

## **BILL ANALYSIS**

C.S.H.B. 104  
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Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Texas Legislature created the driver responsibility program in 2003 to require a driver's license holder who is convicted of a certain low-level offense arising from a traffic law violation to pay an annual surcharge to legally maintain the driver's license. About half of the surcharges assessed are placed into a dedicated account used to fund and support the state's trauma hospitals. Interested parties assert that the program has placed an unnecessary burden on Texas drivers convicted of minor traffic violations and has led to less than expected revenue for the state. In addition, it has been estimated that only 40 percent of the assessed surcharges have actually been collected since the program's inception. In an effort to address these inefficiencies and cease the assessment of new driver surcharges, C.S.H.B. 104 places a two-year moratorium on the collection of surcharges under the driver responsibility program.

### **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**

C.S.H.B. 104 amends the Transportation Code to remove the requirement that the Department of Public Safety (DPS) enforce the driver responsibility program and to prohibit DPS from imposing a penalty on a person who fails to pay the amount of a surcharge assessed on the person's license under the program. The bill removes statutory provisions regarding the automatic suspension of a person's license for failing either to pay the surcharge amount or to enter into an installment payment agreement with DPS after receiving a second notice from DPS and repeals statutory provisions regarding such an automatic suspension resulting from a surcharge amount or a related cost paid by credit card for which the amount of payment is reversed by the credit card issuer. The bill prohibits DPS from collecting a surcharge assessed on a person's license under the program on or after September 1, 2013, but authorizes DPS to collect such a surcharge on or after September 1, 2015, unless another source of revenue is dedicated to the designated trauma facility and emergency medical services account that is roughly equal to the amount of revenue dedicated to the account under the driver responsibility program and that was dedicated to the account on or after January 1, 2013.

C.S.H.B. 104 repeals Sections 708.154(b) and (c), Transportation Code.

### **EFFECTIVE DATE**

September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 104 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences

between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 102.022(a), Code of Criminal Procedure, is amended to read as follows:

No equivalent provision.

(a) In this article, "moving violation" means an offense that:

- (1) involves the operation of a motor vehicle; and
- (2) is classified as a moving violation by the Department of Public Safety under Section 542.304 [~~708.052~~], Transportation Code.

SECTION 2. Section 1001.257, Education Code, is amended to read as follows:

No equivalent provision.

Sec. 1001.257. DENIAL OF LICENSE. The commissioner may not issue or renew a driver education instructor license, including a temporary license, to a person who has been convicted of:

- (1) three or more moving violations described by Section 542.304, Transportation Code, including violations that resulted in an accident; or
- (2) two or more moving violations described by Section 542.304, Transportation Code, that resulted in an accident [~~six or more points assigned to the person's driver's license under Subchapter B, Chapter 708, Transportation Code~~].

SECTION 3. Section 411.110(f), Government Code, is amended to read as follows:

No equivalent provision.

(f) The Department of State Health Services may not consider offenses described by [~~for which points are assessed under~~] Section 542.304 [~~708.052~~], Transportation Code, to determine whether to hire or retain an employee or to contract with a person on whom criminal history record information is obtained under this section.

SECTION 4. Section 773.0614(b), Health and Safety Code, is amended to read as follows:

No equivalent provision.

(b) For purposes of Subsection (a), the department may not consider offenses

~~described by [for which points are assessed under] Section 542.304 [708.052], Transportation Code.~~

SECTION 5. Section 780.002, Health and Safety Code, is amended to read as follows:  
Sec. 780.002. DEPOSITS TO ACCOUNT. The comptroller shall deposit any gifts, grants, donations, and legislative appropriations made for the purposes of the designated trauma facility and emergency medical services account established under Section 780.003 to the credit of the account.  
~~[(a) On the first Monday of each month, the Department of Public Safety shall remit the surcharges collected during the previous month under the driver responsibility program operated by that department under Chapter 708, Transportation Code, to the comptroller.~~  
~~[(b) The comptroller shall deposit 49.5 percent of the money received under Subsection (a) to the credit of the account established under this chapter and 49.5 percent of the money to the general revenue fund. The remaining one percent of the amount of the surcharges shall be deposited to the general revenue fund and may be appropriated only to the Department of Public Safety for administration of the driver responsibility program operated by that department under Chapter 708, Transportation Code.~~  
~~[(c) Notwithstanding Subsection (b), in any state fiscal year the comptroller shall deposit 49.5 percent of the surcharges collected under Chapter 708, Transportation Code, to the credit of the general revenue fund only until the total amount of the surcharges deposited to the credit of the general revenue fund under Subsection (b), and the state traffic fines deposited to the credit of that fund under Section 542.4031(g)(1), Transportation Code, equals \$250 million for that year. If in any state fiscal year the amount received by the comptroller under those laws for deposit to the credit of the general revenue fund exceeds \$250 million, the comptroller shall deposit the additional amount to the credit of the Texas mobility fund.]~~

No equivalent provision.

SECTION 6. Section 502.357(b),

No equivalent provision.

Transportation Code, is amended to read as follows:

(b) Fees collected under this section shall be deposited to the credit of the state highway fund. Subject to appropriations, the money shall be used by the Department of Public Safety to:

(1) support the Department of Public Safety's reengineering of the driver's license system to provide for the issuance by the Department of Public Safety of a driver's license or personal identification certificate, to include use of image comparison technology; and

(2) ~~[establish and maintain a system to support the driver responsibility program under Chapter 708; and~~

~~[(3)]~~ make lease payments to the master lease purchase program for the financing of the driver's license reengineering project.

SECTION 7. Section 521.205(a), Transportation Code, is amended to read as follows:

No equivalent provision.

(a) The department by rule shall provide for approval of a driver education course conducted by the parent, stepparent, foster parent, legal guardian, step-grandparent, or grandparent of a person who is required to complete a driver education course to obtain a Class C license. The rules must provide that:

(1) the person conducting the course possess a valid license for the preceding three years that has not been suspended, revoked, or forfeited in the past three years for an offense that involves the operation of a motor vehicle;

(2) the student driver spend a minimum number of hours in:

(A) classroom instruction; and

(B) behind-the-wheel instruction;

(3) the person conducting the course not be convicted of:

(A) criminally negligent homicide; or

(B) driving while intoxicated;

(4) the person conducting the course not be disabled because of mental illness; and

(5) at the time a person begins conducting the course, the person not have been convicted of:

(A) three or more moving violations described by Section 542.304, Transportation Code, including violations

that resulted in an accident; or  
(B) two or more moving violations  
described by Section 542.304,  
Transportation Code, that resulted in an  
accident [conducting the course not have six  
or more points assigned to the person's  
driver's license under Subchapter B, Chapter  
708, at the time the person begins  
conducting the course].

SECTION 8. Subchapter C, Chapter 542, Transportation Code, is amended by adding Section 542.304 to read as follows:

Sec. 542.304. MOVING VIOLATIONS  
FOR CERTAIN PURPOSES. (a) The  
department by rule shall designate the  
offenses involving the operation of a motor  
vehicle that constitute a moving violation of  
the traffic law for the purposes of:

(1) Article 102.022(a), Code of Criminal  
Procedure;

(2) Section 1001.257, Education Code;

(3) Section 411.110(f), Government Code;

(4) Section 773.0614(b), Health and Safety  
Code; and

(5) Section 521.205(a), Transportation  
Code.

(b) The rules must provide that for the  
purposes of the provisions described in  
Subsection (a), moving violations:

(1) include:

(A) a violation of the traffic law of this  
state, another state, or a political subdivision  
of this or another state; and

(B) an offense under Section 545.412; and

(2) do not include:

(A) the offense of speeding when the  
person convicted was at the time of the  
offense driving less than 10 percent faster  
than the posted speed limit, unless the  
person committed the offense in a school  
crossing zone; or

(B) an offense adjudicated under Article  
45.051 or 45.0511, Code of Criminal  
Procedure.

No equivalent provision.

SECTION 9. Section 542.4031(h), Transportation Code, is amended to read as follows:

(h) Notwithstanding Subsection (g)(1), in any state fiscal year the comptroller shall deposit 67 percent of the money received under Subsection (e)(2) to the credit of the

No equivalent provision.

general revenue fund only until the total amount of the money deposited to the credit of the general revenue fund under Subsection (g)(1) [~~and Section 780.002(b), Health and Safety Code,~~] equals \$250 million for that year. If in any state fiscal year the amount received by the comptroller under Subsection (g)(1) [~~those laws~~] for deposit to the credit of the general revenue fund exceeds \$250 million, the comptroller shall deposit the additional amount to the credit of the Texas mobility fund.

SECTION 10. Section 601.233(a), Transportation Code, is amended to read as follows:

(a) A citation for an offense under Section 601.191 issued as a result of Section 601.053 must include, in type larger than other type on the citation, [~~except for the type of the statement required by Section 708.105,~~] the following statement:

"A second or subsequent conviction of an offense under the Texas Motor Vehicle Safety Responsibility Act will result in the suspension of your driver's license and motor vehicle registration unless you file and maintain evidence of financial responsibility with the Department of Public Safety for two years from the date of conviction. The department may waive the requirement to file evidence of financial responsibility if you file satisfactory evidence with the department showing that at the time this citation was issued, the vehicle was covered by a motor vehicle liability insurance policy or that you were otherwise exempt from the requirements to provide evidence of financial responsibility."

No equivalent provision, but see SECTION 11 below that repeals Chapter 708, Transportation Code.

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SECTION 1. Section 708.002, Transportation Code, is amended to read as follows:

Sec. 708.002. RULES. The department shall adopt [~~and enforce~~] rules to implement [~~and enforce~~] this chapter.

SECTION 2. Sections 708.151(a) and (c), Transportation Code, are amended to read as follows:

(a) The department shall send notices as

required by Subsection (b) to the holder of a driver's license when a surcharge is assessed on that license. Each notice must:

- (1) be sent by first class mail to the person's most recent address as shown on the records of the department or to the person's most recent forwarding address on record with the United States Postal Service if it is different;
- (2) specify the date by which the surcharge must be paid; and
- (3) state the total dollar amount of the surcharge that must be paid, the number of monthly payments required under an installment payment plan, and the minimum monthly payment required for a person to enter and maintain an installment payment plan with the department[; ~~and~~
- ~~[(4) state the consequences of a failure to pay the surcharge].~~

(c) If on or before the 45th day after the date the first notice was sent the person fails to pay the amount of the surcharge or fails to enter into an installment payment agreement with the department, the department shall send a second notice. If on or before the 60th day after the date the second notice was sent the person fails to pay the amount of the surcharge or fails to enter into an installment payment agreement with the department, the department shall send a third notice [~~that advises the person that the person's driving privileges are suspended~~].

No equivalent provision, but see SECTION 11 below that repeals Chapter 708, Transportation Code.

SECTION 3. Section 708.152, Transportation Code, is amended to read as follows:

Sec. 708.152. FAILURE TO PAY SURCHARGE. The department may not impose a penalty on a person who fails to pay the amount of a surcharge on the person's license. [~~(a) If on the 60th day after the date the department sends a second notice under Section 708.151 the person fails to pay the amount of a surcharge on the person's license or fails to enter into an installment payment agreement with the department, the license of the person is automatically suspended. A person's license may not be suspended under this section before the 105th day after the date the surcharge was assessed by the department. (b) A license suspended under this section remains suspended until the person pays the amount of the surcharge and any related~~

costs.]

No equivalent provision.

SECTION 4. Subchapter D, Chapter 708, Transportation Code, is amended by adding Section 708.160 to read as follows:

Sec. 708.160. MORATORIUM ON COLLECTION OF SURCHARGES. (a)

Except as provided by Subsection (b), the department may not collect a surcharge described by this chapter on or after September 1, 2013.

(b) The department may collect a surcharge described by this chapter on or after September 1, 2015, unless another source of revenue is dedicated to the designated trauma facility and emergency medical services account established under Section 780.003, Health and Safety Code, that:

(1) is roughly equal to the amount of revenue dedicated to the account under this chapter; and

(2) was dedicated to the account on or after January 1, 2013.

SECTION 11. Chapter 708, Transportation Code, is repealed.

SECTION 5. Sections 708.154(b) and (c), Transportation Code, are repealed.

SECTION 12. Notwithstanding the repeal by this Act of Chapter 708, Transportation Code, a surcharge imposed under former Chapter 708 of that code before the effective date of this Act is governed by the applicable law in effect before the effective date of this Act, and the former law is continued in effect for that purpose.

No equivalent provision.

SECTION 13. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 6. This Act takes effect September 1, 2013.