

SENATE AMENDMENTS

2nd Printing

By: King of Parker, Callegari

H.B. No. 715

A BILL TO BE ENTITLED

AN ACT

1
2 relating to motor vehicle inspection stations that perform
3 emissions inspections using only the onboard diagnostic system of
4 inspected vehicles.

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

6 SECTION 1. Subchapter F, Chapter 548, Transportation Code,
7 is amended by adding Section 548.3075 to read as follows:

8 Sec. 548.3075. LIMITED EMISSIONS INSPECTIONS. (a) In this
9 section, "limited emissions inspection" means an emissions
10 inspection of a motor vehicle conducted only by using the onboard
11 diagnostic system of the vehicle.

12 (b) A department rule that allows a qualified inspection
13 station to perform a limited emissions inspection of a motor
14 vehicle may not restrict the station to fewer than 150 inspections
15 per month.

16 SECTION 2. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2009.

ADOPTED

MAY 25 2009

Atty. Gen.
Secretary of the Senate

By: Kings, Phil

H.B. No. 715

Substitute the following for ___B. No. _____:

By: *Atty*

C.S. ___B. No. _____

A BILL TO BE ENTITLED

AN ACT

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relating to motor vehicle inspection stations that perform emissions inspections using only the onboard diagnostic system of inspected vehicles.

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

SECTION 1. Subchapter F, Chapter 548, Transportation Code, is amended by adding Section 548.3075 to read as follows:

Sec. 548.3075. LIMITED EMISSIONS INSPECTIONS. (a) In this section, "limited emissions inspection" means an emissions inspection of a motor vehicle conducted only by using the onboard diagnostic system of the vehicle.

(b) A department rule that allows a qualified inspection station to perform a limited emissions inspection of a motor vehicle may not restrict the station to fewer than 150 inspections per month.

SECTION 2. This Act takes effect December 31, 2010.

3rd Reading

ADOPTED

MAY 25 2009

FLOOR AMENDMENT NO. 1

Antony Spaw
Secretary of the Senate

BY:

Elton Shopleigh

1 Amend H.B. No. 715 (senate committee report) as follows:

2 (1) Add the following appropriately numbered SECTION to
3 the bill and renumber subsequent SECTIONS accordingly:

4 SECTION ____ (a) Subtitle C, Title 5, Business & Commerce
5 Code, is amended by adding Chapter 108 to read as follows:

6 CHAPTER 108. REQUIREMENTS FOR RETAIL SELLERS OF MOTOR VEHICLE

7 TIRES

8 Sec. 108.001. DEFINITION. In this chapter, "dealer" has
9 the meaning assigned by Section 503.001, Transportation Code.

10 Sec. 108.002. RENDERING CERTAIN MOTOR VEHICLE TIRES
11 UNUSABLE. (a) A business that sells new or used tires at
12 retail for use on a motor vehicle shall render a tire held as
13 inventory or purchased or received in exchange from a customer
14 unusable if the tire does not meet the inspection criteria
15 adopted by rule of the Department of Public Safety under Section
16 548.002, Transportation Code.

17 (b) A business shall render a tire unusable for purposes
18 of Subsection (a) by:

19 (1) puncturing a hole two inches across from the
20 surface through the entire body of the tire so that the tire
21 cannot be temporarily repaired by the use of blowout patches or
22 boots; or

23 (2) taking any other action necessary to prevent the
24 tire from being used on a motor vehicle.

25 (c) While the tires remain mounted on the motor vehicle,
26 this section does not apply to tires mounted on the wheels of a
27 motor vehicle that is:

28 (1) held as inventory by a dealer; or

29 (2) purchased or received in exchange by a dealer as

1 3

1 part of a motor vehicle retail installment transaction.

2 Sec. 108.003. EXEMPTION FOR CERTAIN BUSINESSES. This
3 chapter does not apply to a business that uses a used or scrap
4 tire transporter that:

5 (1) is registered with the Texas Commission on
6 Environmental Quality; and

7 (2) has provided the commission with a bond in an
8 amount of at least \$100,000.

9 Sec. 108.004. RULEMAKING AUTHORITY. The Department of
10 Public Safety may adopt rules to implement this chapter.

11 Sec. 108.005. CIVIL PENALTY. (a) A business that
12 violates this chapter is liable to the state for a civil penalty
13 in an amount not to exceed \$500 for each violation.

14 (b) The attorney general or the appropriate district or
15 county attorney may bring an action under this chapter in the
16 name of the state in a district court in:

17 (1) Travis County; or

18 (2) the county in which the violation occurs.

19 (b) This section takes effect September 1, 2009.

20 (2) In SECTION 2 of the bill (page 1, line 25), strike
21 "This" and substitute "Except as otherwise provided by this Act,
22 this".

3rd Reading

ADOPTED

MAY 25 2009


Secretary of the Senate

Floor Amendment No 2

By Carmon

Amend HB 715 (senate committee printing) as follows:

- (1) Strike SECTION 2 in its entirety.
- (2) After SECTION 1, insert the following appropriately numbered SECTIONS:

SECTION The heading to Section 548.3065, Transportation Code, is amended to read as follows:
Sec. 548.3065. ADMINISTRATIVE AND CIVIL PENALTIES [PENALTY].

SECTION . Section 548.3065, Transportation Code, is amended by amending Subsection (c) and adding Subsections (c-1), (e), and (f) to read as follows:

(c) For purposes of Subsection (a) [~~Except as otherwise provided by this section~~], the procedures for determining and administering an administrative penalty [~~under this section~~] against a person charged with violating this chapter are the same as those prescribed by Section 643.251 for determining and administering an administrative penalty against a motor carrier under that section.

(c-1) The Texas Commission on Environmental Quality may impose an administrative penalty on a person in the amount of \$500 for each violation of this subchapter or a rule adopted by the commission under this subchapter.

(e) An inspection station that violates a provision of this chapter or a rule of the department issued under this chapter is liable for a civil penalty of not less than \$250 or more than \$500 for each violation. The district or county attorney for the county in which the inspection station is located or the attorney general may bring suit in the name of this state to collect the penalty.

(f) An inspector who violates a provision of this chapter or a rule of the department issued under this chapter is liable for a civil penalty of not less than \$250 or more than \$500 for each violation. The district or county attorney for the county in which the inspection station that employs the inspector is located or the attorney general may bring suit in the name of this state to collect the penalty.

SECTION . Subchapter G, Chapter 548, Transportation Code, is amended by adding Section 548.4045 to read as follows:

Sec. 548.4045. BOND REQUIRED. (a) An application for certification as an inspection station or an inspector must be accompanied by a surety bond in the amount of \$500, payable to this state and conditioned on the future compliance with this chapter and rules adopted by the department or the Texas Commission on Environmental Quality under this chapter.

(b) The attorney general or the district or county attorney for the county in which the inspection station is located or in which the inspection station that employs the inspector is located may bring suit in the name of this state to recover on the bond.

SECTION Section 548.601, Transportation Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsection (b-1) or as [Unless] otherwise specified in this chapter, an offense under this section is a Class C misdemeanor.

(b-1) An offense under Subsection (a)(1), (5), or (6) is a Class A misdemeanor.

SECTION . (a) The change in law made by this Act to Sections 548.3065 and 548.601, Transportation Code, applies only to a violation or an offense committed by a vehicle inspection station or a vehicle inspector on or after the effective date of this Act. A violation or an offense committed by a vehicle inspection station or a vehicle inspector before the effective date of this Act is governed by the law in effect when the violation or offense was committed, and the former law is continued in effect for that purpose.

(b) The change in law made by this Act in connection with an application for certification as a vehicle inspection station or a vehicle inspector applies only to an application for certification that is filed on or after the effective date of this Act. An application for certification as a vehicle inspection station or a vehicle inspector that is filed before the effective date of this Act is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

SECTION 7. SECTION 1 of this Act takes effect December 31, 2010. The remaining SECTIONS of this Act take effect September 1, 2009.

3rd Reading

ADOPTED

MAY 25 2009

FLOOR AMENDMENT NO. 3

Leta Spaw
Secretary of the Senate

BY: Carona

Floor amendment No 2

1 Amend S. B. No. ~~2418~~ (House committee printing), in SECTION 2
2 of the bill, added Section 548.3065(c-1), Transportation Code (page
3 1, line 19), by striking "Texas Commission on Environmental
4 Quality" and substituting "department".

3rd Reading

ADOPTED

MAY 25 2009

FLOOR AMENDMENT NO. 4 *Larry Spaul*
Secretary of the Senate

BY: Carona

Amend: F.A.# 2 to HB 715, third reading, as follows:

In Section —, added Section 548.3065,
Transportation Code, add the following
new subsection (g):

(g) The imposition or collection of a penalty under this section does not preclude the department from taking administrative action against an inspection station or inspector for a violation of this chapter or a rule adopted under this chapter.

DPS

- Resolves issue of double jeopardy

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB715 by King, Phil (Relating to motor vehicle inspection stations that perform emissions inspections using only the onboard diagnostic system of inspected vehicles.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would add Section 548.307 to the Transportation Code to prohibit the restriction of less than 150 emissions inspections performed using only the onboard diagnostic system of the vehicle at an inspection station each month. This section of the bill would take effect December 31, 2010.

The bill would add Chapter 108 to the Business and Commerce Code to require a retail seller of motor vehicle tires to render certain tires unusable. Certain businesses would be exempted from the provisions of the bill. The bill also states a business that violates this chapter is liable to the state for a civil penalty not to exceed \$500 for each violation. This section of the bill would take effect September 1, 2009. The Office of Attorney General and the Department of Public Safety (DPS) anticipate no significant fiscal impact to their agencies. The bill states that a civil penalty can be collected. However, the amount of additional revenue collected can not be determined since the funds collected are based on the number of cases filed with the district or county attorney for this new violation.

The bill would amend Chapter 548 of the Transportation Code to state that DPS may impose a \$500 administrative penalty for each violation of the statutory requirement for a compulsory inspection of a motor vehicle. The bill states an inspection station and inspectors who violate this provision are liable for a civil penalty between \$250 and \$500 for each violation. The bill also requires each application to be accompanied by a \$500 surety bond. This section would take effect on September 1, 2009 and would apply only to an offense or an application filed on or after the effective date.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, KJG, SZ, SD, GG, LG, AI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 12, 2009

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

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

IN RE: HB715 by King, Phil (Relating to motor vehicle inspection stations that perform emissions inspections using only the onboard diagnostic system of inspected vehicles.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code by prohibiting the restriction of less than 150 emissions inspections performed using only the onboard diagnostic system of the vehicle at an inspection station each month. The provisions of the bill would take effect December 1, 2010.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, SZ, KJG, SD, GG, LG, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 8, 2009

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

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

IN RE: HB715 by King, Phil (Relating to motor vehicle inspection stations that perform emissions inspections using only the onboard diagnostic system of inspected vehicles.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code by prohibiting the restriction of less than 150 emissions inspections performed using only the onboard diagnostic system of the vehicle at an inspection station each month.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, SD, KJG, GG, LG, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 3, 2009

TO: Honorable Joseph Pickett, Chair, House Committee on Transportation

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

IN RE: HB715 by King, Phil (Relating to motor vehicle inspection stations that perform emissions inspections using only the onboard diagnostic system of inspected vehicles.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code by prohibiting the limitation of the number of emissions inspections performed using only the onboard diagnostic system of the vehicle at an inspection station each month.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, KJG, GG, LG, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 20, 2009

TO: Honorable Joseph Pickett, Chair, House Committee on Transportation

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

IN RE: HB715 by King, Phil (Relating to motor vehicle inspection stations that perform emissions inspections using only the onboard diagnostic system of inspected vehicles.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code by prohibiting the limitation of the number of emissions inspections performed using only the onboard diagnostic system of the vehicle at an inspection station to fewer than 150 per month.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, KJG, GG, LG, AI

