

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 10, 2009**

**TO:** Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

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

**IN RE: HB528** by Vaught (Relating to the offense of failing to secure a child passenger in a motor vehicle and to fines for the offense.), **As Introduced**

Fiscal impact to the state would depend on the number of offenses prosecuted and the discretion of the judge in assessing a fine up to \$25. Because it is unknown how many such offenses would occur and be prosecuted, as well as what level of fines would be imposed by the judge, the fiscal impact to the state cannot be estimated.

The bill would amend the Transportation Code and the Local Government Code to change the definition and fine amounts for an offense related to securing a child passenger in a motor vehicle. Under current statute, the fine for an offense is between \$100 and \$200. The bill would change the amount of the fine to no more than \$25. The bill would require that a municipality or county remit each fine collected to the Comptroller of Public Accounts for deposit in a separate account in the General Revenue Fund to be appropriated only to the Texas Department of Transportation and used to purchase child passenger safety seat systems for distribution to low-income families.

The proposed change in law would apply only to an offense that occurs on or after the effective date of the bill, except if an offense based on the change in definition of what constitutes an offense would not have been an offense prior to the effective date of the bill and the child was secured by a safety belt, the offense may be prosecuted only if it occurred on or after June 1, 2010. Prior to June 1, 2010, a law enforcement officer may not arrest or write a ticket, but may issue a warning.

The bill would take effect immediately if it were to receive the required two-thirds vote in both houses; otherwise, it would take effect September 1, 2009.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in the bill would be subject to funds consolidation review by the current legislature.

Although the bill would not make an appropriation, it would establish the basis for an appropriation.

Under current statute, local governments submit to the state comptroller an amount equal to 50 percent of the fines collected for child safety seat offenses. Because the fines can be between \$100 and \$200, it is assumed the state receives between \$50 and \$100 of each fine collected. Although under the provisions of the bill the state would receive the full amount of the fine imposed, because the amount of the fine would be reduced to no more than \$25, the state could experience an unknown revenue loss. Because of the change in what defines the offense, there could also be an increase in the number of citations for the offense, which could offset the decrease in the fine amount. Because of the number of unknown variables, fiscal impact to the state cannot be estimated.

**Local Government Impact**

Local governments would experience a revenue loss from the requirement to submit the full amount of the fine collected to the Comptroller of Public Accounts. Under current statute, half of the fines

collected are sent to the state comptroller. The revenue loss would vary by local government, depending on how many offenses were to be prosecuted. At a minimum, the loss to local government would be \$50 per fine collected.

The Legislative Budget Board contacted a sampling of municipal police departments for examples of the potential impact. This estimate is based on the number of child safety seat violations for which a citation was written in the most recent complete fiscal year. There were 566 citations for this offense written in the City of Lubbock; 119 in Abilene; 964 in Tyler; and 753 in Austin. Under current statute, if the minimum fine of \$100 were to have been imposed, the cities (in order listed) would have had a revenue of \$56,600; \$11,900; \$96,400; and \$75,300, half of which would have been retained locally and half sent to the state comptroller. Changing the fine to no more than \$25 would reduce the amount of revenue to \$14,150; \$2,975; \$24,100; and \$18,825. Those amounts, in total rather than half, would be sent to the state comptroller.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, ESi, SD, DB