

By: Hernandez

H.B. No. 2389

A BILL TO BE ENTITLED

AN ACT

relating to breath alcohol testing court costs and the distribution of those costs in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 102.016, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsections (b-1), (b-2), (e), and (f) to read as follows:

(b) On conviction of an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code, the court shall require the defendant to pay a \$50 breath alcohol testing program fee as a cost of court. The custodian of a municipal or county treasury may retain \$5 of each court cost collected under this article for administrative costs if the custodian complies with Subsections (b-2) and (f). The custodian of a municipal or county treasury in a county in which one or more ~~[that maintains a]~~ certified breath alcohol testing programs are maintained by the county or a municipality that do ~~[program but does]~~ not use the services of a certified technical supervisor employed by the department may, to defray the costs of hiring or contracting with a certified technical supervisor for the ~~[maintaining and supporting a certified alcohol breath testing]~~ program or programs, retain the remaining \$45 ~~[\$22.50]~~ of each court cost collected under this article, in addition to any other court cost relating to a breath alcohol testing program to which the county is entitled under

1 Section 133.102, Local Government Code [~~Article 102.075 on~~
2 ~~conviction of an offense under Chapter 49, Penal Code, other than an~~
3 ~~offense that is a Class C misdemeanor~~].

4 (b-1) A county that maintains one or more certified breath
5 alcohol testing programs that do not use the services of a certified
6 technical supervisor employed by the department shall provide to a
7 municipality in the county, on request, the services of a certified
8 technical supervisor if the municipality:

9 (1) has a population of more than 10,000;

10 (2) operates a certified breath alcohol testing
11 program for which the municipality does not have its own certified
12 technical supervisor; and

13 (3) does not use the services of a certified technical
14 supervisor employed by the department.

15 (b-2) The custodian of a municipal or county treasury in a
16 county in which two or more certified breath alcohol testing
17 programs are maintained by the county or a municipality that do not
18 use the services of a certified technical supervisor employed by
19 the department shall divide the court costs collected under this
20 article, other than the portion collected for administrative costs,
21 according to the percentage of breath alcohol tests performed in
22 the course of law enforcement by each of the testing programs in the
23 county that employs or contracts with a certified technical
24 supervisor.

25 (e) In this article, a person is considered convicted if:

26 (1) a sentence is imposed on the person;

27 (2) the person receives community supervision or

1 deferred adjudication; or

2 (3) the court defers final disposition of the person's
3 case.

4 (f) The custodian of a municipal or county treasury shall
5 keep records of the amount of funds on deposit collected under this
6 article and send to each certified breath alcohol testing program
7 in the county that employs or contracts with a certified technical
8 supervisor, before the last day of the first month following each
9 calendar quarter, the appropriate portion of the court costs
10 collected under Subsection (b-2) for the preceding quarter.

11 SECTION 2. Subchapter C, Chapter 102, Government Code, is
12 amended by adding Section 102.0412 to read as follows:

13 Sec. 102.0412. BREATH ALCOHOL TESTING PROGRAM FEE ON
14 CONVICTION IN DISTRICT COURT: CODE OF CRIMINAL PROCEDURE. The
15 clerk of a district court shall collect from a defendant the fee
16 imposed under Article 102.016(b), Code of Criminal Procedure, on
17 conviction.

18 SECTION 3. Subchapter D, Chapter 102, Government Code, is
19 amended by adding Section 102.0612 to read as follows:

20 Sec. 102.0612. BREATH ALCOHOL TESTING PROGRAM FEE ON
21 CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE.
22 The clerk of a statutory county court shall collect from a defendant
23 the fee imposed under Article 102.016(b), Code of Criminal
24 Procedure, on conviction.

25 SECTION 4. Subchapter E, Chapter 102, Government Code, is
26 amended by adding Section 102.0812 to read as follows:

27 Sec. 102.0812. BREATH ALCOHOL TESTING PROGRAM FEE ON

1 CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk
2 of a county court shall collect from a defendant the fee imposed
3 under Article 102.016(b), Code of Criminal Procedure, on
4 conviction.

5 SECTION 5. The change in law made by this Act applies only
6 to a fee collected on conviction of an offense committed on or after
7 the effective date of this Act. A fee collected on conviction of an
8 offense committed before the effective date of this Act is covered
9 by the law in effect when the offense was committed, and the former
10 law is continued in effect for that purpose. For purposes of this
11 section, an offense was committed before the effective date of this
12 Act if any element of the offense occurred before that date.

13 SECTION 6. This Act takes effect September 1, 2009.