

By: Pena

H.B. No. 48

Substitute the following for H.B. No. 48:

By: Driver

C.S.H.B. No. 48

A BILL TO BE ENTITLED

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

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

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

9 Sec. 411.0095. VEHICLE [~~THEFT~~] CHECKPOINTS NEAR
10 TEXAS-MEXICO [~~AT~~] BORDER [~~CROSSING~~]. (a) The department may
11 establish [~~a program for the purpose of establishing~~] border
12 [~~crossing~~] checkpoints to prevent the unlawful transfer or movement
13 of firearms, ammunition, bulk currency, trade secrets, [~~stolen~~
14 vehicles, farm tractors or implements, construction equipment,
15 aircraft, or watercraft from this state to [~~entering~~] Mexico.

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

18 (1) located within:
19 (A) one mile of a federally designated checkpoint
20 that is located on a road running north to south; or

21 (B) 250 yards of a federally designated border
22 crossing facility located at or near the actual boundary between
23 this state and Mexico;

24 (2) located on a public highway or street leading

1 directly to an international border crossing;

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

4 (4) operated in such a manner as to stop only firearms,
5 ammunition, bulk currency, trade secrets, vehicles, tractors or
6 implements, equipment, aircraft, or watercraft that [~~for which~~] law
7 enforcement authorities have probable cause to believe are being
8 unlawfully transferred or moved from this state to [~~is stolen and~~
9 ~~bound for~~] Mexico.

10 (c) The department may establish [~~the~~] border checkpoints
11 [~~crossing checkpoint program~~] in conjunction with local law
12 enforcement authorities. The department and local law enforcement
13 authorities may share the cost of staffing the checkpoints.

14 (d) The department shall establish procedures governing the
15 encounter between the driver and the peace officers operating the
16 checkpoint that ensure that any intrusion on the driver is
17 minimized and that the inquiries made are reasonably related to the
18 purpose of the checkpoint. A peace officer at the checkpoint may
19 not direct a driver or [~~a~~] passenger of [~~in~~] a motor vehicle to
20 leave the vehicle or move the vehicle off the roadway or,
21 notwithstanding Section 521.025 or 601.053, Transportation Code,
22 to display a driver's license or provide evidence of financial
23 responsibility unless the officer has reasonable suspicion or
24 probable cause to believe that the person committed or is
25 committing an offense described by Subsection (e). However, a
26 peace officer may require that each motor vehicle passing through
27 the checkpoint be diverted to a location immediately adjacent to

1 the roadway, if desirable, to ensure safety.

2 (e) A peace officer employed by the department may not
3 conduct an inspection of a vehicle under this section unless the
4 officer has reasonable suspicion or probable cause to believe that
5 a driver or passenger of the vehicle has violated Section 31.03,
6 31.05, 31.07, 34.02, 46.06, or 46.14, Penal Code.

7 (f) The director shall adopt rules as necessary to
8 administer this section.

9 (g) In establishing checkpoints under this section, the
10 department shall comply with rules of the Texas Transportation
11 Commission regarding lane closures on a public highway or street.
12 The department shall:

13 (1) place signs and other appropriate devices along
14 each appropriate public highway or street to advise drivers of
15 motor vehicles:

16 (A) that the drivers are approaching a
17 checkpoint; and

18 (B) of the purpose of the checkpoint; and

19 (2) as necessary, demarcate a checkpoint with flares,
20 flags, traffic cones, or other appropriate devices.

21 (h) Not later than January 15 of each calendar year, the
22 department shall submit to the governor, lieutenant governor, and
23 speaker of the house of representatives a report regarding the
24 operation of checkpoints under this section during the preceding
25 calendar year. The report must include:

26 (1) the number of motor vehicles searched at each
27 checkpoint subsequent to a determination that reasonable suspicion

1 or probable cause existed to believe that an offense described by
2 Subsection (e) had been or was being committed;

3 (2) disaggregated by week and month:

4 (A) an estimate of the total number of motor
5 vehicles that passed through each checkpoint; and

6 (B) the average period required for a motor
7 vehicle to pass through each checkpoint;

8 (3) the specific days during the year that the highest
9 and lowest numbers of motor vehicles passed through each
10 checkpoint; and

11 (4) any other information that the department
12 determines to be of public interest.

13 (i) [~~(e)~~] In this section:

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

16 (2) "Watercraft" has the meaning assigned by Section
17 49.01, Penal Code.

18 SECTION 2. Effective September 1, 2013, Section 411.0095,
19 Government Code, is amended to read as follows:

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

25 (b) A checkpoint may be established under Subsection (a) if
26 the checkpoint is:

27 (1) located within 250 yards of a federally designated

1 crossing facility located at or near the actual boundary between
2 this state and Mexico;

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

5 (3) designed to stop only traffic bound for Mexico;
6 and

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

11 (c) The department may establish the border crossing
12 checkpoint program in conjunction with local law enforcement
13 authorities. The department and local law enforcement authorities
14 may share the cost of staffing the checkpoints.

15 (d) The department shall establish procedures governing the
16 encounter between the driver and the peace officers operating the
17 checkpoint that ensure that any intrusion on the driver is
18 minimized and that the inquiries made are reasonably related to the
19 purpose of the checkpoint. A peace officer at the checkpoint may
20 not direct a driver or a passenger in a motor vehicle to leave the
21 vehicle or move the vehicle off the roadway unless the officer has
22 reasonable suspicion or probable cause to believe that the person
23 committed or is committing an offense. However, a peace officer may
24 require that each motor vehicle passing through the checkpoint be
25 diverted to a location immediately adjacent to the roadway, if
26 desirable, to ensure safety.

27 (e) In this section:

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

3 (2) "Watercraft" has the meaning assigned by Section
4 49.01, Penal Code.

5 SECTION 3. Except as otherwise provided by this Act, this
6 Act takes effect September 1, 2011.