

By: Quintanilla

H.B. No. 3490

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the administrative and criminal consequences of certain
3 conduct committed by an applicant for or a holder of a motor vehicle
4 inspection station certificate or an inspector certificate.

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

6 SECTION 1. Section 548.405, Transportation Code, is amended
7 by amending Subsections (a) and (c) and adding Subsection (a-1) to
8 read as follows:

9 (a) The department may deny a person's application for a
10 certificate, revoke or suspend the certificate of a person,
11 inspection station, or inspector, place on probation a person who
12 holds a suspended certificate, or reprimand a person who holds a
13 certificate if:

14 (1) the station or inspector knowingly and
15 intentionally conducts an inspection, fails to conduct an
16 inspection, or issues a certificate:

17 (A) in violation of this chapter or a rule
18 adopted under this chapter; or

19 (B) without complying with the requirements of
20 this chapter or a rule adopted under this chapter;

21 (2) the person, station, or inspector commits an
22 offense under this chapter or violates this chapter or a rule
23 adopted under this chapter;

24 (3) the applicant or certificate holder does not meet

1 the standards for certification under this chapter or a rule
2 adopted under this chapter;

3 (4) the station or inspector does not maintain the
4 qualifications for certification or does not comply with a
5 certification requirement under Subchapter G;

6 (5) the certificate holder or the certificate holder's
7 agent, employee, or representative commits an act or omission that
8 would cause denial, revocation, or suspension of a certificate to
9 an individual applicant or certificate holder;

10 (6) the station or inspector does not pay a fee
11 required by Subchapter H; or

12 (7) the inspector or owner of an inspection station is
13 convicted of a:

14 (A) felony or Class A or Class B misdemeanor;

15 (B) similar crime under the jurisdiction of
16 another state or the federal government that is punishable to the
17 same extent as a felony or a Class A or Class B misdemeanor in this
18 state; or

19 (C) crime under the jurisdiction of another state
20 or the federal government that would be a felony or a Class A or
21 Class B misdemeanor if the crime were committed in this state.

22 (a-1) In this section, "intentionally" and "knowingly" have
23 the meanings assigned by Section 6.03, Penal Code.

24 (c) If the department suspends a certificate because of a
25 violation of Subchapter F in which an inspector knowingly and
26 intentionally used an exhaust emissions sample or diagnostic
27 connector from a vehicle in the issuance of an inspection

1 certificate for a different vehicle, the suspension must be for a
2 period of not less than six months. The suspension may not be
3 probated or deferred.

4 SECTION 2. Section 548.407, Transportation Code, is amended
5 by amending Subsections (g) and (l) and adding Subsection (m) to
6 read as follows:

7 (g) If the director receives a timely request under
8 Subsection (f), the director shall provide the person with an
9 opportunity for a hearing as soon as practicable. A hearing on a
10 revocation or suspension under Subsection (d) that takes effect on
11 receipt of the notice must be held not later than three working [~~14~~]
12 days after the department receives the request for hearing. The
13 revocation or suspension continues in effect until the hearing is
14 completed if the hearing is continued beyond the three-working-day
15 [~~14-day~~] period[+]

16 [~~(1) at the request of the inspector or inspection~~
17 ~~station, or~~

18 [~~(2) on a finding of good cause by a judge,~~
19 ~~administrative law judge, or hearing officer].~~

20 (l) If an administrative law judge of the State Office of
21 Administrative Hearings conducts a hearing under this section and
22 the proposal for decision supports the position of the department,
23 the proposal for decision may recommend a denial of an application
24 or a revocation or suspension of a certificate [~~only~~]. The proposal
25 may also [~~not~~] recommend a reprimand or a probated or otherwise
26 deferred disposition of the denial, revocation, or suspension. If
27 the administrative law judge makes a proposal for a decision to deny

1 an application or to suspend or revoke a certificate, the
2 administrative law judge shall include in the proposal a finding of
3 the costs, fees, expenses, and reasonable and necessary attorney's
4 fees the state incurred in bringing the proceeding. The director
5 may adopt the finding for costs, fees, and expenses and make the
6 finding a part of the final order entered in the proceeding.
7 Proceeds collected from a finding made under this subsection shall
8 be paid to the department.

9 (m) If a proposal for decision under Subsection (l) does not
10 recommend the denial of an application or the revocation or
11 suspension of a certificate, the director may not deny the
12 application or revoke or suspend the certificate.

13 SECTION 3. Section 548.601(a), Transportation Code, is
14 amended to read as follows:

15 (a) A person, including an inspector or an inspection
16 station, commits an offense if the person knowingly and
17 intentionally:

18 (1) issues an inspection certificate [~~with knowledge~~
19 ~~that the issuance is~~] in violation of this chapter or rules adopted
20 under this chapter;

21 (2) falsely or fraudulently represents to the owner or
22 operator of a vehicle that equipment inspected or required to be
23 inspected must be repaired, adjusted, or replaced for the vehicle
24 to pass an inspection;

25 (3) misrepresents:

26 (A) material information in an application in
27 violation of Section 548.402 or 548.403; or

1 (B) information filed with the department under
2 this chapter or as required by department rule;

3 (4) issues an inspection certificate:

4 (A) without authorization to issue the
5 certificate; or

6 (B) without inspecting the vehicle;

7 (5) issues an inspection certificate for a vehicle
8 with knowledge that the vehicle has not been repaired, adjusted, or
9 corrected after an inspection has shown a repair, adjustment, or
10 correction to be necessary;

11 (6) [~~knowingly~~] issues an inspection certificate:

12 (A) for a vehicle without conducting an
13 inspection of each item required to be inspected; or

14 (B) for a vehicle that is missing an item
15 required to be inspected or that has an item required to be
16 inspected that is not in compliance with state law or department
17 rules;

18 (7) refuses to allow a vehicle's owner to have a
19 qualified person of the owner's choice make a required repair,
20 adjustment, or correction;

21 (8) charges for an inspection an amount greater than
22 the authorized fee; or

23 (9) performs an act prohibited by or fails to perform
24 an act required by this chapter or a rule adopted under this
25 chapter.

26 SECTION 4. (a) The change in law made by this Act to Section
27 548.405, Transportation Code, that relates to the denial of an

1 application for an inspection station certificate or an inspector
2 certificate applies only to an application that is filed on or after
3 the effective date of this Act. An application for an inspection
4 station certificate or an inspector certificate filed before the
5 effective date of this Act is covered by the law in effect on the
6 date the application was filed, and the former law is continued in
7 effect for that purpose.

8 (b) The change in law made by this Act to Section 548.405,
9 Transportation Code, that relates to the revocation or suspension
10 of an inspection station certificate or an inspector certificate
11 applies only to a suspension or revocation for conduct committed on
12 or after the effective date of this Act. A revocation or suspension
13 of an inspection station certificate or an inspector certificate
14 for conduct committed before the effective date of this Act is
15 covered by the law in effect on the date the conduct was committed,
16 and the former law is continued in effect for that purpose.

17 (c) The change in law to Section 548.407, Transportation
18 Code, made by this Act applies only to a hearing on the denial,
19 revocation, or suspension of a certificate that is commenced on or
20 after the effective date of this Act. A hearing that was commenced
21 before the effective date of this Act is covered by the law in
22 effect when the hearing was commenced, and the former law is
23 continued in effect for that purpose.

24 (d) The change in law to Section 548.601, Transportation
25 Code, made by this Act applies only to an offense committed on or
26 after the effective date of this Act. An offense committed before
27 the effective date of this Act is covered by the law in effect when

1 the offense was committed, and the former law is continued in effect
2 for that purpose. For purposes of this section, an offense was
3 committed before the effective date of this Act if any element of
4 the offense was committed before that date.

5 SECTION 5. This Act takes effect September 1, 2009.