

BILL ANALYSIS

C.S.H.B. 3206
By: Alonzo
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to some labor studies, Texas has millions of workers who cannot legally obtain driver's licenses or even insure their vehicles because current laws requiring proof of citizenship status or a personal identification certificate prohibit them from doing so. Concerned parties contend that, nevertheless, these unlicensed drivers drive to work to provide for their families and to other day-to-day activities. The parties point out that such drivers present a public safety concern if, for instance, they flee the scene of an accident or hesitate to stop and render aid in fear of being ticketed for not having a driver's license. The parties also note that it does not make business or economic sense to prevent so many people from getting driver's licenses or registering vehicles and that business owners in Texas may be found liable for incidents in which their unlicensed employees are involved.

C.S.H.B. 3206 seeks to address these concerns by creating a Texas resident driver's permit, provisional Texas resident driver's permit, and Texas resident driver's instruction permit for certain Texas residents.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Public Safety in SECTIONS 1 and 3 of this bill.

ANALYSIS

C.S.H.B. 3206 amends the Transportation Code to authorize the Department of Public Safety (DPS) to issue a Texas resident driver's permit to a person who as of the date the permit is issued, has resided in the state for at least one year; is ineligible to obtain a social security number; is unable to present to DPS documentation issued by the United States agency responsible for citizenship and immigration authorizing the person to be in the United States; and has not been finally convicted of a Class B misdemeanor, a Class A misdemeanor, or any felony offense.

C.S.H.B. 3206 establishes that such a Texas resident driver's permit is not valid as proof of the permit holder's identity for any federal purposes. The bill requires DPS to designate and clearly mark as a Texas resident driver's permit each permit issued; designate and clearly mark as a provisional Texas resident driver's permit each permit issued to a person who is at least 16 years of age but younger than 18 years of age; and include on an issued permit an indication that the permit is not valid proof of identity for any federal purposes. The bill subjects a person who holds a Texas resident driver's permit to state laws applicable to the holder of an original or duplicate driver's license and subjects an applicant for such a permit who is at least 16 years of age but younger than 18 years of age to state laws applicable to a provisional license.

C.S.H.B. 3206 requires DPS to adopt rules regarding the design and content of the Texas resident driver's permit; establishing criteria for proof of identification and residency of an applicant; designating acceptable evidence that an applicant is not eligible for a social security

number; and regarding the issuance of Texas resident driver's instruction permits. The bill sets out the requirements relating to an application for Texas resident driver's permit and requires the applicant's full name and place and date of birth as stated on the application to be verified by presentation of a current passport or consular document issued to the applicant by the country of which the applicant is a citizen.

C.S.H.B. 3206 establishes the following fees: \$150 for applying for an original Texas resident driver's license permit; \$24 for issuance or renewal of a Texas resident driver's permit; and \$15 for issuance of a provisional Texas resident driver's permit or Texas resident driver's instruction permit. The bill sets the expiration of each issued Texas resident driver's permit at two years after the date of issuance and the expiration date of each issued provisional Texas resident driver's permit and Texas resident driver's instruction permit on the 18th birthday of the permit holder.

C.S.H.B. 3206 expands the conduct that constitutes the offense of driving with an invalid license to include the operation of a motor vehicle on a highway if the person holds a Texas resident driver's permit and is unable to provide evidence of financial responsibility for a vehicle the permit holder is operating. The bill invalidates a Texas resident driver's permit if, on request of a peace officer, the permit holder is unable to provide such evidence for a motor vehicle the permit holder is operating and specifies that this inability to produce such proof is punishable as such an offense.

C.S.H.B. 3206 requires DPS, not later than January 1, 2014, to create the application form required under the bill's provisions and to adopt rules necessary to implement the bill's provisions.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3206 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

SECTION 1. Subsection (b), Section 521.041, Transportation Code, is amended to read as follows:

(b) The department shall maintain suitable indexes, in alphabetical or numerical order, that contain:

(1) each denied application and the reasons for the denial;

(2) each application that is granted; ~~and~~

(3) the name of each license holder whose license has been suspended, canceled, or revoked and the reasons for that action.;
and

~~(4) the citizenship status of each holder of a license or personal identification certificate.~~

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 2. Section 521.101, Transportation Code, is amended by removing Subsections (d-1), (f-2), and (f-3) and amending Subsection (f) to read as follows:

~~(d-1) Unless the information has been previously provided to the department, the department shall require each applicant for an original, renewal, or duplicate personal identification certificate to furnish to the department:~~

~~(1) proof of the applicant's United States citizenship; or~~

~~(2) documentation described by Subsection (f-2).~~

(f) A personal identification certificate expires on a date specified by the department, except that a certificate to a person 60 years or older does not expire.

~~(1) for an applicant who is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States:~~

~~(A) expires on a date specified by the department if the applicant is younger than 60 years of age; or~~

~~(B) does not expire if the applicant is 60 years of age or older; or~~

~~(2) for an applicant not described by Subdivision (1), expires on:~~

~~(A) the earlier of:~~

~~(i) a date specified by the department; or~~

~~(ii) the expiration date of the applicant's authorized stay in the United States; or~~

~~(B) the first anniversary of the date of issuance, if there is no definite expiration date for the applicant's authorized stay in the United States[, except that a certificate issued to a person 60 years of age or older does not expire].~~

~~(f-2) An applicant who is not a citizen of the United States must present to the department documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.~~

~~(f-3) The department may not issue a personal identification certificate to an applicant who fails or refuses to comply with Subsection (f-2).~~

No equivalent provision.

SECTION 3. Section 521.103, Transportation Code, is amended by removing Subsection (c):

No equivalent provision.

~~(e) Sections 521.101(f 2) and (f 3) apply to a personal identification certificate for which application is made under this section.~~

SECTION 4. Section 521.142, Transportation Code, is amended by adding Subsections (f) and (g) and amending Subsections (a), (c), and (e) to read as follows:

No equivalent provision.

(a) An application for an original license must state the applicant's full name and place and date of birth. This information must be verified by presentation of proof of identity satisfactory to the department. ~~An applicant who is not a citizen of the United States must present to the department documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States before the applicant may be issued a driver's license.~~ The department must accept as satisfactory proof of identity under this subsection an offender identification card or similar form of identification issued to an inmate by the Texas Department of Criminal Justice if the applicant also provides supplemental verifiable records or documents that aid in establishing identity.

(c) The application must state:

- (1) the sex of the applicant;
- (2) the residence address of the applicant, or if the applicant is a federal judge, a state judge, or the spouse of a federal or state judge using the procedure developed under Section 521.121(c), the street address of the courthouse in which the applicant or the applicant's spouse serves as a federal judge or a state judge;
- (3) whether the applicant has been licensed to drive a motor vehicle before;
- (4) if previously licensed, when and by what state or country;
- (5) whether that license has been suspended or revoked or a license application denied;
- (6) the date and reason for the suspension, revocation, or denial; and
- ~~(7) whether the applicant is a citizen of the United States; and~~
- ~~(8)~~ (7) the county of residence of the applicant.

(e) The application must include any other information the department requires to determine the applicant's identity,

residency, and competency. ~~and eligibility as required by the department or state law.~~

(f) No other citizenship evidentiary requirement should be imposed.

(g) The use of allocated funding to determine applicant citizenship status is prohibited.

SECTION 5. Section 521.1425, Transportation Code, is amended by removing Subsection (c) and by amending Subsections (a) and (b) to read as follows:

(a) Except as provided by ~~[Subsections]~~ Subsection (b), ~~and (e)~~, the department may require each applicant for an original, renewal, or duplicate driver's license to furnish to the department the information required by Section 521.142.

(b) The department shall require each applicant for an original, renewal, or duplicate driver's license to furnish to the department the information required by Section 521.142(c)(7), ~~and (8)~~

~~(e) Unless the information has been previously provided to the department, the department shall require each applicant for an original, renewal, or duplicate driver's license to furnish to the department:~~

~~(1) proof of the applicant's United States citizenship; or~~

~~(2) documentation described by Section 521.142(a).~~

No equivalent provision.

SECTION 6. Section 521.271, Transportation Code, is amended by removing Subsections (a-2), (a-3), and (a-4) and amending Subsections (a) and (b) to read as follows:

(a) Each original driver's license, ~~[and]~~ provisional license, instruction permit, or occupational driver's license issued to an applicant who is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires as follows:

(1) except as provided by Section 521.2711, a driver's license expires on the first birthday of the license holder occurring after the sixth anniversary of the date of the application;

(2) a provisional license expires on the 18th birthday of the license holder;

(3) an instruction permit expires on the 18th birthday of the license holder;

(4) an occupational driver's license expires

No equivalent provision.

on the first anniversary of the court order granting the license; and

(5) unless an earlier date is otherwise provided, a driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance.

(a 2) Each original driver's license issued to an applicant who is not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires on:

(1) the earlier of:

(A) the first birthday of the licence holder occurring after the sixth anniversary of the date of the application; or

(B) the expiration date of the licence holder's lawful presence in the United States as determined by the appropriate United States agency in compliance with federal law; or

(2) the first anniversary of the date of issuance, if there is no definite expiration date for the applicant's authorized stay in the United States.

(a 3) Each original provisional license or instruction permit issued to an applicant who is not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires on the earliest of:

(1) the 18th birthday of the license holder;

(2) the first birthday of the license holder occurring after the date of the application;

or

(3) the expiration of the license holder's lawful presence in the United States as determined by the United States agency responsible for citizenship and immigration in compliance with federal law.

~~(a 4) Each original occupational driver's license issued to an applicant who is not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires on the earlier of:~~

~~(1) the first anniversary of the date of issuance; or~~

~~(2) the expiration of the license holder's lawful presence in the United States as determined by the appropriate United States agency in compliance with federal~~

law.

(b) Except as provided by Section 521.2711, a driver's license that is renewed expires on the earlier of:

(1) the sixth anniversary of the expiration date before renewal; ~~or if the applicant is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States;~~

~~(1-a) for an applicant not described by Subdivision (1):~~

~~(A) the earlier of:~~

~~(i) the sixth anniversary of the expiration date before renewal; or~~

~~(ii) the expiration date of the applicant's authorized stay in the United States; or~~

~~(B) the first anniversary of the date of issuance, if there is no definite expiration date for the applicant's authorized stay in the United States; or~~

(2) for a renewal driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility, the first birthday of the license holder occurring after the first anniversary of the date of issuance unless an earlier date is otherwise provided.

SECTION 7. Section 521.2711, Transportation Code, is amended by removing Subsection (c):

~~(c) Notwithstanding Subsections (a) and (b), an original or renewal driver's license issued to an applicant who is 85 years of age or older and not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires on:~~

~~(1) the earlier of:~~

~~(A) the second anniversary of the expiration date before renewal; or~~

~~(B) the expiration date of the applicant's authorized stay in the United States; or~~

~~(2) the first anniversary of the date of issuance if there is no definite expiration date for the applicant's authorized stay in the United States.~~

SECTION 8. Subsections (c) and (d), Section 521.272, Transportation Code, is amended to read as follows:

(c) Notwithstanding Sections [Section] 521.271 and 521.2711, a driver's license issued under this section, including a

No equivalent provision.

No equivalent provision.

renewal, duplicate, or corrected license, expires:

(1) if the license holder is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States, on the first birthday of the license holder occurring after the date of application, except that the initial license issued under this section expires on the second birthday of the license holder occurring after the date of application;~~;~~ ~~or~~

~~(2) if the applicant is not described by Subdivision (1), on the earlier of:~~

~~(A) the expiration date of the applicant's authorized stay in the United States; or~~

~~(B) the first birthday of the license holder occurring after the date of application, except that the initial license issued under this section expires on the second birthday of the license holder occurring after the date of application.~~

(d) Subsection (c) does not apply to:

(1) a provisional license;

(2) an instruction permit issued under Section 521.222; or

(3) a hardship license issued under Section 521.223.

SECTION 9. Section 521.421, Transportation Code, is amended by removing Subsection (a-3):

~~(a 3) Except as provided by Subsections (a 1) and (a 2), the fee for a driver's license or personal identification certificate that is issued to a person who is not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States and that is valid for not more than one year is \$24.~~

No equivalent provision.

SECTION 10. Subsection (b), Section 522.033, Transportation Code, is amended to read as follows:

(b) Notwithstanding Section 522.051, a commercial driver's license or commercial driver learner's permit issued under this section, including a renewal, duplicate, or corrected license, expires on the first birthday of the license holder occurring after the date of application, except that the initial license issued under this section expires on the second birthday of the license holder occurring after the date of

No equivalent provision.

application. ~~or~~

~~(2) if the applicant is not described by Subdivision (1), on the earlier of:~~

~~(A) the expiration date of the applicant's authorized stay in the United States; or~~

~~(B) the first birthday of the license holder occurring after the date of application, except that the initial license issued under this section expires on the second birthday of the license holder occurring after the date of application.~~

SECTION 11. Subsection (i), Section 522.052, Transportation Code, is amended to read as follows:

(i) Unless the information has been previously provided to the department, the department shall require each applicant for a renewal or duplicate commercial driver's license to furnish to the department documentation described by Section 521.142(a).

No equivalent provision.

SECTION 12. Not later than January 1, 2015, the Department of Public Safety of the State of Texas shall submit to the legislature a report evaluating the effectiveness of the temporary visitor stations established under Section 521.007, Transportation Code, as added by this Act.

No equivalent provision.

SECTION 13. The changes in law made by this Act to Chapters 521 and 522, Transportation Code, apply only to a driver's license, personal identification certificate, commercial driver's license, or commercial driver learner's permit issued, reissued, reinstated, or renewed on or after the effective date of this Act. A driver's license, personal identification certificate, commercial driver's license, or commercial driver learner's permit issued, reissued, reinstated, or renewed before the effective date of this Act is governed by the law in effect when the license, certificate, or permit was issued, reissued, reinstated, or renewed, and the former law is continued in effect for that purpose.

No equivalent provision.

No equivalent provision.

SECTION 1. Chapter 521, Transportation Code, is amended by adding Subchapter K-1 to read as follows:

No equivalent provision.

SUBCHAPTER K-1. TEXAS RESIDENT DRIVER'S PERMIT

No equivalent provision.

Sec. 521.231. ELIGIBILITY. The department may issue a Texas resident driver's permit to a person who:

- (1) as of the date the permit is issued, has resided in this state for at least one year;
- (2) is ineligible to obtain a social security number;
- (3) is unable to present to the department documentation issued by the United States agency responsible for citizenship and immigration authorizing the person to be in the United States; and
- (4) has not been finally convicted of a Class B misdemeanor, a Class A misdemeanor, or any felony offense.

No equivalent provision.

Sec. 521.232. TEXAS RESIDENT DRIVER'S PERMIT REQUIREMENTS. (a) A Texas resident driver's permit issued under this subchapter is not valid as proof of the permit holder's identity for any federal purposes.

(b) The department shall:

(1) designate and clearly mark as a Texas resident driver's permit each permit issued under this subchapter;

(2) designate and clearly mark as a provisional Texas resident driver's permit each permit issued under this subchapter to a person who is at least 16 years of age but younger than 18 years of age; and

(3) include on a permit issued under this subchapter an indication that the permit is not valid proof of identity for any federal purposes.

(c) Except as otherwise provided by this chapter, a person who holds a Texas resident driver's permit is subject to the laws of this state applicable to the holder of an original or duplicate driver's license.

(d) Except as otherwise provided by this chapter, an applicant for a Texas resident driver's permit who is at least 16 years of age but younger than 18 years of age is subject to the laws of this state applicable to a holder of a provisional license.

(e) The department shall adopt rules:

(1) regarding the design and content of the Texas resident driver's permit;

(2) establishing criteria for proof of identification and residency of an applicant;

(3) designating acceptable evidence that an applicant is not eligible for a social security number; and

No equivalent provision.

(4) regarding the issuance of Texas resident driver's instruction permits.

Sec. 521.233. APPLICATION. (a) An application for a Texas resident driver's permit must state the applicant's full name and place and date of birth. This information must be verified by presentation of a current passport or consular document issued to the applicant by the country of which the applicant is a citizen.

(b) The application must include:

(1) a complete electronic set of the applicant's fingerprints;

(2) a photograph of the applicant;

(3) the signature of the applicant;

(4) a brief description of the applicant; and

(5) any information necessary for performing a criminal history background check on the applicant.

(c) The application must state:

(1) the sex of the applicant;

(2) the residence address of the applicant;

(3) whether the applicant has been licensed to drive a motor vehicle before;

(4) if previously licensed:

(A) when and by what state or country;

(B) whether that license has been suspended or revoked or a license application denied; and

(C) the date and reason for the suspension, revocation, or denial; and

(5) the county of residence of the applicant.

(d) If the applicant is younger than 21 years of age, the application must state whether the applicant has completed a driver education course required by Section 521.1601.

(e) The application must include any other information the department requires to determine the applicant's identity, residency, competency, and eligibility as required by the department or state law.

(f) Information supplied to the department relating to an applicant's medical history is for the confidential use of the department and may not be disclosed to any person or used as evidence in a legal proceeding other than a proceeding under Subchapter N. This subsection does not apply to information provided by an applicant under Subsection (g).

(g) The application must provide space for the applicant to voluntarily list any health condition that may impede communication with a peace officer as evidenced by a written

statement from a licensed physician.

No equivalent provision.

Sec. 521.234. FEES. (a) The fee for applying for an original Texas resident driver's permit is \$150.

(b) The fee for issuance or renewal of a Texas resident driver's permit is \$24.

(c) The fee for issuance of a provisional Texas resident driver's permit or Texas resident driver's instruction permit is \$15.

No equivalent provision.

Sec. 521.235. EXPIRATION. (a) Each Texas resident driver's permit issued under this subchapter expires two years after the date of issuance.

(b) Each provisional Texas resident driver's permit and Texas resident driver's instruction permit issued under this subchapter expires on the 18th birthday of the permit holder.

No equivalent provision.

Sec. 521.236. FINANCIAL RESPONSIBILITY REQUIREMENT. (a) A Texas resident driver's permit is invalid if, on request of a peace officer, the permit holder is unable to provide evidence of financial responsibility for a motor vehicle the permit holder is operating.

(b) A holder of a Texas resident driver's permit who cannot produce proof of financial responsibility commits an offense punishable under Section 521.457.

No equivalent provision.

SECTION 2. Section 521.457(a), Transportation Code, is amended to read as follows:

(a) A person commits an offense if the person operates a motor vehicle on a highway:

(1) after the person's driver's license has been canceled under this chapter if the person does not have a license that was subsequently issued under this chapter;

(2) during a period that the person's driver's license or privilege is suspended or revoked under any law of this state;

(3) while the person's driver's license is expired if the license expired during a period of suspension; [ø]

(4) after renewal of the person's driver's license has been denied under any law of this state, if the person does not have a driver's license subsequently issued under this chapter; or

(5) if the person holds a Texas resident driver's permit issued under Subchapter K-1

and is unable to provide evidence of financial responsibility for a vehicle the permit holder is operating, as required under Section 521.236.

No equivalent provision.

SECTION 14. 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 on the 91st day after the last day of the legislative session.

SECTION 3. Not later than January 1, 2014, the Department of Public Safety of the State of Texas shall:

- (1) adopt the rules necessary to implement Subchapter K-1, Chapter 521, Transportation Code, as added by this Act; and
- (2) create the application form required by Section 521.233, Transportation Code, as added by this Act.

SECTION 4. This Act takes effect September 1, 2013.