

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION
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TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB631 by Harris (Relating to the suspension of sentence and the deferral of adjudication in cases involving certain misdemeanor traffic offenses.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB631, As Introduced: an impact of \$0 through the biennium ending August 31, 2005.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	(\$41,387,100)
2007	(\$42,214,860)
2008	(\$43,059,180)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Savings/(Cost) from <i>FEDERAL FUNDS</i> 555
2004		
2005	\$0	
2006	(\$41,387,100)	(\$82,019,258)
2007	(\$42,214,860)	(\$164,038,515)
2008	(\$43,059,180)	(\$164,038,515)

Fiscal Analysis

The bill would amend the Code of Criminal Procedure by allowing a judge's discretion to defer further proceedings without entering into an adjudication of guilt and place a defendant on probation for a period not to exceed 180 days for persons pleading guilty in a misdemeanor case punishable by fine. The bill would not apply to offenses involving construction or maintenance zones, or to persons who hold a commercial driver's license, or to persons who commit a serious traffic violation. The bill would also amend the Transportation code by repealing the existing Statement of Right Provided on Notice to Appear provision, and the existing Offense in Construction or Maintenance Work Zone provision.

The change in law would apply only to an offense committed on or after September 1, 2003.

Methodology

The Texas Department of Transportation (TxDOT) and the Department of Public Safety (DPS) estimate the provisions of the bill allowing commercial vehicle drivers to take a driving safety course for some violations would place the State in violation of Chapter 49 of the Code of Federal Regulations (49 CFR), Section 384.226 and that the state's Commercial Drivers License (CDL) Program would be deemed in noncompliance under 49 CFR, 384.309. Under federal regulations, a state is prohibited from masking, deferring imposition of judgment, or allowing an individual to enter into a diversion program that would prevent the conviction of a person holding a CDL for any violation, in any type of motor vehicle, of a state or local traffic control law (except a parking violation) from appearing on the driver's record. This requirement includes convictions for an offense committed in the state where the driver is licensed and convictions in other states. DPS estimates a noncompliance determination would also result in the State of Texas being prohibited from issuing or renewing CDLs for Texas residents.

According to TxDOT, the Federal Motor Carrier Safety Improvement Act of 1999 requires states to comply with requirements of that act by September 30, 2005, or face penalties to apportionments for the Surface Transportation Program (STP), the National Highway System (NHS) program, and the Interstate Maintenance (IM) program made available under federal authorization acts. Penalties incurred equate to 5% loss of funds from each identified program during the first year and 10% for each subsequent year. Any funds lost cannot be recovered upon compliance.

Amounts in the table above assume 5% losses to STP, NHS, and IM programs in fiscal year 2006 and 10% losses during each subsequent year. Fiscal year 2002 apportionments were the basis for calculating anticipated federal fund losses submitted by TxDOT. General Revenue losses during the same years reflect estimated revenue losses for commercial driver licenses that would no longer be issued due to noncompliance. This analysis assumes a conservative estimate of 689,785 commercial driver license issuances under current law in fiscal year 2006, 703,581 in fiscal year 2007, and 717,653 in fiscal year 2008 at a fee of \$60 per license.

Local Government Impact

If a municipal court or justice court were to impose a fee in addition to court costs, fees, and administrative fees, the additional fee would amount to between the proposed minimum of \$10 and the maximum fine for a Class C misdemeanor, which is \$500.

According to reports available on the Office of Court Administration's (OCA) website, in fiscal year 2002, there were 436,253 non-parking traffic violation cases dismissed in municipal courts after completion of a driving safety course; 203,270 non-parking traffic violation cases dismissed in justice courts after completion of a driving safety course; and 105,271 juvenile cases in municipal court for violations of the Transportation Code, for a total of 744,794 traffic violations to which the proposed additional fee may apply. The OCA report does not specify the level of traffic violations reported; therefore, an assumption is being made for the purposes of this analysis that all would be affected under the proposed amendment to statute.

If the same number of applicable cases were to be filed in coming years, and if an additional \$10 fee were to be imposed in all 744,794 cases, the courts would experience a cumulative statewide revenue gain of over \$7.4 million. If the courts were to impose the maximum additional fee of \$500, which is not expected, the courts would experience a cumulative statewide revenue gain of more than \$37.2 million.

The revenue gain would vary by court and depend on the number of applicable cases and the amount imposed by the court.

Source Agencies: 405 Department Of Public Safety, 601 Department Of Transportation, 696 Department Of Criminal Justice

LBB Staff: JK, JO, WK, RT, MW, GG, DLBa