

By: Lucio

S.B. No. 43

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to authorizing the Department of Public Safety of the  
3 State of Texas to operate one or more southbound vehicle  
4 checkpoints near the international border of this state for the  
5 purpose of preventing certain criminal offenses.

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

7 SECTION 1. The heading to Section 411.0095, Government  
8 Code, is amended to read as follows:

9 Sec. 411.0095. VEHICLE [~~THEFT~~] CHECKPOINTS NEAR  
10 TEXAS-MEXICO [~~AT~~] BORDER [~~CROSSING~~].

11 SECTION 2. Sections 411.0095(a) through (d), Government  
12 Code, are amended to read as follows:

13 (a) The department may establish [~~a program for the purpose~~  
14 ~~of establishing~~] border [~~crossing~~] checkpoints to prevent the  
15 unlawful possession or unlawful and imminent movement or transfer  
16 from this state to Mexico of:

17 (1) firearms, in violation of Section 46.14, Penal  
18 Code;

19 (2) controlled substances, in violation of Chapter  
20 481, Health and Safety Code;

21 (3) currency, in violation of Section 34.02, Penal  
22 Code; or

23 (4) stolen vehicles, farm tractors or implements,  
24 construction equipment, aircraft, or watercraft, in violation of

1 Section 31.03, Penal Code [~~from entering Mexico~~].

2 (b) A checkpoint may be established under Subsection (a) if  
3 the checkpoint is:

4 (1) located within 250 yards of a federally designated  
5 crossing facility located at or near the actual boundary between  
6 this state and Mexico;

7 (2) located on a public highway or street leading  
8 directly to an international border crossing;

9 (3) designed to stop only traffic bound for Mexico;  
10 and

11 (4) operated in such a manner as to prevent firearms,  
12 controlled substances, currency, [~~stop only~~] vehicles, tractors or  
13 implements, equipment, aircraft, or watercraft that [~~for which~~] law  
14 enforcement authorities have probable cause to believe are  
15 unlawfully possessed or being unlawfully and imminently  
16 transferred or moved from this state to [~~is stolen and bound for~~]  
17 Mexico from being possessed or transferred or moved to Mexico.

18 (c) The department may establish [~~the~~] border checkpoints  
19 [~~crossing checkpoint program~~] in conjunction with federal and local  
20 law enforcement authorities. The department and federal and local  
21 law enforcement authorities may share the cost of staffing the  
22 checkpoints.

23 (d) The department shall establish procedures governing the  
24 encounter between the driver and the peace officers operating the  
25 checkpoint that ensure that any intrusion on the driver is  
26 minimized and that the inquiries made are reasonably related to the  
27 purpose of the checkpoint. [~~A peace officer at the checkpoint may~~

1 ~~not direct a driver or a passenger in a motor vehicle to leave the~~  
2 ~~vehicle or move the vehicle off the roadway unless the officer has~~  
3 ~~reasonable suspicion or probable cause to believe that the person~~  
4 ~~committed or is committing an offense. However, a peace officer may~~  
5 ~~require that each motor vehicle passing through the checkpoint be~~  
6 ~~diverted to a location immediately adjacent to the roadway, if~~  
7 ~~desirable, to ensure safety.]~~

8 SECTION 3. Effective September 1, 2015, Section 411.0095,  
9 Government Code, is reenacted to read as follows:

10 Sec. 411.0095. VEHICLE THEFT CHECKPOINTS AT BORDER  
11 CROSSING. (a) The department may establish a program for the  
12 purpose of establishing border crossing checkpoints to prevent  
13 stolen vehicles, farm tractors or implements, construction  
14 equipment, aircraft, or watercraft from entering Mexico.

15 (b) A checkpoint may be established under Subsection (a) if  
16 the checkpoint is:

17 (1) located within 250 yards of a federally designated  
18 crossing facility located at or near the actual boundary between  
19 this state and Mexico;

20 (2) located on a public highway or street leading  
21 directly to an international border crossing;

22 (3) designed to stop only traffic bound for Mexico;  
23 and

24 (4) operated in such a manner as to stop only vehicles,  
25 tractors or implements, equipment, aircraft, or watercraft for  
26 which law enforcement authorities have probable cause to believe is  
27 stolen and bound for Mexico.

1 (c) The department may establish the border crossing  
2 checkpoint program in conjunction with local law enforcement  
3 authorities. The department and local law enforcement authorities  
4 may share the cost of staffing the checkpoints.

5 (d) The department shall establish procedures governing the  
6 encounter between the driver and the peace officers operating the  
7 checkpoint that ensure that any intrusion on the driver is  
8 minimized and that the inquiries made are reasonably related to the  
9 purpose of the checkpoint. A peace officer at the checkpoint may  
10 not direct a driver or a passenger in a motor vehicle to leave the  
11 vehicle or move the vehicle off the roadway unless the officer has  
12 reasonable suspicion or probable cause to believe that the person  
13 committed or is committing an offense. However, a peace officer may  
14 require that each motor vehicle passing through the checkpoint be  
15 diverted to a location immediately adjacent to the roadway, if  
16 desirable, to ensure safety.

17 (e) In this section:

18 (1) "Motor vehicle" and "vehicle" have the meanings  
19 assigned to those terms by Section 541.201, Transportation Code.

20 (2) "Watercraft" has the meaning assigned by Section  
21 49.01, Penal Code.

22 SECTION 4. Except as otherwise provided by this Act, this  
23 Act takes effect immediately if it receives a vote of two-thirds of  
24 all the members elected to each house, as provided by Section 39,  
25 Article III, Texas Constitution. If this Act does not receive the  
26 vote necessary for immediate effect, this Act takes effect on the  
27 91st day after the last day of the legislative session.