

By: West
(Phillips)

S.B. No. 197

A BILL TO BE ENTITLED

AN ACT

relating to the compulsory inspection of motor vehicles; providing penalties.

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

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

(c) For purposes of Subsection (a) [~~Except as otherwise provided by this section~~], the procedures for determining and administering an administrative penalty [~~under this section~~] against a person charged with violating this chapter are the same as those prescribed by Section 643.251 for determining and administering an administrative penalty against a motor carrier under that section.

(c-1) The conservation commission may 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 the conservation commission under this subchapter.

SECTION 2. Subchapter G, Chapter 548, Transportation Code, is amended by adding Section 548.4045 to read as follows:

Sec. 548.4045. BOND REQUIRED FOR CERTAIN INSPECTION STATIONS. (a) This section applies only to an inspection station that:

(1) is located in a county in which the conservation

1 commission has established a motor vehicle emissions inspection and
2 maintenance program under Subchapter F; and

3 (2) has been convicted of a violation of this chapter
4 relating to an emissions inspection.

5 (b) An application for certification as an inspection
6 station must be accompanied by a surety bond in the amount of
7 \$5,000, payable to this state and conditioned on the future
8 compliance with this chapter and rules adopted by the department or
9 the conservation commission under this chapter.

10 (c) The attorney general or the district or county attorney
11 for the county in which the inspection station is located or in
12 which the inspection station that employs the inspector is located
13 may bring suit in the name of this state to recover on the bond.

14 SECTION 3. Section 548.506, Transportation Code, is amended
15 to read as follows:

16 Sec. 548.506. FEE FOR CERTIFICATION AS INSPECTOR. An
17 applicant for certification as an inspector must submit with the
18 applicant's first application a fee of \$25 [~~\$10~~] for certification
19 until August 31 of the even-numbered year following the date of
20 certification. To be certified after August 31 of that year, the
21 applicant must pay \$25 [~~\$10~~] as a certificate fee for each
22 subsequent two-year period.

23 SECTION 4. Section 548.507, Transportation Code, is amended
24 to read as follows:

25 Sec. 548.507. FEE FOR CERTIFICATION AS INSPECTION STATION.
26 (a) Except as provided by Subsection (b) or (c), after [~~when~~]
27 applicant for certification as an inspection station is notified

1 that the application will be approved, the applicant must [~~shall~~]
2 pay a fee of \$100 [~~\$30~~] for certification until August 31 of the
3 odd-numbered year after the date of appointment. To be certified
4 after August 31 of that year, the applicant must pay a fee of \$100
5 [~~\$30~~] for certification for each subsequent two-year period.

6 (b) If an applicant for certification as an inspection
7 station has been convicted of a violation of this chapter relating
8 to an emissions inspection under Subchapter F, after notification
9 that the application will be approved, the applicant must pay a fee
10 of \$500 for certification until August 31 of the odd-numbered year
11 after the date of appointment. To be certified after August 31 of
12 that year, the applicant must pay a fee of \$100 for certification
13 for each subsequent two-year period.

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

22 SECTION 5. Subchapter I, Chapter 548, Transportation Code,
23 is amended by adding Section 548.6015 to read as follows:

24 Sec. 548.6015. CIVIL PENALTIES. (a) An inspection station
25 that violates a provision of this chapter relating to an emissions
26 inspection under Subchapter F is liable for a civil penalty of not
27 less than \$250 or more than \$500 for each violation. The district

1 or county attorney for the county in which the inspection station is
2 located or the attorney general may bring suit in the name of this
3 state to collect the penalty.

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

11 SECTION 6. Subchapter I, Chapter 548, Transportation Code,
12 is amended by adding Sections 548.6035 and 548.6036 to read as
13 follows:

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

18 (1) places or causes to be placed on a motor vehicle an
19 inspection certificate, if:

20 (A) the vehicle does not meet the emissions
21 requirements established by the department; or

22 (B) the person has not inspected the vehicle;

23 (2) manipulates an emissions test result;

24 (3) uses or causes to be used emissions data from
25 another motor vehicle as a substitute for the motor vehicle being
26 inspected; or

27 (4) bypasses or circumvents a fuel cap test.

1 (b) A first offense under Subsections (a)(1)-(3) is a Class
2 B misdemeanor.

3 (c) Except as provided by Subsection (d), a second or
4 subsequent offense under Subsections (a)(1)-(3) is a Class A
5 misdemeanor.

6 (d) If it is found on trial of an offense under Subsections
7 (a)(1)-(3) that the person committing the offense acted with the
8 intent to defraud or harm another person, the offense is a state
9 jail felony.

10 (e) An offense under Subsection (a)(4) is a Class C
11 misdemeanor.

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

17 Sec. 548.6036. ACTIONS OF EMPLOYEE. (a) Except as
18 provided by Subsection (b), an inspection station is not subject to
19 prosecution under this subchapter for an act of an employee of the
20 inspection station if the inspection station requires the employee
21 to sign a written agreement to abide by the provisions of:

22 (1) this chapter;

23 (2) Chapter 382, Health and Safety Code; and

24 (3) all rules adopted under those chapters.

25 (b) An inspection station is subject to prosecution under
26 this subchapter for an act of an employee of the inspection station
27 if the inspection station:

1 (1) has received written notification from the
2 department or another agency that the employee has committed an
3 offense under this chapter; and

4 (2) continues to allow the employee to perform
5 inspections under this chapter.

6 SECTION 7. (a) The change in law made by this Act to
7 Section 548.3065, Transportation Code, applies only to a violation
8 or an offense committed on or after the effective date of this Act.
9 A violation or an offense committed before the effective date of
10 this Act is governed by the law in effect when the violation or
11 offense was committed, and the former law is continued in effect for
12 that purpose.

13 (b) The changes in law made by Section 548.4045,
14 Transportation Code, as added by this Act, and Sections 548.506 and
15 548.507, Transportation Code, as amended by this Act, in connection
16 with an application for certification as a vehicle inspection
17 station or a vehicle inspector apply only to an application for
18 certification that is filed on or after the effective date of this
19 Act. An application for certification as a vehicle inspection
20 station or a vehicle inspector that is filed before the effective
21 date of this Act is governed by the law in effect when the
22 application was filed, and the former law is continued in effect for
23 that purpose.

24 SECTION 8. This Act takes effect September 1, 2011.