

Amend CSHB 2730 (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE _____. SOBRIETY CHECKPOINTS

SECTION _____.01. Title 1, Code of Criminal Procedure, is amended by adding Chapter 65 to read as follows:

CHAPTER 65. SOBRIETY CHECKPOINTS

Art. 65.01. DEFINITIONS. In this chapter:

(1) "Highway or street" and "limited-access or controlled-access highway" have the meanings assigned by Section 541.302, Transportation Code.

(2) "Law enforcement agency" means:

(A) the Department of Public Safety;

(B) the sheriff's department of a county with a population of 250,000 or more; or

(C) the police department of a municipality with a population of 325,000 or more.

(3) "Sobriety checkpoint" means a checkpoint authorized under Article 65.02.

Art. 65.02. AUTHORIZATION FOR SOBRIETY CHECKPOINTS. (a) Except as provided by Subsection (b), a law enforcement agency may operate a temporary checkpoint as provided by this chapter to determine whether persons operating motor vehicles on a highway or street are intoxicated and in violation of Section 49.04 or 49.045, Penal Code. The checkpoint must be operated on a highway or street other than:

(1) a limited-access or controlled-access highway;

(2) an overpass;

(3) a bridge or causeway; or

(4) the single ingress to or egress from a designated area.

(b) The Department of Public Safety may not operate a temporary checkpoint in a county with a population of less than 250,000.

Art. 65.03. LAW ENFORCEMENT AGENCY COORDINATION. Each law enforcement agency shall coordinate efforts with other law enforcement agencies as appropriate to implement this chapter.

Art. 65.04. APPROVAL OF AND PROCEDURES FOR SOBRIETY CHECKPOINTS. (a) As applicable, a captain for the Texas Highway Patrol, the sheriff elected to that position, or the mayor of the municipality must approve the operation of a sobriety checkpoint by peace officers of the Department of Public Safety, a sheriff's department, or a municipal police department and the procedures to be used in the operation of the checkpoint before the checkpoint begins operation.

(b) The law enforcement agency must record in writing and publish on an appropriate publicly accessible Internet website the procedures:

(1) used in selecting each site for a sobriety checkpoint; and

(2) to be used in the operation of each sobriety checkpoint, including procedures regarding the selection of motor vehicles to be stopped.

(c) The procedures for the operation of a sobriety checkpoint must ensure that the selection of motor vehicles to be stopped is reasonably predictable and nonarbitrary.

(d) The criteria for selecting the location for a sobriety checkpoint must include the number of traffic accidents in the vicinity of the location in which the use of alcohol was a factor and that occurred in the preceding 12 months and the number of convictions for intoxication-related offenses in that vicinity in the preceding 12 months. The selection of the location of a sobriety checkpoint must be made without regard to the ethnic or socioeconomic characteristics of the area in which the checkpoint is located.

(e) The law enforcement agency, in establishing the location, time, and design of a sobriety checkpoint, shall consider the safety of the public entering the checkpoint and the peace officers operating the checkpoint. The law enforcement agency shall make reasonable efforts to place signs or other devices to advise operators of oncoming motor vehicles of the sobriety checkpoint and the purpose of the checkpoint, to demarcate the checkpoint with flares, flags, or traffic cones, and to otherwise illuminate the checkpoint as necessary.

(f) The peace officer who makes the initial traffic directive or other communication with the operator of a motor vehicle at the sobriety checkpoint must be wearing a uniform of the law enforcement agency that is distinguishable from civilian dress.

(g) The law enforcement agency shall establish procedures governing the encounters between motor vehicle operators and the peace officers to ensure that:

(1) a video and audio recording is made of the encounter;

(2) intrusion on the operator is minimized; and

(3) an inquiry is reasonably related to determining whether the operator is intoxicated and in violation of Section 49.04 or 49.045, Penal Code.

(h) Notwithstanding Section 521.025 or 601.053, Transportation Code, a peace officer may not request a person operating a motor vehicle at the sobriety checkpoint to display the person's driver's license or concealed handgun license or to furnish evidence of financial responsibility unless the officer has reasonable suspicion or probable cause to believe that the person has committed or is committing an offense. A peace officer may not direct the operator of a motor vehicle to leave the vehicle or move the vehicle off the highway or street or routine sobriety checkpoint diversion route unless the officer has reasonable suspicion or probable cause to believe that the person has committed or is committing an offense. The design of a sobriety checkpoint may require that each motor vehicle passing through the checkpoint be diverted to a location adjacent to the highway or street to ensure safety.

(i) A peace officer at the sobriety checkpoint may not require a motor vehicle operator to perform a sobriety test unless the officer has reasonable suspicion or probable cause to believe that the operator is in violation of Section 49.04 or 49.045, Penal Code. A peace officer who requires or requests an operator to provide a specimen of breath, blood, or urine must comply with Chapter 724, Transportation Code.

(j) Unless a peace officer has reasonable suspicion or probable cause to detain a motor vehicle operator for a criminal

offense, the time during which an officer makes an inquiry of an operator should not exceed three minutes, and the total time during which the operator must wait to pass through the checkpoint should not exceed 10 minutes. The law enforcement agency shall make reasonable efforts to reduce these periods to not more than one and five minutes, respectively.

(k) Before beginning the operation of a sobriety checkpoint, the law enforcement agency shall publicize through the use of the media the date and time for the operation of a sobriety checkpoint but is not required to disclose the location of the checkpoint.

(l) A law enforcement agency may not operate a sobriety checkpoint at one location for more than four hours and may not operate a checkpoint at the same location more than once in a 12-month period. For the purposes of this subsection, sobriety checkpoints located within one mile of each other are considered to be at the same location.

(m) A law enforcement agency shall maintain until at least the fifth anniversary of the date on which the agency concludes the operation of a sobriety checkpoint a record of the operation of the checkpoint that contains:

(1) the date, time, location, and duration of the checkpoint;

(2) the procedures used in selecting the site for the checkpoint;

(3) the number and characteristics of motor vehicles stopped at the checkpoint and the number and nature of arrests made and citations issued at the checkpoint; and

(4) the identities of the peace officers operating the checkpoint.

(n) A law enforcement agency shall maintain until at least the second anniversary of the date on which the agency concludes the operation of a sobriety checkpoint any video or audio recording made at the checkpoint of an encounter between a motor vehicle operator and a peace officer under Subsection (g)(1).

Art. 65.05. REPORT ON EFFECTIVENESS OF CHECKPOINTS. (a) Not later than January 15 of each calendar year, a law enforcement

agency shall report the operation of each checkpoint during the preceding calendar year to the traffic safety section of the traffic operations division of the Texas Department of Transportation at its offices in Austin.

(b) The traffic operations division is entitled to inspect any information in the possession of the law enforcement agency that relates to the operation of a sobriety checkpoint by the agency.

(c) Not later than February 1, 2015, the traffic operations division shall submit a report on the effectiveness of sobriety checkpoints operated under this chapter to the governor, the lieutenant governor, and the speaker of the house of representatives.

Art. 65.06. EXPIRATION. This chapter expires August 31, 2015.

SECTION _____.02. A law enforcement agency authorized to operate a sobriety checkpoint under Chapter 65, Code of Criminal Procedure, as added by this Act, shall submit the first report required by Article 65.05 of that chapter not later than January 15, 2010.