

BILL ANALYSIS

S.B. 197
By: West
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Automotive emissions enforcement efforts in north central Texas have uncovered evidence of pervasive fraud among inspection stations in the region.

S.B. 197 strengthens accountability and oversight of vehicle inspection stations and vehicle inspectors, and requires a vehicle inspection station to post bond as a condition of certification.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 548.3065, Transportation Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Provides that for purposes of Subsection (a), rather than except as otherwise provided by this section, the procedures for determining and administering an administrative penalty against a person charged with violating this chapter are the same as those prescribed by Section 643.251 (Administrative Penalty) for determining and administering an administrative penalty against a motor carrier under that section. Makes nonsubstantive changes.

(c-1) Authorizes the Texas Commission on Environmental Quality (TCEQ) to impose an administrative penalty on a person in the amount of not more than \$500 for each violation of this subchapter or a rule adopted by TCEQ under this subchapter.

SECTION 2. Amends Subchapter G, Chapter 548, Transportation Code, by adding Section 548.4045, as follows:

Sec. 548.4045. BOND REQUIRED FOR CERTAIN INSPECTION STATIONS. (a) Provides that this section applies only to an inspection station that is located in a county in which TCEQ has established a motor vehicle emissions inspection and maintenance program under Subchapter F (Motor Vehicle Emissions Inspection and Maintenance); and has been convicted of a violation of this chapter relating to an emissions inspection.

(b) Requires that an application for certification as an inspection station be accompanied by a surety bond in the amount of \$5,000, payable to this state and conditioned on the future compliance with this chapter and rules adopted by the Department of Public Safety of the State of Texas (DPS) or TCEQ under this chapter.

(c) Authorizes 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 employs the inspector is located to bring suit in the name of this state to recover on the bond.

SECTION 3. Amends Section 548.506, Transportation Code, as follows:

Sec. 548.506. FEE FOR CERTIFICATION AS INSPECTOR. Requires an applicant for certification as an inspector to submit with the applicant's first application a fee of \$25, rather than a fee of \$10, for certification until August 31 of the even-numbered year following the date of certification. Requires an applicant, to be certified after August 31 of that year, to pay \$25, rather than \$10, as a certificate fee for each subsequent two-year period.

SECTION 4. Amends Section 548.507, Transportation Code, as follows:

Sec. 548.507. FEE FOR CERTIFICATION AS INSPECTION STATION. (a) Creates this subsection from existing text. Requires the applicant, except as provided by Subsection (b) or (c), after an applicant for certification as an inspection station is notified that the application will be approved, to pay a fee of \$100, rather than \$30, for certification until August 31 of the odd-numbered year after the date of appointment. Requires the applicant to be certified after August 31 of that year, to pay a fee of \$100, rather than \$30, for certification for each subsequent two-year period.

(b) Requires an applicant, if an applicant for certification as an inspection station has been convicted of a violation under Subchapter F, after notification that the application will be approved, to pay a fee of \$500 for certification until August 31 of the odd-numbered year after the date of appointment. Requires the applicant, to be certified after August 31 of that year, to pay a fee of \$100 for certification for each subsequent two-year period.

(c) Requires the applicant, if an applicant for certification as an inspection station has been convicted of two or more violations of this chapter relating to an emissions inspection under Subchapter F, after notification that the application will be approved, to pay a fee for \$1,500 for certification until August 31 of the odd-numbered year after the date of appointment. Require an applicant, to be certified after August 31 of that year, to pay a fee of \$100 for certification for each subsequent two-year period.

SECTION 5. Amends Subchapter I, Chapter 548, Transportation Code, by adding Section 548.6015, as follows:

Sec. 548.6015. CIVIL PENALTIES. (a) Provides that an inspection station that violates a provision of this chapter relating to an emissions inspection under Subchapter F is liable for a civil penalty of not less than \$250 or more than \$500 for each violation. Authorizes the district or county attorney for the county in which the inspection station is located or the attorney general to bring suit in the name of this state to collect the penalty.

(b) Provides that an inspector who violates a provision of this chapter relating to an emissions inspection under Subchapter F is liable for a civil penalty of not less than \$50 or more than \$150 for each violation. Authorizes the district or county attorney for the county in which the inspection station that employs the inspector is located or the attorney general to bring suit in the name of this state to collect the penalty.

SECTION 6. Amends Subchapter I, Chapter 548, Transportation Code, by adding Sections 548.6035 and 548.6036, as follows:

Sec. 548.6035. FRAUDULENT EMISSIONS INSPECTION OF MOTOR VEHICLE. (a) Provides that a person commits an offense if, in connection with a required emissions inspection of a motor vehicle, the person knowingly:

- (1) places or causes to be placed on a motor vehicle an inspection certificate if the vehicle does not meet the emissions requirements established by DPS; or the person has not inspected the vehicle;
- (2) manipulates an emissions test result;
- (3) uses or causes to be used emissions data from another motor vehicle as a substitute for the motor vehicle being inspected; or

(4) bypasses or circumvents a fuel cap test.

(b) Provides that a first offense under Subsections (a)(1) through (3) is a Class B misdemeanor.

(c) Provides that, except as provided by Subsection (d), a second or subsequent offense under Subsection (a)(1) through (3) is a Class A misdemeanor.

(d) Provides that if it is found on trial of an offense under Subsections (a)(1) through (3) that the person committing the offense acted with the intent to defraud or harm another person, the offense is a state jail felony.

(e) Provides that an offense under Subsection (a)(4) is a Class C misdemeanor.

(f) Provides that it is a defense to prosecution under Subsection (a)(4) that the analyzer used by the person developed a functional problem during the emissions inspection of the fuel cap that prevented the person from properly conducting the fuel cap test portion of the emissions inspection.

Sec. 548.6036. ACTIONS OF EMPLOYEES. (a) Provides that, except as provided by Subsection (b), an inspection station is not subject to prosecution under this subchapter for an act of an employee of the inspection station if the inspection station requires the employee to sign a written agreement to abide by the provision of:

(1) this chapter;

(2) Chapter 382 (Clean Air Act), Health and Safety Code; and

(3) all rules adopted under those chapters.

(b) Provides that an inspection station is subject to prosecution under this subchapter for an act of an employee of the inspection station if the inspection station has received written notification from DPS or another agency that the employee has committed an offense under this chapter; and continues to allow the employee to perform inspections under this chapter.

SECTION 7. (a) Makes application of the change in law made by this Act to Section 548.3065, Transportation Code, prospective.

(b) Makes application of the changes in law made by this Act to Section 548.4045, Transportation Code, as added by this Act, and Sections 548.506 and 548.507, Transportation Code, as amended by this Act, prospective.

SECTION 8. Effective date: September 1, 2011.

EFFECTIVE DATE

September 1, 2011.