

1-1 By: Lucio S.B. No. 43
1-2 (In the Senate - Filed June 15, 2011; June 22, 2011, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; June 22, 2011, reported favorably by the following vote:
1-5 Yeas 8, Nays 0; June 22, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to authorizing the Department of Public Safety of the
1-9 State of Texas to operate one or more southbound vehicle
1-10 checkpoints near the international border of this state for the
1-11 purpose of preventing certain criminal offenses.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. The heading to Section 411.0095, Government
1-14 Code, is amended to read as follows:

1-15 Sec. 411.0095. VEHICLE [~~THEFT~~] CHECKPOINTS NEAR
1-16 TEXAS-MEXICO [~~AT~~] BORDER [~~CROSSING~~].

1-17 SECTION 2. Subsections (a) through (d), Section 411.0095,
1-18 Government Code, are amended to read as follows:

1-19 (a) The department may establish [~~a program for the purpose~~
1-20 ~~of establishing~~] border [~~crossing~~] checkpoints to prevent the
1-21 unlawful possession or unlawful and imminent movement or transfer
1-22 from this state to Mexico of:

1-23 (1) firearms, in violation of Section 46.14, Penal
1-24 Code;

1-25 (2) controlled substances, in violation of Chapter
1-26 481, Health and Safety Code;

1-27 (3) currency, in violation of Section 34.02, Penal
1-28 Code; or

1-29 (4) stolen vehicles, farm tractors or implements,
1-30 construction equipment, aircraft, or watercraft, in violation of
1-31 Section 31.03, Penal Code [~~from entering Mexico~~].

1-32 (b) A checkpoint may be established under Subsection (a) if
1-33 the checkpoint is:

1-34 (1) located within 250 yards of a federally designated
1-35 crossing facility located at or near the actual boundary between
1-36 this state and Mexico;

1-37 (2) located on a public highway or street leading
1-38 directly to an international border crossing;

1-39 (3) designed to stop only traffic bound for Mexico;
1-40 and

1-41 (4) operated in such a manner as to prevent firearms,
1-42 controlled substances, currency, [~~stop only~~] vehicles, tractors or
1-43 implements, equipment, aircraft, or watercraft that [~~for which~~] law
1-44 enforcement authorities have probable cause to believe are
1-45 unlawfully possessed or being unlawfully and imminently
1-46 transferred or moved from this state to [~~is stolen and bound for~~]
1-47 Mexico from being possessed or transferred or moved to Mexico.

1-48 (c) The department may establish [~~the~~] border checkpoints
1-49 [~~crossing checkpoint program~~] in conjunction with federal and local
1-50 law enforcement authorities. The department and federal and local
1-51 law enforcement authorities may share the cost of staffing the
1-52 checkpoints.

1-53 (d) The department shall establish procedures governing the
1-54 encounter between the driver and the peace officers operating the
1-55 checkpoint that ensure that any intrusion on the driver is
1-56 minimized and that the inquiries made are reasonably related to the
1-57 purpose of the checkpoint. [~~A peace officer at the checkpoint may~~
1-58 ~~not direct a driver or a passenger in a motor vehicle to leave the~~
1-59 ~~vehicle or move the vehicle off the roadway unless the officer has~~
1-60 ~~reasonable suspicion or probable cause to believe that the person~~
1-61 ~~committed or is committing an offense. However, a peace officer may~~
1-62 ~~require that each motor vehicle passing through the checkpoint be~~
1-63 ~~diverted to a location immediately adjacent to the roadway, if~~
1-64 ~~desirable, to ensure safety.]~~

2-1 SECTION 3. Effective September 1, 2015, Section 411.0095,
2-2 Government Code, is reenacted to read as follows:

2-3 Sec. 411.0095. VEHICLE THEFT CHECKPOINTS AT BORDER
2-4 CROSSING. (a) The department may establish a program for the
2-5 purpose of establishing border crossing checkpoints to prevent
2-6 stolen vehicles, farm tractors or implements, construction
2-7 equipment, aircraft, or watercraft from entering Mexico.

2-8 (b) A checkpoint may be established under Subsection (a) if
2-9 the checkpoint is:

2-10 (1) located within 250 yards of a federally designated
2-11 crossing facility located at or near the actual boundary between
2-12 this state and Mexico;

2-13 (2) located on a public highway or street leading
2-14 directly to an international border crossing;

2-15 (3) designed to stop only traffic bound for Mexico;
2-16 and

2-17 (4) operated in such a manner as to stop only vehicles,
2-18 tractors or implements, equipment, aircraft, or watercraft for
2-19 which law enforcement authorities have probable cause to believe is
2-20 stolen and bound for Mexico.

2-21 (c) The department may establish the border crossing
2-22 checkpoint program in conjunction with local law enforcement
2-23 authorities. The department and local law enforcement authorities
2-24 may share the cost of staffing the checkpoints.

2-25 (d) The department shall establish procedures governing the
2-26 encounter between the driver and the peace officers operating the
2-27 checkpoint that ensure that any intrusion on the driver is
2-28 minimized and that the inquiries made are reasonably related to the
2-29 purpose of the checkpoint. A peace officer at the checkpoint may
2-30 not direct a driver or a passenger in a motor vehicle to leave the
2-31 vehicle or move the vehicle off the roadway unless the officer has
2-32 reasonable suspicion or probable cause to believe that the person
2-33 committed or is committing an offense. However, a peace officer may
2-34 require that each motor vehicle passing through the checkpoint be
2-35 diverted to a location immediately adjacent to the roadway, if
2-36 desirable, to ensure safety.

2-37 (e) In this section:

2-38 (1) "Motor vehicle" and "vehicle" have the meanings
2-39 assigned to those terms by Section 541.201, Transportation Code.

2-40 (2) "Watercraft" has the meaning assigned by Section
2-41 49.01, Penal Code.

2-42 SECTION 4. Except as otherwise provided by this Act, this
2-43 Act takes effect immediately if it receives a vote of two-thirds of
2-44 all the members elected to each house, as provided by Section 39,
2-45 Article III, Texas Constitution. If this Act does not receive the
2-46 vote necessary for immediate effect, this Act takes effect on the
2-47 91st day after the last day of the legislative session.

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