

BILL ANALYSIS

Senate Research Center

H.B. 2068
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Transportation
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Driver Responsibility Program (DRP) began in 2003 and was intended to enhance public safety, to provide funds for uncompensated trauma care. DRP assesses additional charges for certain offenses, including but not limited to driving while intoxicated, driving without insurance, and driving without a valid license. Revenues from DRP are currently divided between the general revenue fund (GRF), trauma fund 5111, and local governments. One percent of the revenues collected are used to pay for the administration of DRP.

While well-intentioned, several issues have plagued the DRP since its inception. DRP has struggled with compliance; over the course of DRP roughly half of the billed surcharges have been collected. DRP also faces challenges in notifying persons that they have a surcharge, and criticism that it disproportionately harms the poor, and that persons are effectively being fined twice for the same offense.

Over the years, legislators and other interested parties have attempted to improve DRP, but problems still exist. The only remedy available for the non-payment of a DRP surcharge is the invalidation of a person's driver's license. If that person is found to be driving while their license is invalid, they are assessed another surcharge. This creates additional debts for those already struggling to pay for the original surcharges, causes more burdens on the local judiciary, and increases time spent in jail by low-level offenders.

H.B. 2068 abolishes DRP and increases the state traffic fine. It adds additional fines under the state traffic fine for driving while intoxicated and driving without proof of financial responsibility. The bill also changes the formula by which the state traffic funds are allocated so that a municipality retains 2.5 percent of the fine; 58.5 percent goes to the GRF; and 41.5 percent goes to the trauma facility fund (Fund 5111).

H.B. 2068 amends current law relating to the repeal of the driver responsibility program and the amount and allocation of state traffic fine funds and authorizes and increases criminal fines.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Commission of Licensing and Regulation is modified in SECTION 2 (Section 1001.112, Education Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Public Safety (DPS) in SECTION 9 (Section 542.304, Transportation Code) of this bill.

Rulemaking authority previously granted to DPS is rescinded in SECTION 13 (Sections 708.002, 708.052, 708.056, 708.106, 708.153, 708.154, and 708.157, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 102.022(a), Code of Criminal Procedure, to redefine "moving violation."

SECTION 2. Amends Article 1001.112, Education Code, by adding Subsection (a-1), as follows:

(a-1) Requires the rules adopted under Subsection (a) (relating to requiring the Texas Commission of Licensing and Regulation (TCLR) by rule to provide approval for a driver education course conducted by a certain guardian to obtain a Class C license), notwithstanding Subsection (a)(4) (relating to a student who is obtaining a Class C license to not have more than six points), to provide that on the date a person described by Subsection (a) begins conducting a driver education course, the person conducting the course has not been convicted during the preceding 36-month period 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.

SECTION 3. Amends Section 411.110(f), Government Code, to prohibit the Department of State Health Services (DSHS) from considering offenses described by Section 542.304, Transportation Code, rather than considering offenses for which points are assessed under Section 708.052 (Assignment of Points for Certain Convictions), 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.

SECTION 4. Amends Section 773.0614(b), Health and Safety Code, to prohibit DSHS, for purposes of Subsection (a) (relating to authorizing DSHS to take certain actions to prevent someone from receiving a certificate or taking the certification examination on the grounds that a person has committed a certain offense that directly relates to the duties of emergency services personnel), from considering offenses described by Section 542.304, Transportation Code, rather than from considering offenses for which points are assessed under Section 708.052, Transportation Code.

SECTION 5. Amends Section 773.06141(a), Health and Safety Code, as follows:

(a) Authorizes DSHS to suspend, revoke, or deny an emergency medical services provider license on the grounds that the provider's administrator of record, employee, or other representative has been convicted of, or placed on deferred adjudication community supervision or deferred disposition for, an offense that directly relates to the duties and responsibilities of the administrator, employee, or representative, other than an offense described by Section 542.304, Transportation Code, rather than considering an offense for which points are assessed under Section 708.052, Transportation Code.

SECTION 6. Amends Section 780.002, Health and Safety Code, as follows:

Sec. 780.002. CERTAIN DEPOSITS TO ACCOUNT. Requires the Texas comptroller of public accounts (comptroller) to deposit any gifts, grants, donations, and legislative appropriations made for the purposes of the designated trauma facility and emergency medical services account (account) established under Section 780.003 (Account) to the credit of the account. Deletes existing text of this section relating to requiring the Texas Department of Public Safety (DPS) to make monthly deposits and requiring the comptroller to take certain actions with those deposits.

SECTION 7. Amends Section 780.003(b), Health and Safety Code, to provide that the account is composed of money deposited to the credit of the account under Sections 542.4031 (State Traffic Fine), 542.406 (Deposit of Revenue from Certain Traffic Penalties), 707.008 (Deposit of Revenue from Certain Traffic Penalties), and 709.003, Transportation Code, and under Section 780.002 of this code.

SECTION 8. Amends Section 502.357(b), Transportation Code, as follows:

(b) Deletes existing text authorizing the money deposited to the credit of the state highway fund under this section, subject to appropriations, to be used by DPS to establish

and maintain a system to support the driver responsibility program under Chapter 708 (Driver Responsibility Program). Makes nonsubstantive changes.

SECTION 9. Amends Subchapter C, Chapter 542, Transportation Code, by adding Section 542.304, as follows:

Sec. 542.304. MOVING VIOLATIONS FOR CERTAIN PURPOSES. (a) Requires DPS by rule to designate the offenses involving the operation of a motor vehicle that constitute a moving violation of the traffic law for the purposes of certain sections and articles.

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

(1) include a violation of the traffic law of this state, another state, or a political subdivision of this or another state, and an offense under Section 545.412 (Child Passenger Safety Seat Systems; Offense); and

(2) do not include an offense committed before September 1, 2003; 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 an offense adjudicated under Article 45.051 (Suspension of Sentence and Deferral of Final Disposition) or 45.0511 (Driving Safety Course or Motorcycle Operator Course Dismissal Procedures), Code of Criminal Procedure.

SECTION 10. Amends Sections 542.4031(a), (f), (g), and (h), Transportation Code, as follows:

(a) Increases from \$30 to \$50 the cost of a certain state traffic fine.

(f) Decreases from five percent to four percent the amount of money collected that a municipality or county is authorized to retain under certain circumstances.

(g) Requires the comptroller, of the money received by the comptroller under this section, to deposit 50 percent, rather than 67 percent, to the credit of the undedicated portion of the general revenue fund (GRF), and 50 percent, rather than 33 percent, to the credit of the account under Section 780.003, Health and Safety Code.

(h) Requires the comptroller in any state fiscal year, notwithstanding Subsection (g)(1) (relating to depositing 50 percent to the credit of the undedicated portion of GRF), to deposit 50 percent, rather than 67 percent, of the money received under Subsection (e)(2) (relating to requiring the custodian of money in a municipal or county treasury to deposit the money collected in an interest-bearing account within a certain time frame) and remit money to the comptroller each quarter to the credit of the GRF only until the total amount of the money deposited to the credit of the GRF under Subsection (g)(1), rather than Subsection (g)(1) and Section 780.002(b), Health and Safety Code, equals \$250 million for that year. Makes a conforming change.

SECTION 11. Amends Section 601.233(a), Transportation Code, as follows:

(a) Requires that a citation for an offense under Section 601.191 (Operation of Motor Vehicle in Violation of Motor Vehicle Liability Insurance Requirement; Offense) issued as a result of Section 601.053 (Evidence of Financial Responsibility) include, in type larger than other type on the citation, rather than in type larger than other type on the citation except for the type of the statement required by Section 708.105 (Notice of Potential Surcharge), a certain statement.

SECTION 12. Amends Subtitle I, Title 7, Transportation Code, by adding Chapter 709, as follows:

CHAPTER 709. MISCELLANEOUS TRAFFIC FINES

Sec. 709.001. TRAFFIC FINE FOR CONVICTION OF CERTAIN INTOXICATED DRIVER OFFENSES. (a) Defines "offense relating to the operating of a motor vehicle while intoxicated."

(b) Requires a person who has been finally convicted of an offense relating to the operating of a motor vehicle while intoxicated, in addition to the fine prescribed for the specific offense, to pay certain fines.

Sec. 709.002. TRAFFIC FINE FOR CONVICTION OF DRIVING WITHOUT FINANCIAL RESPONSIBILITY. (a) Requires a person who has been convicted of an offense under Section 601.191, in addition to the fine prescribed under Section 601.191 and except as provided by Subsection (b), to pay a fine of \$750.

(b) Provides that the amount of a fine under this section is \$125 if the person establishes financial responsibility under Section 601.051 (Requirement of Financial Responsibility) not later than the 60th day after the date of the offense through a motor vehicle liability insurance policy that complies with Subchapter D (Establishment of Financial Responsibility Through Motor Vehicle Liability Insurance), Chapter 601 (Motor Vehicle Safety Responsibility Act), and is prepaid and valid for at least a six-month period.

Sec. 709.003. REMITTANCE OF TRAFFIC FINES COLLECTED TO COMPTROLLER. (a) Requires an officer collecting a traffic fine under Section 709.002 in a case in municipal court to keep separate records of the money collected and to deposit the money in the municipal treasury.

(b) Requires an officer collecting a traffic fine under Section 709.001 or 709.002 in a case in a justice, county, or district court to keep separate records of the money collected and to deposit the money in the county treasury.

(c) Requires an officer collecting a traffic fine under Section 709.001 or 709.002, each calendar quarter, to submit a report to the comptroller. Requires that the report comply with Articles 103.005(c) (relating to requiring the report for the reporting period to state certain information) and (d) (relating to certain requiring the report to be in writing and under oath), Code of Criminal Procedure.

(d) Authorizes the custodian of money in a municipal or county treasury to deposit money collected under Sections 709.001 and 709.002 in an interest-bearing account. Requires the custodian to keep records of the amount of money collected under this section that is on deposit in the treasury and, not later than the last day of the month following each calendar quarter, remit to the comptroller money collected under this section during the preceding quarter, as required by the comptroller.

(e) Authorizes a municipality or county to retain four percent of the money collected under Sections 709.001 and 709.002 as a service fee for the collection if the county remits the funds to the comptroller within the period described by Subsection (d). Authorizes the municipality or county to retain any interest accrued on the money if the custodian of the money deposited in the treasury keeps records of the amount of money collected under this section that is on deposit in the treasury and remits the funds to the comptroller within the period prescribed in Subsection (d).

(f) Requires the comptroller to deposit, of the money received by the comptroller under this section, 50 percent to the credit of the undedicated portion of the GRF and 50 percent to the credit of the account under Section 780.003, Health and Safety Code.

(g) Provides that money collected under this section is subject to audit by the comptroller. Provides that money spent is subject to audit by the state auditor.

SECTION 13. Repealer: Chapter 708 (Driver Responsibility Program), Transportation Code.

SECTION 14. Provides that the repeal by this Act of Chapter 708, Transportation Code, applies to any surcharge pending on the effective date of this Act, regardless of whether the surcharge was imposed before that date.

SECTION 15. Effective date: September 1, 2017.