

1-1 By: Lucio S.B. No. 288
1-2 (In the Senate - Filed December 21, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; April 29, 2011, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 8,
1-6 Nays 0; April 29, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 288 By: Harris

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to authorizing the Department of Public Safety of the
1-11 State of Texas to operate one or more southbound vehicle
1-12 checkpoints near the international border of this state for the
1-13 purpose of preventing certain criminal offenses.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. The heading to Section 411.0095, Government
1-16 Code, is amended to read as follows:

1-17 Sec. 411.0095. VEHICLE [~~THEFT~~] CHECKPOINTS NEAR
1-18 TEXAS-MEXICO [~~AT~~] BORDER [~~CROSSING~~].

1-19 SECTION 2. Subsections (a) through (d), Section 411.0095,
1-20 Government Code, are amended to read as follows:

1-21 (a) The department may establish [~~a program for the purpose~~
1-22 ~~of establishing~~] border [~~crossing~~] checkpoints to prevent the
1-23 unlawful possession or unlawful and imminent movement or transfer
1-24 from this state to Mexico of:

1-25 (1) firearms, in violation of Section 46.14, Penal
1-26 Code;

1-27 (2) controlled substances, in violation of Chapter
1-28 481, Health and Safety Code;

1-29 (3) currency, in violation of Section 34.02, Penal
1-30 Code; or

1-31 (4) stolen vehicles, farm tractors or implements,
1-32 construction equipment, aircraft, or watercraft, in violation of
1-33 Section 31.03, Penal Code [~~from entering Mexico~~].

1-34 (b) A checkpoint may be established under Subsection (a) if
1-35 the checkpoint is:

1-36 (1) located within 250 yards of a federally designated
1-37 crossing facility located at or near the actual boundary between
1-38 this state and Mexico;

1-39 (2) located on a public highway or street leading
1-40 directly to an international border crossing;

1-41 (3) designed to stop only traffic bound for Mexico;
1-42 and

1-43 (4) operated in such a manner as to prevent firearms,
1-44 controlled substances, currency, [~~stop only~~] vehicles, tractors or
1-45 implements, equipment, aircraft, or watercraft that [~~for which~~] law
1-46 enforcement authorities have probable cause to believe are
1-47 unlawfully possessed or being unlawfully and imminently
1-48 transferred or moved from this state to [~~is stolen and bound for~~]
1-49 Mexico from being possessed or transferred or moved to Mexico.

1-50 (c) The department may establish [~~the~~] border checkpoints
1-51 [~~crossing checkpoint program~~] in conjunction with federal and local
1-52 law enforcement authorities. The department and federal and local
1-53 law enforcement authorities may share the cost of staffing the
1-54 checkpoints.

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

2-1 ~~require that each motor vehicle passing through the checkpoint be~~
2-2 ~~diverted to a location immediately adjacent to the roadway, if~~
2-3 ~~desirable, to ensure safety.]~~

2-4 SECTION 3. Effective September 1, 2015, Section 411.0095,
2-5 Government Code, is reenacted to read as follows:

2-6 Sec. 411.0095. VEHICLE THEFT CHECKPOINTS AT BORDER
2-7 CROSSING. (a) The department may establish a program for the
2-8 purpose of establishing border crossing checkpoints to prevent
2-9 stolen vehicles, farm tractors or implements, construction
2-10 equipment, aircraft, or watercraft from entering Mexico.

2-11 (b) A checkpoint may be established under Subsection (a) if
2-12 the checkpoint is:

2-13 (1) located within 250 yards of a federally designated
2-14 crossing facility located at or near the actual boundary between
2-15 this state and Mexico;

2-16 (2) located on a public highway or street leading
2-17 directly to an international border crossing;

2-18 (3) designed to stop only traffic bound for Mexico;
2-19 and

2-20 (4) operated in such a manner as to stop only vehicles,
2-21 tractors or implements, equipment, aircraft, or watercraft for
2-22 which law enforcement authorities have probable cause to believe is
2-23 stolen and bound for Mexico.

2-24 (c) The department may establish the border crossing
2-25 checkpoint program in conjunction with local law enforcement
2-26 authorities. The department and local law enforcement authorities
2-27 may share the cost of staffing the checkpoints.

2-28 (d) The department shall establish procedures governing the
2-29 encounter between the driver and the peace officers operating the
2-30 checkpoint that ensure that any intrusion on the driver is
2-31 minimized and that the inquiries made are reasonably related to the
2-32 purpose of the checkpoint. A peace officer at the checkpoint may
2-33 not direct a driver or a passenger in a motor vehicle to leave the
2-34 vehicle or move the vehicle off the roadway unless the officer has
2-35 reasonable suspicion or probable cause to believe that the person
2-36 committed or is committing an offense. However, a peace officer may
2-37 require that each motor vehicle passing through the checkpoint be
2-38 diverted to a location immediately adjacent to the roadway, if
2-39 desirable, to ensure safety.

2-40 (e) In this section:

2-41 (1) "Motor vehicle" and "vehicle" have the meanings
2-42 assigned to those terms by Section 541.201, Transportation Code.

2-43 (2) "Watercraft" has the meaning assigned by Section
2-44 49.01, Penal Code.

2-45 SECTION 4. This Act takes effect immediately if it receives
2-46 a vote of two-thirds of all the members elected to each house, as
2-47 provided by Section 39, Article III, Texas Constitution. If this
2-48 Act does not receive the vote necessary for immediate effect, this
2-49 Act takes effect September 1, 2011.

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