

## **BILL ANALYSIS**

H.B. 3733  
By: Coleman  
Public Safety  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The driver responsibility program assesses a surcharge on drivers convicted of certain driving offenses in Texas. Failure to pay these surcharges results in suspension of the driver's license. The four categories of offenses are violations which lead to points on a license are driving while intoxicated, driving with an invalid license, driving without financial responsibility, and driving without a valid license. Compliance with the four categories of violations varies from more than 70 percent for points violations down to more than 30 percent for a violation of the offense of driving without a valid license.

From the program's inception in September 2003 to the end of fiscal year 2008, the Department of Public Safety (DPS) has billed offenders more than \$1 billion in surcharges for approximately 4 million convictions. About 40 percent of all offenders are in compliance, meaning that they have paid their surcharges or have entered into an installment agreement with DPS to pay surcharges. Many offenders are low-income or indigent Texans who may be unable to comply for financial reasons. Some offenders are unaware that the driver responsibility program surcharge is assessed separately from court fees and fines, leading them to fail to plan for the surcharges or to believe that they have been billed in error. DPS might be able to increase compliance by reducing the overall surcharges for a category of offense.

H.B. 3733 requires DPS to set the amount of a surcharge to be assessed on a person's license under the driver responsibility program for a conviction of a certain driving offense and to base the surcharge on certain criteria relating to the seriousness of the violation. The bill requires a court to provide a defendant charged with a certain driving offense with a statement regarding the surcharge and to require the defendant to sign the statement.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Public Safety in SECTIONS 1, 7, and 8 of this bill.

### **ANALYSIS**

H.B. 3733 amends the Transportation Code to require the Department of Public Safety (DPS) by rule to set the amount of a surcharge to be assessed on a person's license under the driver responsibility program for a conviction of a certain driving offense. The bill prohibits the amount from exceeding the maximum amount allowed for a surcharge under the program that is based on points or a conviction, as applicable. The bill requires the amount to be based on the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation; on the amount necessary to deter a future violation; and on the amount that maximizes the collection of surcharges by DPS.

H.B. 3733 removes the specified amounts of certain surcharges assessed on a person's license by DPS under the program and instead caps the amounts of those surcharges that DPS is authorized to assess at the original specified amounts. The bill makes such changes to the amount of a

driver's license points surcharge, the amount of a surcharge for a conviction of a certain intoxicated driver offense, the amount of a surcharge for a conviction of driving with an invalid license or without financial responsibility, and the amount of a surcharge for a conviction of driving without a valid license.

H.B. 3733 requires a court, before accepting a plea other than a plea of "guilty," "not guilty," or "nolo contendere" for an offense punishable by fine only or for a parking violation to provide a defendant charged with an offense relating to the operating of a motor vehicle while intoxicated, to driving with an invalid license or without financial responsibility, or to driving without a valid license with a statement regarding the surcharge and to require the defendant to sign the statement. The bill sets forth the required language of the statement and requires the statement to state the maximum amount of the annual surcharge for the applicable offense. The bill requires a copy of the statement signed by the defendant to be retained by the court.

H.B. 3733 requires, rather than authorizes, DPS to establish by rule an indigency program. The bill specifies that the purpose of the program is to reduce the surcharge on a person's license if DPS determines that the person is indigent rather than for holders of a driver's license on which a surcharge has been assessed for certain offenses, as determined by DPS. The bill requires a person to submit proof of indigency and clarifies that a person is indigent for purposes of the program if the person's income is not more than 100 percent of the applicable income level established by the federal poverty guidelines.

H.B. 3733 requires DPS to adopt initial rules determining the amount of a surcharge on a person's driver's license not later than October 1, 2010, and requires DPS to review its rules and determine whether the amount of a surcharge should be increased or decreased not later than October 1 of each subsequent year.

#### **EFFECTIVE DATE**

September 1, 2009.