

BILL ANALYSIS

C.S.S.B. 1056
By: Hinojosa
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that the Department of Public Safety is required to automatically suspend the driver's license of a person who fails to pay certain surcharges under the driver responsibility program. In addition, the parties continue, the law provides for special treatment under the program for a person determined by a court to be indigent. These parties have expressed concern that many low-income Texans who are unable to pay a surcharge lose their ability to drive, which often equates to an inability to work. Also the parties note that certain redundancies in the determination of a person's indigence cause inefficiencies in the judicial system. C.S.S.B. 1056 seeks to address these concerns.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Education Agency in SECTION 15 of this bill.

ANALYSIS

C.S.S.B. 1056 amends the Transportation Code to authorize a judge to dismiss a charge of operating a motor vehicle without a driver's license if the defendant obtains a driver's license not later than the 60th working day after the date of the offense. The bill requires the judge to assess the defendant an administrative fee not to exceed \$50 when the charge is dismissed. The bill specifies that these provisions do not apply to a charge of driving without a commercial driver's license.

C.S.S.B. 1056 prohibits the Department of Public Safety (DPS) from extending the period a person's driver's license is suspended for a conviction of operating a motor vehicle on a highway during a period that the person's driver's license or privilege is suspended or revoked if the person has not been convicted of driving while the person's license is invalid in the 36-month period before the date of the current offense and if at the time of the current offense the person's license was suspended for failure to pay surcharges on the person's license or for failure to enter into an installment payment agreement with DPS under the driver responsibility program.

C.S.S.B. 1056 authorizes a judge to dismiss a charge of operating a motor vehicle in violation of motor vehicle liability insurance requirements for a defendant who cannot establish financial responsibility on the date of the offense if the defendant establishes financial responsibility not later than the 20th working day after the date of the offense. The bill requires a motor vehicle liability insurance policy through which the defendant establishes financial responsibility to be prepaid and valid for at least a six-month period. The bill requires the judge to assess the

defendant an administrative fee not to exceed \$50 when the charge is dismissed. The bill authorizes DPS, for purposes of the driver responsibility program, to electronically send a communication if DPS obtains consent from the person before electronically sending the communication. The bill includes records obtained by DPS from another entity or service among the records to be used by DPS in identifying a person's most recent address for purposes of notifying the person of the assignment of a fifth point on the person's driver's license under the driver responsibility program.

C.S.S.B. 1056 removes the requirement for DPS to assess each year a surcharge on the license of each person who during the preceding 36-month period has been finally convicted of an offense relating to the operating of a motor vehicle while intoxicated, driving while the person's license is invalid, operating a motor vehicle in violation of motor vehicle liability insurance requirements, operating a motor vehicle in violation of a vehicle registration suspension, or driving without a required license. The bill instead requires DPS to assess a surcharge on the license of each person who is convicted of such offenses. The bill conditions the assessment of a surcharge on the license of a person who is convicted of driving while the person's license is invalid on the defendant having been previously convicted one or more times of such an offense. The bill revises statutory provisions specifying the amounts of such surcharges and replaces the prohibition against the surcharge for a conviction of an offense relating to the operating of a motor vehicle while intoxicated or driving without a required license being assessed for the same conviction in more than three years with a prohibition against the surcharge for such an offense being assessed more than once for the same conviction.

C.S.S.B. 1056 requires the court to notify a defendant charged with an offense under a traffic law of the state or a political subdivision of the state, in writing, at the time of the defendant's first court appearance or as soon as possible on or after the date the defendant pays a fine associated with the offense, whichever is earlier, that a conviction may result in the assessment of a surcharge under the driver responsibility program. The bill requires the written notification to include the same statement regarding potential surcharges under the program that is required to be included in a citation issued for such an offense. The bill includes records obtained by DPS from another entity or service among the records to be used by DPS in identifying a person's most recent address for purposes of notifying the person of the assessment of a surcharge on the person's license. The bill specifies that the requirement for DPS to provide by rule for the payment of a surcharge in installments applies to any surcharge assessed under the driver responsibility program, including a surcharge pending on September 1, 2015. The bill revises the surcharge installment amounts that a DPS rule may require a person to pay over specified time periods and revises those associated time periods.

C.S.S.B. 1056 expands the conditions under which a person is considered to be indigent for purposes of DPS waiving all surcharges assessed under the driver responsibility program to include the determination of indigence for the purpose of appointing counsel for the offense that is the basis for the surcharge and the absence of a court's subsequent finding that the person had the ability to pay, wholly or partly, the cost of the appointed counsel.

C.S.S.B. 1056 amends the Education Code to require the Texas Education Agency (TEA) by rule to require that information relating to the driver responsibility program and the surcharges assessed under that program be included in the curriculum of any driver education course or driving safety course. The bill requires TEA to consult with DPS in developing the rules.

C.S.S.B. 1056 amends the Government Code to require a defendant to pay a \$50 administrative fee on dismissal of a charge of driving without a required license or operation of a motor vehicle in violation of motor vehicle liability insurance requirements.

C.S.S.B. 1056 specifies that the state is not required to refund a surcharge collected before the bill's effective date.

C.S.S.B. 1056 repeals Section 708.159, Transportation Code.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1056 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 1. Subchapter B, Chapter 521, Transportation Code, is amended by adding Section 521.0265 to read as follows:
Sec. 521.0265. DISMISSAL OF DRIVING WITHOUT REQUIRED LICENSE CHARGE.
(a) A judge may dismiss a charge of operating a motor vehicle without a driver's license under Section 521.021 if the defendant obtains a driver's license not later than the 60th working day after the date of the offense.
(b) The judge shall assess the defendant an administrative fee not to exceed \$50 when a charge is dismissed under Subsection (a).
(c) This section does not apply to a charge of driving without a commercial driver's license under Section 522.011.

No equivalent provision.

SECTION 2. Section 521.343(c), Transportation Code, is amended to read as follows:
(c) Except as otherwise provided by Section 521.457(h), if [H] the license holder is convicted of operating a motor vehicle while the license to operate a motor vehicle is cancelled, disqualified, suspended, revoked, or denied, the period is extended for the same term as the original suspension or disqualification, in addition to any penalty assessed under this chapter or Chapter 522.

No equivalent provision.

SECTION 3. Section 521.457, Transportation Code, is amended by adding Subsection (h) to read as follows:
(h) The department may not extend the period a person's driver's license is suspended, as provided by Section 521.343, for a conviction of an offense described by Subsection (a)(2) if:
(1) the person has not been convicted of an offense under this section in the 36-month period before the date of the current offense;
and

(2) at the time of the current offense the person's license was suspended under Section 708.152.

No equivalent provision.

SECTION 4. Subchapter G, Chapter 601, Transportation Code, is amended by adding Section 601.192 to read as follows:

Sec. 601.192. DISMISSAL OF CHARGE OF OPERATION OF MOTOR VEHICLE IN VIOLATION OF MOTOR VEHICLE LIABILITY INSURANCE REQUIREMENT.

(a) A judge may dismiss a charge under Section 601.191 for a defendant who cannot establish financial responsibility on the date of the offense if the defendant establishes financial responsibility under Section 601.051 not later than the 20th working day after the date of the offense.

(b) If the defendant establishes financial responsibility under Subsection (a) through a motor vehicle liability insurance policy that complies with Subchapter D, the policy must be prepaid and valid for at least a six-month period.

(c) The judge shall assess the defendant an administrative fee not to exceed \$50 when a charge is dismissed under Subsection (a).

No equivalent provision.

SECTION 5. Subchapter A, Chapter 708, Transportation Code, is amended by adding Section 708.004 to read as follows:

Sec. 708.004. ELECTRONIC DELIVERY OF COMMUNICATIONS. Notwithstanding a provision of this chapter requiring a notice or other communication to be sent by mail, the department may electronically send the communication if the department obtains consent from the person before electronically sending the communication.

No equivalent provision.

SECTION 6. Section 708.055, Transportation Code, is amended to read as follows:

Sec. 708.055. NOTICE OF ASSIGNMENT OF FIFTH POINT. The department shall notify the holder of a driver's license of the assignment of a fifth point on that license by first class mail sent to the person's most recent address as shown on the records of the department or records obtained by the department from another entity or service.

No equivalent provision.

SECTION 7. Sections 708.102(b), (c), and (d), Transportation Code, are amended to read as follows:

(b) The [Each year the] department shall

assess a surcharge on the license of a ~~each~~ person for each conviction ~~[who during the preceding 36-month period has been finally convicted]~~ of an offense relating to the operating of a motor vehicle while intoxicated.

(c) The amount of a surcharge under this section is:

(1) \$3,000 for the first conviction;

(2) \$4,500 ~~[\$1,000 per year, except that the amount of the surcharge is:~~

~~[(1) \$1,500 per year]~~ for a second or subsequent conviction within a 36-month period; or

(3) \$6,000 ~~and~~

~~[(2) \$2,000]~~ for a first or subsequent conviction if it is shown on the trial of the offense that an analysis of a specimen of the person's blood, breath, or urine showed an alcohol concentration level of 0.16 or more at the time the analysis was performed.

(d) A surcharge under this section ~~[for the same conviction]~~ may not be assessed more than once for the same conviction ~~[in more than three years]~~.

No equivalent provision.

SECTION 8. Section 708.103, Transportation Code, is amended to read as follows:

Sec. 708.103. SURCHARGE FOR CONVICTION OF DRIVING WHILE LICENSE INVALID OR WITHOUT FINANCIAL RESPONSIBILITY. (a) The ~~[Each year the]~~ department shall assess a surcharge on the license of each person who is ~~[during the preceding 36-month period has been]~~ convicted of an offense under:

(1) Section ~~[521.457,]~~ 601.191~~;~~ or 601.371; or

(2) Section 521.457, if the defendant has been previously convicted one or more times of an offense under that section.

(b) The amount of a surcharge under this section is \$750 ~~[\$250 per year]~~.

No equivalent provision.

SECTION 9. Section 708.104, Transportation Code, is amended to read as follows:

Sec. 708.104. SURCHARGE FOR CONVICTION OF DRIVING WITHOUT REQUIRED ~~[VALID]~~ LICENSE. (a) The ~~[Each year the]~~ department shall assess a surcharge on the license of a person who is ~~[during the preceding 36-month period has been]~~ convicted of an offense under Section 521.021.

(b) The amount of a surcharge under this section is \$300 ~~[\$100 per year]~~.

(c) A surcharge under this section [~~for the same conviction~~] may not be assessed more than once for the same conviction [~~in more than three years~~].

No equivalent provision.

SECTION 10. Section 708.105, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) The court shall notify a defendant charged with an offense under a traffic law of this state or a political subdivision of this state, in writing, at the time of the defendant's first court appearance or as soon as possible on or after the date the defendant pays a fine associated with the offense, whichever is earlier, that a conviction may result in the assessment of a surcharge under the driver responsibility program. The written notification must include the statement described by Subsection (a).

No equivalent provision.

SECTION 11. Section 708.106, Transportation Code, is amended to read as follows:

Sec. 708.106. DEFERRAL OF SURCHARGES FOR DEPLOYED MILITARY PERSONNEL. The department by rule shall establish a deferral program for surcharges assessed under Section 708.103 or 708.104 against a person who is a member of the United States armed forces on active duty deployed outside of the continental United States. The program must:

- (1) toll the surcharge payment [~~36-month~~] period while the person is deployed; and
- (2) defer assessment of surcharges against the person until the date the person is no longer deployed for an offense committed:
 - (A) before the person was deployed; or
 - (B) while the person is deployed.

No equivalent provision.

SECTION 12. Section 708.151(a), Transportation Code, is 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:
 - (A) the person's most recent address as shown on the records of the department or records obtained by the department from another entity or service; or
 - (B) [†] 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;

(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.

No equivalent provision.

SECTION 13. Section 708.153, Transportation Code, is amended to read as follows:

Sec. 708.153. INSTALLMENT PAYMENT OF SURCHARGE. (a) The department by rule shall provide for the payment of any [a] surcharge assessed under this chapter in installments, including a surcharge pending on September 1, 2015.

(b) A rule under this section:

(1) may not require a person to:

(A) pay surcharges that total \$1,000 [~~\$500~~] or more over a period of less than 60 [~~36~~] consecutive months;

(B) pay surcharges that total more than \$750 [~~\$250~~] but not more than \$999 [~~\$499~~] over a period of less than 48 [~~24~~] consecutive months; or

(C) pay surcharges that total \$749 [~~\$249~~] or less over a period of less than 36 [~~12~~] consecutive months; and

(2) may provide that if the person fails to make any required monthly installment payment, the department may reestablish the installment plan on receipt of a payment in the amount equal to at least a required monthly installment payment.

SECTION 1. Section 708.158(a), Transportation Code, is amended.

No equivalent provision.

SECTION 14. Same as engrossed version.

SECTION 15. Subchapter C, Chapter 1001, Education Code, is amended by adding Section 1001.1035 to read as follows:

Sec. 1001.1035. DRIVER RESPONSIBILITY PROGRAM INFORMATION. (a) The agency by rule shall require that information relating to the driver responsibility program established under Chapter 708, Transportation Code, and the surcharges assessed under that program be included in the curriculum of any driver education course or driving safety course.

(b) In developing rules under this section, the agency shall consult with the department.

No equivalent provision.

SECTION 16. Subchapter B, Chapter 103, Government Code, is amended by adding Sections 103.02135 and 103.02136 to read as follows:

Sec. 103.02135. ADDITIONAL FEES AND COSTS IN CRIMINAL CASE: TRANSPORTATION CODE. A defendant shall pay the following administrative fee on dismissal of a charge of driving without a required license (Sec. 521.0265, Transportation Code) . . . \$50.

Sec. 103.02136. ADDITIONAL FEES AND COSTS IN CRIMINAL CASE: TRANSPORTATION CODE. A defendant shall pay the following administrative fee on dismissal of a charge of operation of a motor vehicle in violation of motor vehicle liability insurance requirement (Sec. 601.192, Transportation Code) . . . \$50.

No equivalent provision.

SECTION 17. Section 708.159, Transportation Code, is repealed.

No equivalent provision.

SECTION 18. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 2. The change in law made by this Act to Section 708.158, Transportation Code, applies only to a surcharge assessed on or after the effective date of this Act, including a surcharge assessed for a conviction for an offense that occurred before the effective date of this Act. The state is not required to refund a surcharge collected before the effective date of this Act.

SECTION 19. Same as engrossed version.

SECTION 3. 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, 2015.

SECTION 20. This Act takes effect September 1, 2015.