

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 17, 2009

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

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

IN RE: HB1054 by Mallory Caraway (Relating to the enforcement of certain traffic laws; providing a penalty.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1054, As Engrossed: a negative impact of (\$30,300,000) through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$13,467,000)
2011	(\$16,833,000)
2012	(\$16,833,000)
2013	(\$16,833,000)
2014	(\$16,833,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Trauma Facility And Ems</i> 5111
2010	(\$13,467,000)	(\$13,200,000)
2011	(\$16,833,000)	(\$16,500,000)
2012	(\$16,833,000)	(\$16,500,000)
2013	(\$16,833,000)	(\$16,500,000)
2014	(\$16,833,000)	(\$16,500,000)

Fiscal Analysis

SECTION 1 of the bill would amend Chapter 601 of the Transportation Code to provide that the document that a driver presents as evidence of financial responsibility must either, to be sufficient, identify the driver or the vehicle by make or model, but does not necessarily need to identify both. The bill would specify that a driver who does not provide a peace officer evidence of financial responsibility commits a Class C misdemeanor. The bill would also add a provision that would authorize a court to dismiss the charge if the person presents to the court appropriate documents that prove financial responsibility at the time the offense occurred. The court would be authorized to impose an administrative fee not to exceed \$10 when the charge is dismissed. The bill provides that the court reporter service fee, as established in Section 51.607, Government Code, does not apply to the administrative fee.

SECTION 2 of the bill would amend Chapter 601 of the Transportation Code to provide that a vehicle that a driver operates in violation of the requirement to establish financial responsibility may be impounded by or on the authority of a peace officer solely because of that violation. The bill stipulates

that a motor vehicle may be impounded by or at the order of a peace officer only if written policies have been adopted through a public hearing process authorizing the impoundment and those adopted policies provide an alternative to impoundment in the form of an issuance of a citation to the operator or charging the operator with the applicable offense.

SECTION 3 of the bill would amend Chapter 708 of the Transportation Code to provide an exception for drivers paying a surcharge under the Driver Responsibility Program (DRP) for drivers who take a driving safety course, as provided in SECTION 4.

SECTION 4 of the bill would amend Chapter 708 of the Transportation Code to add a new Subchapter E, which would allow certain drivers paying a surcharge under the Driver Responsibility Program (DRP) to eliminate that surcharge and reduce accumulated driver's license points by taking a driving safety course. The bill would determine that an offender paying surcharges under the DRP would be eligible for this reduction in surcharges if the offender has paid a surcharge for the previous 12 months due to the accumulation of six or more points or a conviction of driving without financial responsibility or operating a vehicle with suspended vehicle registration. An offender would not be eligible for the reduction in surcharges if the offender has received a deduction of points or the elimination of a surcharge in the previous 24 months and the offender has not successfully completed a driving safety course in the previous 12 months. The bill would establish that an eligible offender who successfully completes a driving safety course approved by the Texas Education Agency or a course under the motorcycle operator training and safety program approved by the designated state agency under Chapter 662 is entitled to a deduction of two points on the person's driver's license or an elimination of a surcharge based on a conviction of driving without financial responsibility or operating a vehicle with suspended vehicle registration. The bill would stipulate that if the deduction of points causes the offender to have fewer than six points, the offender would no longer be required to pay a surcharge.

The bill would take effect September 1, 2009.

Methodology

Under current statute, failure to provide proof of financial responsibility is a misdemeanor punishable by a fine not to exceed \$500 or 90 days in jail, or both. Under the proposed change in statute, the offense would be specified as a Class C misdemeanor, which is punishable by a fine only, not to exceed \$500. Because the state receives \$52 in fees for this type of Class C misdemeanor, the state would realize an increase in revenue. However, depending on the number of cases prosecuted, there would be an indeterminate amount of revenue gain to the state.

The bill could have a significant fiscal impact on revenues from the Driver Responsibility Program (DRP). The Department of Public Safety (DPS) anticipates that the DRP has reached a plateau in surcharges billed to offenders. Collections on billed surcharges for points violations have averaged just under 70 percent during the last two fiscal years. Collections on billed surcharges for driving without financial responsibility (no insurance violations) have averaged just over 40 percent during the same time period. It is unknown how many offenders would reach a reduction in points that would bring them under 6 points, which would eliminate the surcharge. It is also unknown how many offenders currently paying a surcharge might have accumulated another offense, which would make them ineligible to eliminate the surcharge. Since there is no way to be sure how many offenders under each category would be eligible to participate in this program, it is assumed that in the first year of implementation, 50 percent of all offenders in their second and third years of surcharge payment would discontinue paying surcharges under the program. In subsequent years, it is assumed that 50 percent of all offenders in their second year of surcharge payment and 75 percent - or half again - of all offenders in their third year of payment would discontinue paying surcharges under the program. Assuming that the current average collection rates would continue, it is estimated that the annual revenue loss from this bill would be \$26,667,000 in All Funds in fiscal year 2010 and \$33,33,000 in All Funds in subsequent fiscal years.

DRP revenues are allocated to the General Revenue Fund and General Revenue-Dedicated Designated Trauma Facility and EMS Fund 5111 (Trauma Fund). DPS is allocated one percent of revenues for administration from the General Revenue Fund, and the remaining 99 percent of revenues are divided

equally between General Revenue Fund and the Trauma Fund. Therefore, the estimated revenue loss in fiscal year 2010 of \$26,667,000 in All Funds would include \$13,467,000 in General Revenue Funds and \$13,200,000 in Trauma Funds. The estimated annual revenue loss in subsequent fiscal years of \$33,333,000 in All Funds would include \$16,833,000 in General Revenue Funds and \$16,500,000 in Trauma Funds.

Local Government Impact

Because the maximum amount of the fine that would be imposed for an offense of failure to provide evidence of financial responsibility would not change, that portion of the bill would have no fiscal impact on units of local government. If a court had imposed jail time under existing statute and would not have that option under the proposed change, there would be a slight savings in costs to local jails. Because the courts would be authorized to impose an administrative fee of up to \$10 for dismissing the charges, local governments would realize a revenue increase to help offset court costs. The amount of revenue would vary by local government and would depend on the number of applicable cases.

Source Agencies: 304 Comptroller of Public Accounts, 405 Department of Public Safety

LBB Staff: JOB, KJG, GG, HC, ESi