

By: Hinojosa  
(Turner of Harris)

S.B. No. 1056

Substitute the following for S.B. No. 1056:

By: Phillips

C.S.S.B. No. 1056

A BILL TO BE ENTITLED

AN ACT

relating to penalties for certain criminal offenses regarding  
operating a motor vehicle; imposing a fee and changing a surcharge.

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

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.

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  
~~if~~ 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

1 522.

2 SECTION 3. Section 521.457, Transportation Code, is amended  
3 by adding Subsection (h) to read as follows:

4 (h) The department may not extend the period a person's  
5 driver's license is suspended, as provided by Section 521.343, for  
6 a conviction of an offense described by Subsection (a)(2) if:

7 (1) the person has not been convicted of an offense  
8 under this section in the 36-month period before the date of the  
9 current offense; and

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

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

14 Sec. 601.192. DISMISSAL OF CHARGE OF OPERATION OF MOTOR  
15 VEHICLE IN VIOLATION OF MOTOR VEHICLE LIABILITY INSURANCE  
16 REQUIREMENT. (a) A judge may dismiss a charge under Section  
17 601.191 for a defendant who cannot establish financial  
18 responsibility on the date of the offense if the defendant  
19 establishes financial responsibility under Section 601.051 not  
20 later than the 20th working day after the date of the offense.

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

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

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

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

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

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

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

19 (b) The [~~Each year the~~] department shall assess a surcharge  
20 on the license of a a [~~each~~] person for each conviction [~~who during~~  
21 ~~the preceding 36-month period has been finally convicted~~] of an  
22 offense relating to the operating of a motor vehicle while  
23 intoxicated.

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

25 (1) \$3,000 for the first conviction;

26 (2) \$4,500 [~~\$1,000 per year, except that the amount of~~  
27 ~~the surcharge is:~~

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

3           (3) \$6,000 ~~[and~~  
4           ~~[(2) \$2,000]~~ for a first or subsequent conviction if  
5 it is shown on the trial of the offense that an analysis of a  
6 specimen of the person's blood, breath, or urine showed an alcohol  
7 concentration level of 0.16 or more at the time the analysis was  
8 performed.

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

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

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

- 19           (1) Section [521.457] 601.191[7] or 601.371; or  
20           (2) Section 521.457, if the defendant has been  
21 previously convicted one or more times of an offense under that  
22 section.

23           (b) The amount of a surcharge under this section is \$750  
24 ~~[\$250 per year]~~.

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

27           Sec. 708.104. SURCHARGE FOR CONVICTION OF DRIVING WITHOUT

1 REQUIRED [~~VALID~~] LICENSE. (a) The [~~Each year the~~] department shall  
2 assess a surcharge on the license of a person who is [~~during the~~  
3 ~~preceding 36-month period has been~~] convicted of an offense under  
4 Section 521.021.

5 (b) The amount of a surcharge under this section is \$300  
6 [~~\$100 per year~~].

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

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

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

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

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

1 The program must:

2 (1) toll the surcharge payment [~~36-month~~] period while  
3 the person is deployed; and

4 (2) defer assessment of surcharges against the person  
5 until the date the person is no longer deployed for an offense  
6 committed:

7 (A) before the person was deployed; or

8 (B) while the person is deployed.

9 SECTION 12. Section 708.151(a), Transportation Code, is  
10 amended to read as follows:

11 (a) The department shall send notices as required by  
12 Subsection (b) to the holder of a driver's license when a surcharge  
13 is assessed on that license. Each notice must:

14 (1) be sent by first class mail to:

15 (A) the person's most recent address as shown on  
16 the records of the department or records obtained by the department  
17 from another entity or service; or

18 (B) [~~to~~] the person's most recent forwarding  
19 address on record with the United States Postal Service if it is  
20 different;

21 (2) specify the date by which the surcharge must be  
22 paid;

23 (3) state the total dollar amount of the surcharge  
24 that must be paid, the number of monthly payments required under an  
25 installment payment plan, and the minimum monthly payment required  
26 for a person to enter and maintain an installment payment plan with  
27 the department; and

1 (4) state the consequences of a failure to pay the  
2 surcharge.

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

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

9 (b) A rule under this section:

10 (1) may not require a person to:

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

13 (B) pay surcharges that total more than \$750  
14 [~~\$250~~] but not more than \$999 [~~\$499~~] over a period of less than 48  
15 [~~24~~] consecutive months; or

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

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

22 SECTION 14. Section 708.158(a), Transportation Code, is  
23 amended to read as follows:

24 (a) The department shall waive all surcharges assessed  
25 under this chapter for a person who is indigent. For the purposes  
26 of this section, a person is considered to be indigent if the  
27 person:

1           (1) was determined to be indigent for the purpose of  
2 appointing counsel under Article 26.04, Code of Criminal Procedure,  
3 for the offense that is the basis for the surcharge, and the court  
4 did not make a subsequent finding that the person had the ability to  
5 pay, wholly or partly, the cost of the appointed counsel; or

6           (2) provides the evidence described by Subsection (b)  
7 to the court.

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

10           Sec. 1001.1035. DRIVER RESPONSIBILITY PROGRAM INFORMATION.

11 (a) The agency by rule shall require that information relating to  
12 the driver responsibility program established under Chapter 708,  
13 Transportation Code, and the surcharges assessed under that program  
14 be included in the curriculum of any driver education course or  
15 driving safety course.

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

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

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

25           Sec. 103.02136. ADDITIONAL FEES AND COSTS IN CRIMINAL CASE:  
26 TRANSPORTATION CODE. A defendant shall pay the following  
27 administrative fee on dismissal of a charge of operation of a motor



1 vehicle in violation of motor vehicle liability insurance  
2 requirement (Sec. 601.192, Transportation Code) . . . \$50.

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

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

13 SECTION 19. The change in law made by this Act to Section  
14 708.158, Transportation Code, applies only to a surcharge assessed  
15 on or after the effective date of this Act, including a surcharge  
16 assessed for a conviction for an offense that occurred before the  
17 effective date of this Act. The state is not required to refund a  
18 surcharge collected before the effective date of this Act.

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