

By: Lucio III

H.B. No. 2685

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of state laws prohibiting the operation of a motor vehicle while intoxicated.

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

SECTION 1. Chapter 370, Local Government Code, is amended by adding Section 370.0031 to read as follows:

Sec. 370.0031. LOCAL GOVERNMENT POLICY REGARDING ENFORCEMENT OF STATE LAWS PROHIBITING OPERATING MOTOR VEHICLE WHILE INTOXICATED. (a) This section applies to:

(1) the governing body of a municipality or county;

(2) an officer, employee, or other body that is part of a municipality or county, including a sheriff, municipal police department, or county attorney; or

(3) a district attorney or criminal district attorney.

(b) An entity described by Subsection (a) may not adopt a policy under which the entity prohibits or impedes the enforcement of the laws of this state relating to the operation of a motor vehicle while intoxicated.

(c) In compliance with Subsection (b), an entity described by Subsection (a) may not prohibit or impede a person employed by or otherwise under the direction or control of the entity from doing any of the following:

(1) arresting or detaining a person for an alleged offense involving the operation of a motor vehicle while

1 intoxicated;

2 (2) requesting or taking a breath or blood specimen
3 under Chapter 724, Transportation Code, to detect intoxication;

4 (3) investigating an alleged offense involving the
5 operation of a motor vehicle while intoxicated; or

6 (4) prosecuting a person for an alleged offense
7 involving the operation of a motor vehicle while intoxicated.

8 (d) An entity described by Subsection (a) may not receive
9 state grant funds if the entity adopts a rule, order, ordinance, or
10 policy under which the entity prohibits or impedes the enforcement
11 of the laws of this state relating to the operation of a motor
12 vehicle while intoxicated or, by consistent actions, prohibits or
13 impedes the enforcement of the laws of this state relating to the
14 operation of a motor vehicle while intoxicated. State grant funds
15 for the entity shall be denied for the fiscal year following the
16 year in which the rule, order, ordinance, or policy is adopted or
17 the determination is made that the entity has intentionally
18 prohibited or impeded the enforcement of the laws of this state
19 relating to the operation of a motor vehicle while intoxicated. The
20 governor's office may issue guidelines to implement this subsection
21 uniformly among the state agencies from which state grant funds are
22 distributed to an entity.

23 (e) The attorney general may file a petition for a writ of
24 mandamus or apply for other appropriate equitable relief in a
25 district court of a county in which the principal office of an
26 entity described by Subsection (a) is located to compel the entity
27 that adopts a rule, order, ordinance, or policy under which the

1 local entity prohibits or impedes the enforcement of the laws of
2 this state relating to the operation of a motor vehicle while
3 intoxicated or that, by consistent actions, prohibits or impedes
4 the enforcement of the laws of this state relating to the operation
5 of a motor vehicle while intoxicated to comply with Subsection (b).
6 The attorney general may recover reasonable expenses incurred in
7 obtaining relief under this subsection, including court costs,
8 reasonable attorney's fees, investigative costs, witness fees, and
9 deposition costs.

10 SECTION 2. The heading to Chapter 370, Local Government
11 Code, is amended to read as follows:

12 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [~~MUNICIPAL~~
13 ~~AND COUNTY~~] HEALTH AND PUBLIC SAFETY APPLYING TO MORE THAN ONE

14 TYPE OF LOCAL GOVERNMENT

15 SECTION 3. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2011.