

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 26, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1399 by Martinez Fischer (Relating to dismissal of a complaint committed by the holder of a commercial driver's license.), **As Introduced**

While the overall fiscal impact to state costs would be insignificant, the enactment of the bill could result in a loss of federal highway fund revenues to the state in an amount of approximately \$165.8 million in fiscal year 2008 and \$320.3 million each subsequent year.

The bill would amend the Code of Criminal Procedure as it relates to dismissal of a complaint committed by the holder of a commercial driver's license.

Section 1 of the bill amends the Code of Criminal Procedure, Article 45.051(f) which allows a commercial driver's license holder who is charged with an offense while not driving a commercial motor vehicle to be eligible to receive deferred adjudication for the offense.

Section 2 of the bill amends the Code of Criminal Procedure, Article 45.0511(s) which allows a commercial driver's license holder who is charged with an offense while not driving a commercial motor vehicle to be eligible to take a driving safety course for the offense which would result in the dismissal of the offense.

The bill would take effect on September 1, 2007.

The provisions of this bill would put Texas in non-compliance with Title 49, Code of Federal Regulations, Section 384.226 which requires that states must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a commercial driver license holder's conviction for any violation in any type of motor vehicle of a state of local traffic control law (except a parking violation) from appearing on the driver's record, whether the driver was convicted for an offense committed in the state where the driver is licensed or in another state.

To be in compliance, each state must meet each and every standard contained in 49 CFR, Part 384. This bill would not meet this compliance requirement, which would result in sanctions imposed on Texas. The loss of federal highway funds to Texas amounts to approximately \$165.8 million in fiscal year 2008 and \$320.3 million in fiscal year 2009. The loss of federal funding for the first year of non-compliance is based on 5 percent penalty of all Texas federal highway funding (based on \$3,090,574,205 in fiscal year 2006) and the loss of all Motor Carrier Safety Assistance Program funding (based on \$11,250,954 in fiscal year 2006). The second year and subsequent years of non-compliance, the penalty is 10 percent of penalty of all Texas federal highway funding and the loss of all Motor Carrier Safety Assistance Program funding.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, ES, GG, JB, LG, DB