 — Basic benefit plans

re, prescription drugs and biologics, the inclusion of essential community providers, the use of providers outside of a plan's provider network, and experimental treatments.

B. Each qualified plan shall disclose to each enrollee or prospective enrollee orally or in writing in a manner understandable at a fifth grade reading level and reviewed and approved by the literacy program of the Louisiana State University Health Sciences Center in Shreveport:

- (1) A definition of basic covered benefits.
- (2) Guidelines for confidential communication with caregivers.
- (3) Availability and access to choice of providers.
- (4) Quality assurance requirements.
- (5) Disclosure of protocols as it relates to courteous treatment, timely referrals, and access to specialty care.
- (6) Disclosure of deductibles.
- (7) Extent of inclusion or exclusion of preventive health services in all basic benefit programs.
- (8) Disclosure of definition of "necessary treatment".
- (9) Information regarding appeal process.

C.(1) Any qualified plan shall not exclude from direct reimbursement health care services provided by an advanced practice registered nurse who provides health care services in accordance with the collaborative practice agreement for basic benefit services covered by the basic health plan.

(2) Any qualified plan shall not reimburse health care services provided by an advanced practice registered nurse at a rate less than the rate paid to other health care providers who perform the same services.

RS 40:2213 — Lactation consultants; registry; qualifications

ana to provide

services as a lactation consultant.

B. To be eligible for inclusion on the Lactation Consultant Registry, a person shall be certified as an International Board Certified Lactation Consultant (IBCLC), and maintain such educational and re-examination requirements for certification in good standing.

C. An "International Board Certified Lactation Consultant", as used in this Section, is an allied health care provider who, by meeting eligibility requirements and passing an examination administered by the International Board of Lactation Consultant Examiners (IBLCE), possesses the skills, knowledge, and attitudes to provide breastfeeding assistance to babies and mothers.

RS 40:2221 — Definitions

t, uninsured, or

underinsured person enrolled in a qualified plan for the provision of health care services whose enrollment costs are paid wholly or in part by the state under a federal waiver to the Medicaid program.

(3) "Qualified plan" means a basic benefits plan that may be established under a health maintenance organization, health insurance organization, or managed care organization certified by the secretary of the Louisiana Department of Health to contract with the state to provide or coordinate the provision of health care services to an enrollee.

RS 40:2222 — Certification of organizations providing qualified plans

to provide a qualified plan to an enrollee unless so certified by the department.

B. No health maintenance organization, health insurance organization, managed care organization, or other entity shall be certified to provide a qualified plan unless that plan meets minimum standards established by the department by the adoption and promulgation of rules and regulations in accordance with the Administrative Procedure Act. Such standards shall include, but not be limited to:

- (1) Access to routine, urgent, and emergency care by enrollees.
- (2) Primary care including location, hours, waiting times, and access to care when needed.
- (3) Availability of specialty care.
- (4) Technical competence of health care providers.
- (5) Implementation of a peer review program.
- (6) Health and medical standards.

C. Any qualified plan provider that fails to maintain the minimum standards as determined by the department shall be subject to penalties, including revocation of any authority to participate in the state program or a prohibition on enrolling any new member.

RS 40:2223 — Limitations on implementation

an Services,

Health Care Financing Administration, or its successor, on or after December 31, 1994, authorizing the state to utilize health insurance organizations, health maintenance organizations, or managed care organizations for Medicaid recipients is received. However, the secretary may take actions necessary to implement this Part upon receiving such federal waiver approval.

RS 40:2231 — Definitions

t, uninsured, or

underinsured person enrolled in a qualified plan for the provision of health care services whose enrollment costs are paid wholly or in part by the state under a federal waiver to the Medicaid program.

- (3) "Qualified plan" means a basic benefits plan that may be established under a health maintenance organization, health insurance organization, or managed care organization that contracts with the state to provide or coordinate the provision of health care services to an enrollee.

RS 40:2232 — Rights of each enrollee

lan, and confidential communications with caregivers as provided by law.

B. Any qualified plan shall provide to an enrollee or prospective enrollee information, orally or in writing, using understandable, objective, truthful, and consumer-tested terms, about the policy or plan prepared in a manner understandable at a fifth grade reading level and reviewed and approved by the literacy program of the Louisiana State University Health Sciences Center in Shreveport, including:

- (1) The range of covered benefits, highlighting restrictions or limitations on basic services, specialty care, prescription drugs and biologics, "experimental" treatments, and the use of providers outside a plan's provider network.
- (2) The amount of deductibles, copayments, and other potential out-of-pocket expenses.
- (3) The cost of proposed services and fully itemized bills for services rendered.
- (4) The expertise of available providers on specific diseases and disorders if a plan has a provider network.
- (5) How "medically necessary" treatment is defined.
- (6) How and whether coverage decisions can be fairly and simply appealed.
- (7) The criteria for selecting and dismissing physicians if a plan has a provider network.

- (8) Potential conflicts of interest or economic incentives on the part of providers which may influence care decisions.

RS 40:2233 — Participation in health care decisions

ete information about their specific condition and treatment options and to seek second options.

- (2) Information about available experimental treatments and clinical trials and how such research can be accessed.
- (3) Have legal advanced directives or living wills respected by providers.
- (4) Obtain assistance in decisionmaking from a patient ombudsman knowledgeable about the enrollee's specific policy or plan.

RS 40:2234 — Responsibilities of an enrollee

behaviors known to be detrimental to one's health.

- (2) Becoming knowledgeable about their policy's/plan's coverage provisions, rules, and restrictions.
- (3) Asking questions of providers to determine the potential risks, benefits, and costs of treatment alternatives and then making care decisions after carefully weighing these and other pertinent factors.
- (4) Cooperating fully with providers in following mutually acceptable courses of treatment, providing accurate medical and personal histories, being present at scheduled appointments and reporting on treatment progress, such as notifying caregivers promptly if serious side effects, complications, or worsening of the condition arises.

RS 40:2241 — Definitions

each of the following:

- (1) Federally qualified health centers.
- (2) Rural health clinics.
- (3) Hospitals owned or operated by the state.
- (4) Community health centers.
- (5) Small rural and service district hospitals.
- (6) Physicians who have historically served Medicaid and indigent patients.
- (7) Children's hospital as defined by 42 CFR Section 412.23(d).

B. Essential community providers shall include only those providers who are licensed, certified, and enrolled as available to participate in the Medicaid program.

C. Essential community providers shall not include any health care providers who have been convicted of fraud against the Medicaid program.

D. Essential community providers shall meet all quality assurance standards required by the Louisiana Department of Health and the United States Department of Health and Human Services for participation in the Medicaid program and any waiver program approved for the Medicaid program.

RS 40:2242 — Participation in state health care delivery system required

persons otherwise eligible

for Medicaid and to indigent, uninsured, or underinsured persons shall recognize and include essential community providers as available and required in the health care delivery systems and networks including but not limited to referrals to specialists and health extenders.

B. Any basic benefits plan that may be established under a health

maintenance organization, health insurance organization, or managed care organization that contracts with the state to provide or coordinate the provision of health care services to persons otherwise eligible for Medicaid and to indigent, uninsured, or underinsured persons shall include essential community providers as available and required as active medical and health professionals. However, the essential community provider shall agree to provide services that meet all the terms and requirements, including the same administrative, financial, licensure, and professional conditions which apply to health care providers which have been designated as providers in a network established by the basic benefits plan.

C. The secretary of the Louisiana Department of Health shall promulgate rules and regulations in accordance with the Administrative Procedure Act for the implementation of this Part which shall include but not be limited to the establishment of minimum levels of participation of essential community providers in such plans. Any plan provider that does not maintain the minimum level of participation as determined by the secretary shall be subject to penalties, including revocation of any authority to participate in the state program or a prohibition on enrolling new members as determined by the secretary.

RS 40:2243 — Limitations on implementation

an Services,

Health Care Financing Administration, or its successor, on or after December 31, 1994, authorizing the state to utilize health insurance organizations, health maintenance organizations, or managed care organizations for Medicaid recipients is received. However, the secretary may take actions necessary to implement this Part upon such federal waiver approval.

RS 40:2251 — Definitions

ny of the following who have historically served such patients:

- (1) A federally qualified health center.
- (2) A rural health clinic.
- (3) Any hospital owned or operated by the state.
- (4) A community health center.
- (5) Any small rural hospital or any hospital owned or operated by a hospital service district.
- (6) A physician who has historically served Medicaid and indigent patients.
- (7) Any children's hospital as defined in 42 CFR Section 412.23(d).
- (8) Any home health agency.

B. Essential community providers shall include only those providers who are licensed, certified, enrolled, and available to participate in the Medicaid program.

C. Essential community providers shall not include any health care providers who have been convicted of fraud against the Medicaid program.

D. Essential community providers shall meet all quality assurance standards required by the Louisiana Department of Health and the United States Department of Health and Human Services for participation in the Medicaid program and any waiver program approved for the Medicaid program.

RS 40:2252 — Participation in state health care delivery system required

to any person otherwise

eligible for Medicaid and to any indigent, uninsured, or underinsured person shall recognize and include essential community providers as available and required in the health care delivery systems and networks.

B. Any basic benefits plan that may be established under a health maintenance organization, health insurance organization, or managed care organization that contracts with the state to provide or coordinate to provide health care services to any person otherwise eligible for Medicaid and any indigent, uninsured, or underinsured person shall include essential community providers as available and required as active medical and health professionals.

C. The Louisiana Department of Health shall promulgate rules and regulations, in accordance with the Administrative Procedure Act, which shall include, but not be limited to, the establishment of minimum levels of participation of essential community providers in such plans. Any plan provider that fails to maintain the minimum level of participation as determined by the department shall be subject to penalties, including revocation of any authority to participate in the state program or a prohibition on enrolling new members as determined by the department.

RS 40:2253 — Limitations on implementation

services, Health

Care Financing Administration, or its successor, on or after December 31, 1994, authorizing the state to utilize health insurance organizations, health maintenance organizations, or managed care organizations for Medicaid recipients is received.

RS 40:2254.1 — Finding and purpose

cooperative agreements and by mergers and consolidations among health care facilities. The purpose of this Part is to provide the state, through the department, with direct supervision and control over the implementation of cooperative agreements, mergers, joint ventures, and consolidations among health care facilities for which certificates of public advantage are granted. It is the intent of the legislature that supervision and control over the implementation of these agreements, mergers, joint ventures, and consolidations substitute state regulation of facilities for competition between facilities and that this regulation have the effect of granting the parties to the agreements, mergers, joint ventures, or consolidations state action immunity for actions that might otherwise be considered to be in violation of state antitrust laws, federal antitrust laws, or both.

RS 40:2254.2 — Definitions

of the department's intention that the implementation of a cooperative agreement, when actively supervised by the department, receive state action immunity from prosecution by the state or by any district attorney in the state as a

violation of state or federal antitrust laws.

(2) "Cooperative agreement" or "agreement" means a written agreement between two or more health care facilities for the sharing, allocation, or referral of any one or more of the following:

- (a) Patients.
- (b) Personnel.
- (c) Instructional programs.
- (d) Emergency medical services.
- (e) Support services and facilities.
- (f) Medical, diagnostic, or laboratory facilities or procedures.
- (g) Other services customarily offered by health care facilities.

(3) "Department" means the Department of Justice.

(4) "Health care facility" means any facility or institution, whether public or private, that offers diagnosis, treatment, and inpatient or ambulatory care to two or more unrelated persons. The term does not apply to a facility operated by religious groups relying solely on spiritual means, through prayer, for healing.

RS 40:2254.3 — Cooperative agreements, mergers, joint ventures, and consolidations allowed

lity may also merge or consolidate in whole or in part with one or more other health care facilities.

RS 40:2254.4 — Certificate of public advantage; standards for certification; time for action by department

t for a certificate of public advantage. The application for a certificate shall include a copy of the proposed or executed cooperative, merger, joint venture, or consolidation agreement, a description of the scope of the cooperation, merger, joint venture, or consolidation contemplated by the agreement, and the amount, nature, source, and recipient of any consideration passing to any person under the terms of the agreement.

B. The department shall hold a public hearing on the application for a certificate before acting upon the application. The department may not issue a certificate unless the department finds that the agreement is likely to result in lower health care costs or is likely to result in improved access to health care or higher quality health care without any undue increase in health care costs. If the department denies an application for a certificate for an executed agreement, the parties may submit a new application for a certificate based upon a cooperative agreement, merger, joint venture, or consolidation different from the original application.

C. The department shall deny the application for a certificate or issue a certificate within ninety days after receipt of a completed application or within one ninety-day extension, which may be granted by the department upon a showing of good cause by the applicants. If the department does not issue a certificate within that time, the application is considered to have been denied. A certificate may be issued subject to terms and conditions, as the department may determine are appropriate, in order to best achieve lower health care costs or greater access to or quality of health care.

D. Any amendment to a cooperative, merger, joint venture, or consolidation agreement and any material change in the operations or conduct of any party to a cooperative, merger, joint venture, or consolidation agreement shall be considered to be a new agreement and shall not take effect or occur until the department has issued a new certificate of public advantage approving the amendment or change.

RS 40:2254.5 — Reconsideration by department

epartment shall reconsider its decision if the party applying for reconsideration submits the request to the department in writing within thirty calendar days after the department's decision to deny the initial application.

B. The department shall hold a public hearing on the application for reconsideration. The hearing shall be held within thirty days after receipt of the request for reconsideration unless the party applying for reconsideration agrees to a hearing at a later time.

C. The department shall make a decision to deny the application or to issue the certificate within thirty days after the conclusion of the hearing required by Subsection B of this Section. The decision of the department shall be part of written findings of fact and conclusions of law supporting the decision. The findings, conclusions, and decision must be served

upon the applicant for reconsideration.

RS 40:2254.6 — Revocation of certificate by department

health care costs or greater access to or quality of health care than would occur in absence of the agreement.

B. A certificate may not be revoked by the department without giving notice and an opportunity for a hearing before the department as follows:

(1) Written notice of the proposed revocation must be given to the parties to the agreement for which the certificate was issued at least one hundred twenty days before the effective date of the proposed revocation.

(2) A hearing shall be provided prior to revocation if a party to the agreement submits a written request for a hearing to the department within thirty calendar days after notice is mailed to the party under Paragraph (1) of this Subsection.

(3) Within thirty calendar days after receipt of the request for a hearing, the department shall hold a public hearing to determine whether or not to revoke the certificate.

C. The department shall make its final decision and serve the parties with written findings of fact and conclusions of law in support of its decision within thirty days after the conclusion of the hearing or, if no hearing is requested, within thirty days of the date of expiration of the time to request a hearing.

RS 40:2254.7 — Appeal

ision by the department to revoke a certificate. A revocation of a certificate pursuant to R.S. 40:2254.6 does not become final until the time for appeal has expired. If a decision to revoke a certificate is appealed, the decision is stayed pending resolution of the appeal by the courts.

RS 40:2254.8 — Record of agreements to be kept

notify the department in writing of the termination within thirty days after the termination.

RS 40:2254.9 — Rulemaking

ications for a certificate.

(2) Specifying necessary details for reconsideration of denial of certificates, revocations of certificates, hearings required or authorized by this Part, and appeals.

(3) To effect the active supervision by the department of agreements between health care facilities. These rules may include reporting requirements for parties to an agreement for which a certificate is in effect.

RS 40:2254.10 — Enforcement by attorney general

onditions imposed by the department upon the issuance of the certificate, to enjoin the violation of the terms or conditions, or to enjoin any material violation of or deviation from the terms of the cooperative, merger, joint venture, or consolidation agreement submitted to and approved by the department. The action may be brought in the district court of any judicial district in which a person or persons to whom a certificate has been issued reside or maintain a principal place of business or, with the consent of the parties, in the Nineteenth Judicial District Court.

RS 40:2254.11 — Reports

merger, joint venture, or consolidation agreement submitted to and approved by the department has been complied with during the preceding year and, if applicable, evaluating whether any terms and conditions imposed by the department when it issued the certificate have been met or otherwise satisfied during the preceding year. The report must be submitted annually or more frequently if required by the department. The department shall in turn issue findings as to whether the terms and conditions are being met or otherwise satisfied. The department shall keep copies of all reports and findings based on the reports.

RS 40:2254.12 — Fees

y related to the costs of the department in considering applications, evaluating reports, and performing other duties necessary to administer this Part. The costs may include the retention of accounting, technical, and legal assistance that the department considers necessary to process the applications and reports. The department shall maintain records sufficient to support the fees charged under this Section.

RS 40:2255.1 — Definitions

d in 21 U.S.C. 321.

(2) "Prescription drug marketing" means to provide educational or marketing information or materials regarding a prescription drug in any form including but not limited to all of the following:

- (a) Face-to-face meetings.
- (b) Physical mailings.
- (c) Telephone conversations.
- (d) Electronic mail or facsimile.

RS 40:2255.11 — Disclosure of prescription drug price information

, or any member of his staff in

Louisiana shall provide to the Louisiana Board of Pharmacy no later than January first, April first, July first, and October first of each calendar year the current wholesale acquisition cost information for the United States Food and Drug Administration approved drugs marketed in the state by that manufacturer.

RS 40:2261 — Creation; purpose; change of name; successor to former commission

s Laboratory, as the successor to the Northwest Louisiana Criminalistics Laboratory Commission, which has been established in Caddo Parish, Louisiana, the said commission and laboratory to serve the north Louisiana parishes of Avoyelles, Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River, Sabine, Webster, Caldwell, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, Vernon, West Carroll, and Winn, said commission to operate the North Louisiana Criminalistics Laboratory for the purpose of crime detection, prevention, investigation, and other related activities in connection with criminal investigations.

RS 40:2262 — Domicile of the North Louisiana Criminalistics Laboratory Commission

by a vote of two-thirds of the membership of the commission.

RS 40:2263 — Membership; tenure

e terms of office, together with one person from each parish which the commission serves, which persons shall be appointed by the respective governing authorities of the parishes, each to serve for a period of two years or until his successor is appointed.

B. The membership of the commission shall elect its officers. They shall be paid the same mileage and per diem in going to or returning from any regular or special meeting as are now paid the members of the governing authorities of the parishes within the commission area, but they shall not receive pay for more than twelve meetings during any one year.

RS 40:2264 — Revenues; fees and costs of court

a sitting within a parish which is now, or hereafter becomes, a part of the North Louisiana Criminalistics Laboratory Commission, there shall be assessed by the court, in addition to and separate from other costs, against every defendant who is convicted after trial, or who enters a plea of guilty or of nolo contendere, or who forfeits his bond, a fee in accordance with the following schedule:

- (a) Operating a vehicle while intoxicated and drug offenses--fifty dollars.
- (b) Crimes defined in Title 14 of the Louisiana Revised Statutes of 1950-- ten dollars.
- (c) Violations of the provisions of Title 32 of the Louisiana Revised Statutes of 1950, or of city or parish traffic ordinances-- ten dollars.
- (2) The fees described in Paragraph (1) shall form no part of any court fund.
- (3) The fees provided in Paragraph (1) shall be collected by the respective city marshals and sheriffs and shall be remitted to the North Louisiana Criminalistics Laboratory Commission on the first day of each month.

(4) The revenue received from such fees by the North Louisiana Criminalistics Laboratory Commission shall be used for all necessary expenses of the commission and of the laboratory, and branch or satellite laboratories, including operating expenses, funds reserved for depreciation, capital expenses, and costs of constructing buildings together with maintenance thereof. The commission shall prepare an annual budget which shall be approved by at least a majority of the governing authorities of the parishes which the commission serves. If revenues from the fees collected are not sufficient to pay the costs incurred as approved by the governing authorities in the budget, each governing authority may pay from its general fund its pro rata share of the amount necessary to eliminate the deficit, based upon the ratio which the assessed valuation of property in that parish bears to the total assessed valuations of property in all of the parishes.

B. The sheriff of each parish and each district attorney who represents one or more parishes within the area served by the North Louisiana Criminalistics Laboratory Commission may make a direct contribution from time to time to the North Louisiana Criminalistics Laboratory Commission, the sheriff from his salary fund and the district attorney from any funds available to defray expenses of his office, in order to assist in alleviating any deficit that may be existing in the operating funds of the laboratory commission.

RS 40:2265 — Commission as body politic; powers

any for its maintenance and operation by all lawful means, to incur debt in anticipation of its revenues, to accept gifts and donations, to establish rules and regulations for the conduct of its affairs, to employ necessary personnel, to require bond for the handling of its funds in an amount to be determined by it; provided that employees of said commission, as a condition of employment, shall become members of the Parochial Employees Retirement System of Louisiana according to laws relative thereto; and provided further, that title to fixtures, equipment, assets, or other property of any kind which have been provided by any coroner, law enforcement agency, or by the governing authority of any city, town, or parish for the initial establishment of the Northwest Louisiana Criminalistics Laboratory, shall remain in such coroner, law enforcement agency, or governing authority of any city, town, or parish.

B. The North Louisiana Criminalistics Laboratory Commission shall have the authority to establish and maintain branch or "satellite" laboratories at any location in the area served by the commission. The work performed by and the reports of such satellite laboratories established by the predecessor commission (Northwest Louisiana Criminalistics Laboratory Commission) or hereafter established shall have the same validity and authority accorded to the laboratory at the commission domicile.

RS 40:2266.1 — Optional revenues; collection, handling, and disbursement thereof

h parish in which the governing authority thereof elects

to become a participating parish with a criminalistics laboratory commission as set forth hereinafter, optional methods of obtaining revenues as set forth in this Chapter may be used by the criminalistics laboratory commission with the concurrence and approval of the local governing body of each parish involved.

B.(1) In all criminal cases prosecuted under state statutes, parish ordinances, or city ordinances in any mayor's, city, parish, or district court of the state of Louisiana located within a parish which, upon approval of the governing body of such parish, is or hereafter becomes a part of a criminalistics laboratory commission or of a sheriff's criminalistics laboratory as established by a legislative act, except in the city courts of the parish of Jefferson where taxation of the following costs shall be optional, there shall be taxed as costs against every defendant who is convicted after trial, or who enters a plea of guilty or of nolo contendere, or who forfeits his bond, a sum in accordance with the following schedule:

(a) Operating a vehicle while intoxicated and drug offenses--fifty dollars.

(b) Crimes defined in Title 14 of the Louisiana Revised Statutes of 1950--ten dollars.

(c) Except as provided in Paragraph (2) of this Subsection, violations of the provisions of Title 32 of the Louisiana Revised Statutes of 1950, or of city or parish traffic ordinances--thirty dollars.

(2) Notwithstanding any provision of law to the contrary, a sum of ten dollars shall be charged or collected in the following cases:

- (a) Operating a vehicle with an expired inspection sticker.
- (b) Operating a vehicle with an expired driver's license.
- (c) Operating a vehicle without a driver's license upon one's person.
- (d) Improper use of a safety belt in violation of R.S. 32:295.1.
- (e) The commission of any offense defined in Title 56 of the Louisiana Revised Statutes of 1950.

(3) The sums herein specified shall be fixed by the governing authority of the parishes that are participating in the criminalistics laboratory commission subject to the maximum amounts herein specified, and shall be taxed as costs and collected by the proper authority of the courts in which the prosecutions are brought; however, upon written request of each governing authority that participates in the criminalistics laboratory commission, such sums may be collected out of each fine imposed by a court in lieu of being added as additional costs in that court.

(4) The sums so collected shall be remitted to the respective laboratory governing authorities, or to their designated custodians, on the first day of each month.

(5) The sums so received by the laboratory governing authorities shall be used for the necessary operating expenses of the commissions and the laboratories.

(6) Repealed by Acts 2015, No. 305, §2.

C. The respective laboratory commission may designate as custodian of the fund the secretary-treasurer of a particular governing authority and if so his bond shall be applicable to this fund as to all others under his custody.

D. The sums hereinabove provided for shall form no part of the criminal court fund of the court in which they are collected and shall be used exclusively for the operation and expenses of the respective criminalistics laboratory; however, upon written request by official action of the governing authority of any particular parish the sums accruing in district courts in that parish may be collected out of each fine imposed in lieu of being added as additional costs. The sums collected in any case may be reduced if in the judgment of the respective commission sufficient funds are available for operation of the laboratory with the reduced funds.

E. The sums received by the respective criminalistics laboratory commission shall be used by the commission for necessary expenses of the commission and the criminalistics laboratory, including operating expenses, funds reserved for depreciation, and capital expenses. The commission shall annually prepare a budget which shall be approved by at least a majority of the governing authorities of the parishes which the commission serves. If revenues from the fees collected are not sufficient to pay the costs incurred as approved by the governing authorities in the budget, each governing authority may pay from its general fund its pro rata share of the amount necessary to eliminate the deficit, based upon the ratio which the assessed valuation of property in that parish bears to the total assessed valuations of property in all of the parishes.

F. The sheriff of each parish, each municipality that operates a police department,

and each district attorney who represents one or more parishes within the respective criminalistics laboratory commission area may make a direct contribution to the respective criminalistics laboratory commission, the sheriff from his salary fund, and the district attorney and municipality that operates a police department from any funds available to defray expenses of their office, including but not limited to pretrial intervention or diversion, from time to time in order to assist in alleviating any deficit that may be existing in the operating funds of the laboratory commission.

RS 40:2266.1.1 — Fees and costs of court

siana located within a

parish which is now, or hereafter becomes, a part of the Acadiana Criminalistics Laboratory Commission, the North Louisiana Criminalistics Laboratory Commission, the Southeast Louisiana Regional Criminalistics Laboratory Commission, and any other criminalistics laboratory commission or of a sheriff's criminalistics laboratory as established by legislative act, there shall be assessed by the court, in addition to and separate from other costs, against every defendant who is convicted after trial, or who enters a plea of guilty or of nolo contendere, or who forfeits his bond, a fee in accordance with the following schedule:

(a) Crimes which are misdemeanor offenses, except a violation of any provision of Title 32 or Title 56 of the Louisiana Revised Statutes of 1950 or a violation of any city or parish traffic ordinance, fifty dollars.

(b) Crimes which are felony offenses, one hundred fifty dollars.

(c) A fee not to exceed one thousand dollars, as reimbursement to the commission if laboratory personnel performed a scientific test of any evidence seized pursuant to the investigation or prosecution of a violation. The commission may establish a schedule stating the estimated cost of performing the test which shall be used by the court in determining the amount of the fees.

(2) The fees described in Paragraph (1) of this Subsection shall form no part of any court fund.

(3) The fees provided in Paragraph (1) of this Subsection shall be collected by the respective city marshals and sheriffs and shall be remitted to the applicable criminalistics laboratory commission on the first day of each month.

(4) The monies received from such fees by the applicable criminalistics laboratory commission shall be used for all necessary expenses of the commission and of the laboratory, and branch or satellite laboratories, including operating expenses, funds reserved for depreciation, capital expenses, and costs of constructing buildings together with maintenance thereof. The commission shall prepare an annual budget which shall be approved by at least a majority of the governing authorities of the parishes which the commission serves. If monies from the fees collected are not sufficient to pay the costs incurred as approved by the governing authorities in the budget, each governing authority may pay from its general fund its pro rata share of the amount necessary to eliminate the deficit, based upon the ratio which the assessed valuation of property in that parish bears to the total assessed valuations of property in all of the parishes.

(5) The provisions of this Section shall not supersede and shall be supplemental to

the provisions of R.S. 40:2264, 2266.1, 2268.4, or any other provision of law providing for fees for criminalistics laboratories. The fees provided for in Paragraph (1) of this Subsection shall be in addition to any fees collected pursuant to the provisions of R.S. 40:2264, 2266.1, 2268.4, or any other provision of law.

B. The sheriff of each parish and each district attorney who represents one or more parishes within the area served by the applicable criminalistics laboratory commission may make a direct contribution from time to time to the applicable criminalistics laboratory commission, the sheriff from his salary fund and the district attorney from any funds available to defray expenses of his office, in order to assist in alleviating any deficit that may be existing in the operating funds of the laboratory commission.

RS 40:2266.2 — Additional parishes joining criminalistics laboratory commissions

When a criminalistics laboratory commission is established and operating, such contiguous parish may elect to come under the provisions of and obtain the benefit of all laws governing the criminalistics laboratory commission now or hereafter authorized. For any parish which is not contiguous to a parish in which a criminalistics laboratory commission is established and operating, the acceptance and concurrence of the commission shall also be required. When any such parish governing authority does so elect, and when its election is thereafter accepted by a criminalistics laboratory commission, if acceptance is required, then it shall become a member of the commission to the same extent as if it had been one of the original parishes included in the original legislative act creating the criminalistics laboratory commission and all provisions hereof relative to district courts, city courts, mayor's courts, sheriffs, and collection of additional court costs funds shall become applicable throughout such parish so electing.

RS 40:2266.3 — Criminalistics laboratories operated by sheriffs of Calcasieu, Jefferson, and St. Tammany parishes included herein

The sheriffs of Vernon, Allen, Beauregard, Jefferson Davis, Cameron, and Calcasieu parishes, by the sheriff of Jefferson Parish, and by the sheriff of St. Tammany Parish are hereby authorized to operate within the terms and provisions of Chapter 13-B of this Title, as may be applicable, and to receive the benefits therein established, as fully as though the laboratories were in fact operated by legislatively created and authorized criminalistics laboratory commissions; however, except for the criminalistics laboratory operated by the sheriff of Jefferson Parish, those sheriff's laboratories shall be required to provide criminalistics laboratory services for such nearby surrounding parishes as may elect, upon the terms provided above, to participate in the laboratories, within limitations as are reasonably developed by legislatively created criminalistics laboratory commissions, until such time as the laboratories may become operated by legislatively created criminalistics laboratory commissions. The criminalistics laboratory operated by the sheriff of Calcasieu Parish shall be named and known as the Southwest Louisiana Criminalistics Laboratory.

RS 40:2266.4 — Scope; cumulative authority

The provisions of criminalistics laboratory commissions and the provisions of such other legislative acts, particularly Act 124 of 1971, are continued and shall remain in full effect; and, therefore, the provisions of this act shall be construed to be cumulative authority for the exercise of the powers herein granted.

RS 40:2267 — Acadiana Criminalistics Laboratory District; creation; composition; powers; and valorem tax

The "district", is hereby created. The district shall be a political subdivision. The boundaries of the district shall be coterminous with the boundaries of the parishes of Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, and Vermilion.

B. The district is established for the operation of the Acadiana Criminalistics Laboratory for the purpose of crime detection, prevention, investigation, and other related activities in connection with criminal investigation.

C. The district shall be governed by the Acadiana Criminalistics Laboratory Commission,

as created by this Chapter, hereinafter referred to in this Section as the "commission".

D. The commission, through its membership, shall have the power to impose and levy an ad valorem tax on the assessed value of all property appearing on the tax rolls of the parishes when approved by a majority of the electors of the parishes voting thereon in an election held for that purpose.

E.(1) The election provided for in Subsection D of this Section shall be called by the commission.

(2) Any costs of the election shall be financed by the commission to be paid with funds generated from the tax imposed; in each parish within the district, the sheriff through his general fund, the district attorney through any funds available to him including those funds provided pursuant to the Criminal Court Fund provided for in R.S. 15:571.11, and the president of the governing authority of the parish through his general fund may defray all or part of the costs of the election.

(3) The commission may choose to call the election at the same time as other parishwide elections in order to avoid the costs of a special election.

(4) The commission shall have the authority to reduce the millage for any year in which it determines that the millage in effect for that year will produce more revenues than the commission determines is needed for that year.

F. In addition to the taxes authorized by Subsection D of this Section, the commission may levy and collect any other taxes authorized by the constitution of this state for political subdivisions, including tax upon the sale at retail, the use, lease, or rental, the consumption, and the storage for use or consumption of tangible personal property, and on sales of services as defined by law. This tax shall be levied and collected only after the question of its imposition has been submitted to and approved by a majority of the qualified voters of the district voting at a regularly scheduled election to be conducted in accordance with the Louisiana Election Code. The election shall be called by the commission and shall be held only with another parishwide election. Expenses of this election shall be financed in the same manner as provided for in Subsection E of this Section.

G. The commission shall have authority to manage all taxes collected pursuant hereto and to expend funds produced therefrom for capital expenditures and for the operation of the Acadiana Criminalistics Laboratory.

H. The commission shall have the power to borrow monies for the maintenance and operation of the Acadiana Criminalistics Laboratory.

I. Nothing contained in this Section shall be interpreted as diminishing any of the authority of the affected sheriffs, district attorneys, or presidents of the governing authority as delegated to them by the constitution and laws of this state.

RS 40:2267.1 — Creation; purpose; approval of criminalistics laboratory by Louisiana

mmission is hereby created to

maintain and operate the Acadiana Criminalistics Laboratory, which has been established in Iberia Parish, Louisiana, with the approval of the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice, said commission and laboratory to serve the southwest Louisiana parishes of Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary and Vermilion,

comprising the Evangeline Law Enforcement Planning District, said commission to operate the Acadiana Criminalistics Laboratory for the purpose of crime detection, prevention, investigation and other related activities in connection with criminal investigation.

RS 40:2267.2 — Domicile of the Acadiana Criminalistics Laboratory Commission

unless later changed by a two-thirds vote of the membership of the commission.

RS 40:2267.3 — Membership; tenure

tory is located, to serve during their elective terms of office, together with the district attorney of each district in which the Evangeline Law Enforcement Planning District lies and the sheriff of each parish within the district, all of whom shall serve ex officio during their respective terms of office, together with one member of the governing authority of each other parish of the Evangeline Law Enforcement Planning District, which the commission serves, who shall be appointed by the respective governing authorities of the parishes of Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, and Vermilion, to serve for a period of two years, or until a successor is appointed.

B. The membership of the commission shall elect their own officers, and they may also elect from amongst their membership an executive committee of five members, each from a different parish, who shall be empowered to act for the commission in all things as may be delegated by the commission by resolution adopted by the full commission.

C. The members of the commission shall serve without pay or per diem.

D. A sheriff may designate his chief deputy or chief administrative assistant to represent him at a commission meeting. The district attorney may designate his first assistant or an assistant district attorney to represent him at a commission meeting. The president of the parish governing authority may designate his administrative assistant or any other person to represent him at a commission meeting. The designation of representatives shall be in writing, dated, signed, and presented to the secretary at the meeting of the commission.

RS 40:2267.4 — Commission; additional powers

2267, has the power to acquire any and all property necessary for its maintenance and operation by all lawful means, to incur debt in anticipation of its revenues, to accept gifts and donations, to establish rules and regulations for the conduct of its affairs, to establish charges and fees for any work done by said laboratory, to employ necessary personnel, to require bond for the handling of its funds in an amount to be determined by it; provided that employees thereof, as a condition of employment, shall become members of the Parochial Employees Retirement System of Louisiana according to laws relative thereto; and provided further, that title to fixtures, equipment, assets, or other property of any kind which have been provided by any coroner, law enforcement agency, or by the governing authority of any city, town, or parish for the initial establishment of the Acadiana Criminalistics Laboratory, shall remain in such coroner, law enforcement agency, or governing authority of any city, town, or parish.

RS 40:2267.5 — Costs of analysis and examination

aming, and analysis of evidence by scientific means by the Acadiana Criminalistics Laboratory, which submitted a certificate stating its findings to the appropriate law enforcement or prosecuting agency, shall be ordered to pay the reasonable costs of the analysis or examination. However, the defendant shall not be liable if he is acquitted or the prosecution or proceeding is dismissed.

RS 40:2267.6 — Martin Bofill "Bo" Duhé Acadiana Criminalistics Laboratory building

d to name the new Acadiana Criminalistics

Laboratory building the Martin Bofill "Bo" Duhé Acadiana Criminalistics Laboratory in honor of District Attorney Martin Bofill "Bo" Duhé.

RS 40:2268.1 — Creation; purpose

, and operating the Southeast Louisiana Regional Criminalistics Laboratory, hereafter referred to as the "laboratory", in accordance with the provisions of this Chapter. The commission shall operate the laboratory to assist member parishes in the detection of crime and the examination and analysis of evidence as provided for in the rules and regulations of the commission.

B. Each of the parishes of Ascension, Assumption, Lafourche, St. Charles, St. James, St. John the Baptist, and Terrebonne shall be eligible to become a member of the commission upon a majority vote of the governing authority of that parish.

RS 40:2268.2 — Domicile of the Southeast Louisiana Regional Criminalistics Laboratory Commission; authority to contract with existing laboratory

ssion shall be domiciled at Nicholls State University. The university shall provide adequate space and facilities to the laboratory and commission.

B. For purposes of this Chapter, the commission is authorized to contract with an existing private or public laboratory for the provision of criminalistic services and is authorized to impose, receive, or collect any and all fees or charges authorized by law for the purpose of establishing, funding, or operating a commission criminalistics laboratory.

RS 40:2268.3 — Commission membership; executive committee; quorum

es or assistants, who shall serve during their elective terms of office, together with the president of Nicholls State University or his designee.

B. The daily affairs and operations of the commission and laboratory shall be managed by an executive committee to be established by the commission, which shall consist of not less than five commission members.

C. A simple majority of the commission shall constitute a quorum.

RS 40:2268.4 — Revenues; fees and costs of court

ate sitting within a member parish, the court shall assess, in addition to and separate from other costs, against every defendant who is convicted after trial, or who enters a plea of guilty or of nolo contendere, or who forfeits his bond, a fee in accordance with the following schedule:

(a) The court shall, upon the conviction of the defendant for violation of the Uniform Controlled Dangerous Substances Law, assess against the defendant a fee of not less than one hundred nor more than five hundred dollars as reimbursement to the commission if laboratory personnel performed a scientific test of any evidence seized pursuant to the investigation or prosecution of the violation. The commission may establish a schedule stating the estimated cost of performing the test which may be used by the court in determining the amount of the fees.

(b) Crimes defined in Title 14 of the Louisiana Revised Statutes of 1950-five dollars.

(2) The fees provided for in Paragraph (1) hereof shall form no part of the criminal court fund of any court; however, upon written request by official action of the governing authority of any member parish or municipality thereof, the fees may be collected out of each fine imposed in lieu of being added as a fee or additional costs in that court.

(3) The fees provided for in Paragraph (1) hereof shall be collected by the respective city marshals, constables, or sheriffs and shall be remitted to the commission by the fifteenth day of the month following the month in which they are collected.

(4) The commission shall use the revenue received from such fees for all necessary expenses of the commission and of the laboratory, and for branch or satellite laboratories, including operating expenses, funds reserved for depreciation, capital expenses, and costs of constructing and maintaining buildings. The commission shall prepare an annual budget which shall be approved by a majority of the governing authorities of the member parishes. If revenues from the fees collected are not sufficient to pay the costs incurred as approved by the governing authorities in the budget, each such authority may pay from its general fund its pro rata share of the amount necessary to eliminate the deficit, based upon the ratio which the assessed valuation of property in the parish bears to the total assessed valuations of property in all of the member parishes.

(5) The revenues and fees received by the commission shall not be construed to be revenues of Nicholls State University.

B. The sheriff of each parish within the area served by the commission may make a direct contribution from time to time to the commission from his salary fund in order to assist in alleviating any deficit that may be existing in the operating funds of the commission.

RS 40:2268.5 — Commission as body politic; powers

enance and operation by all lawful means, to incur debt in anticipation of its revenues, to accept gifts and donations, to establish rules and regulations for the conduct of its affairs, to employ necessary personnel, and to require bond for the handling of its funds in an amount to be determined by it. Employees of the commission, as a condition of employment, shall become members of the Parochial Employees Retirement System of Louisiana according to laws relative thereto.

Title to fixtures, equipment, assets, and other property of any kind which have been provided by any coroner, law enforcement agency, or governing authority of any municipality or parish for the initial establishment of the commission shall remain in such coroner, law enforcement agency, or governing authority.

B. The commission may establish and maintain branch or "satellite" laboratories at any location in any member parish.

C. The commission shall promulgate rules and regulations governing the operations of the laboratory specifically to include the conditions under which the laboratory may be utilized and by whom.

RS 40:2271 — R.S. 40:2271 through 2301 were redesignated as R.S. 3:4201 through 4233 pursuant to Acts 1985, No. 73, §1.

RS 40:2321 — Definitions

holding

of untreated or inadequately treated sewage or other wastes.

RS 40:2322 — State grants to political subdivisions for water pollution control projects qualifying for federal aid

sh, municipality, public board or political subdivision of the State of Louisiana, or any combination of the same, to assist them in the construction of those portions of water pollution control projects, which qualify for Federal aid and assistance under the provisions of Title 33, Section 466, et seq. of the United States Code Annotated, as now or as may hereafter be amended.

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RS 40:2323 — Application for grant

e under the Federal Water Pollution Control Act subsequent to

January 1, 1968, for a portion of the cost of construction of water pollution control projects, it may apply for a state grant to the Louisiana Department of Health. The application shall state the total estimated cost of the project, the amount anticipated to be paid by federal assistance under the Federal Water Pollution Control Act, and the amount which the applicant will contribute to the project, and that request is made for a state grant for the balance of the estimated cost of the project.

RS 40:2324 — Issuance of state bonds to finance grants; terms, limits and condition

sue revenue bonds or other special obligations, herein referred to as "bonds", not in excess of twenty million dollars, to provide funds to be used for the purpose of supplementing grant offers made pursuant to Federal Water Quality Administration requirements to parishes, municipalities, municipal or parochial sewerage districts, and any agency, board, commission, or combination thereof that provide sanitary sewerage collection and/or treatment facilities, herein referred to as "political subdivisions". The bonds or other obligations shall be issued from time to time as funds are needed to pay the cost of state participation in Federal Water Quality Administration projects or to refund to the political subdivision any funds it has provided for the project

in anticipation of state participation, as hereinafter provided. Said bonds shall be in such series and form and for such term, not exceeding thirty years, and shall bear such rate of interest as shall be determined by the State Bond Commission; however, no bonds shall be issued for any project by the State Bond Commission unless there has been made on behalf of the political subdivision the certification provided in R.S. 40:2322. In the issuance and sale of said bonds, the State Bond Commission, to the extent possible, shall comply with the provisions of Acts 26 and 27 of the 1968 Extraordinary Session, provided, that the resolution under which the bonds shall be issued may contain such covenants and agreements with respect to the security and payment of the bonds as is deemed necessary by the State Bond Commission to insure the marketability of the bonds herein authorized to be issued and any similar bonds to be issued in the future which are authorized by the Legislature for such purpose. The state treasurer shall apply the proceeds derived from the sale and issuance of said bonds to pay the state's cost of participating in the construction of water quality control projects which may qualify for federal aid and assistance under the provisions of Title 33, Section 1251, et seq., of the United States Code Annotated, as the same now exists or as may hereafter be amended; provided that the state's participation in the cost of such water quality control projects shall not exceed twenty-five percentum of the cost thereof as said cost is approved by the Federal Water Quality Administration and used as the basis for determining federal participation on the project; and provided further that no contracts shall be awarded for the construction of such projects without the approval of the Louisiana Department of Health. In the establishment of priorities of projects, relative need and standards of construction, the Louisiana Department of Health shall work in conjunction with the appropriate federal agencies and shall apply regulations consistent with the provisions of the Federal Water Pollution Control Act; provided, however, it shall have the power to adopt such rules, regulations, and procedures as shall be necessary for the effective administration thereof. Provided that petitioner files an application for a federal grant and meets all other conditions and requirements for a federal grant and more particularly the provisions of Section 8(b)(7) of the Federal Water Pollution Control Act as amended.

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RS 40:2325 — Redemption of bonds

rovisions of Title 33 of Section 1251, et seq. of the United States Code Annotated, may also apply in accordance with the rules and regulations established by the Louisiana Department of Health for state participation in the cost of such water quality control project. The application for state participation in the cost of each project must be accompanied by a certificate of the chief executive officer of the political subdivision that said

political subdivision has obligated itself to levy and collect fees or charges as hereinafter provided, sufficient to produce in each year revenues at least equal to 125% of the maximum annual amount required to meet the debt service requirements on any bonds to be issued by the State Bond Commission for the purpose of paying the cost of the state's participation in that particular water quality control project. Said fees or charges to be levied and collected by the political subdivision at the same time and in the same manner as other fees or charges are levied and collected for water services or sewer services furnished to its customers or may be any other type of levy or charge that it is authorized to levy and collect under the constitution and laws of this state for such purpose. The moneys collected by each political subdivision for such purpose shall, after deducting therefrom the cost of administration and collection, which shall be five percent of the gross charge, be remitted to the state treasurer who shall deposit said moneys in a special fund designated "Louisiana Water Quality Control Bond Redemption Fund" to the credit of that political subdivision for the payment of bonds issued by the State Bond Commission to finance the cost of the water quality control project for that political subdivision. Any fee or charge levied by the political subdivision pursuant to this Chapter shall not be decreased or discontinued so long as any bonds issued by the State Bond Commission for the purpose of paying the cost of state participation in that political subdivision's project remain outstanding and unpaid. Upon retirement of the bonds issued for the purpose of state participation in a particular project, any surplus moneys remaining in the said Bond Redemption Fund to the credit of the political subdivision shall be refunded to the political subdivision. The charge levied by the political subdivision shall be known as the "Water Quality Control Charge" and shall be billed and collected monthly, bimonthly or quarterly by the governing authority of the political subdivision providing the sewerage collection and/or treatment facilities and/or any agency, board or commission of the political subdivision responsible for furnishing water to the sewer customers of the political subdivision. All of the funds derived from the collection of said fees or charges less the cost of collection shall be remitted to the state treasurer and placed in the said bond redemption fund to meet maturing principal and/or interest on the bonds issued to finance the cost of state participation in the political subdivision's project.

B. The moneys so paid into the bond redemption fund by each political subdivision shall be dedicated solely to the payment and redemption of the bonds issued by the State Bond Commission for the purpose of participating in the cost of the water quality control project for that particular subdivision; provided, that if there are surplus funds on deposit in said fund to the credit of the political subdivision, then, upon request by the political subdivision, the state treasurer may make cash expenditures therefrom for such projects to the

extent that moneys are available therefor in any fiscal year after there have been set aside sufficient funds to meet the principal and interest requirements falling due in the ensuing fiscal year on outstanding bonds which have been issued to finance the cost of prior projects of the political subdivision.

RS 40:2326 — Bonds and fees limited to water pollution control projects

te funds to supplement grants made pursuant to Federal Water Quality Administration requirements to any political subdivision of this state that provides sanitary sewerage collection and/or treatment facilities to its citizens and the revenues accruing to the state under the provisions hereof are dedicated solely for the purpose of supplementing such grant offers either through the funding thereof as above provided or through cash expenditures.

RS 40:2327 — Issuance of local bonds; state refunds

Administration grant, may, with the approval of the state treasurer and the Louisiana Department of Health, if state funds as set forth in R.S. 40:2324 through R.S. 40:2326 herein are not available for participation in the cost of the project when application is made, obligate the political subdivision to provide local funds to pay that portion of the cost of the project that is anticipated to be borne by the state, and the state shall refund the amount expended on its behalf by the political subdivision, from the first funds available under the provisions of R.S. 40:2326 and this Section, and not later than September 1, 1975.

RS 40:2331 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2332 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:2351 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:2352 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:2353 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:2354 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:2355 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:2401 — Findings and policy

state and is of such a nature as to require education and training of a professional character. The needs of such education and training can be met only by programs adequate in quality and scope and made available to those persons who are serving as such officers including those in a temporary or probationary capacity. Education should also be made available to persons who seek to become peace officers, and this education should be supervised by a special

council composed of persons experienced in law enforcement work and the training thereof rather than any other general board composed of nonlaw-enforcement members.

(2) Part-time, volunteer, and reserve peace officers have been utilized for decades by many police departments around the state and nation and have traditionally served as a valuable remedy to combat staffing shortages and to provide additional security during natural disasters and at events attracting large groups of people. These reserve, volunteer, and part-time peace officers have routinely been men and women who volunteered to serve their communities by freely giving their time and talent to assist their local law enforcement agencies and often received no monetary compensation whatsoever for their considerable past law enforcement experience.

RS 40:2401.1 — Prohibition against quotas

evaluate, promote, compensate, or discipline a law enforcement officer on the basis of the officer making a predetermined or specified number of any type or combination of types of arrests or require or suggest to a law enforcement officer, that the law enforcement officer is required or expected to make a predetermined or specified number of any type or combination of types of arrests within a specified period.

B. No municipality or any police department thereof, nor any parish or any sheriff's department thereof, shall establish or maintain, formally or informally, a plan to evaluate, promote, compensate, or discipline a law enforcement officer on the basis of the officer's issuance of a predetermined or specified number of any type or combination of types of traffic citations or require or suggest to a law enforcement officer, that the law enforcement officer is required or expected to issue a predetermined or specified number of any type or combination of types of traffic citations within a specified period.

C. No state agency, political subdivision, or law enforcement agency shall offer a financial reward or other benefit to a law enforcement officer which is determined by or based on the number of citations issued.

D. This Section shall not prohibit a municipality from obtaining budgetary information from a municipal court or a municipal court of record, including an estimate of the amount of money the court anticipates will be collected in a budget year.

RS 40:2401.2 — Recruitment of minority candidates

by governmental

entities that employ a peace officer. All governmental entities that employ a peace officer shall either develop and implement a policy designed to increase the recruitment of minority candidates for peace officer positions or adopt and implement the P.O.S.T. recruitment of minority candidate policy referenced in this Section.

RS 40:2401.3 — Requirement for grant applications

tration of Criminal

Justice, any governmental entity that employs a peace officer shall implement an in-service anti-bias training program, as administered by the council, including but not limited to topics such as procedural justice, cultural diversity, community relations, and peer intervention.

RS 40:2402 — Definitions

s local political subdivisions.

(2) "Law enforcement training course" means a basic or advanced course of study certified by the council on peace officer standards and training, for the purpose of educating and training persons in the skills and techniques required of a peace officer in the discharge

of his duties.

(3)(a) "Peace officer" means any employee of the state, a municipality, a sheriff, or other public agency, whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, or highway laws of this state, but not including any elected or appointed head of a law enforcement department.

(b) "Peace officer" shall also include those sheriff's deputies whose duties include the care, custody, and control of inmates.

(c) "Peace officer" shall also include military police officers within the Military Department, state of Louisiana.

(d) "Peace officer" shall also include security personnel employed by the Supreme Court of the state of Louisiana.

(e) "Peace officer" shall also include security personnel employed by a court of appeal of the state of Louisiana.

(f) "Peace officer" shall also include the director of capitol security and security officers employed by the legislature upon recommendation of the director as provided by R.S. 24:681 et seq.

(4) "Training center" means any school, academy, institute, or any place of learning whatsoever, which offers or conducts a law enforcement training course.

RS 40:2403 — Council on Peace Officer Standards and Training

of the Louisiana Commission on Law

Enforcement and Administration of Criminal Justice within the office of the governor.

B.(1) The council shall consist of the attorney general and eleven members of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, as follows:

(a) Three sheriffs, appointed by the governor.

(b) Three police chiefs, appointed by the governor.

(c) Two district attorneys, appointed by the governor.

(d) The executive director of the commission on law enforcement.

(e) The superintendent of state police.

(f) The president of the Louisiana City Marshals and City Constables Association or his designee.

(2) Each appointive member shall serve a term concurrent with that of the governor making the appointment. Each appointment by the governor shall be submitted to the Senate for confirmation.

(3) Every person who holds council membership by virtue of his official position or employment shall cease to be a member when he no longer holds the position which qualified him for membership on the council. Vacancies, whether created by death, resignation, or otherwise, shall be filled in the same manner as the original appointment and for the unexpired term of the predecessor of the appointee.

(4) Members of the council who hold positions of public employment or trust shall

perform such council duties without being in violation of R.S. 42:63 or R.S. 42:64 or any other statute prohibiting dual office holding.

C. The council shall elect a chairman, vice chairman, and secretary from among its membership. The quorum shall be determined by the bylaws of the council. The executive director of the Louisiana Commission on Law Enforcement shall summon the council to its first meeting.

D. Members of the council shall not receive compensation for their services, but may receive reimbursement from their own respective departmental funds for expenses incurred in the performance of the functions of the council.

E. The council shall hold meetings at such times and places in the state of Louisiana as it deems proper. The meetings shall be called by the chairman upon his own motion or upon the written request of eight members. The position of any member who fails to attend four consecutive meetings shall be deemed to be vacant.

F. No funds are hereby budgeted for the commission.

G. Administrative and staff support for the council shall be furnished by the Louisiana Commission on Law Enforcement, through plans developed by the Office of Peace Officer Standards and Training.

H.(1) The council may establish and implement curricula and publish training materials to train peace officers to identify, respond to, and report all crimes which are directed against individuals or groups, or their property, by reason of their actual or perceived race, age, gender, religion, color, creed, disability, sexual orientation, national origin, or ancestry.

(2)(a) The council shall include a training program on the crime of identity theft as defined under R.S. 14:67.16 in any curriculum requirements for the training of peace officers by January 1, 2004.

(b) The provisions of this Paragraph shall be implemented only to the extent that funds are made available for such purpose.

RS 40:2404 — Powers of the council

1) To administer this Chapter.

(2) To develop minimum curriculum requirements for the training of peace officers.

(3) To accredit law enforcement training centers.

(4) To establish minimum law enforcement instructor qualifications and certify individuals to act as law enforcement instructors.

(5) To inspect and evaluate all law enforcement training centers, programs, and courses to ensure compliance with the state's law enforcement training standards. Such inspection and evaluation shall include a comprehensive performance review at least once every four years. Any training center which is determined not to meet the state's law enforcement training standards pursuant to such a performance review shall be subject to probation or loss of its accreditation as provided in Paragraph (8) of this Section.

(6) To provide a consulting service for law enforcement education and training centers.

(7) To adopt, amend, or repeal rules and regulations to interpret and implement the

provisions of this Act, including, not exclusively, the powers of the council enumerated herein.

(8) To withhold or withdraw accreditation from law enforcement training centers and instructors upon a finding that the center, institution, or instructors thereof have failed or are failing to maintain minimum standards set forth in this Chapter or promulgated by rules or regulations of the council. In addition, any training center determined not to meet the state's law enforcement training standards based upon the performance review conducted pursuant to Paragraph (5) of this Section shall be placed on probation. The council shall make written notification to any training center placed on probation and allow the training center not less than thirty days nor more than ninety days to remedy any deficiencies and be removed from probationary status. Any such training center which is not removed from probationary status within the requisite time period shall lose its accreditation.

(9) To establish and implement curricula for such advanced, in-service, and specialized training courses as the council shall deem advisable, including school resource officer training, and to recognize the completion of such courses by the issuance of certificates.

(10) To assist the Committee for the Coordination of Police Services to Elderly Persons to assist in the development and delivery of training to law enforcement professionals involved in the "Triad Programs", including but not limited to the following subjects:

(a) Crimes against the elderly and the protection of elderly persons.

(b) Police sensitivity to the needs of elderly persons as victims, as witnesses, or as victims of "vicarious victimization", which conditions impair their quality of life.

(c) Availability of social and human services.

(11) To approve and certify any school resource officer program and to exercise the powers conferred upon the council pursuant to this Chapter in accrediting, certifying, and establishing other requirements relative to such programs.

(12) To suspend or revoke P.O.S.T. certification and to develop and implement policies and procedures to suspend or revoke P.O.S.T. certification for misconduct committed by a peace officer.

RS 40:2404.1 — Additional powers of the council, school resource officers, School Violence Prevention Training Program

Peace Officer Standards and Training shall develop and implement a School Violence Prevention Training Program under their jurisdiction and within the existing school resource officer program in conjunction with the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, the office of state police, local law enforcement agencies, and the State Board of Elementary and Secondary Education.

B. The Council on Peace Officer Standards and Training shall have the power to establish and appoint a committee with members representing the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, the accredited law enforcement training centers, the office of state police, local law enforcement agencies, and the State Board of Elementary and Secondary Education.

C. The committee shall have the following powers:

(1) To develop minimum curriculum requirements for the training and certification of school security guards, which standards shall apply uniformly throughout the state for all school security guards.

- (2) To establish minimum law enforcement instruction qualifications at an accredited P.O.S.T. academy.
- (3) To approve and certify a school security guard program and to establish other requirements relative to such program.
- D. A portion of the funds appropriated for the program shall be allocated to local law enforcement agencies to be utilized for the cost of investigation, detection, and forensics costs of crime committed on school property.
- E. After a secure funding source for this program becomes available, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall have six months to implement a one-year pilot test of the School Violence Prevention Training Program. The commission shall evaluate the results of the pilot test before recommending statewide implementation.

RS 40:2404.2 — Minimum training requirements; basic curriculum; annual training

c law enforcement peace officer, all persons shall successfully

complete a minimum of four hundred hours of core curriculum for basic peace officers as prescribed by the council.

B.(1) All full-time, part-time, or reserve peace officers shall successfully complete a minimum of twenty hours of in-service training requirements prescribed by the council on an annual basis. All initial training requirements must be completed within the first calendar year after receiving P.O.S.T. certification and annually thereafter.

(2) Under certain circumstances, the council may modify, extend, or waive an in-service training requirement on a case-by-case basis. Requests for modifications, extensions, or waivers of annual in-service training requirements for an officer shall be in writing from the agency head directly to the council. Waivers may be considered for extended continuous medical leave or any other emergency event or events deemed as such by the council.

(3) Peace officers called to active military duty are not required to complete in-service training requirements missed during the performance of the active duty service.

(4) The council shall promulgate rules and regulations to implement the provisions of this Subsection.

C.(1) No later than January 1, 2018, the council shall develop and implement curriculum for de-escalation, bias policing recognition, sudden in-custody death, and crisis intervention training, which shall include training for law enforcement interaction with persons with mental illness and persons with developmental disabilities, for peace officers that consists of classroom or internet instruction, or both.

(2) No later than January 1, 2022, the council shall develop and implement curriculum to provide instruction for law enforcement personnel on procedural justice and duty-to-intervene matters which shall include training for law enforcement personnel that consists of classroom or internet instruction, or both.

RS 40:2404.3 — Minimum training requirements for auxiliary officers; basic curriculum; annual

minimum of one hundred hours of core curriculum for basic peace officers as prescribed by the council. The maximum number of hours required for auxiliary officer training under this Section shall not exceed one hundred twenty hours. The auxiliary officer shall pass an examination approved by the council within one calendar year of initial volunteer service with a sheriff's department.

(2) This curriculum shall be created by the council with courses including but not limited to legal definitions, stop and frisk, Miranda rights, arrests, elements of probable cause determinations, firearm training, officer survival skills, de-escalation strategies, use of force,

cardiopulmonary resuscitation, and first aid. This curriculum may be taught at the auxiliary officer's affiliated sheriff's department by a P.O.S.T. certified trainer.

(3) For the purpose of this Chapter, "auxiliary officer" means an individual who has volunteered his service to a sheriff's department to assist in preserving public safety and has been certified as an auxiliary officer by the council. An auxiliary officer shall serve under the supervision of a P.O.S.T. certified deputy sheriff.

(4) The responsibilities of an auxiliary officer may include duties such as event security and traffic direction, including but not limited to funeral processions, athletic contests and sporting events, parades, festivals, or other similar activities, as supplemental or additional personnel. An auxiliary officer may not effect an arrest, issue citations, or conduct searches and seizures unless he is under the direct supervision of a P.O.S.T. certified deputy sheriff.

B. All reserve and auxiliary peace officers shall successfully complete a minimum of twenty hours of in-service training requirements prescribed by the council on an annual basis. All initial training requirements shall be completed within the first calendar year after receiving P.O.S.T. certification and annually thereafter.

RS 40:2405 — Peace officer training requirements; reimbursement by peace officer

ime peace officer in Louisiana subsequent to January 1,

1986, must successfully complete a certified training program approved by the council and successfully pass a council-approved comprehensive examination within one calendar year from the date of initial employment. The one-year period in which a full-time peace officer is required to complete a certified training program approved by the council and successfully pass a council-approved comprehensive examination is not interrupted if the peace officer leaves the employing agency to be employed as a full-time peace officer in another agency in Louisiana. Any person who fails to comply with this requirement shall be prohibited from exercising the authority of a peace officer; however, such persons shall not be prohibited from performing administrative duties.

(2) Any person who begins employment as a part-time or reserve peace officer in Louisiana on or after January 1, 2022, shall successfully complete a certified training program approved by the council and successfully pass a council-approved comprehensive examination within three calendar years from the date of initial employment. The three-year period in which a part-time or reserve peace officer is required to complete a certified training program approved by the council and successfully pass a council-approved comprehensive examination is not interrupted if the peace officer leaves the employing agency to be employed as a part-time or reserve peace officer at another agency in Louisiana. Any person who fails to comply with this requirement shall be prohibited from exercising the authority of a peace officer; however, the person shall not be prohibited from performing administrative duties. In no case shall a part-time or reserve peace officer be prevented from continuing his duties if the employing agency is unable to provide the requisite training because of a shortage of funds.

(3) No later than January 1, 2026, the council shall develop an updated training program for auxiliary peace officers that complies with the provisions of R.S. 40:2404.3.

(4) Notwithstanding any provision of law to the contrary and subject to the policy and procedures of the law enforcement agency with which he is employed, a part-time, reserve, or auxiliary peace officer may be permitted to carry a concealed weapon if he has completed the Council on Peace Officer Standards and Training basic firearms course.

B.(1) Additionally, the receipt of supplemental pay from the municipal police officers fund, the deputy sheriffs' fund, the state police fund, or out of the funds appropriated for military police by the Military Department, state of Louisiana, shall be contingent upon the recipient's beginning employment as a peace officer after January 1, 1986, successfully completing a council-approved training program, and passing the council-approved examination within one calendar year from date of initial employment.

(2) Certified security personnel of the Supreme Court of Louisiana or of any court of appeal of the state shall not be eligible to receive supplemental pay benefits even though the peace officer has successfully completed a council-approved training program. The commission issued to court security personnel shall remain in force and in effect at the pleasure of the employing court.

C.(1) Peace officers employed as such prior to January 1, 1986, may continue their employment and their receipt of supplemental pay without compliance with the provisions of this Section.

(2) Reserve or part-time peace officers continuously serving as such prior to January 1, 1986, may continue their service without compliance with the provisions of this Section.

D. In no case shall the failure of a peace officer to obtain the required training within the timeline required by this Section be grounds to suppress any evidence, testimony, or law enforcement action whatsoever in a court of law.

E. Full-time peace officers employed after January 1, 1986, in villages of one thousand or less, according to the last decennial census, shall have a period of two calendar years to comply with the provisions of this Section. In addition, full-time peace officers employed in such a village which adopts a home rule charter after July 1, 1998, and who were employed as such at the time of adoption of the charter shall have a period of two calendar years from the date of adoption of the charter to comply with the provisions of this Section. In no case shall a peace officer of such a village be prevented from continuing his duties or receiving regular or supplemental pay if the village is unable to provide the requisite training because of a shortage of funds.

F.(1) After July 1, 2003, every governmental entity of this state intending to employ on a permanent basis a peace officer who has satisfactorily completed a certified law enforcement training course and basic firearms training program as required under this Section may, as a condition of employment, require a newly appointed peace officer to enter into a written employment contract executed prior to employment for a period of not longer than two years from the date of satisfactory completion of the certified training course and basic firearms training program.

(2) If a peace officer who has entered into a contract authorized under this Subsection accepts employment as a peace officer with another governmental entity, the peace officer shall reimburse the governmental entity that initially hired the peace officer for

the total costs incurred and expended during his or her training program, including the officer's salary paid during the training period.

(3) The amount of reimbursement authorized by this Subsection shall be prorated based upon the percentage of time that the peace officer completed his or her employment contract. The amount of reimbursement authorized by this Subsection after the pro rata amount is calculated shall be reduced by the cost of the training provided by the Louisiana Commission on Law Enforcement and Administration of Criminal Justice.

(4) The governmental entity which initially paid for the peace officer's law enforcement training course and basic firearms training program shall submit an itemized sworn statement to the peace officer, shall demand payment thereof, and may enforce collection of the obligation through civil remedies and procedures.

G. The council may suspend the provisions of this Section as they apply to designated Louisiana National Guard military police officers during a time of war, heightened national security alert, or as specified by the United States Department of Homeland Security.

H.(1) Notwithstanding any law to the contrary, the qualification to serve as a peace officer pursuant to the requirements of this Chapter of a person who is not serving as a peace officer in any capacity shall be retained without further training being required for a period of five years from the date on which such person ceased to serve as a peace officer, provided the person meets all of the following requirements:

(a) Served as a full-time, part-time, reserve, or auxiliary peace officer who met all requirements of this Chapter for a continuous period of not less than two years immediately preceding the date on which he ceased to serve as a peace officer.

(b) Satisfactorily completed a basic or advanced law enforcement training course as provided for in this Chapter, including any required examination.

(c) Satisfactorily fulfilled all requirements for basic firearms training during active service as a peace officer.

(2)(a) A person who is not serving as a peace officer, but who retains the qualifications to do so, as provided in Paragraph (1) of this Subsection, may resume service as a qualified peace officer during the five-year period provided the officer successfully requalifies with his or her firearm in accordance with the provisions of this Section and completes additional annual training for the year in which the peace officer resumes employment as required and prescribed by the council.

(b) The council shall establish the training requirements required for a person who seeks to resume service as a qualified peace officer after the five years of continued qualification provided for in Paragraph (1) of this Subsection has expired.

(c) The additional annual training required of officers pursuant to Subparagraph (a) of this Paragraph and Paragraph (I)(2) of this Section may be available online and at no cost to the peace officer.

I. Any person who is enrolled in a law enforcement curriculum and who successfully completes a certified Police Officer Standards and Training course or academy subsequent to July 1, 2005, and does not begin employment as a peace officer upon completion of the

course or academy shall maintain their P.O.S.T. qualification status for a period of two years provided they meet the following requirements:

- (1) Satisfactorily complete a basic or advanced law enforcement training course as provided for in this Chapter, including any required examination.
- (2) Satisfactorily fulfill all requirements for annual basic firearms training and any additional training for the year in which the peace officer resumes employment as required and prescribed by the council.

J.(1) Notwithstanding any provision of law to the contrary, the P.O.S.T. certification of any qualified peace officer, whether employed full-time, part-time, reserve, or auxiliary shall be revoked upon the occurrence of any of the following conditions:

- (a) A conviction of malfeasance in office.
- (b) A conviction of an offense which results in the individual peace officer's restriction of his constitutional right to bear arms.
- (2) The Council on Peace Officer Standards and Training may conduct a revocation hearing to determine whether the P.O.S.T. certification of any qualified peace officer, whether employed full-time, part-time, reserve, or auxiliary shall be revoked if any of the following conditions occur:
 - (a) The officer has been terminated by his employing law enforcement agency and has exhausted all administrative remedies, or allowed to retire or resign, as a result of disciplinary action taken against the officer for any conduct during the course and scope of employment that would constitute an unreasonable use of force.
 - (b) The officer has been convicted of a misdemeanor involving the crime of domestic abuse battery as provided in R.S. 14:35.3 or a felony in any court of the United States.
 - (c) The officer has failed to complete additional training as required and prescribed by the council.
 - (d) The officer voluntarily surrenders certification.
 - (e) A judicial disposition in a criminal case results in revocation of certification.
- (3)(a) Any hearing conducted by the council or appeal by an officer whose certification has been revoked shall be conducted according to rules promulgated by the council.
- (b) Notice of a revocation hearing shall be provided to all officers involved at least thirty days prior to the hearing date.
- (4) The council shall promulgate rules in accordance with the Administrative Procedure Act no later than January 1, 2018, subject to the oversight of the House Committee on Judiciary and the Senate Committee on Judiciary B, to provide procedures governing revocation hearings.
- (5) Any peace officer whose certification has been denied or revoked by the council may file an appeal under the provisions of the Administrative Procedure Act provided in R.S. 49:978.1.

RS 40:2405.1 — Special equipment provided by Department of Public Safety and Corrections

pon request special protective equipment, commonly known as a bulletproof vest, for every "peace officer" in the state of Louisiana. As used in this Section,

"peace officer" means any full-time employee of the state, a municipality, a sheriff, or other public agency, whose principal permanent duties primarily involve the prevention or detection of crime or the enforcement of penal and traffic laws and actually include the making of arrests and the performing of searches and seizures.

B.(1) To the extent that funds are not appropriated to the Department of Public Safety and Corrections for the purposes provided in Subsection A of this Section, the department may make available for purchase to law enforcement agencies for use by their peace officers bulletproof vests no longer utilized by the department for which the manufacturer warranty has expired.

(2) Any purchase pursuant to this Section shall be conducted pursuant to rules or regulations adopted by the Louisiana Property Assistance Agency.

(3) The state of Louisiana, its agencies and assigns, including but not limited to the Department of Public Safety and Corrections shall be immune from any liability relating to or resulting from the purchase, issuance, or failure of bulletproof vests transferred pursuant to the provisions of this Section.

(4)(a) Not later than ninety days prior to the destruction of any bulletproof vest, the department shall give notice to law enforcement agencies and constables that bulletproof vests no longer utilized by the department for which the manufacturer warranty has expired are available for purchase for use by part-time and reserve peace officers, constables, and deputy constables.

(b) As used in this Paragraph, "part-time and reserve peace officer" means any part-time peace officer and any reserve peace officer employed by the state, a municipality, a sheriff, or other public agency whose principal duties primarily involve the prevention or detection of crime or the enforcement of penal and traffic laws and actually include the making of arrests and the performing of searches and seizures.

(c) As used in this Paragraph, "constables and deputy constables" means any elected constable as provided in R.S. 13:2583 and any deputy constable appointed by a constable.

C. Prior to the purchase and distribution of the bulletproof vests, the director of each law enforcement agency shall supply a sworn affidavit stating the number of vests on hand, the number of vests requested, and that it shall be the policy of the agency that all officers receiving vests shall be expected to wear them.

D. The provisions of this Section shall not be construed to require that a peace officer wear a bulletproof vest.

RS 40:2405.2 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:2405.3 — Unlawful activity by non-accredited training centers

cit prospective trainees for a basic law enforcement training course, unless same is approved and accredited by the council.

RS 40:2405.4 — Additional requirements of peace officers

August 15, 2003, shall provide the

law enforcement agency with a sample of his DNA material and fingerprint prior to the commencement of the discharge of his duties. The law enforcement agency shall also

conduct a criminal background check of any peace officer it employs after August 15, 2003.

B. Any person currently employed as a peace officer and employed in that position prior to August 15, 2003, may elect to provide the law enforcement agency with which he is employed with a sample of his DNA material.

C. Any person hired as a peace officer with a law enforcement agency on or after August 15, 2003, shall have his DNA collected and the biological sample stored. A person currently employed as a peace officer may authorize that his DNA be tested by the taking of a biological sample.

D. The DNA material collected pursuant to the provisions of this Section shall be stored in a secure and protective manner and location.

E. Before any DNA material may be tested, the peace officer shall be notified in writing, and the peace officer must give his written consent to his DNA material being tested before any such procedure, testing, or analysis is undertaken.

F. If the peace officer does not consent in writing to the testing of his DNA, the DNA of an individual peace officer may be tested only upon a showing of probable cause before the judge who issues the court order authorizing the testing of the DNA of the peace officer.

G.(1) To ensure privacy rights of each peace officer who gives a DNA sample, the DNA may only be used, tested, or released for either of the following two purposes:

(a) Upon a finding of probable cause by a judge in a criminal case that the peace officer has committed a criminal act, unless the peace officer consents in writing to another use, testing, or release of the DNA.

(b) Upon the death of a peace officer and the use of the DNA is necessary to provide a positive identification of the decedent.

(2) Any person who violates the provisions of this Subsection shall be subject to a fine not to exceed five thousand dollars or imprisonment for not more than three years, or both.

H. The division of public safety services, office of state police, after receiving input from local law enforcement agencies and local law enforcement officers, shall adopt a uniform system for testing of DNA material as provided for in this Section and all such other rules and regulations as may be necessary to implement the provisions of this Section, all in accordance with the Administrative Procedure Act.

I. For purposes of this Section:

(1) "DNA" shall have the same meaning as in R.S. 15:603.

(2) "Peace officer" shall have the same meaning as in R.S. 40:2402 with the exception of full-time military police officers within the Military Department. "Peace officer" shall also include all law enforcement officers employed by any public college or university in this state.

RS 40:2405.6 — Training for peace officers; electronic control devices

of Louisiana shall develop a training and certification course which shall instruct peace officers as to the proper handling and use of the devices. The course shall also contain instruction regarding the impact of high voltage electronic control devices and the effects of their use. Every peace officer who purchases or is issued an electronic control device for use in the performance of his duties shall successfully complete this training course.

RS 40:2405.7 — Human trafficking training; report to legislature

shall focus on all of the following:

- (1) Investigating human trafficking under R.S. 14:46.2.
- (2) Investigating trafficking of children for sexual purposes under R.S. 14:46.3 and the special needs of sexually exploited children.
- (3) Methods used in identifying United States citizens and foreign national victims of human trafficking, including preliminary interview techniques and appropriate questioning methods.
- (4) Methods of increasing effective collaboration with nongovernmental organizations and other relevant social service organizations in the course of investigating and prosecuting a human trafficking case.
- (5) Methods for protecting the rights of victims of human trafficking, taking into account the need to consider human rights and the special needs of female and child victims.
- (6) The necessity of treating victims of human trafficking as crime victims rather than criminals.
- (7) Methods for promoting the safety of victims of human trafficking.

C. The council shall seek input and participation of appropriate nongovernmental organizations and other relevant organizations in the preparation and presentation of training called for in this Section.

D.(1) Within one year of employment, all peace officers, as defined in R.S. 40:2402, shall receive seven hours of training on human trafficking from the Council on Peace Officer Standards and Training's online Learning Management System program. All peace officers employed on August 1, 2022, who have been employed for one year or more, shall receive seven hours of training on human trafficking from the Council on Peace Officer Standards and Training's Learning Management System program by December 31, 2022.

(2) Beginning in 2023, the Council on Peace Officer Standards and Training shall report compliance percentages of human trafficking training to the Senate Committee on Judiciary B and the House Committee on Judiciary from the previous year not later than February fifteenth of each year.

E. The council shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to the oversight of the Senate Committee on Judiciary B and the House Committee on Judiciary, for the implementation of the human trafficking training program.

RS 40:2405.8 — Additional peace officer training requirements

training program and a sexual assault

awareness training program for peace officers that shall consist of classroom or Internet instruction, or both. The training programs may include field officer training as prescribed by the council.

B. The council shall create and maintain a current list of those peace officers who have successfully completed the homicide investigator training program for purposes of coordinating homicide investigations occurring in the state. Except for peace officers investigating cases of vehicular homicide as defined in R.S. 14:32.1, on and after January 1,

2017, only peace officers who successfully complete the homicide investigator training program or receive a waiver of compliance based on prior training or experience as a homicide investigator shall be assigned to lead investigations in homicide cases.

C.(1) The council shall develop the sexual assault awareness training program in a series of modules to include all of the following:

- (a) The neurobiology of sexual assault and trauma, including victim impact.
 - (b) Response to sexual assault, including but not limited to investigative methods, collecting and securing evidence, and interviewing victims.
 - (c) Applicable federal and state victims' rights laws.
- (2) The council shall solicit free or no-cost training and technical assistance and may accept gifts, grants, and donations from whatever sources are available for purposes of this Subsection. The council shall consult with appropriate governmental agencies and nongovernmental statewide agencies in the development and presentation of the training required by this Subsection. Regarding nongovernmental agencies, only agencies whose primary purpose is the delivery of sexual assault services to victims are required to be consulted.
- (3) On and after July 1, 2016, each peace officer, as defined in R.S. 40:2402(3)(a), shall complete a sexual assault awareness training program as provided by the council.

D. The council shall create and maintain a current list of those peace officers who have successfully completed the sexual assault awareness training program for purposes of coordinating sexual assault investigations.

E.(1) The council shall develop a domestic violence awareness training program in a series of modules to include all of the following:

- (a) Dynamics of domestic violence.
 - (b) Predominant aggressor determination.
 - (c) Neurobiology of trauma and its implications for victim communication.
 - (d) Strangulation response and investigation methods.
 - (e) Evidence-based investigation methods.
 - (f) Protection order enforcement and the Louisiana Protective Order Registry.
 - (g) Applicable state and federal domestic violence laws.
- (2) On and after July 1, 2018, each peace officer, as defined in R.S. 40:2402(3)(a), shall complete a domestic violence awareness training program as provided by the council.

F.(1) The council, in collaboration with the community, shall develop a communication training plan. The plan shall incorporate officer techniques for face-to-face communications with hard of hearing or deaf persons. The training shall cover the following topics:

- (a) Recognition of deaf or hard of hearing individuals.
- (b) Communication tips including but not limited to the following:
 - (i) Review of the ADA publication, "Communicating with People Who Are Deaf or Hard of Hearing: ADA Guide for Law Enforcement Officer".
 - (ii) Training with communication cards or other forms of assistance technology for law enforcement officers interacting with deaf or hard of hearing individuals.

(c) Information regarding how to access interpreters, TTY, and relay services.

(d) Rights of deaf and hard of hearing individuals, including interrogations.

(e) Applicable state and federal laws.

(2) On and after January 1, 2019, each peace officer, as defined in R.S.

40:2402(3)(a), shall complete an interactive training module as provided by the council on communicating with deaf and hard of hearing individuals.

(3) The council shall approve communication cards developed by any public or private entity, including nongovernmental advocacy groups, that specializes in working with deaf and hard of hearing individuals for the use by law enforcement officers. The communication cards should be made available in all law enforcement agency headquarters and substations. Additionally, all officers shall have communication cards available in patrol vehicles.

G.(1) The council shall include motorcyclist profiling awareness training in the current bias-recognition policing curriculum. The training shall consist of at least one-half hour of classroom or internet instruction, or a combination of classroom and internet instruction. This training shall address issues related to motorcyclist profiling and shall be provided to peace officers as defined in R.S. 40:2402(3)(a).

(2) For purposes of this Subsection, "motorcyclist profiling" shall mean the arbitrary use of the fact that an individual rides a motorcycle or wears motorcycle-related clothing or paraphernalia as a factor in deciding to stop, question, take enforcement action, arrest, or search the individual or his motorcycle or motor vehicle.

H. The council shall ensure that Alzheimer's and dementia training are incorporated within their education programs.

I.(1) The council shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to the oversight of the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B, for the implementation of a homicide investigator training program.

(2)(a) The council shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to the oversight of the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B, for the implementation of a sexual assault awareness training program as provided in R.S. 17:1805(H).

(b) The council shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to the oversight of the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B, for the implementation of a sexual assault awareness training program for peace officers as defined in R.S. 40:2402(3)(a) as provided in Paragraph (C)(3) of this Section.

(3)(a) The council shall promulgate rules in accordance with the Administrative Procedure Act for implementation of the following training programs for peace officers as provided in Subsections E and F of this Section:

(i) Domestic violence awareness training.

(ii) Communication with deaf or hard of hearing individuals.

(b) The council shall create and maintain a list of peace officers who have successfully completed the domestic violence awareness training and the training on communication with deaf or hard of hearing individuals.

J.(1) The council shall develop and continuously update trauma-informed training materials related to domestic violence, sexual assault, and sex trafficking in its basic and in-service training curriculums.

(2) For the purposes of this Subsection, trauma-informed materials shall include skills, practices, and leadership relating only to domestic violence, sexual assault, and sex trafficking.

(3) The initial orientation to sex trafficking trauma-informed training shall be classroom instruction and shall be conducted at a P.O.S.T.-accredited academy or a P.O.S.T.-approved training center. The council may designate an alternative method for delivery of the training when otherwise not logistically feasible.

(4) All peace officers employed on August 1, 2024, who have been employed for one year or more shall complete the training within one year after the curriculum has been developed and approved by the council.

(5) The trauma-informed training and materials required by this Subsection shall not include materials relating to diversity, equity, and inclusion practices or policies.

RS 40:2405.9 — Identification of minor or dependent children of an arrested person; guidelines and

de training for law enforcement agencies on identifying and ensuring the safety of minor or dependent children upon the arrest of the child's parent or guardian.

B. The guidelines and training shall include all of the following:

(1) Procedures to ensure that law enforcement officers inquire or otherwise ascertain whether an arrested person has a minor or dependent under his care, custody, or control at the time of the arrest.

(2) Procedures for the proper arrangement of temporary care for children to ensure their safety and well-being with a priority on placing children with supportive family members and trusted adults.

(3) Education on how witnessing a violent crime or other event causes emotional harm to children and how law enforcement can assist in mitigating the long-term effects of the trauma.

(4) Procedures for reporting on the number of instances requiring a referral to a partner organization or transportation of the child to a child advocacy center when the child is unable to be placed with a family member.

(5) Procedures to ensure law enforcement officers receive annual training as mandatory reporters of child abuse or neglect in accordance with Children's Code Article 609.

C. The council shall work in conjunction with and receive input from appropriate nongovernmental organizations and other relevant organizations that are invested in the rights of children with incarcerated parents to develop and establish the guidelines and training program required by this Section.

D. Nothing in this Section shall preclude a law enforcement officer's responsibility as a mandatory reporter to report suspected child abuse or neglect in accordance with

RS 40:2406 — Short title

igating this website,

RS 40:2411 — Peace Officer and Public Safety Personnel Peer Support and Mental Health and

ersonnel are often exposed to traumatic, hazardous, violent, and life-threatening situations throughout their careers. The very nature of the work they perform can also cause stress in their personal life and familial relationships. These factors cumulatively can take a toll on both the mental and physical well-being of our peace officers and public safety personnel, which in turn can affect their job performance. Peace officers and public safety personnel are no less susceptible than any other citizens of Louisiana to mental health issues, including depression, alcoholism, and drug addiction.

(2) Peer support encompasses a range of activities and interactions between individuals with common life experiences. This mutuality fosters personal connection and inspires hope. Peer support has been used for decades by law enforcement agencies following critical incidents. Congress has recognized the importance of peer support programs for law enforcement officers through the Law Enforcement Mental Health and Wellness Act of 2017. Peer support and early intervention are important for successful detection and treatment of mental health issues, a reduction of poor job performance and misconduct, an increase in retention of trained peace officers, and a reduction of the suicide rate in the law enforcement and public safety professions.

(3) Peace officers and public safety personnel who protect and serve the public are often reluctant to seek help for themselves. It is important that those in positions to offer assistance have a full understanding of the job of peace officers and those personnel who support their mission. In an effort to manage stress and support the overall wellness and mental health of peace officers and public safety personnel, and for the benefit and safety of the general public they serve, peace officers and public safety personnel are hereby encouraged to seek assistance from their peers and to feel confident that their participation in a peer support program shall be privileged and confidential in all respects and shall not be divulged to the public.

(4) It is hereby declared to be the public policy of the state of Louisiana to promote and encourage the use of trained peers for support among peace officers and public safety personnel. The intent of this Section is to further this goal by providing for a privilege, confidentiality of information, and tort immunity for governmental entities, their agents, employees, and persons who, on their behalf, furnish information and participate as volunteers in peer support programs for peace officers and public safety personnel.

B. Except for participation in a peer support session following a critical incident as may be required by a governmental entity, no peace officer or public safety personnel shall be mandated to participate in a peer support session or program.

C. Definitions. For purposes of this Section:

(1) "Governmental entity" means any board, authority, commission, department, office, division, or agency of the state or any of its political subdivisions.

(2) "Peace officer" means any of the following:

(a) An employee of the state, a municipality, a sheriff, or other public agency, whose permanent duties include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and who is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, or highway laws of this state, but does not include any elected or appointed head of a law enforcement department.

(b) A sheriff's deputy whose duties include the care, custody, and control of inmates.

(c) A military police officer within the Military Department, state of Louisiana.

(d) Security personnel employed by the Louisiana Supreme Court.

(e) Security personnel employed by a court of appeal of the state of Louisiana.

(3) "Peer support member" means a person, whether a peace officer or not, specifically trained and certified in peer support training, as defined in this Subsection, to voluntarily provide confidential emotional and moral support and assistance to peace officers and public safety personnel, and approved as a peer support member by the executive director of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice. A peer support member may be, but is not required to be, a licensed counselor or mental health professional.

(4) "Peer support program" means a program established by a governmental entity to provide peer support services to peace officers and public safety personnel.

(5) "Peer support session" means any communication by a peace officer or public safety personnel with a peer support member, accomplished primarily through listening, assessing, and assisting with problem-solving, and may include referring a peace officer or public safety personnel for professional intervention or treatment that is beyond the scope of the peer support member. A peer support session also includes a group session following a critical incident experienced by a group of peace officers or public safety personnel.

(6) "Peer support training" means training in peer support and critical incident stress conducted by the Southern Law Enforcement Foundation, the International Critical Incident Stress Foundation, Inc., the International Association of Fire Fighters, or an equivalent program as approved by the executive director of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice.

(7) "Public safety personnel" means a firefighter or an employee of a governmental entity who, by virtue of his job duties, provides support to peace officers, including but not limited to a dispatcher, public safety telecommunicator as defined in R.S. 40:1131, crime scene and crime laboratory technician, and criminal analyst.

D. Peer support member training. (1) Any governmental entity that establishes a peer support program shall ensure that a peer support member successfully completes the training required by this Section before being designated as a peer support member to provide emotional and moral support to peace officers and public safety personnel.

(2) The provisions of this Section apply only to peer support sessions conducted by an employee or agent of a governmental entity who has:

(a) Successfully completed peer support training.

(b) At the time of the peer support session, been designated by a governmental entity to act as a peer support member.

E. Privilege and confidentiality. (1) Any and all information, reports, records, or communications, whether oral, written, or electronic, that are made, generated, received, or maintained by or in connection with a peer support program or session, are considered privileged and confidential and shall not be considered public records for the purposes of the Public Records Law, R.S. 44:1 et seq.

(2)(a) Except as otherwise provided by this Chapter, no person, including a peer support member, shall disclose any information, reports, records, or communications described in Paragraph (1) of this Subsection to any other person without the prior written approval of the peace officer or public safety personnel who is the subject of the peer support session or if the peace officer or public safety personnel is deceased, by his legal successor.

(b) This Paragraph shall not prohibit or limit any communication between peer support members, nor prohibit or limit peer support members from sharing among themselves any information, reports, records, or communications about a peace officer or public safety personnel, when done for the purpose of furthering the goals of the peer support program.

(c) This Paragraph shall not prohibit a governmental entity from compiling and maintaining statistics relating to a peer support program or sessions, provided that these statistics shall not contain information that could in any way identify a peace officer or public safety personnel participating in a peer support session or program.

(3) No person, including a peer support member, shall be required to disclose, by way of testimony or otherwise, information made privileged and confidential by this Subsection or to produce, under subpoena or a public records request, any records, documents, opinions, or decisions relating to privileged or confidential information:

(a) In connection with any administrative, civil, or criminal case, proceeding, or adjudication.

(b) By way of any discovery procedure.

(c) By way of any request for public records pursuant to R.S. 44:1 et seq.

(4) The privilege and confidentiality provided by this Subsection are supplementary to any other statute, rule, or jurisprudence creating or relating to an applicable privilege, confidentiality, or public records exemption.

(5)(a) Any peer support member or other person who reveals the contents of a communication made privileged or confidential by this Subsection, or any person who threatens, intimidates, or attempts to compel a peer support member to disclose the contents of a privileged or confidential communication, shall be subject to any discipline or penalties imposed by the governmental entity.

(b) In addition to the discipline or penalties provided by Subparagraph (a) of this Paragraph, whoever violates the provisions of this Subsection shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(6) The privilege and confidentiality provided by this Subsection shall not apply to any of the following:

(a) A threat of suicide or homicide made by a peace officer or public safety personnel

in a peer support session or any information conveyed in a peer support session relating to a threat of suicide or homicide.

(b) Information mandated by law to be reported, including but not limited to information relating to child abuse or neglect, elderly abuse or neglect, or domestic violence.

(c) Any communication that reveals the commission of a crime.

(d) Any communication that reveals the intended commission of a crime or harmful act, when disclosure of the communication is determined by the peer support member to be required in order to protect any person from a clear, imminent risk of serious mental or physical harm or injury, or to forestall a serious threat to public safety.

(e) Any communication made to a peer support member not in connection with a peer support session, or in the course of an incident that the peer support member responded to, was a witness to, or was a party to, in a capacity other than a peer support member.

(7) Nothing in this Subsection shall limit the discovery or introduction in evidence of knowledge acquired by a peace officer or public safety personnel from observations made by him during the course of his employment, or material or information acquired by him during the course of his employment, that was not discovered during a peer support session and is otherwise subject to discovery or introduction in evidence.

F. Civil immunity. (1) Any governmental entity that has a peer support program, and its employees and agents, including peer support members, shall be immune from civil liability for, or resulting from, any act, decision, omission, communication, writing, report, finding, opinion, or conclusion, done or made in good faith while engaged in efforts to assist a peace officer or public safety personnel through a peer support program.

(2) A person who in good faith reports information or takes action in connection with any peer support program is immune from civil liability for reporting the information or taking such action, or participating therein, and in particular, reporting information or taking action arising out of any peer support session. This immunity shall not protect a person who makes a report known to be false or with reckless disregard for the truth.

(3) The civil immunity provided by this Subsection shall be liberally construed to accomplish the purposes of this Section.

RS 40:2451 — Creation; membership; term of office

Department of Health, hereinafter in this Chapter referred to as the department.

The council shall exercise the powers and duties hereinafter set forth or otherwise provided by law.

B. The council shall consist of fifteen members who shall be appointed by the governor and shall be representative of physicians, pediatricians, coaches, physical therapists, athletic trainers, athletes, educators and such other persons or professions interested in the physical fitness of the citizens of Louisiana. In making his appointments, the governor shall also take into consideration the various geographic areas of the state with a view to giving all sections of the state representation on the council.

C. The terms of office of members of the council shall be for three years expiring on September first in the appropriate year. Of the initial

members appointed to the board, four members shall be appointed for terms of one year, five members shall be appointed for terms of two years, and six members shall be appointed for terms of three years, as determined by the governor. The governor may reappoint any person who has served or is serving as a member of the council. A vacancy shall be filled by appointment only for the remainder of the unexpired term. Each appointment by the governor shall be submitted to the Senate for confirmation.

D. The council shall meet and organize immediately after appointment of the members and shall elect from its membership a chairman and a vice chairman. The council shall adopt rules for the transaction of its business and shall keep a record of its resolutions, transactions, findings, and determinations. Eight members shall constitute a quorum.

E. The council shall meet at least once in each quarter of the fiscal year, and as often thereafter as shall be deemed necessary by the chairman.

F. By a two-thirds vote of the council, a member may be dismissed from membership for such reasons as the council may establish, which reasons shall include lack of interest in council duties or repeated absences from council meetings.

G. Members of the council shall receive no salary for their services, but shall be reimbursed for actual travel and other expenses incurred while in the performance of their duties in accordance with travel regulations of the division of administration.

RS 40:2452 — Staff

ter, or as otherwise provided by law.

RS 40:2453 — Powers and duties

- (2) To sponsor physical fitness and sports workshops, clinics, conferences, and other similar activities.
- (3) To give recognition to outstanding developments and achievements in, and contributions to, physical fitness and sports.
- (4) To stimulate physical fitness research.
- (5) To collect and disseminate physical fitness and sports information and initiate advertising campaigns promoting physical fitness and sports.
- (6) To assist the Department of Education in helping schools in developing health and physical fitness programs for students.
- (7) To encourage local governments and communities to develop local physical fitness programs and amateur athletic competitions.
- (8) To develop programs to promote personal health and physical fitness in cooperation with medical, dental, and other similar professional societies.
- (9) To enlist the support of individuals, civic groups, amateur and professional sports associations, and other organizations to promote and improve physical fitness and sports programs.

RS 40:2471 — Statement of purpose

ivery system as an alternative approach to traditional institutional placement. Furthermore, extensive legislative study has revealed that home care is increasingly being recognized as the preferred method in the delivery of service to persons who are chronically ill and persons with disabilities because it: (1) allows such persons to receive needed

treatment and care at home while enabling them to continue to maintain the family and community ties which are so important; and (2) provides less costly long term care services that are by far more satisfying and effective than institutional placement.

B. Federal developments under Public Law 97-35, "The Omnibus Budget Reconciliation Act of 1981," have given states more latitude and authority to cover a broad range of in-home and community support services under Medicaid. The legislature recognizes the need for deinstitutionalization of persons who are chronically ill and persons with disabilities, and intends that the state should not only participate in such programs but also establish a broad range of coordinated noninstitutional care. Therefore, it is the purpose of this Chapter to provide for a comprehensive and fully coordinated approach to long term home health care. The legislature further recognizes that persons other than those eligible for Medicaid are also in need of a broad array of health and social services. The legislature therefore states its intent to expand the long term home health care program in terms of eligibility requirements and the range of services provided for recipients. For this purpose, the Oversight Subcommittee of the Joint Committee on Health and Welfare shall periodically review the program.

RS 40:2472 — Definitions

shall mean a licensed hospital as defined by and regulated under R.S. 40:2100-40:2113.5.

(3) "Long term home health care" shall mean a comprehensive, coordinated plan of care and services provided in the home to those persons who require care, treatment, maintenance, nursing, or other medical and social services and who are medically eligible for placement in a hospital or nursing home.

(4) "Nursing home" shall mean a licensed nursing home as defined by and regulated under R.S. 40:2009.2-40:2009.19.

(5) "Primary provider of home health care" shall mean those providers that are certified to participate and who are enrolled in the Medical Assistance Program to provide such services.

(6) "Secretary" shall mean the secretary of the Louisiana Department of Health.

RS 40:2473 — Long term home health care program; establishment home

health care to persons otherwise eligible for Title XXI services who would require placement in a hospital or nursing home if such long term home health care were not available. Such care shall be provided in the person's own home or in the home of a responsible relative or other responsible adult and may include but not be limited to nursing care, physical therapy, speech therapy, medical and social services, home health aid services, instructional guidance, pharmaceutical services, medical appliances and equipment, case management, respite care, personal care, adult day health, homemaker services, habilitation services, and such other community-based and in-home services which may be provided under a waiver granted pursuant to R.S. 40:2477. In order to carry out the provisions of this Chapter, the secretary shall promulgate rules, regulations, and minimum standards in accordance with the Administrative Procedure Act.

RS 40:2474 — Participation in program; needs assessment s promulgated by the department.

RS 40:2475 — Authorization to provide a long term home health care program; procedure

ospital, or nursing home shall provide a long term home health care program without the written authorization of the secretary or his designee to provide such a program. However, contractual arrangements between primary providers of home health care and other health care providers shall not be prohibited provided that the primary provider of home health care maintains full responsibility for the plan of treatment and case management of care rendered.

RS 40:2476 — Payment for long term home health care

for the services to be provided in the plan of care. Providers of home health care shall be paid in accordance with the usual procedures of the Medical Assistance Program. However, the monthly cost of providing home health care to each person participating in the program shall be less than one hundred percent of the total monthly Medicaid rate that normally would be paid to a nursing home for a comparable level of care for such person in a nursing home. If an assessment of the person's needs demonstrates that he requires care that would exceed such monthly maximum in any one month, the secretary or his designee may authorize payment of such services, provided the total annual expenditures for services rendered shall be less than the one hundred percent maximum.

RS 40:2477 — Request for waiver to provide in-home and community services

rtment of Health and Human Services or its

successor in accordance with the provisions of Section 2176 of Public Law 97-35, The Omnibus Budget Reconciliation Act of 1981, to enable the department to provide a broad array of home- and community-based services under the Medicaid program to carry out the purposes of this Chapter. No payment shall be made pursuant to the provisions of this Chapter for services which would exceed the scope or duration of a federally approved state waiver request.

RS 40:2481 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2482 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2483 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2501 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2502 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2504 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2505 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2511 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2512 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2513 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2514 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2515 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2516 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2517 — Repealed by Acts 2022, No. 252, §3.

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RS 40:2518 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:2519 — Repealed by Acts 2022, No. 252, §3.

aton Rouge, Louisiana 70804-9062

RS 40:2521 — Law enforcement agency receiving report of missing or recovered child; duty

g child and having reasonable grounds to believe the report is

accurate shall do all of the following immediately after receiving the report:

(a) Enter the name of the child into the National Crime Information Center's database.

(b) Notify each of the following of the facts and contents of the report:

(i) The Department of Children and Family Services to the extent that the reporting is required pursuant to Chapter 5 of Title VI of the Children's Code.

(ii) The office of state police, if it did not originally receive the report.

(iii) The office of the sheriff for the parish in which the report was received, if it did not originally receive the report.

(iv) Any other local, state, or federal law enforcement agency that the law enforcement agency receiving the report deems necessary and appropriate depending upon the facts of each case.

(2) The law enforcement agency may also notify any other appropriate local, state, or federal agency of the fact and contents of the report.

B. The provisions of this Section shall apply for each reported missing child without regard to whether the child is believed to be missing due to stranger abduction, parental abduction, or any other cause.

RS 40:2526 — Pre-Amber Alert action plan; requirements; rules and regulations

mily Services, shall institute a pre-Amber Alert action plan. The plan shall, at a minimum, consist of one or more programs to:

(1) Advise and educate parents on ways to prevent their children from being abducted.

(2) Advise and educate children on ways to prevent them from being abducted.

(3) Encourage parents to have readily available vital information about their children, such as a recent photograph and the child's height and weight, for law enforcement to use in case the child is abducted.

(4) Coordinate with and encourage the private sector to participate in secondary distribution programs that will enable the distribution of vital information on a child that has been abducted, including the creation and distribution of flyers and emailing and text messaging Amber Alerts.

B. The secretary of the Department of Public Safety and Corrections and the Department of Children and Family Services may promulgate rules and regulations, in accordance with the Administrative Procedure Act, to carry out the provisions of this Section.

C. The provisions of this Section shall be implemented provided funding is available.

RS 40:2528 — Predator Alert System; requirements; rules and regulations

m, provide the following services:

(1) Send out the alert, through the state police, to local law enforcement officials when a sexual predator has been released from imprisonment.

(2) Coordinate with and encourage the private sector to participate in secondary distribution programs that will enable the distribution of vital information on a predator that has been released from imprisonment, including the creation and distribution of flyers and e-mailing and text messaging the Predator Alerts.

B. The secretary of the Department of Public Safety and Corrections shall promulgate rules and regulations, in accordance with the Administrative Procedure Act, to implement the provisions of this Section.

RS 40:2530.1 — Purpose

To aid in the identification and location of missing senior citizens and missing persons with developmental disabilities, there is hereby created the missing senior citizen and missing person with developmental disabilities alert program, referred to in this Chapter as the "program", to be implemented by the secretary of the Department of Public Safety and Corrections.

RS 40:2530.2 — Short title

site,

RS 40:2530.3 — Definitions

uts are unknown; whose domicile at the time he is reported missing is in this state; and whose disappearance poses a credible threat to the safety and health of himself, as determined by a local law enforcement agency.

(2) "Missing senior citizen" means a person whose whereabouts are unknown; whose domicile at the time he is reported missing is in this state; whose age at the time he is first reported missing is sixty years of age or older; and whose disappearance poses a credible threat to the safety and health of himself, as determined by a local law enforcement agency.

RS 40:2530.4 — Administration

lopmental disability is determined to be missing and that an alert is to be issued to the community to assist law enforcement officials in locating the missing senior citizen or person with a developmental disability.

B. A notification system developed pursuant to the provisions of this Chapter shall include, but not be limited to, the following items:

(1) Procedures to determine that the senior citizen or person with a developmental disability is truly missing.

(2) Procedures for notifying the general public of the fact that a senior citizen or person with a developmental disability is missing and the type of notification to be utilized to inform the general public.

(3) Whether the circumstances of the person deemed missing are aggravated due to the age of the person or a life-threatening medical condition or situation which requires the person to take life-sustaining medication.

(4) Coordinate with and encourage the private sector to participate in secondary distribution, including the creation and distribution of flyers, electronic mail, and text

messaging of the missing senior citizen or person with a developmental disability.

C. The alert shall be cancelled upon notification that the missing person has been found or at the end of the notification period, whichever occurs first. A local law enforcement agency that locates a missing person who is the subject of an alert shall notify the Department of Public Safety and Corrections or its designee, as soon as possible that the missing person has been located.

D. The secretary of the Department of Public Safety and Corrections shall promulgate rules and regulations, in accordance with the Administrative Procedure Act, to implement the provisions of this Chapter.

RS 40:2530.5 — Immunity from liability

nsmit or display such information concerning a senior citizen or person with developmental disabilities, and other entities who may become an active component of this effort, shall not be liable for any civil damages or criminal penalties as a result of any acts or omissions relative to the "Silver Alert" program.

RS 40:2531 — Applicability; minimum standards during investigation; penalties for failure to

72(5), Louisiana P.O.S.T. certified probation and parole officers employed by the Louisiana Department of Public Safety and Corrections, division of probation and parole, and to those law enforcement officers employed by any municipality and campus police employed at any state-supported college or university who are under investigation with a view to possible disciplinary action, demotion, or dismissal.

B. Whenever a police employee or law enforcement officer is under investigation, the following minimum standards shall apply:

(1) The police employee or law enforcement officer being investigated shall be informed, at the commencement of interrogation, of the nature of the investigation and the identity and authority of the person conducting such investigation, and at the commencement of any interrogation, such officer shall be informed as to the identity of all persons present during such interrogation. The police employee or law enforcement officer shall be allowed to make notes.

(2) Any interrogation of a police employee or law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of such police employee or law enforcement officer.

(3) All interrogations of any police employee or law enforcement officer in connection with the investigation shall be recorded in full. The police employee or law enforcement officer shall not be prohibited from obtaining a copy of the recording or transcript of the recording of his statements upon his written request.

(4)(a) The police employee or law enforcement officer being questioned, whether as a target or as a witness in an administrative investigation, shall have the right to be represented by counsel, other representative, or both, of the police employee or law enforcement officer's choice.

(b)(i) Except as otherwise provided in this Subparagraph, the police employee or law enforcement officer shall be granted up to fourteen days to secure such representation, during which time all questioning shall be suspended.

(ii) If a police employee or law enforcement officer is involved in an officer-involved incident, the police employee or law enforcement officer shall be granted up to fourteen days to secure representation, during which time all questioning shall be suspended. However, if the police employee or law enforcement officer is confined to a medical facility due to injury or illness related to the officer-involved incident, or otherwise incapacitated, the police employee or law enforcement officer shall be granted up to thirty days to secure representation.

(iii) For purposes of this Subparagraph, "officer-involved incident" means any incident in which serious bodily injury or death of another individual is caused by any intentional or accidental use of a dangerous or deadly weapon by a police employee or law enforcement officer which results from the efforts of a police employee or law enforcement officer attempting to effectively arrest or otherwise gain control of another or while in police custody.

(iv) For purposes of this Subparagraph, "serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain, protracted or obvious disfigurement, protracted loss or impairment of a bodily member, organ, or mental faculty, or a substantial risk of death.

(c) The police employee or law enforcement officer's representative or counsel shall be allowed to offer advice to the employee or officer and make statements on the record regarding any question asked of the employee or officer at any interrogation, interview, or hearing in the course of the investigation.

(5) No statement made by the police employee or law enforcement officer during the course of an administrative investigation shall be admissible in a criminal proceeding.

(6) Repealed by Acts 2008, No. 654, §2.

(7) When a formal, written complaint is made against any police employee or law enforcement officer, the superintendent of state police or the chief of police or his authorized representative shall initiate an investigation within fourteen days of the date the complaint is made. Except as otherwise provided in this Paragraph, each investigation of a police employee or law enforcement officer which is conducted under the provisions of this Chapter shall be completed within seventy-five days, inclusive of Saturdays, Sundays, and legal holidays. However, in each municipality which is subject to a Municipal Fire and Police Civil Service law, the municipal police department may petition the Municipal Fire and Police Civil Service Board for an extension of the time within which to complete the investigation. The board shall set the matter for hearing and shall provide notice of the hearing to the police employee or law enforcement officer who is under investigation. The police employee or law enforcement officer who is under investigation shall have the right to attend the hearing and to present evidence and arguments against the extension. If the board finds that the municipal police department has shown good cause for the granting of an extension of time within which to complete the investigation, the board shall grant an extension of up to sixty days. Nothing contained in this Paragraph shall be construed to prohibit the police employee or law enforcement officer under investigation and the appointing authority from entering into a written agreement extending the investigation for

up to an additional sixty days. The investigation shall be considered complete upon notice to the police employee or law enforcement officer under investigation of a pre-disciplinary hearing or a determination of an unfounded or unsustained complaint. The notice may be given in writing or electronically. The notice is considered received by the police employee or law enforcement officer under investigation on the date sent, provided it is sent to the department email address in the personnel file of the police employee or law enforcement officer. The notice shall be considered received by the police employee or law enforcement officer under investigation on the date received, provided it is sent to the home address in the personnel file of the police employee or the law enforcement officer. Nothing in this Paragraph shall limit any investigation of alleged criminal activity.

(8) In the case of a police employee who is a member of the State Police Service as set forth in Article X, Section 41 of the Louisiana Constitution of 1974, the appointing authority may petition the State Police Commission, or its executive director, for an extension of the time within which to complete the investigation. The State Police Commission, or its executive director, shall set the matter for hearing and shall provide notice of the hearing to the police employee who is under investigation. The police employee who is under investigation shall have the right to attend the hearing and to present evidence and arguments against the extension. If the State Police Commission, or its executive director, finds that the appointing authority has shown good cause for the granting of an extension of time within which to complete the investigation, the State Police Commission, or its executive director, shall grant an extension of up to sixty days. Nothing contained in this Paragraph shall be construed to prohibit the police employee under investigation and the appointing authority from entering into a written agreement extending the investigation for up to an additional sixty days. The investigation shall be considered complete upon determination of the appointing authority to institute disciplinary action against the police employee or a determination of an unfounded or unsustained complaint. Nothing in this Paragraph shall limit any investigation of alleged criminal activity.

C. There shall be no discipline, demotion, dismissal, or adverse action of any sort taken against a police employee or law enforcement officer unless the investigation is conducted in accordance with the minimum standards provided for in this Section. Any discipline, demotion, dismissal, or adverse action of any sort whatsoever taken against a police employee or law enforcement officer without complete compliance with the foregoing minimum standards is an absolute nullity.

RS 40:2532 — Release of personal information

or any information that may be deemed otherwise confidential, without the express written consent of the law enforcement officer, with respect to an investigation of the law enforcement officer.

RS 40:2533 — Personnel files

employer, without the law enforcement officer's having first read and signed the instrument containing the adverse comment indicating he is aware of such comment, except that such entry may be made if, after reading such instrument, the law enforcement officer refuses to sign it. Should a law enforcement officer refuse to sign, that fact shall be noted on that document and signed or initialed by such officer.

B. A law enforcement officer shall have thirty days within which to file a written response to any adverse comment entered in his personnel file. Such written response shall be attached to and shall accompany the adverse comment.

C.(1) A law enforcement officer, upon written request, shall have any record of a formal complaint made against the officer for any violation of a municipal or parish ordinance or state criminal statute listed in Paragraph (2) of this Subsection involving domestic violence expunged from his personnel file, if the complaint was made anonymously to the police department and the charges are not substantiated within twelve months of the lodging of the complaint.

(2)(a) Any violation of a municipal or parish ordinance or state statute defining criminal battery and assault.

(b) Any violation of other municipal or parish ordinances or state statutes including criminal trespass, criminal damage to property, or disturbing the peace if the incident occurred at either the home of the victim or the officer or the violation was the result of an obvious domestic dispute.

D. Sustained complaints against the law enforcement officer shall remain in the officer's personnel file for a period of at least ten years, but only after the officer has exhausted all administrative appeals to which he is entitled.

RS 40:2534 — Disclosure of finances

of any member of such officer's household.

RS 40:2536 — Officer-involved shooting

o those agencies which

have been certified by the council following the effective date of January 1, 2022.

B. In addition to agency certification, there shall be within those agencies at least three certified officer-involved investigators who have completed all necessary coursework and subsequent in-service training and law enforcement experience which will establish eligibility for these investigators before training and certification.

C. The agencies shall also provide for the personnel to be certified through P.O.S.T. for the processing of all evidence associated with officer-involved shootings.

RS 40:2537 — Whistleblower protection and cause of action

nd conditions of his

employment because of any lawful act engaged in by the employee or on behalf of the employee in furtherance of any action taken to report malfeasance in office by police employees to law enforcement, whether such fellow employee is a co-worker, supervisor, or subordinate.

B.(1) A police employee may bring an action for relief against his employer, in a court of competent jurisdiction, for damages associated with any action taken by the employee which is in furtherance of reporting malfeasance in office.

(2) A person aggrieved of a violation of Subsection A of this Section shall be entitled to treble damages plus court costs and reasonable attorney fees.

C. A plaintiff shall not be entitled to recovery pursuant to this Section if the court

finds that the plaintiff instituted or proceeded with an action that was frivolous, vexatious, or harassing.

RS 40:2551 — Use of body-worn cameras

h cameras by the
officer.

RS 40:2552 — Use of motor vehicle dash cameras

pon the activation of the
motor vehicle's police emergency lights shall utilize that technology.

RS 40:2553 — Neck restraint prohibition

when deadly force
is authorized.

RS 40:2554 — Mandatory reporting when force is used

e officer uses physical force
that results in serious bodily injury as defined in R.S. 14:2(C), on a member of the public,
whether or not the interaction results in an arrest. The policy shall include but not be limited
to when the use of force report shall be required and who shall be required to complete the
report. This policy shall apply to all law enforcement agencies in the state. Nothing in this
policy shall prevent an agency from adopting a more strenuous policy.

RS 40:2601 — Definitions

he beneficiary of a perfected encumbrance pertaining to an interest in property.

- (2) "Owner" means a person, other than an interest holder, who has an interest in property and, if required by law, is in compliance with any statute requiring recordation or reflection in public records in order to perfect the interest against a bona fide purchaser for value.
- (3) "Proceeds" means property derived directly or indirectly from, maintained by, or realized through, an act or omission and includes any benefit, interest or property of any kind without reduction for expenses incurred for acquisition, maintenance, or any other purpose.
- (4) "Property" means anything of value, including movables and immovables, including the whole of any lot or tract of land and corporeal and incorporeal movable property, including currency, instruments, or securities, or any other kind of privilege, claim, or right and includes any interest therein.
- (5) "Seizure for forfeiture" means seizure of property by a law enforcement officer designated by the district attorney accompanied by a written assertion by the seizing agency or by a district attorney that the property is seized for forfeiture.

RS 40:2602 — Jurisdiction and venue

within this state at the time the action is filed or the courts of this state have personal jurisdiction of an owner of or interest holder in the property.

B. Except as provided in Subsection C, in addition to any venue otherwise provided under the provisions of this Chapter or any other provision of law, a proceeding for forfeiture under the provisions of this Chapter may be brought in the judicial district in which any part of the property is found or in the judicial district in which an owner or interest holder could be petitioned against civilly or criminally for the conduct alleged to give rise to the forfeiture.

C. Notwithstanding any other provision of this Chapter to the contrary, the criminal district court for the parish of Orleans shall have exclusive jurisdiction of all actions filed in the parish of Orleans seeking seizure or forfeiture of property or alleging conduct giving rise to forfeiture pursuant to the provisions of this Chapter.

RS 40:2603 — Conduct giving rise to forfeiture

or not there is a prosecution or conviction related to the act or omission.

(2) An act or omission occurring outside this state, which would be subject to prosecution in the place of occurrence and would be described in Paragraph (1) of this Section if the act or omission occurred in this state, whether or not it is prosecuted in any state.

(3) Any act or omission committed in furtherance of any violation of R.S. 40:961 et seq. which is punishable by confinement with or without hard labor, including any inchoate or preparatory offense, regardless of whether there is a prosecution or conviction related to the act or omission.

RS 40:2604 — Property subject to forfeiture

Article I of the Constitution of Louisiana:

(1) All controlled substances, raw materials, or controlled substance analogues that have been manufactured, distributed, dispensed, possessed, or acquired in violation of R.S. 40:961 et seq.

(2) All property that is either:

(a) Furnished or intended to be furnished by any person in exchange for a controlled substance in violation of R.S. 40:961 et seq.

(b) Used or intended to be used in any manner to facilitate conduct giving rise to forfeiture, provided that a conveyance subject to forfeiture solely in connection with conduct in violation of R.S. 40:961 et seq. may be forfeited only pursuant to the provisions of this Chapter.

(3) Proceeds of any conduct giving rise to forfeiture.

(4) All weapons possessed, used, or available for use in any manner to facilitate conduct giving rise to forfeiture.

(5) Any interest or security in, claim against, or property or contractual right of any kind affording a source of control over any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of through conduct giving rise to forfeiture.

RS 40:2605 — Exemptions

rise to its forfeiture, did not consent to it, and did not know and could not reasonably have known of the conduct or that it was likely to occur.

(2) That he had not acquired and did not stand to acquire substantial proceeds from the conduct giving rise to its forfeiture other than as an interest holder in bona fide commercial transaction.

(3) That with respect to conveyances for transportation only, he did not hold the property jointly, in common, or in community with a person whose conduct gave rise to its forfeiture.

(4) That he does not hold the property for the benefit of or as an agent for any person whose conduct gave rise to its forfeiture, and, if the owner or interest holder acquired his interest through any such person, the owner or interest holder acquired it as a bona fide purchaser for value not knowingly taking part in an illegal transaction.

(5) That no person whose conduct gave rise to its forfeiture had the authority to convey the interest to a bona fide purchaser for value at the time of the conduct.

(6) That the owner or interest holder acquired the interest after the completion of the conduct giving rise to its forfeiture and that the owner or interest holder acquired the interest under all of the following conditions:

(a) As a bona fide purchaser for value who was not knowingly taking part in an illegal transaction.

(b) Before the filing of a forfeiture lien on it and before the effective date of a Notice of Pending Forfeiture relating to it, and without notice of its seizure for forfeiture under this Chapter.

(c) At the time the interest was acquired, there was no reasonable cause to believe that the property was subject to forfeiture or likely to become subject to forfeiture under this Chapter.

RS 40:2606 — Seizure of property

issued by any district court, on probable cause to believe that the property is subject to forfeiture under this Chapter.

Within seventy-two hours, exclusive of holidays or weekends, after actual or constructive seizure, the seizing agency shall apply to the court for a warrant of seizure to hold the property pending forfeiture, unless such warrant has been previously obtained. Such application shall be on an affidavit under oath demonstrating that probable cause exists for seizure of the property, regardless of whether the proceedings to forfeit property are brought pursuant to federal or state

action and regardless of whether the property has been the subject of a previous final judgment of forfeiture in the courts of any state or of the United States. The sufficiency of the warrant of seizure and affidavit under oath shall be determined in accordance with the law on search warrants. The court may order that the property be held pending forfeiture, on such terms and conditions as are reasonable in the discretion of the court. Upon a finding of no probable cause, the property shall be released to the established owner.

B. A seizure for forfeiture without process is reasonable if made under circumstances in which a warrantless seizure or arrest would be reasonable in accordance with law.

C. Property that is alleged to be evidence of a criminal violation may be seized for forfeiture by any law enforcement agency designated by the district attorney, with or without process issued by any district court, on probable cause to believe that the property is subject to forfeiture under this Chapter. Within seventy-two hours, exclusive of holidays or weekends, after service of notice of pending forfeiture, the seizing agency shall apply to the court for a warrant of seizure to hold the property pending forfeiture, unless such warrant has been previously obtained. Such application shall be on an affidavit under oath demonstrating that probable cause exists for seizure of the property, regardless of whether the proceedings to forfeit property are brought pursuant to federal or state action and regardless of whether the property has been the subject of a previous final judgment of forfeiture in the courts of any state or of the United States. The sufficiency of seizure and affidavit under oath shall be determined in accordance with the law on search warrants. The court may order that the property be held pending forfeiture, on such terms and conditions as are reasonable in the discretion of the court.

D. Any seizing agency designated by the district attorney to make seizures for forfeiture shall notify the district attorney within ten days after such seizure.

RS 40:2607 — Property management and preservation

authorize the release of the seizure for forfeiture on the property if forfeiture or retention is unnecessary, and the district attorney may transfer the action to another district attorney by discontinuing forfeiture proceedings in favor of forfeiture proceedings initiated by the other agency or district attorney. The property is deemed to be in the custody of the district attorney subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. The property is subject to the interests of secured parties or lienholders whose interests are exempt from forfeiture.

B. If property is seized under this Chapter, the district attorney or his designee may do any of the following:

- (1) Remove the property to an appropriate place designated by the district attorney or his designee.
- (2) Place the property under constructive seizure by posting Notice of Pending Forfeiture on it, by giving Notice of Pending Forfeiture to its owners and interest holders, or by filing Notice of Pending Forfeiture in any appropriate public record relating to the property.
- (3) Remove the property to a storage area for safekeeping or, if the property is a negotiable instrument or money and is not needed for evidentiary purposes, deposit it in an interest bearing account.
- (4) Provide for another agency or custodian, including an owner, secured party, or lienholder, to take custody of the property and remove it to an appropriate location within the jurisdiction of the court.
- (5) Require the Department of Public Safety and Corrections or other law enforcement agency to take custody of the property and remove it to an appropriate location for disposition in accordance with law.
- (6) Release the property to the claimant without a court order if the district attorney determines forfeiture or retention is unnecessary.

C. As soon as practicable after seizure for forfeiture, the seizing agency shall conduct a written inventory and estimate of the value of the property seized.

D. If the hearing has not been held within sixty days of the filing of a lawsuit seeking forfeiture or one hundred eighty days of the seizure of any vessel, vehicle, aircraft, merchandise, or other property seized under the laws of this state and liable to perish or to waste or to be greatly reduced in value by keeping, or that the expense of keeping the same is disproportionate to the value thereof, the district attorney may petition the court, with notice to interest holders and claimants, to initiate a sale pending forfeiture to ensure that the value of the property is preserved throughout the court proceedings.

RS 40:2608 — Commencement of forfeiture proceedings; notice of pending forfeiture; property

e district attorney intends to forfeit property, pursuant to the provisions of this Chapter, he shall provide the owner and interest holder with a written assertion within forty-five days after actual or constructive seizure, except in cases in which the property is held for evidentiary purpose, the district attorney shall institute forfeiture proceedings within forty-five days after the final disposition of all criminal proceedings associated with the conduct giving rise to forfeiture.

(b) If the district attorney fails to initiate forfeiture proceedings against property seized for forfeiture by serving Notice of Pending Forfeiture within one hundred twenty days after its seizure for forfeiture or if the state fails to pursue forfeiture of the property upon which a timely claim has been properly served by filing a Petition for Forfeiture proceeding within ninety days after Notice of Pending Forfeiture, or if the district attorney fails to provide a written assertion, pursuant to the provisions of this Paragraph, the property shall be released from its seizure for forfeiture on the request of an owner or interest holder, pending further proceedings pursuant to the provisions of this Chapter.

(c) When no written assertion has been given to the claimant, within the time delays provided herein, the claimant may file a Motion for Release of Seized Property pursuant to the criminal jurisdiction of the court.

(2) If, after Notice of Pending Forfeiture, a claimant files a request for stipulation of exemption pursuant to R.S. 40:2609 or is granted an extension to file a claim pursuant to R.S. 40:2610, the district attorney may delay filing the judicial forfeiture proceeding for a total of one hundred eighty days after the service of Notice of Pending Forfeiture.

(3) Whenever Notice of Pending Forfeiture or service of an in rem petition is required under the provisions of this Chapter, notice or service shall be given in accordance with one of the following:

(a) If the owner's or interest holder's name and current address are known, by either personal service or by mailing a copy of the notice by certified mail to that address.

(b) If the owner's or interest holder's name and address are required by law to be recorded with the parish clerk of court, the motor vehicle division of the Department of Public Safety and Corrections, or another state or federal agency to perfect an interest in the property, and the owner's or interest holder's current address is not known, by mailing a copy of the notice by certified mail, return receipt requested, to any address of record with any of the described agencies.

(c) If the owner's or interest holder's address is not known and is not on record as provided in Subparagraph (b) of this Paragraph, or the owner or interest holder's interest is not known by publication in one issue of the official journal in the parish in which the seizure occurs.

(4) Notice is effective upon personal service, publication, or the receipt of a written notice by certified mail, whichever is earlier, and shall include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture or the violation of law alleged, and a summary of procedures and procedural rights applicable to the forfeiture action.

(5)(a) The district attorney may file, without a filing fee, a lien for the forfeiture of

property upon the initiation of any civil or criminal proceeding under this Chapter or upon seizure for forfeiture. The filing constitutes notice to any person claiming an interest in the seized property or in property owned by the named person.

(b) The lien notice shall set forth the following:

(i) The name or alias of the person and, in the discretion of the lienor, the name of any alias, any corporation, partnership, trust, or other entity, including agents, that are owned entirely or in part, or controlled by the person.

(ii) The description of the seized property or the criminal or civil proceeding that has been brought under this Chapter, the amount claimed by the lienor, the name of the district court where the proceeding or action has been brought, and the case number of the proceeding or action if known at the time of filing.

(c) A lien filed pursuant to the provisions of this Paragraph applies to the described seized property or to one named person, any aliases, fictitious names, or other names, including the names of any corporation, partnership, trust, or other entity, owned entirely or in part, or controlled by the named person, and any interest in real property owned or controlled by the named person. A separate forfeiture lien shall be filed for each named person.

(d) The lien creates, upon filing, a lien in favor of the lienor as it relates to the seized property or the named person or related entities. The lien secures the amount of potential liability for civil judgment, and, if applicable, the fair market value of seized property relating to all proceedings under this Chapter enforcing the lien. The notice of forfeiture lien referred to in this Paragraph shall be filed in accordance with the provisions of the laws of this state in accordance with the type of property that is subject to the lien. The validity and priority of the forfeiture lien shall be determined in accordance with applicable law pertaining to liens. The lienor may amend or release, in whole or in part, a lien filed under this Paragraph at any time by filing, without a filing fee, an amended lien in accordance with the provisions of this Paragraph, which identifies the lien amended. The lienor, as soon as practical after filing a lien, shall furnish to any person named in the lien a notice of the filing of the lien. Failure to furnish notice under the provisions of this Paragraph shall not invalidate or otherwise affect the lien.

(e) Upon entry of judgment in its favor, the state may proceed to execute on the lien as provided by law.

(f) A trustee, constructive or otherwise, who has notice that a forfeiture lien, or a Notice of Pending Forfeiture, or a civil forfeiture proceeding has been filed against the property or against any person or entity for whom the person holds title or appears as record owner, shall furnish within ten days, to the appropriate district attorney's office all of the following information:

(i) The names and addresses of the person or entity for whom the property is held.

(ii) The names and addresses of all other beneficiaries for whose benefit legal title to the seized property, or property of the named person or related entity, is held.

(iii) A copy of the applicable trust agreement or other instrument, if any, under which the trustee or other person holds legal title or appears as record owner of the property.

(g) A trustee, constructive or otherwise, who, with notice fails to comply with the provisions of this Paragraph may be fined not more than five hundred dollars per day for each day during which the failure to comply exists.

(h) A trustee, constructive or otherwise, who with notice fails to comply with the provisions of this Paragraph shall be guilty of violating such provision and may, upon conviction, be sentenced to imprisonment for not less than two nor more than five years, with or without hard labor, and shall be fined not less than ten thousand dollars per day for each day compliance was not made.

RS 40:2608.1 — Sale of property pending forfeiture; circumstances; procedure

Property which is subject to forfeiture under the provisions of R.S. 40:2604 and if the hearing has not been held within sixty days of filing a claim as authorized by R.S. 40:2612 or one hundred eighty days of the seizure under either of the following conditions:

(1) That it appears to the district attorney that any vessel, vehicle, aircraft, merchandise, or other property seized under the laws of this state is liable to perish or to greatly depreciate in value during the storage of that property.

(2) That the costs associated with storage of the property is disproportionate to the value of that property.

B. After notice to interest holders and claimants and a contradictory hearing, if the court rules favorably, the court may order an immediate sale of such vessel, vehicle, aircraft, merchandise, or other property and the proceeds thereof to be deposited in accordance with R.S. 40:2616(B) until a final judicial disposition is reached. Prior to such sale, the property seized shall be published in the official journal of the governing authority of the parish where the property is located and, if ordered by the seizing agency, in a newspaper which meets the requirements of R.S. 43:140(3) for qualification as an official journal and which has a larger or smaller circulation in the parish than the official journal. Pursuant to court order, the proceeds shall be held subject to claims of parties in interest to the same extent that the vessel, vehicle, aircraft, merchandise, or other property so sold would have been subject to such claim.

(1) For purposes of this Section, one hundred percent of the proceeds of the sale, minus any documented auction fees, will be remitted to the seizing agency or district attorney depending on which is designated to carry out the order of the court; the funds shall be deposited in accordance with R.S. 40:2616(B).

(2) For purposes of this Section, Internet computer auctions are considered public sales, and the seizing agency or district attorney is expressly authorized to sell the property described in this Paragraph through the use of electronic technology, including Internet web sites that facilitate such sales. The seizing agency or district attorney is further authorized to pay any costs associated with the sale from the proceeds of such sale. The seizing agency or district attorney is further empowered to sell the property through any form of electronic technology, including Internet web sites created expressly for that purpose, whether privately or publicly owned.

(3) For purposes of this Section, the use of reserves or minimum bids is required to ensure that a minimum of the greater of fifty percent of the fair market value or one hundred percent of the principal for any interest holder is obtained.

C. If the final judicial disposition is in favor of the claimant, neither the seizing agency nor the district attorney shall be liable for any differences in the amount received at auction and the retail sale price for any vessel, vehicle, aircraft, merchandise, or other property sold pursuant to this Section.

RS 40:2609 — Stipulation of exemptions

the district attorney shall so indicate in the Notice of Pending Forfeiture as provided in Section 2608 of this Chapter.

(2) An owner of or an interest holder in the property may elect to file a claim within thirty days after the Notice of Pending Forfeiture or a request for a stipulation of exemption with the district attorney within thirty days after the notice, but no request may be filed after a court action has been commenced by the state. The claim or request shall comply with the requirements for claims in Section 2610 of this Chapter.

B. The following shall apply if an owner or interest holder timely requests a stipulation of exemption:

(1) The district attorney shall provide the seizing agency and the requesting party with a written proposed stipulation of exemption and statement of nonexempt interests relating to any or all interest in the property in response to each requesting party within one hundred and twenty days after the effective date of the Notice of Pending Forfeiture.

(2) An owner of or interest holder in any property declared nonexempt may file a claim as described in Section 2610 of this Chapter within thirty days after notice pursuant to Paragraph (3) of Section 2608 of this Chapter of the statement of nonexempt interests.

(3) The district attorney may elect to proceed as provided herein for judicial forfeiture at any time.

(4) If no requesting party files a claim within thirty days after notice pursuant to Paragraph (3) of Section 2608 of this Chapter, of the statement of nonexempt interest, the stipulation of exemption and statement becomes final, and the district attorney shall proceed as provided in Sections 2615 and 2616 of this Chapter.

(5) If a judicial forfeiture proceeding follows a Notice of Pending Forfeiture which provides for the availability of stipulation of exemption:

(a) No duplicate or repetitive notice or claim is required. If a claim has been timely filed pursuant to Paragraph (2) of this Subsection, the claim shall be determined in a judicial forfeiture proceeding after the commencement of such a proceeding under the provisions of Sections 2612 and 2613 of this Chapter.

(b) The proposed stipulation of exemption and statement of nonexempt interest responsive to all requesting parties who subsequently filed claims are void and will be regarded as rejected offers to compromise.

C. If no request for stipulation or claim is timely filed, the district attorney shall proceed as provided in Sections 2615 and 2616 of this Chapter.

RS 40:2610 — Claims

the seizing agency and to the district attorney by certified mail, return receipt requested, within thirty days after Notice of Pending Forfeiture. The court may grant an extension of time for the filing of a claim pursuant to this Section for good cause shown. Incarceration of an owner or interest holder during the original thirty-day period shall create a rebuttable presumption of good cause as to the owner or interest holder. A motion requesting an extension shall be filed within sixty days after receipt of the Notice of Pending Forfeiture.

B. The claim shall be in affidavit form, signed by the claimant under oath, and sworn to by the affiant before one who has authority to administer the oath, under penalty of perjury or false swearing and shall set forth all of the following:

(1) The caption of the proceedings as set forth on the Notice of Pending Forfeiture or petition and the name of the claimant.

(2) The address where the claimant will accept mail.

(3) The nature and extent of the claimant's interest in the property.

(4) The date, identity of the transferor, and the circumstances of the claimant's acquisition of the interest in the property.

(5) The specific provision of this Chapter relied on in asserting that the property is not subject to forfeiture.

(6) All essential facts supporting each assertion.

(7) The specific relief sought.

RS 40:2611 — Judicial proceedings generally

er any restraining order or injunction, require the execution of satisfactory performance bonds, create receiverships, appoint conservators, appraisers, accountants, or trustees, or take any other action to seize, secure, maintain, or preserve the availability of property subject to forfeiture under this Chapter, including a writ of attachment or a warrant for its seizure, whether before or after the filing of a Notice of Pending Forfeiture or petition for forfeiture.

C. If property is seized for forfeiture or a forfeiture lien is filed without a previous judicial determination of probable cause or order of forfeiture or a hearing under the provisions of Section 2613 of this Chapter, the court, on an application filed by an owner of or interest holder in the property, within ten days after notice of its seizure for forfeiture or lien, or actual knowledge of it, whichever is earlier, and after complying with the requirements for claims in Section 2610 of this Chapter,

after five days notice to the district attorney, may issue an order to show cause to the seizing agency, for a hearing on the sole issue of whether probable cause for forfeiture of the property then exists. The hearing shall be held within thirty days of the order to show cause unless continued for good cause on motion of either party. If the court finds that there is no probable cause for forfeiture of the property, the property shall be released to the custody of the applicant or from the lien pending the outcome of a judicial proceeding pursuant to this Section.

D. The court may order property which has been seized for forfeiture sold to satisfy a specified interest of any interest holder, on motion of such party, and after notice and a hearing, on all of the following conditions:

(1) That the interest holder has filed a proper claim and is a business authorized to do business in this state under the jurisdiction of the commissioner of financial institutions, the Department of Insurance, or the United States Securities and Exchange Commission, or that the interest holder is such a business which or a person who has an interest which the district attorney has stipulated is exempt from forfeiture.

(2) That the interest holder shall dispose of the property by commercially reasonable public sale and apply the proceeds to their interest and then to reasonable expenses incurred in connection with the sale or disposal.

(3) That the balance of the proceeds, if any, be returned to the actual or constructive custody of the court, in an interest bearing account, subject to further proceedings under this Chapter.

E. A defendant convicted in any criminal proceeding is precluded from later denying the essential allegations of the criminal offense of which the defendant was convicted in any proceeding pursuant to this Section regardless of the pendency of an appeal from that conviction. However, evidence of the pendency of an appeal is admissible. For the purposes of this Section, a conviction results from a verdict or plea of guilty, including a plea of nolo contendere.

F. In hearings and determinations pursuant to this Section, the court may receive and consider, in making any determination of probable cause or reasonable cause, all evidence admissible in determining probable cause at a preliminary hearing or by a judge pursuant to C.Cr.P. Art. 162 together with inferences therefrom.

G. The fact that money or a negotiable instrument was found in proximity to contraband or an instrumentality of conduct giving rise to forfeiture shall give rise to the permissible inference that the money or negotiable instrument was the proceeds of conduct giving rise to forfeiture or was used or intended to be used to facilitate the conduct.

H. There shall also be a rebuttable presumption that any property of a person is subject to forfeiture under this Section if the state establishes all of the following:

(1) That the person has engaged in conduct giving rise to forfeiture.

(2) That the property was acquired by the person during the period of the conduct giving rise to forfeiture or within a reasonable time after that period.

(3) That there was no likely source for the property other than the conduct giving rise to forfeiture.

I. All property declared forfeited under this Chapter vests in this state on the commission of the conduct giving rise to forfeiture together with the proceeds of the property after that time. Any such property or proceeds subsequently transferred to any person remain subject to forfeiture and thereafter shall be ordered forfeited unless the transferee claims and establishes in a hearing under the provisions of this Chapter that the transferee is a bona fide purchaser for value and the transferee's interest is exempt under Section 2605 of this Chapter.

J. An acquittal or dismissal in a criminal proceeding shall not preclude civil proceedings under this Chapter; however, for good cause shown, on motion by the district attorney, the court may stay civil forfeiture proceedings during the criminal trial for a related criminal indictment or information alleging a violation of this Chapter. Such a stay shall not be available pending an appeal.

K. Except as otherwise provided by this Chapter, all proceedings hereunder shall be governed by the provisions of the Louisiana Code of Civil Procedure. Additionally, any action under the provisions of this Chapter may be consolidated with any other action or proceeding pursuant to the Chapter relating to the same property on motion of the district attorney and may be consolidated on motion of an interest holder.

L. If a claimant whose property has been seized for forfeiture is successful in obtaining the return of the property in a civil proceeding, the court may award the claimant reasonable attorney fees, to be paid by the seizing agency, and the claimant shall also be exempt from any storage fees, or other costs incurred in the seizure, preservation, storage, or return of such seized property. Any searched or seized vehicle that is subsequently returned to a claimant, with or without court mandate, shall be returned in substantially the same condition as when searched or seized, together with

any interest earned on monies or other negotiable instruments deposited, held, or invested.

RS 40:2612 — In rem proceedings

sions of this Chapter. If authorized by law, a forfeiture shall be ordered by the court in the in rem action.

B. An action in rem may be brought by the district attorney in addition to, or in lieu of, civil in personam forfeiture procedures. The state may serve the petition in the manner provided by Paragraph (3) of Section 2608 of this Chapter.

C. Only an owner of or an interest holder in the property may file an answer asserting a claim against the property in an action in rem. For the purposes of this Section, an owner of or interest holder in property who has filed a claim and answer shall be referred to as a claimant.

D. The answer shall be signed by the owner or interest holder under penalty of false swearing and shall be in accordance with C.C.P. Art. 1003 and shall set forth all of the following:

- (1) The caption of the proceedings as set forth on the Notice of Pending Forfeiture or petition and the name of the claimant.
- (2) The address where the claimant will accept mail.
- (3) The nature and extent of the claimant's interest in the property.
- (4) The date, identity of the transferor, and the circumstances of the claimant's acquisition of the interest in the property.
- (5) The specific provision of this Section relied on in asserting that it is not subject to forfeiture.
- (6) All essential facts supporting each assertion.
- (7) The precise relief sought.

E. The answer shall be filed within fifteen days after service of the civil in rem petition. No claimant shall be required to pay court costs to contest a forfeiture proceeding, except in a final judgment.

F. The state and any claimant who has timely answered the petition may, at the time of filing its pleadings, or at any other time not less than thirty days prior to the hearing, serve discovery requests on any other party, the answers or response to which shall be due within fifteen days of service. Discovery may include deposition of any person at any time after the expiration of fifteen days after the filing and service of the petition. Any party may move for a summary judgment at any time after an answer or responsive pleading is served and not less than thirty days prior to the hearing.

G. The issue shall be determined by the court alone, and the hearing on the claim shall be held within sixty days after service of the petition unless continued for good cause. In a forfeiture case wherein no claim is timely filed pursuant to the provisions of this Chapter, the burden of proof to forfeit shall be probable cause. In a forfeiture case, wherein a claim is timely filed pursuant to the provisions of this Chapter, the burden of proof required to forfeit the defendant's property shall be a preponderance of the evidence.

H. If the district attorney fails to show the existence of probable cause for forfeiture, or a claimant establishes by a preponderance of the evidence that the claimant has an interest that is exempt under the provisions of Section 2605 of this Chapter, the court shall order the interest in the property returned or conveyed to the claimant. The court shall order all other property forfeited to this state and conduct further proceedings pursuant to the provisions of Section 2615 and 2616 of this Chapter.

RS 40:2613 — In personam proceedings

se to forfeiture if it is authorized by law. This action shall be in addition to or in lieu of in rem forfeiture procedures.

(2) In any proceeding pursuant to this Chapter, the court, on application of the district attorney, may enter any order authorized by Section 2611 of this Chapter.

B. The court may issue a temporary restraining order under the provisions of this Section on application of the district attorney, without notice or an opportunity for a hearing, if the state demonstrates that:

- (1) There is probable cause to believe that in the event of a final judgment or conviction, the property involved would be subject to forfeiture under the provisions of this Chapter.
- (2) Provision of notice would jeopardize the availability of the property for forfeiture.

C. Notice of issuance of a temporary restraining order and an opportunity for a hearing shall be given to persons known to have an interest in the property. A hearing shall be held at the earliest possible date in accordance with the provisions

of C.C.P. Arts. 3601 and 3603 et seq. and shall be limited to the issues of whether:

(1) There is a probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, conveyed, alienated, encumbered, further encumbered, disposed of, purchased, received, removed from the jurisdiction of the court, concealed, or otherwise made unavailable for forfeiture.

(2) The need to preserve the availability of property through the entry of the requested order outweighs the hardship on any owner or interest holder against whom the order is to be entered.

D. On a determination of liability of a person for conduct giving rise to forfeiture under this Chapter, the court shall enter a judgment of forfeiture of the property described in the petition and shall also authorize the district attorney or his designee to seize all property ordered forfeited which was not previously seized or is not then under seizure. Following the entry of an order declaring the property forfeited, the court, on application of the district attorney, may enter any appropriate order to protect the interest of the state in the property ordered forfeited.

E. Following the entry of an order of forfeiture under Subsection D of this Section, the district attorney may give Notice of Pending Forfeiture, in the manner provided in Section 2608 of this Chapter, to all owners and interest holders who have not previously been given notice.

F. An owner of or interest holder in property that has been ordered forfeited and whose claim is not precluded may file a claim as described in Section 2610 of this Chapter within thirty days after initial Notice of Pending Forfeiture or after notice under Subsection E of this Section, whichever is earlier. If the state does not stipulate to the claim, the court shall hold the hearing and determine the claim without a jury and in the manner provided for in rem judicial forfeiture actions, as provided in Section 2612 of this Chapter.

G. In accordance with findings made at the hearing, the court may amend the order of forfeiture if it determines that any claimant has established by a preponderance of the evidence that the claimant has an interest in the property and that the claimant's interest is exempt under the provision of Section 2605 of this Chapter.

H. Except as provided in Section 2611 of this Chapter, no person claiming an interest in property subject to forfeiture under this Chapter may intervene in a trial or appeal of a criminal action or in an in personam civil action involving the forfeiture of the property.

RS 40:2614 — Substituted assets

ns of Section 2604 of this Chapter if any of the property:

(1) Cannot be located.

(2) Has been transferred or conveyed to, sold to, or deposited with a third party.

(3) Is beyond the jurisdiction of the court.

(4) Has been substantially diminished in value while not in the actual physical custody of the seizing agency, district attorney, or his designee.

(5) Has been commingled with other property making it incapable of partition in-kind without great detriment to the other property.

(6) Is subject to any interest exempted from forfeiture under the provisions of this Chapter.

B. In addition to any other remedy provided for by law, if a forfeiture lien or Notice of Pending Forfeiture has been filed and notice given pursuant to Section 2608 of this Chapter, or if a petition alleging conduct giving rise to forfeiture has been filed and notice given pursuant to such Section, the district attorney may institute an action in district court against any person with notice or actual knowledge who destroys, conveys, alienates, encumbers, further encumbers, disposes of, purchases, receives, removes from the jurisdiction of the court, conceals, or otherwise renders unavailable for forfeiture property alleged to be subject to forfeiture in the forfeiture lien, Notice of Pending Forfeiture, or petition. In such case, the court shall enter final judgment in an amount equal to the value of the lien not to exceed the fair market value of the property, or, if the property is subject to forfeiture, in an amount equal to the fair market value of the property, together with reasonable investigative expenses and attorney's fees. If a civil proceeding is pending in court, the action shall be heard by that court.

RS 40:2615 — Judicial disposition of property

ction 2616 of this Chapter. Upon a determination by the court that the district attorney's written application establishes the court's jurisdiction, the giving of proper notice, and facts sufficient to show probable cause for forfeiture, the court shall order the property forfeited to the state.

B. After final disposition of all claims timely filed in an action in rem, or after final judgment and disposition of all claims timely filed in an action in personam, the court shall enter an order that the state has clear title to the forfeited property interest. Title to the forfeited property interest and its proceeds shall be deemed to have vested in the state on the commission of the conduct giving rise to the forfeiture under this Chapter.

C. On order of the court forfeiting the subject property, the state may transfer good and sufficient title to any subsequent purchaser or transferee, and the title shall be recognized by all courts, by this state, and by all agencies of this state and any political subdivision. Likewise on entry of judgment in favor of a person claiming an interest in the property that is subject to proceedings to forfeit property under this Chapter, the court shall enter an order that the property or interest in property shall be released or delivered promptly to that person free of liens and encumbrances under this Chapter and that the person's cost bond shall be discharged.

D. Upon motion by the district attorney, if it appears after a hearing that there was reasonable cause for the seizure for forfeiture or for the filing of the Notice of Pending Forfeiture or petition, the court shall cause a finding to be entered that reasonable cause existed, and the claimant is not entitled to costs or damages, and the person or seizing agency who made the seizure, and the district attorney, are not liable to suit or judgment on account of the seizure, suit or prosecution.

E. The court shall order a claimant who fails to establish that a substantial portion of the claimant's interest is exempt from forfeiture under Section 2604 of this Chapter to pay the reasonable costs and expenses of the state for the investigation and prosecution of the matter, including reasonable attorney's fees, in connection with that claimant.

RS 40:2616 — Allocation of forfeited property; creation of special funds; reporting

the district attorney shall authorize a public sale or a public auction sale conducted by a licensed auctioneer, without appraisal, of that which is not required by law to be destroyed and which is not harmful to the public. The proceeds of any sale and any monies forfeited or obtained by judgment or settlement under this Section shall be deposited in the Special Asset Forfeiture Fund as established herein until disposed of pursuant to court order.

(2) If the property seized is a motor vehicle, the seizing agency may retain use of the motor vehicle for use in the course and scope of undercover surveillance and investigation of violations of the Louisiana Controlled Dangerous Substances Law. All other property forfeited under the provisions of this Chapter shall be sold as provided in Paragraph (1) of this Subsection.

B. A Special Asset Forfeiture Fund is hereby established within the Special District Attorney Asset Forfeiture Trust Fund. All monies obtained under the provisions of this Chapter shall be deposited in the fund. The court shall ensure the equitable distribution of any forfeited property, or of monies under and subject to the provisions of this Subsection, to the appropriate local, state, or federal law enforcement agency so as to reflect generally the contribution of that agency's participation in any of the activity that led to the seizure or forfeiture of the property or deposit of monies under and subject to the provisions of this Subsection. The office of the district attorney shall administer expenditures from the fund. The fund is subject to public audit. Money in the fund shall be distributed in the following order of priority:

- (1) For satisfaction of any bona fide security interest or lien.
- (2) Thereafter, for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs.
- (3) The remaining funds shall be allocated as follows:
 - (a) Sixty percent thereof to the law enforcement agency or agencies making the seizure, such proceeds to be used in drug law enforcement, including but not limited to reward programs established by such agencies.
 - (b) Twenty percent thereof to the criminal court fund.
 - (c) Twenty percent thereof to any district attorney's office that employs the attorneys that handle the forfeiture action for the state. This shall be paid into the district attorney's twelve percent fund to be used for public purposes including, but not limited to use for prosecution, rewards, support and continuing legal education in furtherance of this Chapter, and in regard to Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950.

C. The district attorney may require the appropriate administrative agency to take custody of the property and remove it for disposition in accordance with law, and forward controlled substances to the United States Drug Enforcement Administration for disposition.

D. Notwithstanding any other provision of this Chapter, each district attorney shall, no later than March first of each year, submit to the governor, the president of the Senate, the speaker of the House of Representatives, the chief judge and the clerk of court of the judicial district where the district attorney has jurisdiction or, in Orleans Parish, to the chief judge of the Orleans Parish Criminal District Court and the clerk of that court, a report which lists the total amount of seized funds or estimated value of property seized and the amounts of funds or property distributed to any entity, agency, or fund, pursuant to the provisions of this Chapter during the previous calendar year.

RS 40:2617 — Powers of enforcement personnel

estigation of the conduct. The district attorney or his designee is authorized to, before the commencement of any civil proceeding or action under this Chapter, subpoena witnesses, compel their attendance, examine them under oath, and require the production of documentary evidence for inspection, reproducing, or copying with the same powers and limitations and judicial oversight and enforcement and in the manner provided by this Chapter and by C.C.P. Arts. 1351 et seq. and 1421 et seq. Any person compelled to appear under a demand for oral testimony under this Section may be accompanied, represented, and advised by counsel.

B. The examination of all witnesses under this Section shall be conducted by the district attorney or his designee before an officer authorized to administer oaths. The testimony shall be taken stenographically or by a sound recording device and shall be transcribed. The district attorney shall exclude from the place where the examination is held all persons except the person being examined, his counsel, the officer before whom the testimony is to be taken, law enforcement officials, and any stenographer taking such testimony. The examination shall be conducted in a manner consistent with the C.C.P. Art. 1421 et seq. Testimony obtained pursuant to this Section and in accordance with the provisions of C.C.P. Art. 1421 et seq., pertaining to discovery shall not be used against a claimant in a substantive criminal proceeding, except for perjury or false swearing.

C. Except as otherwise provided in this Chapter, no documentary material, or transcripts, or oral testimony, or copies of it, in the possession of the district attorney shall be available, prior to the filing of a civil or criminal proceeding or action relating to it, for examination by any individual other than a law enforcement official or agent of such official without the consent of the person who produced the material or transcripts.

D. No person shall, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part by any person with any duly served subpoena of the district attorney under this Section, knowingly remove from any place, conceal, withhold, destroy, mutilate, alter, or by any other means falsify any documentary material that is the subject of a subpoena. A violation of this Subsection is punishable by a five hundred dollar fine or six months imprisonment, or both.

E. Acts or omissions by the district attorney in the course of their duties in the enforcement of any of the provisions of this Chapter, including provision of any legal services prior to charging, petition or seizure, are prosecutorial and shall not subject the attorneys or their principals to civil liability.

RS 40:2618 — Prescription

wn, excluding any time during which either the property or defendant is out of the state or in confinement, or during which criminal proceedings relating to the same conduct are pending.

RS 40:2619 — Summary forfeiture of controlled substances

te. The court may include in any judgment under this Chapter an order forfeiting any controlled substance involved in the offense to the extent of the defendant's interest.

RS 40:2620 — Bar to collateral action

than as provided in this Chapter.

RS 40:2621 — Statutory construction

usive. They do not preclude and are not precluded by any other provision of law.

RS 40:2622 — Short title

Jan. 1, 1990.

RS 40:2701 — Short title

navigating this website,

RS 40:2702 — Legislative findings

ht.

(2) These risks include but are not limited to sunburn, premature aging, skin cancer, retinal damage, formation of cataracts, suppression of the immune system, and damage to the vascular system.

(3) Certain medications, cosmetics, and foods are "photosensitizing", which means that in some people they react unfavorably to ultraviolet light, producing skin rashes or burns.

(4) Sunlamps and other artificial sources of ultraviolet light are known to intensify these effects.

(5) The enactment of state laws to regulate tanning facilities will protect and promote the public health, safety, and welfare of citizens who tan using artificial ultraviolet light.

RS 40:2703 — Definitions

lth officer to enforce the provisions of this Chapter.

(2) "Consumer" means any individual who is provided access to a tanning facility which is required to be registered pursuant to provisions of this Chapter.

(3) "Department" means the Louisiana Department of Health.

(4) "Individual" means any human being.

(5) "Operator" means any individual designated by the registrant to operate or to assist and instruct the consumer in the operation and use of the tanning facility or tanning equipment.

(6) "Persons" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state, or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of these entities.

(7) "Phototherapy device" means a piece of equipment that emits ultraviolet radiation and is used by a licensed health care professional in the treatment of disease.

(8) "Registrant" means any person who is registered with the department as required by provisions of this Chapter.

(9) "Registration" means registration with the department in accordance with the provisions of this Chapter.

(10) "State health officer" means the employee of the department who is the chief health care official of the state as provided for in R.S. 40:2.

(11) "Tanning equipment" means ultraviolet or other lamps and equipment containing such lamps intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation.

(12) "Tanning facility" means any location, place, area, structure, or business which provides consumers access to tanning equipment. For the purpose of this definition, tanning equipment registered to different persons at

the same location and tanning equipment registered to the same person, but at separate locations, shall constitute separate tanning facilities.

(13) "Ultraviolet radiation" means electromagnetic radiation with wavelengths in air between two hundred nanometers and four hundred nanometers.

RS 40:2704 — Exemptions

(2) Does not use the equipment described in Paragraph (1) of this Subsection to deliberately expose parts of the living human body to ultraviolet radiation for the purpose of tanning or other treatment.

B. Any physician licensed by the Louisiana State Board of Medical Examiners is exempt from the provisions of this Chapter and is authorized to use a phototherapy device or other medical diagnostic and therapeutic equipment which emits ultraviolet radiation.

C. Any individual is exempt from the provisions of this Chapter to the extent that such individual owns tanning equipment exclusively for noncommercial use.

D. Tanning equipment while in transit or storage incidental thereto is exempt from the provisions of this Chapter.

RS 40:2705 — Registration

a tanning facility after January 1, 1991, shall register the facility under this Chapter prior to beginning operation of such a facility.

C. The application required in Subsections A and B of this Section shall be submitted on forms provided by the department and shall contain all the information required by such forms and any accompanying instructions.

D. The department shall require at least the following information on the forms provided for applying for registration of tanning facilities:

(1) Name, physical address, mailing address, and telephone number of the facility where the tanning equipment is being utilized.

(2) Name, mailing address, and telephone number of each owner of the tanning facility.

(3) Name of each tanning facility operator with a certification of each operator's training as provided in R.S. 40:2714(H).

(4) Each manufacturer, model number, serial number, and type of ultraviolet lamps or tanning equipment located at the tanning facility.

(5) Name of each tanning equipment supplier, installer, and service agent.

(6) The geographic areas of the state to be covered, if the application is for a mobile tanning facility.

(7) Copies of any posted warnings or notices which are not required by this Chapter but which address the safe or proper use of tanning equipment and protective devices.

(8) Copies of the consent forms and statements which the consumer will be required to sign pursuant to R.S. 40:2714(A).

(9) Procedures which each operator will be required to follow for the safe use of tanning equipment to include:

(a) Instructions to the consumer.

(b) Use of protective eyewear.

(c) Suitability of prospective consumers for tanning equipment use.

(d) Determination of duration of tanning exposures.

(e) Periodic testing of tanning equipment and timers.

(f) Handling of complaints of injury from consumers.

(g) Records to be maintained on each consumer.

(h) Sanitizing tanning equipment.

(10) Certification that the applicant has read and understands the requirements of this Chapter, such certification to be signed and dated by the manager of the facility and the owner of the tanning facility.

RS 40:2706 — Certificate of registration

istration shall expire at midnight on the expiration date stated thereon.

C. The registrant shall file applications for renewal in accordance with regulations promulgated by the department.

D. Provided that a registrant files an application with the department for renewal in proper form not less than thirty days prior to the expiration date stated on the certificate of registration, such certificate of registration shall not expire pending final action on the application by the department.

E. The registrant shall notify the department in writing before making any change which would render the information contained in the application for registration or the certificate of registration no longer accurate.

F. No certificate of registration may be transferred from one person to another person or from one tanning facility to another tanning facility.

RS 40:2707 — Prohibited acts; advertisement; minors

or imply that any activity under such registration has been approved by the department.

B. A tanning facility shall not allow any person under eighteen years of age to use any tanning equipment.

RS 40:2708 — Denial, suspension, or revocation of a certificate

al false statement in the application for registration or in any statement of fact required by provisions of this Chapter.

(2) Because of conditions revealed by the application or any report, record, inspection, or other means which would warrant the department to refuse to grant a certificate of registration on an original application.

(3) For operation of the tanning facility in a manner that causes or threatens to cause hazard to the public health or safety.

(4) For failure to allow authorized representatives of the department to enter the tanning facility during normal business hours for the purpose of determining compliance with the provisions of this Chapter, conditions of the certificate of registration, or an order of the department.

(5) For violation of or failure to observe any of the terms and conditions of the certificate of registration, the provisions of this Chapter, or an order of the department.

B. Except in cases of willful disregard for the public health and safety, prior to the institution of proceedings for suspension or revocation of a certificate of registration, the agency shall:

(1) Call to the attention of the registrant, in writing, the facts or conduct which may warrant such actions.

(2) Provide reasonable opportunity for the registrant to demonstrate or achieve compliance with all lawful requirements.

C. The department may deny a certificate of registration or suspend or revoke a certificate of registration after issuance only in accordance with the Administrative Procedure Act.

D. The department may terminate a certificate of registration upon receipt of a written request for termination from the registrant.

RS 40:2709 — Compliance with federal and state law

ment, each tanning facility shall be constructed, operated, and maintained in accordance with the requirements of R.S. 40:2710 through 2714.

RS 40:2710 — Warning signs

not obstructed by any barrier, equipment, or other object, and can be easily viewed by the consumer before energizing the tanning equipment.

B. The sign required by this Section shall be printed in upper and lower case letters which are at least one-half inch and one-quarter inch in height, respectively, and shall contain the following warnings:

"DANGER - ULTRAVIOLET RADIATION

- Follow instructions.

- Avoid overexposure. As with natural sunlight, repeated exposure to ultraviolet radiation can cause chronic sun damage characterized by premature aging of the skin, wrinkling, dryness, fragility and bruising of the skin, and skin cancer.

- Wear protective eyewear.

FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN
SEVERE BURNS OR PERMANENT INJURY TO THE EYES.

- Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using sunlamp or tanning equipment if you are using medications or have a history of skin problems or believe that you are especially sensitive to sunlight. Pregnant women or women taking oral contraceptives who use this product may develop discolored skin.

IF YOU DO NOT TAN IN THE SUN YOU ARE UNLIKELY
TO TAN FROM THE USE OF ULTRAVIOLET
RADIATION OF TANNING EQUIPMENT."

RS 40:2711 — Equipment standards

on the standards in effect at the time of manufacture as shown on the device identification label required by 21 CFR 1010.3.

B. Each assembly of tanning equipment shall be designated for use by only one consumer at a time and shall be equipped with a timer which complies with the requirements of 21 CFR 1040.20(c)(2). The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time. No timer interval shall have an error exceeding plus or minus ten percent of any selected time. The facility shall control the interior temperature of a tanning device so that it may not exceed one hundred degrees Fahrenheit.

C. Tanning equipment shall meet the National Fire Protection Association National Electrical Code and shall be provided with ground fault protection on the electrical circuit, or similar internal circuit breakers within said equipment.

D. Tanning equipment shall include physical barriers to protect consumers from injury induced by touching or breaking the lamps.

RS 40:2712 — Stand-up tanning booths Tanning booths designed for stand-up use shall also comply with the following additional requirements:

ils or floor markings, to indicate the proper exposure distance between ultraviolet lamps and the consumer's skin.

(2) Booths shall be constructed with sufficient strength and rigidity to withstand the stress of use and the impact of a falling person.

(3) Access to booths shall be of rigid construction with doors which are nonlatching and that open outwardly.

(4) Booths shall be equipped with handrails and nonslip floors.

RS 40:2713 — Operational requirements

s used at the facility to inform and assist each customer in the proper use of the tanning devices.

B. The registrant shall provide protective eyewear to each consumer for wear during any use of tanning equipment.

C. The protective eyewear required in Subsection B of this Section shall meet the requirements of 21 CFR 1040.20(c)(5).

D. Tanning facility operators shall use concerted efforts to ensure that consumers wear the protective eyewear required by this Section.

E. The registrant shall ensure that the protective eyewear required by this Section are properly sanitized before each use and shall not rely upon exposure to the ultraviolet radiation produced by the tanning equipment itself to provide such sanitizing.

RS 40:2714 — Information provided to consumer

ng that:

(1) Failure to use the eye protection provided to the customer by the tanning facility may result in damage to the eyes.

(2) Overexposure to ultraviolet light causes burns.

(3) Repeated exposure may result in premature aging of the skin and skin cancer.

(4) Abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain:

- (a) Foods.
- (b) Cosmetics.
- (c) Medications, including tranquilizers, diuretics, antibiotics, high blood pressure medicines, and oral contraceptives.
- (5) Any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device.
- (6) A person should not sunbathe before or after exposure to ultraviolet radiation from sunlamps.
- B. Compliance with the notice and warning requirements shall not affect the liability of a tanning facility operator or manufacturer of a tanning device.
- C. The registrant shall maintain for six years a record of each consumer's total number of tanning visits, dates, and duration of tanning exposures.
- D. The registrant shall submit to the department a written report of actual or alleged injury from use of registered tanning equipment within five working days after occurrence or notice thereof. The report shall include:
 - (1) The name of the affected individual.
 - (2) The name, location, and registration number of the tanning facility and identification of the specific tanning equipment involved.
 - (3) The nature of the actual or alleged injury.
 - (4) Any other information relevant to the actual or alleged injury, including the date and duration of exposure.
- E. The registrant shall place, at the entrance of the tanning facility, signage that states "LOUISIANA LAW PROHIBITS PERSONS UNDER 18 YEARS OF AGE FROM USING ANY TANNING FACILITY EQUIPMENT THAT EMITS ULTRAVIOLET LIGHT FOR THE PURPOSE OF SKIN TANNING". The signage shall have dimensions of at least eight inches by ten inches.
- F. The registrant shall replace defective or burned out lamps, bulbs, or filters with a type intended for use in the affected tanning equipment as specified on the product label and having the same spectral distribution.
- G. The registrant shall replace ultraviolet lamps and bulbs which are not otherwise defective or damaged, at such frequency or after such duration of use as may be recommended by the manufacturer of such lamps and bulbs.
- H. The registrant shall certify that all tanning equipment operators are adequately trained in at least the following:
 - (1) The requirements of this Chapter.
 - (2) Procedures for correct operation of the tanning facility and tanning equipment.
 - (3) Recognition of injury or overexposure to ultraviolet radiation.
 - (4) The tanning equipment manufacturer's procedures for operation and maintenance of the tanning equipment.
 - (5) The determination of skin type of consumers and appropriate determination of duration of exposure to registered tanning equipment.
 - (6) Emergency procedures to be followed in case of injury.
- I. The registrant shall limit the operation of tanning equipment to persons who have successfully completed formal training courses that cover the provisions of Subsection H of this Section and have been approved by the department.
- J. The registrant shall maintain a record of operator training required in Subsection I of this Section for inspection by authorized representatives of the department.

RS 40:2715 — Rules and regulations

7, §1, eff. July 19, 1990.

RS 40:2716 — Criminal penalty

y after such registration has expired, been suspended, or revoked shall be guilty of a misdemeanor. Any person convicted of such a misdemeanor shall be fined no less than one thousand dollars and no more than five thousand dollars for each violation. Each day of operation of a tanning facility in violation of the provisions of this Chapter shall constitute a separate offense.

RS 40:2717 — Injunction

of violation creates an immediate threat to the health and safety of the public, the department, state health officer, or an authorized agent may petition the district court for a temporary restraining order to restrain the violation or threat of violation.

B. If a person has violated, is violating, or threatening to violate this Chapter, the department, state health officer, or an authorized agent may after sending notice of said alleged violation to the alleged violator via certified mail, and the lapse of ten days following receipt of the notice by the alleged violator, petition the district court for an injunction to prohibit the person from continuing the violation or threat of violation.

C. On application for injunctive relief and a finding that a person is violating or threatening to violate this Chapter, the district court may grant any injunctive relief warranted by the facts.

D. Venue for a suit brought under this Section shall be in the parish in which the violation or the threat of violation is alleged to have occurred.

RS 40:2718 — Permits

blic area of the tanning facility.

C. On receipt of an application or forms provided by the department for this purpose and renewal fees, permits shall be renewed annually by the department.

D. The department by rule may adopt a system under which permits expire on various dates during the year. As part of this system the annual renewal fees may be prorated on a monthly basis to reflect the actual number of months the permit is valid.

E. The department may revoke, cancel, suspend, or probate a permit to operate a tanning facility for any of the following reasons:

- (1) Failure to pay a permit fee or an annual renewal fee for a permit.
- (2) The applicant obtained or attempted to obtain a permit by fraud or deception.
- (3) A violation of any of the provisions of this Chapter.
- (4) A violation of a rule or regulation of the department adopted pursuant to this Chapter.

RS 40:2719 — Fees

cts 1992, No. 432, §1; Acts 2000, 1st Ex. Sess., No. 125, §1, eff. July 1, 2000.

RS 40:2811 — Disposition of property abandoned to hospitals

in the possession of a hospital licensed

under the provisions of this Title or owned and operated by the state or a political subdivision by any person shall be considered abandoned property for the purposes of this Section if:

- (1) The owner of the property or the owner's next of kin has been notified by certified mail, return receipt requested, at the last known address, that the property is in possession of the hospital and must be claimed by the owner or the owner's next of kin as follows:
 - (a) Within thirty days if the owner was discharged from the hospital or died in such facility.
 - (b) Within one hundred thirty days if the owner is anyone other than a person who was discharged from the hospital or died in such facility.
- (2) The owner of the property or the owner's next of kin takes no action within the time specified in Paragraph (1) of this Subsection from the date that the certified letter was sent.
- (3) There is no last known address of the owner or the owner's next of kin.

B. A public sale of the abandoned property shall be held by the hospital during the month of January each year. Proceeds from the sale of abandoned property and any cash that has been abandoned by a former patient shall be transferred to the administrator of the

hospital and placed in a special fund for the benefit of indigent patients. An accounting of this fund, including the various expenditures made from the account, shall be maintained by the administrator and be open to public inspection.

C. A licensed hospital may dispose of any soiled clothing which is considered abandoned property under the provisions of this Section.

D. "Owner", "person", and "property", for purposes of this Section, shall have the same meaning as defined in R.S. 9:153.

RS 40:2821 — Legislative findings

Louisiana Department of Health, office of public health, is the state agency within Louisiana which has, since 1977, been granted primary enforcement responsibility from the United States Environmental Protection Agency to ensure that public drinking water systems within the state are in compliance with state regulations which are no less stringent than any federal drinking water regulations adopted pursuant to the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(2) The Department of Environmental Quality has, since 1989, been operating and maintaining the Clean Water State Revolving Fund in accordance with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), commonly referred to as the Clean Water Act, to provide assistance to wastewater treatment facilities owned or operated by municipalities and other political subdivisions, and for other assistance allowed by such Act.

(3) The Constitution of Louisiana authorizes legislation which enables the state or its political subdivisions to comply with federal law in order to secure federal participation in the funding of capital projects. This Act creates the Drinking Water Revolving Loan Fund in accordance with the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) for the purpose of providing financial assistance for the improvement of public drinking water systems in Louisiana.

(4) The financial administration of the Drinking Water Revolving Loan Fund shall be with the Louisiana Department of Health.

(5) Relative to the Drinking Water Revolving Loan Fund Program, the Louisiana Department of Health, office of public health, shall have the authority to establish assistance priorities and perform oversight and other related activities.

RS 40:2822 — Definitions

Administrative costs" means costs incurred by the Louisiana Department of Health, office of public health in the administration of the program, including but not limited to:

- (a) Program startup costs.
 - (b) Financial administrative costs of servicing loans and issuing debt.
 - (c) Costs associated with establishing assistance priorities and carrying out oversight and related activities other than financial administration.
 - (d) Financial, management, and legal consulting fees.
 - (e) Reimbursement costs for support services from other state agencies.
- (2) "Capitalization grant" means the assistance agreement by which the United States Environmental Protection Agency obligates and awards funds allotted to the state for the

purposes of capitalizing the Drinking Water Revolving Loan Fund as well as any other monies for other purposes authorized by the federal act.

(3) "Community water system" means a public water system that serves year-round residents within a residential setting.

(4) "Cost" means, with reference to a project, all capital costs incurred or to be incurred for a public water system, including but not limited to:

(a) Engineering, financing, and other fees.

(b) Construction and interest during construction.

(c) A reasonable allowance for contingencies to the extent permitted by the federal act and rules promulgated thereunder.

(5) "Disadvantaged community" means the service area of a public water system wherein the system's existing or projected rates for water service do not meet affordability criteria established under the Intended Use Plan of the Louisiana Department of Health, office of public health.

(6) "Drinking Water Revolving Loan Fund" means the revolving loan fund established under this Chapter pursuant to the authority of the federal act.

(7) "Environmental review" means an environmental review process conducted by the Louisiana Department of Health of any public water system that has applied for or has received a loan or other assistance from the program. Nothing in this Paragraph shall prevent the Department of Environmental Quality from fulfilling its responsibilities under the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.).

(8) "Federal act" means the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(9) "Governmental agency" means the state, its political subdivisions, or any agency thereof, Indian tribes, and combinations of governmental entities, which have the authority to own, construct, or operate a public water system or a wastewater treatment facility and other related activities.

(10) "Indian tribe" means an Indian tribe having a federally recognized governing body carrying out substantial governmental duties and powers over any area within the state.

(11) "Intended Use Plan" means a document which describes how the state intends to use the federal capitalization grant funds, state matching funds, principal repayments, interest earnings, and any other monies associated with the Drinking Water Revolving Loan Fund Program during each year in order to meet the objectives of the federal act and further the goal of protecting public health.

(12) "Loan" means a loan of money from the Drinking Water Revolving Loan Fund for eligible project costs.

(13) "Loan subsidy" means a forgiveness of loan principal, or a portion thereof, up to an amount sufficient to make the project affordable to a disadvantaged community or to a community that the state expects to become a disadvantaged community as the result of a proposed project.

(14) "Net proceeds" means the funds raised from the sale of bonds minus issuance costs, which costs include but are not limited to the underwriting discount, printing of disclosure documents' bond certificates, and the fees of the underwriter's legal counsel, bond

counsel, financial advisor, rating agency, and trustee banks.

(15) "Non-community water system" means a public water system that serves persons in a nonresidential setting.

(16) "Nonprofit non-community water system" means a non-community water system that is owned by an entity organized under Louisiana law which qualifies as a tax exempt organization under the provisions of Section 501(c)(3) of the Internal Revenue Code.

(17) "Privately owned system" means a public water system that is not owned by a governmental agency.

(18) "Program" means the Drinking Water Revolving Loan Fund Program as established by this Chapter.

(19) "Project" means improvements or activities to be undertaken by a public water system which:

(a) Are of a type that will facilitate compliance with state drinking water regulations which are no less stringent than any federal drinking water regulations adopted pursuant to the federal act.

(b) Further the health protection objectives of the federal act.

(20) "Public water system" means a system for the provision to the public of water for potable purposes, through pipes or other constructed conveyances, if the system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily for at least sixty days out of the year. The term includes:

(a) Any collection, treatment, storage, and distribution facilities under the control of the operator of the system and used primarily in connection with the system.

(b) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

(21) "Publicly owned system" means a public water system that is owned by a governmental agency.

(22) "Set-asides" means use of a portion of the state's allotted capitalization grant funds for various project and non-project activities as authorized under the federal act.

RS 40:2823 — Drinking Water Revolving Loan Fund Program

through which the state may provide financial assistance, to the extent provided by state law, to both publicly and privately owned community water systems and to nonprofit non-community water systems for projects eligible for assistance under this Chapter. The program shall be administered in accordance with this Chapter and the federal act.

B. The Louisiana Department of Health, office of public health, may promulgate rules and regulations as are necessary to implement the provisions of this Chapter, in accordance with the Administrative Procedure Act, provided such rules and regulations shall not take effect unless approved by the House of Representatives Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee.

C.(1) The Louisiana Department of Health, office of public health, may enter into a capitalization grant agreement with the United States

Environmental Protection Agency to implement the Drinking Water Revolving Loan Fund Program and may accept from that agency any grants and loans necessary for its operation.

(2) In entering into the agreement, the secretary of the Louisiana Department of Health may commit the state to:

(a) Accept grant payments from the United States Environmental Protection Agency in accordance with the schedule established in the capitalization grant agreement, and deposit same into the Drinking Water Revolving Loan Fund, with the exception of any set-aside amounts authorized under the federal act.

(b) Deposit state matching funds, to the extent required by the federal act for receipt of federal grant funds, into the Drinking Water Revolving Loan Fund on or before the date that each federal grant payment is made to the state.

(c) Enter into any other covenants, commitments, and obligations necessary to ensure that the state's administration of the program is consistent with the provisions of this Chapter and the federal act.

RS 40:2824 — Drinking Water Revolving Loan Fund

ich shall be maintained and

operated by the Louisiana Department of Health. Federal capitalization grants, less any set-aside amounts authorized by this Chapter, which are received by the Louisiana Department of Health, office of public health, shall be deposited into or credited to the drinking water loan fund in compliance with the terms of the grant. State matching funds, when required or otherwise made available, shall be deposited directly in or credited to the drinking water loan fund in compliance with the terms of the capitalization grant agreement.

B. The Louisiana Department of Health, office of public health, shall segregate the funds associated with the drinking water loan fund as may be required by the federal act, grant agreements, or interagency agreements. The Louisiana Department of Health shall keep any accounts associated with the drinking water loan fund separate from any accounts associated with the Clean Water State Revolving Fund authorized in R.S. 30:2301 et seq.

C. The Louisiana Department of Health, office of public health, is authorized to claim and utilize all set-aside funding options available under the federal act. In accordance with the Intended Use Plan, such funding set-asides shall be reserved prior to any capitalization grant funds being transferred into the drinking water loan fund.

RS 40:2825 — Use of Drinking Water Revolving Loan Fund

t to

letters of credit, shall be expended, committed, or pledged in a manner consistent with the terms and conditions of the grants and other sources of said deposits, credits, and letters of credit and as provided in federal and state law.

(2) Such funds may be used:

(a) To provide financial assistance, to the extent authorized under state law, for the planning, design, construction, and rehabilitation of both publicly

and privately owned community water systems, and of nonprofit non-community water systems, which systems are included on the state project

priority list contained within the Intended Use Plan.

(b) To provide financial assistance for the acquisition of real property or interests therein, only when such acquisition is integral to a project otherwise authorized by this Chapter, and the purchase is from a willing seller at a fair market value.

(c) To provide loans at or below market interest rates, including interest free loans, for a period not to exceed twenty years from the completion date of the construction of a project so financed; however, loans made for projects for a disadvantaged community may have a period of up to thirty years if such loan period does not exceed the expected design life of the project. All such loans shall be subject to approval by the Louisiana Department of Health, office of public health.

(d) To purchase or refinance, at an interest rate that is less than or equal to the market interest rate, debt obligations incurred after July 1, 1993, for projects for public water systems owned by a governmental agency, public corporation, or public trust within the state.

(e) To guarantee or purchase insurance for debt obligations, if the total proceeds of which debt obligation support a project eligible for assistance under this Chapter, if such guarantee or purchase of insurance would improve credit market access or reduce the interest rate applicable for the obligation.

(f) To provide a source of revenue or security for the payment of principal, interest, or premium on revenue or general obligation bonds or other evidences of indebtedness issued by the Louisiana Department of Health, or any governmental agency, public corporation, public trust, or any other entity having the authority to issue debt for or on behalf of the state, if the net proceeds of such debt instruments are deposited in the drinking water loan fund, or are used to finance a project approved by the Louisiana Department of Health, office of public health, or are used to refund any obligation which finances a project approved under this Chapter.

(g) To provide loan subsidies to disadvantaged communities or to communities expected to become disadvantaged as a result of a proposed water system project; however, the total value of all such subsidies granted in any year shall not exceed thirty percent of the capitalization grant for that year.

(h) To provide for any other expenditure consistent with the capitalization grant agreement.

B. To the extent that monies within the drinking water loan fund are not required for current obligations or expenditure, such amounts may be invested in an interest-bearing account. All such interest earned on investments shall be credited to the drinking water loan fund.

C. Of the total funds credited to the drinking water loan fund annually,

at least fifteen percent shall be available solely for the provision of loan assistance to public water systems which regularly serve fewer than ten thousand persons, to the extent that there is a sufficient number of projects eligible and ready to receive such assistance.

D. Monies in the drinking water loan fund shall not be used to support monitoring, operation, or maintenance expenditures associated with public water systems.

E. Monies in the drinking water loan fund shall not be used to provide loans or other financial assistance for public water systems owned by federal agencies.

RS 40:2826 — Loan conditions and repayment

deposit in the Drinking Water Revolving Loan Fund to a public water system to finance all or a portion of the cost of an eligible project. Such loans are subject to the borrower's compliance with the conditions of the loan, as well as any applicable rules or regulations promulgated by the Louisiana Department of Health.

B. Prior to making a loan, the Louisiana Department of Health shall determine that the public water system has the ability to repay the unsubsidized portion of the loan, and may require a dedicated source of repayment and impose additional requirements as the department deems necessary.

C.(1) Each loan, unless prepaid, shall be payable subject to the loan agreement, with principal and interest payments commencing not later than one year after the completion date of the project for which the loan was made, and each loan shall be fully amortized not later than twenty years after the completion date.

(2)(a) An exception is made for loans for a disadvantaged community wherein an extended loan term has been granted in the loan agreement.

(b) In such case, principal and interest payments, as applicable, shall commence not later than one year after the completion date of the project for which the loan was made, and all of the following are true:

(i) The extended loan term terminates not later than the date that is thirty years after the completion date of the project.

(ii) The extended loan term does not exceed the expected design life of the project.

D.(1) Subject to the limitations of the federal act, the interest rate on each loan shall be established by the secretary of the Louisiana Department of Health in consultation with the assistant secretary for the office of public health, Louisiana Department of Health. Criteria to be considered in the development of such interest rate shall include but is not limited to program priorities established within the Intended Use Plan, the tax status of the applicant, the creditworthiness of the applicant, the cost of bonds issued to provide loan funding, and the long-term viability of the Drinking Water

Revolving Loan Fund.

(2) The interest rate for a loan may include any additional rate that the Louisiana Department of Health considers reasonable or necessary to provide a reserve for the repayment of the loan. The additional rate may be fixed or variable, may be calculated according to a formula, and may differ from the rate established for any other loans.

E. Each loan shall be evidenced by a bond, note, or other evidence of indebtedness of the borrower, in a form prescribed or approved by the Louisiana Department of Health. Such evidences of indebtedness shall be consistent with the provisions of this Chapter and the federal act, and are not required to be identical for all loans.

F. As a condition to making a loan, the Louisiana Department of Health, office of public health, may impose a reasonable administrative fee, subject to the provisions of Article VII, Section 2.1 of the Constitution of Louisiana, which fee may be paid from the proceeds of the loan or other funds available to the owner of the public water system. The proceeds from such administration fee shall be deposited into a special interest bearing account and shall be specifically reserved for the payment of long-term administrative costs associated with the Drinking Water Revolving Loan Fund Program.

RS 40:2831 — Definitions

hether permanent or temporary, which provides consumers access to personal services workers who for remuneration perform any of the following procedures:

(a) Tattooing or the insertion of pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark or figure visible under the skin.

(b) Body piercing or the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration; but does not for the purposes of this Chapter include piercing an ear in either of the following manners:

(i) With a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear, if the person complies with all manufacturer instructions for any apparatus used to pierce the ear and all applicable health and safety standards.

(ii) By a cosmetologist, esthetician, qualified healthcare professional, or employee of a qualified healthcare professional if both of the following are true:

(aa) The person utilizes piercing needles that are single-use, hollow, and made of stainless steel.

(bb) The person complies with all manufacturer instructions for any apparatus used to pierce the ear and all applicable health and safety standards.

(c) The application of permanent cosmetics or pigments under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

(2) "Consumer" means any individual who is provided access to a commercial body

art facility which is required to be registered pursuant to the provisions of this Chapter.

(3) "Department" means the Louisiana Department of Health.

(4) "Manager" means any individual designated by the owner to manage the daily business of a commercial body art facility.

(5) "Operator" means any individual designated by the registrant to apply or to assist in the performance of body art procedures upon the consumer for remuneration.

(6) "Owner" means any person who operates a commercial body art facility.

(7) "Registrant" means any person who is registered with the department as required by provisions of this Chapter.

(8) "State health officer" means the employee of the department who is the chief health care official of the state as provided for in R.S. 40:2.

RS 40:2832 — Registration

establishing a commercial body art facility after January 1, 2000, shall register the facility under this Chapter prior to beginning operation of such a facility.

C. No person shall operate a commercial body art facility without having first registered that facility as provided in Subsections A and B of this Section. The application for registration shall be submitted on forms provided by the department and shall contain all the information required by such forms and any accompanying instructions.

D. Each person managing a commercial body art facility and each person acting as an operator as defined in this Chapter on January 1, 2000, shall register under this Chapter no later than March 1, 2000.

E. Each person who begins to act as a manager or operator in a commercial body art facility after January 1, 2000, shall register the facility

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under this Chapter prior to beginning operation of such a facility.

F. No person shall act as a manager or operator in a commercial body art facility without having first registered as provided in Subsections D and E of this Section. The applications for registration shall be submitted on forms provided by the department and shall contain all the information required by such forms and any accompanying instructions.

G. Any facility approved by the department for training operators pursuant to R.S. 40:2833(A)(4) shall register with the department upon approval.

H. The department shall conduct at least one inspection of a business prior to approving the business to offer commercial body art application services under the provisions of this Chapter. The department may conduct additional inspections as necessary for the approval process, and may inspect a registered business at any time the department considers necessary. In an inspection, the department shall be given access to the business' premises and to all records relevant to the inspection.

I.(1) The department may suspend or revoke the approval of a business to offer commercial body art procedures at any time the department determines that the business is being operated in violation of this Chapter, any rules adopted pursuant to the provisions of this Chapter, or the provisions of R.S. 14:93.2, which prohibit tattooing and body piercing of minors without parental or custodial consent.

(2) In addition to suspension or revocation of approval by the department, if a business violates the provisions of R.S. 14:93.2, it shall also be subject to the penalties provided therein.

J.(1) The department may suspend or revoke the registration of a manager or operator at a commercial body art facility or the registration of a registered training facility at any time the department determines that the registrant is operating in violation of this Chapter, any rules adopted pursuant to the provisions of this Chapter, or the provisions of R.S. 14:93.2.

(2) In addition to suspension or revocation of registration by the department, a registrant who violates the provisions of R.S. 14:93.2 shall be subject to the penalties provided therein.

K. Any physician licensed by the Louisiana State Board of Medical Examiners is exempt from the provisions of this Chapter.

L.(1) The department shall establish and collect from each registrant:

(a) Owner of facility

\$1,000.00

(b) Manager of facility

200.00

(c) Operator

100.00

(d) Training facility

3,000.00

(2) The department shall establish and annually collect from each registrant the following renewal fees:

(a) Owner of facility

\$ 500.00

(b) Manager of facility

150.00

(c) Operator

60.00

(d) Training facility

1,000.00

(3) The monies collected from such fees shall be used by the department for the purposes of implementing and enforcing the provisions of this Chapter.

RS 40:2833 — Rules for minimum sanitary and safety standards

r the enforcement of the

provisions of this Chapter and which shall also establish minimum sanitary and safety standards for the operation of commercial body art facilities. Minimum standards set shall include but not be limited to all of the following:

(1) Health, cleanliness, and general sanitation of the facilities or premises in which commercial body art is performed or applied.

(2) Proper disinfection and sterilization of body art apparatus and safe disposal of body art apparatus.

(3) Procedures to prevent the transmission of disease or infection during or relating to commercial body art procedures, particularly the transmission of hepatitis B and the human immunodeficiency virus (HIV).

(4) Procedures for ensuring that operators who perform commercial body art procedures are adequately trained to perform them properly.

(5) With respect to tattooing services, maintenance of written records that include the color, manufacturer, and lot number of each pigment used for each tattoo performed.

(6) Procedures for establishing a written consent form that discloses the health risks and permanence of each procedure. With respect to tattooing services, the written consent shall prominently state whether the ink used is regulated by the state or the United States Food and Drug Administration.

(7) Procedures for ensuring that consumers are adequately informed as to

sanitary care of their bodies after procedures are done.

B. The state health officer shall implement and enforce all rules adopted pursuant to Subsection A of this Section.

RS 40:2834 — Injunctive relief

ns creates an immediate threat to the health and safety of the public, the department or state health officer may petition the district court for a temporary restraining order to restrain the violation or threat of violation.

(2) If a person has violated, is violating, or threatening to violate this Chapter, the department or state health officer may, after sending notice of said alleged violation to the alleged violator via certified mail and the lapse of ten days following receipt of the notice by the alleged violator, petition the district court for an injunction to prohibit the person from continuing the violation or threat of violation.

B. On application for injunctive relief and a finding that a person is violating or threatening to violate this Chapter, the district court may grant any injunctive relief warranted by the facts.

C. Venue for a suit brought under this Section shall be in the parish in which the violation is alleged to have occurred.

RS 40:2841 — Legislative purpose

related

deaths and incidents of morbidity due to trauma, stroke, and ST-segment myocardial infarction (STEMI), a comprehensive, coordinated statewide system for access to regional trauma, stroke, and STEMI patient care throughout the state be established. This system shall be compatible and interfaced with the Governor's Office of Homeland Security and Emergency Preparedness.

RS 40:2842 — Definitions

(2) "Department" means the Louisiana Department of Health.

(3) "Louisiana Emergency Response Network" (LERN) means the statewide system of regional trauma, stroke, and STEMI patient care that is an organized, seamless, coordinated effort among each component of care including pre-hospital, acute care, post-acute care, rehabilitation, and injury prevention in a defined geographic area which provides access to local health systems for time-sensitive patient care treatment and is integrated with local public health systems and the Governor's Office of Homeland Security and Emergency Preparedness.

(4) "Network" means the Louisiana Emergency Response Network.

RS 40:2843 — Louisiana Emergency Response Network; creation; domicile

to decrease trauma, stroke, and

STEMI-related deaths and incidents of morbidity and mortality due to trauma, stroke, and STEMI in Louisiana. By maximizing the integrated delivery of optimal resources for patients who ultimately need acute trauma, stroke, and STEMI care, the network shall address the daily demands of trauma, stroke, and STEMI care and form the basis for disaster preparedness. The resources required for each component of the system shall be clearly identified, deployed, and studied to ensure that all injured patients gain access to the appropriate level of care in a timely, coordinated, and cost-effective manner.

RS 40:2844 — Governing board; membership; appointment; terms; compensation; vacancies

B. The network shall be governed by a board of twenty-nine members which shall include:

- (1) One cardiologist from nominees submitted by the Louisiana Chapter of the American College of Cardiology.
- (2) One member from nominees submitted by the Rural Hospital Coalition to represent hospitals with fewer than sixty beds.
- (3) One member from nominees submitted by the Louisiana Hospital Association to represent hospitals with one hundred beds or more.
- (4) One member from nominees submitted by the Louisiana Hospital Association to represent a service district hospital.
- (5) Two members from nominees submitted by the Louisiana Department of Health which shall include a member from the office of behavioral health.
- (6) One member from nominees submitted by the Governor's Office of Homeland Security and Emergency Preparedness.
- (7) Two members from nominees submitted by the Louisiana State Medical Society which shall include a member specializing in pediatric surgery.
- (8) One member from nominees submitted by the Louisiana Medical Association.
- (9) One member from nominees submitted by the Committee on Trauma or American College of Surgeons.
- (10) One member from nominees submitted by the Louisiana American College of Emergency Physicians.
- (11) One member from nominees submitted by the Louisiana State University Health Sciences Center at Shreveport.
- (12) One member from nominees submitted by the Louisiana State University Health Sciences Center at New Orleans.
- (13) One member from nominees submitted by Tulane University Health Sciences Center.
- (14) One member from nominees submitted by the Louisiana State Coroners Association.
- (15) Two members from the Louisiana House of Representatives to be appointed by the speaker of the House of Representatives.
- (16) Two members from the Louisiana Senate to be appointed by the president of the Senate.
- (17) One member who is an EMS practitioner from a list of nominees submitted by the Louisiana Association of Nationally Registered Emergency Medical Technicians (LANREMT).
- (18) One member of the Louisiana Rural Ambulance Alliance.
- (19) One 911 member of the National Emergency Number Association.
- (20) One member of the Louisiana Hospital Association to represent hospitals providing rehabilitation services.
- (21) One physician from nominees submitted by the American Stroke Association.
- (22) One registered nurse practicing in emergency or critical care from nominees submitted by the Louisiana State Board of Nursing.
- (23) One medical director of an emergency medical services agency from nominees

submitted by the Louisiana Chapter of the National Association of EMS Physicians (NAEMSP).

(24) One optometrist from nominees submitted by the Optometry Association of Louisiana.

(25) One member who shall be a representative of a burn center that is verified by the American Burn Association.

C. Except as provided in Paragraphs (B)(15) and (16) of this Section, members shall be appointed by the governor from a list of qualified candidates nominated by the respective organizations. Each organization shall submit a list of at least four nominees to the governor.

D. All members of the board shall serve terms of three years.

E. The chairman shall be elected by the board for a term to be determined by the board and no member shall serve more than two consecutive terms as chairman.

F. Each appointment by the governor shall be subject to Senate confirmation.

G. Each board member shall serve without compensation. Legislators shall receive the same per diem and travel reimbursement for attending meetings of the board as is normally provided for members of the legislature. Nonlegislative board members may receive reimbursement for expenses in accordance with the guidelines of the entity they represent.

H. The board shall adopt rules and regulations to provide for the governance of the board. Such rules and regulations shall include but not be limited to:

(1) Procedures for the election of board officers, including terms of office and methods and grounds for removal.

(2) Procedures and grounds for the removal of any board member. Grounds for removal shall include conviction of a felony or may include failure to meet board attendance rules as provided by rule.

I. Procedures for filling a vacancy created by the removal, resignation, or death of any board member prior to the end of the board member's term shall follow those used for initial appointments.

J. The number of board members necessary to constitute a quorum for the transaction of business shall never be less than one third of the entire membership of the board. A majority vote of the board members constituting a quorum shall be necessary for any action taken by the board.

RS 40:2845 — Board; functions, powers, and duties

resource coordination of medical capabilities for participating trauma centers, as defined by R.S. 40:2171; participating stroke and STEMI centers, as defined by rule; and emergency medical services.

(2) Provide for implementation of a network and plan designed to achieve:

(a) A reduction of deaths and incidents of morbidity caused by trauma and time-sensitive illnesses.

(b) A reduction in the number and severity of disabilities caused by trauma, stroke, and STEMI.

(c) Measures to demonstrate a return on investment for the LERN system.

(d) Implementation of regional injury prevention programs.

(3)(a) Establish and appoint nine regional commissions that correspond with the nine administrative regions of the department. These regional commissions shall implement and manage each regional component of the network. The board shall promulgate rules and regulations to provide for the duties and responsibilities of the nine regional commissions.

(b) The membership of each commission shall consist of the following members including but not limited to:

(i) A representative from the Governor's Office of Homeland Security and Emergency Preparedness.

(ii) The Louisiana Department of Health, office of public health regional medical director.

(iii) A representative of local ambulance services.

(iv) A representative of emergency medical response.

(v) A hospital chief executive officer or administrative representative from a hospital with less than sixty beds.

(vi) A hospital chief executive officer or administrative representative from a hospital with more than one hundred beds.

(vii) A hospital chief executive officer or an administrative representative from a service district hospital.

(viii) A representative of the local component society of the Louisiana State Medical Society.

(ix) A representative of the local chapter of the Louisiana Medical Association.

(x) A specialist from the American College of Emergency Physicians.

(xi) A specialist from the American College of Surgeons.

(xii) A representative from the Louisiana Chapter of the National Emergency Number Association.

(4)(a) Enter into interagency agreements with the department, the Governor's Office of Homeland Security and Emergency Preparedness, and such other entities, public or private, as may be necessary to assure continuity of care during emergencies.

(b) Agreements between the board and these entities shall provide for the protocols of mandatory data collection and shall include provisions regarding the specific data to be shared among the entities, the individual or individuals allowed by each party to have access to the other party's data, and the security arrangements between the parties to ensure the protection of the data from unauthorized access that would threaten the privacy of individuals and the confidentiality of the data.

(c) The parties shall not agree to share data pursuant to a specific agreement if any law would otherwise prohibit the sharing of such data by the parties.

(d) The parties shall protect all individually identifiable health information to the extent of their ability within the context of the mission of the Louisiana Emergency Response Network.

(5) Hold regular quarterly meetings and special meetings as necessary for the conduct of its business. Special meetings may be called upon forty-eight-hour notice by the chairperson, or in his absence, upon the written authorization of a majority of the members

of the board.

(6)(a) Establish and maintain a statewide trauma registry to collect and analyze data on the incidence, severity, and causes of trauma, including traumatic brain injury. The registry shall be used to improve the availability and delivery of pre-hospital or out-of-hospital care and hospital trauma care services.

(b) The board shall promulgate rules and regulations according to the Administrative Procedure Act to do the following:

(i) Define specific data elements required to be furnished to the registry by every healthcare facility certified by the department as a trauma center.

(ii) Define trauma data elements that all other healthcare facilities shall be required to furnish to the registry.

(iii) Establish a process for submission, analysis, and reporting of registry data.

(c) Required reporting to the state trauma registry is contingent on LERN providing adequate financial support through the Louisiana Emergency Response Network Fund to cover administrative costs.

(7) Work with the department to develop stroke and ST segment elevation myocardial infarction (STEMI) systems that are designed to promote rapid identification of, and access to, appropriate stroke and STEMI resources statewide.

B. In addition to its function as provided in Subsection A of this Section, the board shall have the following powers and duties:

(1) To enter into any contract related to its responsibilities in compliance with this Chapter and other state laws.

(2) To employ an executive director and necessary staff to oversee the operations of the network and to be responsible to the board for the administration and coordination of all aspects of the network.

(3) To standardize and review performance indicators that evaluate the quality of services delivered by the network and to ensure that improvement in the quality of services delivered is accomplished and documented.

(4) Shall apply for all available appropriate public and all available appropriate public* and private federal grants, donations, or gifts of money or services from any available source.

C.(1) The board shall submit an annual written report to the Senate and House committees on health and welfare at least thirty days prior to each regular session. The report shall include a summary of the data relevant to the goals set forth in Paragraph (A)(2) of this Section and all other information relevant to trauma, stroke, and STEMI patient care and its delivery in Louisiana through the network.

(2) The board shall submit any additional reports or information to the secretary of the department upon request of the secretary and the Senate and House committees on health and welfare upon request of the chairman of either committee.

D.(1) The board may accept grants, donations, or gifts of money or services from public or private organizations or from any other sources to be utilized for the purposes of the board.

(2) There is hereby created in the state treasury, a special fund called the Louisiana Emergency Response Network Fund. The source of monies deposited into the fund may be any monies appropriated annually by the legislature, including federal funds, any public or private donations, gifts, or grants from individuals, corporations, nonprofit organizations, or other business entities which may be made to the fund, and any other monies which may be provided by law.

(3) Monies in the fund shall be invested in the same manner as monies in the state general fund, and interest earned on investment of monies in the fund shall be credited to the state general fund. Unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund.

E. Subject to any appropriation by the legislature, monies in the fund shall be used as directed by the board solely to fund grants, projects, and services which will address the goals and objectives of the board as authorized in this Chapter.

F. In addition to annual reports to the legislature, the board may publish documents and materials intended to further the mission or purpose of the board.

RS 40:2845.1 — Public records exception

of the board, any

hospital or pre-hospital care provider, any physician or other direct care provider, any regional commission, any emergency medical services council, emergency medical services agency, or other group or committee whose purpose is to monitor and improve quality care pursuant to this Chapter, shall be confidential and exempt from the provisions of law relative to public records as provided in R.S. 44:4.1(B)(26).

RS 40:2846 — Rules and regulations; Louisiana Department of Health

ns of this Chapter. Such rules and regulations shall be promulgated in accordance with the Administrative Procedure Act.

B. The rules and regulations shall be submitted to the House and Senate Committees on Health and Welfare.

C. Upon request of the board, the department shall provide advice, information, and assistance to the board concerning rules to be promulgated by the board.

RS 40:2851 — Short title

any technical difficulties navigating this website,

RS 40:2852 — Facilities providing treatment, housing, or temporary residence to individuals

quired to be

licensed by the Louisiana Department of Health or the Department of Children and Family Services, that provides housing or temporary residence for individuals who have been arrested for the commission of a crime and who are referred by any judicial agency, as defined in this Section, shall be regulated by rules adopted and enforced by the Department of Public Safety and Corrections for the operation of these facilities.

B. The rules shall include but not be limited to providing for the construction, standards of operation, and services provided for these facilities. All rules shall be adopted in accordance with the Administrative Procedure Act.

C.(1) No facility shall provide housing or temporary residence to any individual and no judicial agency shall refer any individual to a facility providing housing or temporary residence until the Department of Public Safety and Corrections has adopted rules and has inspected the facility and certified that the facility is in compliance with these rules as provided for by this Section.

(2) No facility shall provide treatment to any individual and no judicial agency shall refer any individual to a facility providing treatment until the Louisiana Department of Health has adopted rules and has inspected the facility and certified that the facility is in compliance with these rules as provided for by this Section.

D. For the purposes of this Chapter, "judicial agency" means the sheriff, sheriff's department, or district court and officers thereof, including the district judge, the prosecutor, and district attorneys. Judicial agency referral residential facilities shall not participate in sheriffs' work release programs nor shall they receive funding from the state.

E. Repealed by Acts 2017, No. 107, §2.

RS 40:2853 — Facilities providing housing or temporary residence to individuals referred by

any residence for individuals who have been arrested for the commission of a crime who are referred by any judicial agency pursuant to this Chapter shall be located within one thousand feet of any school or child day care center property.

B.(1) In municipalities and unincorporated areas which are divided into subdivisions with streets, blocks, and sidewalks, this distance shall be measured as a person walks using the sidewalk from the nearest point of the property line of the school or day care center to the nearest point of the premises to be used to provide housing or temporary residence.

(2) Outside of municipalities and unincorporated areas which are not divided into subdivisions with streets, blocks, or sidewalks, the measurement of this distance shall be a straight line from the nearest point of the premises to provide housing or temporary residence to the nearest point of the school or day care center property.

C.(1) The prohibitions provided for in Subsection A of this Section shall not apply to any facility that provides housing or temporary residence which has been in operation for a year or longer prior to August 15, 2009.

(2) The subsequent construction, erection, development, or movement of a school or day care center which causes the facility providing housing or temporary residence to be located within the prohibited distance as provided for in Subsection A of this Section shall not be cause for a violation of the provisions of this Section.

D. For purposes of this Section the following definitions shall apply:

(1) "Child day care center property" means property on which is located a facility licensed as a day care center under the provisions of the Child Care Facility and Child-Placing Agency Licensing Act (R.S. 46:1401 et seq.) or licensed as a group child day care home under the provisions of the Child Care Registration Law (R.S. 46:1441 et seq.).

(2) "Premises" includes that land and any improvements thereon.

(3) "School property" means the property of any public elementary or secondary school or any nonpublic elementary or secondary school.

E. Whoever violates the provisions of this Section shall be fined not more than five

hundred dollars, or imprisoned for not more than six months, or both.

RS 40:2861 — Legislative intent and public health policy

for the effective control and regulation

of their activities, maintain and enforce order regarding the prescribing, dispensing, marketing, selling, managing, and use of prescription drugs in this state, and to protect the health, safety, and general welfare of the citizens and residents of this state.

RS 40:2863 — Definitions

" means a person who resides or is employed in this state and is covered or is eligible to be covered by a health plan.

(3) "Board of Pharmacy" means the Louisiana Board of Pharmacy.

(4) "Commissioner of insurance" means the Louisiana commissioner of insurance.

(5) "Department of Insurance" means the Louisiana Department of Insurance.

(6) "Department of Justice" means the Louisiana Department of Justice.

(7) "Health plan" means an individual or group plan or program which is established by contract, certificate, law, plan, policy, subscriber agreement, or by any other method and which is entered into, issued, or offered for the purpose of arranging for, delivering, paying for, providing, or reimbursing any of the costs of health or medical care, including pharmacy services, drugs, or devices.

(8) "Pharmacy benefit management plan" and "pharmacy benefits program" mean a plan or program that pays for, reimburses, covers the cost of, or otherwise provides for pharmacist services, drugs, or devices to individuals who reside in or are employed in Louisiana.

(9) "Pharmacy benefit manager" and "PBM" mean any person or business who administers the prescription drug or device program of one or more health plans on behalf of a third party in accordance with a pharmacy benefit program. This term includes any agent or representative of a pharmacy benefit manager hired or contracted by the pharmacy benefit manager to assist in the administering of the drug program and any wholly or partially owned or controlled subsidiary of a pharmacy benefit manager.

RS 40:2864 — Duties of pharmacy benefit managers

to the entities that have

entered into a contract with the pharmacy benefit manager the duties of good faith, honesty, trust, confidence, and candor.

B. The standard for the fulfillment of a pharmacy benefit manager's duties shall be to act with a high degree of care, skill, prudence, and diligence required of a reasonable and prudent person with substantial experience and expertise in the management of pharmacy benefit management plans and payment of claims.

C. Failure of a pharmacy benefit manager to satisfy the duties established in this Section shall not create a separate or independent cause of action nor shall it be construed to prohibit any cause of action established by or recognized in federal or state law.

RS 40:2865 — General licensing and permitting requirements

gement plan shall be licensed or

permitted as required by this Chapter.

B. No license or permit shall be issued to a pharmacy benefit manager who has not registered with the Louisiana secretary of state to conduct business within the state.

C. Each license and permit shall be valid only for the applicant listed on the application.

D.(1) A pharmacy benefit manager license or permit is not transferable.

(2) No license or permit shall be subject to sale, assignment, or other transfer, voluntary or involuntary.

(3) In the event the ownership of the pharmacy benefit manager changes by fifty percent or more after the initial issuance of the license or permit, the ownership shall be deemed sufficiently different as to require a new pharmacy benefit manager license or permit.

(4) The continued operation of a pharmacy benefit manager under a license or permit issued pursuant to this Chapter after its ownership has changed by fifty percent or more shall constitute sufficient basis for finding that the pharmacy benefit manager is operating in this state without a valid license or permit in violation of this Chapter.

RS 40:2866 — General applicability

it financing.

B. Nothing in this Chapter shall be construed to require coverage of any specific drug in any health plan, but shall apply once a drug is covered or included on a health plan formulary.

RS 40:2867 — Pharmacy benefit manager; regulation by commissioner of insurance; applicability

It be licensed

as required by the Louisiana Insurance Code.

B. Every pharmacy benefit manager licensed by the commissioner of insurance shall abide by the provisions of the Louisiana Insurance Code and the rules and regulations of the Department of Insurance regarding the pharmacy benefit manager's business regulated by the commissioner of insurance.

RS 40:2868 — Pharmacy benefit manager; regulation by Louisiana Board of Pharmacy;

armacy if the pharmacy benefit manager administers, develops, maintains, performs, or provides one or more of the following pharmacy services in this state or that affects one or more beneficiaries of a pharmacy benefit management plan administered by the pharmacy benefit manager:

(1) Adjudication of appeals or grievances related to prescription drug coverage.

(2) Disease management programs. For purposes of this Subsection, "disease management program" means a program adopted to guide and care for beneficiaries with chronic health problems to improve the quality of health care provided to them and prevent future need for medical resources by using an integrated comprehensive approach.

(3) Drug formularies. For purposes of this Subsection, "drug formulary" means a list of prescription medications or pharmaceutical products developed and approved by each health plan that may be dispensed to a beneficiary through participating pharmacies. A drug formulary may also be referred to as a "preferred drug list", "prior authorization list", or

"pharmacopeia".

(4) Drug regimen reviews. For purposes of this Subsection, "drug regimen review" means third-party review of all medications a beneficiary is currently using, whether prescribed or over-the-counter, and administered by any method.

(5) Prescription drug management programs. For purposes of this Subsection, "prescription drug management program" means a program developed and designed to administer the prescription drug benefit as part of a health plan, and as part of such administration a PBM may contract with pharmacies for implementation and dispensing drugs in accordance with the program.

(6) Processing of prior authorization requests. For purposes of this Subsection, "processing of prior authorization requests" means making a determination regarding payment coverage based on an advance approval request submitted by a physician or other healthcare provider before a specific procedure, service, device, supply, or medication is delivered to the beneficiary.

(7) Quality care dosing services. For purposes of this Subsection, "quality care dosing services" means electronically checking prescription medications before they are filled at the pharmacy to ensure that the quantity and dosage is consistent with the recommendations of the United States Food and Drug Administration and others.

(8) Step therapy procedures. For purposes of this Subsection, "step therapy procedure" means protocols and policies that establish a specific sequence in which prescription drugs for a medical condition are approved for coverage by a health plan for a beneficiary which generally requires cheaper drugs to be used before more costly drugs. Step therapy may also be referred to as "fail first" protocol.

(9) Utilization management and utilization reviews. For purposes of this Subsection, "utilization management" and "utilization review" mean third-party review and approval of appropriateness and necessity of care that a healthcare provider has indicated for a beneficiary prior to delivery and coverage of such care.

(10) Any other act, service, operation, or transaction incidental to or forming a part of the compounding, filling, dispensing, exchanging, giving, offering for sale, or selling drugs, medicines, poisons, or devices in this state by pharmacists or pharmacies, pursuant to a prescription or an order of physicians, dentists, veterinarians, or other licensed practitioners, requiring, involving, or employing the science or art of any branch of the pharmacy profession, study, or training.

B. Every pharmacy benefit manager permitted by the Board of Pharmacy shall abide by the applicable provisions of the Louisiana Pharmacy Practice Act and the rules and regulations of the Board of Pharmacy.

C.(1) A pharmacy benefit manager may file for a hearing conducted before an independent third-party adjudicator with the division of administrative law upon notice from the board that it intends to take adverse or disciplinary action against the pharmacy benefit manager that may result in the suspension or termination of the pharmacy benefit manager's permit. If the pharmacy benefit manager elects to file for a hearing with the division of administrative law, the ruling of the administrative law judge shall be appealable by either

the pharmacy benefit manager or the board, whichever party does not prevail.

(2) Nothing in this Subsection shall be construed to prevent the pharmacy benefit manager from proceeding with a hearing before the board as provided for in the Administrative Procedure Act, nor shall anything in this Subsection be construed to prevent the board from taking any other action provided for by law or rule that would not result in suspension or termination of the pharmacy benefit manager's permit.

RS 40:2869 — Pharmacy benefit manager monitoring advisory council; membership; functions

y council, referred to hereafter in this Chapter as the "advisory council", that shall consist of the following members:

- (1) The commissioner of the Department of Insurance, or his designee from the department.
- (2) The attorney general, or her designee from the department.
- (3) The secretary of the Louisiana Department of Health, or his designee from the department.
- (4) A pharmacist who works for a chain drug store appointed by the Louisiana Alliance of Retail Pharmacies.
- (5) An independent pharmacist appointed by the Louisiana Independent Pharmacies Association.
- (6) The president of the Pharmaceutical Research and Manufacturers of America, or his designee.
- (7) The president of the Louisiana Association of Health Plans, or his designee.
- (8) An employee of a pharmacy benefit manager licensed by the Louisiana Board of Pharmacy, selected by the Louisiana affiliate of the Pharmaceutical Care Management Association from a list of interested and qualified individuals. The employee shall have responsibility for and experience in daily administrative functions of the business practices of the pharmacy benefit manager.
- (9) The governor, or his designee from the office of the governor.
- (10) The chairman of the House Committee on Insurance, or his designee who is a member of the House of Representatives, who shall serve as vice chairman of the council.
- (11) The chairman of the Senate Committee on Insurance, or his designee who is a member of the Senate, who shall serve as the chairman of the council.
- (12) The chairman of the House Committee on Health and Welfare, or his designee who is a member of the House of Representatives.
- (13) The chairman of the Senate Committee on Health and Welfare, or his designee who is a member of the Senate.

B. The members of the advisory council shall serve at the pleasure of their respective appointing authorities. Seven members shall constitute a quorum for the transaction of all business. The chairman shall fix a time and place for regular meetings of the advisory council, which shall meet at least quarterly. The advisory council shall establish policies and procedures necessary to carry out its duties. Expenses for the administrative staffing of the advisory council shall be provided for from the licensing fees paid by pharmacy benefit managers and may be transferred between state agencies by memorandum of understanding

or cooperative endeavor agreement.

C. The commissioner of insurance and the Board of Pharmacy may utilize the full advisory council or individual member agency expertise for the purpose of investigating a complaint against a pharmacy benefit manager or conducting an audit of a pharmacy benefit manager. In exercising the authority provided for in this Subsection, the same provisions of confidentiality applicable to the Department of Insurance and Louisiana Board of Pharmacy during an investigation shall apply to the advisory council or individual member agencies whose expertise is being utilized. The advisory council may meet in executive session, as necessary, to discuss matters involving an active investigation.

D. The advisory council shall provide monitoring of pharmacy benefit managers in Louisiana to advise the legislature, commissioner of insurance, and Board of Pharmacy on the most effective and efficient manner of regulation of pharmacy benefit managers to ensure the protection of the public. Any licensed pharmacy benefit manager operating in the state of Louisiana shall provide full cooperation with the advisory council on matters including but not limited to those set forth in Subsection E of this Section.

E. The advisory council shall advise on matters including but not limited to the licensure and regulation of pharmacy benefit managers set forth in this Title and Titles 22 and 37 of the Louisiana Revised Statutes of 1950, applicable rules and regulations of state agencies, and federal laws or rules relative to pharmacy benefit managers.

F. The advisory council may conduct and its members may attend and participate in a meeting via electronic means in accordance with R.S. 42:17.2.

RS 40:2870 — Prohibited acts; unfair and deceptive trade practices

d by R.S. 22:1964(15).

(2) Perform any act that violates the duties, obligations, and responsibilities imposed under the Louisiana Insurance Code on a pharmacy benefit manager.

(3) Buy, sell, transfer, or provide personal healthcare or contact information of any beneficiary to any other party for any purpose with one exception. A pharmacy benefit manager may provide such information regarding beneficiaries of a health plan to that health plan provider if requested by the health plan provider.

(4) Conduct or participate in effective rate pricing or spread pricing.

(5)(a) Directly or indirectly engage in patient steering to a pharmacy in which the pharmacy benefit manager maintains an ownership interest or control. Patient steering includes but is not limited to any communication by a pharmacy benefit manager through data mining or other similar process of any patient information generated or obtained throughout the prescription filling process at any pharmacy, including contacting the patient verbally or in writing to directly or indirectly influence the patient or provide the patient with the option to use an alternate pharmacy that is a preferred carve-out or is in a strategic relationship with the pharmacy benefit manager or in which the pharmacy benefit manager maintains an ownership interest or control or contracts with to process prescriptions on its behalf. A pharmacy benefit manager is prohibited from retaliation or attempts to influence the patient to use the alternate pharmacy.

(b) Repealed by Acts 2025, No. 474, §4, eff. June 20, 2025.

(6)(a) Penalize a beneficiary or provide an inducement to the beneficiary for the purpose of getting the beneficiary to use specific retail, mail order pharmacy, or another network pharmacy provider in which a pharmacy benefit manager has an ownership or controlling interest or that has an ownership or controlling interest in a pharmacy benefit manager.

(b) For purposes of this Paragraph, "inducement" means the providing of financial incentives, including variations in premiums, deductibles, copayments, or coinsurance.

(c) The provisions of this Paragraph shall not apply to employers, unions, associations, or other persons who employ, own, operate, control, or contract directly with a pharmacy or pharmacist for the purpose of managing or controlling prescription costs paid for the benefit of an employee or member or those covered by the employee or member's plan, or when the persons contract with a pharmacy benefit manager to steer employees or members to pharmacists or pharmacies which the person owns, operates, or controls.

(7) Retroactively deny or reduce a claim of a pharmacist or pharmacy for payment or demand repayment of all or part of a claim after the claim has been approved by the pharmacy benefit manager as authorized by R.S. 22:1856.1.

(8) Reimburse a local pharmacist or local pharmacy, as defined in R.S. 46:460.36(A), less than the amount it reimburses chain pharmacies, mail-order pharmacies, specialty pharmacies, or affiliates of the pharmacy benefit manager for the same drug or device or for the same pharmacy service in this state.

(9) Fail to update prices as required by R.S. 22:1857.

(10)(a) Fail to honor maximum allowable cost (MAC) prices as set forth in R.S. 22:1863 et seq.

(b) A pharmacy benefit manager shall not require a pharmacist or pharmacy to purchase drugs from any particular wholesaler. However, if a pharmacy benefit manager recommends or provides a wholesaler, then that wholesaler must be willing and able to honor the pharmacy benefit manager's MAC price, ship the order, and have receipt of the order within two business days with no additional charge to the pharmacist.

(c) The wholesaler with the lowest price, which is listed as the MAC price, is not obligated to sell or ship to a nonmember pharmacist or pharmacy. If the wholesaler chooses not to sell the drug to the pharmacist or pharmacy, then the MAC price set by the pharmacy benefit manager must be adjusted to the price available to the pharmacist or pharmacy through another wholesaler.

(11) Fail to meet the payment standards established in R.S. 22:1856.

(12) Fail to provide detailed remittance advice to pharmacists and pharmacies in compliance with R.S. 22:1856.

(13)(a) Fail to pay any state or local sales tax imposed on any drug, device, or pharmacy services or to remit the sales tax to the appropriate pharmacist or pharmacy for the tax proceeds to be forwarded to the sales tax authority.

(b) A pharmacy benefit manager who does not pay the sales tax shall be liable to the taxing authority for the tax, interest, penalties, and any other fees or costs imposed by law for failure to pay sales taxes.

(c) No pharmacy benefit manager shall deduct the taxes from any amount due to a pharmacist or pharmacy for a drug, device, or pharmacy service or charge or pay anyone a fee or surcharge for paying any sales tax or remitting any sales tax proceeds to a pharmacist or pharmacy if that fee or surcharge would be imposed directly or indirectly on the pharmacist or pharmacy.

(d) All pharmacy benefit managers who pay any out-of-state pharmacist or pharmacy for drugs or devices shipped to a beneficiary in this state or for pharmacy services rendered to a beneficiary which is taxable in this state shall remit the tax directly to the appropriate taxing authority.

(e) Any pharmacist or pharmacy who does not receive sales tax proceeds from a pharmacy benefit manager for any drug, device, or pharmacy service which is subject to sales taxes shall have no responsibility for payment of the taxes if the pharmacist or pharmacy provides written notification to the appropriate taxing authority, the Department of Insurance, and the Board of Pharmacy of the pharmacy benefit manager's failure to remit the sales taxes at the time the next sales tax return is due to be filed.

(f) State or local sales taxes and other applicable state-imposed taxes or fees shall be considered as part of the allowable cost and shall be included in the claim submitted by a pharmacist or pharmacy.

(14) Restrict early refills on maintenance drugs to an amount less than seven days for a prescription of at least a thirty-day supply. However, at the direction of the Louisiana Department of Health, for purposes of administering the Medicaid pharmacy benefit program, a pharmacy benefit manager may apply a more restrictive early refill policy without violating the provisions of this Paragraph.

(15) Require a beneficiary to follow a plan's step therapy protocol if the prescribed drug is on the health plan's prescription drug formulary, the beneficiary has tried the step therapy required prescription drug while under his current or previous health plan, and the provider has submitted a justification and supporting clinical documentation that such prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse effect or event.

(16) Delay a decision on a request for authorization to dispense a prescription drug for more than seventy-two hours, or twenty-four hours in exigent circumstances in which the patient, in the opinion of the prescribing provider, pharmacy, or pharmacist submitting the authorization request, is suffering from a health condition that may seriously jeopardize the patient's life, health, or ability to regain maximum function. A request for authorization shall include relevant data or appropriate documentation to render a decision on a request for authorization.

(17) Exploit prescription drug information obtained from beneficiaries for monetary gain or economic power over beneficiaries, pharmacists, or pharmacies.

(18) Sell, exchange, or use in any manner prescription drug information regarding a beneficiary obtained through a beneficiary's use of a prescription for purposes of marketing, solicitation, consumer steering, referral, or any other practice or act, except as otherwise provided for in this Section, that provides the pharmacy benefit manager or any of its

affiliates or subsidiaries economic power or control over pharmacists or pharmacies or interferes in the free choice of a beneficiary.

(19) Engage in drug repackaging and markups. A pharmacy benefit manager that owns or controls a mail-order pharmacy shall not allow the mail-order pharmacy to repackage drugs and sell the repackaged items at higher prices than the original average wholesale price unless beneficiaries who may buy the repackaged drugs are informed in writing that the drugs have been repackaged and are being sold at the higher price.

(20) Operate in Louisiana without either being registered with and in good standing with the Louisiana secretary of state to do business in Louisiana or being licensed by and in good standing with the commissioner of insurance, as provided by this Chapter.

B.(1) The commission of any of the acts or any combination of acts prohibited by this Section shall be considered an unfair method of competition and unfair practice or act in accordance with the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401 et seq., if the violations are committed or performed with such frequency as to indicate a general business practice. Notwithstanding any provision of law to the contrary, the private right of action created by R.S. 51:1409 shall not apply to this Section.

(2) For purposes of this Section, a violation shall be considered to have occurred each time a prohibited act is committed.

(3) Each day that a pharmacy benefit manager operates without being registered with and in good standing with the secretary of state to do business in Louisiana or without being licensed by and in good standing with the commissioner of insurance, as provided by this Chapter, shall be considered a separate violation.

C.(1) Nothing in this Section shall be construed to interfere with or violate a consumer's right to know where the consumer may have access to the lowest cost drugs, whether a consumer is utilizing insurance or other third-party reimbursement or not.

(2) Nothing in this Section shall be construed to interfere with the requirement that consumers receive notice of changes to pharmacy networks, such as the inclusion of new pharmacies or removal of existing pharmacies from networks.

RS 40:2871 — Enforcement

uirements:

(1)(a) The commissioner of insurance shall be responsible for investigation and enforcement of the provisions of the Louisiana Insurance Code, the applicable provisions of this Chapter, and any rules or regulations promulgated by the Department of Insurance relative to pharmacy benefit managers. The commissioner shall refer any complaint he believes to be outside of his jurisdiction to the Board of Pharmacy or the Louisiana Department of Justice.

(b) The commissioner of insurance may suspend or revoke a pharmacy benefit manager's permit, license, or registration in accordance with the Louisiana Insurance Code and the rules and regulations promulgated by the Department of Insurance relative to pharmacy benefit managers.

(2)(a) The Board of Pharmacy shall be responsible for investigation and enforcement of the provisions of the Louisiana Pharmacy Practice Act, the applicable provisions of this

Chapter, and any rules or regulations promulgated by the Board of Pharmacy relative to pharmacy benefit managers. The Board of Pharmacy shall refer any complaint it believes to be outside of its jurisdiction to the Department of Insurance or the Louisiana Department of Justice.

(b) Upon completion of a complaint investigation or compliance audit, and after notice and an opportunity for an adjudicatory hearing held in accordance with the Administrative Procedure Act, the Board of Pharmacy may suspend, revoke, or place on probation a license, permit, or registration issued to the pharmacy benefit manager or any entity in which the pharmacy benefit manager has an ownership or controlling interest, or take any other action authorized by the Louisiana Pharmacy Practice Act or the rules and regulations of the Board of Pharmacy.

B.(1) The commissioner of insurance and the Board of Pharmacy shall be responsible for conducting random compliance audits, which may be desk audits based on data provided by the pharmacy benefit manager, to ensure compliance with this Chapter.

(2) A pharmacy benefit manager doing business in Louisiana shall make itself open and available to comply with compliance audit data requests.

C. On the first day of each month, the Board of Pharmacy shall submit to the attorney general a report of complaints received against pharmacy benefit managers and the date that each complaint was received during the prior calendar month in a format prescribed by the attorney general. The report shall include a cumulative list of all complaints received against pharmacy benefit managers until final disposition.

D. Nothing in this Section shall be construed as a limitation on the attorney general's power to enforce the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401 et seq., or to limit his authority in any way under that law, or as a limitation on the attorney general's power to negotiate and enter into a stipulation with a pharmacy benefit manager. Furthermore, nothing in this Section shall prohibit the Board of Pharmacy from referring a complaint or audit finding to the Louisiana Department of Justice.

RS 40:2881 — Short title

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RS 40:2882 — Definitions

by a manufacturer pursuant to 42 U.S.C. 256b and is purchased by a covered entity as defined in 42 U.S.C. 256b(a)(4).

(2) "340B entity" means an entity participating or authorized to participate in the federal 340B drug discount program, as described in 42 U.S.C. 256b, including its pharmacy, or any pharmacy contracted with the participating entity to dispense drugs purchased through the 340B drug discount program.

(3) "Health insurance issuer" has the same meaning as provided in R.S. 22:1019.1.

(4) "Manufacturer" has the same meaning as defined in R.S. 37:3462.

(5) "Pharmacy" has the same meaning as defined in R.S. 37:1164 except that residents who are provided pharmacy care shall be physically located in this state.

(6) "Pharmacy benefit manager" has the same meaning as provided in R.S. 40:2863.

RS 40:2883 — Prohibition of certain discriminatory actions related to reimbursement of 340B

, pharmacy benefit manager, other third-party payor, or its agent shall not do

any of the following:

(a) Reimburse a 340B entity for 340B drugs at a rate lower than that paid for the same drug to entities that are not 340B entities or lower reimbursement for a claim on the basis that the claim is for a 340B drug.

(b) Impose any terms or conditions on any 340B entity with respect to any of the following that differ from such terms or conditions applied to non-340B entities on the basis that the entity participates in the federal 340B drug discount program set forth in 42 U.S.C. 256b or that a drug is a 340B drug including, without limitation, any of the following:

(i) Fees, charges, clawbacks, or other adjustments or assessments. For purposes of this Subsection, the term "other adjustment" includes placing any additional requirements, restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or fees to the 340B entity that are not placed upon other entities that do not participate in the 340B drug discount program, including affiliate pharmacies of the health insurance issuer, pharmacy benefit manager, or other third-party payor.

(ii) Dispensing fees that are less than the dispensing fees for non-340B entities.

(iii) Restrictions or requirements regarding participation in standard or preferred pharmacy networks.

(iv) Requirements relating to the frequency or scope of audits of inventory management systems.

(v) Requirements that a claim for a drug include any identification, billing modifier, attestation, or other indication that a drug is a 340B drug in order to be processed or resubmitted unless it is required by the Centers for Medicare and Medicaid Services or the Louisiana Department of Health for the administration of the Louisiana Medicaid program.

(vi) Any other restrictions, conditions, practices, or policies that are not imposed on non-340B entities.

(c) Require a 340B entity to reverse, resubmit, or clarify a claim after the initial adjudication unless these actions are in the normal course of pharmacy business and not related to 340B drug pricing.

(d) Discriminate against a 340B entity in a manner that prevents or interferes with any patient's choice to receive such drugs from the 340B entity, including the administration of such drugs. For purposes of this Subsection, it is considered a discriminatory practice that prevents or interferes with a patient's choice to receive drugs at a 340B entity if a health insurance issuer, pharmacy benefit manager, or other third-party payor places any additional requirements, restrictions, or unnecessary burdens upon the 340B entity that results in administrative costs or fees to the 340B entity, including but not limited to requiring a claim for a drug to include any identification, billing modifier, attestation, or other indication that a drug is a 340B drug in order to be processed or resubmitted unless it is required by the Centers for Medicare and Medicaid Services or the Louisiana Department of Health in administration of the Louisiana Medicaid program.

(e) Include any other provision in a contract between a health insurance issuer,

pharmacy benefit manager, or other third-party payor and a 340B entity that discriminates against the 340B entity or prevents or interferes with an individual's choice to receive a prescription drug from a 340B entity, including the administration of the drug, in person or via direct delivery, mail, or other form of shipment, or creation of a restriction or additional charge on a patient who chooses to receive drugs from a 340B entity.

(f) Require or compel the submission of ingredient costs or pricing data pertaining to 340B drugs to any health insurance issuer, pharmacy benefit manager, or other third-party payor.

(g) Exclude any 340B entity from the health insurance issuer, pharmacy benefit manager, or other third-party payor network on the basis that the 340B entity dispenses drugs subject to an agreement under 42 U.S.C. 256b, or refusing to contract with a 340B entity for reasons other than those that apply equally to non-340B entities.

B. Nothing in this Chapter applies to the Louisiana Medicaid program as payor when Medicaid provides reimbursement for covered outpatient drugs as defined in 42 U.S.C. 1396r-8(k)).

RS 40:2884 — Prohibition of certain discriminatory actions by a manufacturer or distributor related se

interfere with, either directly or indirectly, the acquisition of a 340B drug by, or delivery of a 340B drug to, a pharmacy that is under contract with a 340B entity and is authorized under such contract to receive and dispense 340B drugs on behalf of the covered entity unless such receipt is prohibited by the United States Department of Health and Human Services.

B. A manufacturer or distributor shall not interfere with a pharmacy contracted with a 340B entity.

RS 40:2885 — Violations

and subjects the violator to any and all actions, including investigative demands, remedies, and penalties provided for in the Unfair Trade Practices and Consumer Protection Law, except there shall be no right to bring a private action pursuant to R.S. 51:1409. A violation occurs each time a prohibited act is committed.

RS 40:2886 — Federal preemption

Nothing in this Chapter is to be construed or applied to be in conflict with any of the following:

- (1) Applicable federal law and related regulations.
- (2) Other laws of this state if the state law is compatible with applicable federal law.

C. Limited distribution of a drug required under 21 U.S.C. 355-1 is not to be construed as a violation of this Chapter.

RS 40:2902 — Law Enforcement Data Task Force

teraction with the public.

B.(1) The membership of the task force shall be as follows:

(a)(i) One member shall be appointed by the Louisiana Commission on Law Enforcement and Administration of Criminal Justice.

- (ii) This member shall not be a voting member.
 - (iii) This member shall serve as the task force president.
 - (b) One member shall be appointed by the Louisiana Association of Chiefs of Police.
 - (c) One member shall be appointed by the Louisiana Sheriffs' Association.
 - (d) One member shall be appointed by the Department of Public Safety and Corrections, office of state police.
 - (e) One member shall be appointed by Pelican Institute for Public Policy.
 - (f) One member shall be appointed by Southern Poverty Law Center.
 - (g) One member shall be appointed by Public Affairs Research Council.
 - (h) One member shall be appointed by American Civil Liberties Union of Louisiana.
 - (i) One member shall be appointed by the Louisiana American Federation of Labor-Congress of Industrial Organizations (AFL-CIO).
 - (j) One member shall be appointed by the Louisiana Supreme Court.
 - (k) One member shall be appointed by Louisiana Survivors for Reform.
 - (l) One member shall be appointed by the Louisiana District Attorneys Association.
 - (m) One member shall be appointed by the Louisiana Judicial Council.
 - (n) One member shall be appointed by the Council on Peace Officer Standards and Training.
 - (o) One member shall be appointed by Sexual Trauma Awareness and Response (STAR).
 - (p) One member shall be appointed by the Integrated Criminal Justice Information System Policy Board (ICJIS).
- C. The task force meetings shall be subject to the Open Meetings Law.
- D. A majority of the members of the task force shall constitute a quorum. A quorum shall be present to transact any business. The task force shall not create any subcommittees, but shall handle all matters before the task force.
- E. The task force shall meet at least quarterly for one year, and the initial meeting shall be no later than November 30, 2019. Dates and times for all remaining task force meetings shall be agreed upon by all appointed members of the task force.
- F. The task force shall discuss and report on the following topics with respect to the collection of data and information by law enforcement agencies:
- (1) Current methods of data collection in the state of Louisiana.
 - (2) Current methods of data collection outside the state of Louisiana.
 - (3) Current methods of reporting data outside the state of Louisiana.
 - (4) Methods of utilizing data collection and reporting to improve public safety, community engagement, and public confidence in law enforcement.
 - (5) The manner in which rural and small law enforcement agencies currently comply with data collection requirements in other states.
 - (6) Recommendations on the expansion of data collection and reporting.
 - (7) Possible methods of transmitting collected data by law enforcement agencies for aggregated presentation.
 - (8) A cost analysis for the collection of extensive data, including but not limited to

the following:

- (a) Traffic stops.
- (b) Pedestrian stops.
- (c) Clearance rates.
- (d) Execution of no-knock warrants.
- (e) Use of special weapons and tactics teams.
- (f) Use of force.
- (9) Current policies against racial profiling utilized by individual law enforcement agencies in the state. The task force shall review the policies of each law enforcement agency to determine whether the agency is excepted from the reporting requirements as provided in R.S. 32:398.10(E).

G. The task force shall accept written or in-person testimony regarding all matters it considers and shall include all relevant public testimony in its final report required by Subsection H of this Section.

H. The task force shall submit a written report to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, the House Committee on Judiciary, the Senate Committee on Judiciary B, and the Council on Peace Officers Standards and Training by January thirty-first of each calendar year. The initial report shall be submitted by the task force on January 31, 2021.

Title 56 — Wildlife and Fisheries

RS 56:1 — Wildlife and Fisheries Commission established; membership; qualifications; definitions

tate, including all aquatic life, is placed under the supervision and control of the Louisiana Wildlife and Fisheries Commission, which is hereby created and established in the executive branch of the state government.

B. The commission shall consist of seven members appointed by the governor, subject to confirmation by the Senate. Six of the members shall each serve for overlapping terms of six years, and one shall serve for a term concurrent with that of the governor.

C. Three members of the commission shall be electors of the coastal parishes and representatives of the commercial fishing and fur industries. The other four shall be electors from the state at large, other than representatives of the commercial fishing and fur industries.

D. The commissioners heretofore appointed under the provisions of Article VI, Section 1 of the Louisiana Constitution of 1921 and presently serving as commissioners, shall continue to serve for the terms for which appointed. Thereafter, any vacancy occurring in the commission by reason of the expiration of the term for which appointed or by reason of death, resignation or otherwise shall be filled by appointment by the governor; however, persons appointed to fill the vacancy created by a retiring or deceased commissioner shall be appointed for the unexpired term of such commissioner only.

E. No person who has served as commissioner for six years or more shall be eligible for reappointment.

F. No commissioner may be a member of the legislature or hold any salaried public office or employment for compensation, other than per diem, existing under or created by the laws of the United States, the state of Louisiana or by any subdivision thereof.

G. No compensation for his services shall be paid to any member of the commission, but each member shall be paid a per diem of twenty-five dollars for each day of meeting and actual expenses incurred in traveling to and from and attending meetings of the commission and in attending to his duties away from his domicile under assignment by the commission.

H. As used throughout this title, unless the context otherwise clearly indicates differently, "director" means the director of the Louisiana Wildlife and Fisheries Commission and "commission" means the Louisiana Wildlife and Fisheries Commission.

RS 56:2 — Supervision and direction of commission; meetings

ssion is a policy-making and budgetary-control board, with no administrative functions. The commission shall have sole authority to establish definite management programs and policies and to approve and accept all contracts at its discretion. It shall make such studies and investigations as it thinks necessary. It shall formulate the policies and shall determine the wisdom and efficacy of the policies, plans, rules, regulations and proceedings of the commission.

B. No appointed member of the commission may prescribe or direct the conduct of the commission or the action of the director or any subordinate member thereof in any matter or case unless first authorized by the board in a meeting open to the public.

C. The commission shall not take any action except by vote in meeting assembled, all actions shall be included in the minutes.

D.(1) The commission shall hold an open meeting at least once each month. The commission shall annually, at the first meeting in January, elect one of its members as chairman and one of its members as vice chairman. It may hold other meetings at its discretion or on call of its chairman. A majority of the members constitutes a quorum of the commission.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, if the governor declares a state of emergency pursuant to R.S. 29:721 et seq., the chairman may cancel the monthly meeting. In addition, the secretary may take action through a declaration of emergency on any item scheduled on the agenda of the canceled meeting. Further, the secretary may take any action by a declaration of emergency, necessary for the protection of the fish and wildlife resources. Such actions may remain in effect until seven days following the next commission meeting.

RS 56:3 — Ownership of wild birds, quadrupeds, fish, aquatic life, water bottoms, oysters, and shellfish

and bottoms of rivers, streams, bayous, lagoons, lakes, bays, sounds, and inlets bordering on or connecting with the Gulf of Mexico within the territory or jurisdiction of the state, including all oysters and other shellfish and parts thereof grown thereon, either naturally or cultivated, and all oysters in the shells after they are caught or taken therefrom, are and remain the property of the state, and shall be under the exclusive control of the Wildlife and Fisheries Commission except as provided in R.S. 56:4.

B. Wild birds, quadrupeds, fish, other aquatic life, and the beds and bottoms of rivers, streams, bayous, lagoons, lakes, bays, sounds, and inlets bordering on or connecting with the Gulf of Mexico, within the territorial jurisdiction of the state, including all oysters and other shellfish and parts thereof grown thereon, either naturally or cultivated, and all oysters in the shells after they are caught or taken therefrom, shall not be taken, sold, or had in possession except as otherwise permitted in this Title; and the title of the state to all such wild birds, quadrupeds, fish, and other aquatic life, even though taken in accordance with the provisions of this Title, and the beds and bottoms of rivers, streams, bayous, lagoons, lakes, bays, sounds, and inlets always remains in the state for the purpose of regulating and controlling the use and disposition thereof.

RS 56:4 — Authority of Department of Conservation and Energy over navigable water bottoms

f Conservation and Energy to lease or otherwise administer the beds and bottoms of navigable rivers, streams, bayous, lagoons, lakes, bays, sounds, and inlets bordering on or connecting with the Gulf of Mexico within the territory or jurisdiction of the state, as established by law and regulations promulgated thereunder.

RS 56:5 — General powers and authority

r commissioner of conservation and the commissioner of wildlife and fisheries in relation to the wildlife of the state, including wild game and nongame quadrupeds or animals, game, oysters, fish, and other aquatic life.

B. Any function or authority vested to the prior commissioner of conservation and the commissioner of wildlife and fisheries concerning any of the resources under the jurisdiction of the director of the Wildlife and Fisheries Commission, and all records, equipment, funds, and other assets in relation to such resources, are transferred to the Louisiana Wildlife and Fisheries Commission.

C. The commission shall adopt rules and regulations, in accordance with the Administrative Procedure Act, necessary to protect certain of the state's natural resources other than fish and wildlife, especially such resources as standing trees which are otherwise protected by law but have no specific provision for enforcing such protection.

RS 56:6 — Special powers and duties; statistics; rules and regulations; reports

every branch of the

service, and shall give his entire time to the service and shall employ the unskilled labor and skilled assistance necessary for the efficient operation of the department. He shall also employ scientists certified by the American Fisheries Society or the Wildlife Society to study the life, habits, and productivity of the wildlife of the state, both land and aquatic, however, he may employ special scientists with the relevant master's degrees. These scientists shall make studies, compile the results, and promptly report them to the chief of the division to

which the subject matter pertains, so that the recommendations predicated upon them may be made by the chief of the division to the secretary.

(2) Shall receive all necessary expenses when engaged in the discharge of his official duties.

(3) May fix the compensation and pay the expenses of commission employees; however, such expenditures and his salary shall never exceed the revenues available for the use of the commission.

(4) May employ an attorney to represent the commission.

(5) Shall fully represent the commission and discharge all the obligations and duties heretofore devolving upon the three members of the conservation commission, upon the department of conservation, upon the commissioner of conservation and upon the department of wildlife and fisheries with respect to those resources now under the jurisdiction of the director of the Louisiana Wildlife and Fisheries Commission, which replaces these prior offices.

(6) Shall collect, classify, and preserve such data and information as will tend to promote the objects of this Part.

(7) Shall take charge and keep all records, books, papers, and documents which shall, in the discharge of his duties, come into his possession or under his control.

(8) Shall make and execute all contracts and generally do all things necessary to carry out the objects of this Part.

(9) Shall adopt bylaws for the government of the commission and the government of its employees.

(10) Shall for the comprehensive control of birds, shellfish, finfish, and wild quadrupeds, adopt rules and regulations not inconsistent with the provisions of this Part and in accordance with the provisions of the Administrative Procedure Act.

(11) Shall examine all accounts and operations of the commission and determine the work to be undertaken.

(12) Shall improve, enlarge, and protect the natural oyster reefs of this state as conditions may warrant, subject to the provisions stipulated in this Part and any other law.

(13) Shall protect and propagate, when possible, all species of birds and game of whatever description, and shall establish preserves and hatcheries to be maintained and operated by the commission.

(14) Shall rigidly enforce all law relative to the bedding, fishing, selling, shipping, and canning of oysters; all law relative to the protection, propagation, and selling of birds and game; all law relative to the protection, propagation, and sale of all species of fish in the state, whether salt water or fresh water fish, shell fish, or fish of any description; and all law relative to diamond-back terrapin and shrimp.

(15) In general, has full power and control over birds and animals, whether they be game or fur-bearing or not; over all fish, whether salt or fresh water fish; over diamond-back terrapin, shrimp, and oysters of this state, found or being within its borders or within any of its waters, whether rivers, lakes, bayous, lagoons, bays, or gulfs.

(16) Shall assist in protecting all lessees of private oyster bedding grounds in the

enjoyment of their rights.

(17) Shall assist in the protection of private fish ponds used by individuals to propagate fish.

(18) Shall protect game preserves placed under the control of the state, provided they are used for the propagation of birds and game, or as resting places for birds or game, and shall see that such preserves are properly posted according to law.

(19) Shall, in every possible way, assist in developing the natural resources of the state under his jurisdiction to their fullest proportions.

(20) Shall prepare by the thirty-first day of December, 1954 and shall maintain on a current basis a complete map showing all leases of water bottoms and natural reefs in the waters of this state, as provided for in R.S. 56:421 through 56:460, and shall include a complete list of all leases theretofore made. This map shall be made in large enough scale and with addenda showing the persons in whose name the leases were granted, the exact locations of said leases, and the exact amount of acreage of said leases.

(21) Shall, in order to facilitate the distribution of recreational fishing, hunting, and trapping licenses and permits, as provided for in this Chapter, and the distribution of certificates of number and other registration certificates as provided in R.S. 34:851.1 et seq., be hereby authorized to designate and consign to special licensing or certificate agents, the issuance of such licenses, permits, certificates, and the collection of fees therefor. Such special licensing or certificate agents may include individuals, associations, corporations, and partnerships. The secretary is hereby specifically authorized to enter into agreements with special licensing or certificate agents which agreements would permit the retention by a licensing agent of a portion of the license fee proceeds collected either on a percentage basis or a per transaction basis, and by certificate agents on a per transaction basis only. All special licensing or certificate agents, so designated, shall make returns of fees collected in accordance with conditions and terms determined and fixed by the commission.

(22) The commission shall prohibit the discharge of brine from salt domes which are located on the coastline of Louisiana and the Gulf of Mexico and other petroleum wastes into any waters off said coastline and extending therefrom three miles or more into the Gulf of Mexico when it becomes evident that said discharge is damaging or threatens to damage the aquatic life in the waters of the state. The commission may require that any brine disposal be monitored in accordance with rules and regulations promulgated by the commission.

(23) Is authorized, on behalf of the department and the state of Louisiana, to acquire land in any wilderness area in the state of Louisiana from a willing seller at a price agreed upon by the secretary and the landowner. The secretary of the Department of Wildlife and Fisheries, on behalf of the department and the state of Louisiana, is authorized to execute such documents as are necessary to properly effectuate the acquisition of property described herein.

(24) Shall promulgate rules and regulations for the regulation of the dredging of fill sand and fill material, to effectuate the provisions of Chapter 12 of this Title.

(25)(a) Shall promulgate rules and regulations, subject to the provisions of the Administrative Procedure Act, to set seasons, times, places, size limits, quotas, daily take,

and possession limits, based upon biological and technical data, for all wildlife and fish. Any such rule or regulation shall have as its objective the sound conservation, preservation, replenishment, and management of that species for maximum continuing social and economic benefit to the state without overfishing that causes short-term or long-term biological damage to any species, and regarding all species of fish, without overfishing that leads to such damage. Any season, time, place, size, quota, daily take or possession limit currently set by law shall be superseded upon promulgation by the commission of new rules and regulations concerning a particular species. Aquaculturally raised fish, as defined by R.S. 56:356, shall be exempt from the provisions of this Section. Penalties for violation of rules and regulations set by the commission pursuant to this Section shall be established by law. The authority to determine game fish or commercial status of a particular species shall be retained by the legislature.

(b) The provisions of this Section shall not amend, supercede, or repeal any other provision of the law pertaining to "Fish" (noun) as defined in R.S. 56:8.

(26)(a) Notwithstanding any other law to the contrary, the secretary shall, after notification by the department to the applicant that the application is complete, grant or deny all applications for permits, licenses, registrations, or compliance schedules relating to oil and gas wells and pipelines within sixty days. The notification of completeness shall be issued within fourteen days, exclusive of holidays, by the department. If the application is not complete the department shall notify the applicant in writing of the deficiencies which cause the application not to be complete. If the secretary does not grant the application, the secretary shall provide written reasons for his decision to deny, and copies of the decision shall be provided to all parties. The secretary may delegate the power to grant permits, licenses, registrations, variances, or compliance schedules to an assistant.

(b) If the secretary does not grant or deny the application within the time period provided for in this Paragraph, the applicant may file a rule as provided for in R.S. 49:978.

(27) Repealed by Acts 1995, No. 1316, §3.

(28) May in accordance with law impose, by rule promulgated in accordance with the Administrative Procedure Act, a fee for nonresident recreational hunting licenses and nonresident recreational fishing licenses. The nonresident recreational hunting licenses shall be those nonresident licenses and the nonresident stamps authorized by Subpart A and Subpart A-1 of Part IV of this Chapter. The nonresident recreational fishing licenses shall be those nonresident licenses authorized by Subpart B of Part VI of this Chapter.

(29) May provide for a program of dissemination of wildlife and fisheries information and education in the state of Louisiana.

(30) Shall promulgate rules and regulations to control the importation and private possession of nonindigenous constrictors in excess of twelve feet in length, venomous snakes, and nonhuman primates. The rules shall provide exceptions for animal sanctuaries, zoos, aquariums, wildlife research centers, scientific organizations, and medical research facilities, including but not limited to the University of Louisiana at Lafayette Primate Center and the Tulane National Primate Research Center. Such rules shall address internet purchase of such animals. Such rules shall also provide for permits for certain institutions and for

owners who can prove ownership prior to July 1, 2003.

(31) Shall promulgate rules and regulations to control the importation and private possession of big exotic cats including but not limited to tigers, lions, leopards, jaguars, cheetahs, and hybrids resulting from cross-breeding of such cats. The rules shall provide exceptions for big cats traditionally kept by colleges and universities as school mascots, animal sanctuaries, zoos, wildlife research centers, and scientific organizations. Such rules shall address Internet purchase of such animals. Such rules shall also provide for permits for certain institutions and for owners who can prove previous ownership. Previous ownership shall include persons who obtained their animal by lawful means and continuously possessed their animal since August 15, 2006. Violation of rules and regulations adopted pursuant to the provisions of this Paragraph constitutes a class two violation punishable as provided in R.S. 56:32.

(32) Upon request of a lake commission, a fish and game commission, or a watershed district, may adopt regulations applicable to the use of yo-yo or trigger device fishing gear in a specific waterbody. When adopted by the commission, the regulations shall be uniform in their application to waterbodies subject to the regulations and shall provide that:

(a) The use of yo-yos or trigger devices shall be governed by the following terms:

(i) No more than fifty yo-yos or trigger devices shall be allowed per person.

(ii) Except for those devices that are attached to a privately owned pier, boathouse, seawall, or dock, each yo-yo or trigger device shall be clearly tagged with the name, address, and telephone number of the owner or user.

(iii) When in use, each yo-yo or trigger device shall be checked at least once every twenty-four hours, and all fish, and any other animal caught or hooked, shall be immediately removed from the device.

(iv) Except for those devices that are attached to a privately owned pier, boathouse, seawall, or dock, each yo-yo or trigger device must be rebaited at least once every twenty-four hours.

(v) Except for those metal objects located above the water that are affixed to a private pier, dock, houseboat, or other manmade structure which is designed for fishing, no yo-yo or trigger device shall be attached to any metal object.

(vi) Except for a metal object used strictly in the construction of a pier, boathouse, seawall, or dock, no metal object which is driven into the lake bottom, a stump, tree, or the shoreline shall be used to anchor a yo-yo or trigger device.

(vii) Except for those devices that are attached to a privately owned pier, boathouse, seawall, or dock, when not being used in accordance with the provisions of this Paragraph, each yo-yo or trigger device shall be removed from the waterbody immediately.

(b) The use of trotlines shall be governed by the following terms:

(i) All trotlines shall be clearly tagged with the name, address, and phone number of the owner or user and the date of placement. The trotline shall be marked on each end with a floating object that is readily visible.

(ii) At any given time, no person shall set more than three trotlines with a maximum

of fifty hooks each.

(iii) All trotlines shall have an eight-foot cotton leader on each end of the trotline.

(iv) Except for those metal objects located above the water that are affixed to a private pier, dock, houseboat, or other manmade structure which is designed for fishing, no trotline shall be attached to any metallic object.

(v) Each trotline shall be attended daily when in service.

(vi) When not in use, each trotline shall be removed from the waterbody by the owner or user.

(c) A violation of any of the provisions of this Paragraph shall be a class one violation, except there shall be no imprisonment. In addition, any device found in violation of this Paragraph shall be immediately seized by and forfeited to the department.

(33)(a) Upon request of a water conservation district, may adopt regulations applicable to the use of jugs or float fishing gear in a specific water body. If adopted by the commission, the regulations shall be uniform in their application to water bodies subject to the regulations and shall provide for the opening and closing dates for the use of such gear.

(b) A violation of any regulations adopted by the commission pursuant to this Paragraph shall be a class one violation, except there shall be no imprisonment. In addition, any device found in violation of this Paragraph shall be immediately seized by and forfeited to the department.

(34) May promulgate rules and regulations, subject to the provisions of the Administrative Procedure Act, to manage and collect harvest information for recreational landings of state and federal cooperatively managed species in coordination with the Gulf of Mexico Fishery Management Council, and to set seasons, times, places, quotas, daily take, possession limits, permitting, reporting procedures, landing requirements, tagging requirements, and other rules and regulations pursuant thereto necessary to manage and collect harvest information on recreational landings.

RS 56:6.1 — Emergency closure of hunting or fishing seasons; rules and regulations; prohibitions;

if or may restrict the hunting or taking of wildlife in a designated area in any manner deemed advisable. In addition, in an emergency, the secretary may declare a closed season on any or all species of fish found or existing in the waters of the state or may restrict fishing in the closed season in any manner deemed advisable. Such closure shall be for a period of time not to extend beyond the seventh day following the next meeting of the commission.

B. Any such closure shall be made by an order issued by the secretary in the same manner as the issuance of an emergency rule as provided in R.S. 49:962. The closure order authorized in this Section shall include a description of the area subject to the closure, indication of the species of fish or wildlife covered by such order, and the reasons for the closure. In addition, the order may include restrictions on hunting or fishing times, bag or creel limits, and harvest restrictions and may alter season opening and closing dates. Upon the issuance of any such order, the possession, sale, barter, trade, or exchange of, or the attempt to possess, sell, barter, trade, or exchange, any species of fish or wildlife contrary to the provisions of the order is prohibited.

C. Violation of any closure order authorized by this Section constitutes a class 2-B

violation.

RS 56:6.2 — Advisory committees

h rules shall be adopted no later than January 1, 1994, and shall be adopted in accordance with the Administrative Procedure Act.

B. Procedures that may be adopted by rule shall include but not be limited to the following:

- (1) A requirement that a majority of the members duly appointed shall constitute a quorum and that no action may be taken without a quorum present and voting.
- (2) A prohibition on voting by proxy or the designation of proxies.
- (3) Provisions for the removal of any member of the advisory committee for cause by the secretary of the department.
- (4) A provision that the chairman of an advisory committee shall be elected from among the duly appointed members and shall serve a term of no more than one year.

C. The secretary may remove any member of an advisory committee for cause as provided in the rules of procedure authorized to be adopted by this Section.

D. For the purposes of this Section, an advisory committee shall include any board, committee, or task force, consisting primarily of persons who are not employed by the department or the commission, that has been created by law, resolution, executive order, or otherwise for the purpose of advising the department or the commission regarding matters within their jurisdiction.

RS 56:7 — Domicile of commission; service of process; suits; parties

vision, within the Department of Wildlife and Fisheries, shall remain located in the city of New Orleans.

(2) Service of citation and other process directed to the commission shall be made by handing the citation or other process to the secretary of the Louisiana Department of Wildlife and Fisheries. All suits in its behalf shall be brought in the name of the Louisiana Wildlife and Fisheries Commission.

B. Any person in interest who feels aggrieved by any rule, regulation, or other action adopted by the Louisiana Wildlife and Fisheries Commission, including an action by one who seeks the closure or modification of any hunting season in any part of the state, may test its legality in a court of competent jurisdiction at the domicile of the commission.

RS 56:7.1 — Jesse J. Guidry Center for Wildlife and Fisheries Resources

ife and Fisheries are located shall be "Jesse J. Guidry Center for Wildlife and Fisheries Resources".

RS 56:8 — Definitions

(1) "Administrator" means the secretary of the Department of Wildlife and Fisheries.

(2) "Agriculture or agricultural pursuit" means the cultivation, growing, harvesting, or marketing of domesticated fish.

(3) "Alien individual" means any person who is neither a United States citizen nor a resident alien, or any corporation or other legal entity which is organized and domiciled in any country other than the United States.

(4) "Alligator farm" means an enclosed area, constructed so as to prevent the ingress and egress of alligators from surrounding public or private lands or waters and meeting other specifications prescribed by the department, where alligators are bred and raised under controlled conditions. Alligator farm also includes an alligator ranch wherein eggs are collected from the wild, artificially incubated and raised, pursuant to department license or permit.

(5) "Alligator farmer" means a person who raises alligators under controlled conditions which prohibit free movement of the animals onto and off of the farm or controlled area, and who may harvest alligators under the supervision of the department.

- (6) "Alligator hunter" means a resident or nonresident person who takes wild alligators.
- (7) "Alligator part" means any part of the carcass of an alligator, except the hide and includes the bony dorsum plates, if detached from the tagged alligator hide.
- (8) "Alligator parts dealer" means any person who deals in alligator parts other than hides and who either:
- (a) Buys unprocessed alligator parts from an alligator hunter, another alligator parts dealer, or an alligator farmer for the purpose of resale.
 - (b) Manufactures within the state nonedible alligator parts into a finished product.
 - (c) Purchases, cans, unprocessed alligator meat or processes alligator meat for wholesale or retail sale.
- (9) "Alligator parts retailer" means a properly licensed person who purchases for retail sale finished alligator parts made from parts other than hides.
- (10) "Angle" means to fish with rod, fishing pole, or hook and line, with or without a reel.
- (11) "Antlers" means hardened boney material having no velvet, broken naturally through skin.
- (12) "Bait species" means all species of fish and other aquatic life utilized for bait.
- (13) "Bandit gear" means vertical hook-and-line gear with rods attached to a vessel and with line retrieved by manual, electric, or hydraulic reels.
- (14) "Beam Trawl" means a funnel shaped net the mouth of which is held open by a beam, or by some stationary fixture, while it is being fished.
- (15) "Blaze pink" means a daylight fluorescent pink color.
- (16) "Board of Trustees" as applies to Part XI only, means the board of trustees of the Louisiana State Employees' Retirement System created and provided for by Chapter 10 of Title 42 of the Louisiana Revised Statutes of 1950.
- (17)(a) "Bona fide resident", except as specified in Subparagraph (b) of this Paragraph, means any person who is a United States citizen or resident alien and has resided in this state continuously during the twelve months immediately prior to the date on which he applies for any license and who has manifested his intent to remain in this state by establishing Louisiana as his legal domicile, as demonstrated by compliance with all of the following, as applicable:
- (i) If registered to vote, he is registered to vote in Louisiana.
 - (ii) If licensed to drive a motor vehicle, he is in possession of a Louisiana driver's license, or, if not licensed to drive, he is in possession of a special identification card issued by the Department of Public Safety and Corrections under the provisions of R.S. 40:1321, or an alternative form of proof of residency that the department deems acceptable.
 - (iii) If owning a motor vehicle located within Louisiana, he is in possession of a Louisiana registration for that vehicle.
 - (iv) If earning an income, he has filed a Louisiana state income tax return and has complied with state income tax laws and regulations.
 - (v) If a minor who cannot otherwise demonstrate legal domicile by other methods

established in this Paragraph, he is in possession of an alternative form of proof of residency that the department deems acceptable.

(b) "Bona fide resident", for purchase of a license for hunting or recreational fishing activities where such license does not authorize any commercial activity, means the following:

(i) Any person who is a United States citizen or resident alien and has resided in this state continuously during the six months immediately prior to the date on which he applies for any such license and who has manifested his intent to remain in this state by establishing Louisiana as his legal domicile, as demonstrated by compliance with Items (a)(i) through (v) of this Paragraph.

(ii) Any person who served in and was honorably discharged from the armed forces of the United States or a reserve component of the armed forces of the United States, including the National Guard, and who, if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license, or, if not licensed to drive, is in possession of a special identification card issued by the Department of Public Safety and Corrections under the provisions of R.S. 40:1321.

(c) As to a corporation or other legal entity, a resident shall be any which is incorporated or otherwise organized under and subject to the laws of Louisiana, and which is domiciled in Louisiana and has a permanent physical location of business in Louisiana where records are held in compliance with R.S. 56:306.5.

(d) Any person, corporation, or other legal entity which possesses a resident license from any other state or country shall not qualify for a resident license in Louisiana.

(18) "Butterfly net" means a fixed, frame-mounted net, used to fish the near-surface waters, which is suspended from the side or sides of a boat, pilings, floats, rafts, or shore installation.

(19) "Can" means a metal container of not more than fifty-five-gallon capacity which is set for the purpose of taking fish.

(20) "Cast net" means a light circular net of vegetable or synthetic materials and weighted around its perimeter that is thrown by hand over the water.

(21) "Channelization" means the practice of changing a natural stream or segment thereof, into a man-made ditch or canal with channels of a relatively uniform width and depth usually necessitating the removal of trees and other woody vegetation adjacent to the stream and constructed for the purpose of accelerating runoff.

(22) "Channel realignment" means the practice by which dredging, ditching, or other means are used to shorten or reroute the natural stream course.

(23) "Charter boat fishing guide" means any person who operates a vessel for hire and derives income from the bringing of recreational fishermen upon waters within the state for the purpose of taking fish.

(24) "Clearing and snagging" means the practice of removing most obstructions, trees, snags, and other impediments that retard the natural stream flow.

(25) "Closed season" means that period of time of a calendar year not specifically included in the open season.

- (26) "Cold storage plant" means and includes all ice houses, ice storage houses, quick freeze plants, or similar establishments, or any place where payment is accepted for storage of wild birds and wild quadrupeds.
- (27) "Commercial fish" means all freshwater commercial fish and saltwater commercial fish found in the waters of the state.
- (28) "Commercial fisherman" means any person who derives income from the harvesting of fish. "Income" as used in this Paragraph shall not include a prize or award offered as a prize in a fishing tournament. (See also nonresident commercial fisherman.)
- (29) "Commission" means the Louisiana Wildlife and Fisheries Commission.
- (30) "Common carrier" means any agency or person transporting passengers or property of any description for hire.
- (31) "Confiscation" means the exercise of a right under the police power wherein property is seized and held pending court order if the seized material is nonperishable, or disposed of without judicial intervention if perishable.
- (32) "Consumer" means patrons of restaurants and other places where alligator, fish, shrimp, or other aquatic life is prepared for human consumption; or any person using alligator, fish, shrimp, or other aquatic life for bait or personal consumption.
- (33) "Consumer-menhaden and other herring-like fishes" means manufacturing plants, warehouses, and other places where menhaden or other herring-like fishes including meal, oil, solubles, or scrap derived, are conveyed after sale.
- (34) "Crab" means a blue crab (*Callinectes sapidus*).
- (35) "Crab dropnet" means any device constructed with vegetable, synthetic, or metal fibers and without flues or throat, attached to a wire frame that forms a net basket and is used for the purpose of taking crabs. This device shall be operated solely by hand and fished in a stationary, passive manner.
- (36) "Crab trap" means a cube-shaped device which is constructed of wire and is no larger than thirty inches on any side with entrance funnels extending no further than seven inches into the inside of the trap and either a bait box or materials providing cover or shelter for peeler crabs, which is used for the sole purpose of taking crabs or stone crabs. This device shall be fished in a stationary, passive manner with the openings to the entrance funnels such that the horizontal diameter of each opening on the vertical wall of the trap is at least one and one-half times the vertical diameter of the opening.
- (37) "Crawfish farmer" means a person who farms or cultivates crawfish commercially in private ponds.
- (38) "Crawfish harvester" means a person who harvests wild crawfish commercially without participating in the growing of the crawfish.
- (39) "Crawfish net" means any device constructed with vegetable or synthetic material without flues or throats attached to a wire frame that forms a net basket and is used for the purpose of taking crawfish.
- (40) "Crawfish trap" means any device constructed of coated wire with the opening

of the throats or flues not exceeding two inches and which is used for the sole purpose of taking crawfish. The minimum mesh size for crawfish traps shall be in accordance with R.S. 56:322(l).

(41) "Cultivated crop" means domesticated fish which are grown, managed, or harvested on an annual, semiannual, biennial, or short-interval basis.

(42) "Department" means the Department of Wildlife and Fisheries.

(43) "Dip net" means a net, usually a deep mesh bag of vegetable or synthetic materials, on a fixed frame attached to a handle and held and worked exclusively by hand and by no more than one individual.

(44) "Domesticated fish" means any fish approved by the department through promulgation under the Administrative Procedure Act of a list of approved aquatic organisms that are spawned and grown, managed, harvested, and marketed on an annual, semiannual, biennial, or short-term basis, in privately owned waters.

(45) "Dressing, dressed skins, or dressed furs" - (See "Tanning").

(46) "Edible fish" includes all commercial fish found in the waters of the state which are eaten as table food in the United States or abroad, including but not limited to sea bass, buffalo fish, catfish, crab, mullet, oyster, paddlefish, pompano, red drum, sheepshead, shrimp, spotted sea trout, white trout, gray trout, croaker, black drum, mackerel, shark, eel, and tuna.

(47) "Eel pot" means any device not to exceed forty-eight inches in length and with an outside mesh size not smaller than one-half inch, constructed with throats or flues not larger than three inches in diameter at their narrowest point and not larger than five inches in diameter at their widest point, and which is used solely for the purpose of taking eel. No lead or wing shall be connected to or used in conjunction with any eel pot. Any fish other than eel taken in this gear must be immediately returned unharmed to the water.

(48) "Effective license number" means the unique alphanumeric number issued by the department in connection with the electronic purchase of a license or permit which, together with a form of picture identification specified by department rule, will entitle the holder to engage in the activity for which the license or permit was issued during the time period specified by department rule.

(49) "Employee" as applies only to Part XI, means those wildlife agents of the enforcement division of the Louisiana Department of Wildlife and Fisheries who are members of the Louisiana State Employees' Retirement System and shall not include any other members of said retirement system or members of any other retirement system to which the state makes contribution or otherwise. (See "Member".)

(50) "Falconry" means the sport of training raptors or taking of wild birds or wild quadrupeds by means of a trained raptor, except eagles, Falconidae, or great horned owl.

(51) "Federal Fishery Conservation Zone", "federal exclusive economic zone", or "EEZ" means that area which falls within a line conterminous with the seaward boundary of each of the coastal states and a line drawn in such a manner that each point on it is two hundred nautical miles from the baseline from which the territorial sea is measured.

(52) "Finfish" (noun) means any of numerous cold-blooded aquatic vertebrates that

characteristically swim with fins, breathe with gills, and are covered with skin or scales.

(53) "Finished alligator part" means any nonedible alligator part that has been completely processed from parts other than hides for retail sale.

(54) "Fish" (noun) means all finfish, shellfish, and crustaceans, and all other species of aquatic life.

(55) "Fish" (verb) means to take or attempt to take fish by any method approved by the commission for recreational purposes or for commercial purposes.

(56) "Fish dealer--retail" means persons excluding restaurants, purchasing fish or seafood whether whole, dressed, or fresh frozen for sale within the state to the consumer only.

(57) "Fish dealer--wholesale" means persons purchasing fresh or frozen fish for resale to dealers or to ship out of state.

(58) "Fisherman" means any person who fishes or attempts to fish within or under the jurisdiction of the laws or regulations of the state of Louisiana.

(59) "Fishing gear" means any vessel and any equipment, whether or not attached to a vessel, which is used in the commercial handling or harvesting of living marine resources.

(60) "Freshwater commercial fish" means any species of freshwater fish taken by a commercial fisherman. Freshwater commercial fish does not include any species of game fish.

(61) "Freshwater recreational fish" means any species of freshwater fish taken for recreational purposes.

(62) "Freshwater shrimp" means the common river shrimp (*Macrobrachium ohione*) and the delta river shrimp (*Macrobrachium acanthurus*).

(63) "Fur animal (nongame quadruped) farm" means any operation involved with the breeding, propagation, or exhibition of fur animals and meeting with commission specifications.

(64) "Fur animal (nongame quadruped) farmer" means a resident who breeds and raises fur animals for exhibition and/or commercial purposes.

(65) "Fur buyer" means anyone who buys whole nongame quadrupeds for the purpose of pelting, carcasses of furbearing animals, raw furs or skins from fur trappers, alligator hunters, alligator farmers, fur buyers, or fur dealers and who sells to another fur buyer or fur dealer within the confines of the state or to a nonresident fur dealer in interstate commerce, or who acts as an agent of another fur buyer or fur dealer in this state in such purchase or sale. Fur buyers are divided into two classes, resident and nonresident. Resident buyers are those who are bona fide residents of this state. All others are nonresident buyers.

(66) "Fur dealer" means anyone who deals in whole nongame quadrupeds for the purpose of pelting, carcasses of furbearing animals, raw furs, and skins and who either:

(a) Buys from a fur trapper, alligator farmer, or alligator hunter, either directly or indirectly, and ships or exports from this state, either directly or indirectly, the raw furs and skins so bought.

(b) Buys from a fur buyer or other fur dealer and exports from this state the raw furs and skins so bought.

(c) Buys from a fur trapper, alligator hunter, alligator farmer, fur buyer, or other dealer and sells such raw furs and skins for manufacturing into a finished product in this state.

(d) Manufactures such furs and skins into a finished product in this state, buying directly from a fur trapper, alligator hunter, alligator farmer, fur buyer, or fur dealer.

(e) Transports raw furs or skins into this state for the purpose of sale within the state.

Fur dealers are divided into two classes, resident and nonresident. Resident dealers are those who are bona fide residents of this state. All others are nonresident dealers.

(f) Converts raw alligator skins through the tanning process into finished or partially finished leather and/or converts raw (green or dried) fur pelts into dressed furs ready for manufacturing.

(67) "Fur trapper" means any person who takes or attempts to take any nongame quadruped, except alligators, or a person who sets or runs traps of any type to catch such nongame quadrupeds during the open trapping season. Fur trappers are divided into two classes, resident and nonresident. Resident trappers are those who are bona fide residents of this state. All others are nonresident trappers.

(68) "Furbearing animal" means any of the following nongame quadrupeds: beaver, bobcat, coyote, gray fox, red fox, mink, muskrat, nutria, opossum, otter, raccoon, and skunk.

(69) "Fyke net" means any cone-shaped net of vegetable or synthetic fibers having throats or flues which is stretched over a series of rings or hoops to support the webbing, with vertical panels of net wings set obliquely on one or both sides of the mouth of the cone-shaped net.

(70) "Game fish" means all of the following species of freshwater and saltwater fish:

(a) Freshwater game fish means largemouth bass (

Micropterus salmoides

), spotted

bass (

Micropterus punctulatus

), shadow bass (

Ambloplites ariommus

), black or white crappie

(

Pomoxis nigromaculatus, *P. annularis*

), white bass (

Morone chrysops

), yellow bass

(

Morone mississippiensi

), striped bass (
Morone saxatilis
) , hybrid striped bass (striped
bass-white bass cross or striped bass-yellow bass cross), and any species of bream (
Lepomis
sp.
).

(b) Saltwater game fish means any sailfish (
Istiopharus platypterus
) , blue marlin
(
Makaira indica
) , black marlin (
Makaira nigricans
) , striped marlin (
Tetrapturus audax
) ,
hatchet marlin (
Tetrapturus
spp.
) , white marlin (
Tetrapturus albidus
) , and red drum
(
Sciaenops ocellatus
).

(71) "Gill net" means any net, of one or more layers, not customarily used for shrimp or menhaden fishing, with a mesh of such size and design as to be used primarily to catch or entangle fish by the gills or other boney projections.

(72) "Hook" means any curved or bent device attached to a line for the purpose of taking fish or alligator and consisting of not more than one eye and one shank with no more than three barbs.

(73) "Hoop net" means a cone-shaped net of vegetable or synthetic materials having throats or flues and which is stretched over a series of rings or hoops to support the webbing.

(74) "Hunt" means, in different tenses, attempting to take.

(75) "Hunter orange" means a daylight fluorescent orange color.

(76) "Instantaneous natural and scenic rivers" means those rivers, streams, or bayous, or segments thereof, included in the Louisiana Natural and Scenic Rivers System at its inception.

(77) "Landing net" means a net, usually a mesh bag of vegetable or synthetic material on a fixed frame attached to a handle, held and operated by hand for the sole purpose of assisting in the landing of a fish legally caught by other legal gear.

(78) "Lead or wing net" means a panel of netting of any mesh size or length, with or without weights and floats attached to one or both sides of the mouth of a cone-shaped net having flues or throats, and set so as to deflect or guide fish toward the mouth of the net.

(79) "Length of net (seines, trammel nets, gill nets, trawls, or other netting)" means the full measure of the extended net as in use or in possession on the fishing grounds, when measured along the cork line between the points where the webbing is attached to the rope at either end and does not include the additional rope used for pulling the net or attaching it to the arm-poles or trawl boards.

(80) "License number" means the unique alphanumeric number which appears on and identifies a particular license or permit.

(81) "Licensee" means any resident or nonresident lawful holder of an effective license duly issued under the authority of the department.

(82) "Livestock" includes domesticated fish which are grown, managed, harvested, or marketed as a cultivated crop.

(83) "Longline gear" means a line which is over four hundred forty yards long to which gangions and hooks are attached that is deployed horizontally and which may be retrieved by an electric or hydraulic hauler. Longline gear shall not mean a trotline as defined in this Section.

(84) "Member" (See "Employee").

(85) "Menhaden seine" means a purse seine used to take menhaden and herring-like species.

(86) "Mesh size" means the full measure of the mesh as found in use when measured as follows: Bar measure is the length of the full bar stretched from the near side of one knot to the far side of the other after being tarred, treated, or otherwise processed. Stretched measure is the full stretched distance from the near side of one knot to the far side of the opposite knot diagonally across the mesh. This measurement shall not be applicable to weaved or woven nets commonly used for menhaden fishing. In woven nets, stretched measure is the full stretched distance of the opening of the mesh; bar measure is one-half of stretched measure.

(87) "Migratory waterfowl" means all species of wild ducks, geese, and coots.

(88) "Minnow trap" means any device with throats or flues not to exceed one inch in width which is used for the sole purpose of taking minnows for bait.

(89) "Monofilament" means a single untwisted synthetic filament.

(90) "Mullet strike net" means a gill net that is not more than one thousand two hundred feet in length nor has a mesh size of not less than three and one-half inches stretched and is not anchored or secured to the water bottom or shore and which is actively worked while being used. A mullet strike net shall not be an unattended net as defined in this Section.

(91) "Natural and scenic river" means a river, stream, or bayou, or segment thereof, that is in a free-flowing condition, that has not been channelized, cleared, and snagged within the past twenty-five years, realigned, inundated, or otherwise altered and has a shoreline covered by native vegetation and has no or few man-made structures along its banks. (See

"instantaneous natural and scenic rivers".)

(92) "Nongame quadruped" means alligators, beavers, bobcats, coyotes, gray foxes, minks, muskrats, nutrias, opossums, otters, raccoons, red foxes, skunks, and other wild quadrupeds valuable for their skins or furs.

(93) "Nonresident" means any person who is not a bona fide resident as that term is defined in this Section. For the purpose of obtaining any type of commercial license within Part VI of this Chapter, a nonresident shall be a United States citizen or resident alien residing in another state or territory of the United States.

(94) "Nonresident commercial fishing boat" means any boat or vessel registered in any state, or which has not continually been registered in this state for a period of more than twelve months, or which is not owned by any person who is a bona fide resident, and which is used for the purpose of taking or assisting in taking or catching fish from the waters of this state for pay or for the purpose of sale, barter, or exchange.

(95) "Open season" means that period of time between two specific dates, the first and last days inclusive, during which wild birds, wild quadrupeds, and fish may be lawfully taken for either recreational or commercial purposes.

(96) "Optimum" with respect to the yield from a fishery, means the amount of fish:

(a) Which will provide the greatest overall benefit to the state, on a continuing basis, with particular reference to food production and recreational opportunities.

(b) Which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor.

(97) "Overfished" means a stock of insufficient size or characteristics that prevents fishing at optimum yield on a continuing basis.

(98) "Overfishing" means fishing at a rate that will lead to an overfished stock, or fishing an overfished stock at a rate that is in excess of a plan to rebuild the stock, or in the absence of a plan, fishing an overfished stock at a rate that prevents rebuilding the stock at a rate that is both biologically and economically sound.

(99) "Paratrawling" is the fishing with a net by affixing a net to or holding a net from two or more vessels so as to pull the net between or behind the vessels.

(100) "Pelt" means the skin or hide of a quadruped.

(101) "Pelting" means removing the skin and fur of a quadruped in such manner as to render it marketable.

(102) "Person" includes any individual person, association, corporation, partnership, or other legal entity recognized by law.

(103) "Pompano strike net" means a gill net that is not more than one thousand two hundred feet in length nor has a mesh size of not less than five inches stretched and is not anchored or secured to the water bottom or shore and which is actively worked while being used. A mullet strike net shall not be an unattended net as defined in this Section.

(104) "Possess" means, in its different tenses, the act of having in possession or control, keeping, detaining, restraining, or holding as owner, or as agent, bailee, or custodian for another. When possession of fish or other wildlife is prohibited, reference is made equally to such fish or other wildlife coming from without the state as to those taken within

the state.

(105) "Practicable" means capable of being done or executed in a sensible, worthwhile, and economically feasible manner.

(106) "Pre-charged pneumatic device" means any air gun that fires projectiles, including arrows or bolts, pneumatically with unignited compressed air or other gases that are mechanically pressurized without involving any chemical reactions.

(107) "Private pond" for the purposes of the production and harvesting of aquatic livestock as defined in R.S. 56:411(B)(2) means a body of water which is: privately owned; and in which aquatic livestock as defined in R.S. 56:411(B)(2) are bred and raised under controlled conditions, or for which persons other than the owner may be required to pay a fee to the owner to fish in such body of water. The provisions of this Paragraph shall not be deemed to authorize or require the charging of a fee to fish by an owner of a private pond.

(108) "Privately owned waters" means artificial reservoirs or enclosures located on privately owned property which are constructed so as to prevent at all times the ingress and egress of fish life from public waters; such reservoirs or enclosures located on privately owned property shall not include lands of natural streams or natural lake beds.

(109) "Processing" means any method of preparing fish or fish products, or wild quadrupeds for market as described in this Paragraph: drying to a point of dehydration, canning, salting, packing or packaging of alligators or parts, breeding, and cooking for immediate consumption, but not simple packing of fresh fish in a sack, bag, package, crate, box, lug, or vat.

(110) "Propodus", or claw, means the forearm of the first leg of the stone crab and is measured from the immovable anterior-most tip of the claw to the base of the joint.

(111) "Purse seine" means any net or device commonly known as a purse seine and/or ring net that can be pursed or closed by means of a drawstring or other device that can be drawn to close the bottom of the net, or the top of the net, or both. Such nets are constructed of mesh of such size and design as not to be used primarily to entangle commercial-size fish by the gills or other bony projection.

(112) "Raptor" means a live migratory bird which is a member of the Accipitridae, except the bald eagle; or Falconidae; or a great horned owl.

(113) "Recreational purpose" means a purpose other than deriving or attempting to derive an income of any kind from the harvest of fish. "Income" as used in this Paragraph shall not include a prize or award offered as a prize in a fishing tournament.

(114) "Resident" (See "Bona fide resident").

(115) "Saltwater commercial fish" means any species of saltwater fish taken for commercial purposes. Saltwater commercial fish does not include any species of game fish.

(116) "Saltwater fish" means all species of finfishes which normally inhabit the saline waters of the marine and estuarine environment for most of their life cycle.

(117) "Saltwater recreational fish" means any species of saltwater fish taken for recreational purposes.

(118) "Saltwater shrimp" means all species of shrimp of commercial or economic value found in the coastal waters of the state and in the Gulf of Mexico contiguous to the

Louisiana coast, including the white shrimp or "common saltwater shrimp" (

Litopenaeus

setiferus

), also called the "lake shrimp"; the brown shrimp (

Farfantepenaeus aztecus

); the

pink shrimp (

Farfantepenaeus duorarum

); the "sea bob" (

Xiphopenaeus kroyeri

), also called

"six barbes"; and any other shrimp or like species which may be taken from coastal waters or sold through commercial channels.

(119) "Scenic easement" means a contract between the adjacent riparian landowner and the system administrator which shall be in the nature of a development agreement for the purpose of preserving the natural state of the landscape through mutual agreement on the activities which might affect the natural landscape.

(120) "Seaward" means in the direction of the nearest sea.

(121) "Secretary" means the secretary of the Department of Wildlife and Fisheries.

(122) "Seine" means any net used to enclose or entrap fish either in a bag or where its ends are pulled together on a vessel or a shore and constructed with a mesh of such size and design as not to be used primarily to ensnare or entangle commercial size fish by the gill or other boney projections. (See "Purse seine".).

(123) "Seizure" means the temporary taking of a thing. (See "Confiscation".).

(124) "Serviceable crab trap" means any crab trap of legal construction and condition maintained in such a manner with the potential to harvest crabs. Except as provided in R.S. 56:320(B)(3), maintained condition shall include being legally tagged, legally marked with float and float line attached and two escapement rings affixed whether obstructed or not.

(125) "Shellfish" means an aquatic, invertebrate species having a shell. These species include but are not limited to oysters, clams, crayfish, shrimp, crabs, and other mollusks and crustaceans.

(126) "Shoreline" means the shoreline in coastal waters which shall be the same line as described in R.S. 56:495.

(127) "Skimmer nets" means a net attached on two sides to a triangular frame and suspended from or attached to the sides of a boat, with one corner attached to the side of the boat and one corner resting on the waterbottom. A ski and one end of the lead line are attached to the corner of the frame that rests on the waterbottom and the other end of the lead line attached to a weight which is suspended from the bow of the boat.

(128) "Slat trap" means any device, used solely for the capture of catfish, which is cylindrical, rectangular, or square in cross section configuration, constructed of slats forming the length of the trap, with at least one pair of slats spaced at least one inch apart from each other on at least three sides of the trap; and which is no more than six feet in length, two feet

in diameter or width; and which has one or more cone-shaped throats, flues, or entrances.

(129) "Standard .22 caliber rimfire" means any rimfire .22 caliber, including short or long, long rifle, or .22 magnum. Standard .22 caliber rimfire does not include any .22 centerfire.

(130) "Stock" and "unit of fish" mean an individual species of fish and "interrelated stocks" means a group of species that for whatever reason tend to be harvested simultaneously by a single type of fishing gear.

(131) "Stone crab" means the western gulf stone crab (*Menippe adina*).

(132) "Strike fishing" means that the school of fish is visible from the surface and the strike net is placed around the school.

(133) "Strike net" means any gill net, trammel net, or seine net not anchored or secured to the water bottom or shore and which is actively worked while being used.

(134) "Surface easement" means a contract between the stream owner and the system administrator which shall relieve the landowner of liabilities and assure the public of access and use of the stream surface.

(135) "System" means the Louisiana Natural and Scenic River System.

(136) "Tackle" means any device or equipment used to take fish or other living aquatic resources and any device or equipment had in possession which may be used for taking or attempting to take fish or other living aquatic resources.

(137) "Take" means, in its different tenses, the attempt or act of hooking, pursuing, netting, capturing, snaring, trapping, shooting, hunting, wounding, or killing by any means or device.

(138) "Tanning" means the conversion of alligator skins or fur pelts into an intermediate or finished form and includes the following: crust tanning alligator leather, dyeing alligator leather, glazing alligator leather, tanning fur pelts, shearing fur pelts, and dyeing fur pelts, and includes the dressing of skins and furs.

(139) "Threatened or endangered species" means any species of wildlife determined by the secretary or by the Secretary of the United States Department of the Interior, with concurrence by the commission, to be of a class that requires protective regulation to prevent its extinction or the destruction or deterioration of its economic usefulness within this state, presently or in the foreseeable future.

(140) "Total length" means the longest measurable distance from the outermost portion of the snout lengthwise to the outermost portion of the caudal fin. Extended snouts such as those occurring on marlin, swordfish, and sawfish are not included; snout refers to the outermost portion of the mandible in those and other fish having extended snouts.

(141) "Trammel net" means any device composed of layers of netting material attached to one or more float lines or one or more weighted bottom lines, with the layers of netting being constructed of fine mesh and of larger mesh so that a fish attempting to pass through the device pushes the smaller mesh through the larger mesh creating a pocket or compartment in which the fish is entrapped, entangled, or restricted.

(142) "Transport" means, in its different tenses, the act of shipping, attempting to ship, receiving or delivering for shipment, transporting, conveying, carrying, or exporting by air, land, or water, or by any means whatsoever.

(143) "Trap" means any device used in the capture of birds, quadrupeds, or fish.

(144) "Trawl" means any net, generally funnel-shaped, pulled through the water or along the bottom with otter boards to spread the mouth open while being fished. The term trawl also means and includes plumb staff beam trawls that do not exceed sixteen feet, that do not use otter boards but are held open laterally by a horizontal beam and vertically by two vertical beams (plumb staffs), and that are used while the vessel is under way.

(145) "Trigger" means any tension loaded rubber band or spring device that contains several feet of line and a hook or hooks, which is baited and set, and which automatically hooks and plays a fish.

(146) "Trotline" means a line which is four hundred forty yards or less to which hoop drops are tied at various intervals or gangions and hooks are attached and which may be retrieved manually or by electric or hydraulic haulers.

(147) "Unattended net" means any net in the water to which the licensee thereof cannot be located within two hundred feet thereof.

(148) "Underutilized species" means species of fish, bivalves, and reptiles that have commercial development potential which has not been fully realized. Historically, this has included shark, clams, alligators, mullet, squid, gafftopsail catfish, hardhead catfish, spot, pinfish, silver eel, spanish mackerel, croaker, and black drum.

(149) "Unserviceable crab trap" shall mean any crab trap which is not a serviceable crab trap.

(150)(a) "Wild birds" means and includes any and all of the following:

(i) Migratory game birds: all species of ducks, geese, rails of all species, coots (poule d'eau), gallinules, snipe, woodcock, and wild doves of all species.

(ii) Resident game birds: wild turkey, black francolin, bobwhite quail, and pheasants of all species.

(iii) Outlaw birds: crows, red-wing blackbirds (rice birds), English sparrows, starlings, and when destructive to crops, grackles and other species of blackbirds.

(iv) Protected birds: all resident and migratory wild birds not described hereinbefore as game birds or outlaw birds are protected.

(b) Wild birds does not include birds taken, possessed, or transported under the provisions set forth in the game breeder or hunting preserve licenses.

(151)(a) "Wild quadrupeds" means and includes any and all of the following:

(i) Game quadrupeds: wild deer, bears, squirrels, and wild rabbits.

(ii) Outlaw quadrupeds: coyotes, armadillos, and feral hogs.

(iii) Protected quadrupeds: wolves, cougars, bobcats, and foxes; provided that foxes and bobcats may be run with dogs.

(iv) Nongame quadrupeds: mink, otter, muskrat, nutria, beaver, weasels, raccoons, skunks, opossum, alligator, and other wild quadrupeds valuable for their skins or furs.

(b) Wild quadrupeds does not include wild quadrupeds taken, possessed, or

transported under the provisions set forth in the game breeder license. The terms "wild quadrupeds" and "wild game quadrupeds" shall not include buffalo, bison, or beefalo.

(152) "Wildlife" means all species of wild vertebrates.

(153) "Wildlife and fisheries agent, special" (or "special agent") means any person appointed under authority of the secretary to serve in an honorary capacity without compensation.

(154) "Wildlife management area" means any area set aside, maintained, and supervised by the commission for the purpose of managing and harvesting wild birds, wild quadrupeds, fish, and other aquatic life under controlled conditions to afford maximum public hunting and fishing opportunity.

(155) "Wildlife refuge" means any area set aside and designated by the commission as a refuge on which wild birds and animals are protected. Control of certain forms of wildlife may be conducted by the department.

(156) "Wing net". (see "Lead net").).

(157) "Wire net" means a cone-shaped net of vegetable or synthetic materials, with a mesh no less than one inch square or two inches stretched, having throats or flues and which is stretched over wire of five-inch mesh or greater to support the webbing.

(158) "Work box" means a standard crab crate as used by a commercial crab fisherman aboard the vessel to sort or cull undersized crabs from the harvest in order to obtain a legal catch.

(159) "Yo-yo" means any spring-loaded reel device that contains several feet of line and a hook or hooks, which, when baited and set, automatically hooks and plays a fish.

RS 56:9 — Report of violations; criminal prosecution; schedule of fines; citations; ex officio notaries public

he is charged to the district attorney within whose jurisdiction the infractions occurred. It is the mandatory duty of the district attorney to prosecute all such actions and make a report of such prosecutions to the director.

B. Notwithstanding the provisions of Subsection A of this Section, the judges of any judicial district, or, in the parish of Orleans, the judges of the criminal district court, with the consent of the district attorney, may adopt a schedule of fines, penalties and costs for violations of wildlife and fisheries laws as may be found in Title 56 of the Louisiana Revised Statutes of 1950 and regulations adopted pursuant to those laws, within the limits of such penalties as are set by law, except that the schedule shall not include violations which by law are punishable by mandatory imprisonment. The schedules shall be applicable as provided hereafter.

C. Any person apprehended for or charged with the violation of a law or regulation contained in any such schedule may enter a written plea of guilty to the same by signing a declaration to that effect, which declaration shall specify the issue charged and the time and place thereof, and deposit with the sheriff of the parish a sum of money corresponding to the schedule of fines and costs for the violation of the particular offense charged. The said declaration shall authorize the sheriff to pay the amount of such fine, penalty and cost from money deposited in escrow for that purpose with the sheriff. Such declarations and the deposit of money in escrow shall be executed and transferred only in the court house, parish jail or such other place as is designated by the judges, and within such time limits as are set by the judges.

D. The judge or district attorney may refuse to accept such written pleas of guilty in any case and in the event of refusal, the written plea of guilty shall not be admissible in evidence for any reason whatsoever.

E.(1) The Department of Wildlife and Fisheries shall provide, in appropriate form, citations containing notices to appear, which shall be issued in books with citations in quadruplicate and meeting the requirements of this Part.

(2) The secretary shall issue these books, maintain a record of each book and each citation contained therein issued to all individual members of the enforcement agency, and require and retain a receipt for each book issued.

(3) In the event the citation form, provided for in this Part, is sworn to and includes the necessary information required under the general laws of this state with respect to a complaint, which charges the commission of the offense alleged in said citation to have been committed, then such citation, when filed with a court of proper jurisdiction, shall be deemed to be a lawful complaint for the purpose of prosecution under this Part.

(4) Each enforcement officer, upon issuing a citation to an alleged violator of any provision of law under their jurisdiction, shall deposit the original citation or a copy of such citation along with a disposition copy with a court having jurisdiction over the alleged offense.

(5) The secretary shall also maintain or cause to be maintained, in connection with every citation issued by an officer, a record of the disposition of the charge by the court in which the original or a copy of the citation was deposited.

F.(1) Notwithstanding any provisions in the law relative to qualifications for and limitations on the number of notaries public, the governor is authorized to appoint, upon recommendation by the secretary of the Department of Wildlife and Fisheries, the executive officer of each enforcement region and district and any investigator of the internal affairs unit of the enforcement division of the Department of Wildlife and Fisheries, as an ex officio notary public, who shall perform the duties provided hereunder without charge or other compensation.

(2) Any ex officio notary public appointed under the provisions of this Section shall possess those notarial powers as provided by law to administer oaths and take acknowledgements, but only in connection with his official duties.

(3) Specially designated commissioned Louisiana wildlife enforcement agents assigned to internal affairs shall have the power to administer oaths and receive sworn statements in connection with their official duties.

RS 56:10 — Annual report to governor; estimate of proposed expenditures; particular funds;

A. On or before the first Monday in April of each year the commission shall prepare and present to the governor a printed annual report showing the operations of the commission since the date of its last annual report, showing the amount of money received by it and from what sources, and showing the amount of money expended by it and for what purposes. In each annual report immediately preceding the regular session of the legislature the commission shall include an estimate of proposed expenditures and the expenses for the ensuing year, its prospective revenues and any recommendations for legislative action. The governor shall lay copies of the report before the succeeding legislature. At each regular session the legislature shall appropriate such funds as it deems wise for the continuation of the work of the commission.

B.(1) Subject to the exception contained in Article VII, Section 9(A) of the Constitution of Louisiana, all funds collected by the commission from every source shall be paid into the state treasury and shall be credited to the Bond Security and Redemption Fund. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer shall, prior to placing such remaining funds in the state general fund, conform to the following:

(a)(i) Pay annually into a special fund created in the state treasury and designated as the Seafood Promotion and Marketing Fund an amount equal to the total of thirty dollars per resident commercial fisherman's license fee.

(ii) Pay annually into a special fund created in the state treasury and designated as the "Oyster Development Fund" the additional fee of five cents for each oyster tag sold pursuant to R.S. 56:449 and paid into the treasury by the commission. All expenditures and allocation of monies from this fund shall be administered by the Louisiana Oyster Task Force. The task force may contract with the Louisiana Seafood Promotion and Marketing

Board to promote the Louisiana oyster industry.

(b)(i) Pay annually into a special fund created in the state treasury and designated as the "Shrimp Marketing and Promotion Fund" an amount equal to the fees collected pursuant to R.S. 56:305(G) and paid into the treasury by the commission. All expenditures and allocation of monies from this fund shall be administered by the Louisiana Shrimp Task Force to be used for the development of markets for shrimp and creation of marketing strategies for the development and market expansion for shrimp harvested from Louisiana waters. The task force may contract with the Louisiana Seafood Promotion and Marketing Board to promote the Louisiana shrimp industry.

(ii) Pay annually into a special account created in the Conservation Fund and designated as the "Shrimp Development and Management Account" an amount equal to the fees collected pursuant to R.S. 56:305(B)(1) and (C)(1) and paid into the treasury by the commission. All expenditures and allocation of monies from this fund shall be administered by the department. The Shrimp Development and Management Account is intended to defray the cost of the shrimp program within the department and support the functions of the Shrimp Task Force, specifically to assist in funding salaries and financial support including associated indirect costs for employees in the shrimp program, the management of the shrimp population, law enforcement activities associated with shrimp industry, research on all aspects involved with the shrimp resource and industry, and authorized activities of the Shrimp Task Force.

(c) Pay into a special fund created in the state treasury and designated as the Conservation Fund an amount equal to the total amount of funds paid into the treasury by the commission except those funds for which provision is made in Subparagraphs (a), (b), and (d) of this Paragraph.

(d) Repealed by Acts 2021, No. 356, §6, eff. June 1, 2022.

(e) Pay annually into a special fund created in the state treasury and designated as the "Crab Development, Management, and Derelict Crab Trap Removal Account" an amount equal to the fees specified for deposit in R.S. 56:305(B)(2) and (C)(1), 306(B)(6), and 306.1(B)(7). All expenditures and allocations of monies from this account shall be administered by the department in consultation with the Crab Task Force. The Crab Development, Management, and Derelict Crab Trap Removal Account is intended to defray the cost of the crab program within the department and support the functions of the Crab Task Force, specifically to assist in funding salaries and financial support including associated indirect costs for employees in the crab program, the management of the crab population, law enforcement activities associated with crab industry, research on all aspects involved with the crab resource and industry, administration and implementation of the Derelict Crab Trap Removal Program, marketing programs recommended by the Crab Task Force, and authorized activities of the Crab Task Force. The task force may contract with the Louisiana Seafood Promotion and Marketing Board to promote the Louisiana crab industry.

(f) There is hereby created in the Conservation Fund a special escrow account known as the Charter Boat Fishing Escrow Account. The escrow account is created to receive deposits of charter promotion fees collected pursuant to R.S. 56:302.9(C)(3)(c) and 3001.

Monies deposited into the fund shall be used by the Louisiana Charter Boat Association for the promotion of the charter boat industry, protection of the fishery, and to provide for administrative costs of the fund.

(g) There is hereby created in the Conservation Fund a special account designated as the "Saltwater Fish Research and Conservation Fund".

(2) The monies in the Conservation Fund shall be used solely for the programs and purposes and in the amounts appropriated each year to the commission by the legislature.

(3) The monies in the Seafood Promotion and Marketing Fund shall be used by the Seafood Promotion and Marketing Board to implement the duties and functions of that board relating to the promotion and marketing of seafood as provided in R.S. 56:578.3 in the amounts appropriated each year to the Department of Culture, Recreation and Tourism by the legislature for the use by the board.

(4)(a) There is hereby created within the Conservation Fund a special account designated as the "Oyster Resource Management Account" which shall consist of those revenues collected from the sale of commercial oyster gear licenses pursuant to R.S. 56:305(B)(3) and (C)(1), the sale of oyster cargo vessel permits pursuant to R.S. 56:422, all revenues received from the payment of lease rentals pursuant to R.S. 56:428, and the fees collected from the sale of public oyster seed ground vessel permits and associated gear fees pursuant to R.S. 56:433.1.

(b) The secretary is authorized to assess, invoice, demand, accept, and receive funds or materials as compensation for damages or impacts associated with activities occurring on or over the public oyster seed grounds, seed reservations, and tonging areas.

(c) The revenues shall be subject to the same requirements as provided for other revenues placed in the Conservation Fund in Paragraph (1) of this Subsection.

(d) All expenditures and allocation of monies from this fund shall be administered by the department. The Oyster Resource Management Account is intended to defray the cost of the oyster program within the department, specifically to assist in funding salaries and financial support including associated indirect costs for employees in the oyster program, the management of the oyster population, law enforcement activities associated with oyster industry, research on all aspects involved with the oyster resource and industry, enhancement of the state's public oyster seed grounds, research into propagation and habitat, oyster hatchery operations, and the administrative functions of the oyster lease and survey section of the department.

(5)(a) There is hereby created in the Conservation Fund a special account known as the Louisiana Duck License, Stamp, and Print Fund. The treasurer shall pay annually into the Louisiana Duck License, Stamp, and Print Fund all amounts received pursuant to the Louisiana Duck License, Stamp, and Print Program provided for in R.S. 56:151 et seq. and such other funds as are specifically appropriated by the legislature.

(b) Half of the monies deposited in the Louisiana Duck License, Stamp, and Print Fund shall be used solely for the following in-state waterfowl management programs and purposes:

(i) To acquire lands in Louisiana which have the primary and direct purpose of

conserving, restoring, and enhancing migratory waterfowl habitat.

(ii) To carry out migratory waterfowl habitat restoration and enhancement projects on lands under the jurisdiction of the Louisiana Department of Wildlife and Fisheries.

(iii) To fulfill the purposes of Items (i) and (ii) of this Subparagraph, when feasible and when in coastal areas, in a manner which will contribute to the protection of the coastal areas of the state from deterioration and which will enhance the productivity of the coastal marshes.

(iv) To acquire lands for wildlife and game management.

(v) To make grants, not to exceed ten percent of the program revenues, to the North American Waterfowl Habitat Conservation Plan for the purpose of acquiring, developing, or maintaining migratory waterfowl areas within Louisiana.

(vi) To cover the administrative costs associated with the implementation of the Louisiana Duck License, Stamp, and Print Program, not to exceed five percent of the program revenues.

(c) Half of the monies deposited in the Louisiana Duck License, Stamp, and Print Fund may be dedicated by the commission to the development and preservation of breeding grounds for migratory waterfowl, the funds to be expended for such purposes through Ducks Unlimited, Inc. or under the direction of the Louisiana Wildlife and Fisheries Commission at its discretion.

(6) Repealed by Acts 2021, No. 356, §6, eff. June 1, 2022.

(7)(a) There is hereby created in the Conservation Fund a special fund called the Louisiana Wild Turkey Fund. The monies in the Louisiana Wild Turkey Fund shall be used solely for the programs and purposes associated with the Louisiana Wild Turkey Program in the amounts appropriated each year to the department by the legislature.

(b) The revenues collected from the sale of the Louisiana Wild Turkey Federation license plate provided for in R.S. 47:463.54 shall be used solely for turkey restocking and research purposes in the amounts appropriated each year to the commission by the legislature, with the exception of five dollars per plate sold to be used for the purpose of advertising the license plates.

(c) Subject to appropriation, the monies in the Louisiana Wild Turkey Fund shall be used:

(i) To acquire lands in Louisiana which have the primary and direct purpose of conserving, restoring, and enhancing wild turkey habitat.

(ii) To carry out wild turkey habitat restoration and enhancement projects on lands under the jurisdiction of the Louisiana Department of Wildlife and Fisheries.

(iii) To acquire lands that are suitable for wild turkeys and wild turkey management.

(8) There is hereby created within the Conservation Fund a special account known as the "waterfowl account" which shall consist of those revenues collected from the sale of the Ducks Unlimited license plates provided for in R.S. 47:463.53. The revenues shall be subject to the same requirements as provided for other revenues placed in the Conservation Fund in Paragraph (1) of this Subsection. The funds in this account shall be used solely for the purpose of conserving, restoring, and enhancing migratory waterfowl habitat in

Louisiana. Specific expenditures of the proceeds shall be made in consultation with Louisiana Ducks Unlimited, provided that Louisiana Ducks Unlimited contributes an amount each fiscal year equal to the amount of funds collected from the sale of the license plates placed into the "waterfowl account".

(9) There is hereby created within the Conservation Fund a special account known as the "black bear account". The revenues shall be subject to the same requirements as provided for other revenues placed in the Conservation Fund in Paragraph (1) of this Subsection. The funds in this account shall be used solely for the purpose of managing, conserving, restoring, and enhancing black bear in Louisiana.

(10) There is hereby created within the Conservation Fund a special account known as the "quail account". The revenues shall be subject to the same requirements as provided for other revenues placed in the Conservation Fund in Paragraph (1) of this Subsection. The funds in this account shall be used solely for the purpose of conserving, restoring, and enhancing quail habitat in Louisiana.

(11) There is hereby created within the Conservation Fund a special account known as the "white tail deer account" which shall consist of those revenues collected from the sale of the white tail deer license plates provided for in R.S. 47:463.86. The revenues shall be subject to the same requirements as provided for other revenues placed in the Conservation Fund in Paragraph (1) of this Subsection. The funds in this account shall be used solely for programs pertaining to the white tail deer in Louisiana.

(12) There is hereby created within the Conservation Fund a special account known as the "enforcement emergency situation response account", which shall consist of funds received from federal grant reimbursements, contracts or cooperative agreements, interagency transfers, other grants or other resources to recoup monies for services which are designated for deposit into this account, and those revenues as provided in R.S. 56:40.9(A). All revenues to this account shall be subject to the same requirements as provided for other revenues placed in the Conservation Fund pursuant to Paragraph (1) of this Subsection. The funds in this account shall be used solely by the enforcement division of the Department of Wildlife and Fisheries for emergency situation preparedness, operations in emergency situations, responses to emergency situations, and emergency search and rescue operations, as appropriated annually by the legislature.

(13) Repealed by Acts 2021, No. 356, §5, eff. Nov. 15, 2021.

(14) There is hereby created within the Conservation Fund a special account known as the "Rare and Endangered Species Account", which shall consist of revenues collected from the sale of the "Rare and Endangered Species" special prestige license plate provided for in R.S. 47:463.150, donations, and any other source which may specify deposit to this account. The revenues in the account shall be subject to the same requirements as other revenues in the Conservation Fund. All expenditures and allocations of funds from this account shall be used solely for purposes of conserving, restoring, and enhancing rare and endangered species habitats in Louisiana.

(15)(a) There is hereby created within the Conservation Fund a special account known as the "litter abatement account" which shall consist of revenue received by the

Conservation Fund from the Department of Public Safety and Corrections, office of motor vehicles as provided in R.S. 32:412; revenue received by the Conservation Fund from fines for violations of the provisions of Part I of Chapter 21 of Subtitle II of Title 30 of the Louisiana Revised Statutes of 1950 as provided in R.S. 30:2531 and 2532; funds from public or private donations and any other source which may specify deposit to this account; and any remaining balance in the litter abatement and education account as of August 1, 2022. The revenues shall be subject to the same requirements as provided for other revenues placed in the Conservation Fund in Paragraph (1) of this Subsection.

(b) The funds in this account shall be used solely for the following:

- (i) To provide for litter abatement grant programs in the state.
- (ii) To provide for litter abatement and enforcement.
- (iii) To support community-based litter abatement programs.

(16)(a) The monies in the Saltwater Fish Research and Conservation Fund shall be used solely for the administration and conducting of the Louisiana Recreational Creel Survey (LACREEL), the Recreational Offshore Landing Permit program (ROLP), and the saltwater fish stock estimate.

(b) The monies allocated to the programs described in Subparagraph (a) of this Paragraph shall not be used on or for any of the following purposes:

- (i) To create any exempted fishing permit program or pilot program as recognized and granted by the United States Department of Commerce through the National Oceanic and Atmospheric Administration - National Marine Fisheries Service, that establishes a limited access or entry program for licensed fishermen, either voluntarily or required, fishing in territorial waters, including the boundary from the shoreline to a distance nine miles into the Gulf of Mexico, as established by federal law.
- (ii) To create limited entry programs, including but not limited to lotteries, established for any of the following:
 - (aa) The issuance of fish harvest tags.
 - (bb) The issuance of fish harvest tags on a "first-come, first-served basis" for more than eighty percent of the total allowable catch of an individual species of fish.
 - (cc) The limitation of the days at sea that further restrict access to a number of days that differs from seasons established for all licensed fishermen by the department or the Gulf of Mexico Fishery Management Council.
 - (dd) The creation of fisheries unit efforts or effort units or any other program that limits access for licensed fishermen to fish other than the beginning and end dates of established seasons as determined by the secretary in consultation with the commission or seasons set by the Gulf of Mexico Fishery Management Council.
 - (ee) The creation or enforcement of any individual fishing quota or individual transferrable quota systems for licensed fishermen, licensed charter boat fishing guides, and federally permitted licensed charter boat operations in which vessels used in that operation are registered in the state.
 - (ff) The establishment of any mandatory reporting programs by licensed fishermen, including required advanced notification of any department personnel prior to

commencement of a fishing trip by licensed fishermen.

(gg) The creation of any mandatory reporting program in which licensed fishermen are required to report their catch immediately upon returning to port after fishing unless during a dockside intercept conducted by department personnel conducting dockside intercept surveys on behalf of LACREEL or ROLP.

(c) If the department violates Subparagraph (b) of this Paragraph, the treasurer shall not release any more monies credited to the Saltwater Fish Research and Conservation Fund to the department, until such time as the department ceases its violation.

(d) The department shall make an annual report to the Senate Committee on Natural Resources and the House Committee on Natural Resources and Environment on the progress and effectiveness of LACREEL and the saltwater fish stock estimate.

(17) There is hereby created within the Conservation Fund a special account known as the "Louisiana Outdoors Forever Fund". The funds in this account shall be used solely for and in accordance with the Louisiana Outdoors Forever Program, provided for in R.S. 56:1931 et seq. Any appropriations, public or private grants, gifts, or donations received by the state or the Department of Wildlife and Fisheries for the purposes of this program shall be credited to the fund. The monies in the fund shall be subject to the same requirements as provided for in Paragraph (1) of this Subsection. The monies in the fund shall be invested by the treasurer in the same manner as the monies in the state general fund and all interest earned shall be deposited and credited to the fund after compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana. All unexpended or unencumbered monies remaining in the fund at the end of the fiscal year shall remain to the credit of the fund.

(18)(a) There is hereby created within the Conservation Fund a special account known as the "environmental education account" which shall consist of donations collected from the sale of the environmental education license plate provided for in R.S. 47:463.43 and funds from public or private donations and any other source which may specify deposit to this account. The revenues shall be subject to the same requirements as provided for other revenues placed in the Conservation Fund in Paragraph (1) of this Subsection.

(b) The funds in this account shall be used solely for the following:

(i) To develop, review, approve, and implement a plan for statewide environmental education.

(ii) To provide for environmental education grant programs in the state.

(iii) To develop an environmental education curriculum framework.

(iv) To develop guidelines for incorporating environmental education into teacher education requirements.

(v) To develop environmental education teacher professional development.

(vi) To provide for formal environmental education.

(vii) To develop, disseminate, and assess litter education and awareness programs and materials.

(19) There is hereby created within the Conservation Fund a "Marine Finfish Stock Enhancement Fund". The monies in the fund shall be used solely for the purpose of

conserving, restoring, and enhancing the red drum population, including but not limited to the purchase, transportation, tagging, release, and monitoring of red drum, genetic testing, hatchery based production and stocking efforts, and academic research. Any appropriations, public or private grants, gifts, or donations received by the state or the Department of Wildlife and Fisheries for these purposes shall be credited to the fund. The monies in the fund shall be subject to the same requirements as provided for in Paragraph (1) of this Subsection. The monies in the fund shall be invested by the treasurer in the same manner as the monies in the state general fund, and all interest earned shall be deposited and credited to the fund after compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana. All unexpended or unencumbered monies remaining in the fund at the end of the fiscal year shall remain to the credit of the fund.

NOTE: Subparagraph (B)(20) eff. when an act of the Louisiana Legislature containing a specific appropriation of monies for the implementation of Act 87 of the 2025 Regular Session becomes effective. See Acts 2025, No. 87.

(20) There is hereby established within the Conservation Fund a special account known as the "Conservation Incentive Program Account" for the purpose of assisting private landowners in enhancing wildlife habitat and managing native species on private lands. The funds in this account shall be used solely for and in accordance with the Conservation Incentive Program provided for in R.S. 56:1938.1 et seq. Any transfers or appropriations to the account and any public or private gifts, grants, or donations received by the state or the Department of Wildlife and Fisheries for the purposes of this program shall be deposited into the account. Monies in the account shall be subject to the same requirements as provided for other revenues placed in the Conservation Fund in Paragraph (1) of this Subsection. The monies in the account shall be invested in the same manner as the monies in the state general fund and all interests earned shall be deposited and credited to the account after compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana. All unexpended or unencumbered monies remaining in the account at the end of the fiscal year shall remain to the credit of the account.

C. The commission shall keep a set of books showing from whom every dollar is received and for what purpose and to whom every dollar is paid and for what purpose. It also shall keep in its file vouchers or receipts for all moneys paid out.

D. All unexpended and unencumbered monies in the funds or accounts established in this Section at the end of the fiscal year shall remain in the respective funds. The monies in these funds and accounts shall be invested by the treasurer in the same manner as monies in the state general fund. All interest earned on monies invested by the treasurer shall be deposited in the respective funds or accounts. The state treasurer shall prepare and submit to the department on a quarterly basis a printed report showing the amount of money contained in the funds and accounts from all sources.

RS 56:10.1 — Aquatic Plant Control Dedicated Fund Account; creation; uses
n this Section as the "account".

B. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and after a

sufficient amount is allocated from that fund to pay all of the obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer shall pay into the account an amount equal to the monies received by the state treasury pursuant to the provisions of R.S. 34:851.20(A)(1) and 851.23, R.S. 47:462(B)(2)(c), and R.S. 30:961(K). If revenue credited to the account exceeds five million dollars annually, the state treasurer is authorized and directed to transfer any funds in excess of five million dollars to the Conservation Fund. The monies in the account shall be used solely as provided in Subsection C of this Section and only in the amount appropriated by the legislature. All unexpended and unencumbered monies remaining in the account at the end of the fiscal year shall remain in the account. The monies in the account shall be invested by the state treasurer in the same manner as monies in the state general fund and all returns of such investment shall be deposited to the account. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

C. Subject to an annual appropriation by the legislature, the monies in the account shall be used solely by the office of fisheries, Department of Wildlife and Fisheries, to fund the aquatic plant control program and to fund cooperative research and public education efforts by the Department of Wildlife and Fisheries. The funds appropriated pursuant to the provisions of this Section shall be in addition to any other amounts appropriated by the legislature.

RS 56:10.2 — Derelict Houseboat Fund Account

I consist of those

revenues collected from the registration of houseboats provided for in R.S. 34:851.32(C). Subject to legislative appropriation, the monies in the account shall be used for the purpose of awarding grants to parish governments to remove any unattended, derelict, junked, or abandoned houseboat in any canal, coulee, drainage ditch, outfall canal, bayou, bay, lake, or any other waterway, whether navigable or not, or on the banks thereof within the state of Louisiana. An amount not to exceed ten percent of the annual appropriation may be used for the administration and enforcement of this Section and Part IV of Chapter 4 of Title 34 of the Louisiana Revised Statutes of 1950. The Louisiana Wildlife and Fisheries Commission may promulgate rules and regulations in accordance with the Administrative Procedure Act to provide for the application, administration, and award of such grants. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills.

RS 56:10.3 — Lifetime License Endowment Trust Account

Subject to the exception

contained in Article VII, Section 9(A) of the Constitution of Louisiana, all funds collected by the commission under the provisions of this Part shall be credited to the Bond Security and Redemption Fund. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by

the full faith and credit of the state which become due and payable within any fiscal year, the treasurer shall deposit, as provided in Subsection B of this Section, an amount equal to the revenues collected under the provisions of this Part. The funds credited to the Lifetime License Endowment Trust Account shall be expended as provided in this Section.

(2) At any such time as the balance in the account reaches twenty million dollars and a determination is made by the department that the account contains sufficient monies to be able to certify all lifetime license holders then those funds in excess of twenty million dollars shall be credited to the Conservation Fund.

B. Of the revenues received from the issuance of each lifetime license, one hundred dollars shall be credited to the Lifetime License Endowment Trust Account, and the remaining funds shall be credited to the Conservation Fund to be used for the purpose of administering and enforcing the provisions of this Chapter or for such other purposes as may be determined by the Department of Wildlife and Fisheries.

RS 56:11 — Bond of director and employees

for the benefit of the people. Each employee of the commission other than the director likewise shall give a bond, with security, in the sum of one thousand dollars. In case of forfeiture of any bond and recovery thereon, the amount recovered shall be placed in the general fund of the commission. However, pursuant to the provisions of R.S. 42:206, the commission shall be authorized to pay the premium on any such bond required to be given in favor of the state by the director or any employee of the commission.

RS 56:12 — Boats and other movable property

. 717, §1.

RS 56:13 — Placing of advertising signs on state-owned property

mprovements on immovable

property, vehicles, vessels, and assets of the department. The commission shall promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section.

RS 56:15 — Prohibited acts involving interstate commerce

indicates otherwise:

(1) The terms "fish" or "wildlife" mean fish as defined by R.S. 56:8 and wildlife as defined in R.S. 56:8, whether alive or dead, without limitation to whether or not the animal was bred, hatched, or born in captivity, and includes any part, product, egg, or offspring thereof.

(2) The term "import" means to land on, bring into, or introduce into, any place subject to the jurisdiction of the state of Louisiana.

(3) The terms "law" or "regulation" mean laws or regulations which regulate the taking, possession, importation, exportation, transportation, or sale of fish or wildlife.

(4) The term "person" includes any individual, partnership, association, corporation, trust, or any officer, employee, agent, department, or instrumentality of a state department or political subdivision of the state, or any entity subject to the jurisdiction of the state of Louisiana.

(5) The term "taken" means "take" as defined in R.S. 56:8.

(6) The term "possess" means possess as defined in R.S. 56:8.

(7) The term "transport" means transport as defined in R.S. 56:8.

B. It shall be unlawful for any person to engage in any of the following:

(1) To import, export, transport, sell, receive, acquire, or purchase in interstate commerce any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of this state, any other state, or the federal government.

(2) To attempt to commit any act described in Paragraph (1) of this Subsection.

C. Any person who knowingly engages in conduct prohibited by Subsection B herein shall be subject to penalties of a class six violation as defined by R.S. 56:36. In addition, any person who in the exercise of due care should have known that the fish or wildlife were taken, possessed, transported, or sold in violation of any law or in a manner unlawful under any law or regulation shall be subject to the penalties of a class six violation as defined in R.S. 56:36.

RS 56:16 — Intentional concealment, destruction, or deposit of illegal fish, wildlife, or other animals; penalties

imal which was taken or possessed illegally at any location if the person knows or has good reason to believe that such act has an effect on or reasonably may or will affect an actual or potential criminal proceeding.

B. A violation of this Section shall constitute a class six violation as provided for in R.S. 56:36.

RS 56:17 — Taking fish for purpose of science and cultivation; permits; propagation of fish

tribution and may grant written permits to other persons for the same purpose. He may introduce or permit to be introduced any kind of fish into any waters. He may, after a hearing, set apart for a term not exceeding ten years any waters in the state for the purpose of propagation or for the use of the United States Fish and Wildlife Service. The order setting apart such waters shall be recorded in the conveyance office of the parish in which they are situated. He may erect and maintain such fixtures as are necessary for the purpose of propagation and maintenance.

RS 56:18 — Trespass on or injury to structures or areas used for scientific experiments

d used by or under the authority of the director for conducting scientific experiments and distribution of fish, birds, or game after the director has printed notices of such occupation and use and the purposes thereof, and has placed them in a conspicuous position adjacent to any such areas or upon any such structure.

B. No person shall willfully and maliciously injure or deface any such structure or any notice posted by the director, or injure or destroy any property used in such experiments or investigation or otherwise interfere therewith.

RS 56:19 — Exchange of fish hatched at fish hatcheries for fish roe or fish eggs

atched or produced at any of the state fish hatcheries. The placing of such young fish in waters on the land of such persons shall not be deemed a stocking of such waters with fish by the state.

RS 56:20 — Releasing game, fowl, or fish; permission; intrastate restocking; importation; violations

e shall be liberated within the state except upon written permission of the secretary.

B. No wild animal, fowl, or fish of any species shall be transported for restocking purposes from a site within the state to any other site within the state except in accordance with rules and regulations adopted by the commission.

C. No person shall import any live cervid from outside the state.

D. Violations of the provisions of this Section shall constitute a class four violation, as provided in R.S. 56:34.

RS 56:21 — Stocking waters with fish

ited to such waters. He may thereupon prescribe and enforce for a period not exceeding three years such reasonable regulations relative to the fishing in such streams and tributaries as he deems to be in the public interest.

RS 56:22 — Rules and regulations for protection and preservation of fish

s of fish in any part of the state,

particularly in any lake or stream either wholly or partially within the state, for not more than a three-year period.

B. The commission shall be authorized to promulgate rules and regulations pertaining to seasons, times, sizes, and places for freshwater commercial fish netting.

C. Such prohibitions, rules, and regulations shall be adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

RS 56:23 — Penalty for violations

For each violation as provided in R.S. 56:31 and shall pay all court costs.

RS 56:24 — Contract by commission with private landowners for use of lands for wildlife management areas in consideration for relief from certain taxation

For the use of his lands for a term of not less than twenty-five years for the purpose of establishing wildlife management areas, and may agree, where such use is granted without compensation or payment therefor, that the lands shall be relieved of all state, parish, and district taxes, except in cases where a tax has been contracted to be levied thereon for the retirement of a bond issue or for other outstanding debts or obligations, so long as the lands are used for the purpose stated. Any existing agreement to the foregoing effect is validated.

RS 56:25 — Fish and wildlife restoration and management projects; assent to federal aid act; duties of commission

Restoration Act (also known as the "Federal Aid in Fish Restoration Act" and the "Fish Restoration and Management Projects Act" [16 U.S.C. §777 et seq.]) and the Pittman-Robertson Wildlife Restoration Act (also known as the "Federal Aid in Wildlife Restoration Act" [16 U.S.C. §669 et seq.]). The Louisiana Wildlife and Fisheries Commission is hereby authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of cooperative fish and wildlife restoration projects as defined in said acts of congress, in compliance with said acts and rules and regulations promulgated by the Secretary of Interior thereunder.

B. The commission is hereby authorized to acquire by purchase, gift, eminent domain, or otherwise, all property necessary, useful, or convenient for the use of the commission; and no funds accruing to this state from license fees paid by the fishermen and hunters shall be diverted to any other purpose than the administration, implementation, and support of hunting and fishing activities and for the protection, propagation, preservation, and investigation of fish and wildlife.

RS 56:26 — Repealed by Acts 2004, No. 566, §2.

on Rouge, Louisiana 70804-9062

RS 56:27 — Management and harvesting of fish in private ponds exempt from statutory limitations; permits; exceptions

For taking of fish in privately owned man made ponds or impoundments shall not be subject to statutory limitations as to the kind, number or size of fish which may be harvested or taken, or as to the method of harvesting or taking fish, or seasons or other limitations, restrictions, prohibitions or regulations governing the management and harvest or taking of fish, but shall be governed by administrative rules and regulations of the commission, and the commission may issue permits to each private owner therefor.

B. Statutory and administrative regulations governing or prohibiting the sale or exchange of game fish shall apply to game fish harvested or taken from privately owned man made ponds or impoundments.

C. Sub-section A of this Section does not apply to ponds or impoundments built within the basin of a continuously flowing river, bayou or other stream of water.

RS 56:28 — Official badges, identification cards, other insignia

Louisiana Department of Wildlife and Fisheries for use by any officer or employee thereof, or any colorable imitation thereof, or photographs, prints, or in any other manner makes or executes any engraving, photograph, print, or impression in the likeness of any such badge, identification card, or other insignia, or any colorable imitation thereof, except as authorized under regulations made pursuant to law, shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

RS 56:29 — Interference with marks or buoys

subdivision thereof in any state-owned waterway. Whoever violates this provision shall be subject to the penalties imposed for a class three violation. The provisions of this Section shall only apply when the marks or buoys are properly marked to show that they belong to the state or any agency or political subdivision thereof.

RS 56:30 — Department of Wildlife and Fisheries; powers; duties; functions; periodic evaluation of fees and charges imposed

periodically review every fee imposed by the department or by the Louisiana Wildlife and Fisheries Commission and every fee charged for issuance or renewal of every license or permit issued or renewed by the department or commission. This review shall be conducted, as to each fee, license, or permit, at least every two years. The following items shall be included in the periodic review:

- (1) The actual costs and expenses incurred by the department and the commission in creating and distributing licenses or permits required by law.
- (2) The actual costs and expenses incurred in monitoring public compliance for licensing and permitting.
- (3) The monies actually received by the department or the commission as a license fee, permit fee, or other fee required by law.
- (4) Any other information regarding fees, licenses, and permits deemed relevant to the analysis by the department.

B. A summary of each analysis by the department, together with recommendations for adjustment in a fee, license fee, or permit fee charged by the department or commission, shall be forwarded to the Senate and House committees on natural resources.

RS 56:30.1 — Department of Wildlife and Fisheries; issuance of licenses and permits for hunting and fishing

permits through an electronic issuance system. In addition, the department is hereby authorized to contract for electronic license issuance services in accordance with the provisions of R.S. 39:198(G) and to enter into agreements with issuing agents for the issuance of the licenses and permits. Such issuance system may include purchase of licenses or permits using the telephone and any other electronic methods of communication and may include payment of the required fees by way of credit card as provided in R.S. 56:642. Such issuance system may also include receipt of payment of fines resultant from class one violations. The Department of Wildlife and Fisheries shall implement any electronic system through the promulgation and adoption of rules and regulations therefor.

RS 56:30.2 — Notice to legislators

f the member. The notice shall be provided not later than thirty days prior to the date of the hearing.

RS 56:30.3 — Lease of state lands; access to public waterways

ate lands covered by the lease shall be maintained and preserved for the public by the lessee. The provisions of this Section shall not prohibit the secretary of the agency having control over the property to restrict access to public waterways if he determines that a danger to the public welfare exists. The provisions of this Section shall not apply in cases involving title disputes.

B. Notwithstanding any provision of law to the contrary, if the secretary determines there exists a public need to maintain the most recent lessee of record, his heirs, or assignees, the secretary may offer the most recent lessee of record, his heirs, or assignees, if he made a bid, the option to match the highest bid in order to continue to lease the state lands. The provisions of this Subsection shall apply to lessees who held a lease with another party, which lease was subsequently transferred to the state. The provisions of this Subsection shall not apply to oyster leases, oil and gas leases or alligator leases entered into by the department, or to any lease entered into by the State Mineral and Energy Board. The department shall promulgate rules and regulations providing for uniform criteria to assess the management of leased property.

RS 56:30.4 — Geophysical and geological surveys

ny additional fees to conduct operations on any designated oyster seed ground or reservation belonging to the state of Louisiana.

B. Each seismic exploration crew working in the state of Louisiana shall always be under the supervision of the seismic section of the Department of Wildlife and Fisheries. The seismic operator shall be charged a fee of one hundred thirty-five dollars per crew per day.

C. Of the funds received by the department from geophysical and geological survey activity occurring on state lands, including water bottoms, under the provisions of R.S. 30:212(D) and the additional funds received by the department under the provisions of R.S. 30:136.1(D), an amount shall be used to plant shells for oyster cultch, rehabilitating areas damaged by operations, and as mitigation for any other damage to the coastal area. The determination of the amount to be so used shall be made in accordance with the provisions of LAC 76:I.301(T) and based upon the amount of geophysical and geological survey activity occurring on any designated oyster seed ground or reservation.

RS 56:30.5 — Notice to parish governing authorities

on of carbon dioxide shall notify

the governing authority of the parish within which the proposed survey is to occur in accordance with rules promulgated by the department. The notice may be made by electronic mail to the parish president, police jury president, or mayor-president, depending on the form of parish government.

RS 56:31 — Class one violations

costs of

court.

(2) For the second offense, a fine of not less than seventy-five dollars nor more than two hundred fifty dollars.

(3) For the third offense and all subsequent offenses, a fine of not less than two hundred dollars nor more than five hundred fifty dollars.

RS 56:31.1 — Revocation of license; denial of license; penalties

held by the offender. Such revocation of the offender's licenses and privileges shall continue, and no new recreational hunting or fishing licenses shall be issued during the period of time as any assessed amounts remain unpaid.

B. The provisions of this Section shall not apply to any person who has timely filed a suspensive appeal of the final judgment and during the pendency of the appeal.

C. Any person who purchases or obtains a recreational hunting or fishing license of any type or who engages in an activity which would otherwise require the purchase of a recreational hunting or fishing license during the period of revocation of his licenses and privileges pursuant to this Part shall be guilty of a class three violation, R.S. 56:33.

RS 56:32 — Class two violation

(a) For the first offense, the fine shall be not less than one hundred dollars nor more than three hundred fifty dollars.

(b) For the second offense, the fine shall be not less than three hundred dollars, nor more than five hundred fifty dollars.

(c) For the third offense and all subsequent offenses, the fine shall be not less than five hundred dollars nor more than seven hundred fifty dollars, and forfeiture to the commission of anything seized in connection with the violation.

(2) The following penalties shall be imposed for a class 2-B violation:

(a) For the first offense, the fine shall be not less than two hundred fifty dollars nor more than five hundred dollars.

(b) For the second offense, the fine shall be not less than five hundred dollars, nor more than eight hundred dollars, and forfeiture to the commission of anything seized in

connection with the violation.

(c) For the third offense and all subsequent offenses, the fine shall be not less than seven hundred fifty dollars, nor more than one thousand dollars, and forfeiture to the commission of anything seized in connection with the violation.

(d) In addition to any other penalty, for a second or subsequent violation of the same provision of law, the penalty imposed may include revocation of the permit or license under which the violation occurred for the period for which it was issued and barring of the issuance of another permit or license for that same period.

RS 56:32.1 — Civil suit for recovery of value

B. The department may elect to enforce the provisions of R.S. 56:31 and 32 and R.S. 30:2531(B) and 2531.3 by adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act. The department shall hold the adjudicatory hearing in the regional office for the parish where the defendant is domiciled or where the violation occurred. The defendant may waive the adjudicatory hearing upon payment of the fine.

C.(1) In any case where the department elects to proceed by adjudicatory hearing, the defendant shall be notified in writing of the time and place set for the hearing. Written notice of the time and place of the hearing may be given on any citation or summons issued in connection with the violation or made by certified letter mailed to the defendant at his last known address or at the address that appears on any hunting or fishing license issued to him by the department. The summons or written notice shall constitute notice to the defendant that the failure to appear at the specified time and location shall result in the assessment of civil penalties and the loss of all hunting and fishing privileges while assessed amounts remain unpaid. Notice given by certified mail in accordance with this Subsection shall be deemed effective fifteen days after the notice is postmarked and mailed.

(2) Either party may appeal from a ruling of the administrative hearing officer to the district court in the judicial district where the offense occurred.

(3) Once all appeals deadlines have expired, a ruling of the administrative law judge shall be considered final for the purposes of debt recovery or collection.

D. Except for first offenses of class one violations, the person against whom the civil penalties are assessed shall also be liable for attorney fees and all costs of the adjudicatory hearing.

E. Any recovery of civil penalties shall be immediately deposited to the Conservation Fund of the Department of Wildlife and Fisheries.

RS 56:33 — Class three violation

hundred dollars, or imprisonment for not more than ninety days, or both;

(2) For the second offense, the fine shall be not less than five hundred dollars, nor more than eight hundred dollars, and imprisonment for not less than sixty days nor more than ninety days, and forfeiture to the commission of anything seized in connection with the violation;

(3) For the third offense and all subsequent offenses, the fine shall be not less than seven hundred fifty dollars, nor more than one thousand dollars, and imprisonment for not less than ninety days nor more than one hundred twenty days, and forfeiture to the commission of anything seized in connection with the violation.

(4) In addition to any other penalty, for a second or subsequent violation of the same provision of law the penalty imposed may include revocation of the permit or license under which the violation occurred for the period for which it was

issued and barring the issuance of another permit or license for that same period.

(5) Violation of a class three offense shall not preclude aid for training or sale of gear nor the obtaining of a rod or reel license or other net license for a subsequent period. The provisions of this Paragraph shall be applied retroactively.

RS 56:34 — Class four violation

ndred fifty dollars or imprisonment for not more than one hundred twenty days, or both.

(2) For the second offense, the fine shall be not less than seven hundred fifty dollars nor more than nine hundred ninety-nine dollars and imprisonment for not less than ninety days nor more than one hundred eighty days.

(3) For the third offense and all subsequent offenses, the fine shall be not less than one thousand dollars, nor more than five thousand dollars, and imprisonment for not less than one hundred eighty days nor more than two years.

B. The above penalties in all cases shall include forfeiture to the commission of anything seized in connection with the violation.

RS 56:35 — Class five violation

A. The fine for class 5-A violation shall be for the first offense not less than five hundred dollars nor more than seven hundred fifty dollars and shall be sentenced to serve not less than fifteen nor more than thirty days in jail; not less than seven hundred fifty dollars nor more than one thousand dollars and not less than sixty nor more than ninety days in jail for the second offense. For the third and all subsequent offenses, the fine shall be not less than seven hundred fifty dollars nor more than one thousand dollars and shall serve not less than ninety nor more than one hundred twenty days in jail.

B. A class 5-B violation shall for the first offense be a fine of not less than three hundred and fifty dollars and not more than five hundred dollars and shall be imprisonment in jail for thirty days. For the second offense the violator shall be fined not less than five hundred dollars and not more than one thousand dollars and shall be imprisoned in jail for sixty days. For the third and all subsequent offenses, the violator shall be fined not less than one thousand dollars and not more than two thousand dollars and shall be imprisoned in jail for ninety days.

In addition to the above fines and jail sentences and for both classes 5-A and 5-B of class five violations, the license under which the violation occurred shall be revoked and shall not be reinstated at any time during the period for which it was issued and for one year thereafter.

The above penalties in all cases shall include forfeiture to the department of anything seized in connection with the violation.

RS 56:36 — Class six violation

rs, or imprisonment for not more than one hundred twenty days, or both, and shall include the forfeiture to the commission of anything seized in connection with the violation.

RS 56:37 — Class seven violation

not less than five thousand dollars nor more than seven thousand five hundred dollars or imprisonment for one year, or both.

(2) The following penalties shall be imposed for a class 7-B violation: For each offense, the fine shall be not less than five thousand dollars nor more than seven thousand five hundred dollars and imprisonment for one year.

B. The penalties provided for in this Section shall include the forfeiture to the commission of anything seized in connection with the violation.

RS 56:37.1 — Class eight violation

ollars and the violator may be imprisoned in jail for not less than sixty days nor more than six months.

RS 56:38 — Revocation of license

s otherwise provided in this Chapter have the license under which the violation occurred revoked for the period for which it was issued.

B. If the revocation set out in Subsection A of this Section is for a class 3 or lesser violation, it shall not preclude the obtaining of aid for training or sale of gear nor the obtaining of a rod or reel license or other net license for a subsequent period. The provisions of this Subsection shall be applied retroactively.

RS 56:39 — Forfeiture of quadrupeds, birds, and fish; Fish and Wildlife Violations Reward Fund, creation and use of fund monies

t to the provisions of R.S. 56:31 through R.S. 56:37.1 or R.S. 14:63(G)(5) shall upon conviction forfeit any quadrupeds, birds, fish, or other animals seized in connection with said violation.

B.(1) Notwithstanding any other provision of law to the contrary, the first two dollars of any penalty or fine imposed for a violation of any provision of this Title shall be paid, monthly, into the state treasury for deposit into the Fish and Wildlife Violations Reward Fund, hereinafter referred to as the "fund", which is hereby created, as a special fund, in the state treasury.

(2) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state that become due and payable within a fiscal year, the treasurer in each fiscal year shall pay into the fund an amount equal to the total amount of monies received from the first two dollars of any penalty or fine as provided in Paragraph (1) of this Subsection.

C. All unexpended and unencumbered monies in the fund at the end of a fiscal year shall remain in the fund and be available for appropriation in the next fiscal year in the same manner as allocated herein. Monies in the fund shall be invested as provided by law. Interest earned on the investment of monies in the fund shall be credited to the state general fund.

D. Subject to appropriation by the legislature, monies in the fund shall be used solely by the Department of Wildlife and Fisheries to pay rewards to individuals who provide information to the department on criminal activity, to operate a hotline to be used to receive such information, and such other purposes directly related to obtaining information on criminal activities involving the fish and wildlife of the state.

E.(1) No person shall be required to disclose, by way of testimony or otherwise, a privileged communication between a person who submits a report of alleged criminal activity to the department and the person who accepts the report on behalf of the department nor shall any person be required to produce any records, documentary evidence, opinions, or decisions related to such privileged communication in connection with any criminal case or proceedings or by way of any discovery procedure.

(2) Any person arrested or charged with a criminal offense may petition the court for an in camera inspection of the records of a privileged communication concerning such person made to the department. The petition shall allege facts showing that such records would provide evidence favorable to the defendant and relevant to the issue of guilt or punishment. If the court determines that the person is entitled to all or any part of such records, it may order production and disclosure as it deems appropriate.

(3) As used in this Section, "privileged communication" means a statement by any person, in any manner whatsoever, to the department for the purpose of reporting alleged criminal activity. Privileged communication shall include a statement by a person, in any manner whatsoever, to a nonprofit entity administering and implementing the department's fish and wildlife reward program pursuant to a cooperative endeavor agreement with the department.

F. The department may execute a cooperative endeavor agreement with an appropriate nonprofit entity to administer and implement its fish and wildlife rewards program. All public monies utilized pursuant to such cooperative endeavor agreement shall be subject to audit and oversight by the legislative auditor.

RS 56:40.1 — Liability for value of fish, wild birds, wild quadrupeds, and other wildlife and aquatic life

her wildlife and aquatic life in violation of this Title, or a regulation adopted pursuant to this Title, or a federal statute or regulation governing fish and wildlife, or who, through the violation of any other state or federal law or regulation, kills or injures any fish, wild birds, wild quadrupeds, and other wildlife and aquatic life, is liable to the state for the value of each fish, wild bird, wild quadruped, and other wildlife and aquatic life, unlawfully killed, caught, taken, possessed, or injured.

RS 56:40.2 — Value of fish, wild birds, wild quadrupeds, and other wildlife and aquatic life

njured or destroyed fish, wild birds, wild quadrupeds, and other wildlife and aquatic life and shall determine values for same based upon recommendations of department staff and other relevant factors.

RS 56:40.3 — Civil penalties; assessment; administrative hearing

ue of injured or destroyed wildlife or

aquatic life, it shall demand restitution from him for the value of such wildlife or aquatic life,

the value of which has been determined in accordance with R.S. 56:40.2. The offender shall be given written notice of the alleged violation and of the value of such injured or destroyed wildlife or aquatic life.

B. In lieu of filing a civil suit to recover the penalties provided for in this Subpart, the department may elect to enforce the provisions of this Subpart by adjudicatory hearing, held in accordance with the provisions of the Administrative Procedure Act. The department shall hold the adjudicatory hearing in the regional office for the parish where the defendant is domiciled or where the violation occurred. The defendant may waive the adjudicatory hearing upon payment of the amount demanded by the department.

C. In any case where the department elects to proceed by adjudicatory hearing, the defendant shall be notified in writing of the time and place of the adjudicatory hearing. Written notice of the time and place of the hearing may be given on any citation or summons issued in connection with the violation or made by certified letter mailed to the defendant at his last known address or at the address that appears on any hunting or fishing license issued to him by the department. The summons or written notice shall notify the defendant and shall constitute notice that the failure to appear at the specified time and location shall result in the assessment of civil penalties and result in the loss of all hunting and fishing privileges while assessed amounts remain unpaid. Notice given by certified mail in accordance with this Subsection shall be deemed effective fifteen days after the notice is mailed.

D. Either party may appeal from a ruling of the administrative hearing officer to the district court in the judicial district where the offense occurred.

E. A judgment from the administrative hearing shall become executory when all delays for appeal have expired according to the provisions of the Administrative Procedure Act and the Code of Civil Procedure.

F. The person against whom the civil penalties are assessed shall also be liable for attorney fees and all costs of the adjudicatory hearing.

RS 56:40.4 — Civil suit for recovery of value

in the name of the state to recover civil penalties for the value of each fish, wild bird, wild quadruped, and other wildlife and aquatic life unlawfully killed, caught, taken, possessed, or injured.

RS 56:40.5 — Venue and procedure

urred.

B. Either party may appeal from a final judgment of the court as in other civil cases.

RS 56:40.6 — More than one defendant

ally liable for the recovery provided by this Subpart.

RS 56:40.7 — Recovery of value in addition to fine

B. Failure to pay all amounts assessed in accordance with this Subpart shall result in the immediate revocation of all hunting and fishing licenses held by the offender or, in the case of a commercial violation, the immediate revocation of all commercial licenses held by the offender. Revocation of the offender's licenses and privileges as authorized in this Title shall continue, and no new licenses shall be issued to replace those that were revoked for as long as any amount remains unpaid.

C. If the offender purchases or obtains a license of the type that was revoked or engages in any activity which would otherwise require him to obtain a license of the type that was revoked during the period of revocation provided for in

Subsection B of this Section, it shall be a class three violation.

D. The provisions of Subsections B and C of this Section shall not apply to any person who has timely filed an appeal of a final ruling or judgment during the pendency of the appeal.

RS 56:40.8 — Both civil suit and criminal prosecution permissible; exceptions

same killing, catching, taking, possession, or injury does not bar the other action; provided that civil restitution paid pursuant to the provisions of Article 895.2 of the Code of Criminal Procedure or acquittal of a criminal prosecution for the same killing, taking, possession, or injury shall act as a bar to an assessment of civil penalties or a civil action to recover penalties under this Subpart.

RS 56:40.9 — Disposition of recovery

nd of the Department of Wildlife and Fisheries and credited to the enforcement emergency situation response account within the fund. If the balance in the enforcement emergency situation response account at the end of any fiscal year is one hundred thousand dollars or more, then no monies derived from civil penalties for injury to fish, wild birds, wild quadrupeds or other wildlife and aquatic life shall be deposited into the account until such time as the balance in the account at the end of a fiscal year is less than one hundred thousand dollars.

B. In any civil action brought by the district attorney pursuant to R.S. 56:40.4, the office of the district attorney shall receive forty percent of the amount collected.

RS 56:45 — Jurisdiction of trial of violations

ons of this Chapter.

RS 56:46 — Venue when river divides parishes

ablished, any court in either parish has territorial jurisdiction.

RS 56:47 — Venue when offense committed in lake, bay, or other body of water

than one parish within the waters of this state, any court in any parish bordering on such waters has territorial jurisdiction.

RS 56:48 — Venue when offense committed in the Gulf of Mexico

parish bordering on the gulf shall have territorial jurisdiction. In addition, if any offense is alleged to have been committed in the Gulf of Mexico outside the state's territorial waters where the state holds jurisdictional authority over the fishing vessel under the provisions of the Magnuson-Stevens Act, 16 USC 1856, any district court in any parish bordering on the gulf shall have territorial jurisdiction.

RS 56:49 — Venue when exact place of vessel cannot be determined

ion to the venue provided in Sections 57 and 58, any court at the home port of the vessel has territorial jurisdiction.

RS 56:50 — Venue; exception when exact place cannot be determined

be sustained unless the place

of commission of the offense is disclosed and such place would make the court in which the charge was brought an improper venue.

B. If the operator or owner professes ignorance of the jurisdiction, there shall be no change of venue from the place where the proceeding was begun.

RS 56:52 — Issuance of search warrants

on, and upon probable cause shown, issue search warrants in aid of the enforcement of the laws or regulations under the jurisdiction of the commission and the department.

RS 56:53 — Commissioned wildlife enforcement agents of the enforcement division may carry weapons

led or exposed while in the performance of their duties.

RS 56:54 — License requirements; enforcement by wildlife agents; arrest without warrant

wildlife, fish, and game of the state in the territory assigned to him for which a license must be obtained, has in his possession, and is the owner of, an official license, and is in compliance with the laws, rules, and regulations under the jurisdiction of the department.

B. The secretary, deputy secretary, commissioned wildlife enforcement agents, any of the various sheriffs, deputy sheriffs, constables, deputy constables, marshals, and other police officers of this state may, without a warrant, arrest any person violating any of the laws or regulations under the jurisdiction of the department, or any other law of this state, and may immediately take such person in custody for examination or trial before any officer or court of competent jurisdiction of this state or of the United States, and may serve and execute any warrant or other process issued by any officer or court of competent jurisdiction of this state for the enforcement of such laws and regulations.

RS 56:54.1 — Prima facie evidence of violation of law

of any other device prohibited, is prima facie evidence of the violation.

RS 56:55 — Search with or without warrant

arch warrant, records, any cold storage plant, warehouse, boat, store, car, conveyance, automobile or other vehicle, airplane or other aircraft, basket or other receptacle, or any place of deposit for wild birds, wild quadrupeds, fish, or other aquatic life or any parts thereof whenever there is probable cause to believe that a violation has occurred.

B. Commissioned wildlife enforcement agents of the enforcement division are authorized to visit or inspect at frequent intervals without the need of search warrants, records, cold storage plants, bait stands, warehouses, public restaurants, public and private markets, stores, and places where wild birds, game quadrupeds, fish, or other aquatic life or any parts thereof may be kept and offered for sale, for the purpose of ascertaining whether any laws or regulations under the jurisdiction of the department have been violated. They also shall inspect establishments for commercial licenses required by the department to retail and/or wholesale commercial fish and bait fish where applicable under the provisions of this Chapter. The department may institute proceedings in any court of competent jurisdiction for violation of laws or regulations under its jurisdiction.

RS 56:55.1 — Toledo Bend Reservoir; assignment of officers

icers and agents to the Toledo Bend Reservoir. Such officers and agents shall be authorized to enforce any laws under the jurisdiction of the department, including those conferred on duly commissioned wildlife officers and agents of the department, pursuant to this Subpart or pursuant to other law. The Sabine River Authority shall bear all costs of the salaries and related benefits, equipment, and land and water transportation expenses of such officers and agents for a period of two years, commencing September 1, 1992; thereafter, the department shall be responsible for all such costs and expenses of the four officers assigned to the Toledo Bend Reservoir. The officers assigned to the Toledo Bend Reservoir shall remain under the supervision and control of the department.

RS 56:55.2 — Additional authority of commissioned wildlife enforcement agents

and land, duly commissioned wildlife enforcement agents of the enforcement division of the Department of Wildlife and Fisheries who have graduated from the Department of Wildlife and Fisheries enforcement training academy, the Louisiana State University law enforcement training program, the Louisiana State Police Training Academy, or the University of Louisiana at Monroe law enforcement training program shall, in addition to the authority otherwise conferred by law upon such officers, be vested with the same authority and powers conferred by law upon other law enforcement officers of this state, provided that a qualification and requalification for firearms used be established within the department on at least an annual basis to insure the proficiency for firearms use by all officers vested with the authority and powers conferred herein.

B. The enforcement division of the Department of Wildlife and Fisheries is authorized to seek, accept, and expend state or federal funds, or both, available for purposes of enforcement.

RS 56:55.3 — Boats maintained for enforcement; vehicle equipment

icle, operated by a classified wildlife enforcement agent or officer of the enforcement division who has enforcement authority as defined by R.S. 56:55.2, while acting in his official capacity or performing his duties, may be equipped with such devices as are provided for authorized emergency vehicles in R.S. 32:318(A), (C), (D), (E), and (F). However, the secretary may, at his discretion, exempt special vehicles from the provisions of this Section.

RS 56:56 — Seizure or surrender of things illegally used or possessed

r sale, or

purchased contrary to the provisions of this Title.

(2) Deer, bears, or wild turkey or parts thereof in the possession of any person which is not tagged or identified as required by this Title.

(3) Fish and other aquatic life, taken, possessed, transported, sold, offered for sale, or purchased contrary to the provisions of this Title.

(4) Traps, nets, cages, snares, explosives, guns and other devices placed, set, or otherwise used or possessed for the purpose of taking wild birds or quadrupeds contrary to the provisions of this Title.

(5) Tackle, seines and other nets, trawls, tongs, scrapers, and other equipment and devices used in taking of fish, shrimp, oysters, or other aquatic life contrary to the provisions of this Title.

(6) Oysters, shrimp, and hides and pelts of fur bearing animals and nongame quadrupeds which are subject to a tax imposed by this Title and on which the tax has not been paid or which are taken contrary to the provisions of this Title.

(7) Tackle and scrapers which are possessed or operated in an illegal manner or which are required by the provisions of this Title to be licensed or tagged and which are not so licensed or tagged or which are improperly tagged or which are taken contrary to the provisions of this Title.

(8) Tackle of any type or description, including without limitation such gear listed in R.S. 56:302, 302.5, or 305, which is used by a fisherman to take shrimp, oysters, fish, or other seafood for sale without possessing a commercial fisherman's license.

B. Any live animal which is illegal to possess or which may be possessed only by permit or license from the department may be voluntarily surrendered to the department without penalty. The person surrendering the animal shall be immune from prosecution for illegally possessing or possessing without a permit or license provided the surrendering of the animal is initiated prior to any independent investigation or contact by any public employee operating in their official capacity. The department may dispose of a surrendered animal in any manner the department deems appropriate.

RS 56:57 — Seizure of vessels, airplanes, vehicles, and equipment

mission of offenses prohibited by this Chapter and taken into possession by the department.

RS 56:57.1 — Forfeitures for fraud

s maintained as provided for the forfeiture of vessels in this Subpart.

RS 56:57.2 — Repealed by Acts 2015, No. 416, §2.

aton Rouge, Louisiana 70804-9062

RS 56:57.3 — Licenses; fraudulent acquisition; penalty

department finds any material misstatement of fact regarding the residency of the person to whom the license was issued, the license shall be voided and immediately surrendered to an agent of the department.

B. Any person, business, or corporation issuing or seeking to obtain a license shall comply with the licensing provisions of Subsection A hereof.

C. Any violation of this Section shall constitute a class three violation.

RS 56:57.4 — Repealed by Acts 2015, No. 416, §3.

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RS 56:58 — Disposition of seizures other than vessels, airplanes, and other vehicles

rishable, they shall be held by the

secretary for use as evidence in connection with any prosecution for violations of this Chapter. If the penalty for the offense charged in connection with the seizure includes forfeiture of the things seized, upon conviction of the offender, the things are forfeited to the department and shall be disposed of as provided in R.S. 56:61. If the penalty for the offense charged in connection with the seizure does not include forfeiture of the things or if there is no conviction, the things, upon conclusion of the trial, shall be returned to the person from whom seized.

B. Where the seizure is of perishables, other than oysters, menhaden and other herring-like fishes, and, because of the lack of readily available facilities for preservation, the expense of preservation as related to the value of the thing, the condition of the thing at time of seizure, or other circumstances not within the control of the secretary, it is impracticable to hold the thing for use as evidence, the secretary shall dispose of the thing, according to rules and regulations adopted by the commission and in all cases, however, using his best efforts to preserve a sample of the thing for use as evidence. Disposition, in the discretion of the commission, may include public or private sale, gifts to schools or charitable institutions, destruction, or return of the thing to its natural habitat. If the penalty for the offense charged in connection with the seizure does not include forfeiture or if there is no conviction, proceeds from any sale under this Subsection, less expenses of the sale, shall be returned to the person from whom the thing was seized.

C. Where oysters have been seized, the commission may require return, at the expense of the person from whom seized, to the area from which the oysters have been removed, or, at the option of the commission, the oysters may be sold at public or private sale, except in the case of polluted oysters. The proceeds of any sale shall be held by the commission until final determination of any proceedings had with respect to the seizure.

D. Where menhaden or other herring-like fishes have been seized, the commission may direct the captain of the resident vessel, at the expense of the person from whom seized, to proceed to the Louisiana processing plant to which the vessel is normally assigned for processing and determination of the value of the catch to the vessel. The owner or captain of the vessel shall immediately deposit with the commission an amount of cash or a certified check for the determined value of the catch to the vessel. Nonresident vessels shall not be released or directed to proceed to points outside of the state until the owner of the vessel binds and obligates himself to meet the same provisions as imposed upon resident vessels and owners. Menhaden and other

herring-like fishes may also be sold at public or private sale at the option of the commission. The proceeds shall be held by the commission until final determination of any proceedings had with respect to the seizure.

RS 56:59 — Disposition of seized vessels, airplanes, vehicles, and equipment therefor

lled "the thing", seized under the

provisions of R.S. 56:57, may be released from seizure upon the owner or person in charge furnishing bond with security as fixed and approved by the judge or court having jurisdiction. If the penalty for the offense charged includes forfeiture, upon conviction of the offender, the court shall order the thing forfeited to the department and sold at public auction by the sheriff without necessity of appraisal but after advertisement as prescribed by law for the sale of movable property seized under a writ of fieri facias. The court, as an alternative to forfeiture and sale, and on petition of the secretary, may order suspension of operation of the thing for not less than thirty days nor more than ninety days. During any suspension of operation of the thing, it shall be kept in the custody of the department at the cost and risk of the thing, its owner or operator, and not released until all charges are paid. The owner or operator may provide a keeper at his own expense, the thing however, to continue in the custody of the commission.

B. Where forfeiture or suspension is decreed or where the owner or lessee of the thing proves the offense was committed without his knowledge or consent, the captain, pilot, or other person in charge or command of the thing at the time of commission of the offense, by order of the court shall be enjoined from engaging in use or operation of the thing in violation of any provision of this Title. Further, the captain, pilot, or other person in charge or command of the thing at the time of commission of the offense, by order of the court, shall be suspended from engaging in the taking or in activity in which he was engaged at the time of his arrest for a period of not less than sixty days nor more than six months. In addition the captain, pilot, or person in charge or command shall be guilty of a class three violation.

C. Proceedings under this Section may be in rem against the thing and when so instituted shall be conducted in accordance with R.S. 34:801 through R.S. 34:817 when not inconsistent with this Chapter. Notice of an in rem proceeding shall be given by the department as provided in R.S. 34:806 and persons interested may file answers as provided in R.S. 34:808. If no answer is filed, default may be taken as provided in R.S. 34:809. The plaintiff may, at its option, join a suit in personam against the vessel owner or operator.

D. Upon seizure of the thing as provided in R.S. 56:57 and either before or after proceedings conforming therewith have been filed in the district court, the secretary, as party plaintiff, may enter into a compromise with parties defendant and file a pleading setting forth the seizure and the cause thereof. The agreement and the case shall be docketed with the approval of the

court and shall be the basis of a final civil judgment entitled to full authority, faith, and credit binding on all parties with the force and effect of a thing adjudged. No compromise shall be effected where the actual suspension of the thing shall be ordered and decreed for less than ten days. If it be shown that the owner or lessee is without guilty knowledge, the guilty parties shall be guilty of a class three violation.

RS 56:61 — Disposition of things, other than vessels, airplanes, vehicles and equipment, confiscated or forfeited to the department

by the department or forfeited to the commission shall be disposed of under regulations to be established by the commission. The preferred disposition shall be by public sale, however, disposition may include gifts to schools or charitable institutions or destruction.

RS 56:62 — Time limit for retention of things seized

held by the department for two years.

RS 56:63 — Proceeds of sales of things seized; commingling with conservation fund

sale shall be deposited in the conservation fund to be used solely for uniform cleaning and the acquisition of equipment for enforcement agents. Any return of the proceeds thereafter required may be made from the conservation fund.

RS 56:64 — Proceeds of sales of things seized; no liability after two years

years and may then destroy all records pertaining to the sale.

RS 56:65 — No liability for acts performed in good faith

arrest, seizure, or other act done by him in the good faith performance of his duties under this Chapter. The attorney general may defend any employee of the department in any civil action in which the employee is a defendant as a result of acts performed in the course of his duties as an employee when the attorney general determines that the defense by the attorney general is required to protect the interests of the state.

B. If the attorney general does not defend an employee as provided in Subsection A of this Section, the attorney for the Department of Wildlife and Fisheries may so defend such employee. The department's attorney may also defend such employee in any criminal action in which the employee is a defendant as a result of acts performed in the course of his duties as an employee when the department determines that such defense is required to protect the interests of the state.

RS 56:66 — No criminal liability for covert operations officers

under 1 of this Title when said violation is committed in the course and scope of the enforcing officer's employment with the department, and is necessary for the effective performance of his duties. Enforcing officers must report any such violation to the secretary or his designee within twenty-four hours of its commission, where possible to do so, in order to receive the criminal immunity provided under this Section.

RS 56:67 — Enforcement of civil judgment

any commission or office required to enforce the laws protecting natural resources, until such judgment is satisfied.

RS 56:68 — Aviation unit; powers and duties

purchase, maintenance, and operation of all state-owned aircraft, including helicopters and fixed-wing aircraft, used by the Department of Wildlife and Fisheries. The secretary of the Department of Wildlife and Fisheries is authorized to appoint as many employees to the unit as may be permitted by legislative appropriation.

B. The law enforcement employees of the unit shall have the same duties and powers as are provided for other regularly commissioned officers of the enforcement division of the department as provided in R.S. 56:31 through R.S. 56:65 and such other duties and rank as are assigned by the secretary.

RS 56:68.1 — Federal enforcement officers; Avoyelles Parish; Cameron Parish; Calcasieu Parish

Fisheries Service of the United States Department of Commerce to allow said secretary to issue special commissions to federal fish and wildlife agents. The commissions shall allow federal fish and wildlife agents to enforce Louisiana wildlife and fisheries laws, rules, and regulations only in Avoyelles Parish, Calcasieu Lake, and the federal wildlife refuges in Cameron and Calcasieu Parishes. The federal agents acting pursuant to such special commissions shall have the same powers and duties as are provided for regularly commissioned officers of the enforcement division of the department.

These powers and duties shall include making arrests and conducting searches and seizures. Such federal agents shall also be granted the rights, powers, privileges, and immunities provided by this Subpart and shall be governed by departmental policies in the fulfillment of such powers and duties.

RS 56:68.2 — Federal enforcement; saltwater fisheries laws

Department of Commerce shall have the same powers and duties as are provided for regularly commissioned officers of the enforcement division of the Louisiana Department of Wildlife and Fisheries to enforce any and all saltwater fisheries laws and regulations under the jurisdiction of the department, to make arrests, and to conduct searches and seizures. Such federal officers shall also be granted the rights, powers, privileges, and immunities provided by this Subpart in the fulfillment of such powers and duties.

RS 56:69 — Exemptions from traffic regulations

Subject to the conditions set forth in this Section.

B. With respect to an official department vehicle while being used in an ongoing effort to apprehend persons suspected of violating the laws of this state or federal laws relating to wildlife or fish, an enforcement agent may:

- (1) Park irrespective of the provisions of the Louisiana Highway Regulatory Act or other law so long as he does not endanger life or property.
- (2) Proceed past a red or stop signal or stop sign, but only after slowing down or stopping as may be necessary so that the agent does not endanger life or property.
- (3) Exceed the maximum speed limits so long as he does not endanger life or property.
- (4) Disregard regulations governing the direction of movement or turning in specified directions so long as he does not endanger life or property.
- (5) Operate his vehicle at night without any lights or with reduced lights so long as he does not endanger life or property.

C. In all cases where life or property would otherwise be endangered audible and visual signals sufficient to warn motorists shall be used.

D. Nothing contained herein shall relieve an enforcement agent of the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the enforcement agent from the consequences of his reckless disregard for the safety of others.

RS 56:69.1 — Purpose

to become especially critical. However, costs associated with enforcement often prevent the Department of Wildlife and Fisheries from providing enforcement adequate to meet needs.

B. The purpose of this Subpart, then, is to create and to provide a means whereby auxiliary enforcement agents can supplement the efforts of wildlife agents of the Department of Wildlife and Fisheries.

RS 56:69.2 — Definitions

"agent" means an individual commissioned by the secretary who has the powers and duties of a wildlife agent, within limitations as provided by this Subpart, but who serves without compensation. Auxiliary shall include the following persons provided in this Subpart: wildlife volunteer, junior auxiliary agent, senior auxiliary agent, and reserve agent.

- (2) "Commission" means the official authorization of the secretary empowering an individual to perform the duties of an auxiliary enforcement agent.
- (3) "POST" means peace officer standards and training, as that term is used in R.S. 40:2401 et seq.
- (4) "Secretary" means the secretary of the Department of Wildlife and Fisheries.
- (5) "Wildlife agent" means an agent of the enforcement division of the Department of Wildlife and Fisheries.

RS 56:69.3 — Commissions and commissioning

ly protect the state's wildlife and fishery resources. However, at no time shall there be more than fifty active commissioned auxiliary agents.

B.(1) The secretary shall have the sole authority to commission auxiliary agents, and to revoke the commission of any auxiliary agent as provided in this Subpart.

(2) No commission shall be issued for a period greater than one year but may be renewed as provided by R.S. 56:69.7.

C. The secretary shall develop plans and procedures for implementing, administering, and managing the auxiliary law enforcement program which shall include requirements that each auxiliary agent:

(1) Perform his duties under the supervision or direction of a wildlife agent within the enforcement division.

(2) Be evaluated on an annual basis.

(3) Perform his duties for a minimum of twenty-four hours per month.

(4) Provide evidence of insurance coverage pursuant to R.S. 56:69.12(C).

RS 56:69.4 — Requirements for commissioning

twenty-one shall be commissioned as an auxiliary agent. Each applicant shall be required to complete the following:

(1) An extensive background investigation performed by the department which, at the very least, shall assure that no commission is issued to an individual who was ever convicted of a felony, a misdemeanor, or any wildlife or fishery violation.

(2) A written examination designed to show competency in general knowledge matters and a basic understanding of wildlife and fisheries.

(3) Any other requirements the secretary may adopt by rule and regulation.

RS 56:69.5 — Training

ate in training shall be grounds to revoke a wildlife volunteer commission. Requirements for training may be waived if the auxiliary agent was previously certified by the POST Council, successfully completes a refresher course as described in R.S. 56:69.7(D), and passes the examination required by R.S. 56:69.6(A).

B. No wildlife volunteer shall perform any enforcement duties until he has successfully completed the training program provided in Subsection C. While in the training program, a wildlife volunteer may perform assigned, nonenforcement tasks and may wear a uniform.

C.(1) The secretary shall develop minimum training standards for the auxiliary enforcement program. This program shall be composed of such standards and curriculum sufficient to be recognized as a valid peace officer's training program by the Louisiana Council on Peace Officer Standards and Training (POST Council) and shall be designed to prepare auxiliary agents for field work. Standards for training shall include but not be limited to the following:

(a) Fish and wildlife laws, regulations, and rules.

(b) Firearms qualification.

(c) Arrest, search, and seizure.

(d) Use of force.

(e) Officer survival.

(f) First aid.

(g) Investigation and evidence.

(h) Civil liability of peace officers.

(i) Reports and court testimony.

(2) Any program conducted by a POST-certified training academy or by the department under the provisions of this Subpart shall satisfy the training requirements of the auxiliary enforcement training program.

(3) No other training program shall be acceptable in satisfying the requirements of this Subpart unless approved by the secretary.

RS 56:69.6 — Probation

any period of one year. This probationary period shall provide the junior auxiliary agent with on-the-job training under the supervision and direction of a wildlife agent.

B. During the one-year probationary period, a junior auxiliary agent shall have all the powers prescribed for an auxiliary agent in R.S. 56:69.10 except that he shall perform enforcement duties only when in the company of and under the direct supervision of the wildlife agent to whom he has been assigned.

C. Upon completion of the probationary period, the wildlife agent to whom the junior auxiliary agent has been assigned shall evaluate the auxiliary agent and recommend that the secretary renew or revoke the agent's commission. Nothing herein shall prevent the wildlife agent who has been assigned to supervise the junior auxiliary agent from recommending revocation of a commission at any time during the probationary period.

RS 56:69.7 — Renewal of commissions

recommendation from his supervising wildlife agent.

(2) Requalify on the POST firearms course.

(3) Attend seminars, workshops, or other meetings on wildlife and fisheries enforcement matters which may be required by the enforcement division.

(4) Complies with any other rule or regulation as may be required by the secretary.

B. Any auxiliary agent receiving an unfavorable recommendation from his supervising wildlife agent may request that the enforcement division appoint a hearing panel to review the case, pursuant to rules and regulations adopted by the secretary. The findings of the hearing panel shall preempt any recommendation of the supervising agent.

C. Commissions shall be renewed as follows depending upon the level of experience and training of an auxiliary agent:

(1) Wildlife volunteer. A wildlife volunteer is a person enrolled in the auxiliary agent program but who has not satisfactorily completed the auxiliary agent training program.

(2) Junior auxiliary agent. A junior auxiliary agent is a person who has successfully completed the probationary period required in R.S. 56:69.6 but who has not reached the level of training and experience required of a senior auxiliary agent. Each junior auxiliary agent shall work with and under the direct supervision of a wildlife agent.

(3) Senior auxiliary agent. A senior auxiliary agent is a person who has served as an auxiliary agent for a minimum of four hundred eighty hours, including his probationary period, and who has demonstrated proficiency in individual operational specialties as may be designated by the secretary. A senior auxiliary agent may work alone, but only at the direction of a wildlife agent.

(4) Reserve agent. A reserve agent is a person who complies with the provisions of R.S. 56:69.9.

D. Any individual who has not participated in the auxiliary agent program for two or more years may apply for renewal of a commission provided he complies with the following requirements:

(1) Successful completion of a refresher training course approved by the department, which shall include but not be limited to the following items:

(a) Fish and wildlife law, regulations, and rules.

(b) POST firearms requalification.

(2) Pass the written examination provided in R.S. 56:69.6(A).

(3) Complete an investigation into his background for the period of his nonparticipation in the auxiliary agent program.

RS 56:69.8 — Revocation of commissions

fishery violation.

(2) The auxiliary agent fails to perform a minimum of twenty-four hours per month as an auxiliary agent, unless written permission is obtained from his supervising wildlife agent.

(3) The auxiliary agent receives an unfavorable recommendation from his supervisor or the hearing panel as provided in R.S. 56:69.7(B).

(4) The auxiliary agent fails to maintain the minimum insurance coverage as provided in this Subpart.

(5) The auxiliary agent fails to comply with any other rule or regulation as may be required by the secretary.

B. The secretary may, in his discretion, revoke a commission for the following reasons:

(1) An auxiliary agent violates departmental policy.

(2) An auxiliary agent engages in misconduct or insubordination.

(3) Noncompliance with any other rule or regulation as may be required by the secretary.

RS 56:69.9 — Reserve agent

ned his certification by the POST Council or any other person who is a peace officer who has maintained his certification by the POST Council may be commissioned as a reserve agent under the provisions of this Subpart.

B. The secretary may commission a reserve agent as provided herein if the person satisfies the requirements of R.S. 56:69.7 as may be determined necessary by the secretary.

C. Each reserve agent shall have all the powers of and may function as a wildlife agent, but shall receive no compensation for his participation as a reserve agent in the auxiliary agent program.

RS 56:69.10 — Powers and duties of auxiliary agents

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he shall be limited only to wildlife and fisheries enforcement on land.

B. Each auxiliary agent may be allowed to carry weapons concealed or exposed while in the performance of his duties as provided for commissioned employees of the department under R.S. 56:53.

C. Notwithstanding any provision herein to the contrary, an auxiliary agent shall not have any enforcement powers or authority as a wildlife agent unless he is on duty and is working under the supervision and direction of a wildlife agent.

RS 56:69.11 — Compensation

an auxiliary agent. The department may provide each auxiliary agent with a uniform and pay tuition costs to attend a training program required by R.S. 56:69.5(C).

RS 56:69.12 — Liability

operation thereof, any auxiliary enforcement agent commissioned pursuant to the provisions of this Subpart.

B. An auxiliary agent shall provide evidence of insurance coverage for personal health and accident insurance. The department shall provide comprehensive general liability insurance, including personal injury coverage for third parties.

RS 56:69.13 — Rules and regulations

e Procedure Act.

RS 56:69.21 — Wildlife Violator Compact

trust by the respective states for the benefit of all of their residents and visitors.

(2) The protection of the wildlife resources of a state is materially affected by the degree of compliance with its statutes, laws, ordinances, and administrative rules relating to the management of those resources.

(3) The preservation, protection, management, and restoration of wildlife contribute immeasurably to the aesthetic, recreational, and economic aspects of the natural resources of a state.

(4) Wildlife resources are valuable without regard to political boundaries; therefore, a person should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules of a participating state as a condition precedent to the continuance or issuance of a license to hunt, fish, trap, or possess wildlife.

(5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

(6) The mobility of many wildlife violators necessitates the maintenance of channels of communication among the various states.

(7) Usually, one of the following enforcement practices is used on a person who is cited for a wildlife violation in a state other than his home state:

- (a) Is required to post collateral or bond to secure appearance for a trial at a later date.
- (b) Is taken directly into custody until collateral or bond is posted.
- (c) Is taken directly to court for an immediate appearance.

(8) The purpose of the enforcement practices set forth in Paragraph (7) of this Subsection is to ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to continue on his way after receiving the citation, could return to his home state and disregard his duty under the terms of the citation.

(9) In most instances, a person receiving a wildlife citation in his home state is permitted to accept the citation from the wildlife officer at the scene of the violation and immediately continue on his way after agreeing or being instructed to comply with the terms of the citation.

(10) The enforcement practices described in Paragraph (7) of this Subsection cause unnecessary inconvenience and, at times, hardship for a person who is unable to post collateral, furnish a bond, stand trial, or pay a fine at that time and is therefore compelled to remain in custody until some alternative arrangement is made.

(11) The enforcement practices described in Paragraph (7) of this Subsection consume an undue amount of enforcement time.

B. It is the policy of the participating states to:

- (1) Promote compliance with the statutes, laws, ordinances, and administrative rules relating to the management of wildlife resources in the respective states.
- (2) Recognize the suspension of wildlife license privileges of a person whose license privileges have been suspended by another participating state and treat the suspension as if it had occurred in the home state.
- (3) Allow a person, except as provided in R.S. 56:69.23, to accept a citation and, without delay, proceed on his way, whether or not the person is a resident of the state in which the citation was issued, provided that the person's home state is a participating state in the Wildlife Violator Compact.
- (4) Report to the appropriate participating state, as provided in the compact manual, a conviction recorded against a person whose home state was not the issuing state.
- (5) Allow a home state to recognize and treat convictions recorded against its residents, which convictions occurred in another participating state, as though they had occurred in the home state.
- (6) Cooperate to the fullest extent with other participating states in enforcing compliance with the terms of citations issued by one participating state to residents of another participating state.
- (7) Maximize effective use of law enforcement personnel and information.
- (8) Assist court systems in the efficient disposition of wildlife violations.

RS 56:69.22 — Definitions

nt, or other official document issued to a person by a wildlife officer or other peace officer for a wildlife violation, which contains an order requiring the person to respond.

(2) "Collateral" means cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other peace officer of a citation.

(3) "Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or tribunal or through the payment of fines, costs, and surcharges.

(4) "Conviction" means a conviction, including a court conviction, for an offense related to the preservation, protection, management, or restoration of wildlife that is prohibited by statute, law, ordinance, or administrative rule. "Conviction" also includes the forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed the offense, the payment of a penalty assessment, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.

- (5) "Court" means a court of law, including a magistrate court.
- (6) "Home state" means the state of primary residence of a person.
- (7) "Issuing state" means the participating state that issues a citation to the violator.
- (8) "License" means a license, permit, or other public document that conveys to a person to whom it was issued the privilege of pursuing, possessing, or taking wildlife regulated by statute, law, ordinance, or administrative rule of a participating state.
- (9) "Licensing authority" means the department or division within each participating state that is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.
- (10) "Participating state" means a state that enacts legislation to become a member of the Wildlife Violator Compact.
- (11) "Personal recognizance" means an agreement by a person made at the time of issuance of a citation that the person will comply with the terms of the citation.
- (12) "State" means a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the provinces of Canada, and other countries.
- (13) "Suspension" means a revocation, denial, or withdrawal of license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by a license.
- (14) "Wildlife" means species of animals, including mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans which are protected or otherwise regulated by statute, law, ordinance, or administrative rule in a participating state. Species included in the definition of "wildlife" vary from state to state, and determination of whether a species is "wildlife" for the purposes of the Wildlife Violator Compact shall be based on local law.
- (15) "Wildlife law" means a statute, law, ordinance, or administrative rule developed and enacted for the management and use of wildlife resources.
- (16) "Wildlife officer" means an individual authorized by a participating state to issue a citation.
- (17) "Wildlife violation" means a cited violation of a statute, law, ordinance, or administrative rule developed and enacted for the management and use of wildlife resources.

RS 56:69.23 — Procedures for issuing citations in relation to the Wildlife Violators Compact

state is another participating state in the same manner as if the person were a resident of the issuing state and shall not require the person to post collateral to secure appearance, subject to the exceptions set forth in Subsection B of this Section, provided that the wildlife officer receives the personal recognizance of the person that he will comply with the terms of the citation. Nothing herein shall prohibit physical arrests if the wildlife officer deems necessary.

B. Personal recognizance is acceptable, if both are present:

- (1) If not prohibited by local law or the compact manual.
- (2) If the violator provides adequate proof of identification to the wildlife officer.

C. Upon conviction or failure of a person to comply with the terms of a citation, the appropriate official shall report the conviction or failure to comply with the licensing authority of the issuing state. The report shall be made in accordance with procedures specified by the issuing state and shall contain information as specified in the compact manual as minimum requirements for effective processing by the home state.

D. Upon receipt of the report of a conviction or noncompliance pursuant to Subsection C of this Section, the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in the form and with the content as prescribed in the compact manual.

RS 56:69.24 — Procedure for the home state

hority of the home state shall:

- (1) Notify the person.
- (2) Initiate a suspension action in accordance with the home state's suspension procedures.
- (3) Suspend the person's license privileges until satisfactory evidence of compliance with the terms of the citation has been furnished by the issuing state to the home state licensing authority.

B. Due process safeguards shall be accorded to alleged violators.

C. Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter the conviction as though it occurred in the home state for the purposes of the suspension of license privileges.

D. The licensing authority of the home state shall:

- (1) Maintain a record of actions taken.
- (2) Make reports to issuing states as provided in the compact manual.

RS 56:69.25 — Reciprocal recognition of suspension

e suspension satisfies each of the following:

- (1) Had occurred in the home state.
- (2) Could have been the basis of the suspension of license privileges in the home state.

B. A participating state shall communicate suspension information to other participating states in the form and with the content as contained in the compact manual.

RS 56:69.26 — Applicability of other laws

aws relating to license privileges to a person or circumstance or to invalidate or prevent an agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning wildlife law enforcement.

No provision of this Subpart shall be construed as to affect the ability to arrest, seizure of equipment, evidence as provided by law, or any other provision of this Title.

RS 56:69.27 — Compact administrator procedures

matters relating to the operation of the Wildlife Violator Compact.

B. The board shall be composed of one representative, to be known as the "compact administrator" from each of the participating states.

C. A compact administrator shall be an enforcement agent appointed by the secretary of the Department of Wildlife and Fisheries.

D. A compact administrator may provide for the discharge of his duties and the performance of his functions by an alternate.

E. An alternate shall not be entitled to serve unless written notification of his identity has been given to the board of compact administrators.

F. Each member of the board of compact administrators shall be entitled to one vote.

G. An action of the board of compact administrators shall not be binding unless taken at a meeting at which a majority of the total number of the board's votes is cast in favor thereof.

H. Action by the board of compact administrators shall be taken only at a meeting at which a majority of the participating states are represented.

I. The board of compact administrators shall elect annually from its membership a chairman and vice chairman.

J. The board of compact administrators shall adopt bylaws not inconsistent with the provisions of the Wildlife Violator Compact or the laws of a participating state for the conduct of its business and shall have the power to amend and rescind its bylaws.

K. The board of compact administrators may accept for its purposes and functions under the Wildlife Violator Compact donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or a governmental agency, and may receive, use, and dispose of the donations and grants.

L. The board of compact administrators may contract with or accept services or personnel from a governmental or intergovernmental agency, individual, firm, corporation, or a private nonprofit organization or institution.

M. The board of compact administrators shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of the Wildlife Violator Compact. All procedures and forms adopted pursuant to board action shall be contained in a compact manual.

RS 56:69.28 — Entry into and withdrawal from the Wildlife Violator Compact

B. Entry into the Wildlife Violator Compact shall be made by resolution of ratification by the authorized officials of the applying state and submitted to the chairman of the board of compact administrators.

C. The resolution shall substantially be in the form and content as provided in the compact manual and shall include all of the following:

- (1) A citation of the authority from which the state is empowered to become a party to the Wildlife Violator Compact.
- (2) An agreement of compliance with the terms and provisions of this compact.
- (3) An agreement that compact entry is with all states participating in the Wildlife Violator Compact and with all additional states that legally become a party to the Wildlife Violator Compact.

D. The effective date of entry shall be specified by the applying state but shall not be less than sixty days after notice has been given to each participating state that the resolution from the applying state has been received by either of the following:

- (1) The chairman of the board of compact administrators.
- (2) The secretary of the board of compact administrators.

E. A participating state may withdraw from participation in the Wildlife Violator Compact by official written notice to each participating state, but withdrawal shall not become effective until ninety days after the notice of withdrawal is given. No withdrawal of any state shall affect the validity of the Wildlife Violator Compact as to the remaining participating states.

RS 56:69.29 — Amendments to the Wildlife Violator Compact

ct administrators and shall be initiated by one or more participating states.

B. Adoption of an amendment shall require endorsement by all participating states and shall become effective thirty days after the date of the last endorsement.

C. Failure of a participating state to respond to the chairman of the board of compact administrators within one hundred twenty days after receipt of a proposed amendment shall constitute endorsement thereof.

RS 56:69.30 — Licensing authority; rules and regulations

The secretary of the department through its compact administrator shall furnish to the appropriate authorities of the participating states any information or documents reasonably necessary to facilitate the administration of the Wildlife Violator Compact.

C. The Louisiana Wildlife and Fisheries Commission may adopt rules and regulations to implement and administer the provisions of the Wildlife Violator Compact.

RS 56:69.31 — Construction and severability

It be severable, and if a phrase, clause, sentence, or provision of that compact is declared to be contrary to the constitution of a participating state or of the United States, or the applicability thereof to a government, agency, individual, or circumstance is held invalid, the validity of the remainder of the compact shall not be affected thereby.

C. If the Wildlife Violator Compact is held contrary to the constitution of a participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the participating state affected regarding all severable matters.

RS 56:70.1 — Title

tact the webmaster.

RS 56:70.2 — Creation and purpose

information that is essential to and aids in the apprehension and prosecution of law violators, in order to promote public interest and involvement in stopping serious violations of fish and wildlife laws, in order to reduce the number of law violators, and in order to create and maintain a fund for the payment of rewards assisting in law enforcement, the Louisiana Help Our Wildlife Program is hereby created within the Department of Wildlife and Fisheries.

RS 56:70.3 — Louisiana Help Our Wildlife Fund; uses of fund

ervation Fund.

RS 56:70.4 — Rewards; payments

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reward, and direct the payment of the rewards from the Conservation Fund.

(2) No reward may be less than two hundred dollars or more than one thousand dollars. No amount in excess of that available in the Conservation Fund shall be payable as a reward under this Subpart.

B. No reward may be granted to a person or an immediate family member of a person who is a peace officer, game warden, prosecutor, employee of the department, or member of the judiciary.

RS 56:71 — Governor authorized to enter into compact with other states relative to better utilization of fisheries

s of Florida, Mississippi, Alabama, and Texas, and with such other states as may enter into the compact legally therein in the form substantially as follows in this Part.

RS 56:72 — Purpose of compact

ries, it is the purpose of this compact to promote the better utilization of the fisheries--marine, shell, and anadromous of the seaboard of the Gulf of Mexico--by the development of a joint program for the promotion and protection of such fisheries and the prevention of the physical waste of the fisheries from any cause.

RS 56:73 — Time compact becomes operative; parties to compact

as and when the Congress has given its consent subject to Article I, Section 10, of the Constitution of the United States.

Any state contiguous to any of the aforementioned states or riparian upon waters which flow into waters under the jurisdiction of any of the aforementioned states and which are frequented by anadromous fish or marine species may become a party hereto as hereinafter in this Part provided.

RS 56:74 — Gulf States Marine Fisheries Commission; representatives; qualifications

States Marine Fisheries Commission. One shall be the head of the administrative agency of such state charged with the conservation of the fishery resources to which this compact pertains or, if there be more than one officer or agency, the official of that state named by the governor thereof. The second shall be a member of the legislature of such state designated by the governor thereof, provided that if it is constitutionally impossible to appoint a legislator as a commissioner from such state, the second member shall be appointed in such manner as may be established by law.

The third shall be a citizen who shall have a knowledge of and interest in the marine fisheries, to be appointed by the governor. This commission shall be a body corporate with the powers and duties set forth in this Part.

RS 56:75 — Powers of commission; legislation

conservation and the prevention of the depletion and physical waste of the fisheries--marine, shell, anadromous--of the gulf coast. The commission may recommend the coordination of the exercise of the police powers of the several states within their respective jurisdiction to promote the preservation of these fisheries and their protection against overfishing, waste, depletion, or any abuse whatsoever, and to assure a continuing yield from the fishery resources of the aforementioned states. To that end the commission shall draft and recommend to the governors and legislatures of the various signatory states, legislation dealing with the conservation of the marine, shell, and anadromous fisheries of the gulf seaboard. The commission shall from time to time present to the governor of each compacting state its recommendations relating to enactments to be presented to the legislature of that state in furthering the interest and purposes of this compact. The commission shall consult with and advise the pertinent administrative agencies in the states party hereto with regard to problems connected with the fisheries and recommend the adoption of such regulations as it deems advisable. The commission may recommend to the states party hereto the stocking of the waters of the states with fish and fish eggs or joint stocking by some or all of the states party hereto. When two or more states jointly stock waters, the commission shall act as the coordinating agency for the stocking.

RS 56:76 — Officers; rules and regulations; meetings

es as may be required to carry the provisions of this compact into effect, and shall fix and determine their duties, qualifications, and compensation. The commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place. It shall meet at least once a year.

RS 56:77 — Action taken by commission; requirements

tates. No recommendation shall be made by the commission in regard to any species of fish except by the affirmative vote of a majority of the compacting states which have an interest in such species. The commission shall define what shall be an interest.

RS 56:78 — U.S. Fish and Wildlife Service to be primary research agency; advisory committee

the primary research agency of the Gulf States Marine Fisheries Commission, cooperating with the research agencies in each state for that purpose. Representatives of the Fish and Wildlife Service shall attend the meetings of the commission. An advisory committee to be representative of the commercial saltwater fishermen, the saltwater anglers, and such other interests of each state as the commissioners deem advisable may be established by the commissioners from each state for the purpose of advising those commissioners upon such recommendations as it desires to make.

RS 56:79 — Participation of non-coastal state; limitation

ecies in accordance with the provisions of R.S. 56:73, the participation of the state in the action of the commission shall be limited to such species of fish.

RS 56:80 — Signatory states not precluded from additional restrictions

legislation or the enforcement of any requirement by a signatory state imposing additional conditions and restrictions to conserve its fisheries.

RS 56:81 — Additional compact amendments by signatory states

of Congress as provided in Article I, Section 10 of the Constitution of the United States, to designate the Gulf States Marine Fisheries Commission as a joint regulating authority for the joint regulation of specific fisheries affecting only such states as shall so compact, and at their joint expense. The representatives of such states shall constitute a separate section of the Gulf States Marine Fisheries Commission for the exercise of the additional powers so granted, but the creation of such section does not deprive the state so compacting of any of their privileges or powers in the Gulf States Marine Fisheries Commission as constituted under the other articles of this compact.

RS 56:82 — Absence from representation on the commission

error thereof.

RS 56:83 — Operating expenses; proration

all be made available yearly until modified as hereinafter provided:

Florida	
\$	
3,500.00	
Alabama	
1,000.00	
Mississippi	
1,000.00	
Louisiana	
5,000.00	
Texas	
2,500.00	
Total	

\$

13,000.00

The proration and total cost per year of thirteen thousand dollars, above mentioned, is estimate only, for initial operations, and may be changed when found necessary by the commission and approved by the legislatures of the respective states.

Each state party hereto agrees to provide, in the manner most acceptable to it, the travel costs and necessary expenses of its commissioners and other representatives to and from meetings of the commission or its duly constituted section or committees.

RS 56:84 — Continuance of compact; renunciation; notice

it may choose. Renunciation shall not become effective until six months after the effective date of the action taken by the legislature. Notice of renunciation shall be given to the other states party hereto by the secretary of state of the compacting state so renouncing upon passage of the act.

RS 56:85 — Commission representatives from Louisiana; appointment; alternates

Fisheries shall be an ex officio representative; a member of the state legislature from a coastal parish, named by the governor for a four year period from the date of his election or until his successor has been elected shall be the second representative; the third representative shall be appointed by the governor, by and with the advice and consent of the Senate, and shall be a citizen of Louisiana having a knowledge of and interest in marine fisheries. The term of the third representative is for a period of four years. He shall hold office until his successor shall be appointed and qualified.

The Secretary of Wildlife and Fisheries, as ex officio representative, may delegate, from time to time, to any deputy or other subordinate in his department or office, the power to be present and participate, including voting as his representative or substitute at any meeting or hearing by or other proceeding of the commission.

RS 56:86 — Commission powers to be no limitation on state powers

e powers vested in the commission by other laws of the state of Louisiana, by the laws of the states of Florida, Texas, Mississippi, or Alabama, by the Congress of the United States or by the terms of the compact.

RS 56:87 — Necessary travel expenses; payment

s shall include travel cost and necessary expenses of the commissioners and other representatives of Louisiana to and from meetings of the commission or its duly constituted sections or committees.

RS 56:101 — Repealed by Acts 1981, No. 737, §2.

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RS 56:102 — Hunting guide license; fees; penalties

lity insurance, and a valid state

recreational hunting license that grants hunting privileges appropriate for his client's guided hunting activity. In addition, any person acting as a hunting guide who is in charge of the operation of a vessel shall have a valid captain's license issued by the United States Coast Guard.

B.(1) The annual fee for a resident hunting guide license is one hundred fifty dollars.

(2) The annual fee for a nonresident hunting guide license is six hundred dollars.

C. A hunting guide license is valid for one year, beginning on July first of each calendar year and expiring on June thirtieth of the following calendar year.

D. A hunting guide license may be purchased at any time of the year for the current license year and from June first for the immediately following license year.

E. A hunting guide license shall be issued by the department during normal working hours and may be purchased in person at the Baton Rouge office, or at any other location designated by the department.

F. The fees derived pursuant to this Section shall be placed in the Conservation Fund.

G. A violation of any provision of this Section shall constitute a class four violation under the provisions of R.S. 56:34.

RS 56:103 — License required

h act the

lawful holder of a valid license for that purpose issued to him by authority of the Louisiana Wildlife and Fisheries Commission.

B. Repealed by Acts 2024, No. 266, §1.

C.(1) In order to hunt, take, possess, or transport deer or turkey, in Louisiana, in addition to a basic hunting license, a person shall be required to purchase and have on his person either a deer license or a turkey license, whichever is the appropriate license. In order to hunt, take, possess, or transport waterfowl in Louisiana, in addition to a basic hunting license, a resident shall be required to purchase and have on his person a waterfowl license.

(2) Repealed by Acts 2024, No. 266, §1.

D. In order to hunt, take, possess, or transport black bear in Louisiana, in addition to a basic hunting license, a resident shall be required to purchase and have on his person a black bear hunting license.

E., F. Repealed by Acts 2021, No. 356, §6, eff. June 1, 2022.

RS 56:104.1 — Hunting permits for persons with physical disabilities

g permits for individuals with temporary or permanent disabilities. A temporary disability is one of such severity that it shall last for a duration of at least one year. The rules and regulations shall provide for the duration and costs of the permits and provide for disability classifications of "wheelchair user", "mobility impairment" as defined in R.S. 47:463.4(E), and "amputee of an upper extremity". Such permits may be issued only to those persons certified by a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners. If the physician certifies that the disability is temporary, the person holding the permit shall be required to recertify to the department each year that such certification is still valid. The commission rules and regulations shall provide for special hunts for persons with disabilities, special deer seasons, and access to wildlife management areas.

B. During the formulation of the rules and regulations provided for in this Section, the commission shall request and receive advice and information from Louisiana Outdoorsmen With Disabilities, Inc.

RS 56:106 — Field trials

th the Louisiana Department of Wildlife and Fisheries using dogs in such field trial without being required to obtain any hunting license so long as the field trial association has given to the office of wildlife and the enforcement division of the Department of Wildlife and Fisheries, at least five days prior to the date of such field trial, notice of the dates and place of the trial. Such notice may be given electronically through facsimile or e-mail. Requirements for registration of field trial associations will be established by the Louisiana Department of Wildlife and Fisheries. Participants may carry firearms and discharge live ammunition during such field trials, if required to do so by the rules of the field trial.

RS 56:107 — Firing, feeding and breeding grounds

any wild woodland, marshland, or prairie land. However, this Section does not apply to the owner of the land setting such fires to clear or prepare his enclosed land for agricultural or pastoral purposes or for the purpose of improving food conditions for the wildlife found thereon. In any case, this shall be done only under permit and under the supervision of persons authorized to enforce the provisions of this Sub-part. Such authorized burning shall not be done during the breeding season of wild bird life.

RS 56:108 — Deer and turkey harvest records and tagging

o deer or turkey harvest records and tagging. Such rules and regulations may include the following: tagging requirements, gender, age, antler requirements, take, possession, limit, and reporting requirements.

B. Deer tagging shall only occur when a reduced buck limit is adopted by the commission.

RS 56:109 — Wildlife management areas; wildlife refuges; public hunting grounds and recreation

e any state wildlife

management area, wildlife refuge, public hunting ground, or outdoor recreation area, as it deems proper for wildlife management purposes. With the approval of the governor, it may lease, buy, or accept donation of, and set apart, any other lands suitable and desirable for such purposes and thereon establish, maintain, and operate such areas. The public shall be notified of the fact of the establishment of such areas by publication of a proclamation by the governor, describing the exact location and description of the lands set apart and the objects and purposes of the dedication, for thirty days in the official journal of the state and the official journal of the parish where the lands are located. The commission shall cause suitable signs to be placed at reasonable distances along the boundaries of the lands and at roads and other entrances for the information of the public. No person shall willfully or maliciously remove, destroy, or deface any sign or notice placed or posted. The commission shall authorize persons over the age of sixty to use trails in the wildlife management areas which are set aside for use exclusively by persons with disabilities.

B. The commission shall be the sole authority and shall establish all rules and regulations pertaining to the propagation, protection and harvest of all species of wildlife, including both male and female sexes of wild quadrupeds, wild birds, fish and alligators existing, propagated or released by the commission upon lands so designated as wildlife management areas, wildlife refuges, public hunting grounds or outdoor recreation areas.

C. No person shall knowingly take, attempt to take, disturb, or destroy any wild bird or wild quadruped or the nest, egg, or young thereof on lands set apart as wildlife management areas and wildlife refuges, or have in his possession or keep, while on the lands, any trap, snare, or other device capable of being used in the taking or disturbance of the birds or quadrupeds on such areas, unless the person previously has been expressly authorized by a permit from the department to do so and only for the purpose and under the conditions specified in the permit.

D.(1) A valid WMA access permit shall be required for use of department administered lands including wildlife refuges and wildlife management and habitat conservation areas. Persons under eighteen years of age are exempt from this requirement. Persons attending official functions of private, nonprofit, and charitable organizations recognized as tax exempt under the provisions of the Internal Revenue Code shall be exempt from this requirement. In addition, traversing through lands administered by the department shall not require a license or permit.

(2) Persons using department administered lands for commercial purposes for which the department is paid a royalty or special fee, agents of the state on official business, and persons or groups using department administered lands for purposes other than fishing or hunting who receive, for good cause, a letter of permit from the secretary specifically waiving the permit requirement, shall be exempt.

(3) The department shall prominently post and maintain at each entrance to those lands subject to this Subsection a sign stating that all visitors, except those exempt by law, must possess a WMA access permit, a Sportsman's Paradise license, a lifetime hunting or fishing license, or a license that confers equivalent privileges while on those lands.

E. The commission shall establish a state all-terrain vehicle trail at least twelve miles in length in the Boeuf Wildlife Management Area. The trail established shall be the same trail that was previously approved and permitted by the department for use by Wish I Could, Incorporated. The trail shall be used for organized rides by nonprofit organizations for charitable and educational purposes no more than twice per year per organization. No alcohol shall be sold or consumed on the trail during the rides. The secretary may prohibit any organization from using the wildlife management area and the vehicle trail if any person in that organization violates the provisions of this Subsection.

F. Except as provided in Subsection D, a violation of the provisions of this Section, or rules and regulations promulgated pursuant thereto, shall constitute a class two violation.

RS 56:109.1 — Use of all-terrain vehicle trails on wildlife management areas

t has such a trail open throughout the year. The

department may temporarily close the year-round trail if weather or other conditions render the use of the trail a public safety or an environmental hazard. Access to the year-round trail shall be granted for use by all-terrain vehicles, motorcycles, horses, and bicycles, under rules and regulations promulgated under the Administrative Procedure Act. Persons using the year-round all-terrain vehicle trails shall possess a WMA hunting permit.

B. A violation of the provisions of this Section, or rules and regulations promulgated pursuant this Section, shall constitute a class one violation.

RS 56:109.2 — Preservation of wildlife management areas; wildlife refuges; public hunting grounds and recreation areas

refuges, public hunting grounds and recreation areas in a manner to support, promote and enhance public hunting, fishing, and recreational opportunities to the extent authorized by law. The commission shall recognize, to the extent authorized by law, hunting, fishing, and recreational opportunities as primary uses of wildlife management areas, wildlife refuges, public hunting grounds and recreation areas that are available for public hunting, fishing, and recreational opportunities. The commission shall make land management decisions based on criteria that include public hunting, fishing, and recreational opportunities as a primary consideration.

B. Before March first of each calendar year, the commission shall submit to the Senate Committee on Natural Resources and the House Committee on Natural Resources and Environment a written report containing a listing of all acreage owned by the department and managed by the commission that is available for public hunting, fishing, and recreational opportunities and a listing of all acreage that was lost or gained for such purposes.

RS 56:109.3 — Levy of mooring fees in the Atchafalaya Delta WMA; Atchafalaya Delta WMA

ablish a mooring program for vessels in the Atchafalaya

Delta Wildlife Management Area. The department shall locate mooring pilings where appropriate within the Atchafalaya Delta WMA and lease such pilings through a mooring program that includes assignment of such mooring sites through a lottery system administered by the department and through a bid process for premium mooring sites as designated by the department. All costs, including but not limited to materials, professional services, and construction, shall be reported to the Senate Committee on Natural Resources

and the House Committee on Natural Resources and Environment by the first of May in any year in which such costs are incurred. A maximum of forty percent of the sites, the "premium" sites, shall be available through a bidding process and the remainder of the mooring sites shall be available through the lottery system. The fees for such "premium" sites shall not be less than one hundred ten percent of the fees of those sites available through the lottery system. Mooring fees for sites acquired through the lottery system shall be three hundred dollars for two pilings or five hundred dollars for three or more pilings. All annual fees collected pursuant to the provisions of this Section shall be deposited to the Atchafalaya Delta WMA Mooring Account created in this Section. The proceeds from such fees shall be reported annually to the Senate Committee on Natural Resources and the House Committee on Natural Resources and Environment.

B. There is hereby created, as a special account in the Conservation Fund, the Atchafalaya Delta WMA Mooring Account.

C. After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and after a sufficient amount is allocated from that fund to pay all of the obligations secured by the full faith and credit of the state, which become due and payable within any fiscal year, the treasurer shall pay into the Atchafalaya Delta WMA Mooring Account an amount equal to the monies received by the department from the avails of the Atchafalaya Delta WMA mooring fees authorized in this Section. The monies in the account shall be used solely as provided in Subsection D of this Section and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in the account at the end of the fiscal year shall remain in the account. The monies in the account shall be invested by the state treasurer in the same manner as monies in the state general fund.

D. Subject to annual appropriation by the legislature, the monies in the Atchafalaya Delta WMA Mooring Account shall be used solely for the development, construction, maintenance, and dredging of mooring sites in the Atchafalaya Delta WMA.

E. The commission may adopt and promulgate rules and regulations in accordance with the Administrative Procedure Act for the implementation of the provisions of this Section.

RS 56:109.4 — Use of airboats on the Maurepas Swamp Wildlife Management Area

be established by rules and regulations promulgated

by the commission, pursuant to the Administrative Procedure Act, where airboat operation is feasible and in a manner to best protect public safety and wildlife resources and habitats. An airboat trail shall be established only on trails or rights of way existing as of February 1, 2018. Such rules and regulations shall also include the following:

- (1) Require the exhaust of any internal combustion engine used on any airboat operated on airboat trails be equipped with an automotive-style factory muffler, underwater exhaust, or other manufactured device capable of adequately muffling the sound of the exhaust of the engine.
- (2) Limit the size of the internal combustion engine of any airboat operated on airboat trails to no greater than three hundred fifty-one cubic inches.

(3) Require every person using an airboat trail to possess a WMA hunting permit, to notify the department annually of the airboat's registration number, and to make such airboat available for inspection by department personnel.

(4) Prohibit the use of established airboat trails by airboats between September first and the following January thirty-first.

B. A violation of the provisions of this Section, or rules and regulations promulgated pursuant to this Section, shall constitute a class one violation. Additionally, any person who violates the provisions of this Section, or rules or regulations promulgated pursuant to this Section, three times within a ten-year period shall be prohibited from operating an airboat on any wildlife management area.

C. The provisions of this Section shall terminate and be null and void on August 1, 2019, and thereafter.

RS 56:110 — Deer Management Assistance Program areas; notice; signs; prohibitions

ntifying the lands as a Deer Management Assistance Program area which shall be placed at reasonable distances along the boundaries of the lands and at roads and other entrances for the information of the public. The department shall establish rules and regulations regarding the description and content of the signs and the manner and method of posting signs to reasonably identify the lands as Deer Management Assistance Program areas. No person shall willfully or maliciously remove, destroy, or deface any sign or notice placed or posted.

B. After the posting of the Deer Management Assistance Program area as provided in Subsection A, no person shall knowingly take, attempt to take, disturb, or destroy any wild bird or wild quadruped or the nest, egg, or young thereof on lands designated as Deer Management Assistance Program areas, or shall have in his possession or keep, while on the lands, any firearm, trap, snare, or other device capable of being used in the taking or disturbance of the birds or quadrupeds on such areas, unless the person has been expressly authorized by a permit from the owner, lessee, lessor, or hunting club or organization authorized to hunt on the land to do so and then only for the purpose and under the conditions specified in the permit.

C. The owner or operator of the Deer Management Assistance Program area shall be responsible for the actual direct cost of posting the lands with signs as provided in Subsection A.

D. Violation of the provisions of Subsection A of this Section shall constitute a class one violation.

E. Violation of the provisions of Subsection B of this Section shall constitute a class two violation.

RS 56:110.1 — Quality Deer Management Program

objectives, goals, and limitations.

B. The program shall be developed using a management philosophy that encourages good stewardship and unites landowners, hunters, and managers in a common goal of producing biologically and socially balanced deer herds within existing environmental, social, and legal constraints. The program shall include protocols for the protection of young bucks, including an adequate harvest of female deer to maintain a healthy population in balance with existing habitat conditions and landowner desires. The program shall also promote the production of quality deer, quality habitat, and quality deer hunting experiences.

C. The department shall use its resources to do the following:

(1) Instruct and train qualified personnel as to the policies and procedures for administering the program.

(2) Supply landowners, hunting clubs, and cooperating agencies with pertinent brochures, handouts, and other information containing management techniques and applications.

(3) Properly prepare and suggest wildlife management recommendations.

(4) Develop and maintain a close working relationship with other state and federal agencies or non-governmental organizations that have similar or corresponding programs directly or indirectly affecting public and private land development and management.

(5) Provide incentives to encourage landowners and hunting clubs to participate in the program.

D. The program shall be voluntary, and landowners or hunting clubs who participate in the Quality Deer Management Assistance Program are eligible to participate in this program. Qualification for participation in this program shall be determined by rules and regulations promulgated by the commission, in accordance with the Administrative Procedure Act.

RS 56:111 — Removal or destruction of signs

RS 56:112 — Disposal of birds or quadrupeds becoming a nuisance

may direct any officer authorized to enforce

the provisions of this Subpart, or any reputable citizen of this state, to take and dispose of such species of bird or quadruped in the manner and under the conditions specified by the secretary.

B. The commission is authorized to promulgate rules and regulations in accordance with the Administrative Procedure Act to permit the taking and disposal of any outlaw quadrupeds or outlaw birds when such quadrupeds or birds become so destructive of private or public property as to become a nuisance. Notwithstanding the provisions of R.S. 56:116.1(B)(1) or any other law to the contrary, the rules shall allow the taking of outlaw quadruped or outlaw birds by use of aircraft. The rules shall prohibit the sale of the animal or any part thereof. The taking of any outlaw quadruped or outlaw birds under this Section is for the purpose of taking depredating quadrupeds and birds and is independent from the taking of wild quadrupeds and wild birds under any other Section of this Title. Any person authorized to take any outlaw quadruped or outlaw bird under this Section shall be exempt from obtaining any other permits or licenses under this Title while engaged in taking such animals pursuant to this Section or any rules and regulations promulgated pursuant to this Section.

C. The commission is authorized to promulgate rules and regulations in accordance with the Administrative Procedure Act to establish a Nuisance Wildlife Control Operator Program. The program shall establish guidelines to permit individuals who offer commercial services for the control of nuisance wildlife. The fee for a nuisance wildlife control operator permit shall be fifty dollars.

RS 56:113 — Taking wild birds or game imported for experimentation or propagation

on for the purpose of experimentation or propagation except under the supervision and consent of the secretary.

RS 56:114 — Open season; curtailment by parish governing authority

n the parish, or any part thereof, when it becomes apparent that there is need of a closing or curtailment so that the game bird and game quadruped life may restock themselves by natural breeding.

B. Upon receipt of the application, if conditions indicate the need of adding protection for any game bird or game quadruped or all of them, the secretary may give written consent to the governing authority of the parish to adopt, in its discretion, an ordinance to close or curtail the open season for not more than one year, applicable to everyone, including the residents of the parish.

C. The closing or curtailment becomes effective only after notice of the adoption of the ordinance has been promulgated by the governing authority of the parish in the official parish journal once a week for four consecutive weeks prior to the regular annual open seasons for hunting. Annual special parish closed seasons on game birds and game quadrupeds commence on the legal date of the open season in each year.

RS 56:115 — Wild birds and wild quadrupeds; adoption of seasons, bag and possession limits; rules and regulations; penalties

, approve, and adopt seasons and bag and possession limits and to establish other rules and regulations for the hunting, taking, possession, or protection of any species or sex of wild quadrupeds and wild birds, in any specified locality or localities of the state. Such rules and regulations shall have the full force and effect of law to the same extent as statutory laws.

B. The commission may at any time declare any season closed or otherwise restrict hunting as it deems advisable in the interest of wildlife management.

C. The open season for taking migratory game birds and the bag limit and other rules and regulations affecting migratory game birds shall conform to federal regulations promulgated under the treaty between the United States and Great Britain for a period of years in the case of certain species. No person shall take, even at the time and in the manner specified and fixed by said department, or in the aggregate during the open season, a greater number of migratory game birds than specified under federal and state regulations.

D. Violation of any of the provisions of a rule or regulation adopted by the commission adopted pursuant to the provisions of this Section constitutes a class two violation, except where a higher class of violation is specified for a violation by some other provision of this Chapter.

RS 56:116 — Wild birds and wild quadrupeds; special hunting seasons

seasons in one or more

periods, separate from the regular open season established by the commission pursuant to R.S. 56:115, wherein deer may be hunted and taken with bow and arrow and crossbow. The commission may establish the following special deer hunting seasons: (1) a bow and arrow only season, and (2) a bow and arrow and crossbow season. The length of such special seasons and the area for hunting shall be determined by the commission.

C.(1) The commission may establish a special deer season for primitive firearms.

The taking of deer in such season shall be limited to persons who are licensed in accordance with the provisions of R.S. 56:3002. The commission shall adopt and promulgate rules and regulations governing such season, including the type and size of weapons used, licenses required, sex of deer to be hunted, and the areas included in the season. In addition to any other weapon restriction the commission may adopt, such rules and regulations shall provide that breech loading rifles with a caliber of .35 or larger may be used during primitive firearms season. The taking of deer during this season shall be limited to still hunting and may be allowed in all or some areas of the state where deer hunting is now or shall in the future be allowed.

(2) Notwithstanding any other provision of law to the contrary, during primitive firearms season any licensee may use a magnified scope on any weapon authorized for use during the primitive firearms season.

D.(1) The commission shall establish a special open deer hunting season for youth under eighteen years of age. The taking of deer in such a season shall be limited to a weekend prior to the opening weekend of the regular gun season in all of the applicable zones. Properly licensed resident and nonresident youths may participate in this special season. Any youth participating in the special youth hunting season shall be accompanied by one adult eighteen years of age or older, but only the youth may participate in the actual hunting. If the accompanying adult is in possession of a valid hunter safety certificate, or proof of successful completion of a hunter safety course approved by the department, a youth

under eighteen years of age shall not be required to have these items. However, if the accompanying adult is not in possession of these items, the youth shall be required to have in his possession either a hunter safety certificate or proof of successful completion of a hunter safety course approved by the department. A youth who is under the age of eighteen shall have in his possession a youth hunting license as required by law. The accompanying adult shall maintain visual and voice contact with the youth at all times.

(2) The commission may establish a special open deer hunting season for Louisiana residents who are honorably discharged veterans of the United States Armed Forces. The taking of deer in such a season shall be limited to a weekend prior to the opening weekend of the regular gun season in all of the applicable zones and shall run concurrently with the open deer hunting season for youth provided for in Paragraph (1) of this Subsection. In order to qualify for the veterans special season, a veteran shall hold and be in possession of either a basic hunting license and a deer license, a Sportsman's Paradise license, or an equivalent license that grants both basic hunting and deer privileges and shall be able to provide proof satisfactory to the department of such honorable discharge. The special open deer hunting season authorized pursuant to this Paragraph shall be applicable to hunting on private property only and shall not be applicable to any state-owned or federally owned or managed property.

RS 56:116.1 — Wild birds and wild quadrupeds; times and methods of taking; penalties

h all of the following:

- (1) In the open season.
- (2) With or without the aid of dogs, except on wildlife management areas and refuges owned or leased by the department and in those areas of the state wherein the aid of dogs is specifically prohibited by rules and regulations adopted by the commission.
- (3) By a licensee.
- (4) In accordance with the bag and possession limits set by the commission.
- (5) From one-half hour before official sunrise to one-half hour after official sunset.
- (6) With a bow and arrow, crossbow, rifle, handgun, pre-charged pneumatic device, falconry, or a shotgun not larger than a No. 10 gauge fired from the shoulder without a rest, except as otherwise provided in this Chapter.
- (7) In accordance with rules and regulations adopted and promulgated by the commission.
- (8) Use of a laser sight or sighting device which projects a beam of light to the target only by a person holding a physically challenged hunter permit, as authorized in R.S. 56:104.1, who has the impairment of visual functioning even after treatment and/or standard refractive correction, and has a visual acuity of equal to or less than 20/200 to light perception, or a visual field of less than ten degree from the point of fixation, as certified by a Louisiana licensed optometrist or ophthalmologist. Such hunter shall be accompanied by another licensed hunter and only the person holding the physically challenged hunter permit may discharge the firearm.

B. No person shall do any of the following:

- (1) Take game birds or wild quadrupeds while riding or standing in or upon a

moving land vehicle or aircraft.

(2) Hunt, shoot, or take, or attempt to hunt, shoot, or take, game birds or wild quadrupeds across a highway or road right of way, defined as from one side of a highway or road right of way to the other.

(3)(a) Take or kill any game bird or wild quadruped with a firearm fitted with an infrared sight, laser sight or except as provided in Paragraph (A)(8) or (D)(2) of this Section, any sighting device which projects a beam of light to the target or otherwise electronically illuminates the target, or any device specifically designed to enhance vision at night.

(b) Except as provided for in Paragraph (D)(3) of this Section, take or kill any game bird or wild quadruped with or by means of an automatic loading or hand operated repeating shotgun capable of holding more than three shells. Any shotgun capable of holding more than three shells shall be plugged with a one-piece filler incapable of removal through the loading end, so as to reduce the capacity of the gun to not more than three shells at one loading.

(4) Except as provided in Paragraph (A)(8) of this Section, take or kill any game bird or wild quadruped with a bow or crossbow or other archery equipment, which is equipped with an infrared or laser sight or any sighting device which projects a beam of light to the target or otherwise electronically illuminates the target.

(5) Take or kill on any calendar day during the open season, or in the aggregate during the open season, a greater number of migratory or resident game birds, protected birds, wild quadrupeds, or protected quadrupeds than that set and specified in the rules and regulations of the commission.

(6) Possess at any time any wild game bird or wild game quadruped or part thereof; or disturb or destroy any nest, or egg, or young of any such wild quadruped or wild bird, except as otherwise expressly provided in this Chapter.

(7) Possess at any time any wild game bird or wild game quadruped in a manner contrary to any of the provisions of R.S. 56:104 or R.S. 56:171 through 181 or any of the rules and regulations adopted pursuant thereto.

(8) Have in his personal possession in the field between the place taken and the domicile of the possessor more than the possession limit of game birds or wild quadrupeds, unless the game birds or wild quadrupeds are tagged with a tag indicating the species, the date and place taken, license number, and signature of the person who took the game birds or wild quadrupeds, indicating compliance with R.S. 56:115, 117, or 119 or any other provisions of this Chapter governing possession of game birds or wild quadrupeds, and any rules and regulations promulgated pursuant thereto.

(9) Take or kill any wild quadruped behind a rail or other object driven or pulled by a vehicle or other device, which practice is commonly known as mashing weeds.

(10) Hunt with firearms of any type or with bows and arrows after one-half hour after official sunset and before one-half hour before official sunrise; nor shall any person hunt with the aid of any artificial light at any time. This prohibition shall not affect night hunting of raccoons or opossums pursuant to Subsection C of this Section or of outlaw quadrupeds, nutria, or beaver pursuant to Subsection D of this Section. This prohibition shall not apply

to the ingress or egress by a hunter during nondaylight hours with the aid of a handheld light.

(11) Hunt or take squirrels or rabbits at any time with a breach loaded rifle larger than a standard .22 caliber rimfire, or a muzzle loaded rifle larger than .36 caliber. Nothing herein shall preclude the use of a shotgun or pistol.

(12) Intentionally feed, deposit, place, distribute, expose, scatter, or cause to be fed, deposited, placed, distributed, exposed, or scattered, raw sweet potatoes to wild game quadrupeds.

C.(1) No person shall take or hunt furbearing animals at night with artificial light.

It shall be lawful, however, for one or more licensed hunters with one or more dogs to hunt raccoons or opossums at night with lights, and to carry on such hunts for the purpose of taking raccoons or opossums not more than one standard .22 caliber rimfire firearm and to use single ball rimfire ammunition.

(2)(a) Farmers and landowners may hunt raccoons or opossums as provided by law with a .22 caliber rimfire rifle when the animals are found destroying crops of corn, sweet potatoes, watermelons, pecans, and other crops, with no bag limit any time of the year.

(b) Squirrels found destroying crops of pecans may be taken year-round by permit, which shall be valid thirty days from date of issuance. The permittee who is authorized to take squirrel may use a shotgun no larger than a 12 gauge and no smaller than a .410 gauge. The permittee shall delineate and the permit shall indicate the specific area in which this permit shall be valid. This permit shall be issued only by the department during normal working hours and may be obtained in person at the Baton Rouge office, at a district headquarters office, or at any other location designated by the department. There is no fee charged for the issuance of this permit.

(c) Notwithstanding the provisions of this Subsection to the contrary, any opossums, raccoons, nutria, otters, muskrat, mink, or beaver that are found destroying crawfish in a private pond primarily used for the purpose of commercially cultivating crawfish or destroying the structure of such pond may be taken as provided by law by the crawfish farmer or landowner with either a rimfire rifle no larger than a .22 caliber or a shotgun no larger than a 12-gauge using nontoxic shot no larger than BB-sized from a boat or vehicle with no bag limit any time of the year during daytime or nighttime hours.

(3) There shall be no recreational bag limit on raccoon or opossum hunting during the open trapping season; however, the commission shall establish a recreational bag limit for such hunting during that period of the year when the trapping season is closed. No one shall sell the skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid commercial trapper's license. However, carcasses of raccoons and opossums taken by the holder of a commercial trapper's license on the last day of trapping season may be pelted or sold on the day immediately following the close of the season.

(4) It shall be legal for a licensed hunter to take raccoon or opossum during daylight hours during the open rabbit season.

(5) No person shall take or hunt raccoons or opossums from a boat or vehicle.

(6) The Wildlife and Fisheries Commission may adopt and promulgate rules and

regulations that provide for the recreational taking of nutria. Such rules and regulations shall provide for the open season, methods of taking, hours for taking, and the bag and possession limits. Such rules and regulations shall in no way authorize the taking of nutria on privately owned land without the express permission of the landowner and shall prohibit the sale of nutria skins or carcasses except by the holder of a valid trapping license or by a licensed fur buyer or fur dealer.

D.(1) Outlaw quadrupeds, nutria, or beaver may be taken at any time of year from one-half hour before official sunrise to one-half hour after official sunset, without limit as to number, except by trapping during the closed season for nongame quadrupeds; however, such trapping may be used only under special permit issued by the department, except such trapping of outlaw quadrupeds may be used without special permit in accordance with rules and regulations promulgated by the commission.

(2) On private property, the landowner, or his lessee or agent with written permission and the landowner's contact information in his possession, may take outlaw quadrupeds, nutria, or beaver during nighttime hours. However, no person shall be allowed to participate or be present during nighttime hunting activities if convicted of a class three or greater wildlife violation within the previous five years or if he has any other prohibition which would prevent the legal use of a firearm or participation in a hunting activity. Such taking may be with or without the aid of artificial light, infrared or laser sighting devices, or night vision devices. Any person attempting to take outlaw quadrupeds, nutria, or beaver under the provisions of this Paragraph shall notify the sheriff of the parish in which the property is located of his intention to attempt to take outlaw quadrupeds, nutria, or beaver within twenty-four hours prior to the attempted taking or immediately upon taking the animal.

(3) On private property, outlaw quadrupeds may be taken with or by means of an automatic-loading or hand-operated repeating shotgun capable of holding more than three shells when using buckshot or rifled slug ammunition.

(4) Notwithstanding Paragraph (B)(1) of this Section, on private property, outlaw quadrupeds may be taken while riding or standing in or upon a moving land vehicle.

E. Bowhunters may carry any caliber of firearm on their person while hunting with a bow. The provisions of this Subsection shall in no way be interpreted to limit the ability of the department to regulate hunting activities in a wildlife management area in accordance with R.S. 56:109.

F. Each taking of a migratory or resident game bird, protected bird, game quadruped, or protected quadruped in excess of the limit as set and specified in the rules and regulations of the Louisiana Wildlife and Fisheries Commission, and each taking of such a migratory or resident game bird, protected bird, game quadruped, or protected quadruped in the closed season, constitutes a separate offense under the provisions of this Subpart.

G. Except where expressly stated to the contrary, the provisions of this Section shall apply to the taking or possession of deer, bear, and turkey. Where a specific prohibition and penalty relating to the taking or possession of deer, bear, or turkey has been provided in R.S. 56:116.3 or 116.4, the provisions of R.S. 56:116.3 or 116.4, as applicable, shall govern.

H. Violation of any of the provisions of this Section shall constitute a class three

violation.

RS 56:116.2 — Wild birds and wild quadrupeds; sales, purchases of parts prohibited; exceptions

hange any game quadruped, or any part or portion thereof, wild bird, or the plumage, aigrettes, skin, or body thereof, except as provided in R.S. 56:171 through 181 and except as provided in Subsection B of this Section. Each sale, purchase, trade, barter, or exchange or attempt to sell, purchase, trade, barter, or exchange of each game quadruped or wild bird, or any part or portion thereof, constitutes a separate offense under the provisions of this Subsection.

(2) Violation of the provisions of Paragraph (1) of this Subsection, except for the sale, purchase, trade, barter, or exchange or attempt to sell, purchase, trade, barter, or exchange of squirrels or wild rabbits or their parts, constitutes a class 5-A violation. If a violation of Paragraph (1) involves the sale, purchase, trade, barter, or exchange or attempt to sell, purchase, trade, barter, or exchange of squirrels or wild rabbits, or parts or portions thereof, the penalty imposed shall be a class three violation.

B. The provisions of Subsection A of this Section shall not prevent the sale, purchase, trade, barter, or exchange or attempt to sell, purchase, trade, barter, or exchange of tails or hides, or both, of legally taken squirrels or the sale, purchase, trade, barter, or exchange or the attempt to sell, purchase, trade, barter, or exchange of hides of legally taken deer to licensed fur buyers and licensed fur dealers, provided that the sale, purchase, trade, barter, or exchange or attempt to sell, purchase, trade, barter, or exchange of any such tails or hides is made within ten days of the close of the squirrel or deer hunting season, as applicable. Fur buyers shall dispose of any such tails or hides within thirty days of the close of the squirrel or deer hunting season, as applicable. Any fur dealer having such tails or hides in his possession after the close of the squirrel or deer hunting season, as applicable, shall file with the department within thirty days of the close of said season, and at sixty-day intervals thereafter, a complete report, under oath, on forms procured from the department. The report shall contain the name and address of all persons from whom the tails or hides were purchased, traded, bartered, or exchanged and the place and date of purchase, trade, barter, or exchange. Violation of the provisions of this Subsection constitutes a class three violation.

C. The provisions of this Section shall not apply to deer antlers or to any unclaimed specimen left in the possession of a taxidermist, provided that he meets the requirements of R.S. 9:192.

RS 56:116.3 — Special provisions applicable to deer and bear; times and methods of taking;

at any time with a firearm smaller than a .22 caliber

centerfire, or a shotgun using a shell loaded with shot less than buckshot or rifled slug, or a bow with less than thirty pounds of pull, or other than arrows with broadhead points.

(b) Hunt or shoot deer while on a highway or road right of way, or stand, loiter, hunt, or shoot game quadrupeds or game birds while on a highway or road right of way that is maintained by the federal government, the state government, the state, or any parish, with a gun during open season.

(c) Take deer while deer are swimming or while the hunter is in a boat with motor attached in operating position; however, the restrictions in this Paragraph shall not apply to any person who has lost one or more limbs.

(d) Take or possess spotted fawn or parts thereof, except in accordance with the provisions of R.S. 56:105(A) and 171(A).

(2) Violation of any of the provisions of this Subsection, except Paragraph (1)(d), constitutes a class two violation. Violation of the provisions of Paragraph (1)(d) constitutes a class 5-A violation.

B. A licensee having a disability which totally and permanently prevents his using a long bow or other conventional archery equipment, as first certified by a medical doctor duly licensed to practice medicine in this state, and having an approved permit from the department, shall be permitted to take legal deer with a crossbow or a bow that is drawn,

held, and released by mechanical means, and the taking of deer with a crossbow or a bow that is drawn, held, and released by mechanical means shall be permitted in the season in which deer may be taken by rifle, or a handgun, or a shotgun not larger than a No. 10 gauge, as well as in the special deer hunting season provided in R.S. 56:116. Magnified scopes may be used with crossbows.

C.(1) No person shall possess any of the following:

(a) Illegally taken deer or bear.

(b) Freshly killed deer or bear in the closed season.

(2) Violation of any of the provisions of this Subsection constitutes a class four violation.

D. No person shall hunt or take illegal deer or bear in the open season. Violation of this Subsection constitutes a class 5-A violation.

E. No person shall hunt or take deer or bear in the closed season. Violation of this Subsection constitutes a class six violation.

F. No person shall hunt or take deer from one-half hour after official sunset to one-half hour before official sunrise. Violation of this Subsection constitutes a class six violation

and, in addition, the violator may lose all hunting privileges for a period of not more than five years.

G. A licensed hunter or tracker may pursue a deer that was legally shot and mortally wounded and dispatch the deer if the deer is found alive. Except in wildlife management areas, the licensed hunter or tracker pursuing the mortally wounded deer may utilize lights and a blood-trailing or tracking dog. No more than one dog may be used per tracking party in pursuit of the wounded deer; however, a second dog may be utilized for the purpose of deer retrieval training. Tracking dogs shall be on a handheld leash or utilize a GPS tracking collar. Any mortally wounded deer discovered alive after legal hunting hours may be dispatched by the licensed hunter or tracker by using a centerfire handgun with a barrel no longer than six inches and caliber no larger than .45 or smaller than .25. The licensed hunter or tracker may pursue a mortally wounded deer onto private property only if the licensed hunter or tracker has received verbal or written permission from the landowner.

H. Deer may be taken with pre-charged pneumatic devices only in accordance with the following:

(1) Pre-charged pneumatic devices must fire a projectile of at least thirty caliber in diameter and at least one hundred fifty grains in weight with a minimum muzzle velocity of eight hundred feet per second or any combination of bullet weight and muzzle velocity that produces muzzle energy of at least two hundred fifteen foot pounds of energy.

(2) Arrows or bolts used with a pre-charged pneumatic device shall conform to the same standards and requirements as provided for in this Section and may be used to hunt deer only during modern firearm deer season.

I.(1) No person shall hunt or take bear without a bear hunting license and a bear harvest permit. The commission shall promulgate and adopt rules and regulations to establish a lottery for the selection and issuance of bear harvest permits. There shall be a fifty-dollar nonrefundable entry fee for bear harvest permit lottery applications. Bear harvest

permits and tags may be issued to successful and eligible lottery applicants at no cost.

(2) In addition to the lottery provided for in Paragraph (1) of this Subsection, the secretary may provide for the issuance of a single bear harvest permit to be subject to auction by the department, or by an incorporated nonprofit organization dedicated to the conservation of fish and wildlife resources, as determined by the department, which may be sold to the highest eligible bidder.

(3) All revenues derived from lottery applications and auction proceeds shall be deposited into the black bear account created within the Conservation Fund through the provisions of R.S. 56:10(B)(9) and be used exclusively for managing, conserving, restoring, and enhancing black bear in Louisiana.

RS 56:116.4 — Special provisions applicable to turkey; times and methods of taking; penalties

from the shoulder without a rest, and by no other means whatsoever.

(2) No person shall hunt or take turkey by the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds.

(3) No person shall hunt, trap, or take turkey by the aid of baiting, or on or over any baited area. As used in this Subsection, "baiting" shall mean the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for such birds a lure, attraction, or enticement to, on, or over any areas where hunters are attempting to take them; and "baited area" means any area where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed whatsoever capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such area shall remain a baited area for fifteen days following complete removal of all such corn, wheat or other grain, salt, or other feed. Wildlife agents shall be authorized to close such baited area and to place a sign or signs in the immediate vicinity designating the closed zone and dates of closure. However, nothing in this Paragraph shall prohibit:

(a) The taking of turkey, on or over standing crops, grain crops properly shucked on the field where grown, or grains found scattered solely as the result of normal agriculture planting or harvesting; and

(b) The taking of turkey, on or over any lands where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed has been distributed or scattered as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes; however, manipulation for wildlife management purposes shall not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown.

(c) The taking of turkey when the person is more than two hundred yards from a baited area.

(4) Violation of the provisions of this Subsection constitutes a class three violation.

B.(1) No person shall possess any of the following:

(a) An illegally taken turkey.

(b) A freshly-killed turkey in the closed season.

(2) Violation of any of the provisions of this Subsection constitutes a class four violation.

C.(1) No person shall hunt or take any of the following:

(a) Turkeys from one-half hour after official sunset to one-half hour before official sunrise.

(b) Illegal turkeys in the open season.

(2) Violation of any of the provisions of this Subsection constitutes a class 5-A violation.

D. No person shall hunt or take turkeys in the closed season. Violation of this Subsection constitutes a class six violation.

RS 56:116.5 — Computer-assisted remote hunting prohibited; penalties

allow others to engage in computer-assisted remote hunting. No person shall take, possess, or assist in the taking of any animal by means of computer-assisted remote hunting, regardless of the location of the animal.

B. For purposes of this Section "computer-assisted remote hunting" means the use of a computer or other device, equipment, or software to remotely control the aiming and discharging of a firearm or weapon that allows a person not physically present at the location of that firearm or other weapon to hunt or shoot an animal.

C. Any person who violates any provision of this Section is guilty of a class six violation.

RS 56:116.6 — Sound suppressors

o, Firearms and Explosives, may use a firearm fitted with a sound suppressor when taking game birds, wild quadrupeds, outlaw quadrupeds, nutria, or beaver as provided by R.S. 56:116.1. Any person who has been convicted of a class four or greater hunting violation for a period of five years after the date of such conviction shall not use a firearm fitted with a sound suppressor pursuant to this Section. Possession or use of a sound suppressor by a person other than as permitted by this Section shall be considered in violation of this Section and shall be punished as a class six violation in accordance with the provisions of R.S. 56:36.

RS 56:117 — Possession limits; game birds; transportation of game birds; tags

mitted by law or commission regulation to be taken. However, no one person shall have in his possession at any one time or anywhere more than the number of such game birds which he may be lawfully entitled to take in two days. Such fact is prima facie evidence of violation of this Chapter. No licensee shall transport, cause to be transported, attempt to transport, or tender or deliver for transportation to another person or any agent thereof, nor shall any of them accept for transportation or transport any game birds beyond the limits of the state without a special permit issued by the secretary. However, a nonresident licensee may take with him beyond the limits of the state, tagged as provided for in this Section, an aggregate of no more of any kind of such game birds than the licensee may lawfully take in two days. No common carrier or agent thereof shall receive for transportation or transport any migratory or resident game birds unless the same or the package, container, or receptacle, open or closed, containing the game birds, has thereon or attached thereto a tag or tags having the actual signature and license number of the licensee who took the same, the number and species of the birds, the date and place taken, the name of the consignor and of the consignee, and the initial points of shipment and ultimate destination.

B. No person shall attach to any such game bird, or to any package, container, or receptacle containing it, a tag which to his knowledge is false in the statement of any particulars in this section required to be set forth thereon, nor have in his possession any such game birds or any such package to which is attached any tag which to his knowledge is false in any of the particulars aforesaid. No person shall tender or deliver to another person for transportation within or beyond the borders of this state any migratory or resident game birds to which, or to the package, container, or receptacle which contains the same, there is attached a tag as aforesaid, which to the knowledge of that person is false in any of the particulars in this section required to be stated thereon.

RS 56:118 — Migratory game bird violations

enhance the efforts of the Department of Wildlife and Fisheries to promote the wildlife laws of the state, to aid in the apprehension and prosecution of violators of the state's wildlife laws, to promote public interest and involvement in the prevention of violations of the wildlife laws, and to increase the efficiency of efforts to protect and preserve one of the state's most valuable assets. This Section is also enacted to create an effective and expedient system to handle violations, prosecutions, and adjudications of violations of the Migratory Bird Treaty Act of 1972, as amended.

B. Notwithstanding any other provision of law to the contrary, any violation of the Migratory Bird Treaty Act of 1972, as amended, shall be a violation of the provisions of this Section and shall be enforced as such.

C. Except for failure to sign a federal duck stamp and failure to possess a valid federal duck stamp, any violation of the provisions of this Section shall constitute a class four violation and shall be enforced according to the provisions of R.S. 56:34. The penalty for failure to possess a federal duck stamp or for failure to sign a federal duck stamp shall constitute a class two violation and shall be enforced according to the provisions of R.S. 56:32.

D. Of the revenues received through the collection of fines imposed for violations of this Section, after deposit in the Bond Security and Redemption Fund, an amount equal to fifty percent shall be credited to the conservation fund to be used solely for costs associated with the salaries and related benefits of the Department of Wildlife and Fisheries enforcement agents and the purchase of equipment needed by such agents. The remaining fifty percent of the revenues received through the collection of fines imposed for violations of this Section shall be deposited in the criminal court fund of the parish in which the violation occurred.

RS 56:119 — Possession of game birds after close of open season

possess in any year any migratory or resident game bird permitted hereby to be taken or possessed in the open season or have in his possession at any time any other kind of wild bird protected hereby. The legal possession limits of resident game birds and game quadrupeds may be possessed during the closed season, if they have been legally taken during open season.

RS 56:120 — Storage of game birds or quadrupeds; tags

see, any migratory or resident game bird or game quadruped, except as permitted by R.S. 56:171 through 56:181 and then only if tagged as provided in R.S. 56:117 and only if also there is written or stamped on such tag the true date the item was received in storage.

B. A report, upon forms furnished by the department, shall be made ten days after the close of each season of wild game birds and wild game quadrupeds in storage, giving the name and address of persons storing same, the quantity stored, and date of storage. These records shall be open at all times for inspection by representatives of the department.

RS 56:121 — Traps, cages, etc., for taking wild birds; confiscation; exception for destructive blackbirds

56:104, no person shall at any time use or set a trap, cage, snare, net, or device for the purpose of taking wild birds.

Wildlife agents and other officers empowered to enforce the provisions of this Subpart may confiscate and destroy all traps, nets, snares, and other devices which they may find set or being used for the purpose of taking wild birds, and may liberate any wild birds found possessed contrary to the provisions of this Subpart.

B. Blackbirds which become destructive of crops on private property may be trapped and destroyed by the property owner or by another person with the permission of the property owner.

C. Violation of this Section constitutes a class three violation.

RS 56:121.1 — Traps; wild quadrupeds

ine.

B. Violation of this Section constitutes a class two violation.

RS 56:122 — Carrier pigeons, killing or catching when banded prohibited; penalty

d, a racing (homing, or carrier) pigeon, which has on its legs a seamless metal band bearing a name, letter, or number.

Whoever violates this Section shall be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned for not less than ten days nor more than thirty days, or both.

RS 56:123 — Repealed by Acts 1992, No. 966, §2.

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RS 56:124 — Repealed by Acts 1992, No. 966, §2.

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RS 56:124.1 — Dogs; regulation of; police juries

be exercised by the police jury whenever, in the opinion of the police jury, such regulation, restriction or prohibition is necessary for the protection of wildlife.

RS 56:125 — Possession of game quadrupeds; tags; deer carcasses

ubpart to be taken or possessed by him;

but should he have in his personal possession at any time or anywhere more than the possession limit of such game quadrupeds, that fact is prima facie evidence of the violation of the provisions of this Subpart unless each such game quadruped in excess of the possession limit is tagged showing the species of game quadruped, the actual signature and license number of the licensee who took the same, and the date and place taken.

B. Positive evidence of sex identification, including the head or sex organs, shall

remain on any deer taken or killed within the state of Louisiana, or on all turkey taken or killed during any special gobbler season when killing of turkey hens is prohibited, so long as such deer or turkey is kept in camp or field, or is en route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has thus become identifiable as food rather than as wild game. Deer and turkey may be divided in camp or field but, in the event of such division, each portion shall be identified by the name, address, and license number of the person killing it and the sex of the animal; however, it is not necessary to affix the license number as required above to portions cut from the carcass immediately prior to their being consumed in camp. Evidence of sex identification of deer shall only be required to be maintained until the deer tag is validated.

RS 56:126 — Wildlife Rehabilitation Program; exemption

vity certain sick, injured, or orphaned

wildlife while providing care for such wildlife for a period of up to ninety days as provided for in this Section:

(1) Wildlife included under this Section shall be limited to the following species:

squirrel, opossum, rabbit, or chipmunk, with such possession limited to one animal or litter of animals per individual.

(2) A raccoon or skunk that is sick, injured, or orphaned may also be possessed pursuant to the provisions of this Section upon notification to the Department of Wildlife and Fisheries of possession of the wildlife and upon receipt of information regarding rabies vector species and a list of available wildlife rehabilitators.

(3) Individuals in possession of any of these animals shall be held strictly liable for any damages for injuries to persons or property caused by the animal.

B. To continue to possess the wildlife beyond ninety days from finding the sick, injured, or orphaned wildlife, all of the following shall occur:

(1) The individual has satisfied wildlife rescuer training requirements. The curriculum shall be offered online and shall cover at a minimum safety considerations, wildlife husbandry requirements, transfer of diseases, and notice that a person possessing an animal pursuant to this Section is held strictly liable for any damage or injury that the animal causes.

(2) The individual applied for a Special Purpose and Possession permit.

(3) A Louisiana licensed veterinarian has determined that the animal is medically nonreleasable or exhibits signs of adjusted life in captivity.

C.(1) If the conditions of Subsection B of this Section have been met, the Department of Wildlife and Fisheries shall issue a Special Purpose and Possession permit, and the individual shall be able to continue to possess the animal for the duration of its natural life.

(2) Any animal possessed pursuant to the provisions of this Section shall be spayed or neutered. Rabies vector species shall also be microchipped by a Louisiana licensed veterinarian.

D. A Louisiana licensed veterinarian shall not be liable to any person for any injury,

illness, death, loss, civil penalty, or damage as a result of any act or omission in determining that the animal is medically nonreleasable or exhibits signs of adjusted life in captivity as required by the provisions of this Section. However, this limitation of liability shall not be applicable if the damage, injury, or loss was caused by the gross negligence or willful or wanton misconduct of the licensed Louisiana veterinarian.

E. It shall be unlawful for an individual exempted under the provisions of this Section to use the wildlife in any manner for the purposes of exploitation, including for any promotional or commercial purpose, or for the purposes of pet trade. Any such act shall be grounds for seizure of the wildlife by the department and revocation of any issued permit.

F. The Wildlife and Fisheries Commission shall adopt rules pursuant to the Administrative Procedure Act to implement the provisions of this Section.

RS 56:127 — Confiscation of illegal traps or snares and quadrupeds taken thereby

snare, explosive, gun, or other material evidence found by him placed or set contrary to the provisions of this Sub-part, and confiscate and hold for evidence all quadrupeds, the pelts, skins, and parts thereof found by him to have been taken or possessed contrary to the provisions of this Sub-part, and hold the same subject to disposition by general or special order of the director.

RS 56:128 — Falconry

imum federal falconry standards as prescribed by the United States Department of the Interior, Fish and Wildlife Service. A current basic hunting license or permit shall be required to practice the sport of falconry. No falconry permit shall be issued to any applicant under sixteen years of age.

RS 56:136 — Jurisdiction where offense committed in river between two parishes or in Gulf of Mexico

has territorial jurisdiction if otherwise competent as herein provided; if committed in any lake, bay, inlet, or other body of water bound by more than one parish, any court in any parish bordering on such waters has territorial jurisdiction if otherwise competent as herein provided.

If any offense is alleged to have been committed in the Gulf of Mexico within the waters of the state, any court in any parish bordering on the Gulf has territorial jurisdiction if otherwise competent as provided herein.

RS 56:139 — Criminal penalty

he third offense, the license under which said violation occurred shall be revoked and shall not be reinstated at any time during the period for which it has been issued and for one year thereafter. The jail sentences herein provided shall be mandatory except for the first and second offenses, which shall be at the discretion of the court, and no sentence or fine shall be suspended for any cause or reason whatever, nor shall any diminution of any sentence be granted or allowed for good behavior or otherwise.

B. Upon conviction for any offense for which a penalty is provided by Subsection (A) hereof or by any other provision of this Subpart, and in addition to such penalty, the court may suspend or revoke the offender's hunting and/or fishing license and any or all privileges to hunt or to fish in this state that may be granted under any law or color of law whenever, in the judgment of the court, the circumstances warrant suspension or revocation, and in such case the suspension or revocation shall be for a period not to exceed the period for which the license was issued plus one year thereafter.

RS 56:140 — Foxes; bobcats

ongame quadrupeds provided by R.S. 56:260. In such event foxes may be taken by any legal means unless otherwise restricted by law or regulation.

B. It shall not be unlawful for any person to allow his dogs to run or chase foxes or bobcats at any time of the year, except on wildlife management areas and wildlife refuges and except from one-half hour before sunrise to one-half hour after sunset in any area of the state where a still hunting season for deer is in progress as established by rules and regulations of the commission, provided no such person shall take, trap, or kill any fox or bobcat by the use of firearm, or any other

weapon, trap, or mechanical device in connection therewith.

C. Violation of this Section constitutes a class two violation.

RS 56:141 — Training of dogs during closed season; taking of certain pen-raised birds for the purposes of field trials and hunting dog training

to train their dogs, any breed or species, during the closed season. During such training sessions, said trainer or handler may carry handguns and may discharge only blank ammunition, but cannot take or kill game quadrupeds or game birds of any type or kind, except raccoons. This Section shall not apply in any manner to raccoon hunters who may pursue their sport at any time, nor to persons taking pen-raised quail or pen-raised mallards under the provisions of Subsections B and C hereof.

B. The Louisiana Department of Wildlife and Fisheries is hereby empowered to authorize by permit the taking of pen-raised quail or pen-raised mallards during other than the open season for hunting for the purpose of field trials, upon application of any recognized field trial association. In order to obtain a permit to take pen-raised quail or pen-raised mallards as authorized by the provisions of this Subsection, applicants therefor must be recognized field trial associations. Applicants shall apply to the Louisiana Department of Wildlife and Fisheries for the permit and the department may then issue the permit subject to rules and regulations as it may deem necessary to protect the wildlife of the state.

C. The Louisiana Department of Wildlife and Fisheries is hereby empowered to authorize by permit the taking of pen-raised quail or pen-raised mallards during other than the open season for hunting for the purpose of training hunting dogs. Applicants shall apply to the Louisiana Department of Wildlife and Fisheries for the permit and the department may then issue the permit subject to rules and regulations as it may deem necessary to protect the wildlife of the state.

RS 56:142 — Catahoula lake area; operation of mud boats for purpose of hunting or fishing prohibited

boats for the purpose of fishing or hunting, and particularly for the hunting of wild geese and ducks, and for the purpose of constructing duck blinds on the Catahoula Lake is hereby prohibited.

B. Violation of the provisions of this Section constitutes a class two violation.

C. The Wildlife and Fisheries Commission or its agents shall enforce the provisions of this Section.

RS 56:143 — "Hunter orange" or "blaze pink" display by hunters with guns

or a centerfire rifle shall display on his head, chest, or back a total of not less than four hundred square inches of material of a daylight fluorescent orange color known as "hunter orange" or a daylight fluorescent pink color known as "blaze pink". Persons hunting on privately owned, legally posted land may wear a cap or a hat that is completely covered with hunter orange or blaze pink material in lieu of the foregoing requirement to display four hundred square inches of hunter orange or blaze pink. These provisions shall not apply to persons hunting deer from elevated stands on property which is privately owned and legally posted, or to archery deer hunters hunting on legally posted land where firearm hunting is not permitted by agreement of the owner or lessee.

B. Violation of this Section constitutes a class one violation.

RS 56:144 — Repealed by Acts 1993, No. 188, §2.

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RS 56:151 — Purpose

p, and Print Program is created as a means of funding approved projects through sale of a migratory waterfowl license, hereinafter known as the "duck license", and sale of duck stamps and prints.

RS 56:152 — Repealed by Acts 2010, No. 100, §2.

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RS 56:153 — Design, marketing, and sale of duck stamps and prints

f an artist and the manner of reproduction, distribution, marketing and sale of such stamps and prints. Purchase of such stamps and prints shall not authorize the purchaser to hunt, take, possess, or transport ducks in the state of Louisiana. The secretary is hereby authorized to sell such stamps and prints by the method he deems to be most beneficial to the department, including public or private auction or direct sale to an individual, group, or organization. The department shall retain exclusive ownership and production rights to the design for reproduction of duck stamps and prints to sell to hunters, collectors, and other interested persons. Upon completion of this process, the original artwork shall be returned to the artist.

RS 56:154 — Repealed by Acts 2010, No. 100, §2.

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RS 56:161 — Repealed by Acts 2010, No. 100, §2.

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RS 56:162 — Repealed by Acts 2010, No. 100, §2.

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RS 56:163 — Repealed by Acts 2010, No. 100, §2.

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RS 56:171 — Wildlife; business of raising and selling; breeder's license

deer native to North America; squirrels, rabbits, or other wild game quadrupeds; pheasants, quail, doves, or other domesticated wild game birds; domesticated wild waterfowl, resident or migratory; or their parts, on breeding farms or propagating preserves of which he is the owner or lessee, shall apply to the secretary for a license to do so. Provided that commission requirements have been satisfied, including payment of a fee of fifty dollars, a license shall be issued permitting the applicant to breed and propagate such animals and sell them alive, or in the case of domesticated wild game birds, to sell their parts and to kill and transport them and sell their carcasses for food, as hereinafter provided in this Subpart.

B. The state license expires at midnight on the last day of each December.

C. In the case of a breeder of wild migratory game and other birds, the applicant shall have received a like license from the federal government under the Migratory Bird Treaty Act.

D. Violation of any of the provisions of this Section constitutes a class two violation.

RS 56:172 — Killing of birds or animals; sale; trapping regulations; exporting live specimens

ept that domesticated species of wild game birds or wild waterfowl, killed by shooting, shall not be bought, sold or traded under the provisions of this Subpart.

B. Wild nongame quadrupeds raised on such licensed breeding farms or preserves may be taken for their pelts only in the open seasons, as prescribed by law. Special parish closed seasons do not apply to such licensed breeders or propagators.

C. Any licensed breeder, after receiving a shipping permit furnished by the department on application, may ship live specimens outside the state for breeding, scientific,

or educational purposes.

D. Any licensed breeder may possess or sell such animals or birds for food as hereinafter set forth in this Subpart.

RS 56:173 — Transportation of birds or animals killed; tags; sale of carcass

d, or offered for sale unless each quarter and each loin of each carcass of the animal and the carcass of each bird, or each consignment of feathers, is tagged with an indestructible tag or seal, to be furnished by the department at cost. The quarters, loins, and carcasses, when tagged as aforesaid, may be possessed, sold, or offered for sale at any time.

B. No person shall sell any portion of or sell the carcass of such animal or bird which shall not at all times have affixed thereto the tag or seal. However, the keeper of a hotel, restaurant, boardinghouse or club, or a retail dealer in meat, may sell portions of a quarter or loin of any such domesticated pheasant, quail, duck, goose or other domesticated wild game bird or domesticated wild waterfowl, tagged or sealed as aforesaid, to a patron or a customer for actual consumption, without a license being required.

RS 56:174 — Shipment of carcasses or parts thereof; tag or label

rcasses or parts thereof shall be affixed a tag or label, upon which shall be plainly printed or written the name and license number of the person to whom the breeder's license was issued who is thus transporting; the number of carcasses or portions thereof contained therein; and a statement that the animals or birds were killed and tagged in accordance with the provisions of this Sub-part.

RS 56:175 — License for sale of birds killed and tagged

and then only if the breeder's tags or seals remain affixed as aforesaid until the portions or carcasses of the birds have been wholly consumed.

B. No person shall sell any portion of such birds provided for in this Subpart which does not at the time have affixed thereto the tag or seal. However, the keeper of a hotel, restaurant, boardinghouse, or club, or a retail dealer in meat, may sell portions of the carcasses of such birds so tagged or sealed to a patron or customer for actual consumption without a license being required.

RS 56:176 — Report of birds or animals killed and sold

tate the total number of each such animal or bird provided for in this Subpart, or the parts thereof, killed, sold, or transported, under the provisions of this Subpart. A second report shall be made on or before October 15 of each year covering the period from April 1 to September 30. The reports shall set forth the name of the person to whom the animals or birds were sold or transported and shall be verified by the affidavit of the licensed breeder, or if the license was issued to a corporation, by an officer thereof.

RS 56:177 — Fencing farms or preserves

f a pattern to be approved by the secretary.

RS 56:178 — Ownership of birds and animals on fenced breeding area; trespass

bird or parts thereof shall have a property right therein and shall be the owner thereof. Whoever enters the game farm or preserve or catches, takes, or molests such animals or birds when the area has been posted or fenced according to law shall be punished as though the animals or birds were ordinary domestic animals and birds subject to the common property rights of the state.

RS 56:179 — Repealed by Acts 1974, No. 717, §4

on Rouge, Louisiana 70804-9062

RS 56:180 — Revocation of license

ts 1974, No. 717, §1; acts 1981, No. 736, §1.

RS 56:181 — Penalty for violation of Sub-part

an one hundred dollars, or imprisoned for not more than thirty days, or both.

RS 56:192 — Purpose

life management areas, refuges and recreation areas under its jurisdiction by stimulating the application of sound wildlife management practices by providing recommendations to private landowners or lessees producing and maintaining suitable food, water, and cover conditions favorable to the support, replenishment, and propagation of the wildlife of the state.

RS 56:193 — Wildlife biologists; duties; qualification

are funded by the legislature to carry out the provisions of this program.

B. Biologists appointed pursuant to Subsection A shall be permanent status commissioned employees of the commission, shall administer Louisiana Acres for Wildlife by supplying environmental assistance to qualified landowners or lessees on an annual basis to improve the habitat for wildlife in the state. This assistance may include, but is not limited, to providing seed packages and plant bundles for planting and educational instruction and wildlife habitat evaluation surveys to qualified landowners or lessees. This program shall include dissemination of instructional material in an endeavor to guarantee that certain land throughout the state shall be utilized for wildlife habitats.

C. The Louisiana Acres for Wildlife program shall use its resources to:

- (1) Instruct and train qualified personnel as to the policies and procedures for administering the program.
- (2) Supply personnel, farmers, landowners, lessees, and cooperating agencies with pertinent brochures, handouts, and other information containing management techniques and applications.
- (3) Properly suggest and prepare wildlife management recommendations.
- (4) Develop and maintain a close working relationship with other state and federal agencies that have similar or corresponding programs directly or indirectly affecting private land development and management.

D. To be eligible to participate in this program, a plot of land shall be at least one acre in size and be utilized as either farmland, wetland, woodland, or pasture. This program is entirely voluntary, and landowners and other participants who choose to participate in this program shall agree that plots shall be maintained and management practices on such lands shall be continued for at least one year. Land within parks and outdoor recreation areas, and public wildlife management areas, refuges, and other publicly owned lands where wildlife management has already been implemented are ineligible to participate in this program. Qualification for participation in this program shall be determined by rules and regulations promulgated by the commission not inconsistent with law.

RS 56:251 — Licenses; possession limit for nonresident alligator hunter; deposit as guarantee of

per, alligator hunter, fur
buyer, and fur dealer:

(1) Every resident fur trapper, eighteen years of age or older, before commencing the business of trapping furbearing animals, shall secure annually from the department a trapper's license, which shall be furnished upon the payment of forty dollars. Every resident fur trapper under the age of eighteen years, before commencing the business of trapping furbearing animals, shall secure annually from the department a recreational youth hunting license. Every nonresident fur trapper, before commencing the business of trapping furbearing animals, shall secure annually from the department a nonresident trapper's license, which shall be furnished upon the payment of one hundred sixty dollars. Every resident and nonresident fur trapper must at all times have this license in possession while trapping or selling pelts or animals. The secretary of the department is hereby authorized to enter into reciprocal agreements with any state with respect to nonresident license fees for the trapping of furbearing animals.

(2)(a)(i) Every resident alligator hunter shall before commencing business procure annually from the department a resident alligator hunting license, which shall be furnished upon payment of twenty-five dollars, and the filing of an application approved by the

department. Every nonresident alligator hunter shall before commencing business procure annually from the department a nonresident alligator hunter license, which shall be furnished upon the payment of one hundred fifty dollars, and the filing of an application approved by the department. Every resident and nonresident alligator hunter must at all times have this license in possession while hunting or taking alligators.

(ii) Repealed by Acts 2019, No. 305, §2.

(iii) All regulations and licensing procedures pertaining to the taking, possessing, and shipping of all alligators, raw alligator skins, and alligator parts shall be established by the department.

(b) Repealed by Acts 1999, No. 73, §1.

(3) Every resident fur buyer shall, before commencing business, procure annually from the department a resident fur buyer's license, which shall be furnished upon the payment of fifty-five dollars and the filing of an application approved by the department.

(4) Every nonresident fur buyer shall before commencing business procure annually from the department a nonresident fur buyer's license, which shall be furnished upon the payment of two hundred fifteen dollars, and the filing of an application approved by the department. Every resident and nonresident fur buyer must at all times have this license in possession while operating his business.

(5) Every resident fur dealer shall, before commencing business, procure annually from the department a resident fur dealer's license, which shall be furnished upon the payment of four hundred dollars and the filing of an application approved by the department.

(6) Every nonresident fur dealer shall before commencing business procure annually from the department a nonresident fur dealer's license, which shall be furnished upon the payment of eight hundred dollars and the filing of an application approved by the department. Every resident and nonresident dealer must at all times have this license in possession or prominently displayed while operating his business.

B. Violation of this Section constitutes a class three violation.

RS 56:252 — Residence of alligator hunters, fur buyers and dealers

h persons who are bona fide residents, as defined in R.S. 56:8, may apply for resident fur buyer or dealer licenses.

C. Violation of this Section constitutes a class two violation.

RS 56:253 — Shipping raw furs, alligators, alligator skins, and alligator parts out of state; tags tate.

B. No resident fur dealer, trapper, alligator hunter, alligator parts dealer, alligator farmer, or nonresident fur dealer or nonresident alligator hunter shall ship or take raw furs, alligators, alligator skins, or alligator parts out of state without first complying with the provisions of this Section and rules and regulations of the commission.

C.(1) Every resident fur dealer, trapper, alligator hunter, alligator farmer, nonresident fur dealer, or nonresident alligator hunter before shipping raw furs, alligators, or alligator skins out of the state shall secure from the department, or duly authorized representative thereof, a tag to be attached to the shipment. The tag shall be of a distinctive color, bear a serial number and entry headings for information as to the character of the shipment and the name and address of the specific licensed fur dealer making the shipment, and the specific

name and address of the receiver or purchaser of the shipment, including the location to which the skins are actually being shipped. The tag shall be filled out at the time of shipment, and be provided with a detachable stub bearing the same serial number and entry headings as appear on the body of the tag. The stub shall be filled out with duplicate information appearing on the body of the tag and returned to the department at the time of shipment.

(2)(a) Every resident fur dealer, alligator hunter, alligator farmer, taxidermist, nonresident fur dealer, or nonresident alligator hunter, before shipping alligators or raw alligator skins out of state, or before tanning or using for taxidermy of raw alligator skins within the state, shall pay to the department an alligator shipping label fee for each alligator so shipped and shall pay an alligator hide tag fee for each raw alligator skin to be so shipped, used for taxidermy, or tanned. The alligator shipping label fee and the alligator hide tag fee shall be collected by the department from the fur dealer, taxidermist, alligator hunter, alligator farmer, nonresident fur dealer, or nonresident alligator hunter who is shipping alligators or raw alligator skins, or who intends to tan, or use for taxidermy, the raw alligator skins. The department shall collect such fees at the time of shipment, using for taxidermy, or tanning, and no alligator shipping label or out-of-state shipping tag shall be issued by the department for a shipment before payment of the appropriate fee is received by the department. The alligator shipping label fee for each alligator to be shipped and the alligator hide tag fee for each raw alligator skin to be shipped, used for taxidermy, or tanned shall be no more than four dollars per alligator or raw alligator skin; however, the alligator shipping label fee and the alligator hide tag fee shall each be reduced in any fiscal year by rule or regulation of the commission in an equal amount equivalent to any amount of additional revenues received into the Louisiana Alligator Resource Account from the state general fund or sources other than alligator-related fees established pursuant to this Title. Revenues received by the state pursuant to this Paragraph shall be distributed as provided in R.S. 56:266 and 279.

(b) Alligator hide tags shall be issued to licensed alligator hunters and licensed alligator farmers without charge and in accordance with the rules and regulations of the commission.

D. Every resident alligator hunter, alligator farmer, or alligator parts dealer before shipping alligator parts out of state shall, in addition to satisfying regulations of the U.S. Department of Interior and the Louisiana Department of Health, affix to the shipment a label showing the following: (1) LDWF license number of the alligator parts dealer, alligator hunter or alligator farmer; (2) identify alligator parts as meat, head, feet, teeth or other; (3) provide name and address of shipper.

E. No fur, alligator, alligator skins, alligator eggs, or alligator parts intended for shipment out of state shall be accepted by any post office, express company, agent, or agent of any common carrier nor any agent thereof, unless there is attached to the shipment to each consignee one of the tags specified in Subsection C above or the labels specified in Subsection D above.

F. Violation of any of the provisions of this Section constitutes a class three

violation.

RS 56:255 — Alligator records; inspections

he department of all purchases and sales made by him of whole alligators and alligator hides and skins, showing the number and kinds that were bought and sold, from whom purchased and to whom sold, the dates of purchases and sales, and when each purchase was made, giving all information to the department that it may require. All records, books, and memoranda of each resident alligator hunter, resident and nonresident buyer, and resident or nonresident dealer, shall be open at all times to the inspection of the duly authorized officer of the department who may inspect the skins on hand at any time and check and verify the books, records, and reports.

B. Every buyer or dealer having raw, green, undressed alligator hides in his possession shall file with the department within sixty days after the date of purchase, prior to shipping out of state, or prior to tanning, whichever comes first, a complete report, on forms procured from or approved by the department wherein is set forth in detail the number of raw, green, undressed alligator hides, with a detailed description thereof, then owned or held in possession as owner or agent by the person filing the report forms. The report shall contain the names and addresses of the persons from whom the hides were purchased and the place and date of purchase.

C. Violation of this Section constitutes a class three violation.

RS 56:258 — Dealer records; payment of tax; confiscation of furs and skins

the state and of all such furs shipped out of the state or

tanned within the state. Dealer records shall be completed and made available to the department for audit purposes within sixty days after the close of the trapping season.

B. Every dealer shall maintain complete detailed records of the number of whole alligators and alligator skins purchased inside and outside the state and all alligator skins shipped out of state or alligator skins tanned within the state. Dealer records shall be completed and furnished to the department at the time of shipment or prior to tanning.

C. Any violation of this Section constitutes a class three violation.

RS 56:259 — Open season; method of taking animals; prohibited devices; possession and sale of skins

ommission. The commission may extend, curtail or prohibit the trapping in any area of the state each year.

B. The commission shall at its discretion open or close the season for the taking or possession of alligators by area within the state. The commission shall also prescribe methods of taking alligators and hours within which alligators may be taken.

C.(1) Nongame furbearing quadrupeds may be taken in the open trapping season, but only by properly licensed trappers, and only by means of a trap. Except as provided in Paragraph (2) of this Subsection, the use of dogs or of guns or other firearms, bows and arrows, gigs, spears, pitchforks, or other weapons or any like devices in hunting and taking nongame quadrupeds, or the use of explosives, chemicals, and smokes of any kind to drive furbearing quadrupeds out of their holes, dens, or houses is prohibited. Raccoons, nutria, and opossums may be taken for sport as provided for in R.S. 56:116.1, and nutria in open season may be taken additionally by the use of a standard .22 caliber rifle only between the hours of sunrise and sunset. Beaver may be taken as provided for in R.S. 56:105. This Subsection does not apply to the methods or means by which alligators may be taken.

(2) Notwithstanding the provisions of any other law to the contrary, dogs may be used during the taking of nutria between the hours of sunrise and sunset, except during deer season where still hunting only is allowed and during turkey nesting season as determined by the commission.

D. The taking of alligators is prohibited between the hours of sunset and sunrise. The taking of alligators out of season is prohibited.

E. Nothing contained in this Subpart shall deprive landowners and lessees of agricultural or forest lands or their agents, representatives, and employees, of their right to kill nutria and beaver as a pest without a license on agricultural or forest lands owned or leased by them or in residential areas, or in waterways and on the banks of waterways adjacent to the agricultural lands, except during open trapping season, a license shall be required. Nutria and beaver may be taken at

any time and by any means in these areas except that nutria and beaver cannot be taken by use of a headlight and gun between the hours of sunset and sunrise.

F. No pelting during the closed trapping season shall be permitted at any time, except with department authorization.

The sale of carcasses of nongame quadrupeds is prohibited during the closed trapping season, except with department authorization. The provisions of this Subsection do not apply to nongame quadrupeds raised on farms.

G. Licensed trappers may hold in captivity live nongame quadrupeds, except alligators, during the open trapping season.

Such animals must have been acquired by legal trapping methods. Such animals held in captivity by a trapper must be released or pelted by the last day of the open trapping season. However, a licensed trapper may apply for a nongame quadruped breeder's or exhibitor's license, as provided for in R.S. 56:262.1, and continue holding such animals in captivity as long as the license has not expired. A licensed trapper, holding any live nongame quadrupeds except alligators, may offer for sale such live animals to any licensed nongame quadruped breeder or exhibitor during the open trapping season. During any such transaction, a bill of sale must be provided by the trapper to the nongame breeder or exhibitor and retained for a period of one year.

H. Violation of any of the provisions of this Section except for Subsections C, D, and F constitutes a class two violation.

Violation of any of the provisions of Subsections C, D, or F constitutes a class four violation.

RS 56:260 — Setting a trap, snare, net, or other device

device to remain set after the closing day of the open season. All traps shall be run daily and all traps must be removed from the trapping grounds and alligator hunting areas the last day of open season.

B. Violation of this Section constitutes a class four violation.

RS 56:261 — Possession; alligator eggs, live alligators, skins

les and regulations of the commission. Alligators or their skins shall be tagged as provided for by rules and regulations of the commission. The possession or sale of untagged wild harvested alligators or their skins is prohibited. Upon approval by the commission, a special permit shall be issued to take, possess, or sell the eggs of alligators or live alligators.

B. Violation of this Section constitutes a class four violation.

RS 56:262 — Nongame quadrupeds; breeding, propagation, and exhibition

to the department for a license to do so. If it

appears that the application is made in good faith, upon a payment of twenty dollars, a nongame quadruped exhibitor license may be issued permitting the applicant to breed and/or exhibit such animals provided he meets rules and regulations of the department.

B. Whoever desires to engage in the business of raising, exhibiting, and selling imported or native nongame quadrupeds or collecting and selling wild alligator eggs shall apply to the department for a license to do so. If it appears that the application is made in good faith, upon payment of fifty dollars, a nongame quadruped breeder license may be issued permitting the applicant to breed, propagate, exhibit, and sell such animals alive or sell their parts; and to kill and transport them and sell their pelts, skins, or carcasses as hereinafter provided in this Section.

C. Nongame quadruped breeder and exhibitor licenses shall expire on the thirty-first of December of each year. On or before the first of December of each year, every licensee shall apply for a renewal of his exhibitor or breeder license. In conjunction with this application, or without application if not renewing the license, the licensee shall provide a report including all information as specified by the department.

D. Nongame quadrupeds raised on such licensed breeding farms may be sold alive or taken for their pelts, skins, or for food according to rules and regulations of the commission. All skins shall be tagged according to rules and regulations of the commission.

E. All nongame quadruped carcasses or parts intended for sale shall be shipped, transported, sold, or offered for sale according to commission regulations.

F. The department may issue a permit to a duly licensed breeder to take such wild animals as needed for use as breeding stock. The licensed breeder shall apply in writing, stating where the animals are to be taken, at what time, and in what numbers.

G. Whoever under the authority of this Section has in his lawful possession any such animal or parts thereof on such posted or fenced breeding area shall have a property right therein and shall be the owner thereof. Whoever enters the nongame quadruped farm or catches, takes, or molests such animals when the area has been posted or fenced according to law shall be punished as though the animals were ordinary domestic animals and subject to the property rights of the state of Louisiana.

H. The department may revoke the license of any person violating the provisions of this Section.

I. All other rules and regulations pertaining to the breeding, propagation, and sale of nongame quadrupeds shall be determined solely by the commission.

J. Violation of this Section constitutes a class 2-B violation.

RS 56:263 — Alligator parts; buying and selling; license; reports; tagging

usiness. The license shall be secured annually and shall be furnished upon the payment of one hundred five dollars.

(2) Each retailer purchasing for retail sale finished alligator parts made from parts other than hides shall secure a license from the department before commencing business. The license shall be secured annually and shall be furnished upon the payment of ten dollars.

B.(1) Any licensed alligator hunter or farmer may sell alligator carcasses or parts, provided he completes an official alligator parts transaction form, furnished or approved by the department, for every alligator part transaction and provides each purchaser with a bill of sale. These forms shall be submitted to the department by the alligator hunter at the end of the calendar year and by the alligator farmer with his annual report which is due by December first of each year.

(2) Any alligator parts dealer purchasing alligator parts shall complete an official alligator parts purchase form for each purchase. Any alligator parts dealer selling alligator parts shall complete an official alligator parts sale form for each sale and provide each purchaser with a bill of sale. These parts transaction forms shall be furnished by the department and shall be submitted to the department annually, no later than June thirtieth.

(3) Any alligator parts retailer purchasing finished alligator parts shall maintain a bill of sale for each purchase for a period of six months after such purchase. These records shall be available for inspection by the department.

(4) The records of transactions involving alligator parts of alligator hunters, farmers, and parts dealers, shall be available for inspection by the department. Each parts dealer shall maintain complete records for a period of one year following any transaction.

C. All other rules and regulations pertaining to commerce in alligator parts shall be determined solely by the department.

D. Violation of this Section constitutes a class two violation.

RS 56:264 — Scientific research

full publicity to such biological findings.

RS 56:265 — Trespass on marshlands to trap or hunt fur bearing animals

zed to grant consent; and there capture, catch, trap, take, shoot, or ensnare any alligator, mink, muskrat, nutria, otter or raccoon; nor attempt to commit, or be upon such lands for the purpose of committing, any such act; nor aid, assist, or abet another to commit or to attempt to commit any such act; nor conspire with another for any of such purposes.

Violation of this Section is a class two violation.

RS 56:266 — Louisiana Fur Public Education and Marketing Fund

ide fur markets and prices have been severely

depressed creating extreme hardships not only for trappers, but also for coastal landowners, fur buyers, and fur dealers; and recognizing world trends questioning the consumptive utilization of wildlife species, and recognizing that these trends and economic conditions can have a severe impact on the fur industry; and recognizing the need to educate the public concerning fur trapping as sound wildlife management practice; and recognizing that the trapping of certain species of furbearers such as nutria and muskrat is the only realistic means for coastal landowners to effectively manage and protect over four million acres of invaluable coastal wetlands and protect adjacent agriculture; and recognizing that there is no cohesive, coordinated, and comprehensive effort to educate the public concerning the Louisiana fur industry or stabilize and strengthen domestic and international markets for Louisiana furs, the Legislature of Louisiana does hereby establish the Louisiana Fur Public Education and Marketing Fund.

B. Specific goals. (1) To educate the public regarding the need for trapping as a sound wildlife management tool and regarding the logic of managing furbearing species as renewable resources.

(2) To identify the current consumers of Louisiana furs.

(3) To identify present and potential Louisiana fur marketing problems, obstacles, and related significant issues.

(4) To strengthen existing markets and develop new markets and marketing strategies for raw and finished Louisiana fur products.

(5) To develop and implement an international advertising campaign to promote the utilization of raw and finished Louisiana fur products.

(6) To examine, evaluate, and make recommendations concerning any aspect of the fur industry including habitat management, harvest, and marketing which will enhance the future of the industry and perpetuate the conservation of these species.

C. The Louisiana Fur Advisory Council. (1) Pursuant to R.S. 36:605(B)(2), the secretary shall create the Louisiana Fur Advisory Council, which shall be within the Department of Wildlife and Fisheries. The Louisiana Fur Advisory Council shall be responsible for reviewing and approving recommended procedures and programs to be funded from the Louisiana Fur Public Education and Marketing Fund to ensure that any monies from the funds are expended for the specific goals of the council.

(2) This council shall be composed of nine members of which seven shall be appointed by the secretary.

- (a) The individuals appointed by the secretary to this council shall represent a cross section of trappers and coastal landowners as follows:
- (i) One member of the council shall represent trappers from north Louisiana.
 - (ii) One member shall represent trappers from southwest Louisiana.
 - (iii) One member shall represent trappers from southeast Louisiana.
 - (iv) One member shall represent trappers statewide.
 - (v) Three members shall represent coastal landowners.
- (b) One member of the council shall be designated by the speaker of the House of Representatives and another member shall be designated by the president of the Senate.
- (3) The secretary may appoint members recommended by the Louisiana Trappers and Alligator Hunters Association, which may submit nominations, in writing, to the secretary.
- (4) The secretary or his designee shall be an ex officio member of said council and shall be present at all official meetings.
- (5) All members of the council shall serve four-year terms.

D. Appropriations.

- (1) All revenues received by the state from license fees imposed on trappers as required in R.S. 56:251(A)(1) shall be credited to the Bond Security and Redemption Fund. After a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the state treasurer is authorized and directed to transfer annually all revenues derived from these license fees into a special fund designated as the Louisiana Fur Public Education and Marketing Fund.
- (2) The state treasurer shall invest the monies in this fund in the same manner as monies in the state general fund. Any surplus monies remaining to the credit of the fund, after all appropriations of the preceding fiscal year have been made, shall remain to the credit of the fund. The state treasurer shall prepare and submit to the department on a quarterly basis a printed report showing the amount of money contained in the fund from all sources.
- (3) Any amounts earned through investment of the monies in the fund shall remain to the credit of the fund and shall not revert to the state general fund.

E. Expenditures. (1) The monies made available by the legislature from the fund as provided in this Section or from any other source shall be used solely for the programs, purposes, and specific goals enumerated in this Section.

- (2) The Department of Wildlife and Fisheries shall maintain records of the sources of money received and the purposes therefor, as well as the person or persons to whom money is paid and the purpose therefor. Vouchers or receipts shall be kept for all money paid out. Money appropriated or otherwise made available to the department for authorized purposes shall be withdrawn from the treasury on warrant of the secretary of the department.
- (3) The Department of Wildlife and Fisheries, in utilizing surplus monies from the Louisiana Fur Public Education and Marketing Fund shall contract only upon recommendation of the Louisiana Fur Advisory Council, for any services relating to the specific goals enumerated in this Section. The secretary is hereby authorized and empowered to carry out any and all contracts entered into in order to achieve these goals.

F. Annual Reports. The Department of Wildlife and Fisheries shall make a written operating report to the legislature at the end of each fiscal year. This report shall contain a summary of revenues received, expenditures made, and the status of achievement of specific goals. This report shall be submitted to the House Committee on Natural Resources and Environment and the Senate Committee on Natural Resources by the end of the calendar year.

RS 56:274 — [Blank]

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RS 56:278 — Louisiana Alligator Advisory Council

shall be responsible for

reviewing and approving recommended marketing, research, and educational programs to be funded from the Louisiana Alligator Resource Account to ensure that any monies from the account are expended for the specific goals of the council.

B. This council shall be composed of members appointed by the secretary as follows:

(1) Three members of the council shall be licensed alligator hunters appointed from a list of five nominations from the Louisiana Trappers and Alligator Hunters Association.

The nominees shall have held licenses for the preceding three hunting seasons. One member shall be appointed to represent the area of the state north of United States Highway 90, one member shall be appointed to represent the area of the state south of United States Highway 90 and east of the Atchafalaya River, and one nominee shall be appointed to represent the area of the state south of United States Highway 90 and west of the Atchafalaya River.

(2) Three members shall be licensed farmers appointed from a list of five nominations from the Louisiana Alligator Farmers and Ranchers Association. The nominees shall have held licenses for the preceding three years.

(3) Three members shall be appointed from a list of five nominations from the Louisiana Landowners Association. The nominees shall all own or manage land located in the coastal zone. One member shall be appointed to represent the area of the coastal zone east of Bayou Lafourche, one member shall be appointed to represent the area of the coastal zone between Bayou Lafourche and the parish line between Iberia Parish and Vermilion Parish, and one member shall be appointed to represent the area of the coastal zone west of the parish line between Iberia Parish and Vermilion Parish.

(4) The secretary or his designee shall be an ex officio member of said council and shall be present at all official meetings.

C. A vacancy created whether by reason of death, resignation, expiration of term, or any other cause of a member of the council shall be filled in the same manner as provided in Subsection B of this Section.

D.(1) The members of the council initially appointed shall, at their first meeting, determine by lot their terms of office, which terms shall commence immediately upon their appointment and shall expire, respectively, as follows: one member from each of the nominating authorities in two years, one member from each of the nominating authorities in four years, and one member from each of the nominating authorities in six years, from the first day of July immediately succeeding such appointment. Thereafter all terms shall be six

years.

(2) No member shall succeed himself after completion of a six-year term but may be reappointed after not serving on the council for six years. However, if a person has been appointed to fill less than one-half of an unexpired term, such person shall be eligible to serve consecutively an additional six-year term in addition to such partial term.

RS 56:279 — Louisiana Alligator Resource Dedicated Fund Account

de markets and prices have expanded at a tremendous rate; and recognizing the rapid expansion of Louisiana alligator farming industry statewide; and recognizing the uniqueness of the state's alligator farming industry, one state agency, the Department of Wildlife and Fisheries, has provided the impetus for inception and development of the total alligator conservation program; and recognizing the many beneficial influences that Louisiana's alligator program has had on crocodilian conservation worldwide; and recognizing world trends questioning the consumptive utilization of wildlife species, and recognizing that those trends, by adversely affecting economic conditions, could have a severe impact on the alligator industry; and recognizing that raw and finished alligator skins and products are largely consumed outside the United States; and recognizing the need to educate the public concerning alligator hunting as a sound wildlife management practice; and recognizing the urgent need to support the alligator industry with a comprehensive research and development program; and recognizing the need to staff and fund the Department of Wildlife and Fisheries with adequate personnel in order to service this industry's needs, the Legislature of Louisiana does hereby establish the Louisiana Alligator Resource Account within the Louisiana Wildlife and Fisheries Conservation Fund. The Alligator Resource Account is intended to help defray the cost of alligator programs within the office of wildlife of the Department of Wildlife and Fisheries.

B. The specific goals of this Section are:

- (1) To provide salaries and financial support including associated indirect cost for the following positions, to provide a minimum of two full-time technical positions (biologists) and eight nontechnical positions such as computer operators, secretaries, and wildlife specialists existing within the office of wildlife of the Department of Wildlife and Fisheries.
- (2) To assist with funding for law enforcement activities associated with the alligator farm industry when surplus funds are available and recommended by the Louisiana Alligator Advisory Council.
- (3) To assist with funding marketing programs recommended by the Louisiana Alligator Advisory Council when surplus funds are available.
- (4) To actively fund research on all aspects involved with alligator conservation and to develop the techniques needed to enhance the commercial alligator industry.
- (5) To assist in funding management of the alligator population through proper management, harvest, and farm facility management.

C.(1) Except as otherwise provided by law, all revenues received by the state from the sale of licenses as provided in R.S. 56:251(A)(2), from tag fees imposed on alligator hunters, alligator farmers, alligator shipping label fees on the sale of alligators, all revenues

derived from the sale of alligators, alligator skins, or alligator eggs harvested from department-administered lands, all fees derived from alligator lottery harvest programs on department-administered lands and public waters, and all revenues derived from any other alligator-related fees and from the severance tax on alligator skins provided for in R.S. 56:256 shall be credited by the state treasurer to a special account designated as the "Louisiana Alligator Resource Dedicated Fund Account" after those revenues have been deposited in the Bond Security and Redemption Fund. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state that become due and payable within each fiscal year, the treasurer shall pay into the Louisiana Alligator Resource Dedicated Fund Account, a special agency account to be retained for future appropriation as provided in this Subpart, an amount equal to the revenues generated from collection from those sources provided for in this Section and other sources as provided by law. Monies deposited into this account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriations bills and shall be available for annual appropriation by the legislature.

(2) The state treasurer shall invest the monies in this statutorily dedicated fund account in the same manner as monies in the state general fund. Any surplus monies remaining to the credit of the account, after all appropriations of the preceding fiscal year have been made, shall remain to the credit of the account. The state treasurer shall prepare and submit to the department on a quarterly basis a printed report showing the amount of money contained in the account from all sources. Any amounts earned through investment of the monies in the account shall remain to the credit of the account and shall not revert to the state general fund.

D.(1) The monies made available by the legislature from the account as provided in this Section or from any other source shall be used solely for the programs, purposes, and specific goals enumerated in this Section.

(2) The Department of Wildlife and Fisheries shall maintain records of the sources of money received and the purposes therefor, as well as the person or persons to whom money is paid and the purpose therefor. Vouchers or receipts shall be kept for all money paid out. Money appropriated or otherwise made available to the department for authorized purposes shall be withdrawn from the treasury on warrant of the secretary of the department.

(3) The Department of Wildlife and Fisheries in utilizing monies from the account shall contract, only with the approval of the Louisiana Alligator Advisory Council, for any services relating to specific goals enumerated in this Section. The secretary is hereby authorized and empowered to carry out any and all contracts entered into in order to achieve these goals.

E. The Department of Wildlife and Fisheries shall make a written operating report to the legislature at the end of each fiscal year. This report shall contain a summary of revenues received, expenditures made, and the status of achievement of specific goals. This report shall be submitted to the House Committee on Natural Resources and Environment and the Senate Committee on Natural Resources by the end of the calendar year.

RS 56:280 — White or albino alligators; taking from the wild; prohibition; penalties; notification to alligator hunters

t and complex ecological system, it shall be the policy of the state that those extremely rare species of alligator whose color substantially deviates from the norm shall be especially protected.

B.(1) No person shall, whether intentionally or unintentionally, take from the wild any alligator that is white or albino.

(2) Subject to the rules and regulations promulgated by the department:

(a) Landowners or licensed alligator farmers or ranching operations, may take the alligator from the wild for its own protection.

(b) Any alligator eggs in the possession of or collected by a licensed alligator farmer or ranching operation which are hatched and contain white or albino alligators may, with prior approval of the department, remain in the possession of such licensed operators.

(3) All such instances of possession shall be reported immediately to the department.

(4) The disposition of white or albino alligators which have been reported to the department under the provisions of this Subsection shall be established by rules and regulations. Any person who unintentionally takes from the wild any alligator that is white or albino which is taken by the state shall be paid just compensation therefor by the state.

C. Any person who unintentionally takes from the wild any alligator that is white or albino by hook and line shall immediately report its presence and location to the department, whether the alligator is dead or alive.

D. It shall be a violation of this Section if any person intentionally takes from the wild any alligator that is white or albino by means of a long or compound bow and barbed arrow, firearm, or by any other means. In addition to the penalties imposed by Subsection E of this Section, any such person who violates the provisions of this Subsection shall immediately report the alligator's presence and location to the department, whether the alligator is dead or alive.

E. Whoever violates any provision of this Section shall be subject to a fine of not less than ten thousand dollars and imprisoned for not less than six months or more than twelve months, or both. For any subsequent violation of this Section, there shall be a fine of not less than ten thousand dollars imposed and imprisonment for not less than two years.

F. It shall be the responsibility of the department to provide notice to all alligator hunters of the provisions of this Section, both orally and in writing, at the time they apply for a resident or nonresident alligator hunter's license.

RS 56:281 — Nutria control cost-sharing; statement of intent

economic importance of the nutria to the Louisiana fur industry, the Department of Wildlife and Fisheries, in accordance with the Wetlands Conservation and Restoration Plan, is authorized to enter into cooperative endeavor agreements which establish a cost-sharing program as an economic incentive to trappers and coastal landowners in those areas of the state experiencing damage or loss of coastal lands due to the overpopulated nutria.

RS 56:282 — Powers and duties of the secretary

g coastal landowners which provide for cost-sharing agreements with such coastal landowners to provide financial incentives for the trapping of nutria on land owned by them.

(2) Determine, upon application by coastal landowners, which of the lands owned by such landowners are eligible for such financial incentives.

(3) Have the responsibility for planning, administration and program management, and for monitoring the results of the program authorized by this Subpart.

(4) Adopt and promulgate such rules and regulations, pursuant to the Administrative Procedure Act, as necessary to implement this program in order to trap and control overpopulated nutria contributing to coastal wetland loss.

RS 56:283 — Cooperative agreements; cost-sharing

ic incentives are paid to trappers who have agreed to trap nutria on land of the coastal landowners which is experiencing damage or loss of coastal wetlands because of overpopulation by nutria, all on the following cost sharing basis.

B. Each coastal landowner experiencing such nutria problems and desiring to participate in the program shall submit to the department such information as the department may require concerning nutria destruction on his land and shall provide such security as the secretary may require to insure payment by him to the trapper of his portion of the economic

incentive provided in Subsection C of this Section.

C. The cooperative endeavor agreement shall provide for cost sharing in that there shall be an additional one dollar economic incentive paid to trappers under contract with qualifying coastal landowners per nutria with a pelt of marketable fur trapped and sold from those lands of the coastal landowner which are experiencing damage or loss because of nutria overpopulation, as determined by the secretary. The state, on a one to one match, shall pay fifty cents of the one dollar incentive per nutria trapped and sold, and the coastal landowner shall pay the remaining fifty cents, directly to the trapper for trapping services. The agreements shall provide that this cost-sharing program shall remain in effect and payments thereunder shall be made only as long as the average market price which the secretary determines will be paid to the trapper does not exceed four dollars per nutria pelt.

RS 56:284 — Annual proposal; cost-sharing; purpose

approval by the Wetlands Conservation and Restoration Authority, not to exceed fifty thousand dollars annually. If approved, only that portion of the economic incentives paid to trappers on eligible lands may be funded using monies from the Wetlands Conservation and Restoration Fund. No other costs associated with the program shall be borne by the Wetlands Conservation and Restoration Fund.

B. The purposes of this program shall be consistent with the purposes set forth in the Wetlands Conservation and Restoration Plan.

RS 56:291 — Feeding of wild bears prohibited

used hunters in possession of

a bear harvest permit and shall not prohibit legal baiting of deer. The first violation of this Section by any person shall result in the issuance of a warning ticket only. Any subsequent violation by the same person shall be a class two violation. The Wildlife and Fisheries Commission is authorized to promulgate, under the Administrative Procedure Act, rules and regulations for the administration and enforcement of this Section.

RS 56:301 — Definitions

less specifically provided for otherwise, the term "person", for any person required to be licensed pursuant to this Part shall mean an individual and shall not include any type of association, corporation, partnership, or other type of legal entity recognized by law.

C. The term "hook and line", as used in this Part, means any device used for taking fish, consisting of a hook attached to any type of line or wire. This includes but is not limited to trotlines, a rod with or without a reel, a fishing pole, a trolling line, a handline, a bait casting apparatus, a fly casting apparatus, and the device known as a yo-yo.

RS 56:301.1 — License requirements; possession; nontransferability

nd transporters, and vessels involved in the fish industry must be licensed in accordance with this Part.

B. Persons and vessels engaged in an activity for which a license is required must have in their immediate possession and, in the case of a vessel on board the vessel, a valid, original license and shall show such license upon demand to a duly authorized agent of the department.

C. Licenses are valid in any parish and on any day of the year.

D. Except as provided in this Part, licenses cannot be assigned or transferred to, or used by, any other person or vessel than to whom issued. An officer authorized to enforce the provisions of this Part shall take possession of any license found in the possession of any person or vessel other than the one to whom issued and shall deliver it to the department for cancellation. The license is thereupon void.

RS 56:301.2 — Application requirements; proof of residency; material misstatements; fees for certain alien individual licenses

y be issued until all information requested on the application is supplied to the issuing agent. When a license application requires the submission of an income tax return, sufficient proof of the accuracy of the return may be by notarized affidavit of the preparer of the return. The affidavit shall include language certifying that the information in the return is complete and accurate.

(2) Forms of acceptable payment for licenses shall be determined by the department.

(3) No resident license may be issued prior to proof of Louisiana residency by the applicant.

(4) The issuance of a license is conditional upon validation of all information on the application. If the department finds any material misstatement of fact regarding the residency of the applicant or the ownership of the vessel for which application is made, the license is void and shall be immediately surrendered to an agent of the department.

B. The license fee for an alien individual for licenses required in Subparts C, D, E, F, G, and I of this Part shall be two times the cost of a similar nonresident license.

RS 56:301.3 — Applicability to other fishing laws

is Title.

RS 56:301.4 — Records; confidentiality

the laws pertaining to the fisheries resources of the state and for conservation and management purposes.

B. The department shall draft regulations, prescribing procedures to preserve the confidentiality of all fisheries dependent data, information, or statistics submitted or collected pursuant to the provisions of this Section, for approval by the Wildlife and Fisheries Commission and promulgation in accordance with the Administrative Procedure Act. These regulations shall provide for compliance with all procedures set forth by the United States Department of Commerce, or any of its agencies or instrumentalities, for the confidentiality of fishing statistics collected from individuals or firms by that department, its agencies, or instrumentalities.

RS 56:301.5 — Commission rules and regulations

{NOTE: SEE ACTS 1986, NO. 904, §5.}}

RS 56:301.6 — Special licenses and permits

ise prohibited by law, may be required to be licensed pursuant to this Part. A decision to require licensing shall be made at the sole discretion of the secretary.

RS 56:301.7 — Dedication of proceeds of licenses

the purpose of maintaining fish hatcheries, sanctuaries, and in the general work of the enforcement of its laws by the department except that proceeds received from the sale of licenses issued for the taking of saltwater finfish shall be expended for the purpose of supporting research, management, and administration of saltwater finfish by the saltwater finfish section of the seafood division and except that proceeds from the sale of freshwater trout licenses shall be expended for the purpose of supporting the stocking, management, and administration of the freshwater trout program by the fisheries section of the freshwater fish division.

B. Proceeds from commercial licenses issued under Subparts C, D, E, and G of this Part are dedicated to the Conservation Fund and shall be expended by the department for the purpose of propagating and developing the fish industry, for fish cultural purposes, and in the general work of the department except that proceeds received from the sale of licenses issued for the taking or selling of saltwater finfish shall be expended for the purpose of supporting research, protection, management, and administration of saltwater finfish by the marine fisheries division and the enforcement division.

C. Proceeds from commercial licenses issued under Subpart F of this Part are dedicated to the Conservation Fund and shall be expended by the department for the purpose of development and administration of the dealer receipt forms program.

RS 56:301.8 — Nonresident recreational fishermen; possession of license; penalty

ion a valid, original license and shall present such license upon demand to a duly authorized agent of the department.

B. Violation of this Section shall constitute a class two violation, unless a higher class is otherwise specified by law.

RS 56:301.9 — Issuance of commercial licenses via Internet transactions

te rules and regulations authorizing application and payment via the Internet for commercial licenses issued under the provisions of this Part. Such licenses applied and paid for via an Internet transaction may be issued to the person who held that same license in the immediately preceding license year. The rules shall designate the commercial licenses available for application and purchase via the Internet and may impose a fee not to exceed two dollars per license for use of such application and payment system. The fee shall be used by the department for costs necessary to develop and operate the application and payment system and shall be in addition to any license or transaction fee imposed by a contractor that has been hired by the department to operate the system. The rules shall also specify the payment methods to be used by the system.

RS 56:301.10 — Louisiana Finfish Task Force

Fisheries Commission,

the Department of Wildlife and Fisheries, and other state agencies for the maximization of benefit from that industry for the state of Louisiana and its citizens.

B. The task force shall be composed as follows:

- (1) The governor or his designee.
- (2) Three members appointed by the secretary of the Department of Wildlife and Fisheries as follows:
 - (a) One member who is a fisheries biologist.
 - (b) One member who is an enforcement agent.
 - (c) One member who is an economist.
- (3) The commissioner of the Department of Agriculture and Forestry or his designee.
- (4) The secretary of the Louisiana Department of Health or his designee.
- (5) Three members and three alternate members appointed by the governor each of whom shall possess a commercial fisherman's license with a "certified" endorsement pursuant to R.S. 56:303(E), with three to be selected from a list of six nominees submitted by the Louisiana Shrimp Association and three to be selected from a list of six nominees submitted by the Delta Commercial Fisheries Association.
- (6) One member appointed by the governor who is an active Louisiana dock buyer of finfish.
- (7) Three members and three alternate members appointed by the governor each of whom shall possess recreational freshwater and saltwater fishing licenses, with four to be selected from a list of eight nominees submitted by the Coastal Conservation Association Louisiana and two to be selected from a list of four nominees submitted by the Louisiana Chapter of the Bass Anglers Sportsman Society (B.A.S.S.).
- (8) One member of the Senate appointed by the president of the Senate.
- (9) One member of the House of Representatives appointed by the speaker of the House of Representatives.
- (10) One member appointed by the governor to be selected from a list of two nominees submitted by the Louisiana Charter Boat Association.
- (11) One member appointed by the governor to be selected from a list of two nominees submitted by the Women's Southern Fisheries Alliance.

C. The members appointed pursuant to the provisions of Paragraphs (B)(I) through (4) of this Section shall be nonvoting members. In addition, they shall not be considered

members of the task force for determination of the number of members necessary for a quorum and for establishing the presence of a quorum.

D. The task force shall adopt bylaws under which it shall operate, and five voting members of the task force shall constitute a quorum sufficient to conduct meetings and business of the task force. The governor shall appoint the chairman of the task force for a period of one year, and thereafter the task force shall elect a chairman from its membership and may seek and receive assistance from universities within the state in the development of methods to increase production and marketability of finfish. The members of the task force shall serve without compensation; however, the task force may receive the same reimbursement of travel expenses for attending the meetings as is allowed for other state employees' travel, except all legislative members of the commission shall receive the same per diem and travel allowance for attending meetings of the task force or any meeting thereof as is normally provided for members of the legislature.

E. The task force is hereby charged with responsibility to do the following:

- (1) Coordinate efforts to increase finfish production and marketability.
- (2) Provide for the study of the decline in finfish marketability and market price, provide for the study of the impacts of imported finfish on the domestic market, assist in the development of a state finfish inspection program, assist in the development of a Louisiana finfish certification and branding program, and make recommendations to the Wildlife and Fisheries Commission, the Department of Wildlife and Fisheries, the Department of Conservation and Energy, the Department of Agriculture and Forestry, and the Louisiana Department of Health for implementation of policies to help enhance the domestic finfish industry.
- (3) Make recommendations with respect to issues pertaining to the finfish industry and finfish production to the various state agencies charged with responsibility for differing elements of the finfish industry in this state, including the Department of Wildlife and Fisheries, the Department of Conservation and Energy, the Coastal Protection and Restoration Authority, the Louisiana Department of Health, the Department of Agriculture and Forestry, and the legislature.
- (4) Develop markets and marketing strategies for the development and expansion of markets for finfish harvested from Louisiana waters.
- (5) Represent the interests of the Louisiana finfish industry before federal and state administrative and legislative bodies on issues of importance to the Louisiana finfish industry.
- (6) Contract for legal services to represent the interests of the Louisiana finfish industry in judicial, administrative, and legislative proceedings.
- (7) Perform any acts deemed necessary and proper to carry out its duties and responsibilities.

RS 56:302 — Recreational fishing; recreational gear

gear or to possess on the

fishing grounds fish which have been caught for recreational purposes:

- (1) Hook and line (using a rod or fishing pole, hook and line, without a reel and

without using artificial bait).

(2) Bow and arrow.

(3) A barbleless spear, or a multi-pronged barbed gig.

(4) Castnets with a radius not to exceed eight feet six inches.

(5) Frog gigs or catchers.

(6) Scuba gear.

(7) Crawfish nets.

(8) Dip nets.

(9) Landing nets.

(10) Minnow traps.

(11) Crab nets.

(12) Crab lines.

(13) Crab traps: for use of no more than ten crab traps.

(14) Hoop nets: for use of no more than five hoop nets.

(15) Oyster tongs: for use of no more than one tong.

(16) Slat traps: for use of no more than five slat traps.

(17) Trawls: for use of no more than one trawl less than twenty-five feet in length.

(18) Wire nets: for use of no more than five wire nets.

(19) Crawfish traps: for use of no more than thirty-five traps.

B. A fisherman taking fish for sale, using any legal gear listed in R.S. 56:305, or legally taking fish in excess of any limitation as to size, length, or quantity for recreational fishermen must purchase a commercial fisherman's license, commercial gear license, and vessel license if applicable. This includes recreational fishermen taking fish using any gear listed in R.S. 56:305 and fishermen taking fish for sale using any legal gear.

C. No recreational fisherman shall use gill nets, trammel nets, strike nets, or seines, except bait seines in compliance with R.S. 56:323.

RS 56:302.1 — Saltwater fishing; charter fishing

ter license or an equivalent

license that grants both basic fishing and saltwater fishing privileges.

B. As a condition of the application for and the granting of the saltwater license, all saltwater finfish caught or transported by the license holder while the license is in effect are presumed to have been taken in the waters of Louisiana.

C. A person fishing with a licensed charter guide on board the vessel may purchase a charter three-day fishing license in lieu of a basic annual recreational fishing license.

D. In addition to the license fee assessed for any recreational charter fishing license, an amount equal to seven dollars and fifty cents shall be collected and deposited into the Charter Boat Fishing Escrow Account pursuant to R.S. 56:10(B)(1)(f).

E. A person may take or possess a freshwater species of fish while in the saltwater areas designated by R.S. 56:322(B) without the necessity of a saltwater license. The commission shall promulgate by rule the species of fish classified as freshwater species. While in saltwater areas, a person possessing fish other than those designated as freshwater species shall be required to possess either a saltwater fishing license or an equivalent license

that grants both basic and saltwater fishing privileges. Any species of fish that is required to be returned to the water shall be returned immediately to the water without avoidable injury from which it was taken. An enforcement agent or officer of the department may inspect a fisherman's catch to ensure compliance with this Subsection.

RS 56:302.7 — Free fishing days

dents and nonresidents may exercise the privileges of a licensed recreational fisherman without purchase of any otherwise necessary recreational fishing license.

B. Any person fishing during a free recreational fishing day as may be declared by the commission shall be subject to all of the limitations, restrictions, conditions, laws, and rules and regulations applicable to a holder of a recreational fishing license.

RS 56:302.8 — Repealed by Acts 1997, No. 206, §1.

on Rouge, Louisiana 70804-9062

RS 56:302.9 — Charter boat fishing guide license; nonresident fee

valid state charter boat fishing guide license, a

valid captain's license issued by the United States Coast Guard, proof of commercial marine insurance, and a valid state recreational fishing license that grants fishing privileges appropriate for his charter activity. In addition, any person acting as a saltwater charter boat fishing guide who is in charge of the operation of a vessel shall have his required licenses and proof of commercial marine insurance on his person while on the water. It shall not be a violation of this Section for a person to represent himself as a charter boat fishing guide if that person held a valid license during the previous thirty days but has not renewed the license.

(b) No person shall act as or represent himself to be a freshwater charter boat fishing guide unless that person possesses a valid state charter boat fishing guide license, proof of commercial marine insurance, and a valid state recreational fishing license that grants fishing privileges appropriate for his charter activity. In addition, any person acting as a freshwater charter boat fishing guide who is in charge of the operation of a vessel shall have his required licenses and proof of commercial marine insurance on his person while on the water. It shall not be a violation of this Section for a person to represent himself as a charter boat fishing guide if that person held a valid license during the previous thirty days but has not renewed the license. The department shall provide written notification to the holder of a license issued pursuant to this Subparagraph that the holder may be subject to other requirements of law, including holding a valid captain's license issued by the United States Coast Guard.

(2) The commercial marine insurance required by this Subsection shall be written by an insurance company with at least an A- rating in the latest printing of the A.M. Best's Key Rating Guide and in a sufficient amount to protect the public as determined by the commission.

(3) The nonresident charter boat fishing guide license shall be available only from the Baton Rouge office of the Department of Wildlife and Fisheries. Such licenses shall be issued on a consignment basis, and no agent fees shall apply. A nonresident saltwater charter boat fishing guide license shall be made available only to those persons who possess a valid captain's license issued by the United States Coast Guard.

(4) For the purposes of this Subsection, references to saltwater and freshwater shall be to the historic saltwater and freshwater areas described in R.S. 56:322(A) and (B).

B. A nonresident fishing from a vessel operated by a licensed charter boat fishing guide shall purchase and possess the appropriate required license as defined in R.S. 56:3001(B). Each nonresident shall also possess a valid out-of-state motor vehicle operator's license or such other proof of residency as the department may require.

C.(1) The annual fee for a resident saltwater charter boat fishing guide license is three hundred dollars for operating a vessel that carries not more than six passengers and seven hundred dollars for operating a vessel that carries more than six passengers.

(2) The annual fee for a resident freshwater charter boat fishing guide license is one hundred fifty dollars.

(3)(a) The annual fee for a nonresident saltwater charter boat fishing guide license is one thousand five hundred dollars for operating a vessel that carries not more than six passengers and two thousand dollars for operating a vessel that carries more than six passengers.

(b) The annual fee for a nonresident freshwater charter boat fishing guide license is five hundred dollars.

(c) There shall be an additional five hundred dollar charter promotion fee for each nonresident charter boat fishing guide license issued under the provisions of Subparagraphs (a) and (b) of this Paragraph which shall be deposited into the Charter Boat Fishing Escrow Account as provided in R.S. 56:10(B)(1)(f).

D. A charter boat fishing guide license is valid for one year, beginning on January first of each calendar year and expiring on December thirty-first of the same calendar year.

E. A charter boat fishing guide license may be purchased at any time of the year for the current license year and from November fifteenth for the immediately following license year.

F. A charter boat fishing guide license shall be issued by the department during normal working hours and may be purchased in person at the Baton Rouge office, or at any other location designated by the department.

G. Except for the charter promotion fee provided for in Subparagraph (C)(3)(c) of this Section, all annual license fees derived pursuant to this Section shall be placed in the Conservation Fund.

H. Each charter boat fishing guide licensee may complete a landing report and return the report to the department at the time and manner designated by the commission. The commission shall establish the information to be provided in the landing report by the charter boat fishing guide licensee. The landing report may include information on the number of trips taken, number of anglers fishing on a trip, area fished, time fished, trip origin, any information determined by the commission to be necessary to properly manage the fishery resource of the state, and any information required by the commission to prepare stock assessments. However, the commission shall not request any financial information. The information provided by a licensee shall be maintained as confidential in accordance with R.S. 56:301.4. The commission shall adopt rules and regulations in accordance with the

Administrative Procedure Act to implement the provisions of this Subsection.

I. Except for Subsection H, a violation of any provision of this Section shall constitute a class four violation, R.S. 56:34.

J.(1) In addition to any other penalty provided for in this Section, for any person convicted of a first offense of violating Subsection A or B of this Section, the offender shall pay a fine of no less than one thousand dollars to the Department of Wildlife and Fisheries. For any person convicted of a second offense of violating Subsection A or B of this Section, the offender may only operate a vessel that employs a vessel monitoring system for the three years after the date of the conviction. For any person convicted of a third or subsequent offense of violating Subsection A or B of this Section, the offender may only operate a vessel that employs a vessel monitoring system for ten years after the date of the conviction.

(2) Whenever an offender is required to employ a vessel monitoring system, access to the monitoring system shall be granted to the department, and the offender shall notify the department on which vessel or vessels the offender will be operating for commercial or recreational use. Any person required to be on board a vessel with an approved vessel monitoring system shall comply with all rules and regulations promulgated by the department or the commission to ensure compliance with vessel monitoring system requirements. The cost of a vessel monitoring system shall be the responsibility of the offender. The department shall approve the vessel monitoring system for use pursuant to this Section.

(3) Any charter guide or individual posing as a charter guide required to operate a vessel with an approved vessel monitoring system who is found operating any vessel that is not equipped with such a system, for commercial or recreational purposes, may have their charter guide license suspended and may be prohibited from obtaining such a license for the remainder of the year in which the person was found not abiding by the vessel monitoring requirement. In addition, the violator shall be sentenced to perform no less than forty hours of community service. If available, the hours shall be served in a litter abatement community service program.

(4) The department shall adopt rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section.

RS 56:302.9.1 — Charter boat license; skiff fee; charter fishing trip license

be required. Such license shall be for a charter fishing operation which consists of a large motorized vessel carrying small skiffs attached to it to be used by no more than two people for fishing purposes. The main motorized vessel shall be required to carry a charter boat license and proof of liability insurance, and the captain shall have a valid captain's license issued by the United States Coast Guard with the license on his person. For those vessels which carry up to six skiffs, the license fee shall be one thousand five hundred dollars per year. For those vessels which carry more than six skiffs, the license fee shall be three thousand dollars per year. No main motorized vessel licensed under the provisions of this Section shall enter any wildlife management area managed by the Department of Wildlife and Fisheries. The liability insurance required by this Subsection shall meet the requirement of R.S. 56:302.9(A)(2).

B. In addition, each skiff shall be required to have a charter skiff license which

identifies the charter vessel to which it is attached. A licensed skiff shall be used only for fishing purposes while the charter vessel with which it is identified is located in Louisiana's territorial waters. Each charter skiff license shall be issued for an annual cost of seventy-five dollars per skiff.

C. The charter boat license and charter skiff license shall be valid for one year, beginning on January first of each calendar year and expiring on December thirty-first of the same calendar year.

D. Repealed by Acts 2021, No. 356, §5, eff. Nov. 15, 2021.

E. Any person fishing in or with a licensed charter skiff shall have in his possession a copy of the charter boat license, a copy of the charter skiff license, his charter fishing trip license, or an equivalent license that grants both basic and saltwater fishing privileges.

F. The Department of Wildlife and Fisheries may develop and promulgate rules and regulations necessary for the implementation of the provisions of this Section.

RS 56:302.10 — Sale of recreational catch

recreational gear.

B. A violation of this Section shall constitute a class four violation. In addition to the penalties provided in R.S. 56:34, any person convicted of a violation of this Section shall be further penalized as follows:

(1) For the first violation, a person shall forfeit his fishing privileges and shall be barred from participating in any type of recreational fishing for a period of one year from the date of conviction.

(2) For the second violation, a person shall forfeit his fishing privileges and shall be barred from participating in any type of recreational fishing for a period of two years from the date of conviction.

(3) For the third violation, a person shall forfeit his fishing privileges and shall be forever barred from participating in any type of recreational fishing.

C. Any person who, after being barred, participates in a recreational fishing activity during a time of revocation shall be penalized under the provisions of R.S. 56:37(A)(2), upon conviction.

RS 56:303 — Commercial fisherman's license; charter boat fishing guide's license certification;

es, from state waters

or possessing fish in the state must purchase a commercial fisherman's license.

(2) A commercial fisherman selling his catch directly to a consumer shall possess a fresh products license as provided in R.S. 56:303.1.1. In addition, a commercial fisherman selling his catch to anyone other than a consumer or a licensed Louisiana wholesale/retail seafood dealer must possess a wholesale/retail seafood dealer's license as provided in R.S. 56:306 et seq.

B. The cost of the commercial fisherman's license is ninety-six dollars for residents and six hundred twenty dollars for nonresidents.

C. A commercial fisherman possessing a commercial fisherman's license must comply with all provisions of this Part and all other Sections of Title 56.

D. A commercial fisherman's license shall be issued only by the following:

(1) The department during normal working hours. The license may be purchased in person at the Baton Rouge office or at any other location designated by the department.

(2) Special certificate agents authorized by R.S. 34:851.37.

E.(1) The department or the special certificate agent shall endorse a commercial fisherman's license or a charter boat fishing guide's license as "certified" upon presentation to the department or the special certificate agent of a notarized statement from the tax preparer certifying that based upon his most recent federal income tax return the individual earns at least fifty percent of his income from commercial fishing or charter fishing guide activities. The department shall maintain a list of those commercial fishermen and charter fishing guides who possess a license having a "certified" endorsement.

(2) The Department of Revenue shall provide to the Department of Wildlife and Fisheries a list of the names and the social security numbers of those persons issued a certificate of exemption pursuant to R.S. 47:305.20(B) in accordance with the confidentiality provisions established in R.S. 47:1508.

(3) The Wildlife and Fisheries Commission shall promulgate necessary rules and regulations to implement the provisions of this Subsection.

F. A resident of this state who is seventy years of age or older may obtain a senior commercial fishing license for an annual fee of fifty dollars. The senior commercial fishing license shall be valid from January first of each calendar year until December thirty-first of the same calendar year. The license may be purchased at any time for the current license year and may be purchased after November fifteenth for the following license year. The license shall be in lieu of a commercial fisherman's license required by this Section.

G.(1) Any fisherman properly licensed or permitted to legally fish in the federal exclusive economic zone (EEZ) may purchase a Gulf Seafood Traversing and Offloading License from the department to transport and sell his own catch from the federal EEZ across state waters to any licensed wholesale/retail seafood dealer located within the state of Louisiana.

(2) A license issued pursuant to Paragraph (1) of this Subsection shall be issued in lieu of a commercial fisherman's license, vessel license, and any applicable commercial gear license for fishing gear aboard the vessel.

(3) The fee for the Gulf Seafood Traversing and Offloading License shall be seventy-five dollars for residents and eight hundred dollars for nonresidents.

(4) While traversing state waters going to and from the federal EEZ, all fishing gear shall be stowed and shall not be used while in state waters.

(5) The licensee shall provide the wholesale/retail seafood dealer with all information, as determined by the commission to be necessary to properly manage the fishery resources of the state, that is required to complete the commercial receipt form, which shall include but not be limited to the fisherman's first and last name, license number, signature, gear used, vessel used, primary location of where fish were caught, duration of trip, and permit numbers for species requiring a permit to harvest. The licensee shall sign each commercial receipt form attesting that the information provided is correct.

RS 56:303.1 — Commercial fisherman's license; license year; purchase period

irty-first of the same calendar year.

B. A commercial fisherman's license may be purchased at any time of the year for the current license year and from November fifteenth for the immediately following license year.

RS 56:303.1.1 — Fresh products license

cost of a fresh products license shall be sixty-one dollars for residents and three hundred dollars for nonresidents. The fresh products license shall be valid for one year, beginning on January first of each calendar year and expiring on December thirty-first of the same calendar year.

C. The fresh products license shall be issued only by the department during normal working hours and may be purchased in person at the Baton Rouge office or at any other location designated by the department.

D. Anyone holding a fresh products license shall, on or before the tenth day of each month, submit to the department, on forms provided or approved by the department for that purpose, information required by the department as provided in R.S. 56:303.7.

E. A commercial fisherman may purchase a secondary fresh products license for any designated individual if he provides the individual's name and social security number to the department. This secondary license will allow the commercial fisherman to continue to fish while the designated individual sells the catch. The secretary of the Department of Wildlife and Fisheries shall promulgate rules and regulations implementing the provisions of this Subsection. The department is authorized to collect a fee for issuance of the license not to exceed five dollars which, after compliance with Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, shall be credited to the Conservation Fund.

RS 56:303.2 — License possession; menhaden

ercial

fisherman's license. This person must also have in his possession a gear license indicating that the applicable gear fee has been paid and, if applicable, a vessel license.

B. For the purposes of commercial menhaden fishing, notwithstanding any other provision of law to the contrary, the commercial gear license and the vessel license may be issued in the name of the person in charge of the operation of the vessel, his employer, or the owner of the vessel, and may be issued to any individual person, partnership, corporation, or other legal entity recognized by law. Each vessel engaged in commercial menhaden fishing shall carry and have aboard a gear license and vessel license. The licenses shall be in the possession of the person in charge of the operation of the vessel.

C. For the purposes of this Subpart, only one commercial fisherman's license is required for each menhaden seine being used to take menhaden or other herring-like fish.

D. Violation of any of the provisions of this Section constitutes a class 2-B violation.

RS 56:303.3 — Helpers

s on board the commercial fishing vessel, then any person assisting in commercial fishing under the supervision of such licensed person need not have a commercial fisherman's license in his name; provided, however, nothing in this Section shall be construed to authorize any person to engage in commercial fishing in any of the waters of this state at any time when the commercial fisherman's license of the person has been revoked or suspended.

RS 56:303.4 — Commercial fisherman's sales receipt form

receipt form to be used by wholesale/retail seafood dealers who purchase fish from commercial fishermen, soft shell crab sheddors, and fresh products licensees. In addition to information otherwise required by law, commercial fishermen, wholesale/retail seafood dealers, crab sheddors, and fresh product licensees shall provide such information as determined by the commission to be necessary to properly manage the fishery resource of the state, including information required by the commission to prepare stock assessments and other information required by the legislature.

RS 56:303.5 — Presumptions relative to fish caught by person possessing a commercial fishing license

caught or transported by a vessel the operator of which is in possession of a valid Louisiana commercial fishermen's license shall be deemed to have been taken in the waters of Louisiana, and nothing to the contrary shall be claimed.

B. As a condition of possessing a commercial fisherman's license on a fishing trip on board a vessel taking, transporting, or possessing finfish for commercial purposes or in a quantity in excess of a recreational limit, all finfish on board shall be deemed to have been taken for commercial purposes. All finfish on board the vessel are subject to all applicable seasons, limits, regulations, restrictions, and size requirements.

RS 56:303.6 — Oyster harvester license

residents and four

hundred dollars for nonresidents.

(2)

RS 56:303.7 — Transport and sale of the catch

tate of Louisiana. The holder of a commercial fisherman's license may transport and sell his own catch to a consumer only within the state and only when in possession of a fresh products license as provided in R.S. 56:303.1.1. However, if he purchases fish for resale or transports his catch out of the state of Louisiana, or if he sells fish to a retail seafood dealer, restaurant, or retail grocer, he becomes a wholesale/retail seafood dealer and must obtain a wholesale/retail seafood dealer's license and is governed by the laws, rules, and regulations concerning wholesale/retail seafood dealers.

B. Whenever the holder of a commercial fisherman's license sells or transfers possession of his own catch to a wholesale/retail seafood dealer, he shall present the license to the dealer for license verification. The commercial fisherman shall provide the wholesale/retail seafood dealer with all information, as determined by the commission to be necessary to properly manage the fishery resources of the state, that is required to complete the commercial receipt form, which shall include but not be limited to the fisherman's first and last name, license number, signature, gear used, vessel used, primary location of where fish were caught, duration of trip, and permit numbers for species requiring a permit to harvest. The commercial fisherman shall sign each commercial receipt form attesting that the information provided therein is correct.

C. A commercial fisherman selling fish under the authority of a fresh product license specified in R.S. 56:303.1.1 shall record all information required on the commercial receipt forms, except that the fresh product license number shall be recorded in place of the wholesaler/retailer seafood dealer's license number. The fresh product licensee shall complete monthly returns to the department as specified in R.S. 56:306.6 for wholesale/retail seafood dealers. The commercial fisherman shall sign each commercial receipt form attesting that the information provided therein is correct.

RS 56:303.8 — Special apprentice license; commercial taking of saltwater fish; requirements

of saltwater fish.

B. The cost of obtaining the special apprentice license shall be one-half the cost of the regular commercial fisherman's license or permit.

C. The requirements for obtaining the license shall include:

(1) That the applicant shall remain engaged in the fishing activity for at least two years as an apprentice to a person who possesses a valid regular commercial fisherman's license and permit issued by the department, and who is engaged in the commercial taking of saltwater fish by approved methods. The applicant will agree to being aboard the vessel with his mentor while engaged in the fishing activity under this permit.

(2) That the applicant shall meet qualifying fishing income criteria necessary to obtain a license and/or permit for the apprentice program within the two-year apprenticeship. Income may be made from any commercial fishing activity while accompanying a licensed commercial fisherman.

D. The special apprentice license shall authorize, under the same conditions as the regular license or permit, the commercial taking of saltwater fish by the apprentice during the period for which it is valid. The special apprentice license shall be valid for one year.

E. At the end of the two-year period, the holder of a special apprentice license may apply for a regular commercial fisherman's license or permit for spotted sea trout, rod and reel, mullet, or restricted species as provided in R.S. 56:325.4.

F. A person who holds or previously held a commercial fisherman's license, or who has been convicted of a class three or greater violation, shall be precluded from applying for an apprentice license under the provisions of this Section.

G. The commission shall adopt rules and regulations to implement the provisions of this Section.

RS 56:303.9 — Presumption of fish used for commercial purposes only

icensed facility or licensed vehicle shall be deemed to be used for commercial purposes only.

RS 56:304 — Vessel license; fees; place of purchase

e defined in R.S. 56:322.

A vessel may be licensed whenever engaged in commercial fishing in or whenever possessing fish for sale in the freshwater areas of the state defined in R.S. 56:322.

B. The cost of the vessel license for a resident is fifty dollars for the first vessel, thirty-five dollars for the second vessel, and twenty dollars for the third and any subsequent vessel. The cost of the vessel license for a nonresident is four hundred dollars.

C. Vessel licenses shall be issued only by the department during normal working hours and may be purchased in person at the department's Baton Rouge office or at any other location designated by the department.

D. Vessel licenses are issued in the name of the owner of the vessel and shall list the owner's name and address, the vessel name and registration or documentation number, and any other information required by the department.

E. "Owner", as used in this Subpart, means the person having legal ownership of the vessel and can be an individual person, association, corporation, partnership, or other legal entity recognized by law.

RS 56:304.1 — Vessel license; license year; purchase period

same calendar year.

B. A vessel license may be purchased at any time of the year for the current license year and from November fifteenth for the immediately following license year.

RS 56:304.2 — Operation by person not holding a commercial fisherman's license

olding a valid, original commercial fisherman's license to operate such licensed vessel while the vessel is engaged in commercial fishing or while the vessel is possessing fish for sale in the waters of the state.

B. A vessel engaged in commercial fishing and operated by a person not possessing a valid, original commercial fisherman's license subjects the vessel owner to revocation of the vessel license and seizure of the vessel and all fish and equipment thereon.

C. Violation of any of the provisions in this Section constitutes a class 2-B violation.

RS 56:304.3 — Registered vessels

er the vessel is licensed pursuant to this Subpart, is owned or operated by a person licensed under this Part, or whenever the vessel is used to bring fish into the state or its coastal waters or to fish for, take, catch, or transport fish that come into the state or its coastal waters.

RS 56:304.4 — Display of license

904, §1.

{{NOTE: SEE ACTS 1986, NO. 904, §5.}}

RS 56:304.5 — Transferability; change of vessel name

s been issued cannot be changed without prior notification to the department.

RS 56:305 — Commercial gear license; issuance to certain nonresidents prohibited; moratorium on

e indicating that

the applicable gear fee has been paid whenever using or possessing on the fishing grounds any gear listed in Subsection B, below.

B. Residents shall pay a commercial gear fee as follows:

(1) Shrimp Gear:

(a) Butterfly nets: twenty-five dollars for each butterfly net.

(b) Skimmer nets: twenty-five dollars for each skimmer net.

(c) Trawls: twenty-five dollars for each trawl, except no fee is required for use of a test trawl, as defined by R.S. 56:495.1(A), when used with another trawl for which the gear fee has been paid.

(d) Freshwater shrimp net: twenty-five dollars to use a freshwater shrimp net in accordance with R.S. 56:501.

(e) All revenue collected from the sale of shrimp gear fees established in this Paragraph, or from nonresident shrimp gear fees collected pursuant to Paragraph (C)(1) of this Section, shall be credited to the Shrimp Development and Management Account as provided in R.S. 56:10(B)(1)(b)(ii).

(2) Oyster Gear:

(a) Oyster tongs: fifty dollars for each oyster tong.

(b) Oyster scrapers: fifty dollars for each scraper.

(c) All revenue collected from the sale of oyster gear fees established in this Paragraph, or from nonresident oyster gear fees collected pursuant to Paragraph (C)(1) of this Section, shall be credited to the Oyster Resource Management Account as provided in R.S. 56:10(B)(4).

(3) Crab Gear:

(a) Crab traps: fifty dollars for the privilege of using crab traps to fish commercially.

(b) All revenue collected from the sale of crab gear fees established in this Paragraph, or from nonresident crab gear fees collected pursuant to Paragraph (C)(1) of this Section, shall be credited to the Crab Development, Management, and Derelict Crab Trap Removal Account as provided in R.S. 56:10(B)(1)(e).

(4) Saltwater Finfish Gear:

(a) Mullet strike net: three hundred dollars per mullet strike net that may be used only during the special mullet season defined in R.S. 56:333.

(b) Pompano strike net: three hundred dollars per pompano strike net that may be

used only during the special pompano season defined in R.S. 56:325.4 and 406.

(c) All commercial gear licenses as provided for in Subparagraphs (a) and (b) of this Paragraph issued to all qualified nonresidents shall be one thousand two hundred dollars.

(d) Rod and reel: three hundred fifty dollars to fish in the saltwater areas of the state as defined in R.S. 56:322(A) and (B). The department may issue a saltwater commercial rod and reel gear license to each applicant only if the following conditions have been met:

(i) The applicant must provide positive proof that they held a valid commercial gear license for gill nets during any two years of the years 1995, 1994, and 1993.

(ii) The applicant must provide positive proof, in the form of unamended original state and federal income tax returns, including Schedule C of the federal 1040 form, submitted in accordance with procedures established by the commission, that the applicant has derived more than fifty percent of his earned income from the capture and sale of seafood species in at least two of the three years 1995, 1994, or 1993.

(e) Purse seines/menhaden seines: two thousand dollars for each purse seine in use.

(f) Other saltwater gear: fifty dollars to use any legal number of commercial cast nets with a radius in excess of eight feet six inches, hoop nets, or other legal gear for use in the saltwater areas of the state as defined in R.S. 56:322(A) and (B). Effective May 1, 1995, the department shall not issue any new commercial gear licenses for gill nets, trammel nets, strike nets, or seines for use in the saltwater areas of the state. The department may issue renewal licenses to any person, company, or corporation that held a valid commercial gear license for such gear for at least two years during either the 1992, 1993, or 1994 calendar years. The provisions of this Subparagraph shall not apply to licenses issued for the commercial taking of menhaden.

(5) Crawfish Gear:

Crawfish traps: twenty-five dollars for the privilege of using crawfish traps to fish commercially.

(6) Freshwater Gear:

(a) Fifty dollars to use one shad gill net pursuant to R.S. 56:322.2. No person shall receive more than one such license per year.

(b) Fifty dollars to use one shad seine in freshwater areas of the state pursuant to R.S. 56:322.1. No person shall receive more than one such license per year.

(c) Fifty dollars to use any legal number of hoop nets, seines, slat traps, trammel nets, cast nets with a radius in excess of eight feet six inches, wire nets, pipes, buckets, drums, tires, and cans that are placed into the water for the purpose of capturing and taking fish for commercial purposes in the freshwater areas of the state as defined in R.S. 56:322(A) and (B).

C.(1) The commercial gear fee for nonresidents is four times the gear fee for residents; however, the nonresident fee for oyster dredges and tongs in particular shall be eight times the fee for residents.

(2) No commercial gear license allowing the use of specific fishing gear shall be issued to any nonresident whose domiciliary state prohibits the use of similar commercial fishing gear.

(3) Effective May 1, 1995, the department shall not issue any new commercial gear licenses for gill nets, trammel nets, strike nets, or seines for use in the saltwater areas of the state. The department may issue renewal licenses to any person, company, or corporation that held a valid commercial gear license for such gear for at least two years during either the 1992, 1993, or 1994 calendar years. The provisions of this Paragraph shall not apply to licenses issued for the commercial taking of menhaden.

D. In the event more than one gear type is in possession on the fishing grounds the gear fee for each type of gear must be paid and so indicated on the gear license.

E. A gear fee must be paid for each piece of gear or each type of gear, whichever is applicable, being used to take fish or, if the gear is not in use but is in possession on the fishing grounds, the gear fee must be paid for each piece of gear or type of gear, whichever is applicable, intended for use or which was used to take fish.

F. All persons on board any commercial vessel, from which any commercial rod and reel is used, shall possess a valid commercial fishing license.

G. In addition to any other fees provided for in this Section, any commercial fisherman who purchases a trawl, skimmer, or butterfly gear license shall be required to pay an annual fee of ten dollars for residents and forty dollars for nonresidents for deposit into the Shrimp Marketing and Promotion Account as provided for in R.S. 56:10(B)(1)(b)(i). The licensee shall pay the fee required by this Subsection only once in any single license year.

H. Repealed by Acts 2018, No. 612, §22, eff. July 1, 2020.

RS 56:305.1 — License year; place of purchase; purchase period
first of the same calendar year.

B. A commercial gear license may be purchased at any time of the year for the current license year and from November fifteenth for the immediately following license year.

C. Commercial gear licenses shall be issued only by the department during normal working hours and may be purchased in person at any department district office, at the department's Baton Rouge office, or at any other location designated by the department.

RS 56:305.2 — Applicant, license information; commercial gear license for the fishing of menhaden
alid commercial fisherman's license.

B. Except as provided by Subsection D, commercial gear licenses will only be issued in the name of the purchaser and shall list the purchaser's name, address, and license number of the purchaser's commercial fisherman's license.

C. The licensee is responsible for all activities taking place under privilege of the license.

D. For the purpose of a commercial gear license for the fishing of menhaden or other herring-like fish, the commercial gear license may be issued to any person, association, partnership, corporation, or any other entity recognized by law.

RS 56:305.3 — Temporary transfer of commercial gear licenses
and having the same residency status

as indicated on the license being transferred. Gear licenses that require qualification shall not be transferred and may only be used by the person to whom it was issued.

B. A commercial gear license used by a person not holding a valid, original commercial fisherman's license and using gear under privilege of the commercial fisherman's license is subject to revocation.

C. Violation of any of the provisions in this Section constitutes a class 2-B violation.

RS 56:305.4 — Other licenses

you experience any technical difficulties navigating this website,

RS 56:305.5 — Commercial gear license for gill net; permits to be used in the EEZ; dedication and expenditure of funds collected

ets or permits issued under Subsection B of this Section to be used in the saltwater areas of the federal exclusive economic zone (EEZ) and the freshwater areas of the state shall be deposited to the Wildlife and Fisheries Conservation Fund to be used solely for costs associated with the issuance of commercial fishing licenses and for the enforcement of laws regulating wildlife, fish, and other aquatic life in the coastal zone of the state.

B. The secretary of the Department of Wildlife and Fisheries shall promulgate rules and regulations for the issuance of permits to persons authorized to possess gill nets, trammel nets, strike nets, and seines within the territorial boundaries of the state while traversing state waters to and from the federal exclusive economic zone.

RS 56:305.6 — Commercial crab fishing; apprentice license; requirements

ofessionalism program shall include education in

the proper fishing techniques necessary for the health and sustainability of the species; proper techniques for the best capture and presentation of the crabs for marketability; proper instructions regarding the placement, tending, and maintenance of crab traps to reduce potential conflicts with other user groups, and may include an apprenticeship program. The professionalism program shall be established no later than November 15, 2014, through rules promulgated pursuant to the Administrative Procedure Act.

B. Beginning November 15, 2014, and applicable to license year 2015 and thereafter, no person shall be issued a commercial crab trap gear license unless that person qualifies under any of the following provisions:

(1) The person possessed a valid commercial crab trap gear license during any two license years between 2011 and 2014.

(2) The person possessed a valid wholesale/retail seafood dealer's license and can demonstrate crab landings through trip ticket submissions during any two years between 2011 and 2014.

(3) The person has enrolled in and completed the program to increase and elevate professionalism in the commercial crab industry established pursuant to the provisions of this Section.

RS 56:305.7 — Rod and reel gear license eligibility; class three or greater violations; prohibitions

hery-related class three or greater violation shall not be eligible to hold a commercial rod and reel gear license for a period of two years from the date of conviction. Upon a second conviction of such person for a fishery-related class three or greater violation, the period of ineligibility to hold a commercial rod and reel gear license shall be five years from the date of conviction. Upon a third and subsequent conviction of such person for a fishery-related class three or greater violation, the period of ineligibility to hold a commercial rod and reel gear license shall be ten years from the date of conviction.

RS 56:306 — Wholesale/retail seafood dealer's license; place of business; employees; exemptions;

quiring, or handling, from any person, by any means

whatsoever, any species of fish, whether fresh, frozen, processed, or unprocessed, in Louisiana from within or outside the state, for sale or resale, including bait species, whether on a commission basis or otherwise, is a wholesale/retail seafood dealer and must purchase a wholesale/retail seafood dealer's license.

(2) Repealed by Acts 2021, No. 356, §5, eff. Nov. 15, 2021.

B.(1) The license shall be in the name of the licensee and shall list the legal mailing address and the physical location of the place of business, and any other information required by the department. If the place of business is a vehicle, then the license shall state "vehicle" and shall list the legal mailing address and physical location of the licensee.

(2)(a) This license, when issued to an individual, allows the licensee to operate as a wholesale/retail seafood dealer at any point within the state when that person is in possession of the original license. The license is only valid for the person for whom it has been issued.

(b) This license, when issued to a corporation, partnership, or any other type of association, is only valid for one place of business and only valid to transact business for and in the name of the licensee.

(3) If the licensee owns or operates more than one place of business, then an additional wholesale/retail seafood dealer's license must be purchased for each additional place of business or vehicle. The additional licenses shall be in the same name of the operator, list a different license number than the original license, list the legal mailing address and the location of the place of business, and any other information required by the department.

(4) Individual employees of wholesale/retail seafood dealers are not required to obtain a wholesale/retail seafood dealer's license when transacting the business of the wholesale/retail seafood dealer on the premises of the place of business, or when delivering for or on behalf of a wholesale/retail seafood dealer and possessing a valid transport license purchased in connection with that wholesale/retail seafood dealer, but any employee or person buying, acquiring, handling, or selling fish as a wholesale/retail seafood dealer or for a wholesale/retail seafood dealer at any place other than on the premises of the place of business, or without a valid transport license for that wholesale/retail seafood dealer, must obtain a wholesale/retail seafood dealer's license. When individual employees of a wholesale/retail seafood dealer operate under authority of a transport license for the dealer, the wholesale/retail seafood dealer licensee remains responsible for all activities which take place under the authority of that license.

(5) The provisions of this Section shall not apply to a person transporting fish under the privilege of a Louisiana transport license purchased in connection with a Louisiana wholesale/retail seafood dealer's license when that person buys fish for or on behalf of the wholesale/retail seafood dealer to whom such transport license was issued and only transports such fish to that wholesale/retail dealer in Louisiana. When a person operates under the authority of a transport license for that dealer, the wholesale/retail seafood dealer licensee remains responsible for all activities which take place under the authority of that license.

(6) Restaurants and retail grocers who only purchase fish or seafood, whether fresh, frozen, processed, or unprocessed, from a licensed wholesale/retail seafood dealer and only sell such fish or seafood fully prepared for immediate consumption by the consumer need not be licensed in compliance with the provisions of this Section. Any restaurant or retail grocer who sells fish or seafood as described in this Section shall be licensed in accordance with the

applicable law. All restaurants and retail grocers shall maintain records as required in this Subpart.

(7)(a) In addition to the license requirements contained in this Section, any wholesale/retail seafood dealer who exports or attempts to export outside of the state of Louisiana any crabs, soft shell crabs, boiled crabs, containerized crabmeat, or containerized pasteurized crabmeat shall be required to purchase a wholesale out-of-state crab shipping license in addition to his wholesale/retail dealer's license. The wholesale out-of-state crab shipping license shall be issued in the same manner as a wholesale/retail seafood dealer's license and shall be issued only to a person who is a licensed wholesale/retail seafood dealer.

(b) The fee for a wholesale out-of-state crab shipping license shall be two hundred forty dollars per year. The license shall be valid for one year, beginning on January first of each calendar year and expiring on December thirty-first of the same calendar year. The license may be purchased at any time of the year for the current license year and from November fifteenth for the immediately following license year.

(c) All revenues collected from the issuance of wholesale out-of-state crab shipping licenses shall be deposited to the Crab Development, Management, and Derelict Crab Trap Removal Account as provided in R.S. 56:10(B)(1)(e).

(8)(a) In addition to the license requirements contained in this Section, any wholesale/retail seafood dealer who sells seafood sourced from outside of the federal exclusive economic zone (EEZ) shall be required to purchase an imported seafood license in addition to his wholesale/retail dealer's license. The imported seafood license shall be issued in the same manner as a wholesale/retail seafood dealer's license and shall be issued only to a person who is a licensed wholesale/retail seafood dealer.

(b) The license shall be valid for one year, beginning on January first of each calendar year and expiring on December thirty-first of the same calendar year. The license may be purchased at any time of the year for the current license year and from November fifteenth for the immediately following license year. The license fee shall be three hundred dollars.

(c) Ten percent of all revenues collected from the issuance of imported seafood licenses shall be deposited into the Conservation Fund as provided in R.S. 56:10, and the remainder shall be deposited into the Imported Seafood Safety Fund as provided in R.S. 40:5.10.1.

RS 56:306.1 — Retail seafood dealer's license; place of business; employees; retail out-of-state crab means whatsoever, from a

Louisiana wholesale/retail seafood dealer, any species of fish whether fresh, frozen, processed, or unprocessed, that sells to the consumer for personal or household use and any person who ships fish out of or within the state of Louisiana to the consumer for personal or household use shall purchase a retail seafood dealer's license.

B.(1) The license shall be in the legal name of the licensee and shall list the legal mailing address and physical location of the place of business and any other information required by the department. If the place of business is a vehicle, the license shall state "vehicle" and shall list the legal mailing address and physical location of the licensee.

(2)(a) This license, when issued to an individual, allows the licensee to operate as a retail seafood dealer at any point within the state when that person is in possession of the original license. The license is only valid for the individual for whom it has been issued.

(b) This license, when issued to a corporation, partnership, or any other type of association, is valid only for one place of business and valid only to transact business for and in the name of the licensee.

(3) If the licensee owns or operates more than one place of business, then an additional retail seafood dealer's license must be purchased for each additional place of business or vehicle. The additional licenses shall be in the same name of the business, list a license number which shall be different than the original license, list the legal mailing address and the physical location of that place of business, and any other information required by the department.

(4) Individual employees of retail seafood dealers are not required to obtain a retail seafood dealer's license when transacting the business of the retail seafood dealer on the premises of the place of business, but any employee or person buying, acquiring, handling, or selling fish as a retail seafood dealer other than on the premises of the place of business must obtain a valid retail seafood dealer's license. When individual employees of a retail seafood dealer operate under the authority of a transport license for that dealer, the retail seafood dealer licensee remains responsible for all activities taking place under authority of that license.

(5) The provisions of this Section shall not apply to a person transporting fish under the privilege of a Louisiana transport license purchased in connection with a Louisiana retail seafood dealer's license when that person buys fish for or on behalf of the retail seafood dealer and only transports such fish to that retail dealer.

(6) Restaurants and retail grocers who only purchase fish or seafood, whether fresh, frozen, processed, or unprocessed, from a licensed wholesale/retail seafood dealer and only sell such fish or seafood fully prepared for immediate consumption by the consumer need not be licensed in compliance with the provisions of this Section. Any restaurant or retail grocer who sells fish or seafood as described in R.S. 56:306 or this Section shall be licensed in accordance with the applicable law. All restaurants and retail grocers shall maintain records as required in this Subpart.

(7)(a) In addition to the license requirements contained in this Section, any retail seafood dealer who exports or attempts to export outside of the state of Louisiana any crabs, softshell crabs, boiled crabs, containerized crabmeat, or containerized pasteurized crabmeat shall be required to purchase a retail out-of-state crab shipping license in addition to his retail dealer's license. The retail out-of-state crab shipping license shall be issued in the same manner as a retail seafood dealer's license and shall be issued only to a person who is a licensed retail seafood dealer.

(b) The fee for a retail out-of-state crab shipping license shall be one hundred dollars per year. The license shall be valid for one year, beginning on January first of each calendar year and expiring on December thirty-first of the same calendar year. The license may be purchased at any time of the year for the current license year and from November fifteenth

for the immediately following license year.

(c) Of the revenues collected from the issuance of retail out-of-state crab shipping licenses, ten percent shall be deposited to the Conservation Fund, and ninety percent shall be deposited to the Crab Development, Management, and Derelict Crab Trap Removal Account, R.S. 56:10(B)(1)(e).

(8)(a) In addition to the license requirements contained in this Section, any retail seafood dealer who sells seafood sourced from outside of the federal exclusive economic zone (EEZ) shall be required to purchase an imported seafood license in addition to his retail dealer's license. The imported seafood license shall be issued in the same manner as a retail seafood dealer's license and shall be issued only to a person who is a licensed retail seafood dealer.

(b) The license shall be valid for one year, beginning on January first of each calendar year and expiring on December thirty-first of the same calendar year. The license may be purchased at any time of the year for the current license year and from November fifteenth for the immediately following license year. The license fee shall be three hundred dollars.

(c) Ten percent of all revenues collected from the issuance of imported seafood licenses shall be deposited into the Conservation Fund as provided in R.S. 56:10, and the remainder shall be deposited in the Imported Seafood Safety Fund as provided in R.S. 40:5.10.1.

RS 56:306.2 — License fee; place of purchase

residents. Restaurants and

retail grocers may sell native reptiles and amphibians for human consumption under the provisions of this Section.

(2) The cost of the retail seafood dealer's license is two hundred thirty dollars for residents and four hundred sixty dollars for nonresidents.

(3) Validly licensed wholesale/retail seafood dealers shall not be required to obtain licenses which are required by Subpart K of Part VII of Chapter 1 of this Title entitled "Reptiles and Amphibians". However, wholesale/retail seafood dealers are required to comply with any regulations contained within those Sections of law.

B. A wholesale/retail seafood dealer's license and a retail seafood dealer's license shall be issued only by the department during normal working hours at the Baton Rouge office or at any other location designated by the department.

RS 56:306.3 — Wholesale/retail seafood dealer's license and retail seafood dealer's license; license 's license are

valid for one year, beginning on January first of each calendar year and expiring on December thirty-first of the same calendar year.

B. A wholesale/retail seafood dealer's license and a retail seafood dealer's license may be purchased at any time of the year for the current license year and from November fifteenth for the immediately following license year.

C. The department may also authorize the purchase of a wholesale/retail seafood dealer's license and a retail seafood dealer's license for a four-year period at four times the

cost of the annual license fee.

RS 56:306.4 — Restrictions on buying and selling and transportation by wholesale/retail seafood

od dealers shall buy directly from commercial fishermen

validly licensed in Louisiana, and when purchasing fish for which a permit is required of the commercial fisherman, such dealers shall purchase only from those commercial fishermen possessing a valid permit. Wholesale/retail seafood dealers validly licensed in Louisiana, and in the case of wholesale/retail seafood dealers purchasing fish from out-of-state sellers and bringing the fish into Louisiana, shall purchase only from those persons from whom a wholesale/retail seafood dealer can legally purchase fish in the state of purchase, and from no one else.

(2) Each wholesale/retail seafood dealer who purchases fish from a licensed commercial fisherman shall record the sale on the three-part receipt form provided for in R.S. 56:303.7. The dealer shall copy the name and license number on the receipt form. The dealer, at the time of the sale, shall provide the commercial fisherman with a sales receipt which shall be one part of the three-part receipt form. All wholesale/retail seafood dealers shall comply with the records requirements contained in R.S. 56:306.5.

B. Wholesale/retail seafood dealers can sell to anyone within or without the state.

C.(1) Retail seafood dealers, restaurants, and retail grocers shall buy directly only from wholesale/retail seafood dealers licensed in Louisiana. When a restaurant or retail grocer purchases fish from an out-of-state seller and brings the fish into the state, he shall buy directly from those persons from whom he can legally purchase fish in the state of purchase. When a retail seafood dealer, restaurant, or retail grocer buys fish from an out-of-state seller and brings the fish into the state, the restaurant or retail grocer shall be licensed in accordance with the provisions of R.S. 56:306 or 306.1 and shall possess a valid transport license when bringing such fish into the state.

(2) Restaurants and retail grocers who only purchase fish, whether fresh, frozen, processed, or unprocessed, from a licensed wholesale/retail seafood dealer and only sell such fish fully prepared by cooking for immediate consumption by the consumer, need not be licensed in compliance with the provisions of this Subpart. Any restaurant or retail grocer who purchases or sells fish in any manner other than as described in this Section must be appropriately licensed as required by this Subpart. All restaurants and retail grocers shall maintain records as required by this Subpart.

D. Repealed by Acts 2010, No. 743, §2(C), eff. July 1, 2010.

RS 56:306.5 — Records

nd species of fish acquired, the date the fish was

acquired, and the name and license number of the wholesale/retail seafood dealer or the out-of-state seller from whom the fish was acquired. When creel limits apply to commercial species, records shall also indicate the number by head count of such species of fish.

(2) Records of the quantity and species of fish sold, the date the fish was sold, and the name and license number of the person to whom the fish was sold. When sold to the consumer, the records shall indicate the quantity, species, and date and shall state that the fish was sold to the consumer.

B.(1) Wholesale/retail seafood dealers purchasing or acquiring fish from commercial fisherman shall complete a commercial receipt form. The commercial receipt form shall be a three-part form signed by both the commercial fisherman and the wholesale/retail seafood dealer or his designee, attesting to that the information required to be provided by each is correct. One part of the receipt form shall be retained by the wholesale/retail seafood dealer, one part shall be transmitted to the commercial fisherman within twenty-four hours of the transaction, and one part shall be transmitted to the secretary of the Department of Wildlife and Fisheries as provided for in R.S. 56:306.6.

(2) The wholesale/retail seafood dealer is responsible for recording on the commercial receipt form that information provided by the commercial fisherman as specified in R.S. 56:303.7, and is responsible for the following information within twenty-four hours of each purchase or transfer of possession of a catch from a commercial fisherman to a wholesale/retail seafood dealer: wholesale/retail seafood dealer's name and license number, commercial fisherman's name, license number and signature, transaction date, species identification, quantity and units of each species, size and condition of each species, unit price of each species, and permit number for species requiring a permit to harvest.

C. The records required under Subsections A and B of this Section shall be maintained for three years and shall be open to inspection by the department.

D. All information, data, and statistics obtained by the department pursuant to this Section shall be used for the equitable and efficient administration and enforcement of the laws pertaining to the fisheries resources of the state and for conservation and management purposes.

E. The names, addresses, and license numbers of commercial fishermen, except oyster fishermen, shall remain confidential, provided such information shall be available to and used by the Department of Wildlife and Fisheries for administrative and enforcement purposes. However, the department may make the names and addresses of commercial fishermen available to public or private entities for financial consideration.

RS 56:306.6 — Monthly returns to the department by wholesale/retail seafood dealers

mercial receipt forms representing actual transactions from every commercial fisherman during the preceding month. All commercial receipt forms submitted by a dealer shall be accompanied by a monthly submission sheet signed by the wholesale/retail seafood dealer certifying that the transactions submitted represent all of the transactions by that dealer from commercial fishermen for that particular month. Additionally, those wholesale/retail seafood dealers who shed soft shell crabs or operate soft shell crab shedding facilities shall, on or before the tenth of each month, submit to the department, on forms specified by the department, information relative to the amount of soft shell crab produced.

B. The Department of Wildlife and Fisheries shall draft regulations, for approval by the Wildlife and Fisheries Commission and promulgation under the Administrative Procedure Act, prescribing procedures to preserve the confidentiality of any data, information, or statistics submitted or collected pursuant to this Section. Such regulations shall allow compliance with federal procedures as set forth by the United States Department of Commerce or its agencies for confidentiality of fishing statistics collected from individuals or firms by the Department of Commerce or its agencies.

C. All fish purchased by wholesale/retail seafood dealers from persons other than licensed wholesaler/retail seafood dealers which are not reported as required herein shall be deemed to have been illegally possessed or purchased by the purchasing wholesale/retail seafood dealer.

D. No later than January 1, 2001, the department shall have in place the capability to receive through electronic means the commercial receipt form information required to be transmitted to the department by R.S. 56:306.5(B) and Subsection

A of this Section. The department shall promulgate rules to regulate the submission of such commercial receipt form information electronically. Beginning January 1, 2001, a wholesale/retail seafood dealer may submit such commercial receipt form information electronically.

RS 56:306.7 — Definitions

e, but does not include a public cold storage vault, temporary receiving station, or vehicle from which no orders are taken or no shipments or deliveries are made other than to the place of business of a licensee in this state.

(2) Person, owner, and operator shall all mean "person" as defined by R.S. 56:8.

RS 56:307 — Transporter; license required

r possession at least one of the following licenses:

- (1) A commercial fisherman's license.
- (2) A wholesale/retail dealer's license.
- (3) A transport license.

B. Persons who produce and harvest crawfish in private ponds or who produce and harvest catfish in private ponds shall not be required to obtain, maintain, or exhibit any license, permit, or certificate in order to transport crawfish from the place where they were produced or harvested in private ponds or catfish from the private pond to the first point of sale.

C. Transport license requirements shall not apply to fish or fish products which are the result of processing as defined in R.S. 56:8.

RS 56:307.1 — Transport license fee; underlying license

cial fisherman's license or valid

Louisiana wholesale/retail dealer's license.

B. The transport license shall be in the name of and bear the license number of the purchaser and shall state "transport license".

C. The transport license may be applied for in the same manner and is valid for the same one-year period as that of the purchaser's license.

D. The department may also authorize the purchase of a four-year transport license at four times the cost of the annual license fee.

RS 56:307.2 — Buying and selling prohibition by transporters; exceptions

pecies of fish.

B. The provisions of this Section shall not apply to a person transporting fish under the privilege of a Louisiana transport license purchased in connection with a Louisiana wholesale/retail dealer's license when that person buys fish for or on behalf of the wholesale/retail dealer to whom such transport license was issued and only transports such fish to that wholesale/retail dealer.

RS 56:307.3 — Number of licenses that can be purchased

EE ACTS 1986, NO. 904, §5.}}

RS 56:307.4 — Repealed by Acts 1987, No. 779, §2.

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RS 56:307.5 — Transferability

904, §1.

{{NOTE: SEE ACTS 1986, NO. 904, §5.}}

RS 56:307.6 — Common carriers

86, NO. 904, §5.}}

RS 56:307.7 — Shipping records

er of pounds of fish and the names of each kind contained therein. Bills of lading issued by a common carrier for such shipments shall state the number of packages which contain fish, and the date and names of the consignor and consignee, with an itemized statement of the number of pounds of fish and the names of each kind contained therein.

Shipments of fish of any species and fish products shall be subject to inspection by enforcement agents of the department while in transit and upon leaving the state.

B. Information, data, and statistics obtained by the department pursuant to this Section shall be used for the equitable and efficient administration and enforcement of the laws pertaining to the fisheries resources of the state and for conservation and management purposes.

RS 56:308 — Penalty

the provisions of this Part, except those listed in Subsection A of this Section, constitutes a class three violation.

RS 56:311 — Repealed by Acts 1981, No. 737, §2

on Rouge, Louisiana 70804-9062

RS 56:313 — Control of fisheries; duty of commission; duty of the department

enforce the provisions of law regulating them. All fish taken, possessed, or transported contrary to the provisions of this Subpart shall, when found, be confiscated by the department through its authorized agents.

RS 56:314 — Confiscation of unlawful tackle

or unlawful use. Such tackle, used in operation thereof, is a public nuisance and shall be confiscated and turned over to the commission.

If the property so seized is susceptible of lawful use it shall be returned by the commission to its lawful owner within thirty days after final disposition of the charge. If the seized property is illegal per se and not susceptible of lawful use the commission shall make disposition in accordance with the order of the court having jurisdiction over the charge; provided however, that no fishing tackle, gear, rods or reels shall be seized by any agent of the commission if the sole violation is the failure of the offender to have on his person a fishing license.

RS 56:315 — Sanctuaries and propagating places; closed zones

aters of the state in whole or in part, and operate and maintain hatcheries, sanctuaries, and propagating places for the protection and propagation of fish for maintaining the supply in those waters and for restocking same. Such areas shall be designated as closed zones, and fishing shall be restricted in any manner deemed advisable by the commission. In order to carry out the provisions of this section, the commission may purchase lands, build dams, expropriate property and do anything necessary to carry these provisions into effect.

RS 56:315.1 — Fish ladders

ject to the approval of the Department of Public Works, where dam construction has caused a need therefor in order that propagating places may be reached by the fish. These lakes shall include but shall not be limited to the following: Caddo Lake.

RS 56:316 — Trespass on areas set aside for propagation of fish

by or under authority of the commission for

conducting scientific experiments or investigations, or for the propagation and distribution of fish, after the commission has printed notices of such occupation and use and the purpose thereof. These notices shall be placed in a conspicuous position adjacent to the area or upon the building or other structure.

B. No person shall willfully and maliciously injure or deface any such building or other structure or any notice posted as aforesaid; nor injure or destroy any property used in such experiments, investigations, or fish propagation; or otherwise interfere therewith.

C. Violation of any of the provisions of this Section constitutes a class 2-B violation.

RS 56:317 — Louisiana Catch and Cook Program; preparation of recreational fish or alligator in

law or

regulation to the contrary, it shall be lawful for retail food establishments to receive and prepare any freshwater or saltwater recreational fish as defined in R.S. 56:8 or alligator as provided in this Section.

B.(1) The secretary of the Department of Wildlife and Fisheries is hereby authorized to establish, manage, and promote, in conjunction with the Louisiana Seafood Promotion and Marketing Board, the Louisiana Charter Boat Association, and the Louisiana Restaurant Association, the Louisiana Catch and Cook Program, whereby a retail food establishment is authorized to prepare any fish legally taken by a licensed charter captain or a licensed recreational fisherman or any alligator legally taken by a licensed alligator hunter for consumption by that charter boat captain, recreational fisherman, or alligator hunter or any person in the charter boat captain's, fisherman's, or hunter's party.

(2) The program shall be established through the promulgation and adoption of rules and regulations in conjunction with the Louisiana Department of Health and in accordance with the Administrative Procedure Act. Such rules and regulations shall include but are not limited to the following which shall be enforced by Louisiana Department of Health, office of public health:

(a) The retail food establishment shall complete, date, and have the recreational fisherman or alligator hunter who brings the fish or alligator in for preparation sign an assumption of risk form. The completed, dated, and signed form shall be maintained at the establishment for a period of no less than ninety days. The establishment shall provide the completed forms to the state health officer upon request.

(b) The retail food establishment shall receive only fish or alligator meat, within individual fishing limits, that has been cleaned, filleted, placed in clean, food-grade, single-service packaging, labeled, and properly refrigerated.

(c) The retail food establishment shall inspect the fish or alligator for freshness and proper receiving temperature.

(d) The fish or alligator shall be properly labeled with the date and time the fish or alligator are caught, and the full name and address of the licensed charter captain, recreational fisherman, or alligator hunter.

(e) The retail food establishment shall store, prepare, and otherwise handle the fish or alligator separately from products being prepared for and served to the general public.

(f) The retail food establishment shall store, prepare, and otherwise handle the fish or alligator in compliance with provisions of the state Sanitary Code.

(g) The retail food establishment shall prepare and serve the fish to the recreational fisherman or alligator to the alligator hunter or any person in the fisherman's or hunter's party within four hours of receipt of the fish or alligator.

(h) Containers, preparation tables, cutting boards, utensils, and other food preparation equipment used to prepare and serve the fish or alligator shall be properly cleaned and sanitized in accordance with provisions of the state Sanitary Code prior to use preparing foods to serve to the general public.

(i) The fish or alligator shall be served directly to the recreational fisherman or alligator hunter or any person in the fisherman's or hunter's party immediately upon the completion of cooking and shall not be served to the general public.

C. Any retail food establishment or licensed charter captain that wishes to participate in the Louisiana Catch and Cook Program shall apply to the Department of Wildlife and Fisheries to be issued a participation permit by the department. There shall be no fee for the permit. The permit may be suspended or revoked by the department for any violation of the rules and regulations of this program. The Department of Wildlife and Fisheries shall provide the name and location of each participating retail food establishment to the Louisiana Department of Health, office of public health, upon request.

RS 56:318 — Taking fish for scientific or educational purposes; permits

poses and for propagation and distribution. The department shall have the authority to regulate or prohibit, by rule in accordance with the Administrative Procedure Act, the importation or introduction of live fish or fish eggs of any kind in public or private waters of the state.

B. No person shall introduce into the state any live fish or fish eggs without a permit issued by the department; provided, however, that the department shall have the authority to regulate or prohibit, by rule in accordance with the Administrative Procedure Act, the importation or introduction of goldfish and aquarium fish into the state.

C. The secretary may issue permits to any persons to take fish for scientific or educational purposes or for propagation or for distribution. The prohibition against the taking of fish by means of any device not specially permitted in this Subpart under the legal size limits provided in this Subpart during any closed season or closed zones designated by the department does not apply to such persons if, in the opinion of the department, the fish are necessary for scientific or educational purposes or for propagation or distribution to other waters of the state. These permits may be revoked at any time if abused.

RS 56:318.1 — Fishing tournaments; special permits

special permits authorizing participants in a large tournament to possess live black bass, *Micropterus* spp., or its hybrids, that would otherwise fall outside of legal limits.

B. The application for the permit may be accompanied by a fee in an amount determined by the department as necessary to cover the reasonable administrative costs incurred by the department in issuing and enforcing the permit. The permit application shall be made on a standard form provided by the department and shall include the name, address, and phone number of the sponsoring organization or individual; the location and date of the tournament; total value of the prizes; and expected number of participants. The permit application shall be submitted to the department at least thirty days prior to the proposed event.

C. Permits are not transferable and shall clearly demonstrate the expiration date.

D. An employee of the department may be assigned as an observer and be present at any tournament.

E. As used herein, "large tournament" shall mean any tournament in which the number of qualified entries exceeds one hundred boats.

RS 56:319 — Exotic fish; importation, sale, and possession of certain exotic species prohibited; permit required; penalty

sported into this state by any other person, firm, or corporation, without first obtaining the written permission of the secretary of the Department of Wildlife and Fisheries, any of the following species of fish: freshwater electric eel (*Electrophorus*

sp.); rudd (

Scardinius erythrophthalmus

); all members of the families

Synbranchidae

(Asian swamp eels);

Channidae

(snakeheads);

Clariidae

(walking catfishes);

Trichomycteridae

(pencil catfishes); all species of tilapia, and carp, except koi or common carp (

Cyprinus carpio

) and goldfish (

Carassius auratus

). Any fish which requires a permit under the provisions of this Subsection shall not be returned to the water if taken from state waters, and any such fish may be possessed only by properly permitted people or if the fish is dead.

B. All permits granted under the provisions hereof shall be on an annual basis except for permits issued for triploid grass carp possession and transportation for aquatic plant control. All requests for such permission shall indicate the source, number, and destination of the species named therein.

C. The provisions contained herein shall be enforced by the commission, and its decision in the granting or denial of the permission referred to herein shall be final.

D. No person shall have in possession or sell in this state a piranha or Rio Grande Cichlid; except that, piranha may be possessed and displayed at the Aquarium of the Americas, Audubon Institute, New Orleans, as authorized by a special permit issued by the department, under conditions the department deems necessary to prevent their introduction into waters of the state. Neither the permit nor the conditions and requirements thereof shall be required to be adopted pursuant to the provisions of the Administrative Procedure Act.

E. Violation of any of the provisions of this Section constitutes a class four violation.

RS 56:319.1 — Control of importation of fish; department's regulatory authority

possession, sale, or transportation of any fish into Louisiana.

RS 56:319.2 — Designation and taking of exotic fish

provisions of the Administrative Procedure Act to authorize the taking of exotic fish from public waters in the state under specified licenses and by specified gear. The secretary may issue permits as authorized by the commission. Such permits shall be valid for one year and shall be subject to monitoring, review, and suspension or revocation by the secretary.

RS 56:320 — Methods of taking freshwater or saltwater fish

t casting, fly casting apparatus,

crawfish nets, by use of devices known as yo-yos or trigger devices, bow and arrow,

recreational hoop nets, recreational wire nets, recreational slat traps, standard spearing

equipment used by a skin diver sport fishing in saltwater or freshwater when submerged in

the water, recreational pipes, recreational buckets, recreational drums, recreational tires, and

recreational cans, and by no other means except a barbleless spear or a multi-pronged barbed

gig that may be used in saltwater for taking flounder. Recreational wire nets and recreational

hoop nets authorized for use under the provisions of this Section shall be used only in the

geographical areas of the state designated as freshwater under the provisions of R.S. 56:322.

(2) However, skin divers fishing for recreational purposes in fresh water, when

submerged in the water and using standard spearing equipment, or any person using a bow

and arrow, or any person using or possessing nets or traps, including recreational hoop nets,

recreational slat traps, recreational pipes, recreational buckets, recreational drums,

recreational tires, and recreational cans, may not take or possess any game fish as defined in R.S. 56:8 except red drum may be taken using a bow and arrow or by skin divers using standard spearing equipment fishing for recreational purposes while submerged in water.

(3) However, notwithstanding Paragraphs (1) and (2) of this Subsection, and any other provision of law to the contrary, bream of any species may be taken when fishing for sport in freshwater by using a minnow trap that does not exceed twenty-four inches in length and having a throat no larger than one inch by three inches for noncommercial bait purposes.

(4) Repealed by Acts 1999, No. 5, §2.

(5) Repealed by Acts 2006, No. 111, §1.

B.(1) Commercial finfish may be taken with pole, line, the device known as a yo-yo, the device known as a trigger device, handline, with any trotline wherein hooks are not less than twenty-four inches apart, approved slat traps, cans and minnow traps, with legal seines and nets, with bows and arrows, or by any skin diver in salt water or fresh water, when submerged in water and using standard spearing equipment, and by no other means except as provided in Subsection C of this Section. In the saltwater areas of the state as defined in R.S. 56:322(A) and (B), commercial finfish may be taken by means of rod and reel. However, eel may be taken for commercial purposes using eel pots and other legal gear as provided herein. Violation of this Paragraph constitutes a class three violation.

(2) Repealed by Acts 1995, No. 543, §3.

(3) Crabs or stone crabs may be taken with any legal crab trap, crab dropnet, trawl, skimmer net, butterfly net, hoop net, trotline, handline, bushline, dip net, or cast net. A dredge shall not be used for the intentional taking of crabs. Crab traps located in areas north of the northern bank of the Intracoastal Waterway and west of Louisiana Highway 70 and those areas located on the eastern side of the Mississippi River and inland from the saltwater line are not required to be marked with a float and float line, unless the trap is placed in a lake.

C.(1) No person shall take or possess fish taken by means of spears, poisons, stupefying substances or devices, explosives, guns, tree-topping devices, lead nets, except as provided in R.S. 56:329(B), electricity, or any instrument or device capable of producing an electric current used in shocking the fish; except a barbless spear or a multi-pronged barbed gig that may be used in salt water for taking flounder. No person shall take or possess game fish taken by means of snagging devices, not including bow and arrow. Catfish may be taken by means of snagging devices and hand-grabbing. Garfish may be taken by means of spears and bows and arrows. It shall be unlawful to possess any of the prohibited instruments, weapons, substances, or devices set out in this Subsection with the intent to take fish in violation of the provisions of this Section.

(2) No person shall use or deploy within the state territorial waters bandit gear or longline gear. A person may possess bandit gear or longline gear aboard a vessel within state territorial waters so long as such gear is not in use or deployed to take fish. No person shall possess fish taken within the state territorial waters using bandit gear or longline gear.

D. The commission may provide by rule or regulation that no seines or gill nets authorized for use in taking fish from the waters of the state of Louisiana shall be left

unattended, except as otherwise provided by this Title.

E. The commission may provide by rule and regulation for the taking of game fish with scuba gear, consistent with and in addition to other provisions of law as provided in this Section.

F. Each gill net or trammel net used to take freshwater commercial fish shall be marked with two waterproof tags with the name and license number of the fisherman legibly printed thereon, such tags to be placed at each end of the net. The secretary shall promulgate and adopt rules and regulations to establish a marking system for nets used in freshwater areas of the state sufficient to enable the department's agents to clearly identify unattended nets, as defined in R.S. 56:8, including the name and license number of the owner of such nets, and sufficient to enforce all laws relative to such nets. Violation of this Subsection constitutes a class three violation.

G. It shall be unlawful for any person to use or employ any aircraft including fixed wing aircraft, dirigibles, balloons, helicopters, or any other form of aerial surveillance in the airspace of this state to assist in the taking of finfish except in the fisheries of menhaden and herring-like fish as defined in Title 76, Section 311 of the Louisiana Administrative Code. Any aircraft, boat, or vessel and equipment utilized in the taking of finfish and any fish taken or possessed, except in the fisheries of menhaden and other herring-like fish, contrary to the provisions of this Subsection shall be subject to confiscation. Violation of this Subsection constitutes a class 5-A violation.

H. Violations of Subsection C of this Section and the taking of freshwater and saltwater gamefish by illegal methods shall constitute a class four violation.

I.(1) It shall be unlawful for any person to knowingly and intentionally use or employ any net to encircle a vessel or to otherwise knowingly and intentionally use or employ any vessel or fishing gear to interfere with the lawful fishing of another.

(2) It shall be unlawful for any person to knowingly and intentionally use or employ any vessel or recreational gear to interfere with the lawful commercial fishing of another.

(3) A violation of the provisions of this Subsection shall constitute a class two violation, R.S. 56:32.

RS 56:320.1 — Use and possession of certain gill nets, trammel nets, strike nets, or seines; prohibited

net, strike net, or seine in the saltwater areas of the state as defined in R.S. 56:322(A) and (B), except as provided in R.S. 56:318 and 320.2.

B. A violation of the provisions of this Section shall constitute a class six violation.

RS 56:320.2 — Federal exclusive economic zone (EEZ)

in or owner of the vessel has in his immediate possession upon the vessel a permit issued by the department under R.S. 56:305.5(B).

B. While traversing state waters going to and from the waters of the federal exclusive economic zone (EEZ), all gill nets, trammel nets, strike nets, or seines shall remain on board the vessel and shall not be used while in state waters.

C. All vessels fishing in the federal exclusive economic zone (EEZ) shall comply with all applicable federal law and regulations.

D.(1) A violation of this Section shall constitute a class six violation. In addition to any penalty imposed under this Section, any state permit issued under the provisions of R.S. 56:305.5(B) shall be immediately suspended upon a

conviction for violation of this Section.

(2) No person who has had his permit suspended under this Section shall reapply for a new permit or be issued a new permit.

E. The commission shall promulgate rules and regulations as may be necessary to effectuate the provisions of this Section.

RS 56:321 — Elevated trotlines prohibited; civil liability

feet where any portion of any hook extends above the surface of the waters of any of the bodies of waters within the state of Louisiana. However, this Section shall not apply to White Lake in Vermilion Parish and Grand Lake and Lake Misere in Cameron Parish. Any violation of the provisions of this Section shall constitute a class two violation, R.S. 56:32.

B. Such action shall be considered prima facie evidence of negligence in a civil action for damages suffered by another as a result thereof.

RS 56:322 — Seines or nets; size of mesh; classification as to salt or fresh water; crawfish traps

islature also recognizes that this division is based in large measure on the variations of flora and fauna found within these two divisions. The legislature further recognizes that an exact line of demarcation is insusceptible of precise location by reason of the changes in water salinity caused by winds, tides, and rains. It is, therefore, the intention of the legislature that the following described boundary line easterly from the Texas state line to the Mississippi state line shall be used in dividing the state into predominantly saltwater and predominantly freshwater areas: The Intracoastal Waterway from the Texas-Louisiana boundary to its junction with Louisiana Highway 27 at Gibbstown, and then south to Louisiana Highway 82 and then east to its junction with the Intracoastal Waterway at Forked Island, the Intracoastal Waterway from Forked Island to Bayou Barataria to the Harvey Canal, the Harvey Canal to the Mississippi River, the Mississippi River to the Industrial Canal, the Industrial Canal to the Intracoastal Waterway, the Intracoastal Waterway to the Rigolets in Orleans Parish to the Louisville and Nashville railroad bridge, the Louisville and Nashville railroad right-of-way from the Orleans Parish line to the Mississippi state line.

B. The areas south of the above-described boundary line, plus the saltwater lakes known as Lake Maurepas; Lake Pontchartrain; Lake St. Catherine; Chef Menteur Pass, except that seven-tenths of a mile section from Bayou Sauvage south to the Intracoastal Waterway; the Rigolets; Unknown Pass; Pass Manchac; and that portion of the Calcasieu Ship Channel from the Intracoastal Waterway south to the Gulf of Mexico, shall be designated as saltwater areas.

C. The following provisions shall apply to saltwater areas:

(1) Hoop nets. For the taking of commercial fish, a person may have in possession or in use hoop nets with a mesh of not less than one inch square or two inches stretched after treating with tar or copper.

(2)-(4) Repealed by Acts 1995, No. 1316, §3.

(5) Monofilament, multifilament, or other materials.

(a) Except as provided in Subparagraph (b) of this Paragraph, the use and possession of trammel nets, gill nets, and seines constructed of monofilament, multifilament, or other materials is prohibited, except as provided in R.S. 56:318 and 320.2.

(b) The nets defined in R.S. 56:8 ("Mullet strike net" and "Pompano strike net") are not prohibited, but shall not be constructed of monofilament.

(6) Purse seines.

(a) The use of purse seines for the taking of finfish, other than menhaden and herring-like species, shall be prohibited in inside waters as delineated by R.S. 56:495.

(b) The use of purse seines for the taking of finfish, other than menhaden and herring-like species, shall be prohibited in outside waters as delineated by R.S. 56:495.

(c) Except as provided in R.S. 56:324, possession of red drum or spotted sea trout on board any vessel on which a purse seine is also on board, within or without the waters of Louisiana, is prohibited. Any agent who finds a vessel with such fish and equipment on board shall seize the vessel, fish, and equipment. Whoever violates the provisions of this Paragraph shall be fined eight hundred and fifty dollars per each hundredweight of red drum or spotted sea trout which are confiscated and shall forfeit each purse seine found on board at the time of confiscation.

(7) Unattended nets. No nets or beam trawls used for taking fish or shrimp from the saltwater areas of the state shall be left unattended as defined in R.S. 56:8, except such legal nets or trawls which are attached to a wharf at a camp and which are tagged with a department tag issued in conjunction with the gear being used. Any net or beam trawl which is seized for a violation of this Paragraph shall be considered abandoned. Hoop nets, without leads, may be left unattended in the saltwater areas of the state for the sole purpose of taking legal commercial catfish species.

(8) Repealed by Acts 1995, No. 1316, §3.

D. Except as otherwise provided in Subsection B herein, the areas north of the above described boundary line shall be designated as freshwater areas.

E. The following provisions shall apply in freshwater areas:

(1) Hoop nets. For the taking of commercial fish a person may have in possession or in use hoop nets with a mesh of not less than one inch square or two inches stretched after treating with tar or copper; however, a person may have in possession or in use hoop nets with a mesh of not less than two inches square or four inches stretched after treating with tar or copper for the taking of commercial fish from a freshwater lake located wholly within Caddo Parish.

(2) Seines. For the taking of commercial fish a person may have in possession or use seines with a minimum mesh of not less than two inches square or four inches stretched after treating with tar or copper, except as provided for in R.S. 56:322.1. No seine in use shall exceed one thousand two hundred feet in length.

(3) Trammel nets. For the taking of commercial fish a person may have in possession or in use trammel nets with a minimum mesh of not less than three inches square or six inches stretched, after treating with tar or copper. No trammel net in use shall exceed one thousand two hundred feet in length.

(4) Gill nets. For the taking of commercial fish a person may have in possession or in use gill nets with a minimum mesh of not less than three inches square or six inches stretched after treating with tar or copper, except as provided by R.S. 56:322.2. No gill net in use shall exceed one thousand two hundred feet in length.

(5) Wire nets. A person may have in his possession or in use only those wire nets with a mesh no less than one inch square or two inches stretched.

F. Notwithstanding any other provision of law to the contrary, the waters of the Intracoastal Waterway in Orleans Parish from the overhead power lines at the Interharbor Navigation Canal east to the Rigolets shall be considered both salt and fresh water for the purposes of authorizing the taking or possessing fish or the use or possession of gear. Commercial fishing operations in these waters shall not interfere with normal commercial traffic.

G. Repealed by Acts 1986, No. 904, §4.

H. The provisions of this Section shall not apply to shrimp or menhaden fishing, and nothing contained herein is intended or shall be construed to repeal, amend, or otherwise modify the provisions of law applicable to shrimp or menhaden fishing.

I. The minimum mesh size for traps used to harvest wild crawfish for commercial purposes shall be a hexagon of three-quarters by eleven-sixteenths of one inch. This measurement shall be from wire to wire, and any coating on the wire shall not be considered in computing the measurements. Crawfish may be taken commercially with approved crawfish traps. The openings of the flues and throats on crawfish traps shall not exceed two inches. Any administrative rule may be promulgated to implement the provisions of this Subsection and shall be promulgated in accordance with the Administrative Procedure Act and shall be subject to oversight by the House and Senate natural resources committees.

J. Violation of any of the provisions of this Section, except for Paragraphs (C)(5), (6), and (7), constitutes a class four violation. Violation of any of the provisions of Paragraph (C)(5), (6), or (7) of this Section constitutes a class five violation.

RS 56:322.1 — Shad seine; commercial harvest of shad and skipjack herring

reshwater commercial fish of legal size

with a shad seine in accordance with this Section.

B. Only shad (

Dorosoma sp

), skipjack herring (

Alosa chrychloris

), hereafter in this

Section referred to as skipjack, and any other legal-sized freshwater commercial fish may be taken with a shad seine; all other fish shall be immediately returned to waters from which they were caught. All fish on board the vessel shall have the head and caudal fin intact.

C.(1) A shad seine shall be a seine with a mesh size not less than one-inch bar and two inches stretched and not more than two-inch bar and four inches stretched. A shad seine may not be constructed of monofilament.

(2) Each shad seine shall have affixed to each end a one-gallon jug, painted international orange and marked in black lettering the words "Shad Seine", and waterproof tags with the name and license number of the fisherman in accordance with R.S. 56:320(F).

D. Repealed by Acts 2008, No. 24, §2.

E. Only strike fishing is authorized by this Section.

F. The following acts are prohibited:

(1) The use of more than one shad seine by a licensee.

(2) The use of more than one seine per vessel.

(3) The use of a shad seine by more than two vessels at one time.

(4) The use of a shad seine in a manner that unduly restricts navigation of other vessels or interferes with commercial shipping.

(5) Leaving a shad seine unattended or not actively fishing it while it is in the water.

G. A shad seine may only be fished in the freshwater areas of the state, but it shall not be used in the bodies of water where seine use is prohibited nor the Pearl River or the Pearl River navigational canal.

H. There shall be no daily take or possession limit for the commercial harvest of shad and skipjack taken under the provisions of this Section by properly licensed shad seine commercial fishermen.

I. Violation of any of the provisions of this Section, except for Paragraph (F)(4) and Subsection G, constitutes a class four violation. Violation of Paragraph (F)(4) constitutes a class three violation. Violation of Subsection G constitutes a class two violation.

RS 56:322.2 — Shad gill nets; commercial harvest of shad and skipjack herring

d gill net in Lake Palourde, Lake Verret,

Lac Des Allemands, all of the waterways in Iberville Parish, and those portions of the parishes of Iberia, St. Martin, and St. Mary located between the guide levees of the Atchafalaya Basin but is specifically not authorized to do so in the streams, bayous, canals, and other water bodies connected with the specified lakes.

B. Shad gill nets shall be used only to take shad (

Dorosoma

sp) and skipjack herring

(

Alosa chryochloris

), hereafter in this Section referred to as skipjack. However, a

commercial fisherman may keep other commercial fish species up to a maximum of twenty-five fish. All fish on board the vessel shall have the head and caudal fin intact.

C.(1) A shad gill net shall be a gill net with a mesh size not less than one-inch bar and two inches stretched and not more than two-inch bar and four inches stretched.

(2) Each shad gill net shall have affixed to each end a one- gallon jug, painted international orange and marked in black lettering the words "Shad Gill Net", and waterproof tags with the name and license number of the fisherman in accordance with R.S. 56:320(F).

(3) Each shad gill net shall be placed at least fifty feet from the tree line.

D.(1) The closed season for commercially harvesting shad and skipjack as provided for in this Section shall include the months of July, August, September, and October of each year.

(2) During the open season, there shall be no daily take or possession limit for the commercial harvest of shad and skipjack by properly licensed shad gill net commercial fishermen. Shad and skipjack may be taken after sunset and before sunrise during open season. However, there shall be no commercial taking of shad or skipjack on any Saturday or Sunday.

(3) During the closed season and any Saturday or Sunday during open season, shad may be taken with a shad gill net for bait purposes only and with the following limitations:

(a) The shad gill net shall not exceed one hundred fifty feet in length.

(b) No more than fifty pounds of shad shall be taken per day.

(c) The gill net shall be attended at all times.

E. Only strike fishing is authorized by this Section. Once deployed, the shad gill net shall remain stationary until fish are being removed from the net or the net is being retrieved from the water.

F. The following acts are prohibited:

(1) The use of more than one shad gill net by a licensee.

(2) The use of more than one gill net per vessel.

(3) The use of a shad gill net by more than two vessels at one time.

(4) The use of a shad gill net in a manner that unduly restricts navigation of other vessels.

(5) Leaving a shad gill net unattended or not actively fishing it while it is in the water.

G. Repealed by Acts 2010, No. 589, §2.

H. Violation of any of the provisions of this Section, except for Paragraphs (C)(2) and (F)(4), constitutes a class four violation. Violation of Paragraph (C)(2) or (F)(4) constitutes a class three violation.

I. Repealed by Acts 2010, No. 589, §2.

RS 56:323 — Bait; methods of taking

compliance with all other laws. Freshwater shrimp may also be taken in accordance with R.S. 56:501.

B. Notwithstanding the mesh restrictions in R.S. 56:322, legal bait species may be taken with bait seines with a maximum mesh size not exceeding one-quarter inch mesh bar, one-half inch mesh stretched, and thirty feet in length. Bait seines must be operated only on foot and solely by hand, without any mechanical device, pulley, or mechanical assistance whatsoever. No person shall take or possess saltwater bait shrimp in excess of the possession limit contained in R.S. 56:500(B).

C. Dip nets may not exceed three feet in diameter and must be operated solely by hand, by no more than one person, and without any mechanical assistance whatsoever. No person shall take or possess saltwater bait shrimp in excess of the possession limit contained in R.S. 56:500(B).

D. A violation of any provision of this Section shall constitute a class four violation, R.S. 56:34.

RS 56:324 — Menhaden seines; restrictions

s.

RS 56:325 — Daily take, possession, and size limits; freshwater recreational fish; possession of species of

fish, of the designated size where specified:

(1) Black bass (

Micropterus

spp.), or their hybrids--fifteen.

(2) White bass (

Morone chrysops

), also locally called barfish--fifty.

(3) Yellow bass (

Morone mississippiensis

)--fifty.

(4) Striped bass (

Morone saxatilis

), or their hybrids, in particular hybrid striped bass

(white bass x striped bass), or any combination thereof--five, of which not more than two

may exceed thirty inches total length.

(5) Crappie (

Pomoxis

spp.), or their hybrids, also locally called white perch or sac-a-lait--fifty.

(6) Buffalo fish (

Ictiobus

spp.), or their hybrids - minimum size sixteen inches total

length - twenty-five.

(7) Freshwater drum (

Aplodinotus grunniens

), also locally called gaspergou -

minimum size twelve inches total length - twenty-five.

(8) Blue catfish (

Ictalurus furcatus

) - minimum size twelve inches total length.

(9) Channel catfish (

Ictalurus punctatus

) - minimum size eleven inches total length.

(10) Flathead catfish (

Pylodictis olivaris

), also locally called spotted catfish, yellow catfish, or opelousas cat - minimum size fourteen inches total length.

(11) Shad (*Dorosoma* spp.) - maximum allowance of fifty pounds.

(12) Crawfish - one hundred fifty pounds.

(13) Repealed by Acts 2013, No. 334, §2.

B.(1) Except as otherwise provided in this Subsection, no person shall have in his possession more than twice the number of fish specified in any paragraph of Subsection A of this Section.

(2) The possession limit for catfish caught on a recreational license shall be one hundred. The one hundred fish possessed may be a single species or any combination of blue, channel, or flathead catfish. In addition, a recreational fisherman shall be allowed a daily possession limit of twenty-five undersize catfish, either a single species or any combination of blue, channel, or flathead catfish.

(3) The possession limit for crappie caught in Toledo Bend Reservoir on a recreational license shall be one hundred fish.

(4) The possession limit for largemouth bass (

Micropterus salmoides

) and spotted

bass (

Micropterus punctulatus

) taken south of U.S. Highway 90 shall be three times the daily

take limit when the fisherman holds and is in possession of a valid recreational fishing license and can show a landing receipt from a public boat launch located south of U.S.

Highway 90 that demonstrates to the satisfaction of the department that the fisherman has been actively on the water or at a remote camp that can be accessed only by water for two days or more. The fish shall be kept whole or whole gutted in separate bags for each species of fish. The bags shall be marked with the date the fish were taken, the species, the number of fish contained in the bag, and the name and license number of the person taking the fish. The fish shall only be in the possession of the person who took the fish. However, no fisherman shall be actively fishing or engaged in fishing while in possession of more than the daily take limit.

C. Notwithstanding any other provision of law to the contrary, the commission may amend by rule, in accordance with the Administrative Procedure Act, size limits, daily take limits, possession limits, seasons, and times set by law for freshwater recreational fish. Such limits, seasons, and times may vary between and among waterbodies based on biological data or for purposes of research or experimentation.

D. Except as provided in this Subsection, no person shall possess any filleted fish while aboard a vessel on the water. However, for the purpose of fish consumption on the water aboard the harvesting vessel, a person shall have no more than two pounds of finfish filets per person on board the vessel, provided that the vessel is equipped to cook such finfish

and such finfish does not exceed the applicable take limit.

E. Violation of any of the provisions of this Section constitutes a class two violation.

RS 56:325.1 — Size and possession limits; recreational saltwater finfish; penalties

daily take, and possession, and size limits for saltwater

finfish caught recreationally in Louisiana territorial waters, based on biological and technical data. Aquaculturally raised fish as provided in R.S. 56:411 et seq. shall be exempt from the provisions of this Section.

(2) With respect to red drum, southern flounder, and spotted sea trout specifically, and until such time as the commission establishes daily take and possession limits for these species in accordance with the Administrative Procedure Act, the following shall be the legal take, daily bag, and possession limits:

(a) Red drum -- five fish daily.

(b) Spotted sea trout -- twenty-five fish daily.

(c) Southern flounder -- ten fish for each consecutive day on the water.

(3)(a) A recreational saltwater fisherman in possession of a valid basic and saltwater license or an equivalent license that grants both basic fishing and saltwater fishing privileges may possess twice the daily bag limit of red drum and spotted sea trout; however, no person shall be in possession of over the daily bag limit while fishing or while on the water, unless such recreational saltwater fisherman is aboard a trawler engaged in commercial fishing for a consecutive period of longer than twenty-five hours.

(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph and R.S. 56:325.2(A) and (B), a fisherman who holds and is in possession of a valid recreational fishing license and can demonstrate to the department's satisfaction use of a boat launch located south of U.S. Highway 90 and that the fisherman has been actively on the water or at a remote camp that can be accessed only by water for two days or more may possess up to the possession limit of filleted red drum, spotted sea trout, and Southern flounder. The filleted fish shall have sufficient skin remaining on the fillet to allow for identification of the species and shall be segregated by species into plastic bags or plastic containers that are marked by species to allow easy identification, the date caught, and the name and license number of the person who took the fish. The allowable size of fillets shall be set by the commission. The fish shall be in the possession only of the person who took the fish. However, no fisherman shall be actively fishing or engaged in fishing while in possession of more than the daily take limit.

(4) The possession limit for red drum and spotted sea trout taken south of U.S. Highway 90 shall be three times the daily take limit when the fisherman holds and is in possession of a valid recreational fishing license and can show a landing receipt from a public boat launch located south of U.S. Highway 90 that demonstrates to the satisfaction of the department that the fisherman has been actively on the water or at a remote camp that can be accessed only by water for two days or more. The fish shall be kept whole or whole gutted in separate bags for each species of fish. The bags shall be marked with the date the fish were taken, the species, the number of fish contained in the bag, and the name and license number of the person taking the fish. The fish shall only be in the possession of the person who took

the fish. However, no fisherman shall be actively fishing or engaged in fishing while in possession of more than the daily take limit.

B. No saltwater sport fisherman shall take or possess at any one time in the Louisiana territorial waters extending to the outermost boundary limit of the Federal Exclusive Economic Zone any red drum, southern flounder, or spotted sea trout under the prescribed minimum size nor over the maximum prescribed size and daily bag limit. Any red drum, southern flounder, or spotted sea trout under the minimum prescribed size or over the maximum prescribed size and daily bag limit shall be returned immediately to the waters from which taken without avoidable injury. Until such time as the commission establishes legal size, daily bag and possession limits for the red drum, southern flounder, and spotted sea trout in accordance with the Administrative Procedure Act, the following are the legal size, daily bag and possession limits for red drum, southern flounder, and spotted sea trout:

(1) The minimum size for red drum is sixteen inches in total length when measured with the mouth closed.

(2) The maximum size for red drum is twenty-seven inches in total length when measured with the mouth closed. However, no person shall have in possession while fishing, or while on the water, more than one red drum which, when whole, is or was over the prescribed maximum size of twenty-seven inches total length overall when measured with the mouth closed. Additionally, no person shall have in his possession at any one time more than two red drum or parts of more than two red drum, which, when whole, are or were over the prescribed maximum size of twenty-seven inches total length overall when measured with the mouth closed.

(3) The minimum size for spotted sea trout is twelve inches total length when measured with the mouth closed.

C.(1) Violation of this Section constitutes a class two violation. However, if the take or possession limit as provided in Subparagraphs (A)(2)(a) or (b) or Paragraphs (A)(3) or (4) of this Section or any such take or possession limit set by the commission is exceeded by one hundred percent or more the violation shall be a class four violation.

(2) In addition to the penalties provided in Paragraph (1) of this Subsection, the following penalties shall apply:

(a) Violation of Subparagraph (A)(2)(a) or Paragraphs (A)(3) or (4) of this Section for red drum or Paragraph (B)(1) of this Section shall be punishable by a fine of twenty-five dollars per fish under sixteen inches in total length or over the limit of five, or in violation of such minimum size and take and possession limits as may be established by the commission.

(b) Violation of Paragraph (B)(2) of this Section shall be punishable by a fine of one hundred fifty dollars per fish exceeding twenty-seven inches in total length or such maximum size limit as may be established by the commission.

(c) Violation of Subparagraph (A)(2)(b) or Paragraphs (A)(3) or (4) of this Section for spotted sea trout or Paragraph (B)(3) of this Section shall be punishable by a fine of twenty-five dollars per fish under twelve inches in total length or over the limit of twenty-five or in violation of such minimum size and take and possession limits as may be

established by the commission.

(d) Any violation of Subsection A or B of this Section shall, in addition to any applicable fines, also be punishable by revocation of any and all fishing privileges from licenses held by the violator for the period for which they were issued and one year thereafter.

(e) The fines collected from the penalties imposed under the provisions of this Paragraph shall be collected by the court of competent jurisdiction and remitted to the state treasury to be deposited to the credit of the conservation fund of the Department of Wildlife and Fisheries.

RS 56:325.2 — Saltwater recreational finfish; total length

put on shore. All saltwater recreational

finfish shall be measured in accordance with applicable law.

B. Except as provided elsewhere in this Section, no person shall possess any finfish parts, such as filleted fish, while aboard a vessel on the water. For the purpose of consumption at sea aboard the harvesting vessel, a person shall have no more than two pounds of finfish parts per person on board the vessel, provided that the vessel is equipped to cook such finfish and such finfish does not exceed applicable bag limits.

C.(1) The provisions of this Section shall not apply to the following:

(a) Any legally harvested saltwater recreational finfish for which there is no size limit, that is being utilized for bait and is not in excess of any daily possession limits.

(b) King or Spanish mackerel, if cut up and utilized for bait, so long as the carcass is retained with the head and caudal fin intact while such parts are in possession aboard a fishing vessel, so that size and number of fish possessed may be determined.

(2) Swordfish possessed by a recreational fisherman shall not be skinned until set or put on shore.

(3) Tuna shall retain the caudal fin intact until set or put on shore, and those species of tuna which have minimum size restrictions may have the head removed as long as the carcass length without the head exceeds the minimum size requirement.

(4) Any garfish caught or possessed by a recreational fisherman in the saltwater areas of the state may have the head and caudal fin removed but, until the fish is set or put on shore, it shall retain a strip of skin sufficient to clearly identify the fish.

D. Violation of any of the provisions of this Section constitutes a class three violation.

RS 56:325.3 — Spotted sea trout commercial taking; annual quota; red drum commercial taking, commercial

harvest of spotted sea trout taken within Louisiana waters or landed in Louisiana which shall not exceed one million pounds, nor shall it be less than five hundred thousand pounds. The commercial taking or harvesting of spotted sea trout shall be prohibited within Louisiana waters west of Mermentau River. The Louisiana Wildlife and Fisheries Commission shall establish an open season for the commercial harvest of spotted sea trout which shall run from the second day of January each year until the maximum annual quota is reached. The commercial harvest or taking of spotted sea trout is prohibited during the period from sunset

on Friday through sunrise on Monday, and there shall be no possession of spotted sea trout in excess of the recreational limit during the period between 10:00 p.m. and 5:00 a.m. However, when not on a commercial fishing trip, a person holding a permit for the commercial taking or possessing of spotted sea trout may take or possess an amount not to exceed the legal recreational limit of spotted sea trout between the hours of 10:00 p.m. and 5:00 a.m. during the open season and at any time during the closed season if that person also possesses a basic recreational fishing license and a saltwater fishing license or an equivalent license that grants both basic fishing and saltwater fishing privileges. Only a rod and reel shall be used for the commercial harvest of spotted sea trout. The provisions of this Section are subject to quotas and size limits as established by law and rules and regulations of the commission. Fish taken under recreational licenses shall not be sold, bartered, traded, or exchanged.

(2) The department shall monitor catch statistics for spotted sea trout and shall notify the commission when it is determined that the quota has been reached or is projected to be reached. When the quota has been reached or is projected to be reached, the commission shall by public notice close the spotted sea trout fishery to all commercial fishing in Louisiana waters. The closure shall not take effect for at least seventy-two hours after notice to the public. The closure and notice of closure shall provide that the purchase, barter, trade, or sale of spotted sea trout taken from Louisiana waters after the closure is prohibited. The closure and notice of closure shall also provide that the commercial taking or landing of spotted sea trout in Louisiana, whether caught within or without the territorial waters of Louisiana, after the closure is prohibited. The closure and notice of closure shall, in addition, provide that no vessel possessing or fishing any seine net, gill net, trammel net, or hoop net shall have a spotted sea trout aboard the vessel, whether caught within or without the waters of the state.

(3) Nothing in this Section shall be deemed to prohibit the possession of fish legally taken prior to the closure order.

B. The commercial taking or landing of red drum in Louisiana is prohibited. No vessel possessing or fishing any seine net, gill net, trammel net, or hoop net shall have a red drum aboard the vessel, whether caught within or without the waters of the state. Violation of the provisions of this Subsection constitutes a class 5-B violation. Aquaculturally raised fish, as defined by R.S. 56:356, shall be exempt from the provisions of this Section.

C. The commercial taking or sale by a commercial fisherman of spotted sea trout is prohibited except by special permit issued by the Department of Wildlife and Fisheries at a cost of one hundred fifty dollars for residents of this state and six hundred dollars for those who are nonresidents. No person shall purchase spotted sea trout from any commercial fisherman who does not possess a spotted sea trout permit. No person shall qualify for a charter boat fishing guide license and a spotted sea trout permit during the same licensure period.

D.(1) No person shall be issued a license or permit for the commercial taking of spotted sea trout unless that person meets all of the following requirements:

(a) The person shall provide proof that he purchased a valid Louisiana commercial

saltwater gill net license in any two of the years 1995, 1994, and 1993.

(b) The person shall provide copies of unamended, original income tax returns, including Schedule C from the federal form 1040, which show that the person derived more than fifty percent of his earned income from the capture and sale of seafood species in any two of the years 1995, 1994, and 1993.

(c) The applicant shall not have been convicted of any fishery-related violations that constitute a class three or greater violation.

(2) The commission shall adopt rules and regulations for the entry of commercial fishermen into the commercial spotted sea trout fishery. Such rules shall include the provisions of Paragraph (1) of this Subsection as minimum requirements.

E. The department shall not issue nor shall any person receive more than one permit or license to commercially take spotted sea trout.

F.(1) Violation of any provision of this Section, except Subsection B, or of any Wildlife and Fisheries Commission regulation pertaining to spotted sea trout fishery, shall constitute a Class 6 violation. The offender shall also be penalized as follows:

(a) For a first offense, the offender shall forfeit any spotted sea trout permit or commercial fisherman's license issued to him and shall be barred from obtaining a spotted sea trout permit or a commercial fisherman's license for the remainder of the period for which it was issued plus one year, during which the offender shall be barred from participating in any spotted sea trout fishery.

(b) For a second offense, the offender shall forfeit any spotted sea trout permit or commercial fisherman's license issued to him and shall be barred from obtaining a spotted sea trout permit or a commercial fisherman's license for the remainder of the period for which it was issued plus two years, during which the offender shall be barred from participating in any spotted sea trout fishery.

(c) For a third offense, the offender shall forfeit any spotted sea trout permit or commercial fisherman's license issued to him and shall be forever barred from obtaining a spotted sea trout permit or a commercial fisherman's license and from participating in the spotted sea trout fishery.

(2) Any person who participates in the spotted sea trout fishery while barred shall be penalized under the provisions of a Class 7-B violation.

RS 56:325.4 — Commercial taking of other saltwater finfish; exceptions; mesh size

as defined in R.S. 56:325.3(C), all other species of

saltwater finfish, including but not limited to black drum, sheepshead, and flounder, may be taken using a pompano strike net, as defined in R.S.56:8. This gear license and the use of this gear for taking these species shall be prohibited after March 1, 1997. There shall be no commercial taking of finfish pursuant to the provisions of this Section during the period from 5:00 a.m. on Saturday through 6:00 p.m. on Sunday. There shall be no fishing pursuant to the provisions of this Section during the hours after sunset and before sunrise. The provisions of this Section are subject to quotas and size limits as established by law and rules and regulations of the commission.

B.(1) No person shall be issued a license or permit for the commercial taking of

underutilized species unless that person meets all of the following requirements:

(a) The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

(b) The person shall provide copies of unamended, original income tax returns, including Schedule C from the federal form 1040, which show that the person derived more than fifty percent of his earned income from the capture and sale of seafood species in any two of the years 1995, 1994, and 1993.

(c) The applicant shall not have been convicted of any fishery-related violations that constitute a class three or greater violation.

(2) The commission shall adopt rules and regulations for the entry of commercial fishermen into the commercial fishery for these species: black drum (also known as puppy drum), sheepshead, and flounder. Such rules shall include the provisions of Paragraph (1) of this Subsection as minimum requirements.

(3) The commercial taking of black drum (also known as puppy drum), sheepshead, and flounder during the season by using a pompano strike net in excess of one thousand two hundred feet in length or by using more than one strike net from any vessel at any time is prohibited.

(4) Each pompano strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take black drum (also known as puppy drum), sheepshead, and flounder. The department shall not issue any tag to a person who does not have a social security number.

C. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take these species and shall be forever barred from receiving any permit or license to commercially take these species. Any person who, after having been barred from the commercial taking of these species of fish pursuant to this Subsection, violates any provision of this Section shall be penalized under the provisions of a Class 7-B violation, R.S. 56:37.

D.(1) The commission shall monitor and evaluate the condition of the black drum, sheepshead, and flounder species in Louisiana waters and establish management targets to ensure a sustainable population. A report of the status of each stock and an evaluation of management measures shall be submitted every five years to the legislature no later than March first of that year.

(2) If data indicate that a fishery is not meeting or is likely not to meet the established targets, the department shall provide for the commission's consideration management options to ensure that the species can meet the management targets established for that species.

RS 56:325.5 — Commercial menhaden harvest reporting

aden by vessels equipped

with purse seines for the purpose of reduction fishing to report monthly, beginning in May 2023, commercial menhaden harvest reports. The rules and regulations shall provide for the following:

(1) Monthly reporting shall include the following data for each set:

- (a) Location data in degrees, minutes, seconds, with a defined datum, determined by global positioning satellite (GPS) navigational instrument reading.
 - (b) Estimated volume of harvest.
 - (c) Length of the menhaden estimated based on a sample of the harvest. In addition, the rule shall provide for the size of the sample and the method used to estimate the length.
- (2) The form, manner, and the date of the month the department receives the monthly report.
- (3) Procedures to preserve the confidentiality of any data, information, or statistics submitted or collected to comply with federal procedures as set forth by the United States Department of Commerce or its agencies for confidentiality of fishing statistics collected from individuals or firms by the department or its agencies. Any information the department provides to the public shall not indicate the captain, vessel, or company.
- B. Beginning February 10, 2024, the department shall annually report to the Senate Committee on Natural Resources and the House Committee on Natural Resources and Environment the commercial menhaden harvest from the prior year based upon the aggregated data from the monthly reports.
- C. For the purposes of this Section, a "set" means when a purse seine is deployed and encircles a school of menhaden, regardless of whether those fish are reduced to possession by transferring to the mother ship or steamer.

RS 56:325.6 — Bait gulf menhaden; annual quota after regular closed season

ab, and catfish fishermen

because of insufficient supplies of bait during the winter season. This insufficiency compels Louisiana fishermen to purchase bait menhaden and other less effective baits at greatly increased costs from other sources outside the state. In order to assist these fishermen, the legislature hereby extends the regular bait gulf menhaden season by adding a quota of bait gulf menhaden to be taken during the closed season.

B. The maximum quota for the commercial harvest of bait gulf menhaden, to be used for bait only, taken within Louisiana waters or landed in Louisiana is established at three thousand metric tons, regardless of the harvesting method used, after the close of the regular menhaden season until December first. If the quota has not been reached by December first, then, beginning on April first of the following year, bait gulf menhaden may be taken until the department determines that the quota has been met. Any menhaden taken pursuant to this Section shall be sold only for use as bait.

C. The department shall monitor catch statistics for bait gulf menhaden and shall notify the commission when it is determined that the quota has been reached or is projected to be reached. When the quota has been reached or is projected to be reached, the commission shall by public notice close the bait menhaden season and fisheries to all commercial fishing in Louisiana waters. The closure shall not take effect until at least seventy-two hours after notice to the public. The closure and notice of closure shall provide that the

commercial taking or landing of bait gulf menhaden in Louisiana, whether caught within or without the territorial waters of Louisiana, after the closure, is prohibited. The closure and notice of closure shall, in addition, provide that no vessel possessing or fishing with any seine, gill net, trammel net, or hoop net shall have bait gulf menhaden aboard the vessel, whether caught within or without the waters of the state. Nothing in this Section shall be deemed to prohibit the possession of fish legally taken prior to the closure order.

D. The provisions of this Section shall apply to outside waters only.

E. Violation of the provisions of this Section constitutes a class 5(B) violation.

F. The secretary shall grant special permits for the taking of menhaden during the special bait season. Each individual or company receiving such a permit shall reimburse the department for all expenses incurred in the placement of an observer on each boat participating in the special bait season. All menhaden caught during this season will be sold for bait.

RS 56:326 — Size and possession limits; commercial fish

es for commercial purposes. Fish of the

prescribed legal size may be taken, had in possession, or sold in unlimited quantities, provided there is compliance with all other requirements of the law. Any commercial fish under the minimum prescribed size or over the maximum prescribed size shall be returned immediately to the waters from which taken without avoidable injury. No person shall sell, purchase, barter, trade, or exchange, or attempt to sell, purchase, barter, trade, or exchange, any commercial species under the minimum prescribed size or over a maximum prescribed size or creel limit. Any commercial species upon which there is no specific size limit may be taken in any size or quantity. Notwithstanding any other provisions stated above, commercial fish under the legal size may be taken from privately owned ponds, impoundments, or waters by the owner thereof or his authorized representative and may be sold to other persons for purposes of stocking private waters, ponds, or impoundments.

(1) Hardshell crabs -- 5 inches in width as measured from point to point of the upper shell, except when held for processing as soft crabs or sold to a processor for the making of crabs. Violation of this provision constitutes a class 3 violation.

(2) Premolt crabs less than five inches in width held by a fisherman for processing as softshell crabs or sold by him to a processor for the making of softshell crabs must be identifiable as premolt crabs and must be held in a separate container marked "peelers" or "busters" while in the possession of the fisherman. Obvious signs that such crabs are in the premolt stage shall include the fact that they are no further from molting than having a white line on the back paddle fin, which is recognized by the crab industry as a premolt stage.

(3) Spotted sea trout - Fourteen inches minimum total length with the mouth closed.

(4) Repealed by Acts 1991, No. 157, §2, eff. July 2, 1991.

(5) Sheepshead--10 inches minimum total length with the mouth closed.

(6) Buffalo fish--16 inches minimum total length with the mouth closed.

(7) Large species of freshwater catfishes:

- (a) The blue catfish, locally called Mississippi cat -- 12 inches minimum length with the mouth closed; the flathead catfish locally called yellow cat, Opelousas cat, or goujon -- 14 inches minimum length with the mouth closed;
- (b) The channel catfish, locally called the white catfish, the eel catfish, or the willow catfish -- eleven inches minimum length with the mouth closed or eight inches with the collarbone off; however, the commission is authorized to suspend or reduce by resolution, the legal size limit on channel catfish in those areas of the state where biological data indicates that such a suspension or reduction in the size limit would not be detrimental to the resource.
- (c) There is no size limit on any species of bullhead or small species of catfish, locally called pollywog or tadpole cat.
- (8) Paddlefish (spoonbill cat)--weighing not less than 15 pounds in the rough.
- (9) Gaspergou--12 inches minimum length with mouth closed.
- (10) Repealed by Acts 1992, No. 256, §2, eff. July 1, 1993.
- (11) Diamond back terrapin--6 inches in length measuring the plastron or under the shell.
- (12)(a) Stone crab - two and three-fourths inches minimum propodus (claw) length. Whole stone crabs shall not be landed. Only legal size stone crab claws shall be put or set onto shore from a vessel.
- (b) It shall be deemed a violation of this Section if more than one stone crab is possessed per each crate of blue crabs or group of blue crabs equivalent to one crate, excluding a work box.
- (c) Live stone crabs may be held on board a vessel while on the water until such time as the claws are removed after which time the crabs shall be returned to the waters from which they were taken.
- B.(1) However, as to all commercial fish five percent of the total number of each species in possession may be smaller than the legal limit.
- (2) To determine whether the total number of crabs in possession violates this Subsection, the enforcement agent shall take a random sample of fifty crabs from each crate or group of crabs equivalent to one crate. Notwithstanding (B)(1), if more than ten percent of the crabs in that fifty crab random sample are less than the minimum size limit set by law, the entire number of crabs in that crate or group of crabs equivalent to one crate shall be considered to be in violation.
- (3) Notwithstanding the provisions of Subsection B(1) of this Section, ten percent of the total number of channel catfish (*Ictalurus punctatus*), locally called the white cat, the eel cat, or the willow cat, in possession may be smaller than the legal limit.
- (4) Crabs in a work box, as defined in R.S. 56:8, shall not be subject to the minimum prescribed commercial size limits for hardshell crabs while held aboard the vessel. Commercial crab fishermen shall be allowed to have in possession aboard the vessel, either one work box, if not using a grader, or two work boxes under the grader, if using a grader.
- C. The commission shall have the authority to set seasons, regulate the type of gear used, and set possession limits for speckled trout and other estuarine fish in Calcasieu Lake,

located in Calcasieu and Cameron Parishes, where it is clearly demonstrated that intense fishing competition exists, or if pollution levels exceed accepted standards, or if biological studies indicate the need.

D. Repealed by Acts 1991, No. 157, §2, eff. July 2, 1991.

E.(1)(a) All saltwater finfish except tuna, swordfish, and sharks possessed by a commercial fisherman shall have the head and caudal fin intact until set or put on shore or when sold. Those species of tuna which have minimum size restrictions may have the head removed so long as the carcass length without the head exceeds the minimum size requirement. Swordfish and sharks possessed by a commercial fisherman shall not be skinned until set or put on shore or when sold. No shark fin shall be possessed aboard a vessel unless naturally attached to the original shark carcass. A shark may have the head removed so long as the carcass length without the head exceeds the legal minimum size requirement, but the shark shall have all fins intact and naturally attached, including the caudal fin. All garfish caught or possessed by a commercial fisherman in the saltwater areas of the state may have the head and caudal fin removed, but shall retain a strip of skin sufficient to clearly identify the fish until set or put on shore or when sold. All saltwater finfish shall be measured in accordance with applicable law.

(b) For the purpose of consumption at sea aboard the harvesting vessel, a person may have no more than two pounds of finfish parts per person on board the vessel, provided the vessel is equipped to cook such finfish.

(c) The provisions of this Paragraph shall not apply to bait species.

(2) The commercial taking or sale by a commercial fisherman of shark is prohibited except by special permit issued by the Department of Wildlife and Fisheries at a cost of twenty-five dollars. Such permit shall be in the immediate possession of the person commercially fishing for shark. Any shark fisherman who violates a commercial shark fishery regulation shall be subject to the following sanctions:

(a) Upon the first conviction, the permittee shall have his shark permit voided and shall not be eligible for a new shark permit for a period of twelve months from the date of conviction.

(b) Upon the second conviction within a five-year period, the permittee shall have his shark permit voided and shall not be eligible for a new shark permit for a period of twenty-four months from the date of conviction.

(c) Upon the third conviction within a five-year period, the permittee shall have his shark permit voided and shall not ever be eligible for a new shark permit.

(d) The penalties provided in this Paragraph are mandatory and shall be imposed without benefit of suspension. Any commercial shark permit that is voided under the provisions of this Paragraph shall be turned over to the court and forfeited to the department.

(e) Persons convicted of harvesting or selling shark during the period of time when their permit is void or forfeit shall be guilty of a class six violation as defined in R.S. 56:36.

F.(1)(a) Notwithstanding any provision of law to the contrary, a wholesale or retail dealer and a commercial fisherman may be subject to the penalties provided by law for the possession of undersized crabs. If the wholesale or retail dealer can provide to wildlife and

fisheries agents at the time of discovery the identity of the commercial fisherman who harvested the undersized crabs and subsequently sold such crabs to the wholesale or retail dealer, the dealer shall not be subject to the penalties. The department may check unboiled crabs for violations of the undersized crab provisions of this Section.

(b) It shall be an affirmative defense for a wholesale or retail dealer charged with possessing undersized crabs, after the crabs leave the dock or while some or all of the crabs are in transport after leaving the dock, that the invoice or other written documentation possessed by the dealer reflect that the total number of undersized crabs possessed by the dealer did not exceed ten percent of the total number of crabs bought for processing and shipping.

(2) Commercial fishermen shall tag, mark, or otherwise identify any crabs that are sold, in a manner which will insure that such commercial fisherman can be identified as the person who harvested the crabs. The identification required herein shall include the commercial fisherman's name, license number, and date on which the crabs were harvested.

(3) Any commercial fisherman identified as having sold undersized crabs to a wholesale or retail dealer pursuant to this Section shall be subject to the penalties provided in R.S. 56:33.

(4) Violation of any provisions of this Subsection, except Paragraph (5) of this Subsection, constitutes a class 3 violation.

(5)(a) No person shall possess more than twice the percentage of undersize crabs allowed by law. A violation of this Subparagraph shall constitute a class four violation. Any person convicted of violating the provisions of this Subparagraph shall, in addition to any other penalties imposed in this Subpart, have his crab trap gear license suspended as provided in this Paragraph.

(b)(i) Upon conviction for violating the provisions of Subparagraph (a) of this Paragraph, the defendant's crab trap gear license shall be voided and the defendant shall be prohibited from applying for a new license for a period of six months from the date of conviction.

(ii) Upon conviction for violating the provisions of Subparagraph (a) of this Paragraph for a second time within a five year period, the defendant's crab trap gear license shall be voided and the defendant shall be prohibited from applying for a new license for a period of twelve months from the date of conviction.

(iii) Upon conviction for violating the provisions of Subparagraph (a) of this Paragraph for a third time within a five year period, the defendant's crab trap gear license shall be voided and the defendant shall be permanently prohibited from applying for a new crab trap gear license.

(c) The penalties provided in Subparagraph (b) of this Paragraph are mandatory and shall be imposed without benefit of suspension. Any crab trap gear license that is voided under the provisions of this Paragraph shall be turned over to the court and forfeited to the department.

(d) No person convicted of violating the provisions of Subparagraph (a) of this Paragraph shall obtain a crab trap gear license or engage in any activity requiring a crab trap

gear license during the period in which he is prohibited from applying for a new license under Items (b)(i) and (ii) of this Paragraph. A violation of this Subparagraph shall constitute a class six violation and in addition to any other penalties imposed by law, a person convicted of violating this Subparagraph shall be forever barred from applying for a crab trap gear license.

G. Violation of any provision of this Section for which no penalty has been specifically provided constitutes a class 2-B violation.

H. The possession limit for the commercial taking of southern flounder shall be ten fish for each licensed fisherman for each consecutive day on the water.

RS 56:326.1 — Size limits set by commission

no limits have been set by law.

RS 56:326.2 — Vessels landing red drum; notice to department; equipment; inspection

equipped with a functioning transponder aboard, shall permit on board inspection of its catch by agents of appropriate federal or state agencies, and shall notify the Department of Wildlife and Fisheries of any catch of red drum prior to the time the vessel docks or otherwise unloads its catch. The notice shall include the location of the vessel, where it will dock or unload, expected time of docking or unloading, and the estimated number of pounds of red drum on board.

RS 56:326.3 — Possession limits; size limits, seasons, quotas, times, and daily take

By R.S. 49:966 and R.S. 56:325.3, the commission may set possession limits, quotas, places, seasons, times, size limits, and daily take limits based upon biological and technical data, for all freshwater and saltwater finfish taken or possessed in Louisiana waters. Penalties for violation of any rule or regulations adopted and promulgated by the commission under this Section constitutes a class two violation.

RS 56:326.4 — Staggered and split seasons and quotas

that fish to serve in Louisiana restaurants is important to the vitality of our culture and economy. Further, the legislature finds that it is in the best interest of the state that the Louisiana Wildlife and Fisheries Commission be authorized to set seasons and quotas for fishing in such a manner as to maximize the availability of popular fish for serving in Louisiana restaurants.

B. Except as otherwise provided by law, the commission, when setting seasons and quotas for taking fish, shall determine which fish are considered to be popular fish for serving in Louisiana restaurants and may split, stagger, or otherwise arrange their seasons and quotas in such a manner that some of the popular fish would be harvested and available to Louisiana restaurants throughout the entire year. The provisions of this Subsection shall not apply to the harvesting of spotted sea trout.

C. The commission shall provide a forum for interested parties to provide input to determine which fish are popular fish to serve in Louisiana restaurants.

RS 56:326.5 — Bowfin; size limitations; eggs

, or cypress trout).

The legislature finds that the taking of bowfin, particularly female bowfin carrying roe or eggs, has reached levels of participation on a statewide basis that have impaired, or threaten to impair, the economic welfare of future bowfin harvesting, the overall efficiency of the harvest, and the sustained yield management of the bowfin resource.

B. No person who is in possession of a commercial fishing license shall take or sell bowfin less than twenty-two inches in total length with the mouth closed. No person who

is in possession of a recreational fishing license shall take bowfin less than sixteen inches in total length with the mouth closed. In addition, fishermen are prohibited, while on the water or the land, from possessing bowfin eggs (roe) that are not naturally connected to a whole fish.

C. Violation of this Section constitutes a class 2-B violation.

RS 56:326.6 — Closed season; bowfin

r, the provisions of this Section shall not apply to the taking of bowfin or bowfin body parts in Avoyelles, Terrebonne, West Baton Rouge, Pointe Coupee, Assumption, Iberville, and Tangipahoa parishes and the areas known as Bayou Courtableau, Bayou Teche, Lake Dauterive, Lake Fausse Pointe, Vermilion River, Carencro Bayou, Que de Tortue Bayou, Bayou Nez Pique, Mermentau River, Bayou Lacassine, Sabine River, and the Atchafalaya Basin Floodway that is bounded by the east and west levees of the Atchafalaya Basin and is south of U.S. Highway 190.

B. Violation of this Section constitutes a class three violation.

RS 56:327 — Sale or purchase of freshwater or saltwater game fish prohibited; commercial sales and purchases, commercial license required; commercial fingerlings and certified mariculture and aquaculture fish exc

epted; penalties

A.(1) No person shall purchase, sell, exchange, or offer for sale or exchange, or possess or import with intent to sell or exchange any game fish as defined in R.S. 56:8.

(a)-(c) Repealed by Acts 2008, No. 23, §3, eff. July 1, 2008.

(2) The commission shall promulgate rules and regulations in accordance with the Administrative Procedure Act to regulate the importation, possession, or sale of game fish species. Red drum, hybrid striped bass, or any other game fish species approved by the commission, which are legally taken, possessed, or sold commercially outside of the state, and aquaculturally raised game fish, may be imported, sold, or purchased by properly licensed persons. Except those game fish being imported under a domesticated aquatic organisms license, prior to each shipment into this state of any game fish for consumption, the buyer or handler of such shipment shall notify the secretary or his designated agent of its pending arrival and shall possess a bill of lading. The bill of lading shall state the species of fish contained in each shipment, the number of fish or parts thereof, the origin of the shipment, the destination of the shipment, the consignee and consignor, and where applicable, the grower's name and fish farmer's license number. Wholesalers, their agents, and commercial transporters delivering the shipment or portions thereof to retail dealers shall provide each dealer with a copy of their bill of lading and shall indicate thereon the date of delivery to the retailer, the species of fish delivered, and the number of fish or parts thereof delivered. Both wholesale and retail dealers shall maintain a file of such bills of lading which shall be open to inspection by the secretary, his agents, or any enforcement agents. Regulations adopted by the commission may utilize a confirmation number system in lieu of copies of bills of lading provided by wholesale/retail seafood dealers to retail seafood dealers.

B. It shall be unlawful for any person, firm, or corporation to offer to sell or to sell any shrimp, oyster, fish, or other seafood without having first obtained a valid commercial fishing, retail, or wholesale license as otherwise provided in this Subpart, or without having first obtained certification from the department that such seafood has been raised and taken in accordance with a certified aquaculture program or a valid experimental mariculture permit issued pursuant to R.S. 56:579.1. It shall be unlawful for any person, firm, or corporation, including any restaurant or retail establishment, to purchase any shrimp, oyster, fish, or other seafood from any person who does not possess a valid commercial fishing, retail, or wholesale license lawfully issued in his name or his employer's name as provided in this Subpart, or possess certification from the department that such seafood has been raised and taken in accordance with a certified aquaculture program or a valid experimental mariculture permit issued pursuant to R.S. 56:579.1. The commercial fishing license required herein shall be one which authorizes the bearer to sell his catch. Such license or certification or a copy thereof shall be in the possession of the seller and conspicuously displayed at all times when transacting any sale.

C.(1) Violation of Subsection A of this Section constitutes a class 5-B violation.

(2) The provisions of Subsection B of this Section shall be enforceable by all law enforcement agencies throughout the state, in addition to agents of the Department of Wildlife and Fisheries and including but not limited to law enforcement

officers of local governmental subdivisions. Notwithstanding any of the provisions of R.S. 56:314 to the contrary, any tackle of any type or description, including without limitation such gear listed in R.S. 56:302, 302.5, or 305, which is used by a fisherman to take shrimp, oysters, fish, or other seafood for sale without possessing a valid commercial fisherman's license, in violation of Subsection B of this Section, shall be seized by the enforcing officer. Notwithstanding Subsection F of this Section to the contrary, violation of Subsection B of this Section constitutes a class 5-B violation (R.S. 56:35(B)).

D.(1) Recognizing that there are ever increasing numbers of both sport and commercial fishermen utilizing the waters of the state for recreational and commercial pursuits resulting in conflicts over limited space and competition for the same saltwater fish, and acknowledging that both the sport and commercial fishing industry are vital to the economy of the coastal region and the entire state, the provisions of this Subsection, being deemed fair and in the best interest of the state, are hereby declared.

(2) The Louisiana Wildlife and Fisheries Commission shall hold public hearings to determine areas in which the saltwater fish resources of the state must be allocated between the competing sport and commercial interests and shall promulgate rules and regulations defining such areas and the manner in which the saltwater fish resources shall be allocated, provided that the commission shall initially promulgate regulations setting out by clearly identifiable boundaries the waters within the Eleventh Ward, Jefferson Parish, and a procedure for allocation of the saltwater fish resource therein, such procedure to be based on a seasonal, hourly, daily, monthly, or total closure of said area to net fishing, whichever in the determination of the commission shall best accomplish the intent and purpose of this Subsection.

E. The secretary shall have the authority to set seasons, regulate the type of gear used, and set possession limits for speckled trout and other estuarine fish where it is clearly demonstrated that intense fishing competition exists or if pollution levels exceed accepted standards or if biological studies indicate the need.

F. Violation of any provision of this Section for which no penalty has been otherwise specifically provided constitutes a class one violation.

G. With the exception of large mouth bass (

Micropterus Salmoides

), spotted bass (

Micropterus punctulatus

), shadow bass (

Ambloplites ariommus

), black or white crappie (

Pomoxis nigromaculatus

, P,

annularis

), white bass (

Morone chrysops

), yellow bass (

Morone mississippiensi

), striped bass (

Morone saxatilis

), and any species of bream (

Lepomis

supp. and

Centrarchus

sp.), the provisions of this Section shall not apply to research or other projects being conducted by the Louisiana State University Agricultural Center, or by other schools or programs specifically authorized by the Board of Regents with the concurrence of the Department of Wildlife and Fisheries, including but not limited to the sale or distribution of the research by-products, such as eggs, fingerlings, and fish, or other products grown under aquacultural conditions.

RS 56:327.1 — Repealed by Acts 2014, No. 286, §2.

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RS 56:328 — Conducting fishing operations so as not to destroy nests or natural hiding places of young fish; prohibited importation; control and regulation of noxious aquatic plants; permit; penalty

hiding operations shall be conducted in such a way that nests of fish or the natural hiding places of young fish or shrimp are not destroyed. Nets shall not be hauled out upon the shore in such a way that any illegal fish which may happen to be taken therein cannot be returned to the waters without injury. All vegetation hauled up in fishing operations, except such as may be condemned as detrimental by the commission, shall be carefully removed and immediately put back into the waters in such a manner as not to injure any fish eggs, small fish, or fish foods contained therein.

B. No person shall at any time import or cause to be transported into the jurisdiction of the state of Louisiana, from any other state or country, without first obtaining a written permit from the department, noxious aquatic plants which are or can be grown submerged, immersed, floating in water, or in wetland conditions. The department shall maintain and promulgate under the Administrative Procedure Act a list of prohibited invasive, noxious aquatic plants.

C. The department shall have the authority to promulgate rules under the Administrative Procedure Act to prevent the introduction of invasive, noxious aquatic plants and to control, eradicate, and prevent the spread or dissemination within the state of all invasive, noxious aquatic plants that pose a threat to the wildlife or fisheries resources of the state. The department may issue permits for the importation of any of the invasive, noxious aquatic plants for the purpose of conducting scientific investigations of such species of aquatic plants. Terms and conditions of all permits issued shall be prescribed by the department.

D. The department shall confer and cooperate with the Department of Agriculture and Forestry to determine if any potentially regulated plants are of agricultural importance.

E. Violation of the provisions of Subsection B or C of this Section and violation of any rule adopted pursuant to the provisions of this Section constitutes a class four violation.

RS 56:329 — Obstruction of streams or lakes by fyke nets or other devices

ding crevasses, coulees, and canals in marsh and

swamp areas of the state by any means whatsoever, provided that the provisions of this Section shall not apply to water control structures or dams for the retention of water for conservation purposes.

B.(1) Except as provided in Paragraph (2) of this Subsection, no obstructions including trawls, skimmer nets, butterfly nets, fyke nets, wings or leads, seines, gill nets, or trammel nets which interfere with the free passageway for fish as defined in this Section shall be set within five hundred feet of the mouth of any inlet or pass, or within five hundred feet of any water control structures, dams, or weirs, except for the purpose of retaining and removing invasive species of fish and other nongame freshwater fish of commercial value. When fishing for the purpose of retaining and removing invasive species of fish and other nongame freshwater fish of commercial value, nets are restricted to a mesh size no smaller than three and one-half inches bar. Wings and leads are permitted on hoop nets in overflowed regions where the water is out of the actual bed of the natural stream or lake but not within the restricted five-hundred-foot area.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, hoop nets set in Little River in Grant Parish and LaSalle Parish may be set closer than five hundred feet to the mouth of any inlet or pass or water control structure, dam, or weir.

C. The possession of fish caught in leads or wings is prohibited. Wings and leads on hoop nets below the saltwater line, as defined in R.S. 56:322(A), are permitted. However, the use of monofilament leads or wings shall be prohibited below the saltwater line. No pair

of wings or leads shall be within one hundred feet of each other and no single lead shall exceed twenty-five feet in length.

D. "Free passageway for fish" means a minimum passageway opening of five feet in width extending from the surface to the bottom of the water in the deepest portion of the water. The use of wings and leads on nets and seines is a violation of this Section except in overflowed regions as stated above.

E. Violation of any of the provisions of this Section constitutes a class three violation.

RS 56:330 — Crawfish harvesters; crawfish traps

Wildlife and Fisheries

Commission.

B. Crawfish may be taken by properly licensed individuals with approved crawfish traps. The openings of the flues or throats on crawfish traps shall not exceed two inches.

C. The secretary may promulgate rules and regulations to effectuate the provisions of this Section.

RS 56:331 — Crab Task Force

nt and development of the crab industry in Louisiana.

B. The Crab Task Force shall be composed of twenty members appointed by the secretary of the Department of Wildlife and Fisheries as follows:

- (1) Four crab dealers or processors.
- (2) Two soft shell crab producers.
- (3) Seven commercial hard crab fishermen.
- (4) One biologist appointed from the LSU Agricultural Center Sea Grant program.
- (5) One marine biologist appointed from the faculty of a Louisiana university.
- (6) One marine biologist appointed from the Department of Wildlife and Fisheries.
- (7) One enforcement agent appointed from the Department of Wildlife and Fisheries.
- (8) One attorney appointed from the LSU Sea Grant program.
- (9) One fisheries economist from Louisiana State University.
- (10) One economist appointed from the Department of Wildlife and Fisheries.

C. The members listed in Paragraphs (1) through (3) of Subsection B of this Section shall be voting members. The members listed in Paragraphs (4) through (10) of Subsection B of this Section shall not vote.

D. The task force shall adopt bylaws under which it shall operate, and seven members of the task force shall constitute a quorum sufficient to conduct meetings and business of the task force. The task force shall elect a chairman from its membership and may seek and receive assistance from universities within the state in the development of methods to increase the production and marketability of crabs.

E. Members of the task force shall serve without compensation.

F. The members appointed by the secretary shall as near as practicable represent diverse geographic areas according to statistical crab fishing license data. The members appointed by the secretary shall be subject to Senate confirmation.

RS 56:331.1 — Repealed by Acts 1968, No. 625, §1.

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RS 56:332 — Crabs; release of immature female crabs and crabs in berry stage; method of taking

Crabs of legal size may be taken using any gear identified in R.S. 56:320(B)(3);

however, the taking of crabs by means of trawls in inside waters is permitted only during the open season for shrimp. In no event, however, shall a person use a trawl with a mesh size less than that of commercial shrimp trawls for the purpose of taking crabs during the open season for shrimp.

B.(1) No person shall keep or sell immature female crabs or adult female crabs in berry stage, that is, when the adult females are carrying the eggs or young attached to the abdomen. All immature female crabs and crabs in berry stage taken by any means shall be returned immediately to the waters, unless the immature female crabs are in the premolt stage and are being held for processing as soft shell crabs or being sold to a processor for the producing of soft shell crabs. However, a legally licensed commercial crab fisherman may have an incidental take of immature female crabs in an amount not to exceed five percent or crabs in berry stage in an amount equal to not more than two percent of the total number of crabs in his possession.

(2) To determine whether the total number of crabs in possession violates this Subsection, the enforcement agent shall take a random sample of fifty crabs from each crate or group of crabs equivalent to one crate. If more than five percent of the crabs in that fifty crab random sample are immature female crabs or adult crabs in berry stage, the entire number of crabs in that crate or group of crabs equivalent to one crate shall be considered to be in violation.

(3) Crabs in a work box, as defined in R.S. 56:8, shall not be subject to the immature female or adult berry stage restriction while the crabs are held aboard the vessel and the fisherman is actively fishing.

C.(1) The baiting, tending, checking, or removing of serviceable crab traps in use and the contents of such crab traps or their lines, buoys, or markers shall be prohibited in public waters during the time period from one-half hour after legal sunset until one-half hour before legal sunrise.

(2) Notwithstanding any other provision of the law to the contrary, violation of any provisions of this Subsection constitutes a class four violation.

D. The commission shall promulgate and adopt rules and regulations to establish a marking system for crab traps sufficient to enable the department's agents to clearly identify crab traps including the name and license number of the owner of such crab traps and sufficient to enforce all laws relative to such crab traps.

E.(1) Except as provided in Subsection N of this Section, crab traps which are no longer serviceable or in use shall be removed from the water by the owner thereof and properly disposed of or stored by him. Except as provided in Subsection N of this Section, no person shall intentionally damage or destroy serviceable crab traps or the floats or lines attached thereto, or remove the contents thereof, other than the licensee or his agent.

(2) A person intentionally discarding an unserviceable crab trap in navigable waters shall be guilty of a class two violation.

F.(1) Theft of a crab trap or crabs from within a crab trap shall be prohibited and shall constitute a class four violation punishable as provided in R.S. 56:34.

(2) In addition to all other penalties provided in this Subsection, for the first violation

of this Subsection, the department shall suspend or revoke the violator's crab trap gear license for a period of one year from the date of the conviction and no new crab trap gear license shall be issued to the violator during the period of suspension or revocation. During the period in which the violator's license is suspended or revoked, the violator may be present on a vessel commercially harvesting or processing crabs only if that vessel is equipped with and is actively using a vessel monitoring system accessible to the department as prescribed in R.S. 56:424.1(B). In addition, the violator shall be sentenced to perform no less than forty hours of community service. If available, the hours shall be served removing abandoned crab traps as a part of the derelict crab trap removal program or in a litter abatement community service program.

(3) In addition to all other penalties provided in this Subsection, for a second violation of this Subsection, the department shall suspend or revoke the violator's crab trap gear license for a period of three years from the date of the conviction and no new crab trap gear license shall be issued to the violator during the period of suspension or revocation. During the period in which the violator's license is suspended or revoked, the violator may be present on a vessel commercially harvesting or processing crabs only if that vessel is equipped with and is actively using a vessel monitoring system accessible to the department as prescribed in R.S. 56:424.1(B). In addition, the violator shall be sentenced to perform no less than ninety hours of community service. If available, the hours shall be served removing abandoned crab traps as a part of the derelict crab trap removal program or in a litter abatement community service program.

(4) In addition to the other penalties provided in this Subsection, for a third or subsequent violation of this Subsection, the violator's crab trap gear license shall be suspended or revoked for a period of ten years from the date of the conviction and no new crab trap gear license shall be issued to the violator during the period of suspension or revocation. During the period in which the violator's license is suspended or revoked, the violator shall not be present on a vessel commercially harvesting or processing crabs. In addition, the violator shall be sentenced to perform no less than one hundred twenty hours of community service. If available, the hours shall be served removing abandoned crab traps as a part of the derelict crab trap removal program or in a litter abatement community service program.

G. No crab traps shall be set in navigable channels or entrances to streams. It shall be the responsibility of the crab fisherman to place his crab traps so vessels can safely navigate and also to dispose of his unserviceable crab traps. Violation of any provision of this Subsection shall be a class two violation. A shrimper who catches an unserviceable crab trap shall keep it on board his vessel and properly dispose of it at a designated disposal site if one is available. Except as provided in Subsection N of this Section, a shrimper who catches an otherwise serviceable trap without a float shall return it to the water with a common float. Any fisherman with a crab fishing license may raise and check any trap with a common float to determine ownership. The owner of the trap shall return the common float to any shrimper for reuse. The color of the common float shall be determined by the commission.

H.(1) Violation of any provision of this Section constitutes a class four violation, except as otherwise provided in this Section and specifically as provided in Subsection F of this Section.

(2) In addition to the penalties associated with a class four violation under the provisions of R.S. 56:34, for the first conviction of a class four violation of this Section, the court shall also sentence the violator to perform forty hours of community service. If available, the hours shall be served removing abandoned crab traps as a part of a derelict crab trap removal program or in a community service litter abatement program.

(3) In addition to the penalties associated with a class four violation under the provisions of R.S. 56:34, for the second conviction of a class four violation of this Section, the court shall revoke or suspend the violator's crab trap gear license for one year from the date of the conviction and no new crab trap gear license shall be issued to the violator during the period of suspension or revocation. During such revocation or suspension, the violator may be present on a vessel harvesting or possessing crabs only if the vessel is equipped with and is actively using a vessel monitoring system accessible to the Department of Wildlife and Fisheries as prescribed in R.S. 56:424.1(B). The court shall also sentence the violator to perform forty hours of community service. If available, the hours shall be served removing abandoned crab traps as a part of a derelict crab trap removal program or in a community service litter abatement program.

(4) For a third conviction of a class four violation of this Section, the court shall revoke or suspend the violator's crab trap gear license for three years from the date of the third conviction and no new crab trap gear license shall be issued to the violator during the period of suspension or revocation. During such revocation or suspension, the violator may be present on a vessel harvesting or possessing crabs only if the vessel is equipped with and is actively using an operating vessel monitoring system as described in R.S. 56:424.1(B) that is accessible to the Department of Wildlife and Fisheries. In addition, the court shall sentence the violator to perform no less than ninety hours of community service. If available, the hours shall be served removing abandoned crab traps as a part of a derelict crab trap removal program or in a community service litter abatement program.

(5) For a fourth or subsequent conviction of a class four violation of this Section, the court shall revoke or suspend the violator's crab trap gear license for ten years from the date of the last conviction and no new crab trap gear license shall be issued to the violator during the period of suspension or revocation. During such revocation or suspension, the violator may be present on a vessel harvesting or possessing crabs only if the vessel is equipped with and is actively using an operating vessel monitoring system as described in R.S. 56:424.1(B) that is accessible to the Department of Wildlife and Fisheries. In addition, the court shall sentence the violator to perform no less than one hundred twenty hours of community service. If available, the hours shall be served removing abandoned crab traps as a part of a derelict crab trap removal program or in a community service litter abatement program.

I. Notwithstanding any other law to the contrary, the taking of crabs with legal crab traps, crab pots, nets, and lines shall be permitted in the Lake Catherine and Lake Pontchartrain Sanctuary including the waters of Lake Catherine, and its passes, the Rigolets,

Unknown Pass, and Chef Menteur, and that portion of Lake Pontchartrain as follows: The whole area from where the Rigolets and Chef Menteur Passes enter Lake Pontchartrain extending in a westerly direction to a point four miles west of the Southern Railway Bridge, being all of Lake Pontchartrain and its tributaries lying east of the Southern Railway Bridge, and all that portion of Lake Pontchartrain extending four miles west of the Southern Railway Bridge, between the northern and southern shore line, as well as that portion extending out four miles from shore along the Orleans Parish shore line to the Jefferson-Orleans Parish line, and that area of Lake Pontchartrain along the north shore extending out four miles from shore and running from the Southern Railway Bridge to a line drawn between a point four miles southwest of Goose Point and Goose Point.

J. Metal tackle or metal crab traps shall not be used in any of the public waters north of the Intracoastal Canal in the Calcasieu River or in any body of water comprising the Calcasieu River System north of the Intracoastal Canal, or in the waters of Vermilion Bay from Cypremort Point one mile offshore to Blue Point.

K. Except as otherwise provided in this Subsection, each crab trap shall have a minimum of three escape rings. All escape rings shall be placed on the vertical, outside walls. A minimum of two escape rings shall be located in the upper chamber flush with the baffle. A minimum of one escape ring shall be located in the lower chamber no greater than one mesh length from the trap floor. Beginning on July 1, 2022, all escape rings shall be located no greater than one mesh length from the corners. The minimum sizes of the rings shall be two and three-eighths inches in inside diameter, not including the ring material. The rings shall be rigid and attached to the trap with material of an equal or smaller diameter than the wire strands of the trap. Except from April first through June thirtieth and from September first through October thirty-first, escape ring openings shall not be obstructed with any material that prevents or hampers exit of crabs. However, the provisions of this Subsection shall not apply to any crab trap constructed of wire mesh two and five-sixteenths inches square or greater.

L. The limit for blue crabs taken for recreational purposes shall be twelve dozen, or one hundred forty-four crabs, daily and in possession.

M.(1) Notwithstanding the provisions of R.S. 56:320, a licensed commercial fisherman may retain for personal consumption finfish caught as by-catch in crab traps up to an aggregate of twenty-five finfish per vessel per day. However, no game fish or spotted sea trout may be kept as a part of the aggregate allowed by the provisions of this Subsection. Any fish kept under the provisions of this Subsection shall be subject to statutory and regulatory size and possession limits applicable to recreational fishing.

(2) In addition to any fish retained as by-catch, any licensed commercial fisherman holding a gear license which allows him to take finfish for commercial purposes may possess any finfish caught under that gear license up to the commercial possession limit allowable for such finfish and such finfish shall not be required to be segregated from the by-catch allowed in Paragraph (1) of this Subsection.

N.(1) Notwithstanding any other provision of law to the contrary, the Wildlife and Fisheries Commission may develop and establish a program to remove abandoned crab traps

from state-owned lake and river beds and other water bottoms of the state. Any crab trap found in state-owned lakes and river beds and other water bottoms of the state during a period of time when their use has been prohibited by the commission under the provisions of Paragraph (2) of this Subsection shall be considered abandoned and may be removed by those persons authorized by the commission.

(2) The commission may prohibit crab traps in state-owned lake and river beds and other water bottoms of the state as follows:

(a) During a sixteen-consecutive-day period between February first and March thirty-first, the commission may prohibit crab traps in one or more geographical areas of the state.

(b) During a fourteen-consecutive-day period of time which includes the opening day of the spring inshore shrimp season the commission may prohibit crab traps in one or more geographical areas of the state.

(c) At any time crab harvest is closed for biological or technical reasons, the commission may prohibit crab traps for the duration of the closure.

(d) The period of time for the prohibitions of crab traps authorized in Subparagraphs (a) and (b) of this Paragraph shall be specified by the commission for each geographical area, which period may be for fewer than the sixteen consecutive days, but shall consist of consecutive days within the sixteen-consecutive-day period.

(3) The commission shall adopt and promulgate under the Administrative Procedure Act rules and regulations to provide for a prohibition on the use of crab traps and for the removal of abandoned traps and their disposal. The rules shall, at a minimum, specify the beginning and ending dates for the prohibition on the use of crab traps, the geographical area within which the use of crab traps shall be prohibited, who is authorized to remove the abandoned traps, and the disposition of the abandoned traps.

RS 56:332.1 — Eel; methods of taking; licensing; marking; violation

of a valid commercial fishing license in addition to other applicable commercial licenses authorizes the holder thereof to sell any eel taken.

B. Eel may be taken for recreational purposes using any legal recreational gear as set forth in R.S. 56:320(A). Licenses shall be as required by R.S. 56:302.1(C) for residents and nonresidents respectively.

C.(1) Each eel pot shall be attached by a nonfloating line to a visible float of at least six inches in diameter or one-half gallon volume size and the eel fishermen's license number shall be printed on the float in indelible ink.

(2) Eel pots shall be fished only in areas of the state which are south of the saltwater line as delineated by R.S. 56:322(A) and in saltwater lakes north of said saltwater line, excluding Lake Maurepas, except by permit issued by the Department of Wildlife and Fisheries pursuant to the provisions of R.S. 56:571. No eel pot shall be set in navigable channels or entrances to streams.

D. Violation of any provision of this Section constitutes a class two violation.

RS 56:333 — Mullet; saltwater areas

sion shall

adopt rules to regulate the taking of mullet. Such regulations, except as provided in Subsection B of this Section, shall provide for zones, permits, fees, and other provisions necessary to implement this Section.

B.(1) The season for taking mullet shall begin on the third Monday in October of each year and remain open until the third Monday in January. There shall be no commercial

taking of mullet during the period from 5:00 a.m. on Saturday through 6:00 p.m. on Sunday. Except as provided in R.S. 56:333.3, mullet may not be taken commercially at any time outside of this season. There shall be no fishing pursuant to the provisions of this Section during the hours after sunset and before sunrise. The provisions of this Section are subject to quotas and size limits as established by law and rules and regulations of the commission.

(2) Except as provided in R.S. 56:333.3, mullet may only be taken commercially with a mullet strike net.

(3) The commercial taking of mullet is prohibited except by special permit issued by the Department of Wildlife and Fisheries at a cost of one hundred dollars for residents of this state and four hundred dollars for those who are nonresidents.

(4) The commercial taking of mullet during the season by using a mullet strike net in excess of one thousand two hundred feet in length or by using more than one strike net from any vessel at any time is prohibited.

(5) Each mullet strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take mullet. The department shall not issue any tag to a person who does not have a social security number.

C. Notwithstanding any provision of law to the contrary, in addition to other areas of the state, mullet may also be taken pursuant to the provisions of this Section in the following areas:

(1) The portion of Breton and Chandeleur Sounds south and west of a line beginning at the most northerly point on the south side of Taylor Pass at Latitude 29° 23' 18" 476 N. (Y-268, 131, 65), Longitude 89° 19' 00" 803 W. (X-2, 642, 161.69); thence run North 32° 32' West for 8.74 miles to a horizontal tank battery located in the vicinity of Battledore Reef and east of Little Battledore Island; thence run North 30° 47' East for 11 miles to the Mississippi River Gulf-Outlet channel at the lighted, privately maintained marker known as station "69-A" and "70-A".

(2) The portion of the Intracoastal Waterway in Orleans Parish from the overhead power lines at the Interharbor Navigation Canal east to the Rigolets.

(3) The portion of Lake Pontchartrain located south and east of the Interstate 10 bridge.

D.(1) No person shall be issued a license or permit for the commercial taking of mullet unless that person meets all of the following requirements:

(a) The person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993.

(b) The person shall provide copies of unamended, original income tax returns, including Schedule C from the federal form 1040, which show that the person derived more than fifty percent of his earned income from the capture and sale of seafood species in any two of the years 1995, 1994, and 1993.

(c) The person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

(2) The commission shall adopt rules and regulations for the entry of commercial

fishermen into the commercial mullet fishery. Such rules shall include the provisions of Paragraph (1) of this Subsection as minimum requirements.

E. The department shall not issue nor shall any person receive more than one permit or license to commercially take mullet.

F.(1) Violation of any provision of this Section or of any Wildlife and Fisheries

Commission regulation pertaining to mullet fishery shall constitute a Class 6 violation. The offender shall also be penalized as follows:

(a) For a first offense, the offender shall forfeit any mullet permit or mullet strike net license issued to him and shall be barred from obtaining a mullet permit or a mullet strike net license for the remainder of the period for which it was issued plus one year, during which the offender shall be barred from participating in any mullet fishery.

(b) For a second offense, the offender shall forfeit any mullet permit or mullet strike net license issued to him and shall be barred from obtaining a mullet permit or a mullet strike net license for the remainder of the period for which it was issued plus two years, during which the offender shall be barred from participating in any mullet fishery.

(c) For a third offense, the offender shall forfeit any mullet permit or mullet strike net license issued to him and shall be forever barred from obtaining a mullet permit or a mullet strike net license and from participating in the mullet fishery.

(2) Any person who participates in the fishery while barred shall be penalized under the provisions of a Class 7-B violation.

G.(1) Beginning March 1, 2025, and every five years thereafter, the commission shall make a peer reviewed and evaluated report to the legislature no later than March first that contains the following information on mullet:

(a) The spawning potential ratio.

(b) A biological condition and profile of the species and stock assessment.

(2) If the report shows that the spawning potential ratio is below thirty percent, the department shall close the season within two weeks for a period of at least one year.

H. Repealed by Acts 2021, No. 356, §5, eff. Nov. 15, 2021.

I. Repealed by Acts 2001, No. 147, §2.

RS 56:333.1 — Mullet; freshwater areas

tive Procedure Act shall adopt rules and regulations to regulate the taking of mullet. The rules shall provide for zones, permits, fees, daily take and possession limits, and other provisions necessary to implement the provisions of this Section. The rules promulgated by the commission shall specifically provide the following:

(1) That mullet caught in the freshwater areas of the state shall not be possessed by commercial fishermen in the saltwater areas of the state.

(2) There shall be no lead nets on hoop nets used for the fishing of mullet.

(3) No hoop nets used to catch freshwater mullet shall be run at night.

(4) No mullet shall be possessed in the freshwater areas of the state between the hours of official sunset and official sunrise.

RS 56:333.2 — Repealed by Acts 2013, No. 184, §12.

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RS 56:333.3 — Live mullet; harvest for bait

providing live bait. Mullet may be harvested for such purposes only by cast net. The commission shall adopt rules to regulate such taking and sale of live mullet for bait. Such regulations may provide for permits, licenses, seasons, live possession requirements, harvest limits, and other provisions necessary to implement the provisions of this Section.

B. In order to commercially harvest live mullet for bait under the provisions of this Section, a fisherman shall hold a commercial fishing license and a commercial cast net gear license. Cast nets used under the provisions of this Section shall not exceed twelve feet in radius and shall only be operated manually such that no mechanical device is used to hold open the net nor propel or deploy the net.

C. There shall be no commercial taking of live mullet for bait during the period from 5:00 a.m. on Saturday through 6:00 p.m. on Sunday, and there shall be no fishing pursuant to the provisions of this Section during the hours after sunset and before sunrise.

D. Any violation of the provisions of this Section shall be punishable as a class three violation under the provisions of R.S. 56:33.

RS 56:334 — Repealed by Acts 1986, No. 904, §4.

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RS 56:334.1 — Repealed by Acts 1986, No. 904, §4.

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RS 56:334.2 — Freshwater fishing allowed in designated saltwater areas

the designated saltwater line described in R.S. 56:322(A) or in saltwater lakes and bodies of water designated in R.S. 56:322(B). A person may take or possess in such designated saltwater areas, without a saltwater angling license, any freshwater species of fish in any number not otherwise prohibited by law, provided the person possesses a valid fishing license as otherwise required by law. For the purpose of enforcement, the department shall determine by rule which species of fish shall be classified as a freshwater species and which shall be classified as a saltwater species. Any person, without a valid saltwater angling license, that takes a saltwater species of fish as classified by the department from a designated saltwater area shall return such fish immediately to the waters from which taken without avoidable injury. An enforcement agent or officer of the department may inspect a fisherman's catch to insure compliance with this Section.

RS 56:335 — Repealed by Acts 1986, No. 904, §4.

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RS 56:336 — Penalty for violation of sport fishing provisions

ned not less than \$25 nor more than \$100 or be imprisoned for not less than ten days nor more than sixty days, or both.

For a second or subsequent conviction for the same offense, he shall be fined not less than \$100 nor more than \$300 or be imprisoned for not less than thirty days nor more than ninety days, or both and any tackle used in violating the law may be disposed of by the commission on order of the court having jurisdiction thereof.

B. Upon conviction for any offense for which a penalty is provided by Subsection A hereof or by any other provision of this Sub-part, and in addition to such penalty, the court may suspend or revoke the offender's hunting and/or fishing license and any or all privileges to hunt or to fish in this state that may be granted under any law or color of law whenever, in the judgment of the court, the circumstances warrant suspension or revocation, and in such case the suspension or revocation shall be for a period not to exceed the period for which the license was issued plus one year thereafter.

RS 56:337 — Repealed by Acts 1989, No. 490, §1.

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RS 56:338 — Registration of vessels; application; misstatements; penalties

species with any type of nets, seines, or traps in Louisiana waters which has not been registered at a customs port within the state and which fails to pay the fishing boat or net licenses fixed under this Subpart, shall not be entitled to another such license nor permitted to engage in such operations within two years thereafter.

B. Any material misstatement of fact regarding the ownership of the vessel for which application is made, supported by false affidavit, subjects the person making the affidavit to prosecution and subjects the vessel to forfeiture as provided for forfeiture of vessels and equipment in this Sub-part.

C. Violation of this Subpart constitutes a class one violation.

RS 56:339 — Transportation of fish to other states; reciprocity

menhaden or other species of fish not ordinarily used for human consumption in the inside and outside waters over which Louisiana has jurisdiction, to be transported to another state for the purpose of rendering and processing same, unless the state, to which the menhaden or other such species of fish are transported for the purpose of rendering and processing, permits citizens of Louisiana and Louisiana corporations the like privilege to seine for and catch and transport into Louisiana for the purpose of rendering and processing same, under the same conditions as provided by Louisiana law, menhaden and other like species of fish in the waters over which that state has jurisdiction.

RS 56:346 — Repealed by Acts 1991, No. 270, §2.

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RS 56:354 — Repealed by Acts 1986, No. 904, §4.

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RS 56:355 — Penalty provision

tute a class one violation except where a higher class of violation is specified for a violation of any provision of a particular Section.

RS 56:401 — Commercial seining prohibited in Lake Bruin and other lakes: penalty

Franklin. The department shall take such steps as necessary to prevent the seining of fish for commercial purposes at any time in those two areas. Violation of this Section constitutes a class two violation.

RS 56:402 — Commercial fishing in Lake Bruin prohibited; penalty

and bayous leading into or out of Lake Bruin: Bruin's Bayou, Choctaw Bayou, Ruth's Ditch, Catfish Bayou, Blue Hole, or Gillespie Ditch situated in the parish of Tensas, is prohibited. The department shall take such steps as necessary to prevent the catching of fish in any manner for commercial purposes at any time in the lake and its tributaries. The department may provide for open season and permit the taking of commercial fish from those waters for reasonable periods when in its judgment and discretion no harm would result therefrom and the taking would tend to the conservation and replenishment of the fish and aquatic life in Lake Bruin. Violation of this Section constitutes a class two violation.

RS 56:403 — Commercial seining prohibited in Clear Lake; penalty

ecessary to prevent the seining of fish for commercial purposes, at any time. Violation of this Section constitutes a class two violation.

RS 56:404 — Use of seines, nets, or webbing in Bogue Chitto River prohibited; logging and hand grabbing of fish in Bogue Chitto River prohibited; penalty

of fish in the Bogue Chitto River from where it enters the state in the northern part of Washington Parish to where it empties into Pearl River in the parish of St. Tammany, Louisiana, is prohibited.

B. The taking of fish from logs, buckets, barrels, drums, or natural or artificial nesting areas by hand grabbing shall be prohibited in the Bogue Chitto River from where it enters the state in the northern part of Washington Parish to where it empties into Pearl River in the parish of St. Tammany, Louisiana.

C. Violation of any of the provisions of this Section constitutes a class two violation.

RS 56:405 — Use of certain gear in Tchefuncte River and Lake Des Allemands prohibited; penalty

the Tchefuncte River or its tributaries from its origin in Washington Parish to where it empties into Lake Pontchartrain in the parish of St. Tammany, Louisiana is hereby prohibited.

B. Trawling, skimming, or butterflying north of the Louisiana Highway 631 Bridge at Des Allemands, Louisiana, and in Lake Des Allemands, its streams and tributaries is hereby prohibited.

C. Repealed by Acts 1982, No. 484, §1, eff. July 21, 1982.

D. Violation of this Section constitutes a class two violation and any seines, nets, or webbing used in violation of this law shall be confiscated.

RS 56:406 — Use of trammel net, seine, gill net, or webbing prohibited in the waters of Breton Islands and Chandeleur Islands; exceptions; penalty

te, the use of any form of trammel net, seine, gill net, strike net, or webbing (ordinarily or historically used for the catching or taking of, or capable of fishing for saltwater finfish) is hereby prohibited in the waters as delineated in Paragraph (2) of this Subsection except as provided in R.S. 56:318 and 320.2.

(2) A description of the prohibited area is as follows:

(a) Beginning at the most northerly point on the south side of Taylor Pass at Lat. 29° 23' 18." 476 N (Y-268.131.65), Long. 89° 19' 00." 803 W. (X-2, 642,161.69).

(b) Thence run N. 32° 32' W. for 8 3/4 miles to a horizontal tank battery located in the vicinity of Battledore Reef and east of Little Battledore Island.

(c) Thence run N. 30° 47' E. for 11 miles to the Mississippi River Gulf-Outlet Channel at a lighted privately-maintained marker known as Station 49 at Lat. 29° 37' 16" N., Long. 89° 18' 31" W. and Station 50 at Lat. 29° 37' 19" N. and Long. 89° 18' 24" W.

(d) Thence N. 16° 10' E. for 8 1/2 miles to Point Chicot light.

(e) Thence N. 20° 10' E. for 13 1/2 miles to Mitchell Key light.

(f) Thence N. 35° 47' E. for 20 3/4 miles to Whistle Buoy at the entrance to Gulfport Channel, Lat. 30° 07' 00" N., Long. 88° 55' 08" W.

(g) Thence S. 47° 30' E. for 4 1/2 miles to a point, one mile north of Chandeleur light.

(h) Thence southeasterly running parallel to the present inside-outside water line as described in R.S. 56:495 one mile east offshore of Chandeleur, continue in a southerly direction one mile east along the Chandeleur Islands.

(i) Thence continue southerly one mile offshore east of Palos Island, Boot Island, Stake Island, Curlew Island, Errol Island, Myth Shoal and Gosier Island to the Mississippi River Gulf-Outlet.

(j) Thence southwesterly one mile east offshore of Breton Island, continuing S. 56° 45' W. for 12 miles to the point of origin.

(3)(a) It is specifically provided that nothing contained in this Section shall prohibit the use of shrimp trawls or menhaden purse seines within the described area or the use of pompano strike nets having a mesh size of not less than five inches stretched, and for the purpose of fishing pompano only and not exceeding two thousand four hundred feet in length, during the period from August first through October thirty-first of each year in waters within the described area beyond two thousand five hundred feet from land and in excess of seven feet in depth.

(b) No person using any pompano strike net in the described area as provided herein shall have in his possession any edible fish, other than pompano. The provisions of this Section are subject to quotas and size limits as established by law and rules and regulations of the commission.

(c) No person may use a pompano net in the described area unless he has first obtained a special permit which the secretary shall issue and which special permit number shall be displayed on each vessel on the roof, or in such position recognizable from the air on open boats, in block letters and numerals eight inches high, width in proportion, contrasting with the background, being fully exposed to view from the air at all times.

(d) No person shall fish for pompano in Breton Sound or Chandeleur Sound during the hours after sunset and before sunrise.

(e) Each pompano strike net shall have attached to it a tag issued by the department which states the name, address, and social security number of the owner of the net and the permit number of the permit issued to commercially take pompano. The department shall not issue any tag to a person who does not have a social security number.

B. It shall be the duty of the commission to enforce this section.

C. Violation of any of the provisions of this Section constitutes a class 5-A violation, R.S. 56:35.

D. The provisions of this Section shall be self-operative and shall require no further legislative action.

RS 56:407 — Use of trammel nets, gill nets, and seines in certain areas of Lake Borgne prohibited

shoreline of Grand Island, commonly known as Half Moon Island, in Lake Borgne, or within one-half mile of the shoreline of Grassy Island, in Lake Borgne.

B. Violation of any of the provisions of this Section constitutes a class two violation.

RS 56:408 — Lake Maurepas; trawling prohibited; nets in certain areas prohibited

Maurepas within one-half mile of the beacon lights marking the mouths of the Tickfaw, Tangipahoa, Amite, and Blind Rivers and the Amite River diversion canal and Pass Manchac is hereby prohibited.

C. Violation of this Section constitutes a class two violation.

RS 56:409 — Saline Lake; latt Lake; triploid grass carp; introduction; expenditures

e triploid grass carp (

Ctenopharyngodon idella

) into Saline Lake. This activity shall be done only under the direct supervision of the department and its biologists. All expenditures incurred in such activity shall be borne entirely by the Saline Lake Game and Fish Preserve Commission.

B. Notwithstanding any other provision of law to the contrary, the Grant Parish Police Jury may introduce triploid grass carp (

Ctenopharyngodon idella

) into latt Lake. This activity shall be done only under the direct supervision of the department and its biologists. All expenditures incurred in such activity shall be borne entirely by the Grant Parish Police Jury.

RS 56:409.1 — Penalty for the wasting of the state's fishery resources

which results in the excessive killing of such fish.

B. Any person in violation of the provisions of this Section may be subject to a civil fine by the Department of Wildlife and Fisheries in an amount not to exceed the fair market value of the fish wasted. The fair market value of such fish shall be based upon the prevailing wholesale price of the fish, if such price is available, or shall approximate the price which could otherwise be obtained for the fish.

C. The Department of Wildlife and Fisheries shall promulgate rules and regulations to assign a fair market value to fish under its jurisdiction, determine what constitutes the excessive killing of fish, and to otherwise implement the provisions of this Section, and shall subject such rules and regulations to legislative oversight by the House Committee on Natural Resources and Environment and Senate Committee on Natural Resources.

D. Civil penalties may be assessed only by a ruling of the department based on an adjudicatory hearing held in accordance with the Administrative Procedure Act. No civil penalty shall be assessed under this Section for the wasting of fish the value of which is deemed by the department to be less than one thousand dollars.

E. Any proceeds from a fine imposed under this Section shall be placed in the Conservation Fund to be used for the purposes of the fund.

F. The provisions of this Section shall not apply to the taking or use of shrimp.

RS 56:410 — Trawling at night prohibited on White Lake and Grand Lake

t to official sunrise is hereby prohibited.

B. Violation of this Section constitutes a class two violation.

RS 56:410.1 — Paratrawling prohibited in canals; penalty

1988, No. 574, §1.

RS 56:410.2 — Use of trammel nets, gill nets, and strike nets in Calcasieu Lake in Cameron Parish prohibited

portion of Calcasieu Lake located in Cameron Parish including that portion of the Calcasieu Ship Channel which actually adjoins Calcasieu Lake, West and East Pass of Calcasieu River, and Turner's Bay during the hours after the official sunset on Friday and before the official sunset on Sunday of each week during the period from May first through

September thirtieth of each year.

B. Violation of this Section constitutes a class two violation.

RS 56:410.3 — Sabine Lake; taking of crabs; seasons; gear; penalties

ine Lake during the inland shrimp season

and may also designate the places in the lake in which crab traps or other legal gear for the taking of crabs may be used.

B. Violation of any rule or regulation adopted and promulgated by the commission in accordance with the provisions of Subsection A of this Section constitutes a class 2-B violation.

RS 56:410.4 — Repealed by Acts 2012, No. 133, §1.

on Rouge, Louisiana 70804-9062

RS 56:410.5 — Repealed by Acts 2012, No. 133, §1.

on Rouge, Louisiana 70804-9062

RS 56:410.6 — Calcasieu Lake in Calcasieu Parish; use of trammel nets, gill nets, strike nets, and seines

hat portion of Calcasieu Lake which is situated in Calcasieu Parish.

B. Violation of this Section constitutes a class two violation.

RS 56:410.7 — Black Lake, Clear Lake, and Prairie Lake; marking of nets required; permitted and prohibited fishing gear; penalties

al fish in Black Lake, Clear Lake, or Prairie Lake unless it has been marked with a waterproof tag with the name and address of the fisherman and his fishing license number. Violation of this provision shall be punishable by a twenty-five dollar fine payable to the Northwest Game and Fish Preserve Commission.

B. No person shall use a gill net or trammel net or leaded gill net which has less than a minimum of three and one-half inch bar and seven inches stretch. Violation of this provision shall be punishable by a twenty-five dollar fine payable to the Northwest Game and Fish Preserve Commission.

C. Repealed by Acts 2012, No. 133, §1.

RS 56:410.8 — Repealed by Acts 2012, No. 133, §1.

on Rouge, Louisiana 70804-9062

RS 56:410.9 — Repealed by Acts 2012, No. 133, §1.

on Rouge, Louisiana 70804-9062

RS 56:410.10 — Use of certain fishing gear on Poverty Point Reservoir; prohibition

overty Point Reservoir.

B. Violation of this Section constitutes a class two violation.

RS 56:410.11 — Repealed by Acts 2012, No. 133, §1.

on Rouge, Louisiana 70804-9062

RS 56:411 — Legislative findings and purpose

lity of Louisiana's economy.

Additionally, as stated in R.S. 56:360.2 and 360.3, the legislature also recognizes that the introduction of nonnative aquatic organisms for the purpose of aquaculture may pose a real threat to Louisiana's native species and their environments. The purpose of this Subpart is to grant the department the authority to maintain a list of approved domesticated aquatic

organisms for aquaculture and the regulatory framework for the orderly development of an aquaculture industry in the state of Louisiana, including the manner of possession, propagation, culture, management, transport, or marketing of domestic aquatic organisms and the methods for consideration of approval of new species for aquaculture. The list of approved domesticated aquatic organisms and the methods for consideration of approval of a new species for aquaculture shall be promulgated under the Administrative Procedure Act.

B. For the purposes of this Subpart the following definitions shall apply:

- (1) "Aquaculture" means any activity associated with the production of fish in privately owned waters or ponds as defined in R.S. 56:8(103) and (104).
- (2) "Aquatic livestock" means native, freshwater fish but does not include any freshwater game fish as defined in R.S. 56:8, any fish which is a threatened or endangered species as defined in R.S. 56:1902, or any saltwater species of fish.
- (3) "Culture" means any activity associated with the rearing, nurturing, or growing of a domesticated aquatic organism.
- (4) "Domesticated aquatic organism" shall specifically include all domesticated fish as defined in R.S. 56:8, and any aquaculturally raised fish, except aquatic livestock.
- (5) "Mariculture" means the rearing, nurturing, or growing of saltwater fish in cages, pens, or any other containment device in or on state territorial waters including those waters over private-owned water bottoms.
- (6) "Species specific permits" are special domesticated aquatic organism permits that are required for any species which have restricted methods of aquaculture.

RS 56:412 — Issuance and renewal of domesticated aquatic organism license

g a domesticated aquatic organism license.

(2) A domesticated aquatic organism license shall be valid for one year, beginning January first of each calendar year and expiring December thirty-first of the same calendar year. The license may be purchased at any time of the year for the current license year and after November fourteenth for the immediately following license year. The cost of a domesticated aquatic organism license is twenty-five dollars for residents and five hundred dollars for nonresidents. A renewal notice shall be mailed to each licensee by the department prior to the license expiration dates explaining the renewal procedures. In addition to the general domestic aquatic organism license, the department may issue the following permits for particular aquaculture activity:

- (a) Any required species specific culture permit shall cost one hundred dollars and all other species specific permits shall cost fifty dollars.
- (b) Mariculture permits shall cost five hundred dollars annually. Mariculture permits shall be issued for the life of the project and shall be revoked upon failure to maintain the conditions of the permit, or upon lapse of the annual fee.
- (3) The domesticated aquatic organism license shall authorize the bearer to transport domesticated aquatic organisms over the highways of this state. The licensee is responsible for all activities that take place under the authority of that license.
- (4) Persons engaged in the business of aquaculture under this Subpart are excepted from the provisions of R.S. 56:306, and the notification provisions of R.S. 56:327(A)(2), and

shall, by virtue of their license, be entitled to sell domesticated aquatic organisms in any size, quantity, or limit without restriction within the state or outside of the state. Creel limits shall not apply to shipments or transport of domesticated aquatic organisms under the provisions of this Subpart.

(5) No person engaged in the business of aquaculture nor any other person may use public bodies of water to propagate, raise, feed, or grow any species of fish with the exception of shellfish native or endemic to Louisiana or the Northern Gulf of Mexico. The use of cages, pens, and fenced-off portions of such water bodies for propagating, raising, or growing any species of fish is prohibited without a valid Mariculture or Alternative Oyster Culture permit issued by the department.

(6) Species of rock bass, white bass, yellow bass, crappie, and bream fingerlings not exceeding a maximum total length of six inches and spotted bass, striped bass, and largemouth bass of any size may be brought into the state by and from legal and certified out-of-state commercial fish hatcheries for sale to persons for stocking ponds and approved public waters located in Louisiana and may be sold by permitted residents in accordance with the provisions of this Subsection. Creel limits shall not apply to shipments of such game fish fingerlings.

(7) The department shall have the authority to cancel sales or to confiscate and destroy shipments of fish fingerlings that are determined by department personnel to have fish diseases or parasites that would endanger native fish populations.

(8) The department may issue permits to residents to authorize the raising of all types of bass, crappie, and bream in the state as specified in this Subpart for the purpose of selling to consumers in this state for stocking of private ponds and lakes and approved public waters and for the purpose of selling to consumers in other states. The manner of raising, harvesting, and selling these game fish shall be governed by administrative rules and regulations promulgated by the commission.

(9) With the exception of game fish, the provisions of this Section shall not apply to research or other projects being conducted by the Louisiana State University Agricultural Center or by other schools or programs specifically authorized by the Board of Regents with the concurrence of the department, including but not limited to the sale or distribution of the research by-products, such as eggs, fingerlings, and fish, and other products grown under aquacultural conditions.

B. Violation of any of the provisions of this Section constitutes a class 2-B violation.

RS 56:413 — Harvest and sale of domesticated aquatic organisms

be carried out at the time desired by the grower and with seines or tackle selected by the owner. Persons engaged in aquaculture, as defined in this Subpart, shall be entitled to transport, without restriction, on the public roads and highways of this state any and all equipment, except any electric fish shocking devices, necessary for the harvest of domesticated aquatic organisms produced in privately owned waters.

RS 56:415 — Exemption; aquatic livestock farmers

stock from a private pond to the first point of sale, or to the sale to the first purchaser of aquatic livestock which are produced and harvested in private ponds.

B. The Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries shall not have jurisdiction over any activities or transactions exempted by this Section. The Department of Agriculture and Forestry shall have

jurisdiction over activities exempted by this Section.

RS 56:421 — Oyster Task Force

t

industry for the state of Louisiana and its citizens.

B. The task force shall be composed as follows:

- (1) The governor's executive assistant for coastal activities or his designee.
- (2) Two members appointed by the secretary of the Department of Wildlife and Fisheries.
- (3) One member appointed by the secretary of the Department of Conservation and Energy.
- (4) One member appointed by the secretary of the Louisiana Department of Health.
- (5) Four members appointed by the Louisiana Oyster Dealers and Growers Association. Two members appointed under the provisions of this Paragraph shall be selected at-large. Of the other two members, one shall be from Jefferson Parish and one shall be selected from either Lafourche or Terrebonne Parish.
- (6) Two members appointed by the Plaquemines Oyster Association.
- (7) One member appointed by the Terrebonne Oyster Association.
- (8) One member appointed by the Cameron Parish police jury who is a properly licensed oyster harvester with documented commercial landings of oysters from Calcasieu Lake, or a properly licensed seafood dealer with documented commercial purchases of oysters from Calcasieu Lake during the current or preceding license year of appointment as per records of the Department of Wildlife and Fisheries.
- (9) One member appointed by the Southwest Pass Oyster Leaseholder Association.
- (10) Two members appointed by the United Commercial Fisherman's Association.
- (11) One member appointed by the Delta Commercial Fisherman's organization.
- (12) One member who has voting authority and is an oyster grower appointed by the president of the Louisiana Farm Bureau Federation.
- (13) One member appointed by the Louisiana Oyster Aquaculture Association.
- (14) One member appointed by the executive director of the Coastal Protection and Restoration Authority.
- (15) One member appointed by the Louisiana Oystermen Association.

C. The members appointed under the provisions of Paragraphs (B)(1) through (4) and (14) of this Section shall be nonvoting members. However, they shall be considered members of the task force for determination of the number of members necessary for a quorum and for establishing the presence of a quorum.

D. The task force shall adopt bylaws under which it shall operate, and seven members of the task force shall constitute a quorum sufficient to conduct meetings and business of the task force. The task force shall elect a chairman from its membership and may seek and receive assistance from universities within the state in the development of methods to increase production and marketability of molluscan shellfish. The members of the task force shall serve without compensation; however, the task force may receive the same reimbursement of travel expenses for attending the meetings as is allowed for other

state employees' travel.

E. The task force is hereby charged with responsibility to do the following:

- (1) Monitor the water quality and management requirements of the state's molluscan shellfish propagating areas.
- (2) Coordinate efforts to increase oyster production and salability.
- (3) Study the decline in molluscan shellfish salability, the degradation of water quality which could adversely affect consumer health, and the reasons for such declines and degradations, and make recommendations to resolve such problems.
- (4) Make recommendations with respect to issues pertaining to the oyster industry and oyster production to the various state agencies charged with responsibility for differing elements of the oyster industry in this state, including the Department of Wildlife and Fisheries, the Department of Conservation and Energy, the Coastal Protection and Restoration Authority Board, the Coastal Protection and Restoration Authority, the Louisiana Department of Health, the governor's executive assistant for coastal activities, and the legislature.
- (5) Employ such personnel as necessary.
- (6) Develop markets and marketing strategies for the development of new and expanded markets for Louisiana oysters.
- (7) Represent the interests of the Louisiana oyster industry before federal and state administrative and legislative bodies on issues of importance to the Louisiana oyster industry.
- (8) Contract for legal services to represent the interests of the Louisiana oyster industry in judicial, administrative, and legislative proceedings.
- (9) Administer the funds in the Oyster Development Fund.
- (10) Perform any acts deemed necessary and proper to carry out its duties and responsibilities.

F. The activities of the Oyster Task Force shall be funded through the Oyster Development Fund as provided in R.S. 56:10(B)(1)(a)(ii).

RS 56:422 — Regulation of industry; residence of persons engaging in; employment of labor and vessels

state, or any corporation domiciled in or organized under the laws of this state, having a factory or shucking plant or places of business located within this state, may catch and take, can, pack, shuck, or deal in or transport oysters from the waters of this state, and may lease bedding grounds for the cultivation and propagation of oysters for any of those purposes within any waters within the territorial jurisdiction of the state, upon the terms and conditions and subject to the restrictions and regulations herein set forth, or under the authority which may be imposed by the commission.

B. Except as otherwise provided in this Subpart no person not a resident of or domiciled in this state shall catch, take, can, pack, shuck, or deal in, within this state, any oysters taken from the waters of this state, or lease any bedding grounds for the cultivation and propagation of oysters for any of the above purposes.

C. Any person properly licensed to operate in the oyster industry in this state may employ such labor, resident or nonresident, as required, and may employ such vessels and their crews, resident or nonresident, as required, upon the vessels being properly licensed. This right to employ nonresident labor or nonresident vessels is confined to the operation of any licensees as carried on within the state.

D. Whoever violates any of the provisions of this Section has committed a Class Two violation and shall be punished as provided for in Part II.

E. The commission may promulgate rules and regulations, including emergency rules, under the provisions of the Administrative Procedure Act to provide for the operation of oyster cargo vessels. The rules shall require that each person in charge of an oyster cargo vessel shall purchase an oyster cargo vessel permit. The permit shall be issued at a cost of two hundred fifty dollars per year for residents and one thousand one hundred five dollars per year for nonresidents. The rules and regulations also may include but shall not be limited to provisions to provide for the following:

- (1) Commercial oyster fishermen transferring oysters on the water to a cargo vessel.
- (2) Compliance with refrigeration requirements and record requirements.
- (3) Requiring the use of a vessel-monitoring system.
- (4) Allowing for adequate enforcement.
- (5) A violation of any rule or regulation adopted under the provisions of this Subsection shall be a Class Four violation.
- (6) Funds received from issuance of the oyster cargo vessel permits being used for enforcement of the oyster laws and rules and regulations.
- (7) All other provisions necessary for the implementation of this Subsection.

RS 56:423 — Property rights; larceny or other public offense concerning; leases heritable and
eased and of all

oysters and cultch grown or placed thereon, subject to the restrictions and regulations of this Subpart and Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950.

(1) This exclusive use of water bottoms is subordinate to the rights or responsibilities of the state, any political subdivision of the state, the United States, or any agency or agent thereof, to take any action in furtherance of integrated coastal protection as defined in R.S. 49:214.2.

(2) This exclusive use of water bottoms for any oyster lease initially applied for after July 1, 2016, or any renewal or judicial partition of such lease is also subordinate to the rights of any person:

(a) To engage in any activity authorized by a coastal use permit, determination, or coastal use authorization pursuant to R.S. 49:214.30 or a drilling permit, for which the coastal use authorization or drilling permit application was issued prior to the date the application for the oyster lease was issued. This Subparagraph applies only in the following areas:

- (i) The area from the centerline of the pipeline or area from the outside of the well, platform, shell pad, or facility as designated by the coastal use permit, determination, or other coastal use authorization pursuant to R.S. 49:214.30 or drilling permit, or
- (ii) If no such area delineated in Item (i) of this Subparagraph is designated, then this Item applies in the following areas:

(aa) For a pipeline, within seventy-five feet from the centerline of the pipe.

(bb) For a well, platform, shell pad, or facility, within two hundred fifty feet from the outside of the well, platform, shell pad, or facility.

(b) To operate, maintain, repair, replace, rehabilitate, or remove any pipeline, well, platform, shell pad, or facility on or impacting an oyster lease in which the pipeline, well, platform, shell pad, or facility was placed or constructed before September 20, 1980, or was placed or constructed prior to the date the oyster lease was issued. This Subparagraph applies only in the following areas:

- (i) For a pipeline, within seventy-five feet from the centerline of the pipe.
- (ii) For a well, platform, shell pad, or facility, within two hundred fifty feet from the outside of the well, platform, shell pad, or facility.
- (c) To cross an oyster lease to access any activity, pipeline, well, platform, shell pad, or facility to which Subparagraph (2)(a) or (2)(b) of this Subsection applies. This Subparagraph applies only to a single access channel across each oyster lease per activity, pipeline, well, platform, shell pad, or facility, determined as follows:
 - (i) For any activity, pipeline, well, platform, shell pad, or facility, including the removal of any pipeline, well, platform, shell pad, or facility, to which Subparagraph (2)(a) of this Subsection applies, if an access channel across each oyster lease is identified in the coastal use authorization or permit, it shall be the sole access channel for purposes of this Subparagraph. If more than one access channel across each oyster lease is identified, the holder of the authorization or permit shall designate a single access channel to the department in writing identifying the centerline of the access channel using the North American Datum 1983 state plane coordinates; and when the holder does so and the department consents to the designated access channel in writing, it shall be the sole access channel for purposes of this Item.
 - (ii) For any activity, pipeline, well, platform, shell pad, or facility to which Subparagraph (2)(b) of this Subsection applies, the holder of the authorization or permit shall designate a single access channel across each oyster lease to the department in writing identifying its centerline using the North American Datum 1983 state plane coordinates; and when the holder does so and the department consents to the designated access channel in writing, it shall be the sole access channel for purposes of this Item.
 - (iii) This Subparagraph applies only within fifty feet from the centerline of the access channel across each oyster lease. In addition, if a spoil area was previously identified in an authorization or permit for an access channel designated pursuant to this Item, this Item shall also apply to the same spoil area; however, such spoil area shall be limited to eighty feet in width adjacent to one side of the access channel.
 - (iv) The department shall be immune from any action or liability arising out of or related to its consent or agreement to any access channel or spoil area designated pursuant to this Subparagraph.
 - (v) The department shall consult with the lessee under any oyster lease located within a proposed access channel, before consenting or agreeing to any access channel pursuant to this Subparagraph.
- (3) The provisions of Paragraph (2) of this Subsection shall not apply to any oyster lease initially applied for before July 1, 2016, or any renewal or judicial partition of such lease, or to any oyster lease issued pursuant to Section 2(B)(1) of Acts 2008, No. 808, as

RS 56:424 — Taking of oysters

sion. For the purpose of this Subpart, all oysters in possession of any person in the state shall be deemed to be oysters taken from the waters of the state. Except as otherwise provided herein, the taking of oysters is prohibited in the water bottoms of the state of Louisiana.

(2) No person, except a Louisiana resident sixteen years of age or under, and except the spouse of a vessel's owner while on that vessel, shall harvest oysters unless he possesses a valid oyster harvesting license.

B. An oyster lessee may work on his private oyster lease, or he may designate an agent to harvest oysters on his lease with written permission, which shall be carried on the boat and subject to inspection. Such written permission shall specify a starting date and a termination date during which period the written permission will be valid.

C. Recreational oyster fishermen may harvest oysters in leased areas with the written permission from the lease holder, in personal leased areas, and in areas open to the public for the harvesting of oysters, but shall be limited to two sacks per person per day.

D. Except as otherwise provided herein, violation of any of the provisions of this Section constitutes a class four violation. Any person, common carrier, or any agent or officer thereof, who violates any of the provisions of this Section shall at the time of arrest surrender all permits or licenses held by the vessel. The captain, person, agent, officer, crew, or members thereof by whom or under whose direction the vessel was used in the illegal taking of oysters may be charged with a violation and may be ordered to pay all costs of prosecution.

E.(1) No person shall harvest, possess, sell, barter, trade, purchase, or exchange or attempt to sell, barter, trade, or exchange oysters in the state of Louisiana or in interstate commerce unless such oysters are taken from areas approved by the state health officer in accordance with R.S. 40:5.3. Unless otherwise permitted by the Department of Wildlife and Fisheries, when any vessel is found to be harvesting within an unapproved or closed area, all oysters on board the vessel shall be deemed to have been taken from unapproved or closed waters and shall be deemed to constitute a hazard to the safety, health, and welfare of the citizens of the state. In addition, no oysters taken from sources outside of Louisiana shall be sold in Louisiana, unless taken from areas approved by the state authorities having jurisdiction, and unless secured from oyster dealers whose state certifications have been endorsed by the United States Food and Drug Administration Public Health Services for interstate shipment. All oysters found in violation of this Paragraph shall be seized and ordered returned to the water. Any violation of this Paragraph shall constitute a class six violation under the provisions of R.S. 56:36.

(2)(a) In addition to all other penalties provided in this Section, for the first violation of this Subsection the oyster harvester's license under which the violation occurred shall be revoked by the department and no new such license shall be issued for one year from the date of the conviction. In addition, the violator shall be sentenced to perform no less than forty hours of community service. If available, the hours shall be served in a litter abatement community service program. During the period in which the violator is prohibited from possession of an oyster harvester license for a first offense, the violator may be present on a vessel harvesting or processing oysters only if that vessel is equipped with and is actively using a vessel monitoring system as prescribed in R.S. 56:424.1.

(b) For a second violation of this Subsection, the violator's oyster harvester license shall be revoked, and no new such license shall be issued for three years from the date of conviction. In addition, the violator shall be sentenced to perform no less than ninety hours of community service. If available, the hours shall be served in a litter abatement community service program. During the period in which the violator is prohibited from possession of an oyster harvester license for a second violation, the violator shall not be present on a vessel harvesting or processing oysters.

(c) For a third or subsequent violation of this Subsection, the violator's oyster harvester license shall be revoked, and no new such license shall be issued for ten years from the date of the third or subsequent conviction. In addition, the violator shall be sentenced to perform no less than one hundred twenty hours of community service. If available, the hours shall be served in a litter abatement community service program. During the period in which the violator is prohibited from possession of an oyster harvester license for a third or subsequent violation, the violator shall not be present on a vessel harvesting or processing oysters.

F.(1) The act of culling oysters, which is the act of discarding undersized oysters or dead shell, shall be performed only on the open state designated public grounds or leases on which the fisherman is authorized to take oysters. At no time will the act of culling oysters be permitted in areas closed to harvesting oysters.

(2) The provisions of Paragraph (1) of this Subsection notwithstanding, the secretary may grant permits for culling and oyster harvesting to those individuals involved in molluscan depuration operations and container relaying operations on a case-by-case basis, provided that the individuals conducting such operations have fully complied with the rules and regulations of the office of public health and have been issued a permit by that office to conduct such operations.

(3) Violation of any of the provisions of this Subsection constitutes a class three violation.

G.(1) Except as otherwise provided in this Subpart, all oysters taken from the reefs of this state either for sale or consumption shall be landed in Louisiana, properly sacked or containerized and tagged in accordance with the provisions of R.S. 56:449, and the severance tax levied in R.S. 56:446 paid thereon; however, a lessee legally harvesting oysters which have been properly tagged from his own lease may land those oysters outside the state under a permit issued pursuant to rules and regulations promulgated by the department. Any fees proposed in said rules shall not exceed one hundred dollars.

(2) Any person who obtains a permit to land oysters outside the state under the provisions of this Subsection shall be required to install and use a vessel monitoring system on each vessel that will be used to transport oysters taken in Louisiana waters to another state for landing. Access to the monitoring system shall be granted to the Department of Wildlife and Fisheries. The department shall promulgate rules and regulations necessary to implement the provisions of this Paragraph.

H. Notwithstanding the provisions of this Section, employees or assigns of the Coastal Protection and Restoration Authority may survey or remove, as a sample, oysters from an oyster lease on state water bottoms in order to make determinations in matters of integrated coastal protection. In order to make such surveys or take such samples, the employees or assigns of the Coastal Protection and Restoration Authority shall first notify the leaseholder in writing of the date and time of the survey or sample at least fifteen days prior to the survey or sampling date. This notification shall be sent by certified mail to the leaseholder at the address on file with the Department of Wildlife and Fisheries. The leaseholder may accompany the person conducting the survey or taking the sample during the survey or sampling or may authorize another person to accompany the person conducting the survey or taking the sample. Such surveys shall be conducted in the manner provided in procedures promulgated by the Coastal Protection and Restoration Authority after consideration of recommendations by the Louisiana Oyster Task Force.

I. The state of Louisiana, political subdivisions of the state, the United States, and any agency, agent, contractor, or employee of any of these entities, shall not be subject to any obligation, responsibility, or liability in relation to or resulting from any surveying or sampling of any oyster lease, information provided to any lessee in relation to any surveying or sampling of any oyster lease, the timing of any acquisition of any part of any lease by the state pursuant to R.S. 56:432.1, the lack of acquisition of any part of any lease except as provided in R.S. 56:432.1, or any report pursuant to R.S. 56:432.2 or otherwise.

RS 56:424.1 — Illegal taking of oysters; penalties

R.S. 56:424, 431, 433, or 433.1, the court may order the offender, for one year after the date of such conviction, to harvest oysters only from a vessel that employs a vessel monitoring system. For any person convicted of a second offense of the provisions of R.S. 56:424, 431, 433, or 433.1, the court shall require the offender, for three years after the date of such conviction, to harvest oysters only from a vessel that employs a vessel monitoring system. For any person convicted of a third or subsequent offense, the court shall require the offender, for ten years after the date of such conviction, to harvest only from a vessel that employs a vessel monitoring system.

B. Whenever a person is required to employ a vessel monitoring system, access to the monitoring system shall be granted to the Department of Wildlife and Fisheries. Each person required to employ such monitoring system under the provisions of this Section shall notify the department on which vessel he will be harvesting oysters. Any person required to be on board a vessel with an approved vessel monitoring system when harvesting oysters shall comply with all rules and regulations adopted by the department to ensure compliance with vessel monitoring system requirements. The cost of a vessel monitoring system shall be the responsibility of the person required to be on such vessel. The department shall determine which vessel monitoring systems are approved for use under the provisions of this Section.

C. Any person required to be on board a vessel with an approved vessel monitoring system who is found harvesting oysters from a vessel not equipped with such vessel monitoring system shall have his harvester's license suspended for the remainder of the license year in which he was convicted of violation of the vessel monitoring system requirement, and he shall not be eligible for a harvester's license for the following year.

D. The department shall adopt rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section.

RS 56:425 — Lease of water bottoms; stipulations; boundary disputes

the laws of this state any state-owned water

bottoms and natural reefs in the water bottoms of this state under the limitations stipulated or authorized in this Subpart. No lease shall be granted until a reasonable investigation into the question of ownership is complete and, based on the findings, a determination is made that the state owns the water bottoms to be leased. Any lease for the taking of oysters granted by the secretary prior to June 15, 2006 which affects privately owned water bottoms shall be subordinate to the rights of the private landowner or recorded land title owner effective on that date.

B. All leases and renewals of leases made under the provisions of this Subpart shall stipulate as a matter of contract that the lessee will operate both under the laws of this state and the rules and regulations of the department.

C. The secretary may make such stipulations in the leases made by him as he deems necessary and proper to develop the industry; however, these stipulations must be consistent with the provisions of this Subpart. The secretary may also make such stipulations as he deems necessary and proper in relation to coastal protection, conservation, or restoration.

D. The department may fully settle all disputes as to boundaries between lessees of bedding grounds, subject to appeal to any court of competent jurisdiction.

E. No lease shall be granted for any water bottom for which any lease was previously acquired by the state for integrated coastal protection, unless the executive director of the Coastal Protection and Restoration Authority determines that leasing would otherwise be appropriate under the provisions of this Subpart and the executive director of the Coastal Protection and Restoration Authority affirms that the water bottom is not necessary for integrated coastal protection. Unless this determination has been made prior to issuance of the lease, a lease of water bottom for which a lease was previously acquired shall be null and void for such water bottom and shall be of no force or effect. No person shall have any claim against the state of Louisiana, its political subdivisions, the United States, or any agency, agent, contractor, or employee thereof or any other person in relation to the nullity of such lease.

F. The Coastal Protection and Restoration Authority shall determine areas of the coast where buffer zones between oyster leases and the shoreline may be necessary to protect sensitive and eroding coastal lands. The Coastal Protection and Restoration Authority shall review each application for an oyster lease or renewal or expansion of an oyster lease to determine if the water bottom applied for is located in an area where a buffer zone may be necessary and shall delineate the extent of the buffer zone necessary for each application.

RS 56:425.1 — Joint leasing of water bottoms for oyster cultivation and harvest

arties, the Department of Wildlife and Fisheries is hereby authorized to enter into an agreement with a private claimant whereby certain water bottoms may, in cooperation between the state and the private claimant, be leased to a third party for the cultivation and harvest of oysters. Any such agreement shall not in any way be interpreted to indicate or determine ownership of the water bottom nor shall any such agreement be interpreted to allocate or designate ownership of mineral rights beneath the water bottom. The department may promulgate under the Administrative Procedure Act the processes by which such agreements shall be negotiated and administered.

B. Any such agreement may originate with either the department or the private claimant and any annual rental payments required by R.S. 56:428(C) shall be made to the department as provided by R.S. 56:428(C). Except for the requirements of R.S. 56:425(A) for determination of state ownership, the lease shall be subject to the provisions of Subpart D of Part VII of Chapter 1 of Title 56 of the Louisiana Revised Statutes of 1950 in addition to any other conditions of the agreement between the state and the private claimant.

C. The joint agreement between the state and the private claimant shall remain in effect throughout the term of any lease issued subject to the agreement or until ownership of the water bottom has been determined by final judgment of the court. Any lease subject to the joint agreement shall terminate at the time a court has issued a final determination of ownership of the water bottom.

D. Beginning July 1, 2016, and continuing until the final implementation of Phase Three of Section 2 of Act No. 808 of the 2008 Regular Session as amended by Acts 2016, No. 595 of the 2016 Regular Session of the Legislature, oysters found on a vessel owned and operated by the holder of a private oyster lease executed and properly recorded prior to February 1, 2016, or operated by an agent or employee of such private oyster leaseholder shall be presumed to have been legally harvested from the leaseholder's private oyster lease. In order to document the legality of the harvest of oysters from the private lease, a certified copy of the lease as filed in the public records of the parish in which the lease is located shall be carried on each vessel used to harvest oysters from the private lease and shall be available for examination by representatives of the department.

E. In order to preserve private contract rights and to protect existing investments, the department shall recognize as valid a private oyster lease in effect and properly recorded as of February 1, 2016, until such time as the processing of the lease acreage pursuant to the provisions of Phase Three of Section 2 of Act No. 808 of the 2008 Regular Session as

RS 56:426 — Filing and recordation of water bottoms leases

er retained by the department and registered in a lease book for that purpose.

B. All persons to whom water bottoms leases are granted shall, within thirty days following the granting thereof, record an executed copy of such lease or leases, together with a plat or map of survey indicating the area affected, in the conveyance records of the parish or parishes of the state of Louisiana in which the area is located. Within twenty days from such recordation, certified copies of the plat or map of survey shall be filed with the department. Transfers of leases from one person to another shall be likewise recorded and filed.

C. If a lease is not recorded and filed within the time periods provided above, no third party shall be bound or affected by the provision of that lease, until such time as it is properly recorded and filed. There shall be no claim against the state of Louisiana for the disregard of the provisions of any lease not properly recorded and filed in accordance with foregoing, nor shall there be any claim against the department, the register of the state land office, or the State Mineral and Energy Board, for the disregard of the provisions of any lease which has not been properly filed with the respective agency involved.

D. All leases of water bottoms for oyster culture previously granted and not filed and recorded as provided for in this Subpart, and all such leases hereafter granted, and not recorded as provided herein, shall be subordinate to the rights of the state of Louisiana, its agencies and lessees, with respect to the granting of mineral and shell leases and the exercise of rights thereunder. The renewal or extension of the term of an existing oyster lease shall not be deemed a new lease, but a renewal or extension shall be recorded no later than six months after the expiration of the term of the previous lease.

RS 56:427 — Initial application for lease

s Subpart shall present

to the secretary a written application, and pay an application fee set by the commission. This application shall contain the name and address of the applicant and a reasonably definite description of the location and amount of land covered by water desired by the applicant. The applicant shall ask that the application be registered and that the water bottom described be leased to the applicant under the provisions of this Subpart. The department shall then register the application, shall order an examination to determine whether the water bottoms applied for are leasable, and shall determine the basis upon which the rental of the lease shall be fixed. If the area is found to be leasable, the applicant shall submit to the department a survey of the area for which the application was submitted. Such survey shall have been conducted in accordance with the standards required by the department. The application shall remain in effect and valid until such time as the survey is complete. If the application is favorably acted upon, the secretary may, at his option, execute a lease for the water bottoms to the applicant as soon as the survey has been made, and the plan or map thereof has been filed with the department.

B. When applications are made by two or more persons for the same water bottoms, the applicant or the heirs or transferors of a deceased applicant who files the first application has prior claim. The department shall not accept any survey plan for any lease that exceeds by ten percent the acreage described in the initial application for the particular lease from the date of adoption of this Subsection, except that the department may accept any lease application, even where the survey plan exceeds by ten percent the acreage described in the initial application, if the lease would not overlap or impact surrounding leases or pending lease applications.

C. The department shall require that the bottoms of water areas to be leased be as compact as possible, taking into consideration such factors as the shape of the body of water, and the condition of the bottom as to hardness or softness which would render it desirable or undesirable for the purpose of oyster cultivation.

D. The provisions of this Section shall apply only to the initial application for an oyster lease, and not to the renewal of a lease.

E. No application for a new lease shall be submitted nor accepted for more than one thousand acres.

F. The secretary may not execute a lease until the department has posted notice of the application for the lease on its website for ninety consecutive days.

(1) Any person claiming ownership of the water bottoms to be leased may protest the issuance of the lease on the grounds that the protesting party owns the water bottoms, but only by delivering via certified mail notice of the protest in writing to the secretary, the administrator of the state land office, and the lease applicant on or before the ninetieth day after notice of the application was posted. The notice of protest shall include all information and documentation that the protesting party believes is relevant to the question of ownership. The right to protest issuance of the lease pursuant to this Subsection shall expire if a protest is not made on or before the ninetieth day after notice of the application was posted.

(2) If a protest is timely made, the administrator of the state land office shall review the state's claim to ownership of the contested water bottoms and issue a preliminary determination to the secretary, the protesting party, and the lease applicant within ninety days of receiving the notice of protest, as to whether the state claims ownership of the contested water bottoms. The administrator shall issue a final written determination as to whether the state claims ownership of the water bottom within one hundred eighty days of receiving the notice of protest. If a protest is timely made, the secretary may execute the lease as otherwise authorized under this Subpart only to the extent that the administrator of the state land office determines that the state claims ownership of the contested water bottoms. The relief available pursuant to and the results and effects of such a protest and determination are limited to those set forth in this Subsection. The determination by the administrator of the state land office shall not be reviewable under the Administrative Procedure Act, and is appealable only to the Nineteenth Judicial District Court. Any petition for judicial review of the determination pursuant to this Subsection must be filed within sixty days after issuance of the determination. Failure to make a protest pursuant to this Subsection has no effect on the right to claim ownership of the leased water bottom authorized by R.S. 56:423(D) or the reasonable investigation into the ownership of the water bottom by the state required by R.S. 56:425(A).

(3) A lease applicant may withdraw a lease application and receive a full refund from the department of all application fees, by submitting a written request for withdrawal to the department within one hundred twenty days after the department posts notice of the application on its website, within thirty days after issuance of the determination of the administrator of the state land office regarding the state's claim to ownership pursuant to a protest authorized by this Subsection, or within thirty days after final judgment in any proceeding for judicial review of the determination, whichever is the later date.

G. The secretary shall not lease any water bottom located within seventy-five feet of the centerline of a pipeline that is located on purchased right-of-way. However, if the right-of-way is abandoned and returned to commerce, the secretary may then lease such water bottom.

RS 56:427.1 — State, political subdivisions of the state, and the United States held harmless in

political subdivisions of the state, the United States, and any agency, agent, contractor, or employee thereof shall be held free and harmless from any claims arising under any oyster lease, renewal, or extension granted to any individual or other entity for any purpose from diversions of fresh water or sediment, dredging or direct placement of dredged or other materials, or any other actions taken for the purpose of coastal protection, conservation, or restoration.

B. All oyster leases, renewals, or extensions granted to any individual or other entity shall include language which shall hold harmless from all claims provided for in Subsection A of this Section the state, political subdivisions of the state, the United States, and any agency, agent, contractor, or employee thereof.

C.(1) A leaseholder whose oyster lease is acquired in whole or in part by the Coastal Protection and Restoration Authority pursuant to R.S. 56:432.1 for dredging, direct

placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for integrated coastal protection may seek compensation from the Coastal Protection and Restoration Authority pursuant to that Section.

(2) A leaseholder may seek acquisition and compensation from the Coastal Protection and Restoration Authority pursuant to R.S. 56:432.1 for any portion of an oyster lease that is not acquired by the Coastal Protection and Restoration Authority and upon which dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for integrated coastal protection has occurred.

RS 56:428 — Commencement and duration of lease; renewal; fixing of rental rates

a period of fifteen years. The owners of expiring leases have first right of renewal of their leases. However, this right to renewal shall be subject to the provisions of this Subpart. Leases carry the first right of renewal for successive periods of fifteen years each, provided the lease is capable of supporting oyster populations. Renewals shall be executed by the secretary and shall be made subject to both the provisions of this Subpart and to the rules and regulations established by the department.

B. The secretary has sixty days from the date of expiration of a lease to execute a renewal lease. If a renewal lease is not executed within this sixty-day period, the lease is automatically renewed. In either situation, the fifteen-year period of the renewal lease shall begin on the first day following the expiration date of the prior lease, and the renewal lease shall be assigned the same number used for the prior lease with the addition of a designation to indicate which year the lease was renewed. If a leaseholder wishes to change the configuration of his lease in accordance with the department's rules governing leased areas, a resurvey and plan of the water bottom shall be made by the leaseholder in accordance with the standards required by the department and a copy supplied to the department. The department may resurvey any lease for potential conflicts with department rules and regulations. If the department determines that a resurvey will be conducted, the leaseholder shall be given ten days written notice of the scheduled resurvey by the department and may be present at the resurvey.

C. The commission shall fix the rate of rental for oyster leases at two dollars per acre per year until January 1, 2016, at which time the commission shall set the rate of rental at three dollars per acre per year. The rate of rental fixed by the commission shall apply to all leases executed by the secretary. For the purpose of calculating the rental due for a lease, the amount of acreage covered by the lease shall be rounded off to the nearest full acre. The rent must be paid no later than the thirty-first of December following the signing of the lease, and annually thereafter, in advance on or before the first day of January, whether the lease be held by the original lessees or by an heir, assignee, or transferee. All revenues received from the payment of lease rentals under the provisions of this Subsection shall be credited to the Public Oyster Seed Ground Development Account, R.S. 56:434.1.

RS 56:429 — Default in payment of rent; cancellation and forfeitures

pso facto and without demand or putting in default,

terminates and cancels the lease and forfeits to the department all the works, improvements, betterments, and oysters on the leased water bottom. The department may at once enter on the water bottom and take possession thereof. Such water bottom shall then be open for lease in accordance with R.S. 56:425. Ten days thereafter the department shall enter the termination, cancellation, and forfeiture on its books and give public notice thereof by publication in one local paper in the parish where the formerly leased water bottoms are located. On or before the first day of each February, the department shall issue a written notice of delinquency by certified mail to each lessee who has not yet paid the rent. The department shall also publish notice of such delinquency on its website and in the official journal of the parish in which the delinquent lease is located. Any lessee who pays the rent on or after the first day of February shall pay the rent due plus an additional ten percent penalty.

RS 56:430 — Additional lease stipulations

s, stakes, buoys, and the like, in order to locate accurately and fix the limits of each lease by prominently marking such leased water bottoms with signs which state the lease number or name or initials of the leaseholder. Oysters shall not be harvested from any unmarked lease.

(2) For purposes of preventing trawling in seeded areas under R.S. 56:423(B), lessees shall clearly mark and delineate as required by law or regulation the area which has been seeded. A lease shall be posted with prominent, durable signs stating "NO TRAWLING OR SEINING-OYSTER LEASE".

(3) A violation of this Section shall be a class two violation.

RS 56:431 — Unlawful removal of oysters or signs from leased propagating grounds; instructions or attempt to take or

carry away, without permission of the lessee, any oysters, shell, or cultch from the water bottoms of the Gulf of Mexico or the lakes, bays, inlets, lagoons, rivers, bayous, or other waters tributary thereto or connecting therewith, within the jurisdiction of the state where the bottoms are, at the time of such taking, let or leased to any person under the laws of Louisiana, for the purpose of bedding, planting, propagating, or cultivating oysters.

B. No person shall knowingly or willfully remove, break off, destroy, or otherwise injure or alter any stake, monument, bounds, buoy, sign, or other designation of bedding or propagating ground placed thereon by the lessee, or knowingly or willfully move from any bedding ground any stake, monument, bounds, buoy, sign, mark, or other designation placed thereon by the department or in accordance with its regulations or any Sections in this Subpart.

C. All owners or employers of vessels engaged in the oyster industry in this state shall issue typewritten instructions to the captains and crews in charge of the vessels, calling attention to the provisions of this Section. These instructions shall be duly executed before a competent notary by the parties interested, the original to be kept by the department and duplicate to be had in possession at all times by the captain of the vessel. This duplicate shall be shown on demand of any officer or agent of the department. Lack of possession of such document on a vessel, or a refusal to show the same, is prima facie evidence that the paper does not exist.

D.(1) Violation of any of the provisions of this Section constitutes a class six

violation. The imposition of these penalties does not bar the prosecution and conviction of the wrongdoer under the criminal statutes of this state.

(2)(a) In addition to all other penalties provided in this Section, upon conviction for the first violation of Subsection A of this Section, the oyster harvester's license under which the violation occurred shall be revoked by the department and no new such license shall be issued for one year from the date of the conviction. In addition, the violator shall be sentenced to perform no less than forty hours of community service. If available, the hours shall be served in a litter abatement community service program. During the period in which the violator is prohibited from possession of an oyster harvester license for a first offense, the violator may be present on a vessel harvesting or processing oysters only if that vessel is equipped with and is actively using a vessel monitoring system as prescribed in R.S. 56:424.1.

(b) Upon conviction for the second violation of Subsection A of this Section, the violator's oyster harvester license shall be revoked, and no new such license shall be issued for three years from the date of conviction. In addition, the violator shall be sentenced to perform no less than ninety hours of community service. If available, the hours shall be served in a litter abatement community service program. During the period in which the violator is prohibited from possession of an oyster harvester license for a second violation, the violator shall not be present on a vessel harvesting or processing oysters.

(c) Upon conviction for the third or subsequent violation of Subsection A of this Section, the violator's oyster harvester license shall be revoked, and no new such license shall be issued for ten years from the date of the third or subsequent conviction. In addition, the violator shall be sentenced to perform no less than one hundred twenty hours of community service. If available, the hours shall be served in a litter abatement community service program. During the period in which the violator is prohibited from possession of an oyster harvester license for a third or subsequent violation, the violator shall not be present on a vessel harvesting or processing oysters.

RS 56:431.1 — Devices to protect oysters from predation; use on leased acreage

edation. The permit shall be issued to a leaseholder and shall not be transferrable. Such devices shall be in compliance with all existing state and federal fishing laws and regulations. Notwithstanding any law to the contrary, any device permitted under the provisions of this Section may be transported or used in compliance with the provisions of this Section. The department shall promulgate, in accordance with the Administrative Procedure Act, rules and regulations for such a permit. The rules shall at a minimum specify the following:

(1) That the application for the permit shall be accompanied by an application fee of one hundred dollars, and the fee for the permit shall be fifty dollars per acre permitted, not to exceed one thousand dollars.

(2) That the material used for the device shall:

(a) Not be monofilament or multifilament.

(b) Not be made to resemble, appear, or be construed to be a gill net, trammel net, or strike net as those terms are defined in R.S. 56:8, or any type of device which might

entangle marine life.

(c) Be approved by the Wildlife and Fisheries Commission and the House Committee on Natural Resources and Environment and the Senate Committee on Natural Resources. The rules shall establish the procedure for such approval, including timetables.

(3) That the material authorized for such device shall have no openings that exceed one and one-quarter inch bar or two and one-half inches stretched.

(4) That the vertical profile of the device shall not raise the water bottom by more than one-half foot or shall be limited to one-tenth of the depth of the water where the device is located, whichever measure is larger, and that the device shall not restrict the free passage of fish and other marine life over the device.

(5) Requirements for reporting data or other information by the leaseholders necessary for the department to monitor the activities under the permit.

(6) Enforcement penalties for permit violations shall be considered a class four violation.

B. The area permitted for use of a device to protect oysters from predation shall not exceed ten acres per lease site, and each lease site shall be limited to the use of only one device. The area permitted shall meet the standards set forth by the Louisiana Department of Health in its oyster regulations. The device must comply with United States Coast Guard regulations relative to navigation and markings. Prior to application to the Department of Wildlife and Fisheries for a permit to use a device, the leaseholder shall have obtained all other local, state, and federal permits necessary for such activity, including a coastal use permit.

C. The department may permit the use of devices to protect oysters from predation on no more than one hundred acres east of the Mississippi, no more than one hundred acres between the Mississippi River and Bayou Lafourche, no more than one hundred acres between Bayou Lafourche and the Atchafalaya River, and no more than one hundred acres west of the Atchafalaya River. The permit issued by the Department of Wildlife and Fisheries shall authorize use of a device only during the months of March, April, October, and November. The permit shall require liability insurance to be held by the leaseholder sufficient to cover any damages that might occur as a result of the use of such device.

D. Repealed by Acts 2010, No. 263, §1.

RS 56:431.2 — Alternative oyster culture; permits

79.1, the department is authorized to issue an alternative oyster culture permit (AOC permit) to a leaseholder holding a valid oyster lease of state water bottoms pursuant to R.S. 56:427 or 428 or to a person owning a water bottom or holding an oyster lease on a privately owned water bottom or a dual-claimed water bottom as defined in R.S. 56:425.1. The area permitted for alternative oyster culture shall not extend beyond the boundaries of an existent lease or ownership of the water bottom.

(2) An AOC permit authorizes the permittee and, upon written authorization by the permittee, any person holding a valid oyster harvester license pursuant to R.S. 56:303.6 and a valid commercial fisherman's license pursuant to R.S. 56:303, to engage in the alternative oyster culture activities specified by the department in the permit on the permitted area. The

permittee may engage in such activities on the water bottoms, in the water column, and on the water surface above the water bottoms within the permitted area, to the extent specified by the department in the permit, and in accordance with the provisions of this Section.

(3) The department may issue AOC permits in numbers, locations, sizes, and configurations specified by the department.

(4) An AOC permit shall be transferrable only with and to the extent of any transfer of the lease, and only to the transferee of the lease; however, the permitted leaseholder may authorize any person holding a valid oyster harvester license pursuant to R.S. 56:303.6 and a valid commercial fisherman's license pursuant to R.S. 56:303 to engage in alternative oyster culture activities pursuant to the AOC permit. An AOC permit shall be valid for ten years or until termination of the lease, including any renewal thereof, to which the permit pertains, whichever occurs first. If the lease is renewed pursuant to R.S. 56:428, the AOC permit shall continue in effect until expiration of the ten-year term.

(5) The department shall promulgate, in accordance with the Administrative Procedure Act, rules and regulations to implement the provisions of this Section.

B. Application and permitting.

(1) The application for an AOC permit shall be accompanied by an application fee of one hundred dollars. The fee for the permit shall be two dollars per year per acre permitted, not to exceed one thousand dollars per permit per year.

(2) The department shall determine areas that are unsuitable or inappropriate for alternative oyster culture activities due to creation of unreasonable conflicts with other existing or anticipated uses of state waters and water bottoms, including but not limited to integrated coastal protection projects as defined in R.S. 49:214.2. The department shall base all rules, regulations, and decisions regarding AOC permits on any master plan or annual plan issued pursuant to R.S. 49:214.5.3 and any other information and data deemed relevant by the department. The department may grant an AOC permit for a different location, size, or configuration, and for different alternative oyster culture activity than what was requested in the application.

(3) No AOC permit shall authorize alternative oyster culture activities in an area that is any of the following at the time the AOC permit is issued, and any permit that includes such areas is null and void, but only to the extent that it includes such areas:

(a) Designated by the United States Army Corps of Engineers as a navigable channel or waterway or within fifteen hundred feet of the centerline of such channel or waterway.

(b) Covered by a coastal use permit or drilling permit or within fifteen hundred feet of the outside of the exterior boundaries of an area covered by a coastal use permit or drilling permit.

(c) Designated for dredging, direct placement of dredged or other materials, or other work or activities for the construction or maintenance of a project for integrated coastal protection or within fifteen hundred feet of the outside of the exterior boundaries of an area designated for such dredging, direct placement, or other work or activities.

(d) Repealed by Acts 2017, No. 222, §2.

(e) Otherwise determined by the department to be unsuitable or inappropriate for

alternative oyster culture activities.

(4) No coastal use or drilling permit holder or agent thereof shall be liable to any holder of an AOC permit, any person to whom such permit has been transferred, or any other person authorized by the AOC permit holder to engage in alternative oyster culture activities, for any damage to or loss of equipment or materials used in alternative oyster culture activities within the AOC permit area, or for any damage to or loss of any oysters being grown or cultivated within the AOC permit area as a consequence of alternative oyster culture activities, where both of the following are true:

(a) The coastal use or drilling permit, or any modification to it, was issued prior to the time that the AOC permit was issued.

(b) Such damage arises out of or results from the conduct of any activity authorized by or permitted under the coastal use or drilling permit, except to the extent that the damage or loss arises from violation of any state or federal environmental law or regulation or occurs outside the area of the coastal use permit or drilling permit.

(5) The state of Louisiana, political subdivisions of the state, the United States, and any agency, agent, contractor, or employee thereof shall be held harmless from any claim arising as a result of operations by or for a permittee pursuant to an AOC permit, and the permittee shall indemnify the state of Louisiana, political subdivisions of the state, the United States, and any agency, agent, contractor, or employee thereof against any such claim. Prior to engaging in alternative oyster culture activities pursuant to an AOC permit, the permittee shall have obtained all other local, state, and federal permits necessary for such activity.

(6) The department may specify or impose limitations regarding the equipment and materials authorized to be used for alternative oyster culture activities. All equipment and materials used for alternative oyster culture activities shall, at a minimum, comply with United States Coast Guard regulations and requirements, and with all state and federal fishing laws and regulations. Any equipment and materials used for alternative oyster culture activities authorized pursuant to this Section may be transported or used in compliance with the provisions of this Section.

(7) The department may specify or impose requirements for marking, lighting, or warning devices in relation to alternative oyster culture activities. All areas where such equipment or materials are present on state water bottoms shall be clearly marked. Marking, lighting, and warning devices for alternative oyster culture activities shall, at a minimum, comply with United States Coast Guard regulations and requirements, and with all state and federal fishing laws and regulations.

(8) The department may impose requirements for the permittee to report information or data necessary or appropriate for the department to monitor the activities under the permit or to study such activities and their results.

(9) The department may require a permittee to post a reasonable removal bond in amounts to be determined by the department.

(10) Any AOC permit shall be terminable by the department and shall include language that provides for such termination upon significant or repeated violation of the permit or any applicable statutes, rules, or regulations by the permittee or anyone authorized

by the permittee to engage in alternative oyster culture activities on the permitted area.

(11) Permit violations shall be considered a class three violation punishable under the provisions of R.S. 56:33. Theft of or intentionally causing damage to properly permitted alternative oyster culture equipment or to oysters contained in such equipment shall be considered a class four violation punishable under the provisions of R.S. 56:34.

C. Repealed by Acts 2017, No. 222, §2.

D. Coastal protection, conservation, or restoration.

(1) The state of Louisiana, political subdivisions of the state, the United States, and any agency, agent, contractor, or employee thereof shall be held harmless from any claims arising under or as a result of the issuance of any AOC permit in relation to diversions of fresh water or sediment, dredging or direct placement of dredged or other materials, any other actions taken for the purpose of integrated coastal protection, or adverse effects on water quality, including but not limited to increased sedimentation or eutrophication or fluctuations in salinity or pH. Any AOC permit granted to any individual or other entity shall include language which shall hold harmless from all such claims the state, political subdivisions of the state, the United States, and any agency, agent, contractor, or employee thereof.

(2) All AOC permits shall be subordinate to the rights or responsibilities of the state, any political subdivision of the state, the United States, or any agency or agent thereof, to take any action in furtherance of integrated coastal protection. For purposes of this Section, "integrated coastal protection" shall have the same meaning as provided for by R.S. 49:214.2.

E. Definitions.

(1) For purposes of this Section, "alternative oyster culture activity" means any on-bottom, off-bottom, or other means of cultivating or growing oysters other than directly on reefs or other water bottoms, including but not limited to the use of on-bottom cages or bags or floating, suspended, or otherwise off-bottom cages or bags, and includes the harvesting of oysters so grown or cultivated.

(2) For purposes of this Section, equipment and materials used for alternative oyster culture activities are excluded from the definition of "fishing gear" provided in R.S. 56:8(57).

RS 56:432 — Territorial limitations

forfeits, after due trial by competent court, all leases held by him on any water bottoms of the state.

RS 56:432.1 — Oyster Lease Acquisition and Compensation Program

d the Louisiana coastal restoration

program provided for in R.S. 49:214.1 et seq. Therefore, the Coastal Protection and Restoration Authority shall develop a program, subject to the requirements and conditions of this Section, for the acquisition of and compensation for oyster leases or portions of oyster leases upon which occurs or will occur dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for integrated coastal protection.

B. The state of Louisiana, through the Coastal Protection and Restoration Authority, may acquire any oyster lease, in whole or in part, due to the impact of dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for integrated coastal protection.

(1) Acquisition shall be implemented by a notice of acquisition issued to the leaseholder. Such notice shall specify the acreage acquired and the effective date of the acquisition. A plat or map depicting the acreage acquired shall be attached to the notice. The notice and acquisition shall be subject to the following:

(a) The Coastal Protection and Restoration Authority shall issue any such notice in writing to the leaseholder at his address on file with the Department of Wildlife and Fisheries on the date of issuance, by hand delivery or certified mail, return receipt requested. If the Coastal Protection and Restoration Authority attempts such issuance at least once and is unable to deliver the notice to the leaseholder, the Coastal Protection and Restoration Authority shall reissue the notice to the lessee at his address on file with the Department of Wildlife and Fisheries on the date of the re-issuance, by regular mail, and shall publish in the official journal for each parish in which the acquired acreage is located a summary of the notice including identification of the affected acreage, the effective date of the acquisition, and a contact person at the Coastal Protection and Restoration Authority for all inquiries regarding the acquisition. The notice of acquisition may be recorded in the public records of any parish in which the acquired acreage is located.

(b) The acquisition shall be effective on the date specified in the notice of acquisition regardless of whether the lessee actually receives the notice of acquisition. Upon the effective date of the acquisition, possession of the affected acreage shall revert to the state, free and clear of any lease or other obligation or encumbrance.

(c) Lease payments as otherwise required by R.S. 56:428 or 429 shall no longer be payable for the acquired acreage for the calendar year after the date on which the notice of acquisition was issued.

(d) Upon acquisition of a portion of leased acreage, the lease shall continue in full force and effect as to the remaining acreage under the lease.

(2) The Coastal Protection and Restoration Authority shall determine the compensation for any acquisition pursuant to this Section in accordance with rules or regulations adopted by that department after consideration of recommendations by the Louisiana Oyster Task Force, subject to the following:

(a) The Coastal Protection and Restoration Authority shall issue its determination of compensation to the leaseholder together with the notice of acquisition and by the same procedure provided for issuance of such notice.

(b) The Coastal Protection and Restoration Authority shall consider any reasonably confirmable data or information provided by the leaseholder or any other person in making its determination of compensation, provided that the data or information is submitted in compliance with rules or regulations promulgated by that department prior to the date of initial issuance of the determination of compensation. Such rules or regulations shall provide the leaseholder at least sixty days in which to submit such data or information before the initial issuance of the determination of compensation.

(3) The Coastal Protection and Restoration Authority shall issue payment to the leaseholder in the full amount of its determination of compensation, except for and less any amount due on recorded liens and encumbrances to be paid out of said proceeds, together

with the notice of acquisition, and by the same procedure provided for issuance of such notice. Acceptance of such payment shall not preclude any claim for additional compensation, as provided in this Section. If the Coastal Protection and Restoration Authority is unable to contact the leaseholder by the procedure provided in Subparagraph (1)(a) of this Subsection, that department shall transfer funds in the amount of the determined compensation except for and less any amount due on recorded liens and encumbrances to be paid out of said proceeds, to a trust account, instead of attaching such payment to the reissued notice. Upon request of the leaseholder listed with the Department of Wildlife and Fisheries on the date notice of acquisition is initially issued, any such compensation may be withdrawn from the trust account for the benefit of the leaseholder. Any funds placed in a trust account that remain unclaimed after a period of five years shall be declared to be abandoned and may be disposed of pursuant to the Uniform Unclaimed Property Act, R.S. 9:151 et seq. Any amount due on a recorded lien or encumbrance shall be paid directly to the holder thereof, with a copy of all documentation of such payment issued to the leaseholder. If the Coastal Protection and Restoration Authority is unable to contact the holder of the lien or encumbrance, that department shall transfer funds in the amount of the lien or encumbrance to a trust account, from which it may be withdrawn for the benefit of the lien or encumbrance holder.

(4) To the extent that the Coastal Protection and Restoration Authority acquires any lease or portion thereof under this Section in relation to any project or action for integrated coastal protection performed by any department, agency, board, commission, or political subdivision of the state other than the Coastal Protection and Restoration Authority, such department, agency, board, commission, or political subdivision shall compensate the Coastal Protection and Restoration Authority for all costs incurred by the department which are associated with the acquisition. However, the executive director of the Coastal Protection and Restoration Authority may waive this requirement.

C. A leaseholder whose lease is acquired in whole or in part may seek an administrative hearing through the Coastal Protection and Restoration Authority as to whether the acquisition due to the impact of dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for integrated coastal protection is proper or whether the compensation issued by the Coastal Protection and Restoration Authority satisfies the rules or regulations of that department. A leaseholder whose lease is not acquired but which was impacted by dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for integrated coastal protection has occurred, may also seek an administrative hearing through the Coastal Protection and Restoration Authority to determine if acquisition of the acreage would be proper. Adjudication under this Section shall be conducted in accordance with the following:

(1) Adjudication under this Section must be requested in writing and received by the Coastal Protection and Restoration Authority within sixty days after issuance of the notice of acquisition, determination of compensation, or payment as provided in Subsection B of this Section. However, adjudication of the amount of the compensation must be requested

in writing and received by the Coastal Protection and Restoration Authority within two years after completion of the project for which the lease or portion of the lease was acquired, if the leaseholder establishes that notice of the acquisition, determination of compensation, or payment was not issued as required in this Section. Adjudication of the lack of acquisition of leased acreage upon which dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for integrated coastal protection has occurred must be requested in writing and received by the Coastal Protection and Restoration Authority within two years after completion of the project.

(2) Adjudication under this Section shall be conducted in accordance with Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950 and pursuant to the rules and regulations promulgated by the Department of Conservation and Energy after consideration of recommendations by the Louisiana Oyster Task Force. The administrative law judge shall consider any reasonably confirmable data or information provided to that department by the leaseholder or any other person on or before the date of the administrative review.

(3) The final decision of the administrative law judge shall be issued to the leaseholder by certified mail at his address on file with the Department of Wildlife and Fisheries on the date of issuance or at such other address as the leaseholder may specify in his request for administrative review.

(4) A request for an adjudication shall have no effect upon the validity of the acquisition of the lease, but only the compensation payable to the lessee. However, the acquisition may be found invalid if an adjudication is sought timely and the project or action for which acquisition is sought does not further coastal protection, conservation, or restoration.

D. A leaseholder may seek in accordance with the following, judicial review of the final decision of the administrative law judge based solely on the administrative record and, except as otherwise provided in this Section, in accordance with the provisions of Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950.

(1) Any petition for judicial review pursuant to this Subsection must be filed with the Nineteenth Judicial District Court within sixty days after issuance of the final decision of the administrative law judge. No petition for judicial review may be filed, and any such petition is premature, unless adjudication has been timely sought and all administrative remedies have been exhausted. The petition shall be served upon the executive director of the Coastal Protection and Restoration Authority and all parties of record.

(2) A request for judicial review shall have no effect upon the validity of the acquisition of the lease, but only the compensation payable to the lessee. However, the acquisition may be found invalid if review is sought timely and the project or action for which acquisition is sought does not further coastal protection, conservation, or restoration.

E. No funds from, or dedicated to, the Louisiana Wildlife Conservation Fund established by Article VII, Section 10-A of the Constitution of Louisiana shall be obligated or expended in furtherance of or for any purpose of this Section. However, funds paid to the Department of Wildlife and Fisheries expressly for the purposes of this Section may be

expended accordingly.

RS 56:432.2 — Annual reporting of coastal protection, conservation, and restoration project status

ity shall provide information to the Oyster Task Force regarding the nature, location, and status of current or planned projects for integrated coastal protection to the extent practical.

RS 56:433 — Culling oysters taken from natural reefs; size limits

I shall be immediately replaced and scattered broadcast upon the natural reefs from which taken. No person shall have in his possession off the natural reefs any natural reef oysters which were not taken in accordance with the provisions of this Subpart. Any excess of over fifteen percent of dead shells and oysters under the size prescribed in this Section, in any cargo lot of oysters except any cargo lot of oysters to be used as seed oysters for bedding purposes only, shall be considered a violation of this Subpart, and any officer of the department may cause to be counted the whole or part of the cargo or lot of oysters at the expense of the person or vessel, to determine the percentage. No oysters under one inch in length from hinge to mouth shall be counted, and each half shell of over one inch shall be counted as one.

B.(1) Under its supervision and direction, the department may permit lessees of oyster bedding grounds to fish oysters of any size, without charge, from the natural reefs of the waters of this state. Such oysters are to be used as seed oysters for bedding purposes only. The department may designate from which natural reefs oysters may be fished and the quantity to be taken therefrom by any lessee. The natural reefs may be fished for the harvest of seed oysters only each year starting the first Wednesday after Labor Day. Beginning on the second Monday in October each year, the seed grounds may be opened for the harvest of oysters for market sales in addition to the harvest of seed oysters. All harvest of oysters on the public seed grounds shall cease on April thirtieth of each year. However, the commission may extend the taking of oysters on natural reefs by setting the last day of the season if it is determined that sufficient quantities of oysters are available to accommodate such additional taking in designated areas. When setting the last day of the season, the commission shall consider the recommendations of the Oyster Task Force. The commission may designate what parts or portions of the natural reefs may be fished for oysters and it may suspend the fishing of oysters altogether from natural reefs not leased by it when such reefs are threatened with depletion as determined by the department. When designating those areas of the natural reefs that may be fished, the commission shall consider the recommendations of the Oyster Task Force.

(2) The commission shall annually set aside one or more areas east of the Mississippi River for the exclusive use of sackers. The designation of the said areas is to be based on the best available data by the department for ensuring the economic development of the fisheries. One of the areas so designated shall be located in the American Bay area east of the Mississippi River in Plaquemines Parish. The total areas designated shall not exceed one-fourth of the total areas of public seed grounds east of the Mississippi River. The commission may, by rule, provide for oyster size restrictions in these sacking areas.

C. No person shall take oysters from the natural reef of the waters of the state during the period beginning the day following the closing date set by the commission pursuant to Paragraph (B)(1) of this Section and ending the Tuesday following Labor Day, nor shall any person take oysters from the natural reefs during any closure of such reefs as set by the commission or department. No person shall can, shuck, or pack any oysters from the natural reefs during the closure period. This provision does not prevent any lessee of oyster bedding grounds from harvesting his own oysters and using them for personal home consumption or for sale during the time of closure.

D. Repealed by Acts 2013, No. 35, §4.

E. The commission, at one of its regular meetings, in the exercise of its duties to improve, enlarge, and protect the state-owned natural reefs of this state, and after affording industry, department personnel, and interested parties an opportunity to be heard, shall have the option, between January first and the last day of the season of each year, of closing any portion or all of the natural oyster reefs of this state to the harvest of oysters, and of setting harvesting size limits on any portion or all of the natural oyster reefs of this state, as expected conditions warrant. The commission shall notify the oyster industry of its determination by filing the information in the office of the secretary, and by notice once weekly for two weeks prior to implementation, in the newspapers of general circulation in the coastal zone.

F. The limitations as to size contained in Subsection A shall not apply to seed oysters lawfully fished from the natural reefs.

G. No provision of this Section shall prevent the department from exercising its option to close the natural grounds to all oyster fishing as provided in Subsection B, and no person shall take oysters from the natural reefs during any such closure.

H. The provisions of this Section do not apply to a lessee of private bedding grounds when harvesting his own oysters.

I. The commission shall designate the natural reefs by regulation.

J.(1) Except for a violation of the provisions of Subsection C or G of this Section, violation of the provisions of this Section shall constitute a class two violation.

(2) A violation of Subsection C or G of this Section shall constitute a class six violation. In addition to the penalties associated with a class six violation, the violator shall be sentenced to perform no less than forty hours of community service. If available, the hours shall be served in a litter abatement community service program.

RS 56:433.1 — Oyster seed ground vessel permit

Lake or Sabine Lake, shall

be placed only on a vessel which has an oyster seed ground vessel permit issued exclusively by the department pursuant to rules and regulations promulgated by the commission. The commission may establish a limit on the number of permits that may be issued each year after consultation with the Louisiana Oyster Task Force. The permit shall be issued in the name of the vessel owner and shall identify the vessel permitted by including the state registration number or the United States Coast Guard documented number. The permit shall identify the vessel that may possess and transport oysters taken from the public natural reefs and oyster seed grounds. The permit does not grant any rights to the oyster resource or any rights to harvest oysters from the waters of the state and shall not be sold, exchanged, or otherwise transferred. The permit is valid for one year, beginning on January first of each calendar year and expiring on December thirty-first of the same calendar year, and permit holders who hold a valid permit during the prior year may renew the permit at any time of the year for the current license year and from November fifteenth for the immediately following license year. The cost of the permit shall be fifty dollars per year for a resident and two hundred dollars per year for a nonresident.

(b) In addition to the vessel permit fee, in order to harvest oysters from the public grounds, a person onboard the permitted vessel shall be in possession of a Public Oyster Seed Ground gear permit. The Public Oyster Seed Ground gear permit is an extension of the vessel permit and allows harvest of oysters from the public seed grounds using a single scraper, tongs, or by hand. The fee for the gear permit is two hundred dollars per year for a resident and eight hundred dollars per year for a nonresident. A second scraper may be used but requires an additional gear permit. No vessel shall use or possess more than two scrapers while harvesting on the public seed grounds.

(c) After having been credited to the Bond Security and Redemption Fund as required by Article VII, Section 9(B) of the Constitution of Louisiana, all revenues received from purchase of the permits provided for in this Subsection shall be deposited in the Oyster Resource Management Account, R.S. 56:10(B)(4).

(2) Vessel owners, as listed in the official record of the department at the time of application, who meet the requirements of Subsection B of this Section shall have the right to submit to the department a new application for an oyster seed ground vessel permit. Except as authorized in Paragraph (B)(4) of this Section, no new applications for such vessel

permits shall be accepted after December 31, 2012. A vessel owner shall be eligible for a permit only for each vessel which can be used to meet the qualifications for a permit under the provisions of Subsection B of this Section.

(3) The taking of oysters from the public natural reefs or the oyster seed grounds or reservations without an oyster seed ground vessel permit shall be a class two violation subject to the penalties provided in R.S. 56:32 and to the requirements of R.S. 56:424.1.

(4) In an effort to collect data to enable the department to better manage the public oyster resource, the commission may adopt rules and regulations which require the use of a vessel monitoring system for use by a vessel taking oysters for commercial purposes under the authority of the oyster seed ground vessel permit. Any data collected by the department shall be confidential and shall not be subject to the Public Records Law.

B. The following vessel owners, as listed in the official records of the department at the time of application for the permit or who can, at the time of application, demonstrate to the department that ownership of that vessel has transferred to them, shall be eligible to receive an oyster seed ground vessel permit:

(1) Any person who owned a vessel that was licensed at any time between January 1, 2004, and May 1, 2009, and can demonstrate through trip ticket submissions that that vessel had oyster landings in the state of Louisiana between January 1, 2004, and May 1, 2009.

(2) Any person who purchased or constructed a vessel and licensed that vessel in the state of Louisiana between January 1, 2004, and May 1, 2009, and who can demonstrate through trip ticket submissions that oysters were landed on that vessel in the state of Louisiana between the time of the vessel's purchase or construction and May 1, 2009.

(3) Any person who can provide evidence that he has a vessel that is under construction in the state of Louisiana that is at least fifty percent complete on May 1, 2009.

(4)(a) Notwithstanding the application date limitation contained in Paragraph (A)(2) of this Section, a person who owns an oyster vessel and who has satisfactorily completed the requirements of a professionalism program may submit an application for an oyster seed ground vessel permit under the provisions of this Section.

(b) The commission shall develop, establish, and monitor a professionalism program for the purpose of training vessel owners in the appropriate methods and practices of oyster harvest from the public seed grounds.

C. Repealed by Acts 2021, No. 356, §5, eff. Nov. 15, 2021.

D. Repealed by Acts 2021, No. 356, §5, eff. Nov. 15, 2021.

E. Repealed by Acts 2016, No. 291, §2.

RS 56:434 — Oyster seed grounds; designation and setting aside; rules and regulations concerning taking of seed oysters; areas recognized as oyster seed reservations; protection of oyster seed reservations

The commission shall at its discretion from time to time designate and set aside such area from the water bottoms of the state as it judges best adapted to the planting, propagation, growth, and policing of seed oysters. The area constitutes oyster seed grounds. Each unit thereof shall, as nearly as practicable, be so located as to facilitate its efficient policing, and be readily identifiable by reference to geographical features or local landmarks or department surveys, and shall embrace at least a recognizable portion of any body or arm of water, or definite part thereof, in which it is established.

B. Upon or following the designation or location of any oyster seed ground, the department may negotiate for and acquire existing oyster leases required to be abandoned or surrendered which are found within the limits of the designated area.

The department shall compensate the leaseholder for oysters, seed oysters, shells, and other improvements found on the private leases required to be abandoned or surrendered, out of funds appropriated by the legislature. Such compensation shall be determined by an independent marine surveyor appointed by the department with the concurrence of the leaseholder, at the current-day value of the improvements on the grounds affected.

C. All seed oysters produced on oyster seed grounds or reservations established under this Subpart shall be had and held for the use and benefit of the oyster industry. The commission shall establish rules and regulations concerning the time, quantity, and method of taking by which these seed oysters shall be made available to the public. These rules and regulations shall be formulated as necessary and shall be adequate to the proper maintenance and preservation of the areas as a perpetual source of seed supply for the oyster industry. Unless otherwise opened by the commission all oyster seed grounds and reservations are closed.

D. The secretary may require persons taking, or attempting to take oysters, oyster seed, or cultch from any state owned public oyster seed ground or public oyster seed reservation to obtain a permit from the department and possess said permit when on the public oyster seed grounds or public oyster seed reservations.

E. The water bottoms located in Sister (Caillou) Lake and Bay Junop in Terrebonne Parish, Hackberry Bay (Bay Duchene) in Lafourche and Jefferson Parishes, and Bay Gardene in Plaquemines Parish are designated as oyster seed reservations, and shall be managed by the department for the best interests of the oyster industry.

F. The department shall establish and maintain an adequate and vigilant watch and control over the areas designated as oyster seed grounds and oyster seed reservations, and shall see that all oysters, seed oysters, oyster cultch, or other material improvements found or placed thereon are efficiently protected from trespass, theft, or injury.

G. During that portion of the oyster season set aside for the taking of seed oysters only, additional restrictions shall apply to harvest of seed oysters from the public seed grounds as follows:

(1) No oyster harvester who is actively harvesting oysters in the public seed grounds shall have on board his vessel any sacks or containers which may be used to hold oysters for transport to market.

(2) All oysters on board a vessel actively harvesting oysters in the public seed grounds shall be presumed to have been harvested from the public seed grounds.

(3) No harvester shall sell, or transport with his vessel, oysters intended for market sales on the same day that he harvested seed oysters from the public seed grounds.

H. A violation of the provisions of this Section shall constitute a class two violation.

RS 56:435 — Scrapers; use in removing oysters

d along the tooth bar. No

scraper shall weigh more than one hundred seventy-five pounds nor shall diving boards, hydrofoils, or any other apparatus or attachment intended to create downward pressure be attached to any scraper.

B. For scrapers used to harvest oysters from the public seed grounds and the natural reefs, the scraper teeth shall be no longer than five inches in length and there shall be a minimum of two and one-quarter inch spacing measured from the center of a tooth to center of the adjacent tooth. A tooth shall not exceed eleven-sixteenths of an inch in diameter.

In addition, there shall be no more than two scrapers in use on any one vessel. An oyster scraper bag shall only be single mesh with a minimum mesh size of three inches stretched.

C. The lessees of propagating or bedding grounds may use on such propagating or bedding grounds any implements or appliances they may desire. However, no implements or appliances shall be used in any manner which will impair or destroy any water bottoms.

The department may require lessees to procure from it permits to use such implements and appliances, such permits to be issued without charge, and to be conditioned that such

implements or appliances shall not be used on natural oyster reefs in the state, and on those grounds not leased.

D. A violation of the provisions of this Section shall constitute a class two violation.

E. Repealed by Acts 1984, No. 402 §2.

RS 56:435.1 — Sabine Lake; prohibition on harvesting of oysters

559, §1; HCR

No. 2, 1988 1st Ex. Sess.; SCR No. 3, 1988 1st Ex. Sess.; Acts 1988, No. 256, §1; Acts 1991, No. 900, §1; Acts 1992, No. 109, §1; Acts 2004, No. 479, §§1, 2; Acts 2006, No. 398, §1; Acts 2016, No. 133, §1; Acts 2017, No. 259, §1; Acts 2018, No. 159, §1.

RS 56:435.1.1 — Oyster harvest in Calcasieu Lake

as authorized by

Paragraph (D)(2) of this Section. The commission shall promulgate rules and regulations to delineate the procedures by which the permits shall be issued.

(2) Such permit shall be in addition to all other licenses and permits required for harvesting of oysters. At all times, such oyster harvesting shall be limited to using hand tongs.

B. All vessels used for the commercial harvest of oysters on Calcasieu Lake must be self-propelled. "Self-propelled" means, when used in this Section, that the vessel shall travel under its own power to its harvest area and when loaded with oysters, shall travel under its own power to the place where the oysters are unloaded.

C. The commission shall fix the open season for oyster tonging in Calcasieu Lake, which shall begin on any date between October fifteenth and November first and shall end on April thirtieth. However, in consultation with the Calcasieu Oyster Task Force, the commission may open or close the season as biological data indicate a need and may manage East Cove and West Cove separately.

D.(1) After considering the recommendations by the Calcasieu Oyster Task Force, the commission shall set the harvest limit so that each permittee may harvest an amount not to exceed twenty-five sacks of oysters per day from one, and only one, licensed vessel. In addition, one and only one permittee may harvest from each licensed vessel per day and no vessel shall be used for more than one trip per day.

(2) In addition, recreational fishermen may harvest oysters as provided in R.S. 56:424(C). Harvest limits for recreational fishermen shall be one sack per person per day.

E.(1) Violation of any provision of this Section or of any Wildlife and Fisheries Commission regulation pertaining to taking, possessing, recording or reporting of landings or selling oysters from Calcasieu Lake shall constitute a Class 4 violation. The offender shall also be penalized as follows:

(a) For a first offense, the offender shall forfeit any permit to harvest oysters on Calcasieu Lake and shall be barred from obtaining such permit for the remainder of the period for which it was issued plus one year, during which time the offender shall be barred from participating in any oyster harvesting activity on Calcasieu Lake.

(b) For a second offense, the offender shall forfeit any permit to harvest oysters on Calcasieu Lake and shall be barred from obtaining a permit to harvest oysters on Calcasieu

Lake for the remainder of the period for which it was issued plus two years, during which time the offender shall be barred from participating in any oyster harvesting activity on Calcasieu Lake.

(c) For a third offense, the offender shall forfeit any permit to harvest oysters on Calcasieu Lake and shall be permanently barred from obtaining a permit to harvest oysters on Calcasieu Lake and from participating in any oyster harvesting activity on Calcasieu Lake.

(2) Any person who participates in oyster harvesting on Calcasieu Lake while barred shall be penalized under the provisions of a Class 7-B violation.

RS 56:435.2 — Repealed by Acts 2006, No. 398, §2.

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RS 56:436 — Restricted time of taking oysters

t and until one-half hour

before sunrise is prohibited. During these hours all scrapers shall be unshackled, disconnected, or in such condition as to be easily determined by an agent of the department not to have been in recent use.

B. Violation of any provision of this Section constitutes a class four violation.

RS 56:437 — Sale of oysters for raw consumption within the state

ar provided however, that during the

time period from May first through October thirty-first each year, movement of such oysters

from harvest to refrigeration shall take no more than five hours. Federal regulations which

may prohibit the interstate transportation and sale of oysters which have not been post-harvest treated shall not apply to oysters harvested, sold, and consumed within the state of

Louisiana. The Louisiana Department of Health shall promulgate rules pursuant to the

Administrative Procedure Act to administer the provisions of this Section and the

Department of Wildlife and Fisheries shall assist in the enforcement of such rules. Such

rules shall allow up to five hours for the oysters to be transferred from harvest to refrigeration

as provided in this Section.

RS 56:438 — Surveyor, definition

Engineering and Surveying Board in accordance with R.S. 37:681 et seq. who is authorized by the secretary to survey oyster leases under the laws of the state and rules, regulations, and policies of the department.

RS 56:439 — Staking off or bedding oysters on unleased water bottoms

me from the department, and then only after payment of the rental and fees provided in this Subpart. However, for emergency purposes in the matter of the preservation of a cargo, the oyster fisherman may temporarily bed his cargo on unleased bottoms and stake it off.

RS 56:440 — Standard measurements; barrel

presents the cubic contents of three bushels, or one barrel; one sack represents 3225.63 cubic inches or one and one-half bushels or one-half barrel.

B. All shucked oysters shall be labeled and packaged as required pursuant to the National Shellfish Sanitation Program and the National Institute of Standards and Technology.

C. All licensed oyster captains, harvesters, or certified wholesale/retail dealers of shell stock and shucked oyster products shall verify that the oysters being sold adhere to the measurement standards required by this Section.

RS 56:442 — Collection and disposition of funds; dedication of funds

he state or any of its subordinate political corporations or municipalities.

B. Except for funds collected from the privilege to take shells or shell deposits from the water bottoms, bedding ground rentals, and other sources of income, shall be collected by the department and record made thereof. These funds shall be deposited in the state treasury to the credit of the department.

C. One-half of all funds collected by the department from the leasing or granting of permits of the right or privilege to take shells or shell deposits or mussel shells from the water bottoms of the state under authority of this Subpart are dedicated to the establishment, administration, maintenance, and upkeep of oyster seed grounds and reservations and to the planting, propagation, cultivation, policing, preservation, and distribution of oysters on and from the grounds. The department may purchase and use shells or other cultch which it may in judgment and discretion take from over-crowded oyster reefs belonging to the state. The remaining one-half of all funds collected by the department under authority of this Subpart shall be deposited in a special account by the department and shall be dedicated to the administration, enforcement, management, and research for marine resources and to the construction, purchase, maintenance and upkeep of property and equipment used in connection therewith.

D. In case of acquisition and expenditures incurred under authority of this Subpart, the department may care for, cultivate, and dispose of acquired oysters and seed. It shall return such recovered funds into the funds placed at its disposal under this Subpart.

RS 56:443 — Repealed by Acts 1986, No. 904, §4.

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RS 56:444 — License number display

It be displayed on the roof of the cabin or on any other place which is easily visible from the air, at all times. The letters shall be at least eight inches in height and of an appropriate width.

RS 56:445 — Repealed by Acts 1986, No. 904, §4.

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RS 56:447 — Repealed by Acts 1986, No. 904, §4.

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RS 56:448 — Repealed by Acts 1986, No. 904, §4.

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RS 56:449 — Tags; distribution; use; containers; penalties

tags. The department shall have exclusive

authority over the distribution of these tags. The use of these tags is required of all persons taking oysters or other mollusks from the waters of the state for sale. Tags issued by the department shall be identified with and traceable to the license of the oyster lessee or oyster fisherman. The lessee or oyster fisherman shall write in the appropriate places on the tag all information required by the Louisiana Department of Health, office of public health, and the Department of Wildlife and Fisheries.

B. The department shall establish uniform fees for such tags. The fees shall be

sufficient in amount to cover the cost of the tags as well as the administrative costs of distribution. In addition to the established uniform fee, there shall be an additional fee of five cents per tag which shall be deposited into the Oyster Development Fund.

C. All oysters and other molluscan species taken from Louisiana waters for sale which are sacked or otherwise containerized while in the shell and on board a fisherman's vessel shall be tagged prior to removal from the vessel. The tag shall include all information required by the Louisiana Department of Health, office of public health, and the Department of Wildlife and Fisheries. All oysters and other molluscan species which are to be sacked or otherwise containerized while in the shell at dockside shall be containerized and tagged immediately upon arrival at the dock prior to shipment.

D. It shall be unlawful for any person to sell for resale or to purchase for resale untagged sacks or containers of oysters or other molluscan species.

E. Possession of untagged sacks or containers other than on board the fisherman's vessel or on the dock prior to shipment shall be deemed a violation of this Section. If the amount of untagged sacks or containers possessed is ten percent or less, the violator shall be subject to a class one penalty as described in R.S. 56:31. If the amount of untagged sacks or containers possessed is greater than ten percent, the violator shall be subject to the penalties as specified in Subsection K of this Section. Only untagged or improperly tagged sacks or containers of oysters may be seized in connection with any violation of this Subsection. Any oysters seized in connection with violations of this Subsection shall be disposed of pursuant to the policies and procedures established and promulgated by the department.

F. All persons fishing within the boundaries of the state, but not desiring to land said catch within the jurisdiction of the state, shall tag with prescribed Louisiana tags all sacks or containers prior to leaving the state. All persons fishing shellfish outside the jurisdictional boundaries of the state of Louisiana, but desiring to land within the boundaries of the state, shall have all sacks or containers tagged according to the rules of the state from which fished.

G. Untagged or improperly tagged sacks or containers of oysters or other molluscan species found in commerce within the state, other than on board the fisherman's vessel or on the dock prior to shipment, shall be deemed to have been taken in polluted waters and constitute a hazard to the safety, health, and welfare of the citizens of the state.

H. Authorized agents of the department, state and local health officials, and state and local law enforcement officials shall be authorized to enforce the provisions of this Section, and shall have the authority, additionally, to seize all untagged sacks or containers found in connection with any arrests hereunder and to dispose thereof in accordance with law.

I. It shall be a violation of this Section for any manufacturer, distributor, dealer, supplier, or wholesaler to sell or distribute shucked oyster containers to any person or persons, corporation, business, or firm that has not been certified by the Seafood Sanitation Unit of the Office of Public Health, Louisiana Department of Health. The packer, distributor, or purchaser shall not resell the shucked oyster container. It shall be a violation of this Section if any nonresident purchaser of new and unused shucked oyster containers does not have in his possession a valid certificate from an appropriate state agency that

regulates the seafood industry.

J. The department shall require that all persons who containerize shucked oysters or other molluscan species keep accurate records of the source of the oysters in order that said oysters can be traced back to the identifying tag and shall require, further, that such containers be labelled as a source of identification in a manner to be prescribed by the secretary.

K. A violation of this Section shall constitute a class III violation and any oyster seized in connection with this violation shall be disposed of pursuant to the policies and procedures established by the department.

RS 56:450 — Freshwater mussels; rules; penalties

est of freshwater mussels.

Such rules shall provide for open areas, species eligible for harvest, harvest methods, permits, fees, and other provisions necessary to implement this Section. In no case shall the annual permit fee for nonresidents be less than one thousand dollars per person harvesting freshwater mussels.

(2) One-half of the total of all revenues derived from the annual permit fees required for commercial mussel fishermen and severance tax are hereby dedicated to the operation of the enforcement division of the Department of Wildlife and Fisheries and the remaining one-half of the total of all revenues is hereby dedicated to the operation of the inland fisheries division of the department.

B. The secretary shall have the authority to revoke, deny, or limit the number of permits issued as deemed necessary for proper management, control, and protection of the freshwater mussel resource.

C. Any violation of rules pertaining to the harvest and sale of freshwater mussels shall constitute a class four violation, R.S. 56:34. Any violation of harvest reporting requirements shall constitute a class 2-B violation, R.S. 56:32(A)(2).

D. It shall be unlawful for any person to sell, barter, or exchange any freshwater mussel meats. Any violation of this Subsection shall constitute a class four violation, R.S. 56:34.

E. Notwithstanding any other law to the contrary, there shall not be any shell dredging in Lake Pontchartrain or Lake Maurepas.

RS 56:452 — Penalties

1.

RS 56:471 — Ownership of water bottoms

B. Nothing in this Subpart shall in any way affect the dredging of Rangia clam shells as presently authorized.

RS 56:473 — Recreational possession limit; recreational gear regulations

e types of rakes or tongs that can be used by a recreational fisherman.

RS 56:474 — Time and method of taking clams

hand in any established bed of aquatic vegetation.

RS 56:475 — Approved ports

,

RS 56:476 — License display

iate width and prefaced with the letter "C".

RS 56:477 — Division of water bottoms

in determining the number of zones may designate which and how often zones may be fished and how many clams may be taken from any zone.

RS 56:478 — Demarcation line

, but which can be considered productive clam areas. This line should not be of a permanent nature but flexible according to changing environmental conditions, giving the oyster preference.

B. During periods when it is unlawful to take oysters from the public seed grounds, it shall be unlawful to take clams from within the public seed grounds. During these periods clams can only be taken seaward of the line of demarcation.

The taking of clams by vessels properly licensed and permitted while engaging in normal clamming operations shall not be permitted in areas where active oyster production occurs. It shall not be unlawful to take clams incidental to the harvesting of oysters.

RS 56:479 — Repealed by Acts 1986, No. 904, §4.

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RS 56:480 — Catch limitations

ould consider catch rate information obtained from monthly reports, meat yield data, coincidence of low production in relation to clams as compared to other fisheries production for a given time frame, and any other information it deems pertinent in determining limitations. Any such limitations shall be made public no later than October 1 preceding the year affected.

RS 56:481 — Size limits

ately returned to the waters. A tolerance of ten percent by count of any catch shall be allowed.

RS 56:482 — Penalty provision

§1.

RS 56:491 — Definitions

"Saltwater shrimp" includes all species of shrimp of commercial or economic value found in the coastal waters of the state and in the Gulf of Mexico contiguous to the Louisiana coast, including the white shrimp or "common saltwater shrimp" (

Litopenaeus setiferus

), also called the "lake shrimp"; the brown shrimp (

Farfantepenaeus aztecus

); the pink shrimp (

Farfantepenaeus duorarum

); the "sea bob" (

Xiphopenaeus kroyeri

), also called "six barbes"; and any other shrimp or shrimplike species which may be taken from coastal waters or sold through commercial channels.

(b) "Freshwater shrimp" means the common river shrimp (

Macrobrachium ohione

) and the delta river shrimp (

Macrobrachium acanthurus

).

(2) "Take", in its different tenses, includes the act of pursuing, netting, capturing, trapping, wounding, or killing by any means or device whatsoever; and it includes any attempt to seine, trawl for, or catch saltwater shrimp.

(3) "Possess" in its different tenses, includes the act of having in possession or control, keeping, detaining, restraining, or holding as owner, or as agent, bailee, or custodian of another; and whenever possession, sale, or purchase of shrimp is prohibited, reference is made equally to such shrimp coming from without the state as to that taken within the state.

(4) "Transport" in its different tenses, includes the act of shipping, attempting to ship, receiving or delivering for shipment, transporting, conveying, carrying, or exporting, by air, land, or water, or by any means whatsoever.

(5) "Processing" includes any method of preparing shrimp for the market, including drying, canning, packing, beheading, or freezing, but not the simple packing of fresh shrimp in ice during transportation.

(6) "Consumer" includes restaurants and other places where shrimp is prepared for consumption or otherwise utilized, and includes persons using shrimp for bait.

(7) The "length of seines, trawls, or other netting" is the full measure of the extended net as in use or in possession on the fishing grounds, when measured along the cork line between the points where the webbing is attached to the rope at either end, and does not include the additional rope used for pulling the net or attaching it to the arm-poles or trawl boards.

(8) The "size of the mesh" of netting means the full measure of the mesh as found in use or in possession on the fishing grounds, measuring the full "bar" stretched from the near side of one knot to the far side of the other.

RS 56:492 — Incidental by-catch

flounder

stock is determined by the department to be overfished or undergoing overfishing. After such a determination, the commission may adopt rules or regulations in accordance with the Administrative Procedure Act to restrict the retention of southern flounder caught as by-catch on any shrimping trip until such time as the department determines the stock has recovered from an overfished or overfishing status.

RS 56:492.1 — Excluder devices

designed to exclude the take of certain fish and other aquatic life from fishing gear within the territorial waters of the state and in the federal exclusive economic zone.

RS 56:493 — Control of shrimp fishery and industry

If shrimp or parts thereof taken, possessed, or transported contrary to the provisions of this Subpart shall, when found, be confiscated and disposed of by the department at its discretion.

RS 56:494 — Louisiana Shrimp Task Force

eries Commission

and the Department of Wildlife and Fisheries and other state agencies for the maximization of benefit from that industry for the state of Louisiana and its citizens.

B. The task force shall be composed as follows:

(1) The governor or the governor's designee.

(2) Three members appointed by the secretary of the Department of Wildlife and Fisheries: one of whom shall be a marine biologist, one of whom shall be an enforcement agent, and one of whom shall be an economist.

(3) The commissioner of agriculture and forestry or the commissioner's designee.

(4) The secretary of the Louisiana Department of Health or the secretary's designee.

(5) Three members and three alternate members appointed by the governor each of whom shall possess a commercial fisherman's license with a "certified" endorsement pursuant to R.S. 56:303(E), with four to be selected from a list of six nominees submitted by the Louisiana Shrimp Association and two to be selected from a list of six nominees

submitted by the secretary of the Department of Wildlife and Fisheries.

(6) One member appointed by the governor who is an active Louisiana dock buyer of shrimp.

(7) Three members and three alternate members appointed by the governor who are active Louisiana shrimp processors, at least one of whom is selected from a list of three nominees submitted by the American Shrimp Processors Association.

C. The members appointed under the provisions of Paragraphs (B)(I) through (4) of this Section shall be nonvoting members. In addition, they shall not be considered members of the task force for determination of the number of members necessary for a quorum and for establishing the presence of a quorum.

D. The task force shall adopt bylaws under which it shall operate, and four voting members of the task force shall constitute a quorum sufficient to conduct meetings and business of the task force. The governor shall appoint the chairman of the task force for a period of one year and thereafter, the task force shall elect a chairman from its membership and may seek and receive assistance from universities within the state in the development of methods to increase production and marketability of shrimp. The members of the task force shall serve without compensation; however, the task force may receive the same reimbursement of travel expenses for attending the meetings as is allowed for other state employees' travel.

E. The task force is hereby charged with responsibility to do the following:

(1) Coordinate efforts to increase shrimp production and marketability.

(2) Provide for the study of the decline in shrimp marketability and market price, provide for the study of the impacts of imported shrimp on the domestic market, assist in the development of a state shrimp inspection program, assist in the development of a Louisiana shrimp certification and branding program, and make recommendations to the Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries, the Department of Conservation and Energy, the Department of Agriculture and Forestry, and the Louisiana Department of Health for implementation of policies to help enhance the domestic shrimp industry.

(3) Make recommendations with respect to issues pertaining to the shrimp industry and shrimp production to the various state agencies charged with responsibility for differing elements of the shrimp industry in this state, including the Department of Wildlife and Fisheries, the Department of Conservation and Energy, the Coastal Protection and Restoration Authority, the Louisiana Department of Health, the Department of Agriculture and Forestry, and the legislature.

(4) Develop markets and marketing strategies for the development and expansion of markets for shrimp harvested from Louisiana waters.

(5) Administer the funds in the Shrimp Marketing and Promotion Fund, which fund shall be used to create new markets for shrimp and promote the sale of shrimp harvested from Louisiana waters.

(6) Represent the interests of the Louisiana shrimp industry before federal and state administrative and legislative bodies on issues of importance to the Louisiana shrimp

industry.

(7) Contract for legal services to represent the interests of the Louisiana shrimp industry in judicial, administrative, and legislative proceedings.

(8) Perform any acts deemed necessary and proper to carry out its duties and responsibilities.

F. The activities of the Shrimp Task Force shall be funded through the Shrimp Marketing and Promotion Fund (R.S. 56:10(B)(1)(b)(i)).

RS 56:495 — Defining inside and outside waters

the classes of water shall commence at the coastal boundary between Texas and Louisiana and terminate at the coastal boundary between Mississippi and Louisiana and is more particularly described as follows, to wit:

(1) Beginning at a point on the state line between Texas and Louisiana from "Texas Point", approx. lat. 29°41'00" N. and long. 93°50'15" W.

(2) Thence approx. N. 23°16' E., approx. 4000' to the southeast point of land of the Sabine Pass (Louisiana Point), lat. 29°41'42" N. long. 93°50'03" W.

(3) Thence in an easterly direction along the shoreline to the southwest point of land of Calcasieu Pass, approx. lat. 29°45'44" N. long. 93°20'45" W.

(4) Thence north for approximately 2.37 nautical miles along the western shore of the Calcasieu Ship Channel at lat. 29° 48' 06" N. long. 93° 20' 54" W.

(4.1) Thence east to the point of land on the Calcasieu Ship Channel on the north side of the old river channel at lat. 29° 48' 05" N. long. 93° 20' 41" W.

(4.2) Thence following the eastern shore of the old river channel back around to the Calcasieu Ship Channel thence south along the eastern shore of the Calcasieu Ship Channel to the most southern point of land at lat. 29° 45' 43" N. long. 93° 20' 33" W.

(5) Thence easterly along shore to the most southwesterly point of land, lat. 29°45'30" N. long. 93°07'30" W. at the mouth of the Mermentau River.

(6) Thence S. 78°15' E. for approx. 4000' to a point of land at lat. 29°45'21" N. long. 93°06'15" W. on the southeast side of the mouth of the Mermentau River.

(7) Thence along the shore to a point of land on the southwest side of Southwest Pass, lat. 29°35'15" N. long. 92°02'32" W.

(8) Thence S. 65°45' E. to Lighthouse Point on the southeast side of Southwest Pass and the most westerly point of Marsh Island, lat. 29°34'39" N., long. 92°02'06" W.

(9) Thence along south shoreline to a point of land on the southeast side of Marsh Island known as South Point, lat. 29°29'15" N. long. 91°45'48" W.

(10) Thence S. 74° 10' E. for approximately 52,786' to a platform at lat. 29°26'54" N. long. 91°36'13" W.

(11) Thence S. 68°19' E. for approximately 57,515' to Eugene Island lat. 29°22'20" N. long. 91°23'03" W.

(12) Thence S. 35°05' E. for approx. 16,000' to the most westerly point of land on Pointe Au Fer Island, known as Pointe Au Fer, approx. lat. 29°19'59" N. long. 91°21'09" W.

(13) Thence along the south shoreline to a point of land on the southwest side of the mouth of Oyster Bayou, lat. 29°13'12" N. long. 91°07'53" W.

(14) Thence E. for approx. 1,000' to the point on the southeast shore of Oyster Bayou, lat. 29°13'12" N. long. 91° 07'48" W.

(15) Thence along the south shore to a most southeasterly point of land on the west side of Bayou DeWest, lat. 29°11'01" N. long. 91°03'41" W.

(16) Thence N. 80° E. for approx. 7,427' to the most southerly point of land on Pelican Island, lat. 29°11'13" N. long. 91°02'19" W.

- (17) Thence S. 81° E. for approx. 3,122' to the most southerly point of an island between Pelican Pass and Taylors Bayou, lat. 29°11'09" N. long. 91°01'44" W.
- (18) Thence S. 45° E. for approximately 3,707' to a point of land on the southeast side of the mouth of Taylors Bayou, lat. 29°10'43" N. long. 91°01'14" W.
- (19) Thence S. 68° E. for approx. 3,286' to the most southeasterly point of land at the mouth of Jack Stout Bayou, lat. 29°10'31" N. long. 91°00'39" W.
- (20) Thence along the south shoreline to a pipeline sign on the most easterly point of land on the west side of the mouth of Grand Bayou du Large, lat. 29°11'01" N. long. 90°57'49" W.
- (21) Thence N. 80°07' E. for approximately 3,510' to a point at the mouth of Fish Bayou, lat. 29°10'55" N. long. 90°57'10" W.
- (22) Thence in a southeast direction along the shoreline to the southeasterly most point on the west shore of Bayou Grand Caillou lat. 29°10'27" N. long. 90°56'39" W.
- (23) Thence S. 64°50' E. approximately 2,387' to the easterly side of Bayou Grand Caillou lat. 29°10'16" N. long. 90°56'14" W.
- (24) Thence in a southeast direction along the northeast shore of Caillou Bay to a most westerly point of land on the north side of Grand Pas Des Ilettes, lat. 29°07'02" N. long. 90°52'50" W.
- (25) Thence S. 36° E., for approx. 3,000' to the most westerly point of land on the south side of Grand Pas Des Ilettes, lat. 29°06'30" N. long. 90°52'43" W.
- (26) Thence in a southeast direction along the northeast shore of Caillou Bay to the most westerly point on the north shore of Pass Wilson, lat. 29°04'60" N. long. 90°51'12" W.
- (27) Thence in a southeasterly direction to the most westerly point on the south shore of Pass Wilson lat. 29°04'29" N., long. 90°51'08" W.
- (27.1) Thence, along the shore to the most southeasterly point of land on the west side of a pass between Pelican Lake and Bay Round lat. 29°03'57" N. long. 90°50'07" W.
- (28) Thence in a southeasterly direction to the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca, lat. 29° 03'10" N., long. 90° 50' 27" W.
- (29) Thence south, southeast along the west, southwest coast of the island to 29°02'41" N. long. 90°50'19" W.
- (30) Thence along the south shore of the Isles Dernieres to the most easterly point on the west side of Whiskey Pass lat. 29°03'16" N. long. 90°48'03" W.
- (31) Thence S. 74° E. approximately 11,258' to the most westerly point of land on the east side of Whiskey Pass, lat. 29°02'44" N. long. 90°46'01" W.
- (32) Thence in an easterly direction along the south shore of Isles Dernieres to a tank battery on the east end of the Isles at Wine Island Pass, lat. 29° 04' 19" N., long. 90° 38' 29" W.
- (32)(a) Thence in a northeasterly direction to the most easterly point of the Wine Island rock jetties, lat. 29° 05'38" N. long. 90° 36'30" N.
- (33) Thence in a southeasterly direction to the tank battery on the west end of Timbalier Island lat. 29° 05' 26" N., long. 90° 32' 16" W.
- (34) Thence eastward along the south shore to a point of land on the northeast part of Timbalier Island on the west side of Little Pass Timbalier lat. 29°03'42" N., long. 90°25'48" W.
- (35) Thence N. 83°52' E. approximately 4.2 miles to the southwest point of land on East Timbalier Island lat. 29°03'42" N., long. 90°20'24" W.
- (36) Thence easterly along the south shoreline to a point of land most southwest at the mouth of Belle Pass, lat. 29°05'10" N. long. 90°13'36" W.
- (37) Thence to the east side at a point of land most southerly at the mouth of Belle Pass, lat. 29°05'07" N. long. 90°13'30" W.
- (38) Thence easterly along the south shoreline to a point of land on the southwestern side of Caminada Pass, lat. 29 degrees 11 minutes 24.540 seconds N. long. 90 degrees 02 minutes 46.597 seconds W.

- (39) Thence northwesterly along the southwestern shoreline of Caminada Pass to a point of land, lat. 29 degrees 12 minutes 03.720 seconds N. long. 90 degrees 03 minutes 20.237 seconds W.
- (40) Thence North 11 degrees 01 minutes 28 seconds East a distance of 1174 feet to a point on the northwesterly shoreline of Caminada Pass, lat. 29 degrees 12 minutes 15.123 seconds N. long. 90 degrees 03 minutes 17.705 seconds W.
- (41) Thence northeasterly along the northwesterly shoreline of Caminada Pass to the intersection of an underground power line as marked by two platforms in Caminada Pass, lat. 29 degrees 12 minutes 24.916 seconds N. long. 90 degrees 03 minutes 09.891 seconds W.
- (42) Thence South 68 degrees 39 minutes 51 seconds East along the underground power line as marked by two platforms in Caminada Pass, a distance of 3701 feet to the northwesterly shoreline of Grand Isle, lat. 29 degrees 12 minutes 11.583 seconds N. 90 degrees 02 minutes 30.991 seconds W.
- (43) Thence southwesterly along the northwesterly shoreline of Grand Isle to a point of land, lat. 29 degrees 11 minutes 55.443 seconds N. long. 90 degrees 02 minutes 25.426 seconds W.
- (44) Thence along the south shoreline to the most easterly point of Grand Isle at Barataria Pass, lat. 29° 16' N. long. 89° 57' 15" W.
- (45) Thence N. 5° 10' E. for 2,135' to the Sea Buoy (green blinking light on turning buoy) at lat. 29° 16' 21" N. long 89° 57' 13" E.
- (46) Thence N. 87° 03' 22" E. for 2,570' to Fort Livingston ruins lat. 29° 16' 22" N. long. 89° 56' 44" W.
- (46.1) Thence easterly along the south shoreline of Grand Terre Island to a point of land most easterly on the west side of Pass Able at N 29° 17' 49.2" W 89° 54' 28.2".
- (46.2) Thence easterly at approximately 60° for 1.29 miles across to the eastern side of the pass to a point at N29° 18' 28.8" W 89° 53' 25.8".
- (47) Thence along the shoreline for approximately 1.45 miles to the easterly most point of land on the west side of Quatre Bayou Pass at N 29° 18' 44.6" W 89° 51' 32".
- (47.1) Thence northeasterly at 67° for approximately .93 miles across Quatre Bayou Pass to the western point of land on the east side of Quatre Bayou Pass at N 29° 19' 5.2" W 89° 50' 32.5".
- (47.2) Thence along the southern shoreline for .33 miles to a point on the western side of a wash out below Bay Long at N 29° 19' 4.8" W 89° 50' 9.9".
- (48) Thence easterly at 90° for approximately .79 miles across to the eastern side of the wash out at N 29° 19' 3.3" W 89° 49' 15.8".
- (48.1) Thence for 1.90 miles along the southern shoreline to the most easterly point of land on the west side of an opening known as Shell Cut at N 29° 18' 56.8" W 89° 47' 5.6".
- (48.2) Thence across to the western most point on the eastern side of Shell Cut at N 29° 18' 56.8" W 89° 47' 5.6".
- (49) Thence for approximately 2.54 miles along the southern shoreline to the eastern most point of land on the western side of Chaland Pass at N 29° 18' 29.2" W 89° 44' 8.4".
- (50) Thence east to the most westerly point of land on the east side of the mouth of Chaland Pass at N 29° 18' 31" W 89° 44' 6.3".
- (51) Thence along the south shore for approximately 2.86 miles to the easterly point of land on the west side of Grand Bayou Pass at N 29° 17' 40.8" W 89° 40' 58.8".
- (51.1) Thence across the pass to the westerly most point of land on the east side of Grand Bayou Pass at N 29° 17' 40.3" W 89° 40' 57.4".
- (52) Thence along the south shoreline for approximately 1.22 miles to a point of land on the west side of the wash out below Shell Island Bay at N 29° 17' 21.7" W 89° 39' 37.1".
- (52.1) Thence easterly at 113° for approximately 1.74 miles across to the east side of the washout below Shell Island Bay at N 29° 16' 39.3" W 89° 37' 47.5".
- (52.2) Thence along the shoreline for approximately 1.56 miles to a point of land on the western side of Empire Canal at N 29° 15' 43.5" W 89° 37' 47.5".

- (52.3) Thence southeasterly across the Empire Channel at 127° for approximately .21 miles to a point of land on the eastern side of the Empire Canal at N 29° 15' 29.8" W 89° 36' 19.9".
- (52.4) Thence south along the eastern side of the Empire Canal for approximately .32 miles to a point of land at N 29° 15' 12.3" W 89° 36' 24.7".
- (53) Thence easterly along the south shoreline of Pelican Island for approximately 2.21 miles to the eastern most point of land on the west side of the mouth of Scofield Bayou at N 29° 14' 47.1" W 89° 33' 54.5".
- (54) Thence across the mouth of Scofield Bayou for approximately .17 miles to a point on the eastern side at N 29° 14' 55.3" W 89° 33' 51.3".
- (54.1) Thence along the shoreline for 2.46 miles to a point of land on the west side of a washout below Bay Coquette at N 29° 13' 57.9" W 89° 30' 59.0".
- (54.2) Thence eastward at 116° for .69 miles across the washout to a point of land below Bay Coquette at N 29° 13' 38.6" W 89° 30' 16.8".
- (55) Thence along the south shoreline for .22 miles to the easterly point of land on the west side of the mouth of Sandy Point Bay at N 29° 13' 39.4" W 89° 30' 1.5".
- (55.1) Thence at 126° for .86 miles across the mouth of Sandy Point Bay to a point of land on the west side of Sandy Point Island at N 29° 13' 7.9" W 89° 29' 14.6".
- (55.2) Thence along the south shoreline for .30 miles to a point on the eastern side of Sandy Point Island at N 29° 13' 1.9" W 89° 28' 55.5".
- (56) Thence for .51 miles to a point of land on the east side of Sandy Point Bay at N 29° 12' 52.4" W 89° 28' 22.2".
- (56.1) Thence easterly across a canal to a point of land at N 29° 12' 51.2" W 89° 28' 19.6".
- (56.2) Thence southerly across the opening of a canal to a point of land at N 29° 12' 46.6" W 89° 28' 11.4".
- (56.3) Thence along the shore to a point of land on the north side of Red Pass at N 29° 12' 39.4" W 89° 28' 11.4".
- (56.4) Thence across to the south side of Red Pass at N 29° 12' 35.7" W 89° 28' 13.4".
- (56.5) Thence southeasterly along the shore for approximately 2.05 miles to the west side of a washout at N 29° 10' 55.2" W 89° 26' 53.5".
- (56.6) Thence at 152° for 1.08 miles across to the east side of a washout at a point of land at N 29° 09' 58.1" W 89° 26' 20.4".
- (57) Thence approximately 1.69 miles at 152° to the red buoy #10 on the east side of Tiger Pass at N 29° 8' 27" W 89° 25' 28".
- (58) Thence southeasterly at 128° for 2.11 miles to a point of land at N 29° 7' 8" W 89° 23' 35".
- (59) Thence at 75° for approximately 1.15 miles to the radio tower at N 29° 7' 25" W 89° 23' 19".
- (60) Thence 139° for approximately 2.53 miles to a manifold platform on the east side of Grand Pass at N 29° 5' 28" W 89° 20' 26".
- (61) Thence S. 74°06" E. approximately 4,170' to a point of land on the east side of the mouth of Grand Pass, lat. 29° 04'30" N. long. 89° 21'09" W.
- (62) Thence 183° for 2.02 miles to a point of land west of Double Bayou at N 29° 3' 27" W 89° 20' 38".
- (63) Thence along the east shoreline of West Bay to a most southerly point of land on the west side of the mouth of Southwest Pass, lat. 28° 55'50" N., long. 89° 25'00" W.
- (64) Thence southeast to the most southerly point of land on the east side of the mouth of Southwest Pass, lat. 28° 55'30" N., long. 89° 24'42" W.
- (65) Thence northeast along the west shore of East Bay to the mouth of Joseph Bayou, lat. 29° 03'36" N., long. 89° 15'37" W.
- (66) Thence due east for approx. 14,000' to a point of land lat. 29° 03'36" N., long. 89° 12' 51" W.
- (67) Thence south along the east shoreline of East Bay to a most southerly point of land on the west side of South Pass, lat. 28° 59' N., long. 89° 08'42" W.

- (68) Thence northwest along the west shore of Garden Island Bay to a most southerly point of land on the west side of Cadro Pass, lat. 29° 03'36" N., long. 89° 09'42" W.
- (69) Thence N. 78° 59' E. for approximately 3,500' to a point of land on the west side of the mouth of Dennis Pass, lat. 29° 02'42" N. long. 89° 09'03" W.
- (70) Thence N. 47° 17' E. for approximately 14,600' to the most easterly point of land on Lookout Island, lat. 29° 04'18" N., long. 89° 07' W.
- (71) Thence S. 71° 38' E. approx. 9,000' to the most southerly point of land on the southwest side of Southeast Pass, lat. 29° 04'06" N., long. 89° 03'45" W.
- (72) Thence N. 20° 45' E. to the most easterly point on the north side of Northeast Pass, lat. 29° 08'15" N., long. 89° 01'37" W.
- (73) Thence north 37° 20' E. for approx. 4,000' to the most easterly point of land on Thomasin Lumps, lat. 29° 10' N., long. 89° 00'20" W.
- (74) Thence N. 20° 20' W. for approx. 6,000' to the most easterly point of the north side of the mouth of North Pass, lat. 29° 13' N., long. 89° 01'18" W.
- (75) Thence in a southwesterly direction to the most northerly point on the east shore of Thomasin Bayou, lat. 29° 13'05" N., long. 89° 03'11" W.
- (76) Thence S. 70° W., for approx. 7,700' to the most northerly point on the E. shore of Meyers Bayou, lat. 29° 12'30" N., long. 89° 04'30" W.
- (77) Thence in a southerly direction to a point in the most southeasterly portion of Customhouse Bay, lat. 29° 11'39" N., long. 89° 04' W.
- (78) Thence in a southwesterly direction along the south shore of Customhouse Bay to U.S.C. & G.S. Station Lout 1955, lat. 29° 11'19" N., long. 89° 05'19" W.
- (79) Thence in a northerly direction along the west shore of Customhouse Bay to the most northerly point on the East shore of Willies Bayou, lat. 29° 12'09" N., long. 89° 05'32" W.
- (80) Thence in a northwesterly direction along the shore to the most northerly point on the east shore of Tommy Dantz Bayou, lat. 29° 12'24" N., long. 89° 06'33" W.
- (81) Thence N. 50° 30' W. for approx. 2,500' to the most easterly point on the north shore of Hingle Pass, lat. 29° 12'48" N., long. 89° 06'48" W.
- (82) Thence in a northerly direction to the most northerly point on the east shore of Raphael Pass, lat. 29° 13'06" N., long. 89° 07' W.
- (83) Thence N. 45° W. for approx. 4,800' to the most easterly point on the south shore of Twenty-Seven Pass, lat. 29° 14' N., long. 89° 07'32" W.
- (84) Thence in a northerly direction to the most easterly point on the south shore of Dead Women Pass, lat. 29° 15' N., long. 89° 07'21" W.
- (85) Thence N. 18° 30' W. for approx. 2,200' to the most northerly point on the north shore of Dead Women Pass, lat. 29° 15'38" N., long. 89° 07'03" W.
- (86) Thence N. 59° 30' W. for approx. 7,000' to Harris (BSE) Station, lat. 29° 16'28" N., long. 89° 08'05" W.
- (87) Thence in a northerly direction along the shore to the most northerly point on the east shore of Contrariete Pass, lat. 29° 16'45" N., long. 89° 08'06" W.
- (88) Thence in a northwesterly direction along the shore to the most northerly point on the east shore of Bienvenue Pass, lat. 29° 17'12" N., long. 89° 08'15" W.
- (89) Thence in a westerly direction along shore to Octave (BSE) Station, lat. 29° 17'27" N., long. 89° 09'15" W.
- (90) Thence in a northerly direction along shore to the most northerly point of the east shore of the east fork of Gaspar Bayou, lat. 29° 17'45" N., long. 89° 09'18" W.
- (91) Thence in a northwesterly direction along the shore to the most northerly point on the east shore of the west fork of Gaspar Bayou, lat. 29° 18'00" N., long. 89° 09'39" W.

- (92) Thence N. 46° W., approx. 5,000' to the most easterly point on the north side of Delta Pass, lat. 29° 18'48" N., long. 89° 10'06" W.
- (93) Thence N. 36° 30' W., approx. 14,000' to the most northerly point on the east side of Main Pass, lat. 29° 20'48" N., long. 89° 11'21" W.
- (94) Thence N. 70° W., approx. 4,000' to the most northerly point on the west shore of Main Pass, lat. 29° 21'09" N., long. 89° 12'06" W.
- (95) Thence in a southwesterly direction along the shore to the most northerly point on the east shore of Octave Pass, lat. 29° 19'51" N., long. 89° 12'53" W.
- (96) Thence in a southwesterly direction along the shore to the most westerly point of the north shore of Battery Bayou, lat. 29° 18'18" N., long. 89° 13'45" W.
- (97) Thence in a west, northwest direction along the shore to the most northerly point on the west shore of Spoonbill Bend which is also the most northerly point on the east shore of East Fork Pass, lat. 29° 18'39" N., long. 89° 14'32" W.
- (98) Thence in a northwesterly direction along shore to the most northerly point on the east shore of Emeline Pass, lat. 29° 20'54" N., long. 89° 16'03" W.
- (99) Thence N. 81° 33' W. for approximately 3,680' to the most northerly point on the west shore of Kimbel Pass, lat. 29° 21' N. long. 89° 16'44" W.
- (99.1) Thence from Kimble Pass for approximately 1.32 miles to a lighted buoy #18 of Baptiste Collete at N 29° 21' 35.6" W 89° 18' 9.0".
- (100) Thence from #18 buoy at 305° for 1.91 miles to the south side of Taylor Pass at N 29° 22' 43.3" W 89° 19' 54.7".
- (101) Thence N. 47° E., for approx. 47,000' to the most westerly point of land of Breton Island, lat. 29° 27'45" N., long. 89° 12'54" W.
- (102) Thence along the southeast shoreline to the most northeasterly point of land, lat. 29° 28'03" N., long. 89° 11'12" W.
- (103) Thence N. 58° 05' E. for approx. 9,000' to the most westerly point of land of Gosier Island, lat. 29° 31'12" N., long. 89° 05'45" W.
- (104) Thence along the east shore to the most northerly point of land of Gosier Island, lat. 29° 33'42" N., long. 89° 02'45" W.
- (105) Thence N. 43° 30' E. for approx. 13,000' to the most easterly point of land of Curlew Islands, lat. 29° 37'54" N., long. 88° 58'48" W.
- (106) Thence N. 37° 30' E. for approximately 56,700' to a point of land on the southeast side of Chandeleur Islands lat. 29° 45'12" N., long. 88° 52'06" W.
- (107) Thence northerly along the east shoreline of the Chandeleur Islands, going north to the Chandeleur light, lat. 30 degrees 02'52" N., long. 88 degrees 52'18" W., terminating at the Mississippi boundary.
- (108) Repealed by Acts 1991, No. 946, §2.

B. All waters of the state shoreward of the line described in Subsection A hereof within which the tide regularly rises and falls or into which salt water shrimp migrate are inside waters. All waters seaward of the line described in Subsection A of this Section are outside waters.

C. For the purpose of determining if a person is shrimping in inside or outside waters, reference shall be made by LORAN C navigational instrument readings or global positioning satellite (GPS) navigational instrument readings for a vessel located on or in proximity to the boundary line between open and closed waters as set forth in Subsection A of this Section.

D. For the purposes of this Section, the department shall utilize LORAN C or GPS navigational instrument readings taken from such equipment located on department vessels or, if the shrimping vessel is equipped with LORAN C or GPS equipment, from the equipment located on the shrimping vessel.

E. Notwithstanding any other provision of law to the contrary, the commission may amend by rule the line of demarcation set by law in Subsection A of this Section in accordance with the Administrative Procedure Act.

RS 56:495.1 — Trawling vessels; size of trawls; butterfly nets

waters:

(a) One trawl which shall not exceed fifty feet in length along the corkline and sixty-six feet along the lead line and in addition, one test trawl.

(b) Two trawls which shall not exceed twenty-five feet along the corkline, thirty-three feet along the lead line, and have trawl doors no larger than eight feet in length and forty-three inches in height and, in addition, one test trawl.

(c) Two trawls which shall not exceed twenty-five feet along the corkline, thirty-three feet along the lead line, and have no more than two outer trawl doors no larger than eight feet in length and forty-three inches in height and no more than two inner sled doors, and in addition, one test trawl.

(2) It shall be legal for a vessel in Breton and Chandeleur Sounds to pull no more than one or two trawls, either or both of which cannot exceed sixty-five feet along the corkline and eighty-two feet along the lead line in length, plus one test trawl.

The boundary of Breton and Chandeleur Sounds for the use of these trawls shall be as follows: Beginning at the most northerly point on the south side of Taylor Pass, latitude 29 degrees 22 minutes 50.4 seconds N., longitude 89 degrees 20 minutes 3.8 seconds W. which is on the inside-outside shrimp line as described in R.S. 56:495; thence westerly to Deep Water Point, latitude 29 degrees 23 minutes 24.7 seconds N., longitude 89 degrees 22 minutes 49.8 seconds W.; thence westerly to Coquille Point, latitude 29 degrees 23 minutes 18.0 seconds N., longitude 89 degrees 23 minutes 57.7 seconds W.; thence westerly to Raccoon Point, latitude 29 degrees 24 minutes 02.3 seconds N., longitude 89 degrees 28 minutes 05.7 seconds W.; thence northwesterly to California Point, latitude 29 degrees 27 minutes 21.7 seconds N., longitude 89 degrees 31 minutes 19.7 seconds W.; thence northerly to Mozambique Point, latitude 29 degrees 37 minutes 43.4 seconds N., longitude 89 degrees 29 minutes 27.4 seconds W.; thence northeasterly to Grace Point (red light no. 62 on the MRGO), latitude 29 degrees 40 minutes 40.5 seconds N., longitude 89 degrees 23 minutes 08.0 seconds W.; thence northerly to Deadman Point, latitude 29 degrees 44 minutes 23.0 seconds N., longitude 89 degrees 21 minutes 09.0 seconds W.; thence easterly to Point Lydia, latitude 29 degrees 45 minutes 48.0 seconds N., longitude 89 degrees 17 minutes 10.0 seconds W.; thence northerly to Point Comfort, latitude 29 degrees 49 minutes 33.7 seconds N., longitude 89 degrees 14 minutes 42.7 seconds W.; thence northerly to the most easterly point of Mitchell Island, latitude 29 degrees 53 minutes 46.0 seconds N., longitude 89 degrees 12 minutes 22.0 seconds W.; thence northerly to the most easterly point on Martin Island, latitude 29 degrees 57 minutes 29.6 seconds N., longitude 89 degrees 11 minutes 36.6 seconds W.; thence northerly to the most easterly point on Brush Island, latitude 30 degrees 02 minutes 38.6 seconds N., longitude 89 degrees 10 minutes 23.6 seconds W.; thence northerly to Door Point, latitude 30 degrees 03 minutes 46.0 seconds N., longitude 89 degrees 10 minutes 36.0 seconds W.; thence northerly to the most easterly point on Isle Au Pitre, latitude 30 degrees 09 minutes 20.5 seconds N., longitude 89 degrees 11 minutes 15.5 seconds W.; thence north 03 degrees 20 minutes 13 seconds east (grid) a distance of 20001.25 feet (grid) to a point on the Louisiana-Mississippi Lateral Boundary, latitude 30 degrees 12 minutes 37.9056 seconds N., longitude 89 degrees 10 minutes 57.9725 seconds W.; thence south 60 degrees 20 minutes 06 seconds east (grid) along the Louisiana-Mississippi Lateral Boundary a distance of 31555.93 feet (grid), latitude 30 degrees 09 minutes 58.1371 seconds N., longitude 89 degrees 05 minutes 48.9910 seconds W.; thence south 82 degrees 53 minutes 54 seconds east (grid) continuing along the Louisiana-Mississippi Lateral Boundary a distance of 72650.64 feet, latitude 30 degrees 08 minutes 14.6070 seconds N., longitude 88 degrees 52 minutes 10.0766 seconds W.; thence south 0 degrees 03 minutes 38 seconds west (grid) a distance of 32493.40 feet (grid) to the Chandeleur Light, latitude 30 degrees 02 minutes 53.0312 seconds N., longitude 88 degrees 52 minutes 18.4173 seconds W., which is on the inside-outside shrimp line as described in R.S. 56:495; thence southerly along the inside-outside shrimp line as described in R.S. 56:495 to the point of beginning.

(3) "Test trawl", as used in this Section, means a trawl which is not more than sixteen feet along the corkline or twenty feet along the lead line or head rope.

B. Fishing with a butterfly net or skimmer net shall be prohibited in inside waters during the closed season.

C. In outside waters, no vessel shall pull more than four trawls and one test trawl.

D. Violation of the provisions of this Section shall constitute a class four violation.

E.(1) In addition to any and all other penalties, for the first conviction of shrimping during the closed season, the court may revoke or suspend the violator's trawl, skimmer, and butterfly gear licenses for one year from the date of the conviction. During such revocation or suspension, the violator may be present on a vessel harvesting or possessing shrimp or possessing a trawl, skimmer, or butterfly net, only if the vessel is equipped with and employs an operating vessel monitoring system which is accessible to the Department of Wildlife and Fisheries. The court shall sentence the

violation to perform forty hours of community service. If a litter abatement community service is available, the hours shall be served in a community service litter abatement program.

(2) For the second conviction of shrimping during the closed season, the court shall revoke or suspend the violator's trawl, skimmer, or butterfly gear licenses for three years from the date of the second conviction. During such revocation or suspension, the violator may be present on a vessel harvesting or possessing shrimp or possessing a trawl, skimmer, or butterfly net, only if the vessel is equipped with and employs an operating vessel monitoring system which is accessible to the Department of Wildlife and Fisheries. In lieu of the mandatory jail requirement found in R.S. 56:34, the court may sentence the offender to perform the corresponding amount of jail days in community service. If a litter abatement community service is available, the hours shall be served in a community service litter abatement program.

(3) For the third and subsequent convictions of shrimping during the closed season, the court shall revoke or suspend the violator's trawl, skimmer, or butterfly gear licenses for ten years from the date of the last conviction. During such revocation or suspension, the violator may be present on a vessel harvesting or possessing shrimp or possessing a trawl, skimmer, or butterfly net, only if the vessel is equipped with and employs an operating vessel monitoring system which is accessible to the Department of Wildlife and Fisheries. In lieu of the mandatory jail requirement found in R.S. 56:34, except for thirty days of the requirement, the court may sentence the offender to perform the corresponding amount of jail days in community service. If a litter abatement community service is available, the hours shall be served in a community service litter abatement program.

F.(1) Notwithstanding any other provision of law to the contrary, in Louisiana offshore territorial waters extending from the Texas state line to the Mississippi state line, each shrimping vessel shall, in addition to one test trawl, only use nets that do not exceed a total maximum per vessel of one hundred thirty feet of corkline and one hundred sixty-five feet of lead line.

(2) In addition to any other penalties provided by law, violation of the provisions of this Subsection shall constitute a class four violation.

(3) The provisions of this Subsection shall supersede and control to the extent of any conflict with any other provision of law.

G. Any person required to be on board a vessel with an approved vessel monitoring system shall comply with all rules and regulations adopted by the department to ensure compliance with vessel monitoring system requirements. The cost of a vessel monitoring system shall be the responsibility of the person required to be on such vessel. The department shall determine approved vessel monitoring systems.

RS 56:496 — Residence requirements; exception

Any restrictions affecting non-resident persons from taking or processing salt water shrimp does not apply to the citizens of any state which grant equal privileges or licenses to the citizens of this state and which said states have entered into the Gulf States Marine Fisheries Compact under 1950 R.S. 46:41 etc.

RS 56:497 — Saltwater shrimp seasons; bait shrimp

(2) The open seasons for all or part of the state waters shall be fixed by the commission. The commission, through the secretary, shall close the season based on biological and technical data. In addition, notwithstanding the provisions of R.S. 56:499, when opening a special shrimp season or extending a regular shrimp season, the commission shall have the authority for the duration of that season or extension to increase the minimum mesh size provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net.

(3) The commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicates that marketable shrimp, in sufficient quantities, are available for harvest.

(4) The commission shall conduct a public hearing prior to determining whether or not to open or close a regular or special season. The commission shall give at least three days notice prior to the hearing on the decision to open or close a regular shrimp season and

at least three days notice prior to the hearing on the decision to open or close a special season. Notice shall consist of a news release to the news media. The notice shall set forth the agenda and the date, time, and place for each hearing. At the public hearing, the commission shall adopt written reasons for its decision and such reasons shall specify the biological and technical data on which the decision is based and the market standard by which the data is evaluated. Such decision shall not be effective until at least seventy-two hours after the decision is made.

(5) The closing of outside waters to shrimping shall not be construed as prohibiting or otherwise affecting the trawling for finfish or underutilized species as defined in R.S. 56:8.

(6) The commission shall also have the right to set special shrimp seasons for all or part of the state waters. Opening of the seasons shall be based upon the best biological and technical data presented to the commission which indicates that marketable shrimp, in sufficient quantities, are available for harvest.

(7) The commission shall fix no less than two open seasons each calendar year for all inside waters by zone, based upon biological and technical data which indicates that marketable shrimp, in sufficient quantities, are available for harvest.

(8) No open season date shall begin on a Sunday.

(9) The commission may delegate to the secretary the powers, duties, and authority provided by this Section.

B.(1) Saltwater shrimp legally taken and processed within the state may be bought and sold at any time. Saltwater shrimp in their fresh state legally taken during the open seasons in state waters may be possessed for five days following the last day of each open season.

(2) Bait shrimp may be taken in state waters during the closed seasons, but only in cast nets, dip nets with a diameter not to exceed three feet operated only by hand without any mechanical device or pulley whatsoever, bait traps, and bait seines in compliance with R.S. 56:323 and 500(B). No bait shrimp may be taken in state waters during closed seasons with the use of a butterfly net, paupier, skimmer net, trawl, night trawl, or beam trawl except with the special bait dealers permit as provided by the commission pursuant to Subsection C of this Section.

C.(1) The Louisiana Wildlife and Fisheries Commission is authorized to adopt rules and regulations under the Administrative Procedure Act to provide for an annual special bait dealers permit and to allow the taking of live bait shrimp and live croaker by qualified permit holders during the closed shrimp season. The fee for such permit shall be one hundred ten dollars per year. All revenues received through the sale of such permits shall be used for the administration of the bait dealer program.

(2) Violations of the bait shrimp regulations shall constitute a class four violation.

In addition, the permittee shall forfeit the permit and any bond posted for the permit and shall be ineligible for a bait shrimp permit for one year from the date of conviction.

D. Violation of any of the provisions of this Section shall constitute a class four violation.

RS 56:497.1 — Trawl, skimmer, or butterfly gear license eligibility

to hold a trawl, skimmer, or butterfly gear license for a period of three years from the date of the second conviction.

B. Any person convicted of commercial or recreational shrimping during the closed season three or more times during a five-year period shall not be eligible to hold a trawl, skimmer, or butterfly gear license for a period of ten years from the date of the third or subsequent conviction.

C. Any person who is ineligible to hold a trawl, skimmer, or butterfly net gear license pursuant to the provisions of this Section is prohibited from engaging in commercial or recreational shrimping or being aboard a vessel harvesting or possessing shrimp or possessing a trawl, skimmer, or butterfly net gear unless the vessel is equipped with and employs an approved operating vessel monitoring system which is accessible to the Department of Wildlife and Fisheries. A violation of this provision shall constitute a class four violation.

RS 56:498 — Size limit

provided in this Section, the possession count on saltwater white shrimp for each cargo lot shall average no more than one hundred whole specimens to the pound. This possession count shall be determined by counting the number of shrimp contained in two random separate three-pound samples taken from each cargo lot of shrimp. The first sample shall be taken and counted by an agent of the Department of Wildlife and Fisheries and the second sample shall be taken and counted by the fisherman. The average number of specimens from the combination of these two samples shall be used to determine the count per pound. A "cargo lot" as used herein shall mean a container, basket, box, chest, bin, hole, or storage compartment in which shrimp are kept for transport. However, during the time period from October fifteenth through the third Monday in December, there shall be no possession count on saltwater white shrimp taken or possessed. Such count shall apply to the taking or possession of such shrimp aboard a vessel, except for shrimp that are documented as having been legally taken in other states or countries and imported into this state.

(2) When more than fifty percent by weight of the saltwater shrimp taken or possessed is sea bobs or brown shrimp, then the maximum allowable amount of undersized white shrimp taken or possessed shall not exceed ten percent by weight of the total saltwater shrimp taken or possessed.

C. The restriction as to count provided in R.S. 56:498(B)(1) shall not apply to "sea bobs" (*Xiphopeneus Kroyeri*), also called "six barbes".

D. There shall be no size limit on bait shrimp taken in the manner prescribed in R.S. 56:497(B).

RS 56:499 — Trawls, butterfly, and skimmer nets, and cast nets; size of mesh; length; diameter of butterfly and skimmer nets extensions; prohibited devices

butterfly nets, skimmer nets, or cast nets and by no other means except as provided in R.S. 56:497(B) and R.S. 56:571.

B.(1) No person shall take saltwater shrimp with any trawl, skimmer net, or butterfly net with a mesh size less than five-eighths of an inch square or one and one-fourth of an inch stretched. No trawl, skimmer net, or butterfly net may be used in closed waters.

(2) No person shall use a double butterfly net having an individual net frame more than twelve feet measured horizontally or vertically, whichever distance is greater, each or a single stationary butterfly net having an individual net frame greater than twenty-two feet measured horizontally or vertically, whichever distance is greater, except that persons on a vessel may use a double butterfly net having individual net frames of not more than sixteen feet measured horizontally or twelve feet measured vertically, each. A butterfly net may be mounted no more than twenty-four inches from the side of the vessel. Operation of butterfly nets shall in no way impede or restrict normal navigation.

(3) No person shall use a double skimmer net with an opening measuring more than seventy-two feet in circumference for each net and a lead line greater than thirty-three feet. No person shall tie individual skimmer nets together to exceed the specifications contained in this Paragraph or use any trawl in conjunction with a butterfly or skimmer. No person shall use a double skimmer net where the horizontal net frame extends more than twenty feet from the gunwale of the vessel. Operation of skimmer nets shall in no way impede or restrict normal navigation.

(4) Notwithstanding the provisions of Paragraph (1) of this Subsection to the contrary, no person shall take saltwater shrimp with a trawl, skimmer net, or butterfly net with a mesh size of less than five-eighths of an inch square or one and one-fourth of an inch stretched in inside waters during the fall inshore shrimp season, except in that portion of the state's inside waters from the Atchafalaya River west to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, mesh size no less than three-quarters of an inch square or one and one-half of an inch stretched may be used in inside waters during the fall inshore shrimp season.

C. No person shall use sweeper devices, leads, extensions, wings, or other attachments in conjunction with or attached to butterfly nets.

D.(1)(a) No person may operate a stationary shrimp net within one thousand feet upstream from another stationary shrimp net that is attached or moored to a wharf or platform that has been permitted by the United States Army Corps of Engineers.

(b) However, if two permitted wharves or platforms are located within one thousand feet of each other, the owner of the upstream wharf or platform may attach a stationary shrimp net thereto if any one of the following applies:

(i) His permit from the corps of engineers was issued prior to the effective date of this Section.

(ii) His permit from the corps of engineers was issued prior to the permit for the downstream wharf or platform.

(iii) The owner of the downstream wharf or platform does not operate a stationary shrimp net.

(2) For purposes of this Subsection, stationary shrimp net means any net for taking shrimp, including a butterfly or skimmer net, that is attached to the water bottom, bank, or a fixed structure.

(3) A violation of this Subsection shall be a class one violation.

RS 56:499.1 — Use of trawls in certain areas around Calcasieu Lake; use and identification of butterfly nets in certain sections of East and West Passes of the Calcasieu River, Grand Bayou, and Oyster Bayou

No person shall use a trawl for the taking of shrimp at night in the Cameron Parish sections of Calcasieu Lake, the Black Bayou System, Grand Bayou, and Little Burton's Ditch.

(2) No person shall use a skimmer net in Calcasieu Lake from one half hour after sunset until one half hour before sunrise; however, skimmer nets may be used during open season to take shrimp during the day and at night in all areas of Cameron Parish west of the western shore of Calcasieu Lake.

B.(1) Butterfly nets may be used for the taking of shrimp in Calcasieu Lake, Calcasieu River, Grand Bayou, and Calcasieu Ship Channel, all within Cameron Parish only, in the daytime and in the nighttime, during open season.

(2) All butterfly nets located in East and West Passes of the Calcasieu River in Grand Bayou, and in Oyster Bayou, all within Cameron Parish only, shall be tagged with a tag listing the fisherman's name, address, and butterfly net license number. This tag shall be attached to the net, frame, or any other structure or part directly attached to the net or frame in such a manner that it is above the water at all times. This tag shall be of readable size, easily visible, and with letters at least three inches high and of appropriate width.

(3) When a butterfly net located in West or East Pass of the Calcasieu River, in Oyster Bayou, or in Grand Bayou, all within Cameron Parish, is not being fished, all of the following shall apply:

(a) Any object to which the net is attached or mounted solely for purposes of fishing, including but not limited to any unmanned boat or vessel, floating platform, pontoon, or barge, shall be moved from the waterway and relocated adjacent to the shoreline in a manner which shall not present an obstruction or hazard to navigation.

(b) Any anchor or weight used to secure in the waterway the net or any object to which it is attached or mounted solely for purposes of fishing, including but not limited to any unmanned boat or vessel, floating platform, pontoon, or barge, shall be removed from the waterbottom.

(c) Any rope, line, chain, or other device used to connect to the shoreline the net and any object to which it is attached or mounted solely for purposes of fishing, including but not limited to any unmanned boat or vessel, floating platform, pontoon, or barge, shall be prohibited. However, the prohibition expressed herein shall not apply when such rope, line, chain, or other device is being used to secure, when not in use, such net and any object to which it is attached or mounted adjacent to the shoreline in a manner which shall not present an obstruction or hazard to navigation.

(4) Any butterfly net, whether or not it is being fished, that is not marked for identification so that the person owning or responsible for such net can be identified shall be considered contraband. Any agent finding the contraband butterfly net shall immediately seize and take it into custody and may obtain from a judge of any court in the parish where the butterfly net was found, an ex parte order forfeiting the contraband and ordering its destruction. An agent of the Department of Wildlife and Fisheries or authorized employee who seizes items as provided in this Paragraph is immune from liability and from suit for a seizure and destruction of a butterfly net.

C. Violation of the provisions of this Section constitutes a class two violation.

RS 56:499.2 — Butterfly and bottom nets; Lake Pontchartrain and Intracoastal Waterway

he Interstate Highway 10 Bridge, south and eastward to include the waters of Lake St. Catherine and its passes, the Rigolets, Unknown Pass, and Chef Menteur Pass and south and eastward to Lake Borgne and that portion of the Mississippi River Gulf outlet and the Intracoastal Waterway from the Industrial Canal eastward to Lake Borgne, shrimp may be taken with butterfly nets and bottom nets. However, in Chef Menteur Pass, in the Rigolets and in those portions of Lake Pontchartrain and Lake Borgne which are within two miles of the Rigolets or Chef Menteur Pass, a butterfly net or bottom net may be used to take shrimp only when suspended from a fishing boat or vessel which is motor-propelled and underway.

B. No butterfly net or bottom net may be suspended from a piling, float, barge, raft, bridge, or shore installation in the Rigolets or Chef Menteur Pass or in those portions of Lake Pontchartrain or Lake Borgne which are within two miles of the Rigolets or the Chef Menteur Pass. However, in the Chef Menteur Pass a properly licensed single butterfly net measuring not more than twenty-two feet by twenty-two feet may be suspended from a wharf which has been approved by the U.S. Corps of Engineers and which is attached to privately owned or leased immovable property or to a structure that is not attached to privately owned or leased property if the owner has possessed a permit for such structure from the United States Corps of Engineers prior to 1988, provided that the owner or leaseholder is present on the immovable property or permitted structure at all times that the net is in the water.

RS 56:499.3 — Butterfly and bottom nets; Oyster Bayou

e Oyster Bayou connects with Fourleague Bay and the Gulf of Mexico, butterfly nets and bottom nets may be used to take shrimp only when suspended from a fishing boat or vessel which is motor propelled and underway.

B. Any anchor or weight used to secure in the waterway the net or any object to which it is attached or mounted, including but not limited to any unmanned boat or vessel, floating platform, pontoon, or barge, shall be prohibited.

C. Any rope, line, chain, or other device used to connect to the shoreline the net and any object to which it is attached or mounted, including but not limited to any unmanned boat or vessel, floating platform, pontoon, or barge shall be prohibited.

RS 56:499.4 — Night shrimping; inside waters; Vermilion Bay; East and West Cote Blanche Bays; Atchafalaya Bay; exceptions; prohibition

t until one-half hour before official sunrise, from the inside waters of Vermilion Bay, West Cote Blanche Bay, East Cote Blanche Bay, and Atchafalaya Bay, from the western shore of Vermilion Bay to the western shore of the Atchafalaya River and the Atchafalaya River Ship Channel out to Eugene Island, as described by the inside-outside line in R.S. 56:495, except that night shrimping shall be allowed in the waters of Southwest Pass at Marsh Island south of a line drawn from the following points: the most southeastward point of Southwest Pass at 29 degrees 36 minutes 47 seconds north latitude, 92 degrees 00 minutes 32 seconds west longitude east southeast to the Green Light Channel Marker Number 21 at 29 degrees 36 minutes 44 seconds north latitude, 92 degrees 00 minutes 21 seconds west longitude; thence northeast to a point located at 29 degrees 37 minutes 34 seconds north latitude, 91 degrees 59 minutes 36 seconds west longitude; thence southeast to the western shore of Big Charles Bayou at 29 degrees 36 minutes 43 seconds north latitude, 91 degrees 59 minutes 17 seconds west longitude.

RS 56:500 — Recreational possession limit; gear

license that grants both basic

fishing and saltwater fishing privileges use a trawl not to exceed twenty-five feet and may take no more than an aggregate of two hundred fifty pounds of shrimp per day to each boat, regardless of the number of persons thereon, provided the shrimp taken are used for bait or for the fisherman's own consumption and are not sold, traded, or otherwise permitted to enter into commerce.

B. A recreational fisherman may use a castnet not to exceed eight feet six inches in radius; a bait seine with a maximum mesh size not to exceed one-quarter inch mesh bar, one-half inch mesh stretched, and thirty feet in length; or a dip net not to exceed three feet in diameter to take saltwater shrimp. A recreational fisherman shall, at any time, take no more

than fifty pounds of saltwater shrimp during closed season nor shall he take more than one hundred pounds of saltwater shrimp during open season, in the aggregate, per day, for each boat or land vehicle, regardless of the number of persons thereon, provided that the saltwater shrimp taken are used for bait or for the fisherman's own consumption and are not sold, traded, or otherwise permitted to enter into commerce.

RS 56:501 — Commercial taking of freshwater shrimp

may be taken in the Mississippi River and Intracoastal

Waterway and only within one and one-half miles of the boat ramp adjacent to the Port Allen locks in either stream.

(2) A person shrimping pursuant to this Subsection shall use a wire net with a one-quarter inch bar and a maximum length of six feet. The net shall be marked with a one gallon jug painted international orange and displaying the words "Freshwater Shrimp" in black letters. In addition to a commercial fishing license, a fisherman fishing pursuant to this Subsection shall possess a freshwater shrimp net license issued pursuant to R.S. 56:305(B)(1)(d).

(3) Only freshwater shrimp may be taken; all other species shall be immediately returned to the waters from which they were taken. A commercial fisherman shall not possess any other fish while fishing pursuant to this Subsection.

C. The Wildlife and Fisheries Commission may adopt rules and regulations authorizing the commercial taking of freshwater shrimp in areas in addition to those specified in Subsection B of this Section. Such rules and regulations shall specify the gear that may be used, licenses that are required in such areas, and any restrictions on the possession of other species of fish.

D. Freshwater shrimp may be taken from January first through December thirty-first; however, the Wildlife and Fisheries Commission may adopt rules and regulations modifying season times and dates based on biological or technical data.

E. A violation of any provision of this Section or a rule adopted pursuant thereto constitutes a class two violation.

RS 56:502 — Manifest of cargo of vessel carrying shrimp

to which delivery is made and a copy sent to the department. The manifest and records are open to inspection by the department. Statements giving the date, quantity, point of origin of each lot, and from whom purchased and to whom delivered shall be sent to the department on forms furnished for the purpose not later than the tenth of the month following date of delivery.

RS 56:503 — Repealed by Acts 1986, No. 904, §4.

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RS 56:504 — Repealed by Acts 1986, No. 904, §4.

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RS 56:507 — Penalty for violation of Subpart

ies provided by law, an agent shall seize any shrimp or parts or products thereof in the possession of a person violating the laws of this Subpart by taking shrimp in closed season. Any such seized shrimp shall be forfeited and subject to immediate disposition in accordance with rules and regulations adopted by the commission pursuant to the disposition of seized and forfeited perishables.

RS 56:551 — Harvest and sale of crabs

the owner. Commercial fish farm producers shall be entitled to transport, without restriction, on the public roads and highways of this state any and all equipment, except any electric fish shocking devices, necessary for the harvest of domesticated fish produced in privately owned waters.

B. The fish farmer may harvest and sell any species of crab or other crustacea that has been grown or stored in his private artificial reservoirs with prior approval of the Louisiana Wildlife and Fisheries Commission and under the regulation established by the Commission.

C. The provisions of this section shall not apply to the Parish of Orleans.

RS 56:554 — Repealed by Acts 1986, No. 904, §4.

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RS 56:557 — Disposition of moneys received

ter than the tenth of the month following collection and shall be deposited by the department in the state treasury to the credit of the department's fund.

RS 56:558 — Enforcement of penalties by civil proceedings

is state.

RS 56:561 — Repealed by Acts 1986, No. 904, §4.

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RS 56:571 — Underutilized species; policy and purpose; permits; fees; rules and regulations

that the seafood industry employs hundreds of Louisiana citizens,

thereby decreasing unemployment and the burden unemployment places on the state fisc, and

further recognizing that the commercial fishing industry is in danger of collapsing as an

industry due to escalating fuel prices, governmental regulations which have increased

competition for limited state resources from non-Louisiana residents, and from rising costs

of labor, fishing gear, and supplies, it is the policy and purpose of this Subpart to provide

every method of encouragement and assistance to the commercial fishermen of the state of

Louisiana, to protect a culture and heritage that is unique to Louisiana, to prevent

unemployment of Louisiana citizens, to assure adequate food for Louisiana citizens, and to

provide for economic stability in those areas of Louisiana so dependent on the seafood

industry. To that end, the state shall foster and encourage its seafood industries.

B. The secretary of the department may issue permits to persons who are interested in the development of new fisheries designed to harvest underutilized species and to persons who are interested in the development of new gear and equipment to harvest fish and other aquatic species inside all fresh water and all salt water areas of the state. Permits issued pursuant to this Subsection shall be limited in duration to one year and shall be subject to monitoring, review, and suspension or revocation for cause by the secretary.

C. The secretary shall promulgate rules and regulations according to the Louisiana Administrative Procedure Act as set forth in Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950, to be submitted to and approved by the respective legislative standing committees on natural resources and shall assess reasonable administrative fees for the issuance of permits and tags for equipment and gear.

D. Violation of any of the provisions of this Section constitutes a class 2-B violation.

RS 56:572 — Legality of contracts

d welfare of such industries shall be held to be illegal as a contract, conspiracy, or combination in restraint of trade nor shall the parties to the contract or agreement be penalized or enjoined as trusts, monopolies, conspirators, or combinations in restraint of trade, if the contract or agreement has been approved in writing by the secretary.

RS 56:573 — Approval of contracts

cts as in his opinion will promote the advancement and welfare of the seafood industries of the state.

RS 56:575 — Rules, applications

ormula to determine the amount which each owner of a commercial fishing vessel shall receive to compensate for the increased costs of vessel fuel. Said formula shall take into consideration the amount of the fund for each fiscal year, the number of commercial vessels licensed by the department, the size of the vessel, the number of crew members employed on each vessel, and the average yearly catch per vessel. The regulations shall provide for the procedures to be used for application to the fund for assistance and the method of disbursement from the fund. These rules and regulations shall be subject to approval by the Senate Committee on Natural Resources and the House Committee on Natural Resources and Environment.

RS 56:576 — Disbursements

ng season as the cut off date for determination of compensation from the fund for each vessel. No compensation shall be paid to a person who is not a Louisiana resident.

RS 56:577 — Other powers and duties

les, and regulations as are deemed necessary and proper to carry out the purposes of this Sub-Part, and which are not otherwise provided for herein.

RS 56:578.1 — Purposes

wholesale and retail dealers in dire economic straits, which situation could have an extreme economic impact on the state economy as a whole if nothing is done to alleviate the situation, and recognizing that there exist barriers and impediments to the economic well-being of the commercial fishery industry in Louisiana and recognizing that among these barriers and impediments, the virtual void in this state of any cohesive, coordinated and comprehensive seafood promotion and marketing effort and stratagem has a significant negative impact on the seafood industry, the Legislature of Louisiana does hereby establish the Louisiana Seafood Promotion and Marketing Board in an effort to aid the industry in two vital aspects--product promotion and marketing development.

B. The purpose of this Subpart, then, is to enhance the public image of commercial fishery products, thereby promoting the consumption of these products and, further, to assist the seafood industry, including commercial fishermen and wholesale and retail dealers, in market development so as to better utilize existing markets and to aid in the establishment of new marketing channels. Attention to the promotion and marketing of non-traditional and underutilized species of seafood would be inherent in the purpose of the council established herein.

RS 56:578.2 — Louisiana Seafood Promotion and Marketing Board; creation and organization

Promotion and Marketing Board. The agency shall have its

domicile in Baton Rouge and shall be governed by a board of trustees composed of eighteen members. Thirteen members shall be appointed by the lieutenant governor from persons engaged in the commercial seafood, crawfish, and alligator industry in Louisiana as provided in Paragraph (2) of this Subsection.

(b) There shall be five members who shall serve as ex officio nonvoting members as follows:

(i) The secretary of the Department of Culture, Recreation and Tourism or his designated representative.

(ii) The secretary of the Department of Wildlife and Fisheries or his designated representative from the department staff.

(iii) The director of Louisiana Sea Grant or his designated representative from the

Sea Grant staff.

(iv) The commissioner of agriculture or his designated representative from the staff of the Department of Agriculture and Forestry.

(v) The president of the Louisiana Farm Bureau Federation or his designated representative.

(2) The appointed members shall be chosen as follows:

(a) One shall be appointed from a list of three names submitted by members from Louisiana of the American Shrimp Processors Association.

(b) One shall be appointed from a list of three names submitted by the Louisiana Oyster Dealers and Growers Association.

(c) One shall be appointed from a list of three names submitted by the Louisiana crawfish industry. The appointment shall rotate between a farmer, a harvester, and a processor.

(d) One shall be appointed from a list of three names submitted by the Louisiana Oyster Task Force.

(e) One shall be appointed from a list of three names submitted by the Louisiana Retailers Association and shall be a seafood buyer.

(3) Of the remaining eight members to be appointed:

(a) One member shall be appointed from a list of three names submitted by the Louisiana Shrimp Association.

(b) One member shall represent the commercial saltwater finfish industry. The appointment shall rotate between a harvester and a processor.

(c) One member shall be appointed from a list of three names submitted by the Louisiana Restaurant Association.

(d) One member shall be a seafood processor.

(e) One member shall be appointed from a list of three names submitted by the Crab Task Force.

(f) One member shall represent the wild catfish industry. The appointment shall rotate between a farmer, a harvester, and a processor.

(g) One member shall be a marketing specialist.

(h) One member shall represent the alligator industry. The appointment shall rotate between a farmer, a harvester, and a processor.

(4) The names of each of the thirteen members appointed by the lieutenant governor shall be submitted to the Senate for confirmation.

B. At its first regular meeting in the third quarter of each state fiscal year, the board shall elect for a one year term a chairman and vice chairman, who shall also be the chairman-elect, and a secretary-treasurer, whose duties shall be those customarily exercised by such officers or specifically designated by the board. No member shall be elected as an officer until such member has served at least one year on the board. No member elected chairman shall serve consecutive terms and no member may serve as chairman more than two terms. No chairman shall serve as vice chairman in the term following his term as chairman. The board may establish rules and regulations for its own governance and the administration of

the affairs of the board. The board may disqualify any appointed member for cause, including excessive absences from board meetings. A vacancy occurring on the board for any reason shall be filled in the same manner as the original appointment was made. However, members appointed to fill the vacancies shall serve only for the unexpired term of their predecessors.

C. The presence of seven members of the board shall constitute a quorum for the transaction of all business and the carrying out of duties of the board. Each member shall take and subscribe to the oath of office prescribed for state officers. The members of the board shall serve without compensation; however, the members may receive the same reimbursement for travel expenses for attending meetings as is allowed for state employee travel.

D.(1) The board shall maintain a record of its proceedings, and all matters requiring a vote of the board shall be recorded in the minutes in sufficient detail to determine whether subsequent action thereon is in compliance with the board's directives.

(2) At the end of each state fiscal year, the board shall submit to the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs a report that describes the accomplishments and contributions of the board toward achieving the mission of promoting Louisiana seafood, and shall include in such report the budget of the board for that fiscal year and for the following fiscal year. The annual management and programmatic analysis report submitted to the legislature in accordance with R.S. 36:8 shall satisfy this requirement.

E. The lieutenant governor may appoint an executive director from a list of nominees submitted by the board. The executive director shall serve at the pleasure of the lieutenant governor and shall receive such salary fixed by the lieutenant governor. The executive director shall serve as the executive and administrative staff of the board and shall discharge all operational, maintenance, administrative, and executive functions of the board, subject to the control, jurisdiction, and supervision of the secretary of the Department of Culture, Recreation and Tourism. The executive director may employ such other personnel for the board as he deems necessary and appropriate, including an assistant director who may be in the unclassified service, subject to approval by the secretary of the Department of Culture, Recreation and Tourism.

F.(1) The terms of all members serving on the board shall expire at midnight on December 31, 2012. Appointments for terms beginning on January 1, 2013, shall be made as follows:

(a) The terms of the members appointed pursuant to Subparagraphs (A)(2)(a) and (b), and (A)(3)(b) and (h) of this Section shall be for three years.

(b) The terms of the members appointed pursuant to Subparagraphs (A)(2)(c), (A)(3)(e),(f), and (g) of this Section shall be for one year.

(c) The term of the members appointed pursuant to Subparagraphs (A)(2)(d) and (e) and (A)(3)(a), (c), and (d) of this Section shall be for two years.

(2) At the end of each term set forth in Paragraph (1) of this Subsection, the members appointed thereafter shall serve a term of four years.

(3) At the first regularly scheduled meeting of the board after January 1, 2013, the board shall adopt rules and bylaws which shall be submitted no later than thirty days after their adoption to the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs for approval by the committees. The rules and bylaws shall not go into effect until the committees approve of such rules and bylaws.

RS 56:578.3 — Powers, duties, and functions

- (3) To identify marketing problems, obstacles, and significant issues.
- (4) To establish a marketing policy and goals and objectives therefor.
- (5) To develop markets and marketing strategies for the development of new and expanded markets for Louisiana seafood.
- (6) To give special emphasis to market promotion and development for underutilized species of Louisiana seafood.
- (7) To educate the Louisiana fishing industry and Louisiana government officials regarding potential markets for Louisiana seafood and regarding investment and tax incentives available to industries under other existing Louisiana law and fisheries development programs available under federal law.
- (8) To perform any acts deemed necessary and proper to carry out the duties and responsibilities imposed upon the board by the provisions of this Subpart.
- (9) To consider and to recommend to the legislature a mechanism whereby the Louisiana Seafood Promotion and Marketing Board shall be funded, including rules and regulations pertinent thereto.
- (10) To adopt rules and regulations necessary to carry out the purposes of the board.

RS 56:578.4 — Advertising, contracts, and sales offices

ting the increased consumption of Louisiana seafood, and may contract for any advertising, publicity, and sales promotion services. The board, with the approval of the Department of Culture, Recreation and Tourism, is further empowered to take any other action which it deems necessary to promote and to improve the well-being of the commercial seafood industry. The secretary is hereby authorized and empowered to carry out any and all contracts entered into by the board.

RS 56:578.7 — Appropriations; warrants; records

e programs and purposes provided for in this Subpart. The Department of Culture, Recreation and Tourism shall maintain records of the sources of money received and the purpose therefor, as well as the person or persons to whom money is paid and the purpose therefor. Vouchers or receipts shall be kept for all money paid out. Money appropriated or otherwise made available to the department for authorized purposes shall be withdrawn from the treasury on warrant of the secretary of the department.

RS 56:578.9 — Approval of regulations

n, and International Affairs.

RS 56:578.10 — Seafood packaging regulations

standards for the packaging of seafood in Louisiana for wholesale or retail sale. Those standards may govern the quality, contents, and weight of all seafood packaged in this state. The Louisiana Seafood Promotion and Marketing Board may make recommendations to the secretary for standards for the packaging of seafood. For purposes of this Section, retail sale shall not include food service establishments which only serve food prepared for on premises or off premises consumption as defined by R.S. 40:5.5(E).

RS 56:578.11 — Labeling of catfish packaging; possession and exchange of certain

ll, purchase, trade, or exchange any catfish or catfish product

unless such catfish or catfish product is labeled to indicate that the fish is farm-raised or naturally produced (wild). When catfish fillets are possessed for

retail sale, labeling as required by this Subsection shall be easily visible.

B.(1) No person shall possess, sell, purchase, trade, barter, or exchange or attempt to sell, purchase, barter, or exchange any species of fish as catfish or catfish product unless that catfish is within the family of Ictaluridae, Ariidae, or Loricariidae.

(2) Fish within the family Pangasiidae shall not be possessed, sold, purchased, bartered, traded, or exchanged as catfish or a catfish product.

C. Violation of this Section shall be a class four violation.

D. As used in this Section, "farm-raised" means produced using the aquacultural procedure whereby catfish are propagated, maintained, reared, and harvested within artificial reservoirs, tanks, cages, impoundments, or other controlled environments, so as to prevent, at all times, the ingress or egress of animal and plant life from public waters including natural streams or lakes.

"Farm-raised" shall not include the production and harvesting of catfish in cages or other enclosures located in natural streams or rivers.

RS 56:578.13 — Labeling of "crawfish"

(*Procambarus zonangulus*)

, or Louisiana pond-raised crawfish.

B. Any violation of the labeling requirements shall subject the distributor or packager to the penalties provided in R.S. 56:578.10(B).

RS 56:578.15 — Louisiana Wild Seafood Certification Program

fish, as defined in R.S. 56:8, and

for Louisiana wild seafood products, including wild-caught shrimp, which are taken, harvested, or landed in Louisiana. The program shall be established through the promulgation and adoption of certification standards in accordance with the Administrative Procedure Act. Such standards may include but are not limited to harvest requirements, post-harvest refrigeration requirements, quality standards, handling practices, traceability, branding and branding registrations, recording requirements, compliance standards, and packaging regulations. The secretary may develop and regulate certification protocols, programs, and establish regulatory authority in cooperation with the Louisiana Department of Agriculture and Forestry, Louisiana Department of Health, Louisiana State University, and any other state or federal agency deemed appropriate.

B. All seafood product intended to be marketed as Louisiana Wild Seafood certified must meet all criteria and requirements as set out in the department's rules and regulations. Any product sold or attempted to be sold under the auspices of the Louisiana Wild Seafood Certification Program which is in violation of the rules and regulations shall be immediately removed from the market and the disposition of such product shall be delineated in the rules and regulations adopted to establish the program.

C. Any fisherman or seafood dealer who wishes to participate in the Louisiana Wild Seafood Certification Program shall apply to the department to be issued a participation permit by the department. This permit may be suspended or revoked by the department for violation of the provisions of the program. Any holder of such permit who harvests or

markets Louisiana wild fish or wild seafood products in accordance with the requirements of the Louisiana Wild Seafood Certification Program shall be authorized to market said product under the auspices of the Louisiana Wild Seafood Certification Program.

RS 56:580.1 — Repealed by Acts 2001, No. 1137, §1.

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RS 56:580.2 — Repealed by Acts 2001, No. 1137, §1.

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RS 56:580.3 — Repealed by Acts 2001, No. 1137, §1.

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RS 56:580.4 — Repealed by Acts 2001, No. 1137, §1.

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RS 56:580.5 — Repealed by Acts 2001, No. 1137, §1.

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RS 56:580.6 — Repealed by Acts 2001, No. 1137, §1.

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RS 56:581 — Expropriation of lands

priation, any lands necessary for public use as a hatchery lying adjacent to any property belonging to the department or to the state in the possession of the department.

RS 56:582 — Distribution of fish

tion shall be made under rules and regulations provided by the secretary.

RS 56:583 — Federal fish hatchery

operations connected therewith in Louisiana in connection with a federal fish hatchery to be located in the state as authorized by the congress of the United States, in any manner and at any time considered by them to be necessary and proper, after consultation with the commission.

RS 56:612 — Control of station; rules and regulations; donations; acquisition of property

and management.

(2) Accept donations of money or property for the benefit and use of the station, including funds appropriated by the state, and disburse these for necessary expenses.

(3) Acquire lands necessary for the extension or improvement of the station.

(4) Fish unmolested in any of the waters of state with dredging apparatus, seines, nets, trawls, beam trawls (butterfly nets or wingnets), and all other instruments and apparatus for the sole purpose of obtaining the materials needed in the prosecution of the purposes and necessary investigations in the direction of the scientific objects for which this station is established.

The secretary shall, in general, have all power and authority necessary to carry out the purposes and objects of this Subpart, namely, investigating the flora and fauna of the Gulf of Mexico and the waters adjacent thereto.

RS 56:613 — Location; cooperation with federal agencies

ffer its facilities, under proper regulations, to special investigation and students in the biologic sciences. He shall publish the results of any investigations that may be of value in the development of the biologic resources of the state.

RS 56:631 — Funds dedicated

efuges, public shooting grounds or outdoor recreation areas, all revenue derived from trapping leases or the sale of furs or mineral leases or exploitation in any way of the mineral resources of any such lands under the jurisdiction of the

commission are dedicated to the commission, to be used for the protection, maintenance, operation, and development of such areas or for the acquisition of other such areas.

RS 56:632 — Powers and duties

ate biological data or other technical information that indicated such species would interfere with the state's natural ecosystem.

B. The commission shall have the authority to set seasons, establish harvest restrictions, and adopt other rules and regulations that it deems necessary to manage Louisiana's reptile and amphibian resources.

RS 56:632.1 — Definitions; applicability

(1) "Amphibian" means any vertebrate in the class Amphibia, including but not limited to frogs, toads, and salamanders.

(2) "Native reptiles and amphibians" means any species or subspecies of reptile or amphibian indigenous to the state of Louisiana or any alien species or subspecies of reptile or amphibian that has been introduced and established in Louisiana.

(3) "Reptile" means any vertebrate in the class Reptilia, except the alligator, including but not limited to turtles, lizards, and snakes.

RS 56:632.2 — Limitations of law

regardless of age.

RS 56:632.3 — Licenses

reational fishing license.

(2) A nonresident must possess a basic nonresident fishing license.

B. A violation of this Section is a class one violation.

RS 56:632.4 — Reptile and amphibian collector's license; scientific collector's permit

f the following licenses:

(1) A resident must possess a resident collector's license at a cost of fifty-five dollars.

(2) A nonresident must possess a nonresident collector's license at a cost of four hundred twenty dollars.

(3) Residents under eighteen years of age shall be required to possess a collector's license at a cost of ten dollars.

B. Persons engaged in legitimate herpetological research may request from the secretary a scientific collector's permit. No fee shall be charged for such a permit. No specimens obtained under this permit may be sold.

C. A violation of this Section is a class three violation.

RS 56:632.5 — Reptile and amphibian wholesale/retail dealer's license; nonresident three-day

propagation for sale, any live species of native reptile or amphibian,

except farm raised aquatic chelonians, or any live species of poisonous snake or constrictor,

as delineated in R.S. 56:632.5.1, in Louisiana, from within or outside the state, for sale, or

resale, whether on a commission basis or otherwise, is a wholesale/retail reptile amphibian

dealer and shall possess a reptile and amphibian wholesale/retail dealer's license at a cost of two hundred twenty dollars for a resident and eight hundred eighty dollars for a nonresident.

B. All persons selling native, captive-reared reptiles or amphibians, regardless of the number of generations removed from the wild, shall be required to possess a reptile and amphibian wholesale/retail dealer's license.

C. Individual employees of reptile and amphibian wholesale/retail dealers are not

required to obtain a reptile and amphibian wholesale/retail dealer's license when transacting the business of the reptile and amphibian wholesale/retail dealer on the premises of the place of business, but any employee or person buying, acquiring, handling, or selling reptiles or amphibians as a wholesale/retail dealer or for a wholesale/retail dealer at any place other than on the premises of the place of business, must obtain a reptile and amphibian wholesale/retail dealer's license.

D. The provisions of this Section shall not apply to a person transporting reptiles and amphibians under the privilege of a Louisiana reptile and amphibian wholesale/retail dealer's license when that person buys reptiles and amphibians for or on behalf of the reptile and amphibian wholesale/retail dealer to whom such transport license was issued and only transports such reptiles and amphibians to that wholesale/retail dealer.

E. In lieu of the regular nonresident wholesale/retail dealer's license, nonresidents may purchase a three-day reptile and amphibian wholesale/retail dealer's license for a fee of one hundred fifty dollars. The three-day license shall be valid only for three consecutive days.

F. A violation of this Section is a class three violation.

RS 56:632.5.1 — Constrictors and poisonous snakes

apuan python), *Liasis olivacea*, (Olive python), *Morelia spilota* (Carpet or Diamond python), *Morelia kinghorni* (Scrub python), *Morelia amethystina* (Amethystine python), *Python natalensis* (Southern African python), *Python sebae* (African Rock python), *Python molurus* (Indian or Burmese python), *Python reticulatus* (Reticulate python), any species of the genus *Boa* (*Boa constrictors*), and any species of the genus *Eunectes* (Anacondas), obtained in any manner, shall be only by permit issued by the Department of Wildlife and Fisheries except for animals kept by animal sanctuaries, zoos, aquariums, wildlife research centers, scientific organizations, and medical research facilities as defined in the Animal Welfare Act as found in the United States Code Title 7, Chapter 54, 2132(e).

B. The importation or private possession of venomous snakes, including any species under current taxonomic standing recognized to belong to the Families Viperidae (Pitvipers and Vipers), Elapidae (Cobras and Mambas), Hydrophiidae (Sea Snakes), Atractaspididae (Mole Vipers), as well as the genera *Dispholidus*, *Thelotornis*, and *Rhabdophis* of the Family Colubridae obtained in any manner, shall be only by permit issued by the Department of Wildlife and Fisheries except for animals kept by animal sanctuaries, zoos, aquariums, wildlife research centers, scientific organizations, and medical research facilities as defined in the Animal Welfare Act as found in the United States Code Title 7, Chapter 54, 2132(e).

C. The Louisiana Wildlife and Fisheries Commission is authorized to adopt rules and regulations for the harvest, possession, sale, handling, housing, or importation for species of constrictors and poisonous snakes.

D. Violation of the provisions of this Section or rules adopted pursuant thereto shall constitute a class three violation as provided for in R.S. 56:33.

RS 56:632.6 — Methods of collection

tion of natural habitats is prohibited. All logs, rocks, and other natural objects may be turned over or moved, but they must be replaced in their original position upon completion of the collector's inspection.

C. Any trap or other device designed to capture reptiles or amphibians, which remains in the field unattended, must bear a tag with the name, address, and license number of the collector. All such devices must be checked every twenty-four hours or they must be rendered unworkable during periods of nonuse.

D. A violation of this Section is a class one violation.

RS 56:632.7 — License fee dedication

Fund in accordance with R.S. 56:10.

RS 56:632.9 — Transporter; license required; license fee; prohibitions; number of licenses;

except common

carriers, who are in the act of loading, unloading, or transporting reptiles or amphibians shall have in their possession at least one of the following licenses:

- (1) A reptile and amphibian collector's license.
- (2) A reptile and amphibian wholesale/retail dealer's license.
- (3) A reptile and amphibian transport license.

B.(1) The cost of a reptile and amphibian transport license is sixty-five dollars per vehicle for a resident and two hundred fifty dollars per vehicle for a nonresident and can be purchased only by a person holding a valid Louisiana reptile and amphibian collector's license or valid Louisiana reptile and amphibian wholesale/retail dealer's license.

(2) The reptile and amphibian transport license shall be in the name of and bear the license number of the purchaser and shall state "Reptile and Amphibian Transport License".

(3) The reptile and amphibian transport license may be applied for in the same manner and is valid for the same one-year period as that of the purchaser's license.

C.(1) A person transporting reptiles or amphibians under privilege of a transport license is prohibited from buying or selling, by any means whatsoever, any species of reptile or amphibian.

(2) The provisions of this Section shall not apply to a person transporting reptiles or amphibians under the privilege of a Louisiana reptile and amphibian transport license purchased in connection with a Louisiana reptile and amphibian wholesale/retail dealer's license when that person buys reptiles or amphibians for or on behalf of the reptile and amphibian wholesale/retail dealer to whom such transport license was issued and only transports such reptiles or amphibians to that reptile and amphibian wholesale/retail dealer.

D. A validly licensed reptile and amphibian collector or reptile and amphibian wholesale/retail dealer may purchase any number of reptile and amphibian transport licenses.

E. Transport licenses are freely transferable between vehicles, but the reptile and amphibian licensee remains responsible for all activities taking place under authority of that license.

F. Common carriers are exempted from the license provisions of this Section, but are required to comply with other provisions of this Section.

G. Shipments containing reptiles or amphibians shall be plainly marked and the tags or certificates shall show the names of the consignor and the consignee, with an itemized statement of each kind contained therein. Bills of lading issued by a common carrier for such shipments shall state the number of packages that contain reptiles or amphibians. Shipments of reptiles or amphibians of any species ordinarily used for human consumption made to points outside the state, other than by common carrier, shall be registered by the owner or his agent at some port of exit established by the commission and shall be inspected.

H. Information, data, and statistics obtained by the department pursuant to this Section shall be used for the equitable and efficient administration and enforcement of the laws pertaining to the reptile or amphibian resources of the state and for conservation and management purposes.

I. The department shall draft regulations prescribing procedures to preserve the confidentiality of all reptile or amphibian dependent data, information or statistics submitted or collected pursuant to the provisions of this Subpart, for approval by the Wildlife and Fisheries Commission and promulgation in accordance with the Administrative Procedure Act.

J. Violation of any provision of this Section constitutes a class two violation.

RS 56:634 — Frogs; season; jacklights; restrictions on taking

s. A person is also permitted to take frogs

with devices that puncture the skin such as gigs and spears.

B. Bullfrogs (*Rana catesbeiana*) and lagoon frogs or grunners (*Rana grylio*) may be taken year round except during the months of April and May.

C. No person shall take or possess large bullfrogs (*Rana catesbeiana*) that are less than five inches in length, nor take or possess lagoon frogs or grunners (*Rana grylio*) that are less than three inches in length. The length is measured from the tip of the muzzle to the posterior end of the body between the hind legs. However, if a special permit is obtained from the department prior to the taking, such frogs under the legal size may be taken from privately owned ponds, impoundments, or waters by the owner thereof or his authorized representative and may be sold to other persons for purposes of stocking private waters, ponds, or impoundments.

D. A violation of this Section shall constitute a class three violation, R.S. 56:33.

RS 56:635 — Diamondback terrapins; trapping; turtle eggs

ear (*Trachemys Scripta*), wherever found.

B. No person shall ship diamondback terrapins out of the state between the fifteenth of April and the fifteenth of June. All diamondback terrapins caught by any means whatsoever during that period shall be immediately returned to the water alive.

RS 56:636 — License requirements; possession; nontransferability

cluding wholesale/retail dealers and transporters shall be licensed in accordance with this Subpart.

B. Persons engaged in an activity for which a license is required shall have in their immediate possession a valid, original license and shall show such license upon demand to a duly authorized agent of the department.

C. Except as provided in this Subpart, licenses cannot be assigned or transferred or used by any other person. An officer authorized to enforce the provisions of this Subpart shall take possession of any license found in the possession of any person other than the one to whom issued and shall deliver it to the department for cancellation. The license is thereupon void.

D. The following applies to all licenses required by this Subpart:

(1) No license may be issued until all information requested is supplied to the issuing agent.

(2) Forms of acceptable payment for licenses shall be determined by the department.

(3) No resident license may be issued prior to proof of Louisiana residency by the applicant.

(4) The issuance of a license is conditional upon validation of all information on the application. If the department finds any material misstatement of fact regarding the residency of the applicant, the license is void and shall be immediately surrendered to an agent of the department.

E. A violation of this Section is a class two violation.

RS 56:637 — Records

es

or amphibians were acquired, and the name and license number of the collector, the wholesale/retail dealer, or the out-of-state seller from which the reptiles or amphibians were acquired.

(2) The quantity and species of reptiles or amphibians sold, the date sold, and the name and license number of the person to whom the reptiles or amphibians were sold. When the reptiles or amphibians are sold to the consumer, the records shall indicate the quantity, species, and date and shall state that the reptiles or amphibians were sold to the consumer.

B. Records required by this Section shall be maintained for three years and shall be open to inspection by the department.

C. All information, data, and statistics obtained by the department pursuant to this Section shall be used for the equitable and efficient administration and enforcement of the laws pertaining to the reptile and amphibian resources of the state and for conservation and management purposes.

D. The names, addresses, and license numbers of the collectors shall remain confidential, provided such information shall be available and used by the department for administrative and enforcement purposes.

E. Any wholesale/retail dealer who purchases reptiles or amphibians shall complete a commercial receipt form and return all commercial receipt forms to the department in the same manner as provided in R.S. 56:306.5(B) and 306.6.

RS 56:637.1 — Definitions; applicability

es a different meaning:

(1) "Box turtle" means any species of the genus *Terrapene*, that is indigenous to the state of Louisiana. This includes any hybrids of these species. All box turtles in Louisiana shall be deemed to be native to Louisiana.

(2) "Farm raised box turtle" means any box turtle that was hatched and raised on a turtle farm.

(3) "Turtle farm" means any pet turtle farm that is located and operating inside the state of Louisiana that is also licensed by the Department of Agriculture and Forestry to do business in this state.

(4) "Wild box turtle" means any box turtle not hatched and raised on a turtle farm. A box turtle shall be considered as wild unless a valid bill of sale, clearly demonstrating it to be a farm raised box turtle, is produced.

B. Administration; enforcement; penalties

(1) Commercial use of box turtles:

(a) With the exception of farm raised box turtles, no box turtle, no box turtle egg, or any part of a box turtle shall be sold, traded, or otherwise entered into commerce.

(b) There shall be no taking of wild box turtles for commercial purposes.

(c) Except as provided in Paragraph (2) of this Subsection, any violation of this Section shall be a class four violation, R.S. 56:34.

(2) Recreational use of wild box turtles. No more than two wild box

turtles per day may be taken for recreational purposes, and no person shall have in his or her possession more than four box turtles at any time. A violation of this Paragraph shall constitute a class one violation, R.S. 56:31.

RS 56:638.1 — Fish conservation, management, and sustainability; legislative intent

recreational and commercial pursuits resulting in conflicts over limited space and competition for the same fish, and acknowledging that both the sport and commercial fishing industries are vital to the economy of the coastal region and the entire state, the fishery standards for conservation, management, and sustainability of all species of fish are hereby declared to be fair and in the best interest of the state.

RS 56:638.2 — Findings

to the food supply, economy, and health of the state and recreational opportunities. With proper regulations of the harvest by fishermen, coupled with protection and enhancement of their freshwater, saltwater, and estuarine habitat, Louisiana's fish resources should be available to provide these benefits to the state indefinitely.

- (2) As a consequence of increased fishing pressure or other factors and because of the limitations of fish conservation, management, and sustainability practices, certain stocks of fish may have been or will become overfished.
- (3) The future productivity of renewable fish resources and their supporting habitats may be seriously jeopardized as a consequence of the continued loss of Louisiana coastal wetlands, or because of human actions affecting the functionality and value of the state's renewable fish resources and their supporting habitats.
- (4) Both commercial and recreational fishing constitute a major source of employment and contribute significantly to the economy of the state. Many coastal areas are dependent upon such fishing and related activities and their economies have been damaged by pollution, habitat degradation, or overfishing.
- (5) Fish resources are finite but renewable. If timely placed under sound management, the fisheries can be conserved and maintained so as to provide optimum and sustainable yields on a continuing basis.
- (6) A strong state program for the wise conservation, management, and sustainability of the fish resources of Louisiana is necessary to maintain plentiful fish populations, to prevent overfishing, to rebuild reduced stocks, to ensure conservation, and to realize their full potential.
- (7) The safe development or improvement of fisheries that are not fully or properly utilized by the Louisiana commercial and recreational fishermen and fishing industries should help to ensure that Louisiana benefits from the employment, food supply, recreation, and social and economic benefit that could be maintained or generated thereby, if pursued in such a fashion that is socially, scientifically, economically, anthropologically, and biologically sound for the state, the species, any related species, and their supporting habitats.
- (8) A strong state program is necessary to advocate the importance of the functionality and value of Louisiana's waters and coastal wetlands as estuary and habitat for fish resources, the social and economic value of these resources to the state and the nation, and the need to actively seek to avoid any net loss of this functionality and value.

RS 56:638.3 — Purposes

the use of sound conservation, management, and sustainability principles in the regulation of commercial and recreational fishing.

- (3) Actively advocate, on behalf of the fish constituency, improvement of or no net loss of the functionality and value of the fisheries' habitat and estuary.
- (4) Provide for the preparation and implementation of fish management plans, including plans for habitats, estuaries, and their supporting ecosystems, in accordance with this policy that will prevent overfishing and will achieve and maintain plentiful fish populations to ensure, on a continuing basis, the optimum yield from each fishery while ensuring its sustainability.
- (5) Recognize that fish populations are subject to both natural and man-induced increases and decreases, and that changes in harvest levels may need to be recommended. If changes are required, these increases and decreases should be distributed among all fishermen in a fair and equitable manner that considers among other factors historical usage, ensuring that no historical user groups will be arbitrarily excluded.

B. A sustainable fishery is one that is scientifically monitored and actively managed to be viable today and in the future, conserving fish and their environment and supporting the communities and economies that depend upon these resources.

RS 56:638.4 — Policy

undance of the resource and its habitat, shall provide for optimum sustained benefits to the state, shall be responsive to the needs of interested and affected citizens, shall ensure the proper and fair utilization of these resources for the citizens of the state in present and future generations, shall preserve the state's exclusive right to manage the fisheries within or beyond its jurisdiction, shall be based on the best scientific and technical information available. In addition, such stewardship of the state's fish resources shall draw upon federal, state, and academic capabilities and promote efficiency in carrying out research, administration, management, and enforcement.

RS 56:638.5 — Fishery standards

ing, conservation, management, and sustainability of all species of fish, in accordance with the following standards:

- (1) Conservation, management, and sustainability measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield while maintaining healthy, plentiful stocks. In fact, every effort will be made at all times to prevent a harvest from exceeding the safe upper limit of harvests which can be taken consistently year after year without diminishing the stocks so that the stock is truly inexhaustible and perpetually renewable.
- (2) Conservation, management, and sustainability measures shall be based upon the best scientific, economic, biological, anthropological, and sociological information available.
- (3) To the extent practicable, an individual stock or unit of fish shall be managed as a unit throughout its range within the state's jurisdictional authority and interrelated stocks of fish and other renewable fish resources shall be managed in close coordination while considering their supporting habitats.
- (4) If it becomes necessary to allocate or assign fishing privileges among various fishermen, such allocations to the extent practicable shall be:
 - (a) Fair and equitable to all such fishermen.
 - (b) Reasonably calculated to promote conservation.
 - (c) Carried out in such a manner that no particular individual, corporation, or other legal entity acquires an excessive share of such privileges.
 - (d) In the best interest of the citizens of Louisiana.
- (5) Conservation, management, and sustainability measures shall, where practicable, promote efficiency in the conservation, management, and sustainability of fish resources; except that no such measure shall have economic allocation as its sole purpose.
- (6) Conservation, management, and sustainability measures shall, where practicable, minimize costs and avoid unnecessary duplication.
- (7) Conservation, management, and sustainability measures may take into account and allow for variations among, and contingencies in, fisheries, resources, and catches.

RS 56:639.1 — Title

ical difficulties navigating this website,

RS 56:639.2 — Purposes

Subpart and in compliance with the National Fishing Enhancement Act. It is the further purpose of this Subpart to provide for the jurisdiction and cooperation of various state agencies in the implementation of any plan or program developed pursuant to this Subpart.

RS 56:639.3 — Definitions

structure or system of structures which is constructed, placed, or permitted in waters covered under this Subpart for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities.

- (2) "CCEER" means Center for Coastal, Energy, and Environmental Resources.
- (3) "Department" means the Louisiana Department of Wildlife and Fisheries.
- (4) REPEALED BY ACTS 1993, NO. 271, §2.
- (5) "Initiative" means the Artificial Reef Initiative at Louisiana State University, which is developing a Louisiana Artificial Reef Development Plan.
- (6) "National Fishing Enhancement Act" means the federal artificial reef development legislation, PL 98-623, Title II.
- (7) "Reef materials" means any materials allowed under the National Artificial Reef Plan, adopted pursuant to the National Fishing Enhancement Act for construction of artificial reefs.
- (8) "Secretary" means the secretary of the Louisiana Department of Wildlife and Fisheries.
- (9) "Waters covered under this Subpart" means the navigable waters of Louisiana and waters of the federal exclusive economic zone adjacent to Louisiana waters.
- (10) REPEALED BY ACTS 1993, NO. 271, §2.
- (11) "Sea Grant" means the Louisiana Sea Grant College Program.

RS 56:639.4 — Establishment of standards

information available, and in a manner which shall:

- (1) Enhance and conserve fishery resources to the maximum extent practicable.
- (2) Facilitate access and utilization by Louisiana recreational and commercial user groups.
- (3) Minimize conflicts among competing uses of waters covered under this Subpart and the resources in such waters.
- (4) Minimize environmental risks and risks to personal and public health and property.
- (5) Be consistent with generally accepted principles of international law and national fishing law, and not create any unreasonable obstructions to navigation.

RS 56:639.5 — Artificial Reef Development Program; authorities and responsibilities of cooperating agencies

program", to promote, develop, maintain, monitor, and enhance the artificial reef potential in the waters covered under this Subpart. The department, CCEER, and Sea Grant shall be primary participants in this program and shall operate out of the Artificial Reef Development Fund under the direction of the department.

B.(1) The department shall administer and enforce the program as provided in this Subpart and in accordance with the National Fishing Enhancement Act. The department shall:

- (a) Plan and review permit applications with advice from CCEER.
 - (b) Coordinate with relevant state and federal agencies.
 - (c) Hold joint public hearings on proposed reefs.
 - (d) Oversee maintenance and placement requirements of the reefs.
 - (e) Develop additional technical information needed to carry out the program.
- (2) The department shall also serve as liaison with the United States Department of the Interior regarding interaction of the program with federal outercontinental shelf leasing and production activities.
- C. CCEER shall provide technical support to the department for program development. CCEER shall additionally:
- (1) Prepare, update, and provide the department with technical, biological, and operational criteria for site selection and development.
 - (2) Assist the department in preparing permit applications for artificial reefs.
 - (3) Assist in biological monitoring.
 - (4) Evaluate and recommend reef sites.
 - (5) Evaluate reef potential and design.
 - (6) Update exclusion mapping.
 - (7) Promote public awareness of the program.

(8) Provide geotechnical support for reef siting by determining bottom suitability and identifying geologic hazards, evaluating the potential for future oil, gas, and other mineral production in reef sites, and by analyzing the potential for using artificial reefs to supplement the state's coastal protection efforts.

D. ~~REPEALED BY ACTS 1993, NO. 271, §2.~~

E. The Louisiana Sea Grant College Program shall coordinate fisheries research projects that might be proposed by Louisiana universities to support the program.

RS 56:639.6 — Louisiana Artificial Reef Development Council

shall be within the Louisiana Department of Wildlife and Fisheries. The council will be composed of the secretary of the Department of Wildlife and Fisheries, the executive director of CCEER, and the executive director of Sea Grant, or their designees. The council shall select a chairman.

B. The council is empowered to oversee development and implementation of the Louisiana Artificial Reef Development Plan. The council is charged with providing guidance to the department on policy and procedural matters concerning the program and shall make recommendations to the department regarding the allocation of funds to various program components.

RS 56:639.7 — Preparation of the Louisiana Artificial Reef Development Plan

after called the "plan", within one year of the effective date of this Subpart.

B. The initiative shall present the plan to the council for approval. Upon unanimous approval by the council, and after review by the department, the plan shall be presented by October 1, 1987, to the House and Senate Natural Resources Committees for their approval.

C. All artificial reefs developed in state waters shall be consistent with the approved plan. State agency comments and recommendations on artificial reefs in federal waters shall also be consistent with the approved plan.

D. The plan shall include:

- (1) Operational guidelines for the program, including specific participant roles and projected funding requirements for program elements.
- (2) Geographic, hydrographic, geological, biological, ecological, social, economic, and other criteria for permitting and siting artificial reefs.
- (3) Design, material, and other criteria for establishing, constructing, and maintaining artificial reefs.
- (4) Mechanisms and methodologies for monitoring artificial reefs in compliance with the requirements of permits issued under Section 205 of the National Fishing Act.
- (5) Mechanisms and methodologies for managing the use of artificial reefs.
- (6) An exclusionary map which depicts priority areas for artificial reef development consistent with this Subpart and the National Fishing Enhancement Act.
- (7) Provisions for updating the plan based on findings of the Artificial Reef Development Program.
- (8) Provisions for managing the Reef Fund in a manner which will assure successful program implementation.

RS 56:639.8 — Department of Wildlife and Fisheries; Artificial Reef Development Fund

f assistance from private and public sources which are provided to the state for the purpose of siting, designing, constructing, monitoring, and otherwise managing an artificial reef system.

B. Any funds received by the department pursuant to the provisions and purposes of this Subpart shall be deposited immediately upon receipt into the state treasury.

C. There is hereby established a fund in the state treasury to be known as the Artificial Reef Development Fund, hereinafter referred to as the "Reef Fund" or "fund", into which the state treasurer shall each fiscal year, and beginning with the 1986-1987 Fiscal Year, deposit the funds received as provided in Subsections A and B of this Section, after

those revenues have been deposited in the Bond Security and Redemption Fund. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state that become due and payable within each fiscal year, the treasurer, prior to placing such funds in the state general fund, shall pay into the Reef Fund an amount equal to the funds deposited by the department into the treasury as provided in Subsection B. The monies in the Reef Fund shall be used solely as provided by Subsection E herein and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in the Reef Fund at the end of the fiscal year shall remain in the fund. The monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to the fund, again, following compliance with the requirement of Article VII, Section 9(B) of the Constitution of Louisiana, relative to the Bond Security and Redemption Fund.

D. The council shall review and comment on proposed expenditures from the fund at the time of budget preparation by the department. The department shall maintain records of the sources of money received and the purpose therefor, as well as the person or persons to whom money is paid and the purpose therefor. Vouchers or receipts shall be kept for all money paid out. The department shall employ such personnel as are necessary to meet the department's responsibilities under the program. The department shall allocate from the fund an amount sufficient to pay the salaries of personnel assigned to or responsible for the conduct of the program and shall allocate such amount as necessary for related operating expenses. Money appropriated or otherwise made available to the participants in the program for authorized purposes shall be withdrawn from the treasury on warrant of the secretary or his designee.

E.(1) Monies may be withdrawn directly from the Reef Fund for the operation of the program as described in R.S. 56:639.5, including evaluation of the program and administrative and field support for the permitting, establishing, monitoring, and maintenance of artificial reefs established pursuant to this Subpart until such time that the council determines that the annual interest earnings from the fund are sufficient to run the program.

(2) In addition to the expenditures authorized in Paragraph (1) of this Subsection, an amount not to exceed ten percent of the funds deposited to the fund each year and ten percent of the interest income to the fund may be used by the department to provide funding in association with the wild seafood certification program, particularly in support of wild-caught shrimp, established by the department. Such funding may be used for a subsidy granted to seafood harvesters or processors to assist in their efforts to comply with the certification program requirements and may be used for administration of the program.

(3) Repealed by Acts 2024, 3rd Ex. Sess., No. 13, §9, eff. Dec. 4, 2024.

(4) In addition to the expenditures authorized in Paragraphs (1) and (2) of this Subsection and prior to depositing expenditures authorized in Paragraphs (1) and (2) of this Subsection, an amount not to exceed two million dollars of the fund may be used by the department for the administration and conducting of the saltwater fish stock estimate.

F. The secretary shall insure that the Reef Fund contains sufficient reserves to operate the program in a manner consistent with the state plan.

G. In future years, if interest income exceeds operational costs for the artificial reef program, marine fisheries research and habitat enhancement projects may be funded through the department with advice from the council.

RS 56:639.9 — Permitting for the construction and management of artificial reefs

such reefs are consistent with and established within the guidelines of this Subpart and the National Fishing Enhancement Act. The secretary is hereby empowered to administer and enforce the program for the state of Louisiana.

B. In acquiring necessary federal permits for artificial reefs, the secretary or his designee shall:

(1) Consult with and consider the views of appropriate federal agencies, state, and local governments, and other interested parties.

(2) Ensure that the provisions for siting, constructing, monitoring, maintaining, and managing any artificial reef developed pursuant to this Subpart be consistent with the criteria and standards established under this Subpart and the National Fishing Enhancement Act.

(3) Ensure that title to any artificial reef component or construction material is unambiguous.

(4) Consider the National Artificial Reef Plan developed under Section 204 of the National Fishing Enhancement Act, and notify the secretary of the United States Department of Commerce of any need to deviate from that plan. The secretary of the Department of Wildlife and Fisheries, in consultation with the other members of the council, shall also review and comment on other artificial reef permit applications to insure that artificial reef permits sought by groups other than Louisiana are consistent with the state plan developed under this Subpart and the National Fishing Enhancement Act.

RS 56:639.10 — Liability

and conditions of state and federal permits acquired for reef development.

B. Any person or company who has transferred title of artificial reef construction materials to the state of Louisiana shall not be liable for damages arising from the use of such materials in an artificial reef, if such materials meet applicable requirements of the National Artificial Reef Plan published under Section 204 of the National Fishing Enhancement Act, and United States Department of Interior regulations.

RS 56:640.1 — "Right to Fish" Law

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RS 56:640.2 — Definitions

ving the harvesting, processing, storing, canning, or landing of fish, any operation providing fishery support services, or any piece of equipment used therein, including but not limited to fishing vessels, fishing gear and equipment, processing plants, canning plants, docks, piers, loading areas, landing areas, and ice houses.

(2) "Generally accepted fisheries practices" means any practices conducted in a manner consistent with proper and accepted customs and standards as established and followed by similar fisheries operations in similar communities or locales and under similar circumstances.

RS 56:640.3 — Right to fish; legislation; scientific data

in trust for the benefit of all its citizens.

B. The legislature also recognizes that all citizens of the state have a right to fish in and otherwise enjoy marine waters as long as they are in compliance with current licensing requirements. Furthermore, conservation and management decisions shall be fair and equitable to all the people of the state and implemented in such a manner that no individual, corporation, or other entity acquires an excessive share of such rights and privileges. The right to fish does not convey any property right or ownership in the fishery resource, but rather recognizes continued public access to fishing opportunities in marine waters.

C. The legislature further recognizes that the state's marine fishery resources require proper management in order to be sustained biologically and to continually produce a maximum yield of social and economic benefits. To this end,

restrictions on legal fishing methods to harvest finfish, shrimp, oysters, crabs, and other marine fish species may become necessary.

D. The department shall recommend the elimination or restriction of any fishing gear currently in use or which may be used in recreational or commercial fisheries in implementing its management responsibilities or in response to any emergency situation. While elimination or restriction may have uneven impacts on different groups of fishermen, the proposed measures should be applicable to all people of the state. In addition to acquiring the best available biological data, the department shall use all practicable means to collect all relevant social and economic data in support of such allocation decisionmaking efforts.

RS 56:641 — Exclusive licensing authority; rules and regulations

resources of the state that the department, through its

secretary, shall have authority to provide for the issuance of hunting and fishing licenses through an electronic issuance system.

B. Notwithstanding any other provision of law to the contrary, the secretary shall promulgate rules and regulations to implement an automated license issuance system which includes but is not limited to the following nonexclusive authorization:

- (1) To enter into contracts for the provisions of licensing services.
- (2) To provide for regulations, qualification criteria, and compensation of licensing agents.
- (3) To provide for the funding for an automated license issuance system and related services including license agent commissions.
- (4) To provide for criteria to accept or reject applicants or suspend a licensee.
- (5) To provide for effective license numbers.
- (6) To provide that a license may become effective immediately upon issuance of an effective license number.
- (7) To provide for special lottery-type issues.
- (8) To enter into agreements for any manner of license issuance, distribution, and compensation therefor, including contingency fee contracts.

RS 56:641.2 — Certification of certain not-for-profit organizations involved in charitable hunting

life and Fisheries is hereby authorized to

certify a not-for-profit organization as an "organization involved in charitable hunting and fishing activities". Individuals engaged in hunting or fishing activities conducted by a not-for-profit organization certified by the secretary as an "organization involved in charitable hunting and fishing activities" shall be exempt from the requirement for a hunting or fishing license while engaged in activities sponsored by that organization.

RS 56:644 — Fishing and hunting license checkoff; donation for Hunters for the Hungry

tion shall be made at the time of the purchase of the license and

shall be made upon the license form as prescribed by the secretary.

B. There is hereby created within the Department of Wildlife and Fisheries a special escrow account known as the "Hunters for the Hungry Escrow Account". The escrow account is created to receive deposits of donations for the benefit of Hunters for the Hungry made when an individual purchases a fishing and hunting license, and no public funds shall be deposited into the escrow account. The monies in the escrow account shall be used solely as provided by Subsection C of this Section. All unexpended and unencumbered monies in

this escrow account at the end of the fiscal year shall remain in the escrow account. The monies in the escrow account shall be invested by the state treasurer in the same manner as monies in the state general fund.

C. No more than twenty-five percent of the monies in the escrow account shall be used for administrative costs. The balance shall be used solely by Hunters for the Hungry to pay for the following:

(1) Processing and distribution of commercial or game fish, migratory or resident game bird, game quadruped, alligator, or feral hog when any of these shall be used by a not-for-profit entity or a charitable organization in food or meal distribution at no cost to an individual.

(2) Advertising, promotion, or marketing costs incurred to make the general public aware of the mission of Hunters for the Hungry, including the option to donate money when purchasing a fishing or hunting license.

D. All monies used pursuant to the Hunters for the Hungry Escrow Account shall be subject to audit by the legislative auditor.

E. At the end of each calendar year, Hunters for the Hungry shall submit to the House Natural Resources and Environment Committee and the Senate Committee on Natural Resources a report that at a minimum contains a detailed explanation of the revenues and expenditures of the escrow account, as well as a description of the organization's activities related to the account. The committee may summon any person employed by or associated with Hunters for the Hungry to provide testimony with respect to the report.

F. The state treasurer is hereby authorized and directed to immediately upon creation of the Hunters for the Hungry Escrow Account, transfer the balance in the Hunters for the Hungry Account in the Conservation Fund to the department to be deposited into the Hunters for the Hungry Escrow Account created in this Section.

RS 56:645 — Fishing and hunting license checkoff; donation for veterans with disabilities

d veterans with hunting and fishing licenses. The donation shall be made at the time of the purchase and shall be made upon the license form prescribed by the secretary.

B. There is hereby created within the Department of Wildlife and Fisheries a special escrow account known as the "Louisiana Wildlife and Fisheries Foundation Escrow Account". The escrow account is created to receive deposits of donations made for the benefit of disabled veterans when an individual purchases a fishing and hunting license. No more than ten percent of the monies in the account shall be used for administrative costs. All unexpended and unencumbered monies in this account at the end of the fiscal year shall remain in the account. The monies in the account shall be invested by the state treasurer in the same manner as monies in the state general fund.

C. The monies in the account shall be used solely to purchase hunting and fishing licenses for disabled veterans, including the purchase of a commemorative durable hard card containing such licensing information.

RS 56:647 — Suspension or denial of hunting and fishing license; failure to pay child support, individual income tax, or unemployment compensation overpayment

nce or renewal of a license pursuant to the provisions of this Chapter, all hunting and fishing licenses issued pursuant to this Chapter are also subject to the provisions of R.S. 9:315.30 et seq., suspension of license for nonpayment of child support and R.S. 23:1749.1 et seq., suspension of license for nonpayment of unemployment compensation overpayment.

(2) The Department of Wildlife and Fisheries shall adopt rules and regulations in accordance with the provisions of the Administrative Procedure Act to effectuate the orderly and expeditious suspension and reissuance of hunting and fishing licenses in accordance with R.S. 9:315.30 et seq. and R.S. 23:1749.1 et seq.

B.(1) Regardless of the requirements for the issuance or renewal of a license pursuant to the provisions of this Chapter, all recreational hunting and fishing licenses issued pursuant to this Chapter are also subject to the provisions of R.S. 9:315.40 et seq., revocation of license for nonpayment of child support and R.S. 23:1749.1 et seq., suspension of license for nonpayment of unemployment compensation overpayment.

(2) The Department of Wildlife and Fisheries shall adopt rules and regulations in accordance with the provisions of the Administrative Procedure Act to effectuate the orderly and expeditious suspension and reissuance of recreational hunting and fishing licenses in accordance with R.S. 9:315.40 et seq. and R.S. 23:1749.1 et seq.

C.(1) Regardless of the requirements for the issuance or renewal of a license pursuant to the provisions of this Chapter, all hunting and fishing licenses issued pursuant to this Chapter are also subject to the provisions of R.S. 47:296.3, suspension, revocation, or denial of license for nonpayment of individual income taxes, and any rules and regulations adopted to administer R.S. 47:296.3.

(2) The secretary of the Department of Wildlife and Fisheries, in cooperation with the secretary of the Department of Revenue, shall adopt rules and regulations, in accordance with the provisions of the Administrative Procedure Act, to effectuate the orderly and expeditious suspension, revocation, or denial, and reissuance of hunting and fishing licenses, in accordance with R.S. 47:296.3.

RS 56:648 — Definitions

the acts of travel, camping, or other activity occurring in preparation for the taking which occurs on state-managed lands or waters or which occurs on private lands or waters with the permission of the owner or his agent.

(2) "Wild animal" means any wild creature, including fish, wild birds, and wild quadrupeds, the taking of which is authorized by the provisions of this Title.

RS 56:648.1 — Harassment and disturbance prohibited

trapper, or fisherman has been

given permission by the owner or his agent to take wild animals:

(1) Interfere with the lawful taking of a wild animal by a hunter, trapper, or fisherman or interfere with the process of taking, with intent to prevent the taking.

(2) Disturb a wild animal, or engage in any activity or place any object or substance that will tend to disturb or otherwise affect the behavior of a wild animal, with intent to prevent or hinder its lawful taking.

(3) Disturb any hunter, trapper, or fisherman who is engaged in the lawful taking of a wild animal or who is engaged in the process of taking, with intent to dissuade or otherwise prevent the taking, or to prevent such person's enjoyment of the outdoors.

(4) Enter or remain upon state-managed lands or waters or upon private lands or waters with intent to violate the provisions of this Section.

(5) Enter or remain upon any private property, including nonnavigable water, owned by another through the use of a floating duck blind or any other float or boat used for the purpose of hunting migratory waterfowl without the express, written permission of the landowner, lessee, lessor, or hunting club or organization authorized to hunt on the land.

RS 56:648.2 — Remedies, damages, and penalties

n affected by such conduct.

B. Any person adversely affected by a violation of R.S. 56:648.1 shall be entitled to recover actual damages, including expenditures of the affected person for license and permit fees, travel, guides, special equipment and supplies, to the extent that such expenditures were rendered futile by the actions of the person violating the provisions of this Section.

C. Violation of the provisions of R.S. 56:648.1 constitutes a class two violation.

RS 56:648.3 — Failure to obey order; violation

conduct or who has reasonable grounds to believe that the person has engaged in such conduct on that day or plans or intends to engage in such conduct that day on a specific property.

B. Violation of the provisions of R.S. 56:648.3(A) shall constitute a Class three violation.

RS 56:649 — Purpose

and fishing areas within the state. The legislature further recognizes the desires of many citizens to make a lifetime contribution to preserve our rich legacy of wildlife resources for future generations and to develop and maintain public hunting and fishing areas in this state. In furtherance of these purposes, the legislature herein establishes the Lifetime License Endowment Program, and herein creates the Lifetime License Endowment Trust Fund, and the lifetime hunting and fishing licenses and the combination lifetime hunting and fishing licenses as provided in this Part.

RS 56:649.1 — Lifetime hunting license

ng recreational

hunting licenses: basic hunting, big game, primitive firearms, bow hunting, the Louisiana duck license, the WMA hunting permit, and the wild turkey license. After June 1, 2022, the license shall no longer be sold, but shall continue to provide to any holder privileges in lieu of basic hunting, deer, waterfowl, and turkey hunting licenses and shall permit WMA access.

RS 56:649.2 — Lifetime sports fishing license

in lieu of the following

recreational and sports fishing licenses: basic recreational fishing and saltwater recreational fishing. After June 1, 2022, the license shall no longer be sold, but shall continue to provide to any holder privileges in lieu of a basic fishing, saltwater, crab, and recreational fishing gear licenses and shall permit WMA access for purposes other than hunting.

RS 56:649.3 — Combination lifetime hunting and sports fishing license

ense, which shall entitle the licensee to

all of the privileges of both the lifetime hunting and lifetime sports fishing licenses provided for in R.S. 56:649.1 and 649.2. After June 1, 2022, the license shall be in lieu of basic hunting, deer, waterfowl, and turkey hunting licenses, basic, saltwater, crab, and recreational fishing gear licenses, and shall permit WMA access.

B. For any license purchased prior to June 1, 2022, a combination lifetime hunting and sports fishing license holder shall be entitled to the individual gear license privileges under the recreational gear license as provided in R.S. 56:302.3.

RS 56:649.4 — Nonresident combination lifetime hunting and fishing license

e licensee to all of the privileges of both the lifetime

hunting and lifetime sports fishing licenses provided for in R.S. 56:649.1 and 649.2.

RS 56:649.7 — Infant combination lifetime hunting and fishing license

unting and fishing license which shall entitle

the licensee to all of the privileges conferred by basic hunting, deer, waterfowl, and turkey hunting licenses; basic fishing, saltwater, crab, and recreational fishing gear licenses; and basic wildlife management area access permits.

RS 56:651 — License

pen-raised quail and pen-raised mallard by the public for a fee or otherwise may apply to the Louisiana Wildlife and Fisheries Commission for a license to do so, and said commission is hereby authorized to issue such an applicant a license for that purpose, upon the conditions set out. The licenses for pen-raised mallard shall only be issued to hunting preserves located outside of the coastal zone encompassing the area south of Interstate 10 from the Texas state line to Baton Rouge, south of Interstate 12 from Baton Rouge to Slidell, and south of Interstate 10 from Slidell to the Mississippi state line, with the exception for hunting preserves located within the coastal zone north of Highway 90 that were licensed as a hunting preserve in the 2024 license year.

RS 56:652 — Rights under license

d pen-raised mallard and in addition thereto, import, propagate, possess, and release for shooting or taking on the preserve covered by such license any foreign game bird not a native of the state of Louisiana, if approved by the Louisiana Wildlife and Fisheries Commission.

RS 56:653 — Information to accompany applications; annual fee

ssuance of such license, and shall be further

accompanied by information as to both of the following:

(1) The location and description of the premises, including a legal description of the land.

(2) Copies of parish or ward maps with the area or areas clearly outlined and a description of the facilities thereon, together with the interest of the applicant therein.

B. It shall further be accompanied by information on the applicant as to his place of residence or, if a corporation, the place of incorporation, and the location of its principal place of office, and if a partnership, the names and addresses of each partner, the address of its principal office, together with full details as to the intended operations on said hunting preserve. Also, the applicant shall further furnish to the commission any additional information required or which may be requested by said commission.

RS 56:654 — Conditions

preserve shall consist of not more than 2,000 acres nor less than 100 acres and must be owned or leased by the applicant. In the event the property is under lease to the applicant, said lease shall be for a term of not less than one year from date of application, and such lease is subject to inspection and approval by the commission in the consideration of the granting of such license.

(2) The boundary lines of said premises shall be marked by signs located not more than four hundred feet apart, indicating that they are boundary line signs of the preserve in letters not less than two inches in height.

(3) Only pen-raised mallard or black ducks, at least two generations removed from the wild, or pen-raised quail are approved state game birds which may be used for preserve hunting.

(4) All open-raised quail and pen-raised mallard released on a hunting preserve shall have a band on one leg which shall contain information as to permit number and an identification number. The band must be approved by the commission and shall remain on the bird whether it be removed from the preserve dead or alive until said bird is ready for consumption. All game birds taken from any such hunting preserve must be tagged in a manner as specified and

approved by the commission.

(5) A complete record of all birds propagated, released or taken on said preserve, including complete records of all operations of said preserve, shall be furnished the commission within 60 days after the hunting season has closed.

RS 56:655 — Regulation of operations

and any other rules and regulations on the operation of said hunting preserves as are deemed necessary for the best interest of the public.

RS 56:656 — Hunting and game laws to prevail; special licenses

s hereunder licensed by the Louisiana Wildlife and Fisheries Commission. The regular appropriate hunting licenses as provided by the legislature shall apply to all persons hunting on said preserves, except that should the Louisiana Wildlife and Fisheries Commission so desire, it may provide for a special resident or non-resident license to be issued at a reasonable fee applicable to any particular hunting preserve; provided further that such special license shall apply only to the person to whom issued and to the particular preserve for which issued.

RS 56:657 — Revocation of license; appeal

fail to comply with the provisions of this Part or any other provision by law, rule, or regulation pertaining to game in this state, then, the secretary of the Louisiana Department of Wildlife and Fisheries is hereby empowered to immediately and without notice revoke the license hereunder issued. In the event of a revocation of license by the secretary of the Louisiana Department of Wildlife and Fisheries, the licensee to whom such license was issued may appeal within ninety days the action of the secretary to the Louisiana Wildlife and Fisheries Commission and he shall be given a hearing before said commission for a determination of his rights, which hearing shall be granted upon application by said licensee within ninety days of receipt by said commission of a written request for such hearing. Such appeal for hearing must set out all grounds for such appeal and, upon failure of the appealing licensee to set out proper grounds for such a hearing in such written request, then, the commission may in its discretion deny such hearing, provided that the appealing licensee is so notified within ninety days from the receipt by the commission of his written request.

RS 56:658 — License periods

958, No. 455, §8.

RS 56:659 — Penalties

d, shall constitute a class two violation.

RS 56:671 — Reciprocal agreement; fishing license

hen ratified in writing both by the commission and the authorities of the reciprocating state and shall remain in effect until ninety days after it has been rescinded in writing by either the commission or the authorities of the reciprocating state.

RS 56:672 — Reciprocal agreement; hunting license

en ratified in writing both by the commission and the authorities of the reciprocating state and shall remain in effect until ninety days after it has been rescinded in writing by either the commission or the authorities of the reciprocating state.

RS 56:673 — Reciprocal agreement; common boundaries; taking or protection of fish or other aquatic life

ertaining to seasons, creel limits, and all other rules and regulations pertaining to the taking or protection of any species of fish or other aquatic life in any bodies of water which form the common boundary between Louisiana and the reciprocating state. Any reciprocal agreement shall become effective when ratified in writing both by the commission and the authorities of the reciprocating state and shall remain in effect until ninety days after it has been rescinded in writing by either the commission or the authorities of the reciprocating state.

RS 56:674 — Reciprocal agreement; common boundaries; wild quadrupeds or wild birds

bag limits, and all other rules and regulations for the taking or protection of any species or sex of wild quadrupeds or wild birds in any area forming the common boundary between Louisiana and the reciprocating state. Any reciprocal agreement shall become effective when ratified in writing both by the commission and the authorities of the reciprocating state and shall remain in effect until ninety days after it has been rescinded in writing by either the commission or the

authorities of the reciprocating state.

RS 56:675 — Reciprocal agreement; statewide application; taking or protection of fish, other aquatic life, wild quadrupeds, or wild birds

Alabama, Arkansas, Mississippi, and Texas pertaining to seasons, creel limits, bag limits, and all other rules and regulations pertaining to the taking or protection of any species or sex of fish, other aquatic life, wild quadrupeds, or wild birds in any area within the boundaries of the states of Alabama, Arkansas, Mississippi, and Texas.

RS 56:676 — Reciprocity; license fees; seasons; limits

. 56:673, 674, and 675, residents of that state shall be granted or sold privileges and licenses equal to those privileges and licenses granted or sold to Louisiana residents by the nonresident's state.

RS 56:677 — Reciprocal agreements; Toledo Bend; Caddo Lake; special fishing licenses; fees

ocal agreements with the state of Texas to establish special fishing licenses and fishing license fees on the Toledo Bend Reservoir and Caddo Lake.

RS 56:678 — Hunting reciprocity; Mississippi

n islands in and the waters

of the Mississippi River and the Pearl River and other land resulting from accretion along the Mississippi River and the Pearl River where those rivers form the boundary between the states of Louisiana and Mississippi as are provided by law for the holder of a Louisiana hunting license. This Section shall take effect and become operative if and when the state of Mississippi grants reciprocal privileges to the holders of hunting and fishing or angling licenses issued by the state of Louisiana.

RS 56:679 — Turkey hunting reciprocity

urkey stamp

or license requirement and fee. The agreement may permit a resident of the state with which the agreement is made to hunt wild turkey in this state without a Louisiana wild turkey license if the person possesses a wild turkey stamp or license issued by the other state.

RS 56:695 — Purpose

peace and safety by providing better enforcement of the law.

RS 56:696 — Amount of additional salary

ry in the amount of two hundred sixty dollars per month, provided that funds are available. The salary provided for by this Section shall be in addition and supplemental to any uniform state civil service pay plan. In the event that supplemental pay for deputy sheriffs is increased, then supplemental pay for wildlife enforcement officers shall be increased in the same amount, provided that funds are available.

RS 56:697 — Special fund

ter made shall be credited, and the funds so credited shall be used solely for the payment of such additional salary as provided in R.S. 56:696.

RS 56:698 — Disbursement of funds

h warrants shall have attached to them a detailed list of the names of the officers for whose benefit any particular warrant is drawn, together with such other information as the division of administration or the state treasurer may require.

B. The secretary of the Department of Wildlife and Fisheries, on the basis of such warrants, shall prepare and sign individual checks representing the amount to be paid out of the special fund created by R.S. 56:697 to each person in accordance with the provisions of this Part. Each such check shall show the legislative appropriation from which payment is made and shall note that it represents additional salary paid by the state under the provisions of this Part. The secretary of the Department of Wildlife and Fisheries shall deliver the checks to the individual person in whose favor

drawn by mail or by such other means as he shall determine.

C. The secretary of the Department of Wildlife and Fisheries shall include the additional salary paid to individuals in accordance with the provisions of this Part in the calculation and deduction from the pay of such individuals of sums required by state or federal laws to be withheld by an employer, such as federal income tax and social security tax or contribution to a state retirement system. The secretary of the Department of Wildlife and Fisheries shall be further charged with the responsibility for transmitting the sums so withheld in accordance with the law or laws requiring the withholding.

D. The additional salary paid by the state to state wildlife officers in accordance with the provisions of this Part shall be included in the calculation and computation of the total wages paid to a state wildlife officer in the determination of employer contributions to any retirement system or pension fund of which the individual may be a member as well as in the determination of retirement eligibility and benefits which may accrue to the individual under any retirement system or pension fund, as well as in the determination of any other employee benefits, sick leave, or disability pay to which the individual might be entitled.

RS 56:699 — Participation in firearm and hunter education course in addition to penalties for hunting violations

e hunting or taking of wild birds or wild quadrupeds, other than by trapping, the court may in addition to imposing any fine or penalty provided for by law, order the offender to attend and participate in a firearm and hunter education course taught or approved by the department.

RS 56:699.1 — Repealed by Acts 2012, No. 364, §2.

on Rouge, Louisiana 70804-9062

RS 56:699.2 — Repealed by Acts 2012, No. 364, §2.

on Rouge, Louisiana 70804-9062

RS 56:699.3 — Regulation of firearm and hunter education

ht or approved by the department.

(2) Provide for the testing and certification by the department of residents of this state as firearm and hunter education instructors.

(3) Establish minimum requirements for firearm and hunter education courses conducted by private groups, state and local agencies other than the department, other states, and subdivisions thereof, which the department may approve for purposes of this Part.

(4) Provide for the revocation of any hunting license or hunting permit upon determination that the holder thereof obtained it other than in accordance with this Part.

RS 56:699.5 — Firearm and hunter education requirement

m and hunter education course approved by the department.

(2) However, a person under sixteen years of age may hunt without such certificate if he is accompanied by and is under the direct supervision of a person who was born before September 1, 1969, and has a valid hunting license or who is eighteen years of age or older and has proof of successful completion of a firearm and hunter education course approved by the department.

(3) However, a person who has not completed the firearm and hunter education course required by Paragraph (1) of this Subsection may be issued a valid hunting license by the department. Such license shall be issued with a restriction that requires that person be accompanied by and under the direct supervision of a person who was born before September 1, 1969, and has a valid hunting license or who is eighteen years of age or older and has proof of successful completion of a firearm and hunter education course approved by the department.

B. A person who is developmentally disabled and unable to successfully complete a firearm and hunter education course may be issued a restricted firearm and hunter education certificate that permits him to hunt, if he is accompanied by and is under the direct supervision of a person who was born before September 1, 1969, and has a valid hunting license or who is eighteen years of age or older and has proof of successful completion of a firearm and hunter education course

approved by the department. Documentation of the developmental disability from a licensed medical doctor shall be presented prior to the issuance of a restricted hunter education certificate.

C. For the purposes of this Section, "direct supervision" means that the person being supervised shall be within a normal audible voice proximity and in direct line of sight of the supervising adult at all times while hunting.

D. The commission may adopt rules to implement the provisions of this Section, including rules to define the circumstances that constitute a person being accompanied by and under the direct supervision of another.

RS 56:699.6 — Firearm and hunter education exemption

ficer or to any individual with current POST-certification. The commission may adopt rules to implement this Section including rules regarding evidence of such service. Application for the exemption authorized in this Section shall be filed in person at the Department of Wildlife and Fisheries main office building in the city of Baton Rouge, or at any other location designated by the department.

RS 56:699.7 — Four wheeler and all-terrain vehicle instruction

g "four wheelers" or all-terrain vehicles.

RS 56:699.8 — Repealed by Acts 2010, No. 335, §2.

on Rouge, Louisiana 70804-9062

RS 56:699.21 — Membership

iana citizens and to educate the citizens of the state on those benefits.

B. Members of the council shall serve on a voluntary basis and shall not receive any compensation or reimbursement for expenses. The council shall meet at least twice annually and shall consist of the following members:

- (1) One member appointed by the Louisiana Wildlife Federation.
- (2) One member appointed by the Louisiana Coastal Conservation Association.
- (3) One member appointed by the Louisiana Wild Turkey Federation.
- (4) One member appointed by the Louisiana Bass Federation.
- (5) One member appointed by the Charter Boat Captain's Association.
- (6) One member appointed by the Trapper and Alligator Hunter's Association.
- (7) One member appointed by the secretary of the Department of Wildlife and Fisheries.
- (8) One member appointed by the Louisiana Outdoor Writer's Association.
- (9) One member appointed by the Cajun Becasse Society.
- (10) One member appointed by the Bayou State Bowhunter's Association.
- (11) One member appointed by the chairman of the Senate Natural Resources Committee.
- (12) One member appointed by the chairman of the House Committee on Natural Resources and Environment.
- (13) One member appointed by the Louisiana Marine Trades Association.
- (14) One member appointed by the Jefferson Parish Marine Fisheries Advisory Board.
- (15) One member appointed by the director of the LSU Agriculture Center Cooperative Extension Service who is a specialist or agent assigned to fisheries or wildlife advisory work.

RS 56:699.22 — Council powers; duties; responsibilities

ncial support for the management of fish and wildlife resources, habitat conservation and management, and the enforcement of fish and wildlife laws, and contribute to the local and national economy.

RS 56:700.10 — Purpose

ment of minerals in the public waterbottoms. Oyster leases and oil and gas exploration and production have historically utilized much of the same areas in the waterways and waterbottoms on public lands in the state. The oil and gas industry has been faced with the problem of having to negotiate damages to oyster beds to conduct geophysical surveys, drilling activities, and movement of equipment to and from well sites in an uncertain and unpredictable manner which is creating

an undue burden on the industry. The purpose of this Part is to effect an equitable solution to the problem which will result in fair and predictable treatment to the oil and gas industry while assuring the oyster fishermen actual compensation for damages to their oyster beds due to mineral activities. The state has a tremendous interest in preserving the viability of both industries. Since both activities are granted on public waterbottoms by the state it is the obligation of the state to resolve the problems created by this impasse; therefore, the legislature does hereby establish the Oyster Lease Damage Evaluation Board to promulgate rules and regulations to determine the method of establishing a uniform system of compensation for actual damages caused to the beds of leaseholders based on biological test data.

RS 56:700.11 — Definitions

urveys of oyster beds and grounds by a certified

biologist to determine the quality, condition, and value of oyster beds and grounds.

(2) "Board" means the Oyster Lease Damage Evaluation Board.

(3) "Department" means the Department of Conservation and Energy.

(4) "Leaseholder" means an owner of an oyster lease granted by the Department of Wildlife and Fisheries.

(5) "Mineral activity" means exploration (including all seismic operations), production, transportation (of equipment or product), and any other activity associated with the production of oil and gas.

(6) "Owner" means an owner or operator of a mineral activity.

(7) "Secretary" means the secretary of the Department of Conservation and Energy or his designee.

RS 56:700.12 — Damages to oyster leases; mineral activity; settlements and claims

beds or grounds who is requested to enter into a settlement for damages which may occur due to an oil and gas activity which proposes to intrude upon the leasehold may be settled in the following manner:

(1) If the leaseholder and the owner of the oil and gas activity agree to settle for a fixed amount the settlement shall be in writing, signed by both parties, granting the activity for the agreed upon sum which shall be paid immediately.

(2) In the event that a settlement is reached there shall be no further claims or demand for damages thereafter for the activity upon which the agreement was made.

(3) If a settlement cannot be reached between the leaseholder and the owner, either party may file a request with the board for arbitration and final determination of the actual damages to the oyster lease due to the mineral activity thereon.

(4) If the claim is brought before the board, the owner of the oil and gas activity shall, at its

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own expense, have a biological survey made of the leased premises to determine the quality and value of the beds and grounds which will be involved in the proposed operation. A biological survey shall be performed before the operations begin and upon completion of the activity.

(5) If the claim is brought before the board, the owner of the oil and gas activity shall file the initial biological survey with the board and pay a deposit to the board based on estimated damages as determined by the board after consideration of the results of the biological survey and any other information provided to the board. After payment of the deposit, the owner may proceed with his proposed activity. Upon completion of the activity, the owner of the oil and gas activity, at his own expense, shall have another biological survey performed and filed with the board so that actual damages to the leasehold may be determined by the board.

(6) All claims shall be evaluated expeditiously based on biological test data done before and after the activity over or on the beds occurs, and upon determining actual damages the claim shall be immediately paid to the board by the owner for the benefit of the leaseholder. Upon payment of the damages by the owner there shall be a presumption created in favor of the owner that actual damages are paid in full.

(7) If the leaseholder or owner is not satisfied with the decision of the board he may obtain judicial review by a suit in district court of the parish where the leasehold improvements are situated. The burden of proof for liability and damages

and all costs shall be borne by the party seeking judicial review. If the district court upholds the findings of damages by the board the party seeking judicial review shall pay all costs and attorney fees of the other party.

RS 56:700.13 — Establishment of the board

hereinafter known

as the board.

B. The board shall include five members consisting of one member nominated by the Louisiana Oyster Dealers and Growers Association, one member nominated by the Louisiana Oyster Task Force, two members nominated jointly by the Louisiana Independent Oil and Gas Association, Louisiana Mid-Continent Oil and Gas Association and the Louisiana Landowners Association, and one member, selected by the other four members of the board, who is a practicing administrative law judge. A quorum of the board shall consist of at least three members. To maintain concordance with the purposes of this Part as articulated in R.S. 56:700.10, at least one member nominated by each of the two industries referenced therein shall be necessary for a quorum.

C. The board shall develop a list of qualified biologists to provide biological test data in determining the quality, condition, and value of oyster beds and grounds. The secretary, in conjunction with the board, shall develop a list of qualifications for these biologists. When an owner of an oil and gas activity is required under the provisions of R.S. 56:700.12(4) to perform a biological survey, he shall choose a biologist to conduct the survey from the list of qualified biologists supplied by the board. The secretary, in conjunction with the board, shall adopt rules providing for selection of a qualified biologist. Unless a written objection is filed with the board by either party, if a qualified biologist was previously engaged to conduct a biological survey for the mineral activity subject to the requested arbitration, that same biologist may be used for the biological surveys.

D. The board members shall evaluate the information regarding damage to the beds and make the final determination in awarding damages to claimants. The secretary, upon receiving this determination of damages, may reject the damage award and send the matter back to the board. The board may then either revise the damage award or, by a two-thirds vote, affirm the original damage determination. If the board fails to either revise the damage award or affirm the original damage determination, the arbitration process provided in this Part shall conclude without a final determination of damages.

E. The determinations of damages by the board shall be based on the values shown in the biological survey and shall reflect true and actual damages.

F. Notwithstanding the provisions of R.S. 56:424, representatives or assigns of the owner of the oil and gas activity may remove, as a sample, oysters from an oyster lease on state water bottoms in order to make determinations in matters before the Oyster Lease Damage Evaluation Board. In order to take such samples, the representatives or assigns of the owner of the oil and gas activity shall first submit written notice to the leaseholder. If the leaseholder has not granted permission within fifteen days after the written request for permission was submitted, the representatives or assigns of the owner of the oil and gas activity shall notify the leaseholder of the date and time that the lease will be surveyed. The leaseholder may accompany the biologist during the survey or may authorize another person

to accompany the biologist during the survey.

RS 56:700.14 — Rules and regulations

and the fair

and expeditious settlement of claims pursuant to this Part, including a time limitation on the filing of such claims. These regulations shall insure that the whole claim procedure is as simple and as expeditious as possible. In no case shall the claim procedure exceed ninety days from the date the request for arbitration is filed with the board. Any designee of the secretary authorized to prescribe and amend such rules and regulations shall do so under the overall supervision and control of the secretary.

B. In the formulation of regulations pursuant to this Part, the secretary, in conjunction with the board, shall establish a procedure whereby an oyster leaseholder may recover for actual damages to his oyster beds or grounds caused by oil and gas activities.

C. Any rule, regulation, and fees for the administration of this Part shall be proposed or adopted pursuant to the rulemaking procedures set forth in the Administrative Procedure Act and shall be subject to approval by the Senate Committee on Natural Resources and the House Committee on Natural Resources and Environment.

D. The secretary, in conjunction with the board, shall promulgate rules for developing a uniform evaluation method to be used in the biological surveys to determine the estimated value of the leasehold before the activity takes place and the estimated damages or loss to the leasehold after the activity is completed.

E. The secretary, in conjunction with the board, shall promulgate regulations implementing the Oyster Lease Damage Evaluation Board's procedures and methods of operation on or before October 1, 1997.

RS 56:701 — Cooperation with federal government

oration projects and for other purposes." The director shall perform such acts as are necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in the Act of Congress, in compliance with the Acts and rules and regulations promulgated by the secretary of the interior thereunder, including the making of a survey of the state to determine the actual status of wildlife conditions within the state and the establishment of projects for wildlife conservation, restoration, development and the recommendation of improvements in the administration of sport, fish, and game laws.

RS 56:702 — Acquisition of necessary property; powers of commission

ommission. It may prescribe the methods for taking wildlife and may fix seasons and bag limits or may close seasons on all wildlife or any species thereof in any specific locality when it finds, after investigation, that such action is necessary to assure the maintenance of an adequate supply of wildlife.

RS 56:703 — Lease or sale of lands to federal government by levee boards

, any lands respectively owned by them to the United States of America for use as refuges or sanctuaries for migratory wild fowl. However, in all cases the mineral rights on all such lands shall be reserved.

RS 56:711 — Protection of watersheds of navigable streams

the United States to make such rules and regulations as the Government of the United States determines to be needful in respect to game animals, fish, and game and non-game birds on such lands and in the waters thereof situated in the state as are purchased by the United States under the terms of the Act of Congress of March 1, 1911, entitled "An Act to enable any State to cooperate with any other state or with the United States for the protection of the watersheds of navigable streams and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability

of navigable rivers"

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, and Act of Congress supplementary thereto and amendatory thereof.

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10 U.S.C.A. §552.

RS 56:712 — Cooperative agreements

ces of the national forest lands within the state and for the restocking thereof with desirable species of game and non-game birds, animals and fish.

RS 56:713 — Powers of director; hunting and fishing licenses; rules and regulations

for such period of time as is in his opinion necessary. He may also prescribe from time to time the open seasons for hunting and fishing therein, may issue special hunting and fishing licenses therefor, and may fix the fees to be charged for the licenses. He may prescribe the maximum number of game animals and birds and the minimum size and maximum number of fish that may be taken therefrom and the conditions under which they may be taken. All such rules and regulations shall be published in accordance with the laws, rules and regulations of the commission.

RS 56:714 — Penalty for violation of rules and regulations

, be fined not less than \$25 or more than \$100 or be imprisoned for not less than ten days or more than thirty days.

RS 56:721 — Authorization

hin the parish.

B. Two or more parish governing authorities may by separate formal resolutions establish, maintain, and operate game and fish preserves composed of contiguous lands or waterbodies shared by the parishes. All of the parish governing authorities shall adopt formal resolutions in order for the game and fish preserve to become effective.

RS 56:722 — Game and fish commission; rules and regulations

l be concurrent with that of the

governing authority appointing, who serve without compensation, to be known as the _____ game and fish commission.

(b) For game and fish commissions established by multiple adjoining parishes under the authority of R.S. 56:721, the governing authority of each parish may appoint members, composed of citizens and taxpayers from that parish, to the commission whose term shall be concurrent with that of the governing authority appointing, who serve without compensation, to be known as the _____ game and fish commission. Each parish shall have an equal number of members on that commission, unless some other composition is adopted by formal resolution approved by all of the parish governing authorities.

(2) The commission may make rules and regulations for the government, regulation, and control of the preserve and for the conservation, protection, and propagation of game and fish in the preserve. In order to adopt such rules and regulations, the game and fish commission shall hold a public hearing conducted in accordance with the Open Meetings Law where public comment and testimony is received by the game and fish commission. Prior to implementation, such rules and regulations shall be finally approved, adopted, and promulgated by the Louisiana Wildlife and Fisheries Commission, in accordance with R.S. 56:727.

B. No game and fish commission or political subdivision may regulate the

movement, mooring, or position of any commercial industrial vessel on navigable waterways within its jurisdiction.

RS 56:722.1 — Game and fish commissions, Lafourche Parish

payers of the parish, whose terms shall be at the pleasure of the governing authority of Lafourche Parish, and who shall serve without compensation. The commission may make rules and regulations as provided in R.S. 56:722, including provisions for leasing of land within Lafourche Parish which is necessary to carry out the provisions of this Section.

B. The Lafourche Parish Game and Fish Commission may govern, regulate, and control Lake Long in Lafourche Parish in the manner provided in this Subpart.

RS 56:723 — Transfer of lands by levee boards and school boards

parish establishing a game or fish preserve, for that purpose. The school boards and levee boards may transfer the property by proper deed whenever the sale is made.

RS 56:724 — Dykes or dams; excavations

of such preserves, and may appropriate and expend the money necessary therefor.

RS 56:725 — Expropriation of property; revocation of rules and regulations

s and regulations provided by law, as is necessary to the establishment of the preserve and to the establishment of fishing and hunting camps provided for in R.S. 56:726, and may annul, revoke, and set aside any rule or regulation made by the commission when petitioned by not less than fifty citizens and taxpayers of the parish.

RS 56:726 — Fees for privilege of hunting and fishing; erection of camps

sidents of the parish nor fifty cents per day to non-residents of the parish. The revenue derived from such fees shall be used and expended by the commission for the benefit of the preserve and for the purpose of erecting and maintaining at suitable points public camping places, boats, and accommodations for the use and benefit of the citizens and patrons of the preserve.

RS 56:727 — Approval of rules and regulations; promulgation; penalties

urs:

(1) The Louisiana Wildlife and Fisheries Commission, which has concurrent jurisdiction and power over the parish preserve, approves and promulgates the rule or regulation. Such rules and regulations shall be promulgated and adopted in accordance with the Administrative Procedure Act.

(2) If the Louisiana Wildlife and Fisheries Commission fails to take action on the proposed rules and regulations within one hundred eighty days after submission by the commission, the proposed rules shall be deemed to be adopted. The game and fish preserve commission shall publish the adopted rule or regulation in the Louisiana Register, shall submit a copy to the Senate Committee on Natural Resources and the House Committee on Natural Resources and Environment. The rule or regulation shall be subject to legislative review in the same manner as provided in the Administrative Procedure Act, R.S. 49:966(D).

B. Any person who violates a rule or regulation adopted as provided in this Section shall be guilty of a class 2 violation.

C. The Louisiana Wildlife and Fisheries Commission shall not be held liable with regard to any implementation, promulgation, or enforcement of any rules or regulations of a game and fish commission adopted pursuant to Paragraph (A)(2) of this Section or R.S. 56:722(A)(2).

RS 56:728 — Appropriations out of general fund; special taxes; employment of deputy sheriff

of the preserve out of its general fund, and vote special taxes for the maintenance, operation, and equipment of the preserve. It may employ and pay a deputy sheriff, under the supervision of the sheriff of the parish, to aid the commission in the enforcement of its rules and regulations for the conservation and protection of the game and fish in the preserve.

RS 56:729 — Anacoco-Prairie State Game and Fish Preserve; transfer

d from the state of Louisiana, Department of Wildlife and Fisheries, to the governing authority for the parish of Vernon.

The lands subject to this transfer are those provided for in the creation of said preserve by Act No. 277 of the 1948 Regular Session, which were subsequently transferred to the state of Louisiana, Department of Wildlife and Fisheries, pursuant to Act No. 490 of the 1981 Regular Session and R.S. 36:610. All lands are located in Vernon Parish and are more particularly described as follows:

Section Nineteen, Township Two North, Range Nine West (Sec. 19, Twp. 2 N., Range 9 W); and

Sections Two, Three, Four, Nine, Ten, and Eleven, Township One North, Range Ten West (Secs. 2, 3, 4, 9, 10, and 11, Twp. 1 N., Range 10 W); and

Sections Thirteen, Twenty-three, Twenty-four, Twenty-five, Twenty-six, Twenty-seven, Thirty-three, Thirty-four, Thirty-five, Township Two North, Range Ten West (Secs. 13, 23, 24, 25, 26, 27, 33, 34, 35 Twp., 2 N., Range 10 W).

B. Said preserve and its lands shall be governed by the commission created by the parish governing authority in accordance with the provisions of this Subpart.

RS 56:751 — Dedication of state lands withdrawn from entry

e particularly described as follows, are withheld and withdrawn from entry or sale and perpetually dedicated as a game preserve and public hunting ground:

All swamps and marsh lands in township 22 South, range 20 East, Southeastern District of Louisiana, East of the Mississippi River, excepting the following lands: S.E. 1/4 of S.E. 1/4 of section 11; N. 1/2 of S.E. 1/4 of section 12; S. 1/2 of N.W. 1/4, N.E. 1/4 of S.W. 1/4, N.W. 1/4 of S.E. 1/4 of section 15; S.E. 1/4 of S.E. 1/4 of section 15; and sections 22, 25, and 26.

All swamps and marsh lands in township 22 South, range 21 East, Southeastern District of Louisiana, East of the Mississippi River, excepting the following lands: S.E. 1/4 of S.W. 1/4, S.W. 1/4 of S.W. 1/4 of section 4; N.E. 1/4, N.W. 1/4 of S.W. 1/4 S. 1/2 of N.W. 1/4 of section 7; N. 1/2 of N.W. 1/4, N.W. 1/4 of N.E. 1/4 of section 8.

All swamps and marsh lands in township 22 South, range 22 East, Southeastern District of Louisiana, East of the Mississippi River.

All swamps and marsh lands in township 23 South, range 21 East, Southeastern District of Louisiana, East of the Mississippi River.

All swamps and marsh lands in township 22 South, range 32 East, Southeastern District of Louisiana, West of the Mississippi River, excepting the following lands: All of sections or lots 9 or lots 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 44; and all of fractional sections in rear of lots 28, 29, 30, 31, 32, 33, and 34.

All swamps and marsh lands in township 22 South, range 33 East, Southeastern District of Louisiana, West of the Mississippi River, excepting the following lands: All of sections or lots 1, 2, 3, 4, 5, 6, and 7.

All of swamps and marsh lands in township 23 South, range 32 East, Southeastern District of Louisiana, West of the Mississippi River, excepting the following lands: Sections or lots 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90 and 91.

All swamps and marsh lands in township 23 South, range 33 East, Southeastern District of Louisiana, West of the Mississippi River, excepting the following lands: Section 1; sections 2; sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15; section 17; section 18; section 19.

All swamps and marsh lands in township 23 South, range 34 East, Southeastern District of Louisiana, west of the Mississippi River.

All swamps and marsh lands in township 24 South, range 32 East, Southeastern District of Louisiana, West of the Mississippi River, excepting the following lands: All of sections or lots 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, and 77.

All swamps and marsh lands in township 24 South, range 33 East, Southeastern District of Louisiana, West of the Mississippi River, excepting the following lands: Sections or lots 9 and 10.

RS 56:752 — Control of area; rules and regulations

g the area.

RS 56:753 — Trapping, hunting, or fishing on preserve

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RS 56:754 — Penalty for violation of rules and regulations

, for each offense, pay the cost of the prosecution and be fined not less than twenty-five dollars nor more than five hundred dollars, or imprisoned for not less than ten days nor more than six months, or both.

RS 56:761 — Protection of wild animals and birds on wildlife refuges, wildlife management areas, and public hunting grounds

, snare, pursue with intent to kill, take by any means, or have in possession any wild animal or bird upon any state wildlife refuge, wildlife management area, or public hunting ground.

B. Each killing or pursuing with intent to kill, snaring, taking, or having in possession of any wild animal or bird, on a wildlife refuge, wildlife management area or public hunting ground, constitutes a separate offense.

C. This Section does not prohibit the secretary from killing or having killed any noxious animals on lands under his supervision, or from having caught or snared any wild animals or birds for the purpose of propagation, restocking, or scientific investigation.

RS 56:762 — Imported wild birds and animals protected in general

the supervision and consent of the commission for the purpose of experimentation or propagation.

RS 56:763 — Acceptance of other lands and designation as wildlife refuges, wildlife management areas, and public hunting grounds; rules and regulations; Rainey Sanctuary; National Audubon Society

ssion may accept from any person, from the state, or from the federal government any lands or waters suitable for wildlife refuges, wildlife management areas, and public hunting grounds; may designate and set these apart; and may provide rules and regulations not contrary to law for the conservation of the birds, quadrupeds, and fish found thereon.

B. The commission may make rules and regulations for the protection of the birds, game, and fish on or in the Rainey Sanctuary of the National Audubon Society in Vermilion Parish and on or in the streams and canals forming the boundaries thereof.

RS 56:764 — Penalty for violation of R.S. 56:761, R.S. 56:762 or R.S. 56:763

No. 651, §1; Acts 1981, No. 837, §3.

RS 56:765 — Donations for wildlife refuges, wildlife management areas, and public hunting

R.S. 47:648.1

shall not authorize the breach of any term or condition of any donation which was accepted by the state prior to August 1, 2025, involving any state wildlife refuge, wildlife management area, or public hunting ground.

RS 56:766 — Taking of mayhaw berries; rules and regulations

n wildlife management areas and wildlife refuges shall be subject to legislative oversight in accordance with the Administrative Procedure Act. The taking of mayhaw berries as provided herein, shall not be subject to the Public Bid Law. Notwithstanding any other provision of law, rule, or regulation to the contrary, no person shall be charged a fee for collecting mayhaw berries in wildlife management areas and wildlife refuges, nor shall any person be limited as to the quantity of mayhaw berries that can be collected.

RS 56:767 — Private property surrounded by certain wildlife management areas; regulation of hunting and fishing

It be subject to all state hunting and fishing provisions, including those provisions regarding seasons. Such private property shall not be subject to the special hunting and fishing provisions which govern the wildlife management area, except that deer may not be taken with the aid of dogs. However, the owner or lessee of such property shall be required to participate in the deer management assistance program provided for in R.S. 56:110. In addition, the owner or lessee of such property shall not be allowed to hunt, trap, or take resident game by the aid of baiting or placing bait intended to attract or entice the resident game to the area where hunters are attempting to take them.

B. The provisions of this Section shall apply only to private property which, as of June 30, 1999, is surrounded by a wildlife management area or property which is privately owned as of June 30, 1999, and is subsequently surrounded by a newly created or expanded wildlife management area.

RS 56:768 — Private property surrounded by wildlife management areas; access

located within the boundaries of a wildlife management area and which is totally surrounded by that wildlife management area.

RS 56:781 — Authorization for creation of wildlife refuges, wildlife management areas, public hunting grounds, upland game preserves, and wildlife sanctuaries

lands owned or acquired by the state for the establishment of wildlife refuges, wildlife management areas, public hunting grounds, upland game preserves, and wildlife sanctuaries and may properly equip, maintain, and control the wildlife refuges, wildlife management areas, public hunting grounds, upland game preserves, and wildlife sanctuaries for the protection and management of the wild game and wild animal life therein. The department shall properly stock the wildlife refuges, wildlife management areas, the public hunting grounds, upland game preserves, and wildlife sanctuaries.

RS 56:782 — Notice of intention to dedicate lands; publication

ves, or wildlife sanctuaries by the commission, notice containing a description by section, township, and range of the lands selected shall be given by the commission to the state land office, or other proper departments, of the selection of the lands for that purpose. The commission shall publish for a period of not less than thirty days notice of intention to dedicate the described lands for a wildlife refuge, wildlife management area, a public hunting ground, upland game preserves, or wildlife sanctuaries in a newspaper published or having a circulation within the parish or parishes in which the area is situated. Thereupon, the lands become perpetually dedicated to the purpose of maintaining a wildlife refuge, wildlife management area, a public hunting ground, upland game preserves, or wildlife sanctuaries. Thereafter no use shall be made of the lands inconsistent with or harmful to the purpose of providing a wildlife refuge, wildlife management area, a public hunting ground, upland game preserves, or wildlife sanctuaries.

RS 56:783 — Lease of lands; publication of notice

ent of wildlife refuges, wildlife management areas, public hunting grounds, upland game preserves, or wildlife sanctuaries. A notice describing the land by section, township, and range and stating that same has been leased and set aside as a wildlife refuge, wildlife management area, a public hunting ground, upland game preserves, or wildlife sanctuaries shall be published for not less than thirty days in a newspaper published or having a circulation in the parish or parishes in which the lands are situated.

RS 56:784 — Reforestation projects; contracts with owners of land; notice

r the establishment and maintenance of wildlife refuges, wildlife management areas, public hunting grounds, upland game preserves, or wildlife sanctuaries on such lands, providing that after such land has been selected and the contract entered into, notice describing the land by section, township, and range and advising that the land has been set aside as a wildlife refuge, wildlife management area, a public hunting ground, upland game preserves, or wildlife sanctuaries shall be published as provided in R.S. 56:783.

RS 56:785 — Posting of land; stocking; rules and regulations

ith suitable signs located not less than every lineal quarter mile along the boundary lines of the wildlife refuges, wildlife management areas, public hunting grounds, upland game preserves, or wildlife sanctuaries, and shall properly stock the areas. The commission may make rules and regulations for the protection of the wild game and wild animal life within the

areas and may properly fence, equip, or maintain the areas for the protection of the wild animal life and game.

RS 56:786 — Dedication of land; trespass; destruction or defacing signs; arrest

upland game preserves, and wildlife

sanctuaries, and notice of such selection and dedication published as herein provided,

and after the lands have been fenced or posted as hereinabove provided, the areas

thereupon become dedicated as a wildlife refuge, wildlife management area, public

hunting ground, upland game preserves, or wildlife sanctuaries.

No person shall trespass upon such land or hunt, trap, snare, or take the wild

animal life or game within the wildlife refuges, wildlife management areas, public

hunting grounds, upland game preserves, or wildlife sanctuaries contrary to

commission regulation, or destroy or deface fencing or signs placed on or around the

areas. A person found so doing may be arrested on sight by any wildlife agent or

other authorized officer.

RS 56:787 — Penalty for violation of Subpart

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RS 56:791 — Protection of wild birds or animals; penalty for violation of Subpart

, or pursue with intent to take or kill by any means, or have in possession any wild animal or bird from or upon any school land or school section located within, contiguous to, or adjoining the boundaries of any wildlife refuge, wildlife management area, or public hunting ground, public or private, established or designated as such by the secretary of the Department of Wildlife and Fisheries by and with the consent of the parish school board or under its authority.

B. The killing, snaring, taking, or having in possession, or pursuing with intent to do so, of each wild animal or bird on any such land or section constitutes a separate offense.

C. Whoever violates any provision of this Subpart shall be fined not less than five dollars nor more than one hundred dollars, with costs of suit, for each offense.

D. The provisions of this Section shall not apply to Vermilion Parish except that it shall be unlawful in Vermilion Parish for any person to use firearms in the trapping and taking of fur bearing animals. The rental or leasing of any public lands owned by the Vermilion Parish School Board for any purpose described herein shall be in accordance with advertisement and bidding laws.

E. Violation of any provision of this Subpart shall constitute a class two violation.

RS 56:792 — Secretary excepted

l or bird for propagation, restocking, educational purposes, or scientific investigation.

RS 56:795 — Purchase of portions of Atchafalaya River Basin; nature, recreation and wildlife management area

ellers in the Atchafalaya River Basin south of U.S. Highway 190, between the East and West Atchafalaya Protection Levees, and north of Morgan City, for the comprehensive development of a nature and recreation area out of funds appropriated for that purpose, subject to approval by the Joint Legislative Committee on the Budget.

(2) The department is further authorized to purchase land from willing sellers in Madison, Tensas, and Franklin Parishes containing fifty thousand acres, more or less, being a portion of a tract of land known as the Chicago Mill and Lumber Company tract, subject to approval by the Joint Legislative Committee on the Budget.

(3) The department is further authorized to purchase land from willing sellers in Concordia, Catahoula, Franklin and Tensas Parishes containing fifty-seven thousand acres, more or less, being a tract of land known as the Fisher Lumber Company tract; and if the land is conveyed to the state, the seller may retain mineral rights in all or part of said land as agreed upon between purchaser and seller.

(4) The department is further authorized to sell any or all portions of the lands purchased under the authorization of this Subsection, provided that the sale price is not less than the price paid by the department.

B. It is hereby recommended and requested that the United States Army Corps of Engineers shall, as partial mitigation for recreation losses and damages to fish and wildlife habitat and resources within the Atchafalaya River Basin due to their flood control projects, provide a tract of land within the Atchafalaya River Basin consisting of not less than 50,000 acres or two tracts of not less than 25,000 acres each, for wildlife management areas to be managed and administered by the Louisiana Wildlife and Fisheries Commission, and the Louisiana Wildlife and Fisheries Commission shall enter into negotiation and take steps to achieve the purposes of this Subsection.

C. One-half of all revenues derived from the sale of timber from wildlife management areas located within the Atchafalaya River Basin shall be placed in a special fund and shall be used for no other purposes than the maintenance and development of such areas. The remaining one-half of all revenues derived from the sale of timber from such areas shall be placed to the credit of the General Fund.

RS 56:796 — Lake Fausse Point, Lake Dauterive, and Grand Avoille Cove Advisory Board

erred to as the board, is hereby created to advise the secretary on matters pertaining to the preservation of the Lake Fausse Point, Lake Dauterive, and Grand Avoille Cove area and to the development of recreational opportunities in the area.

B.(1) The commission is comprised as follows:

- (a) The member of the Louisiana House of Representatives representing House District Number 49 or his designee.
- (b) The member of the Louisiana House of Representatives representing House District Number 50 or his designee.
- (c) The member of the Louisiana House of Representatives representing House District Number 46 or his designee.
- (d) The member of the Louisiana Senate representing Senate District Number 21 or his designee.
- (e) The member of the Louisiana Senate representing Senate District Number 22 or his designee.
- (f) Two members of the Chitimacha Tribe appointed by the governing authority of the tribe.
- (g) One member appointed by the mayor of Baldwin subject to confirmation by the governing authority of Baldwin.
- (h) One member appointed by the mayor of Jeanerette subject to confirmation by the governing authority of Jeanerette.
- (i) The member of the St. Mary Parish governing authority representing Council District Number 1 or his designee.
- (j) The member of the Iberia Parish governing authority representing Council District Number 11 or his designee.
- (k) The member of the St. Martin Parish governing authority representing Council District Number 1 or his designee.
- (l) The Eagle Point Park Committee shall appoint two of its members to serve on the board.
- (m) The members of the Legislature of Louisiana referenced in Subparagraphs (a) through (e) of this Paragraph shall collectively appoint one licensed commercial fisherman.
- (n) The members of the Legislature of Louisiana referenced in Subparagraphs (a)

through (e) of this Subsection shall appoint one member from a list of three nominations submitted by the local chapter of Ducks Unlimited.

(o) The governing authority of the St. Mary Parish Consolidated Water and Sewer District of Charenton shall appoint one of its members to serve on the board.

(p) The lieutenant governor, the secretary of the Department of Wildlife and Fisheries, and the secretary of the Department of Conservation and Energy may each designate an individual to serve as a nonvoting member of the board.

(q) The parish presidents for Iberia Parish, St. Martin Parish, and St. Mary Parish, shall serve as ex officio nonvoting members of the board or may designate a person to serve in their stead.

(2) The term of each appointed member shall be concurrent with the term of the respective appointing authority.

(3) The board shall elect from its membership a chair, a vice chair, and other officers as it deems appropriate.

(4) The board shall hold regular meetings as provided by its bylaws and may hold special meetings upon the call of its chair or vice chair or upon the call of a majority of its members. The board shall meet not less often than quarterly but not more often than monthly. Meetings shall be held at the Chitimacha Tribal Center unless the board, by majority vote, determines that meeting at such location is impractical or that the center is otherwise unavailable for the meetings.

(5) Members of the board shall serve without compensation.

(6) The maximum expenditure of state funds for this commission shall be limited to two thousand dollars per year. Notwithstanding any other law or provision to the contrary, the board is authorized to receive by gift, grant, donation or otherwise, any sum of money, aid or assistance from the United States, the state of Louisiana, or any of the political subdivisions thereof, the Chitimacha Tribe, private entities, or any other private or public source, to provide additional funds for the purpose of carrying out the objects, purposes, operations, and activities of the board.

C.(1) The board shall:

(a) Assess the impact natural processes and human activity are having on the area.

(b) Advise the secretary on policies and projects that will preserve the natural state and viability of the lakes and their environs and at the same time make recreational enjoyment of the area available to more people.

(c) Evaluate the effectiveness of governmental policies and projects and report to the secretary on any need for changes therein.

(d) Ensure that any decision of the board is consistent with the Basin Master plan, the Annual Basin plan, and the master plan for coastal protection and restoration for a sustainable coast.

(2) The board may commission studies and prepare reports relating to the purpose for which it is created and may solicit, accept, and expend funds for such purposes.

(3) Any project proposed by the board which may impact water quality or water management in the Atchafalaya Basin, as defined by R.S. 30:2000.2, shall comply with all

requirements of R.S. 30:2000.11 for the approval of a water management project for inclusion in the Annual Basin plan.

D. Unless otherwise extended by legislation, the authorization for the creation of the board shall terminate on December 31, 2019, and the board shall cease all functions and be dissolved as of that date.

RS 56:797 — Rockefeller Foundation Wildlife Refuge and Game Preserve; revenues; allocation

ise from leases for the exploration, development, or production of oil, gas, and other minerals on all or any portion of the lands in the parishes of Vermilion and Cameron comprising the Rockefeller Foundation Wildlife Refuge and Game Preserve, which was donated to the state of Louisiana by the Rockefeller Foundation by act of donation executed by it on September 30, 1920, and was accepted by the state of Louisiana under the terms and provisions of Act No. 71 of 1920 on November 8, 1920, which constitutes a contract between the state of Louisiana and Rockefeller Foundation entered into pursuant to said Act, and which is now on file and of record in the offices of the secretary of state and the commissioner of conservation and also in the offices of the clerks of court and ex officio recorders of the parishes of Vermilion and Cameron, subject to the prior charge on said revenues in favor of the Royalty Road Funds for the parishes of Vermilion and Cameron under authority of Section 2 of Article IV of the Louisiana Constitution of 1921, and Section 4 of Article VII of the Louisiana Constitution of 1974, when collected shall be deposited in the state treasury in a special fund designated as the Rockefeller Wildlife Refuge and Game Preserve Fund.

(2) The state treasurer is authorized and directed to transfer annually an amount equalling five percent of the annual revenues credited to said fund into a special fund designated as the Rockefeller Wildlife Refuge Trust and Protection Fund. If mineral and interest income credited to the Rockefeller Wildlife Refuge and Game Preserve Fund exceeds ten million dollars annually, the state treasurer is authorized and directed to transfer annually an amount equalling twenty-five percent of the annual income credited to the Preserve Fund into the Rockefeller Wildlife Refuge Trust and Protection Fund. Such transfers shall be made until such time as the principal amount credited to such fund equals the sum of fifty million dollars.

B. The remaining revenues comprising the said Rockefeller Wildlife Refuge and Game Preserve Fund and all income earned from investments of such revenues, shall be used first, for the purpose of paying the costs of maintenance, policing, and improving the said wildlife refuge and preserve, and the development of conditions suitable for improving such wildlife refuge and preserve, and any surplus of revenues derived from said mineral development or production on Rockefeller Wildlife Refuge shall be used by the Department of Wildlife and Fisheries in wildlife management programs and activities, particularly land acquisition throughout the state.

C. The state treasurer shall invest the principal and the undistributed return on the principal deposited in the Rockefeller Wildlife Refuge Trust and Protection Fund for the purpose of achieving perpetual financing of the fund. Such investments may include, among others authorized by law, investments permitted for the Louisiana Education Quality Trust

Fund, also known as the Kevin P. Reilly Sr. Louisiana Education Quality Trust Fund, as set forth in R.S. 17:3803(B), (D), and (E).

D. Investment income from said trust and protection fund shall be allocated annually, even during the period that the fund is being increased to the fifty million dollar level, as follows:

- (1) Three hundred thousand dollars to McNeese State University for educational purposes. The provisions of this Paragraph shall be inoperative and of no effect after July 1, 1993.
- (2) Sixty thousand dollars to the Governor's Special Commission on Educational Services to provide for undergraduate and graduate scholarships to Louisiana state colleges and universities for Louisiana residents to study in the fields of wildlife, forestry, or marine sciences, or study in curricula leading to study in such fields, such scholarships to have been approved by the Department of Wildlife and Fisheries for funding from such monies.
- (3) Three hundred thousand dollars for the Department of Wildlife and Fisheries to purchase lands that are of benefit to waterfowl and contribute to the North American Waterfowl Management Plan.
- (4) Three hundred thousand dollars for the Department of Wildlife and Fisheries to purchase land for upland game habitat.
- (5) Until the principal in the Rockefeller Wildlife Refuge Trust and Protection Fund reaches fifty million dollars, one hundred fifty thousand dollars to the Louisiana Fur and Alligator Advisory Council to accomplish the specific goals listed in R.S. 56:279(B).
- (6) If revenue available from the Rockefeller Wildlife Refuge and Game Preserve Fund is not sufficient to cover the cost of maintenance, policing, and improving the said wildlife refuge and preserve, and the development of conditions suitable for improving such wildlife refuge and preserve, any investment income needed from the trust and protection fund shall be made available to fulfill said needs, subject only to appropriation by the legislature. Use of the funds for such purposes shall take precedence over any other purpose provided in this Section.
- (7) However, as a one time allocation, three hundred fifty thousand dollars to the Department of Wildlife and Fisheries for an initial design of a nature trail and visitor's center at the Rockefeller Wildlife Refuge and Game Preserve.

E.(1) The investment income from said trust and protection fund remaining after the annual allocations provided for in this Section shall be added to the trust and protection fund. When the principal amount credited to the Rockefeller Wildlife Refuge Trust and Protection Fund reaches an amount equal to the sum of fifty million dollars, the proceeds derived from interest earned on investment of the principal shall, subject to all prior annual transfers of funds provided for by this Section, be allocated by the state treasurer in accordance with legislative appropriation to the Department of Wildlife and Fisheries to be used by said department first solely to defray the expense of maintaining, policing, and improving the Rockefeller Foundation Wildlife Refuge and Game Preserve and for the development of conditions suitable for improving said wildlife refuge and game preserve.

- (2) After all needs of the refuge have been provided for, any income earned from the

investment of the principal shall, subject to legislative appropriation, be available to the Department of Wildlife and Fisheries for the following activities:

- (a) Marsh Island and State Wildlife Refuge land stewardship.
- (b) Statewide fur management and research.
- (c) Statewide alligator management and research.
- (d) Statewide migratory bird management and research.

RS 56:798 — Russell Sage or Marsh Island Refuge

1 or any portion of

Marsh Island, donated to the state of Louisiana by the Russell Sage Foundation and accepted by the state of Louisiana, under the terms and provision of Act No. 70 of the 1920 Regular Session of the Legislature, as supplemented by Act 136 of the 1958 Regular Session of the Legislature, and of the contract between the state of Louisiana and the Russell Sage Foundation entered into pursuant to said Act, now on file and of record in the office of the secretary of state; such lease or leases to be for such time or times as may be mutually agreed upon between the Russell Sage Foundation and the State Mineral and Energy Board, and under such conditions, rules, and regulations as will, to the satisfaction of the Russell Sage Foundation, afford adequate present and future protection of Marsh Island for the purposes for which it was donated by the Russell Sage Foundation to the state and as will insure a minimum disturbance of wildlife on the island, and upon condition that the state of Louisiana shall pay or cause to be paid to the Russell Sage Foundation in the usual manner one-half of any and all revenues due to the state as royalty, rentals, or otherwise from such use, exploration, and development of such leased lands, except tax revenues, and that the state of Louisiana shall devote the other half of the such revenues so derived, first to maintaining, policing, and improving Marsh Island as a wildlife refuge or reserve, which funds shall be credited to, and form part of the Marsh Island Operating Fund, and any excess thereafter remaining of the state's one-half share of such revenues in the Marsh Island Operating Fund at the conclusion of the fiscal year shall be divided into two equal parts, one of which shall be dedicated, set aside, and placed with the state treasurer in a special fund to be known as the "Russell Sage or Marsh Island Refuge Fund", in order to insure through investment or its principal income, for the future maintenance, policing, and improving of Marsh Island as a wildlife refuge, and the other such part shall be available to be expended by the Louisiana Department of Wildlife and Fisheries or its successors for statewide projects for the propagation and protection of wildlife in the state of Louisiana.

(2)(a) In the event that ten million dollars have accumulated and remain in the Russell Sage or Marsh Island Refuge Fund, all interest and income from investments generated by the Russell Sage or Marsh Island Refuge Fund shall be transferred annually to the Marsh Island Operating Fund for the protection of Marsh Island and any excess of such interest and income from investments which remain in the Marsh Island Operating Fund at the end of each fiscal year shall be apportioned as follows: first to provide for an annual adjustment in the limit on accumulated funds in the Russell Sage or Marsh Island Refuge Fund which adjustment shall be an amount equal to the annual percentage change in the United States consumer price index for all urban consumers, as published by the United

States Department of Labor, for the preceding calendar year multiplied by the preceding year's limit, and, thereafter the remainder shall also be available to be expended by the Louisiana Department of Wildlife and Fisheries or its successors for statewide projects for the propagation and protection of wildlife in this state.

(b) The secretary of Louisiana Department of Wildlife and Fisheries shall file with the State Mineral and Energy Board annually, on or before July thirtieth of each year, an accurate and detailed written report, in duplicate, of the expenditures made from the state's one-half share of such revenues. One of the copies of such report shall be delivered by the State Mineral and Energy Board to the Russell Sage Foundation, and the other shall remain on file with the State Mineral and Energy Board, provided that the Russell Sage Foundation shall have the right if it so desires to verify any such report by audit.

(c) Upon the same terms and conditions and subject to the same division and disposition of revenues therefrom the State Mineral and Energy Board is authorized to grant permits to conduct geophysical surveys of all or any portion of Marsh Island.

B.(1) The state treasurer shall invest the principal and the undistributed return on the principal deposited in the Russell Sage or Marsh Island Refuge Fund for the purpose of achieving perpetual financing of the trust fund for the purposes for which the trust fund was created, the income from investments to be added to the trust fund and to become a part thereof for all purposes, except as provided in Paragraph (A)(2) of this Section. Such investments may include, among others authorized by law, investments permitted for the Louisiana Education Quality Trust Fund, also known as the Kevin P. Reilly Sr. Louisiana Education Quality Trust Fund, as set forth in R.S. 17:3803(B), (D), and (E).

(2) The state treasurer shall also invest the funds for maintaining, policing, and improving Marsh Island as a wildlife refuge or reserve in the Marsh Island Operating Fund for the purpose of earning interest on the Marsh Island Operating Fund, the income from investment to be added to said fund and to become a part thereof for all purposes.

C. The term "statewide projects for the propagation and protection of wildlife" is herein defined as:

- (1) Acquisition of wildlife habitat at a price which is equal to or less than the appraised market value, including the purchase of holdings on existing wildlife management areas, as well as adjoining or adjacent lands, or other tracts of such size and location as shall be appropriate for wildlife management;
- (2) Habitat management of existing and future wildlife management areas; and
- (3) Construction, maintenance, and operation of roads, waterways, buildings and other structures, facilities, and improvements upon existing and future wildlife management areas for the purposes for which they were acquired.

D. The term "wildlife management area" as used herein shall include Marsh Island.

E. Operations necessary for the management, maintenance, and development of conditions suitable for improving Marsh Island as a wildlife refuge and preserve which are potentially revenue producing shall be conducted only in accordance with the Deed of Donation from the Russell Sage Foundation to the state of Louisiana and under such provisions and conditions as will afford adequate present and future protection of Marsh

Island for the purposes for which it was donated and as will insure a minimum disturbance of wildlife on the island, and upon conditions that any revenues derived from such operations shall be dedicated, set aside, and placed with the state treasurer in a special fund which is hereby created in the state treasury to be known as the "Russell Sage or Marsh Island Refuge Capital Improvement Fund" which shall be devoted solely to capital improvements to Marsh Island, with a portion of the funds accruing to be held in reserve for unusual nonrecurring events caused by forces of nature or other unusual events. The state treasurer shall invest the principal and interest deposited in said Russell Sage or Marsh Island Capital Improvement Fund for the purpose of achieving perpetual financing of said trust fund for the purposes for which said trust fund was created, the income from investments to be added to said trust fund and become a part thereof for all purposes. The secretary of the Louisiana Department of Wildlife and Fisheries shall deliver to the Russell Sage Foundation annually, on or before July thirtieth of each year, an accurate and detailed written report of the expenditures made from said trust fund. The Russell Sage Foundation shall have the right if it so desires to verify any such report by audit.

F. The secretary of the Department of Wildlife and Fisheries is hereby authorized to employ a qualified accountant for the purposes of compiling the reports reflecting the status of the Marsh Island Operating Fund and special trust funds provided for by this Section, calculating the change in the Russell Sage or Marsh Island Refuge Fund limit, and for such other reporting purposes as may be agreed by the Russell Sage Foundation and the secretary of the Department of Wildlife and Fisheries.

RS 56:799 — MC Davis Conservation Fund

hereinafter referred to as the "fund", as mandated by Vendor in the MC Davis Property transfer to the Louisiana Department of Wildlife and Fisheries, which shall consist of management fees, certain revenues generated on and from the MC Davis Property and those monies donated or allocated for the protection, preservation, and stewardship of the forested wetlands in the Maurepas Swamp, Joyce, and Manchac Wildlife Management Areas. Monies in the fund shall be used solely for the implementation and administration of Subparts A, E, and F of this Part and R.S. 56:109 and for the preservation and management of the forested wetlands in the Maurepas Swamp, Joyce, and Manchac Wildlife Management Areas.

B. After allocation of money to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the treasurer shall deposit in and credit to the fund all of the following:

- (1) All compensation received by the state for management and operation fees for the enhancement of the habitat conditions of the forested wetlands for wildlife and fishery resources and public users on the MC Davis Property.
- (2) All compensation and fees charged by the state or the Louisiana Wildlife and Fisheries Commission for the use of the MC Davis Property.
- (3) All mineral revenues received by the state and revenues derived from other surface use activities on the MC Davis Property, except for revenues derived from an integrated coastal protection project as defined in R.S. 49:214.2, including revenues from the sale of carbon credits, which shall be deposited into the Coastal Protection and Restoration Fund.
- (4) All monies received by the state and derived from any sale of assets produced by the MC Davis Property, except for revenues derived from an integrated coastal protection project as defined in R.S. 49:214.2, including revenues from the sale of carbon credits, which shall be deposited into the Coastal Protection and Restoration Fund.
- (5) All donations of private funds or public contributions made to the state, department, or commission for the preservation, administration, management, and development of the forested wetlands in the Maurepas Swamp, Joyce, and Manchac Wildlife Management Areas, including the MC Davis Property, or for the activities conducted thereon.

C. The monies in the fund shall be invested by the state treasurer in the same manner as the state general fund and the interest earned on the investment of these monies shall be credited to the fund, after compliance with the requirements of

Article VII, Section 9(B) of the Constitution of Louisiana, relative to the Bond Security and Redemption Fund. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund.

D. The monies in the fund shall be available only for the preservation, acquisition, administration, management, operation, enhancement, and development of the forested wetlands in the Maurepas Swamp, Joyce, and Manchac Wildlife Management Areas, including the MC Davis Property, or for the activities conducted thereon.

E. The monies in the fund shall be appropriated only for the purposes set forth in Subsection D of this Section. The legislature shall make no appropriation from the fund which is inconsistent with Subsection A of this Section.

RS 56:799.1 — Purpose

the White Lake Property provides an opportunity for, and an obligation on, the state to preserve a scarce fresh water ecosystem and to conserve and protect in perpetuity a relatively natural habitat of fish, wildlife or plants or similar ecosystem.

RS 56:799.2 — Definitions

mpany to the State of Louisiana," dated July 8, 2002, and recorded July 11, 2002, in the conveyance records of Vermilion Parish, bearing entry number 20208337 in which the property in and around White Lake, located in Vermilion Parish, was donated to the state.

(2) "Commission" means the Louisiana Wildlife and Fisheries Commission.

(3) "Department" means the Department of Wildlife and Fisheries.

(4) "Fund" means the White Lake Property Fund.

(5) "White Lake Property" means the properties owned by the state in and around White Lake, located in Vermilion Parish which were donated to the state in "Act of Donation by BP America Production Company to the State of Louisiana," dated July 8, 2002, and recorded July 11, 2002, in the conveyance records of Vermilion Parish, bearing entry number 20208337.

RS 56:799.3 — White Lake Property Fund

d, the White Lake

Property Fund, hereinafter referred to as the "fund". After allocation of money to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the treasurer shall deposit in and credit to the fund all of the following:

(1) All revenues received by the state derived from agricultural leases and from mineral revenues from royalty payments, bonus payments, and rentals from the properties owned by the state in and around White Lake, located in Vermilion Parish which were donated to the state in "Act of Donation by BP America Production Company to the State of Louisiana", dated July 8, 2002, and recorded July 11, 2002, in the conveyance records of Vermilion Parish, bearing entry number 20208337, hereinafter referred to as the "White Lake Property".

(2) All fees charged by the Louisiana Wildlife and Fisheries Commission or the Department of Wildlife and Fisheries for use of the White Lake Property.

(3) All monies received by the state and derived from any sale of assets produced by the White Lake Property.

(4) All donations of private funds or public contributions made to the state, commission, or department for the conservation, administration, control, management, development, or operation of the White Lake Property or the activities conducted thereon.

B. The monies in the fund shall be invested by the state treasurer in the same manner

as the state general fund and the interest earned on the investment of these monies shall be credited to the fund, after compliance with the requirements of Article VII, Section 9(B) of the constitution, relative to the Bond Security and Redemption Fund. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund.

C. The monies in the fund shall be available only for the operation, maintenance, administration, control, management, or enhancement of the White Lake Property and to enhancement of the White Lake Property and to promote its wildlife and ecosystem conservation and for education and research purposes associated directly with the White Lake Property.

D. The monies in the fund shall be appropriated only for the purposes set forth in Subsection C of this Section.

RS 56:799.4 — Repealed by Acts 2016, No. 203, §3.

aton Rouge, Louisiana 70804-9062

RS 56:799.5 — Commission duties and responsibilities

ablish a conservation management plan for the White Lake Property.

(2) May authorize the conduct of lottery hunts on the White Lake Property by the department or through a cooperative endeavor agreement.

RS 56:799.6 — Department duties and responsibilities; powers

he White Lake Property.

B. The department may enter into cooperative endeavor agreements to fulfill its duties and responsibilities under this Subpart. Each such agreement shall be subject to review by the Joint Legislative Committee on the Budget.

RS 56:799.7 — Exemption from restrictions of area and number; fair market value

ferred to the state through the act of donation, the property subject to such lease may be offered by the department for lease. Such lease shall be deemed a new lease and shall be offered for public bid under the provisions of Part 1 of Chapter 10 of Title 41 of the Louisiana Revised Statutes of 1950. The provisions of R.S. 41:1217.1 and R.S. 56:30.3 which allow the secretary to offer the most recent lessee of record, his heirs, or assignees, the option to match the highest bid in order to continue to lease the state land shall apply to any bid process under the provisions of this Subsection.

However, such leases, renewals, or extensions shall be exempt from the provisions of R.S. 41:1216(A) which limit the total acreage which may be leased and the number of leases which may held by any one lessee.

B. All leases or extensions of leases issued on property governed by the provisions of this Subpart shall be in exchange of consideration proportionate to the fair market lease value of the property to be leased.

RS 56:800 — Timber management, lease, or sale

but not limited to the timber on any wildlife refuge, game preserve, wildlife management area, and public hunting ground.

The secretary shall have the authority and power to negotiate and enter into agreements for the management, lease, or sale of such timber with public or private persons, firms, corporations, or organizations, including the authority and power to establish the price, terms of contract, and other conditions necessary for the management, lease, or sale of such timber.

RS 56:801 — Particular game and fish preserves and commissions recognized and continued

rice and effect within the Department of Wildlife and Fisheries:

(1) Repealed by Acts 1981, No. 422, §2; Acts 1981, No. 490, §1; Acts 1981, No.

858, §5, eff. Jan. 1, 1982.

(2) Bayou Bonnie Idee Game and Fish Preserve (Acts 1952, No. 248; Acts 1966, No.

455; Acts 1977, No. 222, §1).

(3) Bayou Pierre State Game and Fish Preserve (Acts 1934, No. 139; Acts 1946, No. 382; Acts 1977, No. 222, §1).

(4) Beauregard Old River Fish and Game Preserve (Acts 1958, No. 266; Acts 1966, No. 455; Acts 1977, No. 222, §1).

(5) Black Bayou Game and Fish Preserve (Acts 1940, No. 39; Acts 1952, No. 489;

RS 56:802 — Responsibilities and duties

dams, control structures, and spillways within the territorial jurisdiction of each commission established in R.S. 56:801, provided that no local commission or authority is providing these services. The individual game and fish preserves and commissions or local governing authorities shall have the duty and responsibility for maintaining all support services within their territorial jurisdiction, including parks, picnic areas, and concessions.

RS 56:803 — Lake Pontchartrain State Bird Sanctuary

artrain State Bird Sanctuary:

(1) From the north shore of Lake Pontchartrain, one mile south along the Lake Pontchartrain Causeway and one-half mile east and west of the causeway in such area.

(2) From the south shore of Lake Pontchartrain, one mile north along the Lake Pontchartrain Causeway and one-half mile east and west of the causeway in such area.

B. All species of birds shall be protected within the Lake Pontchartrain State Bird Sanctuary. No person shall catch, kill, injure, pursue, possess, sell, or purchase any species of bird or the eggs or nest of any species of bird within the sanctuary.

C.(1) The department shall administer the sanctuary and shall cause markers to be erected at appropriate intervals around the periphery of the sanctuary to warn all persons against trespassing upon the sanctuary.

(2) Notwithstanding any other provisions of this Section to the contrary the department is authorized to enter into an intergovernmental agreement with the governing authority of Jefferson Parish. The intergovernmental agreement shall provide for the transfer of the responsibility for the administration, development, and enhancement of the bird sanctuary affecting the area around the south shore of Lake Pontchartrain, as described in this Section, to the parish. The department is authorized to terminate the agreement at such time as the governing authority of Jefferson Parish is either unable or unwilling to continue in its responsibility for the administration of the south Lake Pontchartrain bird sanctuary.

D. Violation of the provisions of this Section constitutes a class two violation.

RS 56:804 — Lake Catherine and Lake Pontchartrain Sanctuary

f the waters of Lake Catherine, and its passes, the Rigolets, Unknown Pass, and Chef Menteur, and that portion of Lake Pontchartrain as follows: the whole area from where the Rigolets and Chef Menteur Passes enter Lake Pontchartrain extending in a westerly direction to a point one and one-quarter miles west of the Southern Railway Bridge, being all of Lake Pontchartrain and its tributaries lying east of the Southern Railway Bridge, and all that portion of Lake Pontchartrain extending out one and one-quarter miles from shore along the Orleans Parish shoreline to the Jefferson-Orleans Parish line, and that area of Lake Pontchartrain along the north shore extending out one and one-quarter miles from shore and running from the Southern Railway Bridge to a line drawn between a point one and one-quarter miles southwest of Goose Point and Goose Point.

B. The taking of fish, shrimp, and other seafood from the waters of the Lake Catherine and Lake Pontchartrain Sanctuary by use of trawls, skimmer nets, butterfly nets, seines, or traps or other netting, with the exception of cast nets, drop nets, or scoop nets, is hereby prohibited. However, nothing in this Section shall be construed to prohibit the spearing of fish by any skin diver, operating for sport, while submerged in the water, and using standard underwater spearing equipment.

C. The taking of legal catfish by means of legal hoop nets or legal slat traps in the sanctuary is authorized. The use of crab traps in the sanctuary is authorized. The use of legal trawls, skimmer nets, and butterfly nets is authorized in open seasons in the area of the sanctuary located south and east of the Interstate 10 bridge.

D. The sanctuary created herein shall be administered by the Fish and Game Section of the Wildlife and Fisheries Commission or its successors.

E. Fish, shrimp, and other seafood and marine life may be caught or taken from the waters of the sanctuary by any method other than those prohibited above, including by skin divers operating for sport, while submerged in the water, and using standard underwater spearing equipment, during the seasons and in accordance with regulations now or hereafter prescribed by the legislature or by the Department of Wildlife and Fisheries of the state of Louisiana appertaining to these waters or to the other waters of the state generally.

F. Any violation of any provision of this Section shall be punishable by a fine of not less than two hundred fifty dollars nor more than five hundred dollars or imprisonment for not more than sixty days, or both. In addition, any gear or catch seized in connection with the violation shall be forfeited.

RS 56:805 — Establishment of recreational reef sites; designation and regulation

oms as recreational reef. The commission shall consider the recommendations of the Louisiana Oyster Task Force when designating such areas. The commission shall promulgate through the Administration Procedure Act the location of a reef, the types of materials to be used to construct and replenish the reef, and regulations governing fishing on and above the site, including but not limited to harvest seasons, times, and creel limits. There shall be no harvest of oysters from the sites so set aside.

B. A violation of the provisions of this Section shall be a class four violation punishable under the provisions of R.S. 56:34.

RS 56:1431 — Bayou Liberty; clearing; expropriation prohibited

ish, may need periodic clearing

of debris to ensure the free flow of water through the waterway in order to maintain its scenic and historic beauty and to assist in flood control efforts. Such clearing efforts shall take place only in that portion of the bayou from the center of the waterway to the low watermark on the banks without channelization, and without affecting any marsh or any live cypress or other trees below the low watermark. In addition, all clearing that may be necessary to maintain an open channel shall be performed only through the use of water-based equipment except in that portion of the bayou lying directly under or within one hundred feet of a point directly under the Tammany Trace foot bridge over Bayou Liberty, which portion of the channel may be cleared by other means.

B. Notwithstanding any provision of law to the contrary, no property abutting that portion of Bayou Liberty from U.S. Highway 190 south to Louisiana Highway 433 shall be expropriated by the state, a political subdivision or a public or private entity for any purpose.

C. Should any or all provisions of Subsection B herein be declared unenforceable by final judgment, notwithstanding any provision of law to the contrary, no public funds of the state, political subdivision or other public entity shall be used to expropriate property abutting that portion of Bayou Liberty from U.S. Highway 190 south to Louisiana Highway 433.

D. Should any or all provisions of Subsection B herein be declared unenforceable by final judgment, no property abutting that portion of Bayou Liberty from U.S. Highway 190 south to Louisiana Highway 433 shall be expropriated by the state, a political subdivision or a public or private entity unless the court finds that great public loss or inconvenience will result if the expropriation does not occur.

E. Subject to conditions stated herein, the Department of Conservation and Energy is hereby authorized to purchase property along that portion of Bayou Liberty from its headwaters to U.S. Hwy. 190 to be used as conservation easements. The purchase of property for conservation easements shall only be authorized if and when funding for the

purchase is appropriated for that purpose by the legislature.

F. The provisions of this Section shall supersede and control to the extent of any conflict with any other provision of law. It is the intent of the Legislature of Louisiana that the property referenced in this Section be maintained and protected without expropriation for the present and future benefit of Louisiana citizens.

RS 56:1621 — Exploitation of natural resources by director or employees prohibited; removal or dismissal for violation; application

orester, nor any salaried officer or employee of the wildlife and fisheries commission or of the forestry commission shall be:

- (1) Actively interested in the exploiting, for personal gain, of any natural resources of the state;
- (2) Employed by any person engaged in exploiting any natural resources of the state; or
- (3) An officer of or a member of the board of directors of any corporation engaging in the exploitation of natural resources of the state.

B. Violation of this section shall be a ground for removal from office or dismissal from employment.

C. Classified employees of the Wildlife and Fisheries Commission or the Department of Wildlife and Fisheries may engage in an activity described in Subsection A, provided that the activity is not prohibited by other law and is approved by the director of the Wildlife and Fisheries Commission.

RS 56:1622 — Forfeitures of all rights, property, money, or things of value acquired

s, property, money, or things of value acquired, in violation thereof, from, upon, under, or out of property privately owned or leased or property owned or leased from the state or any property owned by or leased from any municipality or public board, body, commission, or agency of the state. The rights of the state respecting such forfeitures is imprescriptible.

RS 56:1623 — Transfer of rights or property acquired in violation of R.S. 56:1621

things of value acquired in violation of that Section shall be null and void ab-initio.

RS 56:1681 — Creation; purpose and duties; members; appointments and terms; compensation; chairman; meetings

to promote the goals and objectives of the office of state parks and act in an advisory capacity to that office and its assistant secretary and the secretary of the department in matters relating to parks, recreation facilities, programs, and the efficient administration thereof. It shall also cooperate with the political subdivisions of the state when officially requested.

(2) The commission shall be composed of eighteen members, as follows:

- (a) The governor or his designee.
- (b) The secretary of the Department of Wildlife and Fisheries or his designee.
- (c) One member to be appointed by the governor from a panel of four members nominated by the Louisiana Garden Club Federation, Inc.
- (d) One member to be appointed by the governor from a panel of four members nominated by the General Federation of Women's Clubs of Louisiana, Inc.
- (e) Four members to be appointed by the governor from a panel of eight names submitted by the Louisiana Recreation and Parks Association.
- (f) Four members, at large, to be appointed by the governor, at least two of whom shall be members of a minority.
- (g) One member to be appointed by the governor from a panel of four names submitted by the Louisiana Municipal Association.
- (h) One member to be appointed by the governor from a panel of four names submitted by the Louisiana Police Jury Association.

- (i) One member to be appointed by the governor from a panel of four names submitted by the Louisiana Nature Conservancy.
- (j) The assistant commissioner of the office of forestry of the Department of Agriculture and Forestry or his designee.
- (k) One member to be appointed by the governor from a panel of four names submitted by the Louisiana Preservation Alliance.
- (l) One member to be appointed by the governor from a panel of four names submitted by the Foundation for Historical Louisiana.
- (3) Each appointment by the governor shall be submitted to the Senate for confirmation.

B.(1) Each appointive member shall serve a term concurrent with that of the governor making the appointment. An appointive member shall continue to serve until his successor is appointed and takes office. A vacancy shall be filled in the manner of the original appointment within sixty days, except that the nominating group shall submit a list of three names from which the appointment shall be made from among the membership. The qualification requirements for appointment of each member to the commission shall remain in effect for the duration of such appointment. In the event a member, after appointment, should fail to maintain the qualifications or classification of his original appointment, that member shall resign or be removed and shall be replaced with a member possessing the proper qualifications and classifications.

(2) The members shall be persons who have displayed an active interest in, and knowledge of, the work which falls under the jurisdiction of the commission. Each member of the commission shall receive a per diem of twenty-five dollars for each day of attendance at meetings of the commission and upon approval of the secretary of the Department of Culture, Recreation and Tourism shall receive actual and necessary expenses incurred in the performance of official duties. The commission shall elect its chairman from among its members for a two-year term. The commission shall have no power granted in this Chapter, unless and until, at least one person shall have been appointed thereto who is of a minority race, and one person shall have been appointed who is a woman.

C. The chairman shall convene regular quarterly meetings. Members shall not be paid for more than four meetings a year. Special meetings shall be held on the call of the chairman, or on request of a majority of the members. Any ten members of the commission shall constitute a quorum for the transaction of any and all business at any regular or special meeting. In the absence of the chairman, the remaining members shall appoint a temporary chairman having all the powers of the absent chairman.

RS 56:1682 — Office of state parks; purpose

protecting natural areas of unique or exceptional scenic value.

- (2) Establishing and operating parks that provide recreational use of natural resources and facilities for outdoor recreation in natural surroundings.
- (3) Portraying and interpreting plant and animal life, geology, and all other natural features and processes included in the various state parks.
- (4) Preserving, protecting, and portraying historic and scientific sites of statewide importance.
- (5) Performing functions of the state relating to outdoor recreation development and trails, as provided in part by Chapter 7 of this Title.

RS 56:1683 — Office of state parks; authority to classify

It provide objectives which will encompass preservation, commemoration, and recreation as identified in the statement of purpose in R.S. 56:1682.

RS 56:1684 — Categories of classification

d, and identified

according to the following classification categories and the criteria thereof:

- A. "State preservation areas" are those areas of exceptional scenic value which, because of their unique characteristics, should be preserved for current and future enjoyment.
- "Exceptional scenic value" refers to rare natural scenery unlikely to be preserved if the

property remains in the ownership of private citizens and which is sufficiently distinctive to attract and interest people from all parts of the state.

The criteria for selection of areas to be designated state preservation areas shall be:

(1) Size: A state preservation area must be of sufficient size to allow preservation of major features of the park and the use of the features by the visitors. In either case, the inclusive area must be large enough to:

- (a) Completely include the scenic natural or ecological features which the area was established to protect.
- (b) Provide sufficient buffer area against outside disturbances and encroachments.
- (c) Provide an undisturbed habitat for native wildlife; and
- (d) Permit the development of public use areas, if these can be developed without impairing the scenic, natural, or ecological features of the area.

All state preservation areas must adhere to an absolute minimum size standard of five hundred acres or preferred minimum standard of one thousand acres. The secretary of the Department of Culture, Recreation and Tourism shall determine in each case which minimum standard will be applicable.

(2) Location and accessibility: A state preservation area will be selected exclusively on the basis of preservation, desirability of the unique natural features without principal regard to geographic distribution, proximity to population centers or accessibility.

The office of state parks shall adopt policies for governing development, management, and visitor use of state preservation areas, and such policies shall be consistent with the basic purpose of such areas as herein identified.

B. "State preservation sites" are smaller equivalents of a state preservation area established primarily to preserve a unique natural feature of ecological or scientific interest.

The criteria for selection of areas to be designated state preservation sites shall be:

(1) Size: A state preservation site shall be large enough to encompass the feature to be preserved and to provide a buffer sufficient to adequately protect that feature.

(2) Location and accessibility: A state preservation area will be selected exclusively on the basis of preservation, desirability of the unique natural features without principal regard to geographic distribution, proximity to population centers or accessibility.

The office of state parks shall adopt policies governing development, management, and visitor use of state preservation sites, and such policies shall be consistent with the basic purpose of such areas as herein identified.

C.(1) "State historic sites" are those areas which when evaluated on a statewide basis possess historical, cultural, or memorial significance. The principal function of a state historic site shall be to preserve and maintain a specific historical, cultural, or memorial theme.

(2) The criteria for selection of an area to be designated a state historic site shall be:

(a) Size: A state historic site will be of sufficient size to encompass the area or feature being commemorated or to adequately commemorate the event, feature, or culture for which the area is established, or both. Sufficient buffer will be established to minimize any encroachments which may impair the historical values and inhibit public use and

appreciation of the area.

(b) Location and accessibility: A state historic site will be located within the environment of the event, feature, culture, or memorial which it represents.

(3) The office of state parks shall adopt policies governing development, management, and visitor use of state historic sites. Such policies shall be consistent with the basic purpose of such areas as herein defined.

D. "State parks" are natural areas which, when evaluated on a statewide basis, possess outstanding potential for recreation utilization. The natural area must possess outstanding scenic and natural qualities to provide a recreation opportunity of high quality in a natural setting.

The criteria for the selection of areas to be designated as state parks shall be:

(1) Size: A state park shall be of sufficient size to ensure efficient operation and maintenance of its recreation facilities and have sufficient buffer to preserve the natural integrity of the area.

All state parks, except those currently within the system, those in Caddo and Bossier Parishes, and those within Township 23 South - Range 22 East and Township 23 South - Range 23 East, Lafourche Parish, must adhere to an absolute minimum size standard of two hundred fifty acres and preferred minimum size standard of four hundred acres. The secretary of the Department of Culture, Recreation and Tourism will determine in each case which minimum standard will be applicable.

(2) Location and accessibility: A state park will be located in such a way as to take advantage of natural and man-made resources offering opportunities for recreation in a natural setting and shall be located sufficiently near population centers. Further, the office of state parks shall adopt policies governing the location of state parks in proximity to incorporated municipalities.

The office of state parks shall adopt policies governing development, management, and visitor use of state parks, and such policies shall be consistent with the basic purpose of such areas as herein identified.

E. "State experimental sites" shall be natural areas developed for experimentation or training of park personnel, or both, and for the study of innovative concepts, facilities, and activities which may be applicable to the function and program of the office of state parks.

The criteria for the selection of areas to be designated as state experimental sites are:

(1) Size: A state experimental site shall be of sufficient size to allow for development of a "typical" state park or for trial uses of innovative facilities and concepts.

(2) Location and accessibility: A state experimental site should be located near to and easily accessible from the office of state parks administrative office.

The office of state parks shall adopt policies governing development, management, and visitor use of state experimental sites, and such policies shall be consistent with the basic purpose of such areas as herein identified.

RS 56:1684.1 — Cypermort Point State Park; design standards; applicability

esthetic quality standards, construction, or usage of facilities at state parks shall be applicable to the development, planning, and construction of facilities in Cypermort Point State Park without the review of the oversight committee as

provided for in Subsection B of this Section. However any such plans shall be approved by the lieutenant governor prior to commencing any development or construction.

B. An oversight committee comprised of the state representatives and state senators representing the parishes of St. Mary and Iberia, or their designees, and the parish presidents of the parishes of St. Mary and Iberia, or their designees, shall review the proposed plans before any construction begins as provided in Subsection A of this Section.

RS 56:1685 — Classification of holdings

. The official names of each

existing and future office of state parks holding will include the classification term representing its function and basic purpose. In the event one holding represents several classification functions, the dominant function will determine the primary classification, and the name will represent this consideration.

B. The following office of state parks holdings are hereby recognized and designated state historic sites, and all official reference shall include "State Historic Site" as part of the official name. The office of state parks shall have authority to structure each individual name; however, each name shall end with the term "State Historic Site":

- (1) Fort Pike
- (2) Audubon
- (3) Fort DeRussy
- (4) Longfellow-Evangeline
- (5) Marksville
- (6) Kent House
- (7) Fort Jesup
- (8) Mansfield
- (9) Poverty Point
- (10) Port Hudson
- (11) Locust Grove
- (12) Earl K. Long
- (13) Fort Macomb
- (14) Fort Livingston
- (15) Centenary
- (16) Clinton Confederate
- (17) Fort St. Jean Baptiste
- (18) Jackson Confederate
- (19) Los Adaes
- (20) Plaquemine Lock
- (21) Rebel
- (22) Winter Quarters
- (23) Huey P. Long Boundary marker
- (24) Rosedown Plantation
- (25) Watson Brake

C. The following office of state parks holdings are hereby recognized and designated state parks, and all official reference shall include "State Park" as part of the official name.

The office of state parks shall have authority to structure each individual name; however, each name shall end with the term "State Park":

- (1) Fontainebleau
- (2) Fairview-Riverside
- (3) Chicot
- (4) Sam Houston Jones
- (5) Lake Bistineau
- (6) Lake Claiborne
- (7) Lake Bruin
- (8) Chemin-A-Haut
- (9) Grand Isle East
- (10) St. Bernard
- (11) Lake D'Arbonne
- (12) Cypremort Point
- (13) Grand Isle West
- (14) Tickfaw
- (15) Lake Fausse Pointe
- (16) Larto Lake
- (17) North Toledo Bend
- (18) South Toledo Bend
- (19) Bayou Segnette
- (20) Jimmie Davis
- (21) Palmetto Island
- (22) Bogue Chitto
- (23) C. Bickham Dickson
- (24) Poverty Point Reservoir
- (25) Slidell
- (26) Vardie Parsons
- (27) Ouiski Bayou

D. The following office of state parks holdings are hereby recognized and designated state preservation areas, and all official reference shall include "State Preservation Area" as part of the official name. The office of state parks shall have authority to structure each individual name; however, each name shall end with the term "State Preservation Area":

- (1) Coochie Brake
- (2) Tunica Hills
- (3) Cheniere-Au-Tigre
- (4) Louisiana State Arboretum
- (5) Atchafalaya Wilderness Center
- (6) Big Cypress

E. Repealed by Acts 2004, No. 389, §2.

RS 56:1685.1 — Gary James Hebert Memorial Lockhouse

fter be known as the Gary James Hebert Memorial Lockhouse.

RS 56:1685.2 — J. D. "Prof" Lafleur Visitor Center at the Louisiana State Arboretum

nown as the J. D. "Prof" Lafleur Visitor Center.

RS 56:1686 — Use of terms prohibited

e parks holdings and therefore all use of such terms in any official name of public or private lands or holdings is prohibited except when approved by the secretary of the Department of Culture, Recreation and Tourism and when such areas meet the classification criteria as identified in R.S. 56:1684.

RS 56:1687 — Secretary, Department of Culture, Recreation and Tourism; powers

oration, association, or other entity, municipal,

state, or federal government, or from any other agency, gifts, contributions, bequests, or donations of money or other personal property, lands, water bottoms, or other immovable property to be expended or used for establishing, developing, improving, or maintaining any office of state parks holding.

(2) Enter into agreement with the federal government or any other agency, or both, for acquiring by lease, purchase, or otherwise, such lands as are desirable for office of state parks holdings.

(3) Acquire in the name of the state by purchase, lease, agreement, expropriation or otherwise, any lands or water bottoms deemed necessary or desirable for the most orderly development or improvement of office of state parks holdings.

(4) Construct and maintain canals and ditches, through any lands of private individuals or corporations, sufficient to properly drain any office of state parks holding; the right of way for such canals and ditches may be acquired in the same manner as lands or water bottoms for office of state parks holdings.

(5) When lands are acquired or leased under this Part, make expenditures from any fund not otherwise obligated, for the management, development, and utilization of such areas, sell or otherwise dispose of products from such lands, and make any rules and regulations necessary to carry out the provisions of this Part.

(6) Sell, lease, or sublease lands under the jurisdiction of the office of state parks when he believes it advantageous to the state to do so in the most orderly development and improvement of the office of state parks holdings but only in accordance with the sale and lease laws of public lands of the state of Louisiana and the provisions of R.S. 36:204.

(7) For a public purpose, engage in cooperative endeavors with the state and its political subdivisions, or political corporations, with neighboring states in the United States, or the agencies of either, or with any public or private association, corporation or individual in matters relating to acquiring, except by expropriation, planning, establishing, developing, improving or maintaining any park, parkway or recreational area.

(8) Construct and operate suitable public service privileges and conveniences on any office of state parks holding, and collect reasonable fees and charges for the use of such facilities.

(9) Charge a fee and collect rents and other payments for the leasing of concessions or granting of other privileges in or on an office of state parks holding. Such leases shall otherwise be granted in accordance with applicable requirements of the public bid law of the state, state procurement laws, procedures of the division of administration, and other

applicable provisions of law that govern the granting of leases, concessions, or other privileges on such holdings, including R.S. 23:3023.

(10) Exchange lands when it is necessary to do so in order to obtain other lands of value by the office of state parks. However, lands which have been incorporated as a part of an established state park shall be exchanged only after receiving approval for such exchange by the legislature of the state of Louisiana and after the advertisement provisions of Paragraph (6) of this Section have been complied with. However, exchanges of property that have been agreed to by the parties and for which written approval has been granted by the office of facility planning and control, division of administration, prior to the effective date of this Paragraph, shall not be required to comply with advertisement provisions of this Paragraph nor shall it require approval of the legislature. Nor shall any property that has been authorized for transfer to and used by a political subdivision through a cooperative endeavor agreement, which agreement has been executed prior to the effective date of this Paragraph, require approval of the legislature in order to effect the transfer of property.

(11) In consultation with the board of commissioners of the Poverty Point Reservoir District, make, alter, amend, and promulgate rules and regulations, in accordance with the Administrative Procedure Act, to regulate recreational uses of any body of water located wholly within Poverty Point Reservoir State Park; however, such rules and regulations shall be subject to and shall not conflict with the constitutional authority of the Louisiana Wildlife and Fisheries Commission.

(12)(a) Sell certain state park lands as described below, in exchange for consideration proportionate to the appraised value of the property, and use the proceeds of that sale to acquire property to expand existing park areas in Union Parish, to add new facilities on existing park areas in Union Parish, or for general repairs and improvements to existing facilities on existing park areas within Union Parish.

(b) That certain parcel of land comprising 90 acres, more or less, excluding mineral rights, situated within the city of Farmerville and along the shoreline of Lake D'Arbonne in Sections 25 and 36, Township 21 North, Range 1 West, Union Parish, Louisiana.

RS 56:1687.1 — Posting of state parks' boundaries; rules and regulations

aries of state parks, state historic sites, state preservation areas, and other lands under the jurisdiction and control of the office of state parks. Such rules and regulations shall be promulgated and adopted in accordance with the Administrative Procedure Act.

RS 56:1687.2 — Taking of mayhaw berries; rules and regulations

aw (*Crataegus aestivalis*) berries in state parks shall be subject to legislative oversight in accordance with the Administrative Procedure Act. The taking of mayhaw berries, as provided herein, shall not be subject to the Public Bid Law. Notwithstanding any other provision of law, rule, or regulation to the contrary, no person shall be charged a fee for collecting mayhaw berries in state parks, nor shall any person be limited as to the quantity of mayhaw berries that can be collected.

RS 56:1688 — Park wardens; powers and duties

e park wardens shall, in addition to the authority otherwise conferred by law upon such officers, be vested with the same authority and powers conferred by law upon regular law enforcement officers of this state while such wardens are acting within the course and scope of their duties on property subject to the jurisdiction of the Department of Culture,

Recreation and Tourism, office of state parks.

C. State park wardens shall have specific authority and responsibility to enforce all rules and regulations of the Department of Culture, Recreation and Tourism, office of state parks, and all laws of the state of Louisiana, within the limits of their jurisdiction. State park wardens shall have the authority to enforce litter laws statewide and to issue citations for littering by mail or in person.

D. Duly commissioned state park wardens may carry concealed or exposed weapons while acting within the course and scope of their duties.

E. State park wardens shall successfully complete a basic certified training program approved by the Council on Peace Officer Standards and Training as provided by R.S. 40:2405 and shall fulfill all requirements for annual basic firearms training.

RS 56:1688.1 — Civil penalties; assessment; administrative hearing

violation of R.S. 30:2531(A) or (B) in

accordance with the Administrative Procedure Act.

B. The department may elect to enforce the provisions of R.S. 30:2531 by adjudicatory hearing held in the district office for the parish where the defendant is domiciled or where the violation occurred. The defendant may waive the adjudicatory hearing upon payment of the fine.

C.(1) In any case in which the department elects to proceed by adjudicatory hearing, the defendant shall be notified in writing of the time and place set for hearing. Written notice for the hearing may be included on any citation or summons issued in connection with the violation or may be provided by certified letter mailed to the defendant at his last known address. The summons or written notice shall constitute notice to the defendant that failure to appear at the specified time and location shall result in the assessment of civil penalties and costs associated with the hearing. Notice given by certified mail in accordance with this Subsection shall be deemed effective fifteen days after the notice is postmarked and mailed.

(2) Either party may appeal a ruling of the administrative hearing officer to the district court in the judicial district in which the offense occurred.

(3) Once all appeals deadlines have expired, a ruling of the administrative law judge shall be considered final for the purposes of debt recovery or collection.

D. Any person who is assessed a civil penalty shall also be liable for attorney fees and costs of the adjudicatory hearing.

E. Any recovery of civil penalties shall be deposited into the litter abatement account within the Conservation Fund.

F. The secretary of the Department of Culture, Recreation and Tourism shall promulgate and enforce the rules and regulations necessary to carry out the provisions of this Section.

RS 56:1689 — Violation of rules and regulations; penalty

ulture, Recreation and Tourism shall be punishable by fine of not less than fifteen dollars nor more than two hundred fifty dollars.

RS 56:1690 — Capacity to sue and be sued

ism, Office of State Parks, through the Secretary of said department."

RS 56:1691 — Possession of firearms

anagement area, or wildlife refuge.

RS 56:1692 — Exemption from entrance fees; elderly

tate park in Louisiana. Any person accompanying a citizen of the state of Louisiana who is sixty-two years of age or older, as the driver of a single, private, noncommercial vehicle, or alternatively, the exempted person's spouse and children accompanying him or her where entry to the area is by any means other than private, noncommercial vehicle, shall be exempt from paying the general admission charge to any state park in Louisiana.

B. Repealed by Acts 1995, No. 266, §2.

RS 56:1692.1 — Fee exemption for "Golden Age Passport" holders; camp sites

all be permitted, upon presentation of the Golden Age Passport and proper identification to state park authorities, to camp at sites within Louisiana state parks for one-half the normal fee if an unoccupied camp site is available and if the state park system of the citizen's domicile as reflected on his presented identification also recognizes such passes for discounted access or services.

RS 56:1693 — Exemption from entrance fees; school children

erson accompanying a school child on such a field trip shall be exempt from paying the general admission charge to any state park, museum or related state facility in Louisiana. This exemption shall be valid from Monday through Friday during the months of October through March. The office of state parks shall promulgate regulations to implement the provisions thereof.

RS 56:1693.1 — Exemption from fees; children in state's legal custody

public nonprofit community home based organization or "provider", shall be exempt from paying the general day-use entrance fees or any other fees for "day-use" facilities at any state park in Louisiana; however, such use shall be in conjunction with an organized group outing or event sponsored and supervised by the public, nonprofit organization or "provider".

B. The office of state parks shall promulgate regulations to implement the provisions hereof to become effective no later than January 1, 1992.

RS 56:1693.2 — Exemption for "Golden Access Passport" holders; day-use entrance fees; camping fees

ates pursuant to 16 U.S.C. 460

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-6a, upon presentation of the Golden Access Passport and proper identification to state park authorities, shall be exempt from the day-use entrance fee to any Louisiana state park and shall be permitted to camp at sites within Louisiana state parks for one-half the normal fee if an unoccupied camp site is available and if the state park system of the citizen's domicile as reflected on his presented identification also recognizes such passes for discounted access or services.

B. Repealed by Acts 2001, No. 917, §1.

C. In state parks where individual user fees are charged, the exemption provided for in Subsection A of this Section shall apply only to the permit holder; however, where vehicle permits are utilized, the exemption shall apply to the permit holder and each occupant accompanying the permit holder in the same private, noncommercial vehicle.

D. The office of state parks shall promulgate regulations to implement the provisions of this Section.

RS 56:1693.3 — Exemption for America the Beautiful National Parks and Federal Recreational Lands Senior Pass and Access Pass holders; camping fees

tiful National Parks and Federal Recreational Lands Senior Pass or Access Pass issued by an agency of the United States, upon presentation of such pass and proper identification to state park authorities, shall be permitted to camp at sites within Louisiana state parks for one-half the normal fee if an unoccupied camp site is available and if the state park system of the citizen's domicile as reflected on his presented identification also recognizes such passes for discounted access or services.

RS 56:1694 — Exemption from entrance fees; certain veterans

been awarded by the government of the United States an allowance toward the purchase of an automobile, or any Louisiana resident who is a veteran of the Armed Forces of the United States having a disability classification by the Social Security Administration or the Veterans' Administration as totally and permanently disabled or classified as having a fifty percent or greater disability, shall be exempt from paying the day use entrance fee to any Louisiana state park.

B. Application by eligible veterans shall be made to the assistant secretary, office of state parks, for an entrance permit, which will be issued by the agency upon verification of eligibility by the Department of Veterans' Affairs of Louisiana. Any person accompanying a veteran having a valid entrance permit in the same single, private, non-commercial vehicle shall be exempt from paying the day use entrance fee to any Louisiana state park.

C. Persons exempt from the day use entrance fee as provided in Subsection A shall also be entitled to purchase a "Golden Pelican Permit" through the office of state parks as provided in R.S. 56:1692(B).

RS 56:1695 — Annual day use entrance permits to state parks

le entrance permit to Louisiana state parks. The permit shall be a decal or other identification affixed to a private, non-commercial vehicle, and shall be valid for a period of one year, with the inception and expiration dates to be fixed by the office of state parks. The assistant secretary, office of state parks, may renew such permits annually, upon application therefor and upon payment for each renewal. Any citizen to whom a valid entrance permit has been issued shall, upon presentation of the permit, be exempt from paying the day use entrance fee to any state park in Louisiana.

Any person accompanying a citizen having a valid entrance permit in the same single, private, non-commercial vehicle, shall be exempt from paying the general admission charge to any state park in Louisiana.

RS 56:1696 — Surplus from operation of parks

g from the operations of the various office of state parks holdings, provided that such surpluses are to be expended within one year after the close of each fiscal year for the purchase of equipment, repairs and improvements to existing facilities, when approved by the commissioner of administration.

RS 56:1697 — Sale or donation of lands belonging to school or levee board

and maintenance of office of state parks holdings may be sold or donated to the state of Louisiana, Department of Culture, Recreation and Tourism, office of state parks, for the purposes herein set out in this Part, with the approval of the governor and the attorney general.

RS 56:1698 — Title to state parks

ncluding Chicot State Park, in the parish of Evangeline; Fontainebleau State Park, in the parish of St. Tammany; Chemin-A-Haut State Park, in the parish of Morehouse; Longfellow-Evangeline State Park, in the parish of St. Martin; Fort Macomb, in the parish of Orleans; Fort Pike, in the parish of Orleans; and Bogue Falaya State Park, in the parish of St. Tammany.

RS 56:1699 — Chicot State Park, special facilities camp for persons with disabilities; creation;

tion and Tourism

is hereby authorized to select, designate, and set aside a site at Chicot State Park or to acquire a site in close proximity thereto for the purpose of establishing a facility to serve the special needs of citizens with physical disabilities and mental impairments. This site and all facilities now or hereafter developed thereon shall be under the operation and supervision of the office of state parks.

B. The office of state parks shall be responsible for the planning and development of such park facilities to meet the needs of citizens with physical disabilities and mental impairments.

C. The office for citizens with developmental disabilities of the Louisiana Department of Health, in coordination with the Louisiana Developmental Disabilities Council, shall be responsible for all programmatic functions of such park facility, including

but not limited to the following:

- (1) The preparation and administration of programs for the benefit of persons with disabilities.
- (2) Scheduling and coordination of the use of this facility by persons with disabilities.
- (3) The provision of available program staff personnel or camp counselors for group use and program activities, as may be required.
- (4) The receipt and allocation of federal and state funds, donations, and any other funds as may be available for camp programs and activities.

D. The office of state parks and the office for citizens with developmental disabilities shall establish rules and regulations for the implementation of this Section. Such rules and regulations shall be structured so as to give priority of facility use to groups of persons with disabilities but shall not necessarily preclude use by persons who do not have disabilities.

RS 56:1700 — Clinton Confederate Cemetery, operation and maintenance; transfer

with the Clinton Confederate Cemetery Association,

a nonprofit charitable association formed in accordance with the provisions of the U.S. Internal Revenue Code, for the operation and maintenance of the Clinton Confederate State Historic Site, also known as the Clinton Confederate Cemetery.

B. Subject to an appropriation annually to be provided in appropriations for the operations of the Department of Culture, Recreation and Tourism and specifically designated for such purpose, the department is authorized to transfer funds of not more than fifteen hundred dollars annually to the cemetery association for the performance of such operation and maintenance. The department shall include in its annual request for operating funds an amount sufficient to accomplish the obligations so transferred to the association.

C. The association shall establish rules and regulations consistent with the general laws of the state, the parish, and the town of Clinton for the operation of the cemetery, and all such rules and regulations shall be subject to approval by the office of state parks of the Department of Culture, Recreation and Tourism.

D. The association may not transfer its responsibilities for operation, maintenance, and upkeep of the historic site to any public body or to any other state chartered nonprofit corporation whose purpose shall be the proper care, operation, and management of the Clinton Confederate Cemetery, without prior approval by the office of state parks of the Department of Culture, Recreation and Tourism.

RS 56:1701 — Kent Plantation House, agreements for operation and maintenance

public or private entity for the operation and maintenance of the Kent House State Historic Site, also known as the Kent Plantation House. Such agreement shall be made and implemented in the same manner and subject to the same provisions as agreements between parishes, municipalities, and political subdivisions as provided in Subpart A of Part VII

of Chapter 2 of Title 33 of the Louisiana Revised Statutes of 1950.

B. Subject to annual appropriations, to be provided in appropriations for the operations of the Department of Culture, Recreation and Tourism and specifically designated for such purpose, the department is authorized to transfer funds of not less than fifty-six thousand dollars annually, as appropriated, to the operating entity for the performance of such operation and maintenance. The department shall include in its annual request for operating funds an amount sufficient to accomplish the obligations so transferred.

C. The operating entity shall establish rules, regulations, and policies consistent with state and local law for the operation of said site, and all such rules, regulations, and policies shall be subject to approval by the office of state parks of the Department of Culture, Recreation and Tourism.

RS 56:1702 — Palmetto Island State Park; agreements for operation and maintenance

iate public or private entity for the operation and maintenance of the Palmetto Island State Park for a public purpose.

Such agreement shall require that the state shall be responsible for any and all costs for road construction and maintenance, and for any and all costs for heating, cooling, and sewerage, except electricity costs.

B. The office of state parks, in consultation with the operating entity, shall develop any rules, regulations, and policies necessary for the operation of the park. Rules and regulations shall be promulgated in accordance with the Administrative Procedure Act.

RS 56:1703 — Louisiana State Parks Improvement and Repair Dedicated Fund Account

e "Louisiana State Parks Improvement and Repair Dedicated

Fund Account", hereinafter referred to in this Section as the "account". Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

B. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state that become due and payable within a fiscal year, the treasurer in each fiscal year shall pay into the account all of the following:

(1) An amount equal to the total amount of fees and other self-generated revenues generated by state parks, except as provided in R.S. 56:1704.

(2) An amount equal to all donations of private monies made to the state of Louisiana or any political subdivision, department, agency or corporation of the state for the conservation, administration, control, management, development, operation, or maintenance of any office of state parks holdings. These monies shall be appropriated only for the conservation, administration, control, management, development, operation, or maintenance of office of state parks holdings.

C. Except as provided in Paragraph (B)(2) of this Section, the monies in the account shall be used solely for the purpose of financing improvements and repairs at state parks in the state and shall be allocated, subject to appropriation by the legislature, as follows:

(1) Except as provided in R.S. 56:1704, fifty percent of the monies in the account shall be allocated to each state park in an amount equal to fifty percent of the amount of fees and other self-generated funds generated by that park.

(2) Fifty percent of the monies in the account shall be allocated for use throughout the state park system on the following priority need basis, as recommended by the assistant secretary of the office of state parks:

(a) First, for protection of life or property on existing park areas.

(b) Second, for general repairs and improvements to existing facilities on existing park areas.

(c) Third, for addition of new facilities on existing park areas.

(d) Fourth, for acquisition of property to expand existing park areas.

(e) Fifth, for maintenance and operations of existing park areas.

D. All unexpended and unencumbered monies in the account at the end of a fiscal year shall remain in the account and be available for appropriation in the next fiscal year in the same manner as allocated herein. Monies in the account shall be invested as provided by law. Interest earned on the investment of monies in the account shall be credited to the state general fund.

RS 56:1704 — Bayou Segnette State Park; operation of the wave pool

venues to the Bayou Segnette State Park to be used solely for the purpose of funding the operation and maintenance of the wave pool.

RS 56:1705 — Poverty Point Reservoir Development Dedicated Fund Account

lished as a special dedicated fund account within

the state treasury. Monies deposited into the account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriation bills and shall be available for annual appropriation by the legislature.

B. After satisfaction of the requirements of Article VII, Section 9(B) of the Constitution of Louisiana with respect to the Bond Security and Redemption Fund, the state treasurer shall each year deposit in and credit to the account an amount equal to the total fees and self-generated revenues collected in that year from activities of the Poverty Point Retirement Development Community and the Black Bear Golf Course. Monies in the account may be appropriated for support of the operation, maintenance, improvement, and expansion of the Poverty Point Retirement Development Community and the Black Bear Golf Course. Any unexpended or unencumbered monies on deposit in the account at the end of the fiscal year shall remain in the account. Monies in the account shall be invested in the same manner as those in the state general fund and interest earned on such investment shall be deposited in and credited to the state general fund.

C. The Poverty Point Reservoir Development District Board membership shall be representative of the population of the state based on race and gender as near as practicable.

RS 56:1741 — Authority

the state of Louisiana are hereby authorized to cooperate and jointly participate in projects with the United States Army Corps of Engineers and any other federal agency for the purpose of the development of outdoor recreation and fish and wildlife enhancement as authorized by the Federal Water Project Recreation Act, Public Law 89-72, 1965;

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provided, that the authority granted herein also shall extend to the development and maintenance of projects for the development of outdoor recreation and fish and wildlife enhancement, or any part thereof, which may be executed by the participating state agency or political subdivision through a third-party concessionaire agreement. The authority herein granted shall be exercised in any individual project only after the approval of the project by the governor.

RS 56:1751 — Grand Isle beach area; cleaning; maintenance

ulture, Recreation and Tourism and specifically designated for such purpose, the town of Grand Isle, Jefferson Parish, shall be responsible for the cleaning and continuous maintenance of that portion of Grand Isle beach within Jefferson Parish, more particularly described as all that portion of the southern shore of Grand Isle bounded on the west by Grand Isle State Park West, on the east by Grand Isle State Park East, specifically excluding any portion of said shore included within Grand Isle State Park East and Grand Isle State Park West, on the north by the existing and future portions of the hurricane protection levee, and on the south by the waterline of the Gulf of Mexico.

B. The Department of Culture, Recreation and Tourism is authorized to assist the town of Grand Isle in cleaning and maintaining the Grand Isle beach.

RS 56:1761 — Audubon Park Commission; creation; membership

ution. The commission shall exercise the powers and duties hereinafter set forth or otherwise provided by law.

B. The commission shall be composed of twenty-four members who shall be appointed by the governor. Each appointment by the governor shall be submitted to the Senate for confirmation. The commission shall be composed as follows:

(1) Seven members, who shall be residents of the city of New Orleans, appointed from a list of fifteen names eight of which shall be names submitted to the governor by the mayor of the city of New Orleans and seven of which shall be names submitted to the governor by the council of the city of New Orleans. Provided that one member shall be a resident of either the Eighth or Ninth Ward of Orleans Parish.

(2) Six members, who shall be residents of the city of New Orleans, appointed from a list comprised of two names submitted to the governor by each legislator who represents any portion of the city of New Orleans.

(3) Five members, who shall be residents of Jefferson Parish, appointed from a list comprised of two names submitted to the governor by each legislator who represents any portion of Jefferson Parish.

(4) Two members, who shall be residents of St. Bernard Parish, appointed from a list comprised of two names submitted to the governor by each legislator who represents any portion of St. Bernard Parish.

(5) One member, who shall be a resident of Plaquemines Parish, appointed from a list comprised of two names submitted to the governor by each legislator who represents any portion of Plaquemines Parish.

(6) Two members, who shall be residents of St. Charles Parish or St. John the Baptist Parish, appointed from a list comprised of two names submitted to the governor by each legislator who represents any portion of St. Charles Parish or St. John the Baptist Parish.

(7) One member, who shall be a resident of St. Tammany Parish, appointed from a list comprised of two names submitted to the governor by each legislator who represents any portion of St. Tammany Parish.

(8) Of the total number of members appointed from the city of New Orleans and Jefferson Parish, at least two shall be residents of the west bank of the Mississippi River. Provided further, one of these members shall be a resident of the west bank of Orleans Parish and one member shall be a resident of the west bank of Jefferson Parish.

(9) All initial nominations shall be made within twenty-one days of the date of signature by the governor, or if not signed by the governor, within twenty-one days of the expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. All subsequent nominations shall be made no earlier than twenty-eight days prior to the expiration of the term of office nor later than fourteen days prior to the expiration of the term of office. If nominations are not made within the time specified, the governor shall make his appointments without the necessity of nominations.

C.(1) Appointed members shall serve four-year terms. Vacancies shall be filled for the remainder of the term by the Audubon Park Commission. Any person appointed by the commission to fill a vacancy shall be a resident of the same parish as the member he is appointed to replace.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, the terms of the initial members of the commission appointed pursuant to R.S. 56:1761(B) shall expire on December 31 of the year designated below:

(a) The terms of the initial members appointed pursuant to R.S. 56:1761(B)(4), (5), (6), and (7) shall expire in 1984.

(b) The terms of the initial members appointed pursuant to R.S. 56:1761(B)(3) shall expire in 1985.

(c) The terms of the initial members appointed pursuant to R.S. 56:1761(B)(1) shall expire in 1986.

(d) The terms of the initial members appointed pursuant to R.S. 56:1761(B)(2) shall expire in 1987.

(3) The terms of the successors of the initial members shall expire on December 31 of the last year of their respective terms. Members shall serve until their successors are appointed and take office.

D. The commission shall meet and organize immediately after appointment of the members and shall elect from its membership a chairman and a vice chairman and such other officers as it may deem necessary. The commission shall prescribe the duties of its officers. The commission shall adopt rules for the transaction of its business and shall keep a record of its proceedings. Thirteen members shall constitute a quorum.

E. The commission shall meet at least once in each quarter of the fiscal year, or on call of the chairman or any five members.

F. Members of the commission shall receive no compensation for their services.

G. The commission shall be domiciled in New Orleans.

RS 56:1762 — Powers and duties

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commission shall take charge of and shall supervise the park as a natural resource and preserve and improve it for public recreation and use as a place of public resort, recreation, and pleasure. The commission shall have full charge of the control and management, repair, maintenance, development, and improvement of the park.

B. For the purposes of this Part, Audubon Park shall be defined as that park located within the Sixth District of the city of New Orleans which consists of that property formerly administered by the Audubon Park Commission created by Act No. 191 of 1914. Without limiting this property, it shall include the former Foucher Plantation as conveyed by act before M.L. Ainsworth, Notary Public, on August 15, 1871 and registered in the Orleans Parish Conveyance Office in COB 100, folio 187 and 181 on August 16, 1971

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; it shall

include that property known as Avenger Field. It shall not include that certain piece of ground situated in the Sixth District of the city in square designated by the number "60" bounded by Felicia Street, St. Charles Avenue, Walnut Street and Foucher Estate, now Audubon Park, which said piece or portion of ground measures 28 feet front on Felicia Street, by 831 feet in depth and 14 feet in the rear.

C. In order to carry out its duties and functions the commission may:

(1) Adopt and promulgate such rules and regulations as may be necessary to carry out its functions and implement the procedures of this Part.

(2) Establish, maintain, operate, and control park recreational and entertainment facilities and activities in the park, including but not limited to a zoo.

(3) Enter into contracts with private individuals, firms, or corporations for the establishment, maintenance, and operation of park recreational and entertainment facilities and activities in the park.

(4) Charge and collect from contracting parties rentals for the use of park property.

(5) Charge and collect for the enjoyment and/or use of such park recreational and entertainment facilities and activities such admissions, charges, or fares as in the judgment of the commission are fair and proper.

(6) Ensure that in the use and enjoyment of every portion of Audubon Park and Zoo

and all of the facilities therein there will not be any discrimination against any person because of disability, age, race, color, religion, sex, or national origin.

(7) Affirmative action shall be taken to ensure that all employees of the commission and of any entity with whom the commission contracts for services shall be treated during employment without regard to their race, age, disability, color, religion, sex, or national origin.

RS 56:1763 — Contract for operation of park and zoo

re, control, and management of the park and its zoo.

B. Any contract that the commission may enter into in accordance with Subsection A of this Section may be either a contract, lease, or combination contract and lease.

C. The commission shall in its sole discretion determine the terms, conditions, and duration of any contract or lease entered into under the provisions of this Section. Any contract or lease entered into by the commission under the provisions of this Section shall contain a provision in such contract or lease that the contract or lease may be terminated by the commission, with or without just cause, upon written notification to all parties in the contract or lease, which notification shall be given not more than ninety days prior to the termination.

D. Only a firm, corporation, or entity that is organized under the laws of the state of Louisiana shall be eligible to contract with the commission under the provisions of this Section, and only a firm, corporation, or entity that is organized as a nonprofit or not for profit firm, corporation, or entity shall be eligible to contract with the commission under the provisions of this Section.

E. The provisions of Chapter 10 of Title 41 of the Louisiana Revised Statutes of 1950 shall not be applicable to any lease or contract entered into under the provisions of this Section.

F. The provisions of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950 shall not be applicable to any lease or contract entered into under the provisions of this Section.

G. This Section shall be construed to grant the commission the authority to contract in a cooperative endeavor for the care, control, and management of the park and its zoo, including all facilities located in the park on the effective date of this Section and any future facilities located in the park.

H. The commission shall have the right to assign any contracts that the former Audubon Park Commission created by Act No. 191 of 1914 may have on the effective date of this Part to any contracting party under the provisions of this Section.

I. The commission shall have full authority to delegate to the nonprofit entity its ability to collect any rents, charges, admissions, or fares it may be empowered to collect.

J. The contractor shall have the full authority to hire its own employees to provide services formerly provided by the employees of the Audubon Park Commission created by Act No. 191 of 1914.

K. Any contract entered into under the provisions of this Section shall be deemed to be a cooperative endeavor under the provisions of Article VII, Section 14(C) of the Constitution of Louisiana.

RS 56:1764 — Secretary; staff

d for the discharge of its functions and to prescribe and define their respective duties, authority, and compensation.

RS 56:1765 — Rules to preserve order and protect property; penalties

property in the park as it deems necessary.

B. In addition to any penalties otherwise provided by law, violation of any of the rules and regulations promulgated by the commission pursuant to this Section shall be punishable by fine of not less than fifteen dollars nor more than two hundred fifty dollars.

RS 56:1766 — Funds for park

nes, the Audubon Park Commission, in addition to receiving funds from other sources, shall have the authority to receive funds from any local governing authority within the state of Louisiana.

B. In addition to funds appropriated to or otherwise made available to the park by the state, the city of New Orleans, local governing authorities, or other sources, self-generated revenues of the park or of its nonprofit contractor shall be used for park development, maintenance, operation, and other park expenses.

RS 56:1781 — Preservation of abandoned railroad transportation property

rights of way in this state shall notify the secretary of the Department of Transportation and Development by providing the secretary with a copy of the filing within ten days of the filing with the Interstate Commerce Commission so that the state or a political subdivision thereof may take advantage of and implement the "Rails to Trails" program.

B.(1) Upon receipt of notice of a filing proposing to abandon a railroad right of way the secretary shall, within one hundred eighty days, make a determination of whether it is in the best interest of the state to preserve the proposed abandoned railroad right of way as a corridor for future transportation uses within the state.

(2) In making this determination, the secretary shall receive written commitments from the office of culture, recreation and tourism in the lieutenant governor's office that they have the means and ability to implement and administer the "Rails to Trails" program in the event a determination is made to preserve the abandoned railroad right of way as a corridor for future transportation uses in this state.

(3) Upon receipt of notice of a filing proposing to abandon a railroad right of way, the secretary shall notify those local governmental entities in which the railroad right of way is located of such notice, advising each such local governmental entity of the provisions of this Part and that their comments must be received in writing within one hundred twenty days of the date of the notice from the secretary.

C. The secretary shall notify the railroad company or corporation and the Interstate Commerce Commission of its determination whether to preserve the proposed abandoned railroad right of way as a corridor for future transportation uses in this state. The failure of the secretary to file an application with the Interstate Commerce Commission within two hundred ten days of receipt of the notice of the abandonment application shall be an affirmative declaration not to preserve the railroad right of way as a transportation corridor.

D. Any affected local governmental entity shall have the right to file an application with the Interstate Commerce Commission seeking to preserve the proposed abandoned railroad right of way as a transportation corridor for future transportation uses within the territorial jurisdiction of the local governmental entity.

RS 56:1782 — Exercise of preservation rights

he state or any state agency unless the commissioner of administration has issued to the Interstate Commerce Commission a certificate of availability of funds for the program.

B. The exercise of the right to preserve an abandoned railroad right of way as a transportation corridor for future transportation uses shall not be undertaken by any political subdivision or local governing authority of this state unless the entity has issued to the Interstate Commerce Commission a certificate of availability of funds for the program.

C. Any affected local governmental entity may request the secretary to make a determination to preserve a proposed abandoned railroad right of way as a transportation corridor for future transportation uses upon a showing for the need for such future use and after having filed a preliminary application with the Interstate Commerce Commission requesting the proposed abandoned railroad right of way be considered for preservation under the "Rails to Trails" program.

D. Nothing in this Part shall affect the property owner's right to compensation under any federal or state law. The provisions of Article I, Section 4 of the Constitution of Louisiana shall be applicable in determining the amount of compensation due the property owners under this Part.

E. Upon approval of a "Rails to Trails" program by the Interstate Commerce Commission, the governmental entity filing the application for the program shall, within one hundred eighty days, complete all acquisition transactions including the payment of compensation due the property owners.

F. The failure of the governmental entity to complete all acquisition transactions within the time allowed shall by operation of law release all preservation rights authorized by this Part and shall not be an encumbrance or cloud upon the title of the property or right of way subject to said preservation rights, reserving unto the property owners any claim for damages or compensation to which they may be entitled under state law.

RS 56:1783 — Cooperative endeavors

ns or political corporations may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private association, corporation, or individual.

RS 56:1784 — Intergovernmental cooperation; financing

may exercise and perform any authorized power and function, including financing, jointly or in cooperation with one or more political subdivisions, either within or without the state, or with the United States or its agencies.

RS 56:1785 — Ownership and usage

d implement the "Rails to Trails" program shall, for any and all legal purposes, be considered the legal title holder of the property or rights sought to be preserved and, unless agreed to by means of contractual obligations to the contrary, the railroad company or corporation shall be relieved of all responsibility and legal rights and obligations as respects the property or rights included within the transportation corridor preserved by the governmental entity.

B. The usage of the railroad right of way approved by the Interstate Commerce Commission for preservation and included within the "Rails to Trails" program shall be the sole and exclusive prerogative of the governmental entity whose application was approved by the Interstate Commerce Commission.

RS 56:1801 — Secretary of the Department of Culture, Recreation and Tourism; powers and functions

sult with and provide guidance to the heads of all state agencies on matters affecting recreation and shall be responsible for developing methods and procedures for improving inter-agency coordination in the development and implementation of state recreational policies and programs.

B. The secretary is authorized, directed, and shall supervise the preparation, maintenance, and upgrading of a comprehensive long-range, statewide plan for the development of outdoor recreation resources of the state which is hereinafter called the "plan", which will be prepared by its staff.

C. The secretary shall consult with and help establish policies and procedures to be utilized by the assistant secretary, office of state parks, hereinafter called "state liaison officer", in carrying out programs for all state agencies, parishes, municipalities, planning commissions, and subdivisions of the state of Louisiana who desire to take advantage of and participate under the benefits of the Land and Water Conservation Fund Act described in R.S. 56:1802.

RS 56:1802 — Authorized representative

t (16 U.S.C.A §§4601-4 to 4601-11), which position is referred to as "state liaison officer" and which federal act is hereinafter called "act", is hereby directed to utilize the plan in carrying out the authority vested in said office, it being the intention that any action taken by the state liaison officer be pursuant to and in compliance with the plan.

RS 56:1803 — Agreements with United States; coordination

tes or any appropriate agency thereof, keep financial records and other records relating thereto, and furnish to appropriate officials and agencies of the United States such reports and information as may be reasonable and necessary to enable such officials and agencies to perform their duties under such federal programs. In connection with obtaining for the state of Louisiana the benefits of any such program, the state liaison officer shall coordinate its activities with and represent the interest of all agencies and departments of the state and of the parish, municipal, and other governmental units and subdivisions of the state of Louisiana having interest in the planning, development, and maintenance of outdoor recreation resources and facilities within the state.

RS 56:1804 — Availability of funds

by Acts 1980, No. 827, §2.

RS 56:1805 — Agreements on behalf of political subdivisions

ion, or development of projects involving participating federal aid funds on behalf of any parish, municipality, or other governmental unit which gives necessary assurances to the said state liaison officer that it has available sufficient funds to meet its share of the cost of the project and that the acquired or developed areas will be operated and maintained at its expense for public outdoor recreation use.

RS 56:1806 — Construction of Chapter

agency or head thereof by any other state agency.

RS 56:1807 — Cooperation of state agencies and subdivisions with secretary

d assistance as the state liaison officer may request, and such agencies and subdivisions shall cooperate with the state liaison officer in carrying out the intentions and purposes of this Chapter.

RS 56:1808 — Functions and duties of state agencies

ent of Conservation and

Energy, the Department of Agriculture, the State Soil and Water Conservation Commission, and the Louisiana Cooperative Extension Service or their successor agencies shall furnish assistance to the state liaison officer for the implementation of this Chapter in compliance with the provisions of R.S. 49:661 and 663.

B. In respect to duties of the secretary and the state liaison officer, under this Chapter and insofar as practical, all state agencies shall comply with reasonable requests to furnish information, data, and reports to the commission, and shall otherwise cooperate with the said secretary and state liaison officer.

RS 56:1830 — Louisiana Natural Heritage Program

egulations regarding the Louisiana Natural Areas Registry, the Threatened and Endangered Species Conservation program, and those programs, duties, and functions designated by the secretary in accordance with law.

RS 56:1831 — Agreements; land conservation organizations

eserve, and conserve land; and to purchase lands.

RS 56:1833 — Wild Louisiana Guide License

onduct outings

on department-owned lands for purposes other than hunting or fishing.

B. The commission may establish a Wild Louisiana Guide License and impose a fee for such license that may not exceed five hundred dollars annually.

C. The commission may require a licensed Wild Louisiana guide to pay to the department a client fee not to exceed five dollars per trip for each person accompanying the guide on such lands. The guide shall not be required to pay the client fee for those persons who possess a valid Louisiana WMA Access Permit. The commission may require the guide to submit, along with the payment of the client fees, the names and addresses of persons for which the client fee has been paid.

D. Persons accompanying a licensed Wild Louisiana guide for whom the guide is required to pay a client fee pursuant to Subsection C of this Section shall not be required to possess a WMA Access Permit.

RS 56:1840 — Short title

I difficulties navigating this website,

RS 56:1841 — Policies; purposes

and enhanced for the present and future benefit of Louisiana citizens. In order to assist in fulfilling its duties to protect, conserve, and replenish the natural resources of this state in accordance with Louisiana Constitution Article IX, Section 1, the legislature does hereby establish the Louisiana Natural and Scenic Rivers System.

B.(1) This system shall be administered for the purposes of preserving, protecting, developing, reclaiming, and enhancing the wilderness qualities, scenic beauties, and ecological regime of certain free-flowing streams or segments

thereof.

(2) This system shall further be administered for the purpose of preserving aesthetic, scenic, recreational, fish, wildlife, ecological, archaeological, geological, botanical, and other natural and physical features and resources found along these streams or segments thereof.

RS 56:1842 — Definitions

ans the secretary of the Department of Wildlife and Fisheries.

(3) "Natural and scenic river" means a river, stream, or bayou or segment thereof that has been designated as part of the Louisiana Natural and Scenic Rivers System in accordance with the provisions of this Part and the rules and regulations adopted pursuant thereto.

(4) "Scenic servitude" means a contract between the adjacent riparian landowner and the system administrator which shall be in the nature of a development agreement for the purpose of preserving the natural state of the landscape through mutual agreement on the activities which might affect the natural landscape.

(5) "Surface servitude" means a contract between the stream owner and the system administrator which shall relieve the landowner of liabilities and assure the public of access and use of the stream surface.

(6) "Channelization" means the practice of changing a natural stream, or segment thereof, into a man-made ditch or canal with channels of a relatively uniform width and depth usually necessitating the removal of trees and other woody vegetation adjacent to the stream and constructed for the purpose of accelerating runoff.

(7) "Clearing and snagging" means the practice of removing most obstructions, trees, snags, and other impediments that retard the natural stream flow.

(8) "Channel realignment" means the practice by which dredging, ditching, or other means are used to shorten or reroute the natural stream course.

(9) "Historic and scenic river" means a river, stream, or bayou or segment thereof which because of its unique historical status and scenic character requires protection and preservation of its aesthetic, scenic, recreation, fish, wildlife, ecological, archaeological, geological, botanical, and other natural and physical features.

(10) "Reservoir construction" means any permanent dam or impoundment which alters the shoreline of a natural and scenic river.

(11) "River" includes rivers, streams, bayous, and segments thereof and their waters and generally those bodies of water having the characteristics of rivers, streams, and bayous.

(12) "Normal activities" means those activities on lands that do not directly and significantly degrade the ecological integrity of a natural and scenic river.

RS 56:1843 — Administrator; duties and powers

e action to have any stream or river within this system included in the national Wild and Scenic River System without prior approval of the legislature.

B. The administrator shall administer the system in accordance with the policies, purposes, and requirements of this Part and shall have the authority to:

(1) Adopt such rules, regulations, standards, and criteria as are necessary to implement the provisions of this Part, in accordance with R.S. 49:950 et seq.

(2) Accept donations and grants for the purposes of this Part from public and private sources.

(3) Grant or deny permits and the renewal thereof. Prior to taking such action the administrator shall consider the history of violations and compliances of the applicant. The duration of any permit or renewal thereof shall be determined by the administrator and be stipulated within the permit.

(4) Revoke, suspend, annul, and withdraw any permit for the violation of any provision of this Part, any rule adopted pursuant thereto, any legal order of the administrator, or any order of a court acting pursuant to this Part. Prior to taking such action the administrator shall consider the history of violations and compliances of the permittee and the economic benefits realized through the violation.

(5) Recommend to the legislature rivers for designation as a natural and scenic river and inclusion within the Louisiana natural and scenic rivers system.

- (6) Delegate powers and duties provided by this Part to appropriate personnel within the department.
- (7) Enter into scenic and surface servitude agreements with landowners for the purposes of this Part.

RS 56:1845 — Nomination, recommendation, designation, and declassification of natural and scenic rivers; legislative funding

in the Louisiana natural and scenic rivers system only by concurrent resolution adopted by the legislature.

B. The administrator shall undertake a continuing study and shall make recommendations to the legislature regarding any river nominated for inclusion in or declassification from the system. Such recommendation for inclusion shall be made no sooner than eight months from the nomination of a river and only subsequent to the evaluation and procedures provided for in this Section. The administrator shall consider the following and other appropriate criteria in preparing the written evaluation and making the recommendation:

- (1) The river is free-flowing, has not been channelized, cleared and snagged within the past twenty-five years, realigned, inundated, or otherwise altered and has a shoreline covered by native vegetation and has no or few man-made structures along its banks.
- (2) The scene as viewed from the river is pleasing, whether primitive or rural-pastoral, or these conditions are restorable.
- (3) The river and its setting possess natural and recreational values of outstanding quality.
- (4) The river and its setting are large enough to sustain substantial recreational use and to accommodate existing uses without undue impairment of the natural values of the resource or quality of the recreation experience.
- (5) The river will provide present and future benefits to Louisiana citizens through preserving, protecting, and enhancing its wilderness qualities, scenic beauties, and ecological regimes and its aesthetic, scenic, recreational, fish, wildlife, ecological, archaeological, geological, botanical, and other natural and physical features and resources found along the river and adjacent lands.
- (6) The existing uses of adjacent lands and the economic impact of such usages.
- (7) Determination of state ownership of the bed of the river.

C. Prior to any such recommendation each river nominated for inclusion in or declassification from the system shall be evaluated by the administrator in consultation with the division of administration, the Department of Environmental Quality, and the Louisiana Department of Culture, Recreation and Tourism and with the advice of other agencies that the administrator determines may have an interest in the evaluation. The recommendation shall be in the form of a written report, shall include the evaluation, and shall be part of the record of the decision regarding the proposed recommendation. The report shall include an evaluation of the criteria provided for in this Section and other such matters specified by the administrator. The administrator shall give the evaluation substantial weight in making the recommendation. The administrator shall file the report with the natural resources committees of the legislature and provide copies to the division of administration, the Department of Environmental Quality, the Department of Culture, Recreation and Tourism, and the governing authorities of those parishes through which the river flows.

D. Prior to any such recommendation and as part of the evaluation process, the administrator shall hold not less than one public hearing to receive comments and recommendations from all interested parties and the public. There shall be at least one public hearing in the vicinity of the river nominated for inclusion in or declassification from the system. The administrator shall, not less than thirty days prior to any hearing, publish a notice of the hearing in the official journal of the state and of each parish through which the river flows and notify each parish governing authority by letter to its chief executive officer. The administrator shall give notice to all interested parties, including adjacent landowners. Any recommendation for or against declassification from the system shall be made within one hundred twenty days from date of nomination.

E. The legislature may, by law, designate as a natural and scenic river any river recommended by the administrator for inclusion within the system. The legislature may, by law, declassify any river whether or not recommended by the administrator for declassification as a natural and scenic river. The legislature may appropriate sufficient monies to fund the cost of evaluating those rivers nominated to be natural and scenic rivers, or those rivers nominated for declassification.

RS 56:1846 — Management plan

t river which shall conform to the purposes and requirements of this Part. The plan shall be developed by the administrator in consultation with the division of administration, the Department of Environmental Quality, and the Louisiana Department of Culture, Recreation and Tourism and with the advice of other agencies that the administrator determines may have an interest in the plan. The plan shall be in the form of a written document. The administrator shall provide copies of the plan to the division of administration, the Department of Culture, Recreation and Tourism, the Department of Environmental Quality, and the governing authorities of those parishes through which the river flows.

B. Prior to the adoption of a plan and as part of the process, the administrator shall hold not less than one public hearing to receive comments and recommendations from all interested parties and the public. There shall be at least one public hearing in the vicinity of the natural and scenic river. The administrator shall, not less than thirty days prior to any hearing, publish a notice of the hearing in the official journal of the state and of each parish through which the river flows and notify each parish governing authority by letter to its chief executive officer. The administrator shall give notice to all interested parties, including adjacent landowners.

C. Each management plan shall be reviewed at least every five years from adoption and may be modified in the same manner and procedure as provided for adopting the original plan.

D. Notwithstanding the provisions of Subsection A of this Section, the development of the management plan for those natural and scenic rivers designated prior to January 1, 1989, shall be commenced no later than January 1, 1990.

RS 56:1847 — Natural and scenic rivers

nd West Fork join near state line to where it breaks up prior to its entrance into the Pearl River.

(2) Bogue Chitto River - Washington, St. Tammany - From the Louisiana-Mississippi state line to its entrance into the Pearl River Navigation Canal.

(3) Tchefuncte River and its tributaries - Washington, Tangipahoa, St. Tammany - From its origin in Tangipahoa Parish to its juncture with the Bogue Falaya River.

(4) Tangipahoa - Tangipahoa - From the Louisiana-Mississippi state line to the I-12 crossing.

(5) (Blank)

(6) Tickfaw River - St. Helena - From the Louisiana-Mississippi state line to La. Hwy. 42.

(7) Amite River-East Feliciana-From the Louisiana-Mississippi state line to the permanent pool level of the Darlington Reservoir; and from the Darlington Reservoir Dam to La. Hwy. 37; provided that the portion of the Amite River from the Louisiana-Mississippi state line to La. Hwy. 37 shall remain within the Natural and Scenic Rivers System until the issuance of a permit by the U.S. Army Corps of Engineers issued pursuant to 33 U.S.C. 1344 and 33 C.F.R. 232; provided, that if the Darlington Reservoir and dam are not approved and funded no later than September 1, 1997, the portion of the Amite River within the Natural and Scenic Rivers System shall be as follows: From the Louisiana-Mississippi state line to La. Hwy. 37.

(8) Comite River - East Feliciana, East Baton Rouge - From the Wilson-Clinton Hwy. in East Feliciana Parish to the entrance of White Bayou in East Baton Rouge Parish.

(9) Blind River - St. James, Ascension, Livingston, St. John - From its origin in St. James Parish to its entrance into Lake Maurepas.

(10) Bayou Des Allemands - Lafourche, St. Charles - From Lac Des Allemands to Lake Salvador.

(11) Whiskey Chitto Creek - Allen - From the Beauregard Parish line to its entrance into the Calcasieu River.

(12) Six Mile Creek - Allen, Vernon - Includes the East and West Forks and beginning at the boundary of Fort Polk Military Reservation (Lookout Road) and extending south through Vernon and Allen Parishes to its entrance into Whiskey Chitto Creek.

(13) Ten Mile Creek - Rapides, Allen, Vernon - From the boundary of Fort Polk Military Reservation (Lookout Road) through Vernon Parish and all of that portion of said creek lying within the boundaries of Rapides and Allen Parishes.

(14) Little River - Rapides, Grant, Catahoula, LaSalle - From the juncture of Dugdemonia and Castor Creek to its entrance into Catahoula Lake.

(15) Big Creek - Grant - From Hwy. 165 in Grant Parish to its entrance into Little River; provided, however, that, notwithstanding any other law to the contrary, the excluded portion of Big Creek from Hwy. 165 to Hwy. 167 in Grant

Parish shall remain within the Natural and Scenic Rivers System until issuance of a permit by the U.S. Army Corps of Engineers issued pursuant to 33 U.S.C. 1344 and 33 C.F.R. 232; provided that if a reservoir and dam are not approved and funded as to the excluded portion of Big Creek from Hwy. 165 to Hwy. 167 in Grant Parish no later than September 1, 1997, that portion of Big Creek within the Natural and Scenic Rivers System shall be as follows: From Hwy. 167 to its entrance into Little River.

- (16) Fish Creek - Grant - From its origin near Williana to its entrance into Little River.
- (17) Trout Creek - LaSalle - From its origin near Hwy. 8 to its entrance into Little River.
- (18) Bayou Bartholomew - Morehouse - From the Louisiana-Arkansas state line to Dead Bayou.
- (19) Bayou L'Outre - Ouachita, Union - From the Louisiana-Arkansas state line to its entrance into the Ouachita River.
- (20) Bayou D'Arbonne - Union, Ouachita - From the Lake D'Arbonne dam to its entrance into the Ouachita River.
- (21) Corney Bayou - Claiborne, Union - From the Louisiana-Arkansas state line to Corney Lake and Corney Lake Dam to Lake D'Arbonne.
- (22) Middle Fork of Bayou D'Arbonne - Claiborne, Union - From its origin near La. Hwy. 2 alternate to Lake D'Arbonne. Notwithstanding any other law to the contrary, however, that portion of the bayou located in Sections 19, 20, 21, and 28 of Township 23 North, Range 7 West in Claiborne Parish shall not be a natural and scenic river; provided however, if a reservoir and dam in said portion of the bayou are not approved, funded, and under construction by September 1, 1995, said portion of the bayou shall be a natural and scenic river.
- (23) Saline Bayou - Bienville, Winn, Natchitoches - From its origin near Arcadia to La. Hwy. 156 in Winn Parish.
- (24) Black Lake Bayou - Red River, Winn, Bienville - From the Webster-Bienville parish line to Black Lake in Natchitoches Parish.
- (25) Bayou Kisatchie - Natchitoches - From its entrance into Kisatchie National Forest to its entrance into Old River.
- (26) Spring Creek - Rapides - From Otis to Cocodrie Lake in Rapides Parish.
- (27) Saline Bayou - Catahoula, LaSalle - From Saline Lake to Larto Lake.
- (28) Repealed by Acts 1993, No. 109, §1, eff. May 26, 1993.
- (29) Bayou Cocodrie - Concordia - From Wild Cow Bayou to Little Cross Bayou.
- (30) Bayou Cocodrie - Rapides, Evangeline - From U.S. Hwy. 167 to the Bayou Boeuf-Cocodrie Diversion Canal.
- (31) West Pearl River - Washington, St. Tammany - From the state line to its entrance into Lake Borgne.
- (32) Dorcheat (Dauchite) Bayou - Webster - From the Arkansas state line to its entrance into Lake Bistineau.
- (33) Bayou Trepagnier - St. Charles - From Norco to where it joins Bayou La Branche.
- (34) Bayou La Branche - St. Charles - From its source to where it drains into Lake Pontchartrain.
- (35)(a) Calcasieu River - Vernon, Rapides - From Louisiana Highway 8 east through Vernon Parish and all of that portion of said river lying within the boundaries of Rapides Parish.
- (b) Calcasieu River - Allen, Jefferson Davis, and Calcasieu - From the mouth of the Whiskey Chitto River in Allen Parish, south through Jefferson Davis Parish, and to its intersection with the Ward Eight Park in Calcasieu Parish.
- (36) Bayou Dupre - St. Bernard - From the Lake Borgne Canal to Terre Beau Bayou.
- (37) Lake Borgne Canal - St. Bernard - From the Forty Arpent Canal to Bayou Dupre.
- (38) Bashman Bayou - St. Bernard - From its origin to Bayou Dupre.
- (39) Terre Beau Bayou - St. Bernard - From Bayou Dupre to the New Canal.
- (40) Pirogue Bayou - St. Bernard - From Bayou Dupre to New Canal.
- (41) Bayou Bienvenue - St. Bernard - From Bayou Villere to Lake Borgne.
- (42) Bayou Chaperon - St. Bernard - From its origin to its end, Sections 22, 23 T 13 S, R 13 E.
- (43) Holmes Bayou - St. Tammany - All of that portion of the bayou lying within the boundaries of St. Tammany Parish.
- (44) Bradley Slough (Bayou) - St. Tammany - All of that portion of the slough lying within the boundaries of St. Tammany Parish.

- (45) Wilson Slough (Bayou) - St. Tammany - All of that portion of the slough lying within the boundaries of St. Tammany Parish.
- (46) Morgan River - St. Tammany - From its juncture with the Porters River to its reentry into the West Pearl River.
- (47) Bayou LaCombe - St. Tammany - From its head waters to Lake Pontchartrain.
- (48) Bayou Cane - St. Tammany - From its head waters to Lake Pontchartrain.
- (49) Tchefuncte River - St. Tammany - From the Bogue Falaya River to Louisiana Highway No. 22, excluding any tributaries thereto from the Bogue Falaya south to Louisiana Highway No. 22.
- (50) Pearl Creek - Vernon - From Louisiana Highway III to its entrance into Sabine River.
- (51) Whiskey Chitto Creek - Vernon - From the boundary of Fort Polk Military Reservation (Lookout Road) to the Vernon-Beauregard Parish line.
- (52) Bogue Falaya River - St. Tammany - the river from its headwaters to Louisiana Highway 437 in the parish of St. Tammany.
- (53) Ouachita River - Morehouse, Union - from the north bank of Bayou Bartholomew at its intersection with the Ouachita River to the Arkansas state line.
- (54) Bayou Chinchuba - St. Tammany Parish - From the West Causeway approach south to Lake Pontchartrain.
- NOTE: Paragraph (55) as enacted by Acts 1997, No. 141, §1, eff. Jan. 1, 1998, if secretary of Dept. of Wildlife and Fisheries recommends to legislature that river be included in the natural and scenic rivers system:
- (55) Abita River in St. Tammany Parish.
- (56) Tangipahoa River--Tangipahoa Parish--From the Interstate 12 crossing to its entrance into Lake Pontchartrain.
- (57) Tchefuncte River--St. Tammany--from the Highway 22 bridge to Lake Pontchartrain.
- (58) Ouiska Chitto Creek - that portion in Beauregard Parish.
- (59) Barnes Creek - from Louisiana Highway 27 to the Calcasieu River in Allen and Beauregard parishes.
- (60) Beckwith Creek - from its headwaters to the west fork of the Calcasieu River in Beauregard and Calcasieu parishes.
- (61) Bundicks Creek - from its headwaters to Bundicks Lake and from Bundicks Lake to Ouiska Chitto Creek in Vernon, Beauregard, and Allen parishes.
- (62) Hickory Branch - from its headwaters to the west fork of the Calcasieu River.
- (63) Drake's Creek - Vernon - from Lookout Road to its confluence with Ouiska Chitto Creek located within Vernon Parish.
- (64) Bayou Liberty - St. Tammany Parish.

RS 56:1848 — Planning considerations

ies to the potential natural and scenic river areas; and all river basin reports and project plans should discuss any such potential and all economic evaluations should consider aesthetic values as well as monetary values.

B. No agency of the state government shall authorize or concur in plans of local or federal agencies that would detrimentally affect whether, directly or indirectly, a natural or scenic river or upon which the full and equal consideration of the stream's potential as a natural or scenic area with aesthetic values has not been discussed and evaluated.

RS 56:1849 — Evaluation and permitting

Prior to any final decision on an application for a permit for those activities that have the potential for significant ecological degradation, a written evaluation of the application may be prepared by the administrator in consultation with the division of administration, the Department of Environmental Quality, and the Louisiana Department of Culture, Recreation and Tourism and with the advice of other agencies that the administrator determines may have an interest in the permit.

(2) The final decision on an application shall be in the form of a written report, shall include any required evaluation, and shall be part of the record of the decision. The report shall include an evaluation of the criteria provided for in this Section. The administrator shall give any required evaluation substantial weight in making the final decision. The administrator shall provide copies of the report with the division of administration, the Department of Environmental Quality, and the Department of Culture, Recreation and Tourism.

C. The criteria for an evaluation of an application for a permit shall consider the impact the activity may have on the characteristics and qualities of the natural and scenic river, including but not limited to the following:

- (1) Wilderness qualities
- (2) Scenic values
- (3) Ecological regimes
- (4) Recreation
- (5) Fish and other aquatic life
- (6) Wildlife
- (7) Historical and archaeological
- (8) Geological
- (9) Botanical
- (10) Water quality as determined by the Department of Environmental Quality
- (11) Cultural
- (12) Economics

D. A person who is denied a permit by the department may institute legal proceedings against the department in the Nineteenth Judicial District Court.

RS 56:1850 — Rules and regulations

The administrator shall adopt rules and regulations pursuant to the Administrative Procedure Act to implement the purposes and requirements of this Part and to regulate uses of a natural and scenic river which may detrimentally affect such natural and scenic river. Specifically, and not in limitation of the foregoing, such rules may regulate the following:

- (1) Crossings by roads, railroads, pipelines, or utilities across any natural and scenic river.
- (2) Sharing of land and air space by such roads, railroads, and utilities.
- (3) Pollution of waters, with the concurrence of the Department of Environmental Quality.
- (4) Prospecting, drilling, and mining for natural resources.
- (5) Structures and buildings.
- (6) Signs or other forms of outdoor advertising that are visible from waters within a natural and scenic river.
- (7) Piers, boat slips, bulkheads, houseboats, and landings.
- (8) Uses, activities, and access.
- (9) Littering.

B. Permits granted for crossings by pipelines or utilities or the sharing of land or air space by such facilities shall be for the useful life of the facility.

RS 56:1851 — Penalties and enforcement

his Part and the

administrator may suspend, annul, withdraw, or revoke any permit issued pursuant to this Part for any such violation. Each day on which a violation occurs shall be a separate offense.

(2) Civil penalties may be assessed and the suspension, annulment, withdrawal, or revocation of a permit may be imposed only by a ruling of the administrator based on an adjudicatory hearing held in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

(3) The administrator may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurs.

B. The administrator may issue cease and desist orders, compliance orders, and obtain injunctions or other appropriate relief upon determining that a violation of this Part

or rules and regulations adopted under this Part or agreements made pursuant to the provisions of this Part has occurred, is occurring, or is about to occur.

C. Unless otherwise provided by this Part, intentional violation of the provisions of this Part constitutes a class 2-B violation; however, there shall be no forfeiture of anything seized in connection with the violation.

RS 56:1852 — Privately owned streams; copies of rules

the state legislature encourages riparian owners to grant to the system administrator scenic servitudes and surface servitudes.

B. Except as provided in R.S. 56:1853 and R.S. 56:1854, no provision of this Part shall restrict the normal activities of landowners within the boundaries of their own property unless a mutual agreement has been entered into with the system administrator.

C. Any interested party, upon written request to the administrator, shall be provided copies of rules then in effect or thereafter adopted by the administrator pursuant to the provisions of this Part.

RS 56:1853 — Prohibited uses

e provisions of this Section constitute a class six violation, R.S. 56:36.

RS 56:1854 — Commercial cutting of trees

Part is prohibited except as follows:

- (1) The selective harvesting of trees for commercial purposes is permitted.
- (2) The cutting of trees for the control of disease or insects is permitted.
- (3) The harvesting of timber for personal use by the person who owns or leases the property is permitted.

B. When trees are cut or harvested, for any purpose, within one hundred feet of the ordinary low water mark of a natural and scenic or historic and scenic river provided for in this Part, the person who owns or leases the property shall be responsible for removing the tree tops from the river.

C. A violation of the provisions of this Section constitutes a class two violation, R.S. 56:32.

RS 56:1855 — Exceptions

affecting any power, authority, or jurisdiction which the U.S. Army Corps of Engineers has over the West Pearl River or Bayou Channel in Pointe Coupee Parish to perform routine maintenance and dredging for navigation and flood control purposes. In addition nothing contained in this Part shall prohibit the Department of Wildlife and Fisheries or the state department having authority over the scenic rivers program from entering into any contract with a private firm to dredge the West Pearl River or Bayou Channel in Pointe Coupee Parish for such purposes.

B. Notwithstanding the provisions of R.S. 56:1847(47) and (49), nothing contained in this Part shall be construed as repealing, superceding, nullifying, or in any manner whatsoever affecting any power, authority, or jurisdiction which the U.S. Army Corps of Engineers has over Bayou LaCombe and the Tchefuncte River to perform routine maintenance and dredging for navigation and flood control purposes.

C. Nothing in this Part shall be deemed or interpreted to limit, restrict, or repeal any authority granted by law to the Department of Environmental Quality concerning water quality or the Louisiana Department of Health concerning drinking water quality.

D. Notwithstanding any other law to the contrary, particularly the provisions of this Part, during the period of July 1, 1990 through July 1, 1991, the Sunset Drainage District of

St. Charles Parish may excavate fill material from Petit Lac Des Allemands for the purpose of enlarging the existing levee within the jurisdiction of the said drainage district.

E. Notwithstanding any other law to the contrary, particularly the provisions of this Part, the Water District No. 3 of Rapides Parish is hereby authorized to repair or replace the Big Creek Dam in Grant Parish.

F. Notwithstanding the provisions of R.S. 56:1847(8), nothing contained in this Part shall be construed as repealing, superseding, nullifying, or, in any manner whatsoever, affecting any power, authority, or jurisdiction which the U.S. Army Corps of Engineers has over the Comite River to construct the Comite River Diversion Canal and related structures, converging with the waterway near Section 10, Township 5 South, Range 1 East, of the St. Helena Meridian, for the purpose of flood control.

G. No provision of this Part shall prohibit the construction of a hurricane protection levee and associated drainage and pumping facilities within St. Charles Parish that cross Bayou Trepagnier. To the extent necessary for the construction of such levee, those portions of Bayou Trepagnier within the right of way of the levee and to the south of the levee are not subject to the provisions of this Part.

H. No provision of this Part shall prohibit any public waterworks district from performing essential repair and maintenance necessary to maintain normal operations at facilities located on an included river or stream, if such facilities were in operation at the time of such river or stream's inclusion into the Natural and Scenic Rivers system.

I.(1) Notwithstanding other provisions of R.S. 56:1853, snagging operations for drainage purposes in Bayou Chinchuba may be permitted by the department. Any such permit shall be issued in accordance with the requirements and procedures provided for in R.S. 56:1849. The department shall also consider the impact that the method of snagging and the type of equipment, proposed to be used by the applicant, may have on the natural and scenic characteristics and qualities of the bayou.

(2) No provision of this Chapter shall prohibit the construction of any bridge across the Bayou Chinchuba.

(3) Except for the prohibition on channelization and channel realignment provided for by R.S. 56:1853, the provisions of this Chapter shall not apply to those portions of Bayou Chinchuba that flow through lands subject to a conservation easement or servitude with a national or state, nonprofit membership land conservation organization which preserves the natural and scenic characteristics and qualities of the bayou in a manner consistent with the purposes and standards of this Subsection and restricts the harvesting of timber in accordance with the restrictions provided for in R.S. 56:1854.

(4) Any water quality requirements and water degradation standards pertaining to Bayou Chinchuba which may be required by this Chapter shall not be any more stringent than those which were required for Bayou Chinchuba on January 1, 1993.

(5) For any portion of Bayou Chinchuba in which the bayou has disbursed and lost its channel, the bayou shall be defined by the department to be no wider than the average width of the bayou that is outside of the portion that has disbursed and lost its channel. In such portions of the bayou, those waters lying outside of the areas defined by the department

shall not be considered to be within a natural and scenic river for the purposes of this Chapter.

J. Notwithstanding other provisions of R.S. 56:1853, snagging and dredging operations for drainage purposes in the Tangipahoa River, from the Interstate 12 crossing to its entrance into Lake Pontchartrain, may be permitted by the department. Any such permit shall be issued in accordance with the requirements and procedures provided for in R.S. 56:1849. The department shall also consider the impact that the method of snagging and the type of equipment, proposed to be used by the applicant, may have on the natural and scenic characteristics and qualities of the river.

K. Notwithstanding any provisions of law or administrative rule to the contrary, no provision of this Part shall be applicable to those tracts of land located along the banks of the Tchefuncte River between Louisiana Highway No. 22 and Lake Pontchartrain which possess a commercial zoning classification granted by the appropriate local government zoning authority, nor shall the provisions of this Part be applicable to tracts of land located along the banks of such sections of the Tchefuncte River and situated between and in the same ownership as tracts of land which possess a commercial zoning classification granted by the appropriate local government zoning authority.

L. No provision of this Part shall prohibit or require a scenic stream permit for any activity performed under an official state and federal remediation and restoration plan developed for Bayou Trepagnier, when such work is required for the removal, treatment, or isolation of contaminated sediments within or adjacent to Bayou Trepagnier.

M.(1) Notwithstanding the provisions of R.S. 56:1856(B)(2), the department shall permit the construction of flood control projects on Bayou Manchac that include replacing the structures at Alligator Bayou and Frog Bayou; providing a structure for constricting the backwater flow in Bayou Manchac; constructing, elevating, or protecting the road along the south side of Bayou Manchac in the vicinity of and to the west of the Alligator and Frog Bayou water control structures; or any realignment of the lower portion of Ward Creek that flows into Bayou Manchac.

(2) Notwithstanding other provisions of R.S. 56:1853, clearing and snagging, and dredging operations for drainage purposes in Bayou Manchac shall be permitted by the department in accordance with the requirements and procedures provided for in R.S. 56:1849. However, beginning May 1, 2021, through December 31, 2030, no provision of this Part shall require a permit for a local government to conduct clearing and snagging and dredging operations for drainage purposes in Bayou Manchac.

(3) No provision in this Chapter shall prohibit the construction of any bridge across Bayou Manchac.

N. Notwithstanding any other provision of R.S. 56:1853 to the contrary, on that portion of Bayou Liberty in St. Tammany Parish which lies to the north of Interstate 12, the removal of accumulated siltation and channel realignment activities for the purpose of restoring natural sinuosity may be permitted by the department. Any such permit shall be issued in accordance with the requirements and procedures provided in R.S. 56:1849. When issuing such permit, the department shall also examine the impact that the method of such

work and the type of equipment proposed to be used by the applicant may have on the natural and scenic characteristics and qualities of the bayou.

O. Notwithstanding other provisions of R.S. 56:1853, clearing and snagging, and dredging operations conducted or contracted for by a political subdivision, the state, or federal government for drainage purposes in the Amite River, Tangipahoa River, Tickfaw River, Blind River, West Pearl River, Tchefuncte River, Bogue Falaya River, Abita River, and Comite River shall be permitted by the department in accordance with the requirements and procedures provided for in R.S. 56:1849.

P.(1) Notwithstanding any other provision of the law to the contrary, beginning August 1, 2018, through August 1, 2026, no provision of this Part shall:

- (a) Prohibit the channelization, clearing and snagging, channel realignment, reservoir construction, or dredging operations for drainage purposes in the Comite River.
- (b) Require a permit pursuant to R.S. 56:1849 for the channelization, clearing and snagging, channel realignment, reservoir construction, or dredging operations for drainage purposes in the Comite River.

(2) During the time period provided in Paragraph (1) of this Subsection, use of a motor vehicle or other wheeled or tracked vehicle on the Comite River shall be prohibited except for permitted uses and direct crossings by immediately adjacent landowners, lessees, or other persons who have written permission from the landowner to access adjoining tracts of land for noncommercial activities in a manner that does not directly and significantly degrade the ecological integrity of the stream. Written permission shall be in the person's possession and include the landowner's contact information.

RS 56:1856 — Historic and scenic rivers

f any proposed action upon the historic and scenic character thereof, as well as the benefits of the proposed use.

B. The following are designated as historic and scenic rivers:

- (1) Bayou St. John within the boundaries of Orleans Parish.
- (2) Bayou Manchac - From the Amite River to the Mississippi River.

RS 56:1861 — Short title

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RS 56:1862 — Legislative findings and purpose

lant and animal life, geological areas, and other natural areas in this state, and that a system of protection and management of these areas should be implemented and maintained through a procedure of voluntary action by the owners of the property on which these areas may be located.

B. The legislature states that the purpose of this Part is to establish a registration procedure by which owners of natural areas may voluntarily agree to manage and protect the areas according to rules set forth by the Department of Wildlife and Fisheries and to establish a procedure by which the owners of natural areas may voluntarily agree to convey any or all of their right, title, and interest in such property to the state to be managed and protected by the Department of Wildlife and Fisheries for the people of Louisiana.

RS 56:1863 — Definitions

epartment of any real right or interest in any natural area to be held for the people of Louisiana in a manner consistent with the provisions, intent, and purposes of this Part.

- (2) "Department" shall mean the Department of Wildlife and Fisheries.

(3) "Natural area" shall mean an area of land, water, or air, or combination thereof, which contains an element of the state's natural diversity, including, but not limited to, individual plant or animal life, natural geological areas, unique natural communities, habitats of endangered or threatened species, ecosystems, or any other area of unique ecological, scientific or educational interest.

(4) "Natural area preserve" shall mean a natural area which is voluntarily dedicated.

(5) "Register" shall mean the written or oral agreement between the owner of a natural area and the department for designation of the natural area and for its placement on the register of natural areas by voluntary agreement between the owner of the natural area and the department. The registration of a natural area does not constitute a dedication of the property.

(6) "Register of natural areas" shall mean a listing of natural areas which are being managed by the owner of the natural area according to the rules and regulations of the department.

RS 56:1864 — Powers and duties of department

Wildlife and Fisheries concerning the natural areas of the state.

(2) To accept on behalf of the people of Louisiana any right, title, or interest to any natural area.

(3) To establish and maintain a register of natural areas.

(4) To enter into agreements to register natural areas.

(5) To enter into agreements to provide for the department to have a first option to purchase any natural area.

(6) To select natural areas for placement on the register of natural areas or for dedication as a natural area preserve, or both.

(7) To provide for the management and preservation of natural area preserves in accordance with the provisions set forth in the dedication which establish the natural area as a natural area preserve.

(8) To cooperate with any agency of the United States, the state of Louisiana and any other state, any political subdivision of this state and with private persons or organizations to implement the provisions of this Part.

(9) To discharge any other duty or action necessary to implement the provisions of this Part.

RS 56:1865 — Register of natural areas

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RS 56:1866 — Registration of natural areas

ment for the owner to manage and protect the natural area according to the rules and regulations promulgated by the department. If the owner agrees to register the area, he shall be given a certificate of registration and shall be committed to manage the area according to the terms of the agreement with the department.

(2) The agreement may be terminated by either party after thirty days written notice. The owner, upon termination, shall surrender the certificate. Any first option to purchase the department may have entered into shall remain with the department unless the department shall relinquish the option in writing.

B. Any property acquired by the department or any other agency of the state or political subdivision thereof pursuant to any other authority in law may be registered according to the provisions of this Part.

RS 56:1867 — Dedication of natural areas

rest in the property as agreed upon by the owner and the department to the department for the people of Louisiana.

B. The department may acquire any natural area by donation, purchase, exchange, devise, or bequest.

C. The department may dedicate any property owned by the department as a natural area preserve by filing and recording an act subjecting the property to the provisions of this Part in the office of the clerk of court in the parish which any or all of the area is located.

D. The property dedicated pursuant to this Part shall be subject to the rules and regulations of the department which:

(1) Require the protection, preservation, management, custody, and use of the natural area preserve in a manner consistent with the intent and purposes of this Part.

(2) Define the rights and privileges of the owner and the department.

(3) Provide for such other provisions as the owner or department shall deem necessary to discharge the provisions of this Part or to complete the transfer.

E. The department shall agree to no such acts which do not provide for the protection, preservation, and management of the natural area in a manner consistent with the intent and purposes of this Part.

F. The department shall be the agency of the state of Louisiana primarily responsible for acquisition of natural area preserves, but no provision of this Part shall be construed to limit the department's authority to acquire other property. Any property acquired by the department or any other agency of the state or political subdivision thereof pursuant to any other authority in law may be dedicated according to the provision of this Part.

G. No provision of this Part shall be construed to limit the authority of any other agency to acquire and dedicate natural areas according to the provisions of this Part.

H. No property dedicated pursuant to this Part may be transferred or assigned by the department or any successor in title unless it is subject to the provisions of this Part and any act which requires the management and preservation of the property in accordance with the intent and purpose of this Part.

RS 56:1868 — Management, protection and inspection of natural area preserves

ected according to the rules and regulations set forth by the department. A natural area preserve is hereby declared to be at the highest, best, and most important use for the public.

B. The department shall inspect or provide for the inspection at least annually of each natural area preserve to ensure that the provisions of this Part and the terms of the transfer or dedication are being followed.

RS 56:1869 — Rules and regulations

7, No. 324, §1, eff. July 6, 1987.

RS 56:1901 — Legislative findings and declarations

n enjoyment, for scientific purposes, and to insure their perpetuation as viable components of this state's economic and ecological systems.

B. That species of wildlife and native plants normally occurring within this state which may be found to be threatened or endangered within the state should be accorded such protection as is necessary to maintain and to enhance their numbers.

C. That the state should assist in the protection of species of wildlife that are determined to be "threatened" or "endangered" elsewhere pursuant to the federal Endangered Species Act of 1973, 16 U.S.C. 1531 et seq., as concurred in by the Louisiana Wildlife and Fisheries Commission, by prohibiting the taking, possession, transportation, exportation from the state, processing, sale or offer for sale or shipment within this state of such endangered species, or by carefully regulating such activities with regard to such species. Exceptions to such prohibitions, for the purpose of enhancing the conservation of such species, may be permitted as set forth elsewhere in this Part.

D. That funding for the conservation of threatened or endangered species and native plants may be made available to the Louisiana Department of Wildlife and Fisheries annually by appropriations from the general fund of the state. Additionally, sources other than those normally used by the department to support its present wildlife programs may be utilized, including but not limited to federal funding through Section 6 of the federal Endangered Species Act of 1973 and to that extent the department may enter into cooperative agreements with the proper authorities of the government of the United States, issue and promote the sale of "Endangered Species" stamps or utilize such other methods as are deemed appropriate to accomplish the purposes of this Part.

RS 56:1902 — Definitions

known to have escaped cultivation or to have been

intentionally or unintentionally introduced from outside of Louisiana since European colonization.

(2) "Threatened or endangered species" shall mean any species of wildlife or native plant determined by the secretary of the Department of Wildlife and Fisheries or by the secretary of the Interior of the United States with concurrence by the Wildlife and Fisheries Commission to be of a class that requires protective regulation to prevent its extinction or the destruction or deterioration of its economic usefulness within this state, presently or in the foreseeable future.

(3) "Wildlife" shall mean all species of wild vertebrates, and invertebrates.

RS 56:1903 — Conservation, study, regulation; authority

species determined to be threatened

and endangered by the secretary and the secretary of the Interior of the United States, and to formulate conservation programs and plans, to be submitted to the secretary of Interior for review.

B. The Louisiana Department of Wildlife and Fisheries is authorized to conduct investigations on resident wildlife or native plants in order to develop information relating to populations, distribution, habitat needs, limiting factors and other biological, economic, and ecological data to determine conservation measures necessary for their continued ability to sustain themselves successfully. On the basis of such determinations the commission may issue regulations designed to assist the continued ability of wildlife or native plants deemed in need of conservation to perpetuate themselves successfully. The department may conduct ongoing investigations of wildlife or native plants and the commission may from time to time amend such regulations.

C. The commission may establish such programs, including acquisition of land or aquatic habitat or interests therein, as are deemed necessary for the conservation of threatened or endangered species of wildlife or native plants. The commission may utilize all vested authority except the power of expropriation to carry out the purposes of this Part.

RS 56:1904 — Threatened or endangered species, determination; notice; lists; regulations

wildlife and Fisheries to be an endangered or threatened species

pursuant to the federal Endangered Species Act shall be deemed to be an endangered or threatened species under the provisions of this Part.

B. In addition to the species deemed to be endangered or threatened pursuant to the federal Endangered Species Act, the commission may by regulation determine whether any species of wildlife or native plant occurring within this state is an endangered or threatened species because of any of the following factors:

(1) The present or threatened destruction, modification or curtailment of its habitat or range.

(2) Overutilization for commercial, sporting, scientific, educational or other purposes.

(3) Disease or predation.

(4) The inadequacy of existing regulatory mechanisms.

(5) Other natural or man-made factors affecting its continued existence within this state.

C. The secretary may make determinations required by Subsection B of this Section on the basis of the best scientific, commercial, and other data available to it and after consultation, as appropriate, with federal agencies, other interested state agencies, other states having a common interest in the species, and interested persons and organizations. The secretary may not add a species to nor remove a species from any list published pursuant to Subsection D of this Section unless the secretary has first:

(1) Published a notice of such proposed action in conformity with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., as amended.

(2) Allowed at least thirty days following publication for comment from the public and other interested parties; however, that in cases where the department determines that an emergency situation exists involving the continued existence of such species as a viable component of the state's wildlife and native plants the department may add species to such lists provided it has published a public notice that such an emergency situation exists together with a summary of facts which support such determination.

(3) In determining whether any species of wildlife or native plant is an endangered species or a threatened species, the department shall take into consideration those actions, if any, being carried out or about to be carried out by the federal government, by other states, by other agencies of this state or political subdivisions thereof, or by any other person which may affect the species under consideration.

D.(1) The commission may issue regulations containing a list of all species of wildlife and native plants occurring within this state which are determined in accordance with Subsections A through C of this Section to be an endangered or threatened species. Each list shall refer to the species contained therein by scientific and common name or names, if any, and shall specify with respect to each such species over what portion of its range it is endangered or threatened.

(2) Except with respect to species of wildlife and native plants determined to be endangered or threatened pursuant to the federal Endangered Species Act, the commission may upon the petition of an interested person conduct a review of any listed or unlisted species proposed to be removed from or added to the lists published pursuant to this Subsection, but only if it makes and publishes a public notice that such person has presented substantial evidence which warrants such a review.

E. Whenever any species of wildlife or native plant is listed as a threatened or endangered species pursuant to Subsection D of this Section, the commission shall issue such regulations as it deems necessary and advisable to provide for the conservation of such species. The commission may, by regulation, prohibit with respect to any threatened or endangered species of wildlife any act prohibited under Subsection F of this Section and with respect to any threatened or endangered species of native plant any act prohibited under Subsection H of this Section.

F.(1) With respect to any endangered species of wildlife, it is unlawful, except as

provided in Subsection G of this section, for any person subject to the jurisdiction of this state to:

- (a) Export any such species from this state;
- (b) Take any such species within this state;
- (c) Possess, process, sell or offer for sale, deliver, carry, transport or ship, by any means whatsoever, any such species;
- (d) Violate any regulation pertaining to the conservation of such species of wildlife listed pursuant to this section and promulgated by the commission pursuant to authority provided by this Part.

(2) Provided that any endangered species of wildlife which enters this state from another state or from a point outside the territorial limits of the United States and which is being transported to a point within or beyond this state may be so entered and transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

G. The department may issue permits under such terms and conditions as it may prescribe pertaining to any act otherwise prohibited by Subsection F of this Section for scientific purposes, regulated taking, or to enhance the propagation or survival of the affected species.

H. With respect to any threatened or endangered species of native plant, it is unlawful, except as provided in Subsection I of this Section, for any person subject to the jurisdiction of this state to:

- (1) Willfully destroy or harvest any such species growing on the private land of another without first obtaining the written permission of the landowner or legal representative of the landowner.
- (2) Willfully destroy or harvest any such species on any public land without a permit from the Louisiana Department of Wildlife and Fisheries and written permission from the agency owning the land. However, permits issued for species listed on the federal Endangered Species List under the federal Endangered Species Act of 1973, as amended, must be consistent with federal standards.

I. (1) With respect to native plant species, no provision of this Part shall apply to the following:

- (a) The clearing or other disturbance of land for agricultural or silvicultural purposes.
- (b) The clearing or removal of threatened or endangered plants by the landowner or his agent.
- (c) The clearing of land by a public agency or a publicly or privately owned public utility when acting in the performance of its obligation to provide service to the public.
- (d) The propagation and sale of legally harvested threatened or endangered plant species by entities of the horticultural and nursery industry that are licensed or permitted to operate under the Horticulture Commission Law, R.S. 3:3801 et seq.
- (e) Any emission or discharge authorized pursuant to a permit, license, registration, or variance by the Department of Environmental Quality or any water intake for a facility that holds such permit, license, registration or variance.

(2) The provisions of this Part shall not be interpreted to authorize the department to designate critical habitat on private property.

J. Any law, regulation or ordinance of any political subdivision of this state which applies with respect to the taking, importation, exportation, possession, sale or offer for sale, processing, delivery, carrying, transportation or shipment of wildlife species determined to be endangered species or threatened species pursuant to this Part is void to the extent that it may effectively do either of the following:

(1) Permit what is prohibited by this Part or by any regulation which implements this Part.

(2) Prohibit what is authorized pursuant to an exemption or permit provided for in this Part or in any regulation which implements this Part.

K. This Part shall not otherwise be construed to void any law, regulation or ordinance of any political subdivision of this state which is intended to conserve wildlife.

RS 56:1905 — Retroactivity; importation

of the United States or lawfully taken and removed from another state or to prohibit entry into this state or the possession, transportation, exportation, processing, sale or offer for sale or shipment of any wildlife which has been determined to be an endangered or threatened species in this state but not in the state where originally taken if the person engaging in such activity demonstrates by substantial evidence that such wildlife was lawfully taken and lawfully removed from such state. Provided, however, that this section shall not be construed to permit the possession, transportation, exportation, processing, sale or offer for sale or shipment within this state of species of wildlife determined, pursuant to the Federal Endangered Species Act to be an endangered or threatened species, except as permitted by Subsection G of Section 1904 of this Part.

RS 56:1906 — Endangered species stamps

"endangered species" stamps, which shall be commemorative stamps, and which shall be limited to a maximum price of ten dollars for each stamp purchased.

B. Proceeds from the sale of these stamps shall be transmitted to the state treasurer who shall deposit the funds in a special account to be designated as the "endangered species fund", and which funds shall be used in addition to any other monies available for implementation of this Part.

RS 56:1907 — Penalties and enforcement

shall be subject under the provisions of R.S. 56:36.

RS 56:1921 — Findings, policy, and purposes

of natural areas, wildlife habitats, and scenic beauty that are not found in other parts of the United States. It is hereby declared and established as the policy of Louisiana and the purpose of this Part that these natural areas be conserved, protected and enhanced for the benefit of our citizens and future generations. In furtherance of this policy and to implement the provisions of Article IX, Section 1 of the Louisiana Constitution, there is hereby established the Wildlife Habitat and Natural Heritage Trust for the purpose of acquiring and properly managing such natural areas in Louisiana.

RS 56:1922 — Acquisition of land

state parks, state forests and wildlife and fishery management areas or because such areas exhibit other important features of the natural landscape that are of interest to the state. In determining whether sites shall be acquired, the secretary shall consider whether the site is:

(1) Identified as having high priority recreation, forestry, fishery, wildlife or conservation value.

(2) A prime natural feature of the Louisiana landscape, such as a major river, stream, or bayou, its tributaries and watershed, an island or coastal wetland, a significant littoral, estuarine, or aquatic site or any other important geologic

feature.

- (3) A habitat for native plant or animal species which may be threatened or endangered.
- (4) An example of a native ecological community.
- (5) Environmentally significant and is threatened with conversion to incompatible or ecologically irreversible uses.
- (6) Adjacent to a natural and scenic river, stream, or bayou.

B. Prior to its acquisition each site shall be evaluated by the department to determine if threatened or endangered species inhabit or use the site or to determine if the site is of special ecological quality or has other outstanding natural values as a community of living things.

RS 56:1923 — Wildlife Habitat and Natural Heritage Trust

to as the "trust", the funds of which may be used solely for the purposes of this Part. The secretary of the Department of Wildlife and Fisheries may use the funds deposited to the trust for the purpose of acquiring and managing lands pursuant to this Part. The secretary may accept funds from any source including public and private donations and grants which are to be deposited into the trust.

B. Monies in the trust shall be invested as provided by law. All interest earned on investment of monies in the fund shall be deposited in and credited to the trust. The monies in the trust shall be used solely in accordance with the terms and conditions of the trust and only in the amounts appropriated each year by the legislature. At the end of each fiscal year, all unexpended and unencumbered monies in the trust shall remain in the trust.

RS 56:1925 — Management

poses of this Part and identify the areas with potential for primitive recreation and educational uses. The plan shall specify what types of management activities will be permitted, consistent with the conservation purposes of this Part. The secretary shall make such plans available for review and comment by the public and other state, tribal, and local agencies. The department may hold a public hearing in the vicinity of the site in order to receive the comments.

B. The secretary is authorized to administer lands acquired pursuant to this Part and may enter into management agreements for these areas with other state agencies and local governments, and national, nonprofit membership land conservation organization, pursuant to R.S. 56:1831, when such agreements are consistent with the purposes of this Part and the site management plan. Any moneys derived from the management of these lands or the exploitation of their resources shall be deposited in the Stewardship Account.

RS 56:1931 — Louisiana Outdoors Forever Program; fund

funding for outdoor

conservation projects in the state. The administration of the program and the conservation projects selected for funding under the program shall be funded by the Louisiana Outdoors Forever Fund as provided for in R.S. 56:10(B)(17).

RS 56:1932 — Project selection board

- (2) The executive assistant to the governor for coastal activities or his designee.
- (3) The lieutenant governor or his designee from the office of state parks.
- (4) The commissioner of the Department of Agriculture and Forestry or his designee.
- (5) The secretary of the Department of Environmental Quality or his designee.
- (6) The secretary of the Department of Conservation and Energy or his designee.
- (7) The secretary of the Department of Wildlife and Fisheries or his designee.
- (8) The speaker of the House of Representatives or his designee.
- (9) The president of the Senate or his designee.

B. The members of the board representing the Louisiana Legislature shall be nonvoting members.

C. The project selection board shall elect a chairman at its first meeting each year.

The chairman shall serve a one-year term and may be reelected by the board.

D. The project selection board shall make all final determinations regarding the selection of projects for funding under the program.

RS 56:1933 — Technical advisory board

tives from the following:

- (a) The office of the governor.
- (b) The division of administration.
- (c) The office of coastal activities.
- (d) The office of state parks.
- (e) The Department of Agriculture and Forestry.
- (f) The Department of Environmental Quality.
- (g) The Department of Conservation and Energy.
- (h) The Department of Wildlife and Fisheries.

(2) Up to three representatives of nonprofit conservation organizations having offices in Louisiana and engaged in conservation efforts in the state may be appointed by the governor, provided that no such representative may participate in the evaluation of applications from their own organization.

B. The technical advisory board shall review and evaluate applications in accordance with the program criteria and scoring and forward assessments to the project selection board.

RS 56:1934 — Program eligibility; application process

coordination with public agencies

may apply to the program for funding.

(2) The program shall be strictly voluntary and in no way invokes eminent domain.

B. The following types of projects may be eligible for funding:

- (1) Land conservation of important natural areas, including fish and wildlife habitat.
- (2) Water quality projects related to land conservation or land management, including those lands that protect drinking water supplies.
- (3) Working land, farms, and forested land.
- (4) Recreational properties related to important natural areas and public use.
- (5) Historic properties adjacent to or integral to habitat restoration or enhancement.

C. Application forms as well as information about application requirements shall be made available online.

D. Submitted applications shall be evaluated by the technical advisory board and selected by the project selection board using defined criteria and scoring based on a clear, defensible, science-based process.

E. The department shall, in accordance with the Administrative Procedure Act, promulgate rules and regulations necessary to implement this program. Such rules shall include procedures for applying to the program and detailed criteria and scoring to be used by the boards in their evaluation and selection of projects for funding.

RS 56:1935 — Transparency

public records, including the Open Meetings Law, the Public Records Law, and the

Ethics Code. In addition, the meetings of each board shall be open to the public, broadcast via the internet when possible, and allow time for public comment. Meeting minutes shall be made available to the public. Information about the members of each board shall also be readily available to the public.

RS 56:1936 — Program termination

this Section, the Louisiana Outdoors Forever Program shall terminate on July 1, 2033.

RS 56:1938.1 — Louisiana Conservation Incentive Program; fund

of assisting private landowners

to enhance wildlife habitat and to manage native species on private lands. The administration of the program and the projects funded to assist private landowners related to improving and providing wildlife habitats on their property shall be funded by the Conservation Incentive Program Account as provided for in R.S. 56:10(B)(20).

RS 56:1938.2 — Program eligibility; application process

m. Grants shall be awarded

only in fiscal years in which the department receives an appropriation for the program. The department may seek additional funding through federal grant programs and other available sources of public or private funding.

B. Projects eligible for funding opportunities on private lands include:

- (1) Forest stand improvement.
- (2) Increasing prevalence of water on agricultural landscapes to provide habitat for wintering waterfowl and wetland birds.
- (3) Management of private wetlands to increase suitability for waterfowl and wetland birds.
- (4) Prescribed fire implementation.
- (5) Feral swine control.

C. The department shall, in accordance with the Administrative Procedure Act, promulgate and adopt rules necessary to implement this program. The rules shall include procedures for applying for the program and detailed criteria used to evaluate and select projects to receive funding.

RS 56:1941 — Purpose

e this area, through which runs the Cote Joyeuse, as the main route used by nineteenth century planters, their families, and travelers to and from Natchitoches and surrounding points whether by land or water, and also used by steamboats at landings at each plantation.

RS 56:1942 — Definitions

vicinity of Cloutierville, Louisiana.

RS 56:1943 — Route of Cote Joyeuse

ridor at the bend of Cane River Lake at Highway 1223 (also known as Rapides Drive or Mill Street) at the site of Fort St. Jean Baptiste State Historic Site, heading south.

- (2) Cross the railroad track to Woodyard Drive (also known as Fish Hatchery Road), which intersects Highway 1 south and head east.

- (3) At the intersection of Highway 494 and Woodyard Drive, turn right (at home of Mary Cloutier Fulton) and continue.
- (4)(a) Turn left at Bermuda Bridge from Highway 494, then right on Highway 119 and continue to the intersection of Highway 119 and Highway 493. At the intersection, turn left to Melrose Plantation and continue on Highway 119 to Derry, ending at Highway 1, or turn right to Cane River Bridge and St. Augustine Church, ending at Highway 1.
- (b) At the Bermuda Bridge, instead of crossing, stay on Highway 494 until it intersects with Highway 484, and continue until it intersects with Highway 493 at St. Augustine Church and continue to Highway 1.
- (5) Follow Highway 1 south to Cloutierville, and turn left on Highway 495 across the Cane River Bridge, past Bayou Folk Museum and continue in a circle back to Highway 1.
- (6)(a) Enter from the intersection of Highway 1 south and Keyser Avenue and continue east on Highway 494 until crossing Pratt's Bridge, near Pointe Place. Turn left and continue to the intersection of Woodyard Drive and Highway 494 (described in Subsections 3 and 4 of this Section).
- (b) At Pratt's Bridge, instead of crossing, turn left and follow Bermuda Road (Parish Road), where it circles and reaches the foot of Bermuda Bridge.

RS 56:1946 — Highland Road; designation

commemorate the area, once known as the Dutch Highlands, through which runs the Highland Road, as an area settled under Spanish rule, in what was then West Florida, by settlers of predominantly German ancestry, beginning in 1785; being an area bounded on its southerly side by Bayou Fountain; being the first high land along the Mississippi River north of the Gulf of Mexico, which was developed as farm land and plantations; through which the winding, scenic Highland Road began over two hundred years ago to connect the homes of the early settlers with each other, and to provide access to the village of Baton Rouge; and along Highland Road there have endured to the present time homes built late in the eighteenth century and early in the nineteenth century in the distinctive Louisiana manner of cypress half-timbers and bousillage; and which has retained much of its pastoral beauty and residential character.

RS 56:1947 — Definitions

at the southerly terminus of the road, all of which is designated an historic road. The portion of the Highland Road extending from the north gate of Louisiana State University to the point of junction with Jefferson Highway is designated a scenic parkway.

RS 56:1948.1 — Purpose

e. The Louisiana Byways Program is established to designate and develop educational, historical, recreational, cultural, natural, and scenic routes along Louisiana's highways. The Louisiana Byways Program is not intended to, and specifically does not, restrict the powers of local governments to regulate land uses along highways designated as Louisiana Byways nor the rights of private persons to develop, construct, and use real property and structures adjacent to such highways.

RS 56:1948.2 — Definitions

e to visitors desiring to view natural and man-made scenic resources, to experience the culture of the state, or to understand the history of the state.

RS 56:1948.3 — Criteria

g criteria:

- (1) Potential to draw a large number of people off the principal arterial.
- (2) Effectiveness of route to appeal to a varied audience.
- (3) Close proximity of recreation opportunities to designated byway.
- (4) An established corridor management plan.
- (5) Extent of local commitment to make byway successful.
- (6) At least two significant intrinsic qualities with educational, historical, recreational, cultural, natural, or archeological value.
- (7) Frequency of special events and festivals along the byway route.

- (8) Opportunities to further develop tourist attractions along the designated byway route.
- (9) Adequate accommodations along the byway route.

RS 56:1948.4 — Regional development; legislative committee approval

any district may develop additional criteria specific to its area to determine potential byway routes.

- (2) Have approval of Louisiana Byways Commission within the Department of Culture, Recreation and Tourism.
 - (3) Have approval of the Department of Culture, Recreation and Tourism.
 - (4) Have approval of the Department of Transportation and Development based upon the adequacy and safety of the proposed routes to meet the needs of the increased volume and variety of traffic on the byway.
- B. After approval by the Louisiana Byways Commission, the Department of Culture, Recreation and Tourism, and the Department of Transportation and Development, a proposed byway shall be presented to the House and Senate Committees on Transportation, Highways and Public Works by the recommending agent and shall be approved by a majority of the members of each committee prior to its inclusion in the Louisiana Byway Program.
- C. The Department of Transportation and Development shall maintain and update, on a regular basis, a listing of the Louisiana Byways approved by the House and Senate Committees on Transportation, Highways and Public Works.

RS 56:1948.5 — Louisiana Byways designations

north to the north end of Pointe

Coupee Parish.

- (2) Repealed by Acts 2016, No. 146, §2.
- (3) LA 21 from US 190 in St. Tammany Parish north to LA 10 in Washington Parish.
- (4) LA 22 from US 190 in St. Tammany Parish west to LA 44 in Ascension Parish.
- (5) LA 30 from I-10 in East Baton Rouge Parish southeast to LA 44 in Ascension Parish.
- (6) LA 43 from LA 22 in Livingston Parish north to LA 10 in St. Helena Parish.
- (7) LA 44 from LA 30 in Ascension Parish south to LA 70 in St. James Parish.
- (8) LA 70 from LA 44 in St. James Parish west to LA 1 in Assumption Parish.
- (9) LA 77 from US 190 in Pointe Coupee Parish to LA 1 in Iberville Parish.
- (10) LA 78 from US 190 in Pointe Coupee Parish north to LA 1 in Pointe Coupee Parish.
- (11) LA 308 from Labadieville in Assumption Parish north to LA 70 in Assumption Parish.
- (12) LA 433 from I-10 in St. Tammany Parish northwest to US 11 in St. Tammany Parish.
- (13) US 11 from LA 433 in St. Tammany Parish north to US 190 in St. Tammany Parish.
- (14) US 51 from LA 38 in Tangipahoa Parish south to LA 10 in Tangipahoa Parish.
- (15) Repealed by Acts 2016, No. 146, §2.
- (16) US 61 at the Mississippi state line in West Feliciana Parish south to US 190 in East Baton Rouge Parish.
- (17) US 190 from US 11 in St. Tammany Parish west to LA 21 in St. Tammany Parish.
- (18) US 190 from LA 1 at Port Allen in West Baton Rouge Parish west to LA 1 in Pointe Coupee Parish.
- (19) US 190 and US 61 Business from US 61 in East Baton Rouge Parish south to

LA 30 in East Baton Rouge Parish.

(20) Repealed by Acts 2014, No. 218, §2.

(21) The Mississippi River Road, east bank, from within Jefferson Parish west to East Baton Rouge Parish, which includes the following:

(a) LA 48 at LA 49 from Kenner in Jefferson Parish west to LA 628 at the St. John the Baptist Parish line.

(b) LA 628 in St. John the Baptist Parish west to LA 44 in LaPlace, extending west on LA 44 to the junction of LA 942 in Burnside, Ascension Parish.

(c) LA 942 in Burnside west to LA 75 in Darrow, Ascension Parish.

(22) The Mississippi River Road, west bank, from within Jefferson Parish west to Iberville Parish, which includes the following highways and sections of highways LA 18 from the Huey Long Bridge in Bridge City, Jefferson Parish west to LA 1 in Donaldsonville in Ascension Parish.

(23) LA 49 in Kenner at junction of US 61 north to Veterans Memorial Boulevard, then west to Loyola Drive, then north to Jefferson Parish Tourist Information Center on I-10.

(24) US 51 north from LA 44 to the Tangipahoa Parish line.

(25) LA 643 east from the St. James Parish line to Lac des Allemands.

(26) Main Street, Garyville National Historic District north from LA 44 to Railroad Avenue, Garyville.

(27) LA 644 east from LA 20 in South Vacherie to the St. John the Baptist Parish line.

(28) LA 20 south from LA 641 to the Lutchet-Vacherie Ferry then south to the Lafourche Parish line.

(29) LA 641 north from LA 44 to junction of I-10.

(30) LA 70 north from the St. James Parish line to LA 22.

(31) LA 22 north from LA 44 to I-10.

(32) LA 44 north from LA 942 to I-10.

(33) LA 3251 north from LA 75 to LA 30.

(34) LA 1 from Labadieville in Assumption Parish south to Grand Isle in Jefferson Parish.

(35) LA 24 from Thibodaux in Lafourche Parish to Larose in Lafourche Parish.

(36) Repealed by Acts 2003, No. 287, §2.

(37) LA 307 from LA 20 in Lafourche Parish south to LA 3199 in Lafourche Parish.

(38) LA 56 from US 90 in Terrebonne Parish south to Cocodrie in Terrebonne Parish.

(39), (40) Repealed by Acts 2003, No. 287, §2.

(41) LA 308 from Labadieville in Assumption Parish south to Golden Meadow in Lafourche Parish.

(42), (43) Repealed by Acts 2003, No. 287, §2.

(44) LA 311 from LA 24 in Terrebonne Parish south to US 90 in Terrebonne Parish.

(45) Repealed by Acts 2003, No. 287, §2.

(46) Louisiana Highway 93 from Grand Coteau in St. Landry Parish west to Sunset

in St. Landry Parish; from Sunset south through Scott in Lafayette Parish to the Acadian Village at the intersection of Ambassador Caffery Parkway in Lafayette Parish.

(47) Creole Nature Trail All-American road route: Louisiana Highway 27 beginning at Sulphur in Calcasieu Parish, south to Hollybeach in Cameron Parish at the junction with Louisiana Highway 82; Louisiana Highway 82 west to the Texas state line, and east on Louisiana Highway 27/82 to Creole, south on Louisiana Highway 82 to Oak Grove; or alternate route thence east to the intersection of Louisiana Highway 27/82 with Trosclair Road, a parish road #357, in Cameron Parish, thence east on Trosclair Road to its intersection with Louisiana Highway 82 at Oak Grove; east on Louisiana Highway 82 to the Vermilion Parish line; Louisiana Highway 385 south beginning at the intersection of McNeese Street in Calcasieu Parish to Louisiana Highway 384 at Boone's Corner proceeding east to Louisiana Highway 27 and proceeding south on Louisiana Highway 27 to Creole, or alternate route on Louisiana Highway 14 in Lake Charles south to intersection of Louisiana Highway 27 at Holmwood proceeding south to Creole; or, alternate spur route, extending east from Holmwood on Louisiana Highway 14, through the communities of Bell City and Hayes, to Illinois Plant Road, and proceeding south on Illinois Plant Road to its termination on Lacassine National Wildlife Refuge.

(48) Repealed by Acts 2014, No. 218, §2.

(49) Bayou Byways: Beginning on LA 1090 at the I-59 Pearl River exit south on LA 1090 for 6.7 miles then east on LA 190 for 3.7 miles and west on LA 90 for 1.8 miles then west on LA 433 for 9.4 miles back to I-10.

(50) Louisiana's Bayou Teche Scenic Byways:

(a) LA 182 from its intersection with 6th Street in Morgan City northwest to its intersection with US 90, including its routing through Morgan City, Berwick, Bayou Vista, and Patterson in St. Mary Parish.

(b) US 90 from its intersection with LA 182 west to its intersection with LA 182 in St. Mary Parish.

(c) LA 182 from its intersection with US 90 west to its intersection with LA 31, including its routing through Franklin, Baldwin, Jeanerette, and New Iberia in St. Mary and Iberia parishes.

(d) LA 3156 in New Iberia in Iberia Parish.

(e) LA 31 from its intersection with LA 182 north to LA 347, including its routing through New Iberia, St. Martinville, Parks, Breaux Bridge, Cecilia, and Arnaudville in Iberia, St. Martin, and St. Landry parishes.

(f) LA 347 from its intersection with LA 31 in Arnaudville southeast to its intersection with LA 328 in Breaux Bridge, including its routing through Cecilia in St. Martin and St. Landry parishes.

(g) LA 328 from its intersection with LA 347 in Cecilia south to its intersection with LA 347 in Breaux Bridge in St. Martin Parish.

(h) LA 355 from its intersection with LA 31 east to its intersection with LA 347 in Cecilia in St. Martin Parish.

(i) LA 336-1 from its intersection with LA 31 east to its intersection with LA 328 in

Breaux Bridge in St. Martin Parish.

(j) LA 352 from its intersection with LA 347 east and south to its intersection with LA 96, including its routing through Henderson in St. Martin Parish.

(k) LA 96 from its intersection with LA 352 south and west to its intersection with LA 31 in St. Martinville in St. Martin Parish.

(l) LA 86 from its intersection with LA 31 east and south to its intersection with LA 182 in New Iberia, including its routing through Loreauville in St. Mary and Iberia parishes.

(m) LA 87 from its intersection with LA 86 in New Iberia east and south to its intersection with LA 324 in St. Mary and Iberia parishes.

(n) LA 324 from its intersection with LA 87 west to its intersection with LA 326 in St. Mary Parish.

(o) LA 326 from its intersection with LA 324 south to its intersection with LA 182 in Baldwin in St. Mary Parish.

(p) LA 670 from its intersection with LA 87 south to its intersection with LA 182 in St. Mary Parish.

(q) LA 671 from its intersection with LA 87 south to its intersection with LA 182 in Iberia Parish.

(51) Repealed by Acts 2014, No. 218, §1.

(52) The Dixie Overland Byway:

U.S. 80 at its intersection with U.S. 167 south in Ruston, to the U.S. 80/I-20 interchange in eastern Madison Parish near Monroe, continuing east to the Louisiana-Mississippi state border on the Mississippi River.

(53) Boom or Bust Byway:

The byway corridor is primarily along LA 2 between the Louisiana/Texas line and Lisbon. A loop anchors the western end from LA 1 at its intersection with LA 173, thence along LA 173 to LA 3049 to Gilliam, thence from Gilliam to LA 2 on U.S. 71, thence along LA 2 to rejoin LA 1. An eastern loop is between Lisbon and Aycock on LA 518, between Aycock and Homer west on LA 146, plus a short link on LA 79 from Homer to LA 2.

(54) Repealed by Acts 2014, No. 218, §2.

(55) Tunica Trace Scenic Byways: LA 66 in West Feliciana Parish from intersection with LA 61 to the Louisiana State Penitentiary at Angola.

(56) LA 191 from US 84 in DeSoto Parish south to the state line between Texas and Sabine Parish at the Toledo Bend Reservoir Dam.

(57) Repealed by Acts 2016, No. 146, §2.

(58) LA 70 from Interstate 10 in Ascension Parish to LA 44 in St. James Parish.

(59) Louisiana Colonial Trails Scenic Byway:

(a) LA 115 from its intersection at LA 28 East (Catahoula Lake Road) south to its intersection with LA 107.

(b) LA 107 from its intersection with US 167 in Pineville south to Morrow.

(c) LA 451.

(d) LA 29 from its intersection with LA 115 at Bunkie to its intersection with LA 451.

- (e) LA 124 south from Harrisonburg to its intersection with US 84 at Jonesville.
- (f) LA 15 at Sicily Island south through Concordia Parish to Lettsworth; LA 8 from Harrisonburg to Sicily Island at its intersection with LA 15.
- (g) LA 8 at Jena, south and crossing Little River, with the historic and local name of Thompson Ferry Road, through Pollock to its intersection with LA 158 and LA 8 at Colfax.
- (h) LA 6 from the Texas border through Many and Natchitoches to its intersection with US 84 at Clarence.
- (i) LA 496 (Bayou Rapides Road) from MacArthur Drive to its intersection with LA 1200 (Hot Wells Road); north on LA 1200 to its intersection with LA 8 in Colfax.
- (j) LA 28 West from Alexandria, continuing on LA 8 (Nolan's Trace) west through Leesville and west on LA 8 to the Texas border.
- (k) US 84/65 from the Mississippi state line at Vidalia through Winnfield to its intersection with LA 6.
- (l) LA 124 from Harrisonburg to its intersection with LA 126 and LA 126 north into Caldwell Parish to existing Scenic Byway of LA 126 in Caldwell Parish.
- (60) Repealed by Acts 2016, No. 146, §2.
- (61) San Bernardo Scenic Byway: (a) LA 30 (old LA 46) from LA 39 (Judge Perez Drive) to LA 46 (Florissant LA).
- (62) Wetlands Cultural Trail (formerly known as the Lafourche/Terrebonne Scenic Byway):
 - (a) LA 1 (Raceland) from a point located 1,120 feet north of Wilson Street, south to LA 655/LA 1 (Raceland, south through Lockport) - Total of 9.82 miles.
 - (b) LA 1 from the Assumption-Lafourche Parish line to the intersection of LA 3090, including the routing through Thibodaux, Raceland, Lockport, Larose, Cut Off, Galliano, and Golden Meadow, and the elevated portion north of LA 3090.
 - (c) LA 308 from the Assumption-Lafourche parish line to the intersection of LA 1 north of Golden Meadow, including the routing through Thibodaux, Raceland, Lockport, Larose, Cut Off, and Galliano.
 - (d) LA 304 from its intersection with LA 308 to the intersection with LA 20.
 - (e) LA 20 from its intersection with LA 304 to its intersection with LA 307, including its routing through Chackbay.
 - (f) LA 307 from its intersection with LA 20 to its intersection with LA 182, including its routing through Kraemer.
 - (g) LA 182 from its intersection with LA 307 to its intersection with LA 308.
 - (h) LA 20 from its intersection with LA 1 to its intersection with LA 24.
 - (i) LA 24 from its intersection with LA 20 south of Thibodaux to its intersection with LA 1 in Larose, including its routing through Houma and its East and West one-way pairs.
 - (j) LA 56 from its intersection with LA 24 east of Houma to its terminus at Cocodrie, including its routing through Chauvin.
 - (k) LA 57 from its intersection with LA 24 in Houma south to its intersection with LA 56, including its routing through Dulac.

(l) LA 182 from its intersection with LA 24 in Houma to its intersection with LA 20 west of Gibson.

(63) Cane River National Heritage Trail Scenic Byway:

(a) LA 6 beginning at the Washington Front Street to the intersection of Pavie Street and one block south of the intersection of LA 1.

(b) East on Church Street to Keyser Avenue LA 494.

(c) West on Keyser Avenue to the intersection of LA 119.

(d) LA 119/494 to the divergence of the roads at Oakland Plantation Bridge.

(e) LA 119 until its intersection with LA 1.

(f) East at LA 1 towards Derry and continues on LA 1 to its intersection with LA 490 where the road becomes LA1/490.

(g) LA 1/490 to Gilbraith where LA 490 turns north.

(h) LA 1 to Lena.

(i) Beginning at the Allen Exit on I-49 North of Natchitoches traveling west and south along LA 485 to LA 6 and returning east to Natchitoches.

(64) Southern Swamp Byway: The byway corridor runs northeast of Interstate 10, South of Interstate 12 and adjacent to Interstate 55 in Ascension, Livingston, Tangipahoa, and St. John the Baptist parishes of eastern Louisiana for a total of 67 miles. The byway is designated on LA 22 from its intersection with LA 70 at the Ascension Parish Visitor Center to the intersection of LA 22 with US 51-X in Ponchatoula and then south on US 51-X and continuing on US 51 to the Byway's intersection with I-10.

(65) Flyway Byway: The byway corridor runs along Louisiana Highway 99 from its intersection with the west bound ramps of I-10 south to its intersection with Louisiana Highway 14, including its routing through Welsh; Illinois Plant Road from the Jefferson Davis-Cameron Parish line north to its intersection with Louisiana Highway 14; along Louisiana Highway 14 from its intersection with Illinois Plant Road east to the Jefferson Davis-Vermilion Parish line, including its routing through Lake Arthur; along Louisiana Highway 3056 from the Jefferson Davis-Cameron Parish line north to its intersection with Louisiana Highway 14; Louisiana Highway 26 from its intersection with Louisiana Highway 14 north to its intersection with North Frontage Road at the Oil and Gas Park north of I-10, including its routing through Lake Arthur and Jennings; and US Highway 90 from its intersection with Louisiana Highway 99 in Welsh east to its intersection with Louisiana Highway 26 in Jennings including its routing through Roanoke.

(66) Cajun Corridor Byway: all portions in Vermilion and Iberia parishes, LA 14 from its intersection with LA 91 in Gueydan east in Vermilion Parish through Kaplan, Abbeville, Erath, and to its crossing of the Delcambre Canal on the east municipal boundary of Delcambre located in Iberia Parish.

(67) Myths and Legends Byway:

(a) US 165 from its intersection with US 190 in Kinder northeast to its intersection with LA 26 in Oberlin in Allen Parish.

(b) LA 26 from its intersection with US 165 in Oberlin northwest to its intersection with US 171 in Allen and Beauregard parishes.

- (c) LA 113 from its intersection with LA 26 north to its intersection with LA 10 in Pitkin including its routing through Sugartown in Beauregard and Vernon parishes.
- (d) LA 10 from its intersection with US 165 in Oakdale west to its intersection with US 171 south of Pickering including its routing through Elizabeth, Pitkin, Cravens, and Sandy Hill in Allen and Vernon parishes.
- (e) LA 458 from its intersection with LA 10 in Pitkin northwest to its intersection with LA 399 in Fullerton in Vernon Parish.
- (f) LA 399 from its intersection with LA 10 northeast to its intersection with Fullerton Lake Road, the entrance to Fullerton Lake Campground and Picnic area, including its routing through Fullerton in Vernon Parish.
- (g) US 112 from its intersection with LA 113 in Sugartown west to its intersection with US 171 in Beauregard Parish.
- (h) US 171 from its intersection with LA 26 west and north to its intersection with LA 10 south of Pickering including its routing through Deridder and Rosepine in Beauregard and Vernon parishes.
- (i) US 190 from its intersection with US 171 in Deridder west to the Louisiana-Texas state border including its routing through Merryville in Beauregard Parish.
- (j) LA 111 from its intersection with US 190 north to its intersection with LA 8 in Beauregard and Vernon parishes.
- (k) LA 8 from its intersection with LA 111 west to the Louisiana-Texas state border in Vernon Parish.
- (68) Zydeco Cajun Prairie Scenic Byway:
 - (a) US 90 from its intersection with LA 35 in Rayne west to its intersection with LA 13 in Crowley in Acadia Parish.
 - (b) LA 35 from its intersection with US 90 in Rayne north to its intersection with LA 95 in Church Point in Acadia Parish.
 - (c) LA 95 from its intersection with LA 35 southeast to its intersection with LA 178 in Church Point in Acadia Parish.
 - (d) LA 178 from its intersection with LA 95 in Church Point east to its intersection with LA 182 in Acadia and St. Landry parishes.
 - (e) LA 13 from its intersection with US 90 in Crowley north to its intersection with US 167 including its routing through Eunice, Pine Prairie, and Turkey Creek in Acadia, Evangeline, and St. Landry parishes.
 - (f) LA 370 from its intersection with LA 35 west to its intersection with LA 13 in Acadia Parish.
 - (g) US 190 from its intersection with LA 105 in Krotz Springs west to its intersection with LA 1157-2 in Basile, including its routing through Port Barre, Opelousas, and Eunice in St. Landry and Evangeline parishes.
 - (h) LA 1157-2 from its intersection with US 190 north to its intersection with LA 1157-1 in Basile in Evangeline Parish.
 - (i) LA 3277 from its intersection with US 190 north to its intersection with LA 1157-1 in Basile in Evangeline Parish.
 - (j) LA 1157-1 from its intersection with LA 3277 west to its intersection with LA

1157-2 in Basile in Evangeline Parish.

(k) LA 182 from its intersection with LA 93 in Sunset west and north to its intersection with LA 103 in Washington including its routing through Opelousas in St. Landry Parish.

(l) LA 93 from its intersection with LA 31 in Arnaudville west to its intersection with LA 182 in Sunset including its routing through Grand Coteau in St. Martin and St. Landry parishes.

(m) LA 31 from its intersection with LA 93 in Arnaudville north to its intersection with LA 103 in Leonville in St. Martin and St. Landry parishes.

(n) LA 103 from its intersection with LA 31 in Leonville north to its intersection with LA 741 in Port Barre in St. Landry Parish.

(o) LA 758 from its intersection with US 190 north to its intersection with LA 29 in St. Landry and Evangeline parishes.

(p) LA 29 from its intersection with LA 758 northeast to its intersection with LA 1174 in Chataignier in Evangeline Parish.

(q) LA 1174 from its intersection with LA 29 north and east to its intersection again with LA 29 all in Chataignier in Evangeline Parish.

(r) LA 105 from its intersection with US 190 in Krotz Springs north to its intersection with LA 10 in Melville in St. Landry Parish.

(s) LA 10 from its intersection with LA 105 in Melville west and south to its intersection with LA 10 in Washington including its routing through Palmetto in St. Landry Parish.

(t) US 167 from its intersection with I-49 west and north to its intersection with LA 3042 in Ville Platte in St. Landry and Evangeline parishes.

(u) LA 3042 from its intersection with US 167 in Ville Platte north to its intersection with LA 106 in Evangeline Parish.

(v) LA 106 from its intersection with I-49 west to its intersection with US 167 in Avoyelles and Evangeline parishes.

(w) US 167 from its intersection with LA 106 northwest and north to its intersection with I-49 including its routing through Turkey Creek in Rapides and Evangeline parishes.

(x) LA 3187 from its intersection with LA 13 west and north to the entrance of Crooked Creek Recreation Area in Evangeline Parish.

(69) Zachary Taylor Parkway - Louisiana's Military History Byway:

(a) LA 10 from the Mississippi state line west through Washington, Tangipahoa, St. Helena, and East Feliciana Parishes.

(b) LA 10 from the West Feliciana Parish line west to the intersection with LA 10 and LA 61.

(c) LA 61 south to the intersection of LA 61 and LA 10 at the John James Audubon Bridge.

(d) LA 10 west continuing over the John James Audubon Bridge into Pointe Coupee Parish to the intersection of LA 10 and LA 1.

(e) LA 1 west through Avoyelles Parish to the intersection of LA 1 and Broadway

Avenue in Rapides Parish.

(f) South of Broadway Avenue to the intersection of Broadway and Interstate 49.

RS 56:1948.6 — Signage; official state map designation; official logo

ignated herein, indicating that these highways or sections of highways have been designated as Louisiana Byways.

B. The Department of Transportation and Development may identify all highways designated herein as Louisiana Byways on any official state highway maps prepared and distributed by the department.

C. The official logo of the Louisiana Byways Program shall be used as the logo to identify the more than five hundred miles designated as the original Louisiana Byways routes. Such logo shall be used on appropriate signage and official state highways maps to indicate those routes designated as Louisiana Byways.

RS 56:1948.7 — Exclusions from Louisiana Byway designation

ed one or more permanent structures at which commercial or industrial activity is conducted, shall be excluded from the scenic byway designation, except for official signage, mapping, and other purposes solely to preserve system continuity, unless the recommending body requests specific inclusion of such section and the House and Senate Committees on Transportation, Highways and Public Works, with the concurrence of the secretaries of the Department of Culture, Recreation and Tourism and of the Department of Transportation and Development, finds that such section meets the criteria of R.S. 56:1948.3.

B. If, however, the Federal Highway Administration formally expresses its objection to this process of automatic exclusion, and if such objection is directed to the state of Louisiana in writing, and if such objection also initiates official sanctions which would result in the loss of National Highway System apportionment or any past or pending grants to the state for the purpose of scenic byways, then the exclusion in Subsection A is null and void. The Department of Transportation and Development shall notify the Department of Culture, Recreation and Tourism and the Senate and House committees on transportation, highways and public works of such action and the following process shall be substituted in lieu of Subsection A of this Section: Any section of those roads, designated in this Part as a Louisiana Byway, which is adjacent to land zoned commercial or industrial or upon which is located one or more permanent structures at which commercial or industrial activity is conducted, may be excluded from the scenic byway designation if a recommendation for exclusion is presented to the secretary of the Department of Culture, Recreation and Tourism. The secretary of the Department of Culture, Recreation and Tourism is hereby authorized to promulgate rules and regulations in accordance with the Administrative Procedure Act. Such rules and regulations, subject to the oversight of the House and Senate committees on transportation, highways and public works, shall set forth the procedure which must be followed and the criteria which must be met in order for such segments to be excluded from the Louisiana Byways system.

C. Any section of a road designated as a Louisiana scenic highway, which is located in the parishes of LaSalle, Natchitoches, Sabine, or Winn, shall be excluded from the scenic byway designation.

RS 56:1948.11 — Creation of the Louisiana Byways Commission; jurisdiction; purpose

in the state of Louisiana.

B. The purpose of the commission is to preserve, enhance, and promote special roads within the Louisiana Byways Program that offer historical, cultural, scenic, natural, archeological, recreation, and economic resources for the state.

RS 56:1948.12 — Board of commissioners

Development or his designee.

(c) The secretary of the Department of Culture, Recreation and Tourism or his designee.

(d) The assistant secretary of the office of state parks or his designee.

(e) The assistant secretary of the office of tourism or his designee.

(f) The assistant secretary of the office of cultural development or his designee.

(g) The chairman of the House Committee on Transportation, Highways and Public Works or his designee.

(h) The chairman of the Senate Committee on Transportation, Highways and Public Works or his designee.

(i) The Department of Transportation and Development highway construction/maintenance manager or his designee.

- (2) The lieutenant governor or his designee shall serve as the chairman of the commission.
- B. A majority of the membership of the commission shall constitute a quorum for the transaction of business.
- C. The commission shall prescribe rules to govern the scheduling and conduct of its meetings.
- D. The commission may appoint a Louisiana Byways Program coordinator to oversee the operations of the commission as provided in R.S. 56:1948.13 and an additional program employee. The program coordinator and the additional program employee shall constitute the two positions for which provision is made in Article X, Section 2(B)(7) of the Constitution of Louisiana.

RS 56:1948.13 — Powers of the commission

Following powers:

- (1) To make recommendations for additions or deletions of highways or segmentation of highways in the Louisiana Byways Program.
- (2) To make recommendations regarding priorities for byways grants.
- (3) To develop promotional materials and campaigns of all types in support of the Louisiana Byways Program.
- (4) To adopt and promulgate rules in accordance with Administrative Procedure Act to effectuate the provisions of this Chapter. All rules prescribed by the commission relative to the Louisiana Byways Program shall be subject to oversight by the House and Senate Committees on Transportation, Highways and Public Works.

RS 56:1949 — Old Perkins Road; designation

The legislature to commemorate this area, once sought after by early landowners for its rich soil; intersected by historic Bayou Manchac, known in its early days as Iberville Bayou; developed as dairy land by the Kleinpeter family who continue to this day to operate the Kleinpeter Dairy on the same location; and original home to the Old Santa Maria Dairy developed on this picturesque Old Perkins Road which began as a main artery to provide a transportation route for early settlers to connect Ascension Parish to the village of Baton Rouge, and which has, with its splendorous flora, retained the beauty reminiscent of an earlier era.

RS 56:1950 — Definitions

Baton Rouge Parish, traveling southeast through East Baton Rouge Parish and crossing the historic Iberville Bayou, now known as Bayou Manchac, traveling southerly into Ascension Parish and ending at its terminus with Louisiana Highway 61, referred to as the Airline Highway, all of which is designated as a historic road.

RS 56:1950.1 — Purpose

The Mississippi River corridor as a historic, cultural, scenic, and economic resource for the state of Louisiana. The addition to the current Louisiana byway route will incorporate the entire Great River Road from the northern-most point at the Louisiana/Arkansas state line to the southern-most roadway in Venice, Louisiana.

RS 56:1950.2 — Route of the Louisiana Great River Road

all Parish, south on US Highway 65 from the Arkansas/Louisiana state line to the Madison Parish line.

- (2) In Madison Parish, US Highway 65 south to the Tensas Parish line.
- (3) In Tensas Parish, US Highway 65 south to the Concordia Parish line.
- (4) In Concordia Parish, US Highway 65 south to Ferriday; LA 84 east from Ferriday to Vidalia; LA 131 south from Vidalia to LA 15; LA 15 south to Pointe Coupee Parish.
- (5) In Pointe Coupee Parish, LA 15 south to LA 1; LA 1 south through New Roads to LA 416; LA 416 east to LA 415; LA 415 to West Baton Rouge Parish.
- (6) In West Baton Rouge Parish, LA 415 becomes LA 986 to Port Allen; turn right on Rosedale Road, go two blocks and turn left on North Jefferson Street; proceed 11 blocks and turn left on Court Street; proceed four blocks to LA 986; proceed on LA 986 to Oaks Avenue; proceed on Oaks Avenue to Alexander Avenue; turn right, then left onto Avenue G; take Avenue G to LA 1; turn left on LA 1 to Beaulieu Lane, then Beaulieu Lane to LA 988; follow LA 988 through Brusly to Iberville Parish.

(7) In Iberville Parish, proceed on LA 988 to LA 1 in Plaquemine, heading south; turn left onto LA 75 and proceed to LA 405; take LA 405 through White Castle into Ascension Parish.

(8) In Ascension Parish, take LA 405 to LA 1 in Donaldsonville; proceed on LA 1 through Donaldsonville to LA 18; proceed on LA 18 into St. James Parish.

(9) In St. James Parish, proceed on LA 18 through Vacherie, passing under the Sunshine Bridge and into St. John Parish.

(10) In St. John Parish, proceed on LA 18 through Edgard and to St. Charles Parish.

(11) In St. Charles Parish, proceed on LA 18 through Hahnville, Luling, and Ama to Jefferson Parish.

(12) In Jefferson Parish, proceed on LA 18 through Waggaman to LA 541, continuing on LA 541 through Bridge City, passing under the US Highway 90 Mississippi River Bridge; continue on LA 541 through Marrero and Harvey, reconnecting to LA 18; proceed on LA 18 to LA 23 south to Plaquemines Parish.

(13) In Plaquemines Parish, proceed south on LA 23 to Belle Chasse, following LA 23 south to Venice.

B. The east bank route of the Louisiana Great River Road, which is to be used as a route for the enjoyment of tourists, shall consist of:

(1) In West Feliciana Parish, take LA 61 south through Laurel Hill, Wakefield, and St. Francisville to East Feliciana Parish.

(2) In East Feliciana Parish, take LA 61 south through Port Hudson to East Baton Rouge Parish.

(3) In East Baton Rouge Parish, proceed on US Highway 61 to Interstate 110 south through Baton Rouge, exiting at the Governors Mansion and Capitol Access Road; proceed to Capitol Lakes Avenue and turn left on Fifth Street; turn right onto Old Spanish Town Road; turn right onto North Third Street; turn left on Capitol Street Avenue, then left on River Road; proceed on River Road south to St. Phillip Street; turn right on St. Phillip Street and proceed to LA 30 and the LSU campus; at the football and baseball stadiums turn right on Skip Bertman Drive; proceed to River Road and turn left; follow River Road to Iberville Parish.

(4) In Iberville Parish, travel LA 327 south to LA 991; proceed on LA 991 to LA 75; proceed on LA 75 through Sunshine, St. Gabriel, and Carville to Ascension Parish.

(5) In Ascension Parish, proceed on LA 75 south through Geismar and Darrow where LA 75 turns into LA 942; proceed on LA 942 to Burnside where LA 942 turns into LA 44; continue on LA 44 south to St. James Parish.

(6) In St. James Parish, continue on LA 44 south under the Sunshine Bridge and through Union, Convent, and Gramercy, into St. John Parish.

(7) In St. John Parish, continue on LA 44 south past Veterans Memorial Bridge to Reserve and SR 636-3; proceed on SR 636-3 back to LA 44 through LaPlace to SR 628; continue on SR 628 through Gypsy to the St. Charles Parish line.

(8) In St. Charles Parish, continue on SR 628 through Montz to US Highway 61; proceed on US 61 across the Bonnet Carre Spillway to LA 48 at Norco; continue on LA 48 through New Sarpy, Destrehan, and St. Rose to the Jefferson Parish line.

(9) In Jefferson Parish, continue on LA 48 through Kenner and Harahan where LA 48 turns into Jefferson Highway; turn right on SR 3154, proceeding to Riverside Drive; take Riverside Drive under US Highway 90 Mississippi River Bridge into New Orleans and to the Orleans Parish line.

(10) In Orleans Parish, follow Riverside Drive through Tulane University to Magazine Street; take Magazine Street past the Audubon Zoo to Exposition Street; take Exposition Street to Tchoupitoulas Street; take Tchoupitoulas Street to Interstate 10 Mississippi River Bridge and cross the Mississippi River; take the Westbank Expressway west back into Jefferson Parish and exit LA 23 through Belle Chasse to the Plaquemines Parish line.

(11) In Plaquemines Parish, take LA 23 south through Belle Chasse to Venice.

RS 56:1950.11 — Old Metairie Road Business and Cultural District; designation

y of the Mississippi River which historically provided a dry land route into New Orleans from the West; that the name goes back some two centuries and is related to farming in the area, being derived from the French

moitie,

or one-half, or

moitire,

a farming village based on a kind of medieval sharecropping; and that today the Metairie Road area is a rich cultural community comprised of shops, coffee houses, restaurants, professional buildings, and other establishments of interest to residents and visitors. It is the intention of the legislature to designate the area along a portion of Metairie Road as a business and cultural district in order to commemorate its historical and cultural significance and to assure ready access to the district by providing directions to residents and visitors.

B. The legislature does hereby designate that portion of Metairie Road in Jefferson Parish defined in R.S. 56:1950.12 as a business and cultural district.

RS 56:1950.12 — Definitions

Jefferson Parish-Orleans Parish line at the Seventeenth Street Canal and extending to the west along Metairie Road to its intersection with Severn Avenue near Airline Drive and including the properties on both sides of such portion of Metairie Road.

RS 56:1950.13 — Signage

at locations along Metairie Road within the district.

B. The Department of Transportation and Development and the governing authority of Jefferson Parish shall provide and erect appropriate signs providing directions to the district at appropriate locations on the respective local and state highways including but not limited to the following:

- (1) Airline Drive at Severn Avenue and Shrewsbury Road.
- (2) Airline Drive at Labarre Road.
- (3) Airline Drive at Ridgewood Drive.
- (4) Airline Drive at Cecil Street (Louisiana Highway 6118).
- (5) Bonnabel Boulevard at Metairie Road.
- (6) I-10 at all Bonnabel Boulevard exits.

RS 56:1950.21 — Purpose

and roll, country, zydeco, cajun, jazz, rhythm and blues, hip-hop, swamp pop, gospel, and other music types throughout Louisiana.

RS 56:1950.22 — Louisiana Music Trail

may request

that a specified segment of a state or U.S. highway be included in the trail.

RS 56:1950.23 — Louisiana Music Trail Commission; creation; membership

The commission shall be composed of seven members as follows:

- (1) The assistant secretary of the office of cultural development or his designee.
 - (2) The assistant secretary of the office of tourism or his designee.
 - (3) The lieutenant governor shall appoint five members who shall serve at the pleasure of the lieutenant governor. The members shall be residents of five different parishes through which the Louisiana Music Trail passes. Two shall have a bachelor's degree or professional experience in the field of music, and three shall have a bachelor's degree or professional experience in art, history, or tourism.
 - (4) Members of the commission shall serve without compensation for their service but may receive expense reimbursement.
- C.(1) The office of cultural development and the office of tourism shall provide a meeting space and staffing for the commission.
- (2) The Louisiana Music Trail Commission shall meet as often as necessary to

perform its duties under this Part but not less than quarterly.

(3) The assistant secretary of the office of cultural development or his designee shall call the first meeting of the commission, and the commission shall elect a chairman at its first meeting.

(4) The commission shall adopt bylaws for the governance of its affairs.

(5) Four members of the commission constitute a quorum for the transaction of business.

RS 56:1950.24 — Duties of the commission; Louisiana Music Trail programs

(1) A tourism program that focuses on highlighting music stories and related dynamics on the designated music highways.

(2) A signage program that captures the stories, biographies, and points of interest in blues, rock and roll, country, zydeco, cajun, jazz, rhythm and blues, hip-hop, swamp pop, gospel, and other music types.

B. The office of cultural development and the office of tourism shall provide assistance to the commission in establishing and administering the programs.

C. The commission shall maintain information about federal and state grant opportunities to encourage the development of exhibits related to the musical heritage of the region.

D. The office of cultural development shall promulgate rules necessary to implement the Louisiana Music Trail programs created under this Section.

E. The commission may accept, receive, and use grants, monies, equipment, material, services, and immovable and movable property donated, bequeathed, or devised for any purpose relating to the activities of the commission and not expressly designated for any other agency.

RS 56:1950.26 — Signage; official state map designation; official logo

anual on uniform traffic control devices,

reflecting those highways or sections of highways designated pursuant to this Part as the Louisiana Music Trail if funds are received by the department equal to the department's actual costs for material, fabrication, mounting posts, and installation of each sign.

B. The Department of Transportation and Development may identify all highways designated as the Louisiana Music Trail on any official state highway maps prepared and distributed by the department.

C. The Department of Culture, Recreation and Tourism shall develop the official logo of the Louisiana Music Trail, and the logo shall be used as the logo to identify the routes designated as the Louisiana Music Trail. The logo shall be used on appropriate signage and official state highway maps to indicate those routes designated as the Louisiana Music Trail.

RS 56:1951 — Purpose

s in the eighteenth and nineteenth centuries for travel to and across Louisiana and to designate those scenic highways which compose a modern tourist route paralleling the length of the Louisiana Colonial Trails.

RS 56:1952 — Definitions

tion route of the Camino Real in the western part of the state from Natchitoches to the Texas border and the Harrisonburg Road from Natchitoches through east central Louisiana to the Mississippi River.

(2) "Scenic highway" means those designated modern day roads which parallel the colonial trail and is a route with significant scenic, historical, and recreational features by which tourists can travel across central Louisiana.

RS 56:1953 — Louisiana Colonial Trails; requirements; designations

(also called the San Antonio Road)

- (3) Nolan's Trace
- (4) Red River Stage Road
- (5) Harrisonburg Road
- (6) Thompson Ferry Road
- (7) White Sulphur Springs Road
- (8) Walker Ferry Road
- (9) Hebrard Ferry Road
- (10) Catahoula Lake Road
- (11) The Doty Road
- (12) Old Texas Road

B. In order to include a road or trail in the Louisiana Colonial Trails system, the road or trail shall be more than ten miles in length, documented by acceptable historical data, and identified on historical maps or by other means, as a route used by a substantial number of travelers during the years from 1803 until approximately 1850 to settle in Louisiana, Texas, and the West, branching from the Natchez Trace at Vidalia, Louisiana, across the Mississippi River from Natchez, Mississippi.

RS 56:1954 — Scenic highways; purpose

al Trails, extending from Mississippi to Texas shall consist of the following:

- (1) Enter Louisiana on State Highway 6.
- (2) Intersection of State Highway 6 with US 71/84, turn south on US 71.
- (3) Intersection of US 71 with local paved road known as the Old Harrisonburg Road. Turn east.
- (4) Intersection of Old Harrisonburg Road with State Highway 34. Turn northeast on State Highway 34.
- (5) Intersection of State Highway with local, paved road. Turn southeast on paved road.
- (6) Intersection with Old Harrisonburg Road a local road paved in parts running east-west. Turn east on Old Harrisonburg Road.
- (7) Intersection of Old Harrisonburg Road with paved State Highway 1228, turn north.
- (8) Intersection of State Highway 1228 with paved, local road, turn east.
- (9) Cross the intersection with US 167 and continue on road which becomes paved State Highway 500 at this intersection. Continue east on State Highway 500.
- (10) Intersection of State Highway 500 with State Highway 472, a two lane road extending north to State Highway 1230, turn north.
- (11) Intersection of State Highway 472 with State Highway 1230. Turn east on State Highway 1230.
- (12) When State Highway 1230 turns sharply to the south, continue east on road which becomes State Highway 3098. Continue east on 3098.
- (13) Intersection of State Highway 3098 with State Highway 165. Turn south on State Highway 165.
- (14) Intersection of State Highway 165 with State Highway 500. Turn east on State Highway 500.
- (15) Merger of State Highway 500 with US 84. Continue east on US 84.
- (16) Intersection with State Highway 8. Turn northeast and continue on State Highway 8.
- (17) Intersection of State Highway 8 with State Highway 124, turn south.

(18) Intersection of State Highway 124 with US 84, turn east.

(19) Veer south on US 84/65, which becomes a divided, four lane highway between Ferriday and Vidalia.

RS 56:2001 — Repealed by Acts 1995, No. 1262, §1.

ton Rouge, Louisiana 70804-9062

RS 56:2002 — Repealed by Acts 1995, No. 1262, §1.

ton Rouge, Louisiana 70804-9062

RS 56:2003 — Repealed by Acts 1995, No. 1262, §1.

ton Rouge, Louisiana 70804-9062

RS 56:2011 — License to dredge; royalties; exemptions

f Wildlife and Fisheries. The license

fee shall be set by the commission and shall not exceed one hundred dollars. The department shall act on the license application either favorably or unfavorably within a period of thirty working days.

B.(1) There shall be five classes of license as follows:

(a) Class A shall be applicable to commercial dredging or initial acquisition of fill sand or fill material with the specific intent to offer such fill for resale.

(b) Class B shall be applicable to dredging of fill sand or fill material for commercial purposes other than the specific intent to offer such fill for resale. Such commercial purposes shall include operations related to mineral activities.

(c) Class C shall be applicable to a person dredging or contracting for dredging of fill sand or fill material for private, noncommercial purposes.

(d) Class D shall be applicable to dredging of fill sand or fill material for an activity that has a public benefit, such as but not limited to a coastal conservation or restoration activity, navigation purpose, removal of sediment buildup, or recreational activity.

(e) Class E shall be applicable to all other dredging of fill sand or fill material.

(2) The license shall be valid for one year beginning January first and ending December thirty-first of that same calendar year. The license may be purchased at any time during the year for the current license year and beginning November fifteenth for the immediately following license year. No person with an outstanding violation of this Chapter may purchase a license. At all times, the original license shall be available at the dredge site for inspection by a duly authorized agent of the department.

C. A royalty payment, based on cubic yards or equivalent thereof as determined by the commission of material dredged, shall be made to the department as follows:

(1) Holders of a Class A license shall pay a royalty of twenty-nine cents per cubic yard of material dredged.

(2) Holders of a Class B license shall pay a royalty of twenty-five cents per cubic yard of material dredged.

(3) Holders of a Class C license shall pay a royalty of fifteen cents per cubic yard of material dredged.

(4) Except those exempted under the provisions of Subsection E of this Section, holders of a Class D license shall pay a royalty of five cents per cubic yard of material

dredged.

(5) Holders of a Class E license shall pay a royalty of twenty-five cents per cubic yard of material dredged.

D. Only holders of Class A licenses shall be authorized to sell fill sand or fill material dredged. Holders of Class B, C, D, or E licenses shall not sell fill sand or fill material which was dredged or caused to be dredged under authority of those licenses.

E. Any private landowner, state agency, political subdivision, or associated consultant or contractor engaged in a coastal protection, conservation, or restoration activity consistent with an annual plan or the comprehensive master plan established pursuant to R.S. 49:214.5.3 or engaged in an activity to remove sediment buildup to preserve or restore the natural habitat of a water body of the state or to enhance navigation and recreation activities on a water body of the state shall be exempt from payment of the royalties and bond requirements of this Section. However, the private landowner, state agency, political subdivision, or associated consultant or contractor shall be required to apply for and receive the appropriate license required by this Section. To be eligible for exemption from the royalty payment and bond requirements of this Section, a private landowner shall obtain a letter of no-objection from either the governing authority of the political subdivision within which the activity will occur or the local coastal management program under which the activity is authorized and the approval, in writing, of the secretary of the Department of Conservation and Energy, the secretary of the Department of Transportation and Development, and the executive director of the Coastal Protection and Restoration Authority.

F. Notwithstanding any other provision of law to the contrary, dredging by or on behalf of a port authority or port, harbor, and terminal district shall be exempt from the provisions of this Chapter. However, any port authority or port, harbor, and terminal district or any person engaged on its behalf to perform dredging in its respective jurisdiction shall possess the appropriate federal and state permits which authorize the dredging, and a copy of such permits shall be available at the dredge site for inspection by a duly authorized agent of the department.

G. Any person holding a dredging permit from the department on May 1, 2007, shall be granted a license under the provisions of this Section, with such license to authorize the same activities authorized under the existing permit.

H. The commission shall promulgate rules and regulations implementing the provisions of this Section. Such rules and regulations shall include but not be limited to bond requirements, royalty payment deadlines, royalty auditing procedures, and location of dredging operations and placement of fill sand or fill material.

RS 56:2012 — Violations and penalties; injunctive relief

ass three violation with penalties as provided in R.S. 56:33, except that failure to possess a Class C license shall constitute a class one violation with penalties as provided in R.S. 56:31.

B.(1) In addition to the penalties provided in Subsection A of this Section, the commission may assess either or both of the following:

(a) A civil penalty of not more than one thousand dollars for each violation of the provisions of this Chapter or of the rules and regulations adopted by the commission pursuant to this Chapter. Each day on which a violation occurs shall be considered a separate offense.

(b) Damages in an amount not to exceed the estimated fair market value of the fill sand or fill material dredged in violation of this Chapter or the rules and regulations of the commission adopted pursuant to this Chapter.

(2) Penalties and damages may be assessed only by a resolution of the commission after notice to the licensee.

(3) Decisions of the commission may be appealed through an adjudicatory hearing pursuant to the Administrative Procedure Act, R.S. 49:950 et seq.

C. The secretary may institute civil proceedings enforcing the rulings of the commission or seeking injunctive relief to restrain and prevent the violation of the provisions of this Chapter, or of the rules and regulations adopted by the commission pursuant to this Chapter, in the Nineteenth Judicial District Court.

RS 56:2013 — Revocation of licenses

ated the provisions of this Chapter or the rules and regulations of the commission; however, the licensee shall be entitled to an appeal from his revocation or suspension through an adjudicatory hearing pursuant to the Administrative Procedure Act, R.S. 49:950 et seq.

B. The department shall notify each person whose license has been revoked or suspended, by certified mail, return receipt requested.

C. Each person whose license has been revoked or suspended shall return the license to the commission within fifteen days of the date on which the notice of revocation or suspension was received.

RS 56:2014 — Emergency cease and desist orders

ue an emergency cease and desist order. The issuance of such an emergency cease and desist order shall not be subject to the limitations and formalities relating to notice and hearings imposed with regard to adjudications under R.S. 49:950 et seq., but shall be subject to all other applicable provisions of law. The emergency cease and desist order shall remain in force until a hearing can be held concerning the situation which prompted the emergency order, but in no event shall such an emergency order remain in force longer than fifteen days.

RS 56:2015 — Mandamus to compel issuance of license

court finds that the license should have been issued, the court may issue a writ of mandamus to compel the department to issue the license.

RS 56:2021 — Title

chnical difficulties navigating this website,

RS 56:2022 — Purpose

y 2, 1991.

RS 56:2023 — Establishment of standards

ormation available, and in a manner which shall:

- (1) Enhance and conserve fishery and resources to the maximum extent practicable.
- (2) Facilitate access and utilization by recreational and commercial user groups.
- (3) Minimize conflicts among competing users of waters covered under this Chapter of the resources in such waters.
- (4) Minimize environmental risk and risk to personal and public health and property.
- (5) Be consistent with generally accepted principles of fishing law, the Louisiana Fishing Enhancement Act, and not create any unreasonable obstructions to navigation.

RS 56:2024 — Terrebonne Parish Artificial Reef Development Commission

be a body politic and political subdivision of the state of Louisiana, as defined in Article VI, Section 44 of the Constitution of Louisiana. Pursuant to Article VI, Sections 19 and 21 of the Constitution of Louisiana, the district is hereby granted all of the rights, powers, privileges and immunities granted to political subdivisions including but not limited to the power of taxation, the power to incur debt and issue revenue and general obligation bonds, certificates of indebtedness, bond and certificate anticipation notes, and refunding bonds, subject to the limitations hereinafter provided. The district created pursuant hereto shall be established for the primary purpose of promoting, developing, maintaining, monitoring and

enhancing the artificial reef potential in the waters covered under this Chapter.

B. Through its governing commission, it shall administer and enforce the program provided for in this Chapter and such commission may, on its own initiative, establish artificial reef sites after holding public hearings on any proposed reefs, and also to receive permit applications from any other person or agency for the purpose of establishing an artificial reef.

The commission shall oversee maintenance and placement requirements of any artificial reefs established in the waters of Terrebonne Parish and develop all additional information needed to carry out the program. Prior to the establishment of any artificial reefs, on its own initiative as a result of a permit application to the commission, a public hearing shall be held.

C. The boundaries of the district shall be coterminous with the boundaries of Terrebonne Parish.

RS 56:2025 — Composition of commission

member during his term of office shall be a citizen of the United States, a qualified voter residing within the limits of the district, and must be nominated by an association, club or non-profit corporation whose primary function relates to recreational fishing. The specific nominating entity shall be designated by a resolution of the Terrebonne Parish Council at the time that any nominations are required to be made for appointment.

B.(1) Six members shall be appointed by the Terrebonne Parish Council.

(2) One member shall be appointed by the Terrebonne Parish President.

C. Initial appointments shall be made for staggered terms as specified herein and at the termination of these initial terms of office, each term of office shall be for three years. The initial terms shall be as follows:

(1) Three members shall be appointed for one-year terms.

(2) Three members shall be appointed for two-year terms.

(3) One member, which shall be the member appointed by the Terrebonne Parish President, shall be appointed for a three-year term.

D. Any vacancy in the membership of the commission, occurring by reason of the expiration of the term for which appointed by reason of death, resignation, or otherwise, shall be filled in the manner of the original appointment. In the event that the entity responsible for the appointment of a member fails to fill a vacancy within thirty days of such vacancy, the commission shall appoint an interim successor to serve until the position is filled by the appointing entity.

E. Any member of the commission may be removed by the entity that originally appointed him for cause.

F. The members of the commission shall serve without compensation. The commission may reimburse any member for expenses actually incurred in the performance of his duties.

G. Elected officials are prohibited from serving on the commission.

RS 56:2026 — Commission; officers; meetings; reports

uch

offices. At the option of the commission, the offices of secretary and treasurer may be held by one person.

B. The commission shall meet in regular session once each month and shall also meet in special session as often as the president of the board convenes them or on the written request of four members. Four members of the commission shall constitute a quorum.

C. Meetings of the commission shall take place in a suitable location in the parish of Terrebonne.

D. The commission shall render annually to the governing authority of the parish of Terrebonne, within ninety days following the end of each calendar year, a report in triplicate of its activities, together with a financial report disclosing all receipts and disbursements of the commission.

RS 56:2027 — Powers of the commission

jects and purposes, including but not limited to rights and powers set out in this Chapter:

- (1) To sue and be sued.
- (2) To adopt, use, and alter at will a corporate seal.
- (3) To acquire by donation, grant, purchase, lease or otherwise, all property, including servitudes or rights of use; to hold and use any franchise or property, immovable or movable, corporeal or incorporeal, or any interest therein, necessary or desirable for carrying out the objects and purposes of the district.
- (4) To receive by grant, donation, or otherwise, any sum of money, or property, aid, or assistance from the United States, the state of Louisiana, or any political subdivision thereof, or any person, firm, or corporation.
- (5) To enter into contracts for the purchase, acquisition, construction, maintenance, and improvement of works and facilities necessary in connection with the purposes of the district.
- (6) In its own name and on its own behalf to incur debt and to issue general obligation bonds, revenue bonds, certificates, notes and other evidences of indebtedness and to levy and cause to be collected ad valorem taxes as provided in this Chapter and as may be provided by general law.
- (7) To require and issue licenses with respect to its properties and facilities.
- (8) To regulate the imposition of fees and rentals charged by the district for its facilities and for services rendered by it.
- (9) To mortgage properties constructed or acquired and to borrow money and pledge all or part of its revenues, leases, rents or other advantages as security for such loans.
- (10) To sell immovable property owned by the district after legal notice as provided by law for the judicial sale of immovable property.
- (11) To appoint officers, agents, and employees, prescribe their duties, and fix their compensation.
- (12) To contract, upon such terms as it may agree upon for legal, financial, engineering, and other professional services necessary or expedient in the conduct of its affairs.
- (13) To utilize the services of the executive departments of the state upon mutually agreeable terms and conditions.
- (14) To do any and all things necessary or proper for the government, regulation, development, and control of the business of the district.
- (15) The district may receive funds from the owner or owners of any structure to be utilized as reef material in consideration of the district utilizing the structure.

B. The legislature may confer additional powers upon the district not inconsistent with the provisions hereof; provided that no such provisions shall impair any contract lawfully entered into by the district.

RS 56:2028 — Dedication of funds

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RS 56:2029 — Tax

of said tax, as set out in a proposition submitted to a vote in accordance with the Louisiana Election Code, shall be approved by a majority of the qualified electors voting in a special election held for that purpose and the tax levy is approved by the Terrebonne Parish Council.

B. All funds derived under this Section may be used for any expenses or purposes of the district.

RS 56:2030 — Obligations of the district

ertificates of indebtedness, or other evidences of debt and to provide for the security and payment thereof.

B.(1) The district may in its own name and behalf incur debt and issue general obligation ad valorem property tax secured bonds under the authority of and subject to Part III of Chapter 4 of Subtitle II of Title 39 of the Louisiana Revised Statutes of 1950, when approved by a majority of the qualified voters who vote in a special election called and conducted under the authority of the Louisiana Election Code, including Chapter 6-A of Title 18 of the Louisiana Revised Statutes of 1950, as amended. General obligation bonds of the district may be issued for any of the purposes for which the district is created or is authorized to act under any provisions of this Chapter, all of which purposes are hereby found and declared

to be public purposes and functions of the state of Louisiana, which are delegated to the district.

(2) The district may in its own name and behalf issue revenue bonds for the purposes for which the district is created or is authorized to act under any of the provisions of this Chapter, including industrial and commercial development revenue bonds. Said bonds shall be issued in the manner as provided for in R.S. 39:991 through 1001 and R.S. 39:1011 through 1024.

(3) The district may in its own name and behalf borrow from time to time in the form of certificates of indebtedness. The certificates shall be secured by the dedication and pledge of monies of the district derived from any lawful sources, including fees, lease rentals, service charges, local service agreement payments from one or more other contracting parties, the avails of ad valorem property taxation, or any combination of such sources of income, provided that the term of such certificates shall not exceed ten years and the annual debt service on the amount borrowed shall not exceed the anticipated revenues to be dedicated and pledged to the payment of the certificates of indebtedness, as shall be estimated by the commission at the time of the adoption of the resolution authorizing the issuance of such certificates.

The estimate of the commission referred to in the authorizing resolution shall be conclusive for all purposes of this Section.

(4) The district may borrow the amount of the anticipated ad valorem tax, not to exceed five mills, authorized by R.S. 56:2029, for a period not to exceed ten years and may issue certificates of indebtedness therefor and may dedicate the avails of the tax funded for the payment thereof for the period of time said certificates are outstanding.

(5) The commission, as the governing authority of the district, is authorized to adopt all necessary resolutions or ordinances which may be necessary for ordering, holding, canvassing, and promulgating the returns of any election required for the issuance of general obligation bonds, or limited tax secured obligations, or for the voting of a property tax millage, which resolutions or ordinances may include covenants for the security and payment of any bonds or other evidence of debt so issued.

(6) For a period of thirty days from the date of publication of any resolution or ordinance authorizing the issuance of any bonds, certificates of indebtedness, notes or other evidence of debt of the district, any interested person may contest the legality of such resolution or ordinance and the validity of such bonds, certificates of indebtedness, notes or other evidence of debt issued or proposed to be issued thereunder and the security of their payment, after which time no one shall have any cause of action to contest the legality of said resolution or ordinance or to draw in question the legality of said bonds, certificates of indebtedness, notes or other evidence of debt, the security therefor, or the debts represented thereby for any cause whatever, and it shall be conclusively presumed that every legal requirement has been complied with, and no court shall have authority to inquire into such matters after the lapse of thirty days.

(7) The issuance and sale of such bonds, certificates of indebtedness, notes or other evidence of debt by the district shall be subject to approval by the State Bond Commission.

(8) Such bonds, certificates of indebtedness, notes or other evidence of debt shall have all the qualities of negotiable instruments under the commercial laws of the state of Louisiana.

RS 56:2031 — Securities

A of Title 39 of the Louisiana Revised Statutes of 1950, and shall be subject to defeasance in accordance with the provisions of Chapter 14 of Title 39 of the Louisiana Revised Statutes of 1950, and may be refunded in accordance with the provisions of Chapters 14-A and 15 of Title 39 of the Louisiana Revised Statutes of 1950, and may also be issued as short-term revenue notes of a public entity under Chapter 15-A of Title 39 of the Louisiana Revised Statutes of 1950.

RS 56:2032 — Exemption from taxation

trict under this Chapter and the interest or income therefrom shall be exempt from all taxation by the state of Louisiana.

RS 56:2033 — General compliances; enhancement

public records, fiscal agents, official journals, dual officeholding and employment, public bidding for the purchase of supplies and materials and construction of public works, coastal use permits, the Code of Governmental Ethics, the Right to Property in Article I, Section 4 of the Constitution of Louisiana, and the Louisiana Election Code.

B. The district shall have the power and right to adopt a program or programs awarding contracts to, and establishing set-aside goals and preference procedures for the benefit of, businesses owned and operated by socially or economically disadvantaged persons in accordance with any of the provisions of R.S. 38:2233 and of Chapter 19 of Title 39 of the

Louisiana Revised Statutes of 1950, entitled "Louisiana Minority Business Enterprise Act".

C. The district shall annually prepare a financial report which shall be presented to the legislative auditor pursuant to the provisions of R.S. 24:513. The auditor shall thereafter publish his findings in the district's official journal. All expenses associated with this Section shall be borne by the district.

RS 56:2034 — Permitting of artificial reefs

within the guidelines of this Chapter, state law, including, but not limited to, the Louisiana Fishing Enhancement Act, and the National Fishing Enhancement Act.

RS 56:2035 — Liability

rtaken under the terms and conditions of any state and/or federal laws or permits required for reef development.

(2) Any person or company who has transferred title of artificial reef construction materials to the district shall not be liable for damages arising from the use of such materials in an artificial reef, if such materials meet applicable requirements of the National Artificial Reef Plan published under Section 204 of the National Fishing Enhancement Act, and United States Department of Interior Regulations.

RS 56:2036 — Unplugged wells

lations of the state and federal government.

RS 56:2037 — Rules and regulations

isks and risks to personal public health and property and any other rules and regulations consistent with the purposes of this Chapter and which are consistent with and subject to the Louisiana Fishing Enhancement Act, R.S. 56:639.1 et seq.

RS 56:3000 — Recreational license requirements; definitions

e department for which a license is

required shall have in their immediate possession a valid, original license, or an effective license number, together with a form of personal identification, and shall show such license and identification upon request to a duly authorized agent of the department.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, any person younger than eighteen years of age engaged in an activity that necessitates the use of deer tags or turkey tags, or involves participation in a youth lottery hunt shall have in their immediate possession a valid, original youth license and shall show such license upon request to a duly authorized agent of the department.

B. Licenses issued pursuant to this Part shall be valid for a period of one year from the date of issuance. In the case where an additional license or permit is required for a specific activity or for the taking or possession of certain species of wildlife or fisheries resources, the basic or prerequisite license must be valid in order for the additional license to be valid. No license shall be assigned or transferred to, or used by, any person other than the individual to whom the license was issued.

C. Any license found in the possession of a person other than the person to whom the license was issued shall be confiscated by an officer authorized to enforce the provisions of this Part and shall be delivered to the department for cancellation. Any license confiscated under the provisions of this Section shall be considered void. Any violation of this Subsection shall constitute a class three violation punishable as provided in R.S. 56:33.

D. Each license shall be effective only during the open season for the particular species of wildlife or fisheries resource authorized to be taken under the provisions of the license.

E.(1) No resident license may be issued until valid proof of Louisiana residency has been provided by the applicant. Residents shall meet the residency requirements specified in R.S. 56:8 for bona fide residents.

(2) The issuance of a license is conditional upon validation of all information on the application. If the department finds any material misstatement of fact regarding the residency of the applicant, the license shall be void and shall be immediately surrendered to an agent of the department.

F. In addition to a person who qualifies as a resident of Louisiana, the following people qualify for resident licenses:

(1) Any person who possesses a military identification card that signifies that he is currently on active military duty with any one of the armed forces of the United States, including the National Guard, or the spouse or dependent of such person, may be issued a license for hunting or recreational fishing in Louisiana after payment of the same fee as that required of Louisiana residents for that same license. Any license purchased under the provisions of this Subsection shall be valid only during that time when the person is on active duty in the armed forces of the United States. In addition, the provisions of this Subsection shall not apply to the purchase of lifetime licenses. The military identification card or dependent card and the appropriate license must be on the licensee's person at all times when he is engaged in hunting or fishing activities.

(2) A nonresident full-time student who is enrolled in a Louisiana public or private high school or an accredited college or university that has a physical campus in the state of Louisiana may purchase a resident license. The applicant shall show a valid identification card issued by the high school, college, or university indicating current full-time status and, when engaged in the activity authorized by the license, must have both the license and the school identification card on his person.

(3) Any person who was born in Louisiana and who possesses a valid Louisiana birth certificate may purchase a nonresident temporary hunting and fishing license that is valid for ten consecutive days for the cost of an annual resident license conveying an equivalent privilege.

(4) Any person who has been awarded a Purple Heart may be issued an annual hunting and fishing license at the resident rate. The applicant must provide identification and proof of eligibility satisfactory to the department.

(5) Any honorably discharged member of the United States Armed Forces or National Guard who either enlisted for service while residing in Louisiana or was discharged from service while residing in Louisiana may be issued an annual hunting and fishing license at the resident rate. The applicant must provide identification and proof of eligibility satisfactory to the department. In addition to any other documentation accepted by the department as satisfactory proof of military service, government-issued separation and discharge documentation, such as a DD-214 or NGB-22, showing enlistment or discharge in the state of Louisiana shall be considered satisfactory proof of eligibility under this Paragraph.

G. The following seniors and retired or honorably discharged members of the United

States Armed Forces qualify for a Senior/Retired Military/Honorably Discharged Veteran Hunting and Fishing license:

(1) Seniors:

(a) A resident who reaches age sixty prior to June 1, 2000, may obtain an annual license for no cost.

(b) A resident who reaches age sixty between June 1, 2000, and May 31, 2022, may obtain an annual license for the cost of five dollars.

(c) A resident who reaches age sixty-five on or after June 1, 2027, may obtain an annual license for the cost of twenty dollars.

(2) Retired or honorably discharged members of the United States Armed Forces:

(a) Any person who is a retired member of the United States Armed Forces, including the Louisiana Army National Guard or the Louisiana Air National Guard, and was either born in Louisiana or is a bona fide resident of Louisiana.

(b) Any bona fide resident who is an honorably discharged member of the United States Armed Forces, including the Louisiana Army National Guard or the Louisiana Air National Guard.

(c) The applicant must provide identification and proof of eligibility satisfactory to the department. In addition to any other documentation accepted by the department as satisfactory proof of military service, government-issued separation and discharge documentation, such as a DD-214 or NGB-22, shall be considered satisfactory proof of eligibility pursuant to this Paragraph.

H. Upon identification and proof of disability satisfactory to the department, the following people may be issued a Disabled/Special Needs Hunting and Fishing license:

(1) A person who is a veteran of the United States Armed Forces, including the Louisiana Army National Guard or the Louisiana Air National Guard, having a permanent service connected disability classification of fifty percent or more.

(2) A resident who is blind, paraplegic, or is a single or multiple amputee, or is required to use one or more artificial limbs or permanent braces for mobility as a result of a permanent and total disability.

(3) A resident who is totally and permanently disabled and receiving a disability benefit from the federal social security system or a disability retirement income from a retirement system whose members are exempt from federal social security, either pursuant to the Railroad Retirement Insurance Act, 45 U.S.C. 231, or because they are employees of a state or a political subdivision of the state that has not voluntarily agreed to participate in federal social security under 42 U.S.C. 418.

(4) Any resident of Louisiana who is the surviving spouse of a member of the United States Armed Forces, including the Louisiana Army National Guard or the Louisiana Air National Guard, who was killed in action while in a combat zone, upon showing identification and documentation satisfactory to the department.

I. Any nonpublic authorized issuing agent that issues any license under the provisions of this Subpart may retain an amount not to exceed fifty cents of the fee collected from the sale of each resident and active duty military license issued and an amount not to

exceed one dollar from the sale of each nonresident license issued. The amount to be retained shall be promulgated by the commission.

J.(1) The secretary may exempt for good cause persons or groups of people from the license fee requirements of this Part. Such exemption shall be in the form of a letter of permit from the secretary. The commission is authorized to promulgate rules and regulations that establish the criteria for such exemptions and that otherwise implement the provisions of this Subsection.

(2) The secretary may, in his discretion and upon such terms and conditions as he may prescribe, issue to accredited representatives of any public park, museum, educational or scientific institution, or of the federal government or any state government, recognized scientist, representative of the entertainment industry or to any other responsible person a permit to take, possess, and transport at any time within and from this state wild birds or the plumage, skins, nests, eggs, or young thereof and wild quadrupeds, the skins or young thereof; if the secretary is satisfied that they are to be taken or possessed for scientific, educational, experimental, entertainment industry, or breeding purposes only and are not to be sold or otherwise disposed of by the permittee for profit, and if the permittee obligates himself to deliver to the secretary within sixty days after taking, and in any event before the removal thereof from the state, a detailed descriptive inventory of the wild birds, wild quadrupeds, and other things taken under the permit.

K.(1)(a) The Department of Wildlife and Fisheries shall give the widest possible dissemination to the anatomical donation program relating to all organs and tissues and shall make whatever provisions are feasible and desirable, through its recreational licensing apparatus, to enable persons desiring to make such anatomical donations to confirm their desires and intentions through the use of suitable documents. Additionally, any recreational fishing license or hunting license issued by the department shall contain an indication thereon whether the named applicant has elected to make an anatomical gift pursuant to the provisions of this Chapter or R.S. 17:2351 et seq., with an indication made by placing an "X" in the box adjacent to the term "anatomical gift".

(b) For recreational fishing license or hunting license applicants who wish to indicate a donor special wish or limitation, instructions for doing so shall be made available to the applicant.

(2) Any applicant who has not yet made an election to be an organ and tissue donor shall be asked at the time of application if the applicant would like to make an anatomical gift. The applicant may elect to make an anatomical gift as part of the Louisiana Donor Registry.

(3) An anatomical gift made pursuant to this Subsection may be revoked as provided in R.S. 17:2351 et seq.

(4) The state or any of its agencies, departments, or political subdivisions shall not be liable in damages or otherwise for any removal or use of any anatomical gift made pursuant to this Subsection.

(5) The attending physician and the hospital where an anatomical gift is made or was to be made shall not be liable for the removal, use, or the failure to remove or use any

anatomical gift made pursuant to this Subsection.

(6) Except as otherwise provided in this Subsection, the document of donation and the donation shall be made pursuant to R.S. 17:2351 et seq.

RS 56:3000.1 — Reimbursement of revenue reductions

B. The Department of Wildlife and Fisheries shall be reimbursed from the state general fund for any lost revenue resulting from the issuance of free and discounted recreational hunting and fishing licenses in an amount equal to the discounts issued.

C. The department shall maintain an accounting of lost revenue and shall include the amount of lost revenue in its annual budget request submitted pursuant to Subpart A of Part II of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950.

D. The accounting maintained pursuant to Subsection C of this Section shall be subject to inspection and audit by the legislative auditor.

RS 56:3001 — Recreational fishing licenses; fees

lows using a pole, hook and line, without a reel and without using artificial bait, dip nets, landing nets, minnow traps, crab nets, or crab lines)

(2) Basic fishing license

\$17.00/year

(includes all legal recreational freshwater gear)

(3) Saltwater fishing license

\$15.00/year

(includes all legal recreational saltwater gear)

(4) Charter three-day saltwater fishing license

\$12.50

(5) Charter three-day freshwater fishing license

\$2.50

(6) Charter promotion fee

\$7.50

B. Nonresident licenses:

(1) Basic fishing license

\$68.00/year

(includes all legal recreational freshwater gear)

(2) Saltwater fishing license

\$60.00/year

(includes all legal recreational saltwater gear)

(3) Five-day basic fishing

\$30.00

(includes all legal freshwater recreational gear)

(4) Five-day saltwater fishing

\$30.00

(includes all legal saltwater recreational gear)

(5) Charter boat three-day saltwater fishing license

\$12.50

(6) Charter boat three-day freshwater fishing license

\$2.50

(7) Charter promotion fee

\$7.50

RS 56:3002 — Recreational hunting licenses; fees

2) Deer hunting license

\$15.00/year

(includes deer tags, archery and primitive privileges)

(3) Waterfowl license

\$12.00/year

(4) Turkey license (includes tags)

\$12.00/year

(5) Youth hunting license

\$5.00/year

(required for hunting deer, turkey, trapping, and youth lottery hunts)

(6) Bear hunting license

\$25.00/year

B. Nonresident licenses:

(1) Basic hunting license

\$200.00/year

(2) Deer hunting license

\$100.00/year

(includes deer tags, archery and primitive privileges)

(3) Waterfowl hunting license

\$50.00/year

(4) Turkey hunting license (includes tags)

\$50.00/year

(5) Five-day basic hunting license

\$65.00

(6) Five-day deer hunting license

\$35.00

(7) Five-day waterfowl hunting license

\$35.00

(8) Five-day turkey hunting license

\$35.00

RS 56:3003 — Resident and nonresident WMA permits; fees

\$5.00

C. WMA camping permit

\$7.00/day

RS 56:3004 — Combination licenses (includes all hunting, fishing, and WMA access privileges);

Military/Honorably Discharged Veteran

\$20.00/year

(3) Disabled/Special Needs

\$4.00/year

B. Nonresident licenses:

(1) Sportsman's Paradise\$400.00/year

(2) Five-Day Blast and Cast\$120.00

RS 56:3005 — Lifetime licenses

fty-four years)

\$500.00

(3) Senior (sixty-five years or older)

\$100.00

B. Nonresident

(1) Infant (under three years)

\$1,000.00

(2) Adult (three years and older)

\$4,000.00

RS 56:3006 — Violations

der

the provisions of R.S. 56:32.

RS 56:3007 — Dedication of license revenue

on Fund.

B. All funds received from the sale of lifetime licenses shall be deposited as provided in R.S. 56:10.3.

C. Repealed by Acts 2024, No. 153, §3.

D. An amount equal to seven dollars and fifty cents for each saltwater fishing license sold shall be deposited each year to the Saltwater Fish Research and Conservation Fund.

E. All funds from the sale of each waterfowl hunting license shall be deposited to the Louisiana Duck License, Stamp, and Print Fund.

F. An amount equal to the fees collected for each WMA access permit and daily camping permit shall be deposited into the Wildlife Habitat and Natural Heritage Trust as provided for in R.S. 56:1923 and shall be expended solely for land acquisition and for management and operations of wildlife refuges, management areas, and public hunting grounds.

G. An amount equal to seven dollars and fifty cents from the sale of each turkey hunting license shall be deposited to the Wild Turkey Fund.

H. All funds received from the sale of bear hunting licenses shall be deposited into the black bear account created within the Conservation Fund through the provisions of R.S. 56:10(B)(9).