

BILL ANALYSIS

C.S.H.B. 2068
By: Phillips
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the well-intentioned driver responsibility program has compliance issues and raise concerns that the program disproportionately harms the poor. C.S.H.B. 2068 seeks to address these issues by abolishing the program, establishing provisions regarding the designation by the Department of Public Safety of offenses involving moving violations for certain statutory purposes, and providing for the amount and allocation of certain state traffic fine funds.

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 Department of Public Safety in SECTION 9 of this bill.

ANALYSIS

C.S.H.B. 2068 repeals Transportation Code provisions relating to the establishment and administration of the driver responsibility program. The bill amends the Transportation Code to require the Department of Public Safety (DPS) to designate by rule the offenses involving the operation of a motor vehicle that constitute a moving violation of the traffic law for the purposes of certain provisions referencing such a violation and requires the rules to provide that, for the purposes of those provisions, moving violations include an offense relating to child passenger safety seat systems and a violation of the traffic law of Texas, another state, or a political subdivision of Texas or another state but 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 Code of Criminal Procedure provisions relating to the suspension of a sentence and deferral of final disposition or to driving safety course or motorcycle operator course dismissal procedures. The repeal of the driver responsibility program applies to any surcharge pending on the bill's effective date, regardless of whether the surcharge was imposed before that date.

C.S.H.B. 2068 increases the amount of a state traffic fine from \$30 to \$60 and decreases the percentage of money collected by a municipality or county for a state traffic fine that the municipality or county may retain as a service fee from five percent to four percent. The bill changes the allocation formula by which the comptroller of public accounts is required to deposit money received from state traffic fines to the credit of the undedicated portion of the general revenue fund from 67 percent to 45 percent and to the credit of the designated trauma facility and emergency medical services account from 33 percent to 55 percent.

C.S.H.B. 2068 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 a fine of \$3,000 for the first conviction within a 36-month period; \$4,500 for a second or subsequent conviction within a 36-month period; and \$6,000 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. The bill requires a person who has been convicted of an offense of operating a motor vehicle in violation of motor vehicle liability insurance requirements to pay a fine of \$750, in addition to the fine prescribed for that offense, but the bill sets the amount of the fine at \$125 if the person establishes financial responsibility not later than the 60th day after the date of the offense through a motor vehicle liability insurance policy that complies with the Texas Motor Vehicle Safety Responsibility Act and is prepaid and valid for at least a six-month period. The bill sets out recordkeeping, reporting, and deposit requirements for such fines so collected and sets out provisions relating to remittance of such fines so collected to the comptroller and relating to the comptroller's deposit of such remitted money. Money so collected is subject to audit by the comptroller and money spent is subject to audit by the state auditor.

C.S.H.B. 2068 amends the Education Code to require the rules adopted by the Texas Commission of Licensing and Regulation for approval of a driver education course conducted by the parent, stepparent, foster parent, legal guardian, grandparent, or step-grandparent of a person who is required to complete a driver education course to obtain a Class C license to provide that on the date such a person begins conducting a driver education course, the person has not been convicted during the preceding 36-month period of three or more moving violations designated by DPS rule under the bill's provisions, including violations that resulted in an accident, or two or more such moving violations that resulted in an accident.

C.S.H.B. 2068 amends the Health and Safety Code to require the comptroller of public accounts to deposit any gifts, grants, donations, and legislative appropriations made for the purposes of the designated trauma facility and emergency medical services account to the credit of that account.

C.S.H.B. 2068 amends the Code of Criminal Procedure and the Government Code to make conforming changes.

C.S.H.B. 2068 repeals Chapter 708, Transportation Code.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2068 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted 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.	SECTION 1. Same as introduced version.
SECTION 2. Section 1001.112, Education Code, is amended.	SECTION 2. Same as introduced version.

SECTION 3. Section 411.110(f), Government Code, is amended.

SECTION 3. Same as introduced version.

SECTION 4. Section 773.0614(b), Health and Safety Code, is amended.

SECTION 4. Same as introduced version.

SECTION 5. Section 773.06141(a), Health and Safety Code, is amended.

SECTION 5. Same as introduced version.

SECTION 6. Section 780.002, Health and Safety Code, is amended.

SECTION 6. Same as introduced version.

SECTION 7. Section 780.003(b), Health and Safety Code, is amended to read as follows:

SECTION 7. Section 780.003(b), Health and Safety Code, is amended to read as follows:

(b) The account is composed of money deposited to the credit of the account under Sections 542.406, ~~and~~ 707.008, and 709.003, Transportation Code, and under Section 780.002 of this code.

(b) The account is composed of money deposited to the credit of the account under Sections 542.4031, 542.406, ~~and~~ 707.008, and 709.003, Transportation Code, and under Section 780.002 of this code.

SECTION 8. Section 502.357(b), Transportation Code, is amended.

SECTION 8. Same as introduced version.

SECTION 9. Subchapter C, Chapter 542, Transportation Code, is amended.

SECTION 9. Same as introduced version.

SECTION 10. Sections 542.4031(a), (f), (g), and (h), Transportation Code, are amended to read as follows:

SECTION 10. Sections 542.4031(a), (f), (g), and (h), Transportation Code, are amended to read as follows:

(a) In addition to the fine prescribed by Section 542.401 or another section of this subtitle, as applicable, a person who enters a plea of guilty or nolo contendere to or is convicted of an offense under this subtitle shall pay \$60 [~~\$30~~] as a state traffic fine. The person shall pay the state traffic fine when the person enters the person's plea of guilty or nolo contendere, or on the date of conviction, whichever is earlier. The state traffic fine shall be paid regardless of whether:

(a) In addition to the fine prescribed by Section 542.401 or another section of this subtitle, as applicable, a person who enters a plea of guilty or nolo contendere to or is convicted of an offense under this subtitle shall pay \$60 [~~\$30~~] as a state traffic fine. The person shall pay the state traffic fine when the person enters the person's plea of guilty or nolo contendere, or on the date of conviction, whichever is earlier. The state traffic fine shall be paid regardless of whether:

- (1) a sentence is imposed on the person;
- (2) the court defers final disposition of the person's case; or
- (3) the person is placed on community supervision, including deferred adjudication community supervision.

- (1) a sentence is imposed on the person;
- (2) the court defers final disposition of the person's case; or
- (3) the person is placed on community supervision, including deferred adjudication community supervision.

(f) A municipality or county may retain 2.5 [~~five~~] percent of the money collected under this section as a service fee for the collection if the municipality or county remits the funds to the comptroller within the period prescribed in Subsection (e). The municipality or county may retain any

(f) A municipality or county may retain four [~~five~~] percent of the money collected under this section as a service fee for the collection if the municipality or county remits the funds to the comptroller within the period prescribed in Subsection (e). The municipality or county may 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 (e).

(g) Of the money received by the comptroller under this section, the comptroller shall deposit:

(1) 58.5 [67] percent to the credit of the undedicated portion of the general revenue fund; and

(2) 41.5 [33] percent to the credit of the designated trauma facility and emergency medical services account under Section 780.003, Health and Safety Code.

(h) Notwithstanding Subsection (g)(1), in any state fiscal year the comptroller shall deposit 58.5 [67] percent of the money received under Subsection (e)(2) to the credit of the 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 11. Section 601.233(a), Transportation Code, is amended.

SECTION 12. Subtitle I, Title 7, Transportation Code, is amended by adding Chapter 709 to read as follows:

CHAPTER 709. MISCELLANEOUS TRAFFIC FINES

Sec. 709.001. TRAFFIC FINE FOR CONVICTION OF CERTAIN INTOXICATED DRIVER OFFENSES. (a) In this section, "offense relating to the operating of a motor vehicle while intoxicated" has the meaning assigned by Section 49.09, Penal Code.

(b) In addition to the fine prescribed for the specific offense, a 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 shall pay a fine each year.

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 (e).

(g) Of the money received by the comptroller under this section, the comptroller shall deposit:

(1) 45 [67] percent to the credit of the undedicated portion of the general revenue fund; and

(2) 55 [33] percent to the credit of the designated trauma facility and emergency medical services account under Section 780.003, Health and Safety Code.

(h) Notwithstanding Subsection (g)(1), in any state fiscal year the comptroller shall deposit 45 [67] percent of the money received under Subsection (e)(2) to the credit of the 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 11. Same as introduced version.

SECTION 12. Subtitle I, Title 7, Transportation Code, is amended by adding Chapter 709 to read as follows:

CHAPTER 709. MISCELLANEOUS TRAFFIC FINES

Sec. 709.001. TRAFFIC FINE FOR CONVICTION OF CERTAIN INTOXICATED DRIVER OFFENSES. (a) In this section, "offense relating to the operating of a motor vehicle while intoxicated" has the meaning assigned by Section 49.09, Penal Code.

(b) In addition to the fine prescribed for the specific offense, a person who has been finally convicted of an offense relating to the operating of a motor vehicle while intoxicated shall pay a fine of:

(c) The amount of a fine under this section is \$1,000 per year, except that the amount of the fine is:

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

Sec. 709.002. TRAFFIC FINE FOR CONVICTION OF DRIVING WITHOUT FINANCIAL RESPONSIBILITY. (a) In addition to the fine prescribed under Section 601.191, a person who during the preceding 36-month period has been convicted of an offense under Section 601.191 shall pay a fine each year.

(b) Except as provided by Subsection (c), the amount of a fine under this section is \$250 per year.

(c) The amount of a fine under this section is \$125 per year if the person establishes financial responsibility under Section 601.051 not later than the 60th day after the date of the offense through a motor vehicle liability insurance policy that:

(1) complies with Subchapter D, Chapter 601; and

(2) is prepaid and valid for at least a six-month period.

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

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

(c) Each calendar quarter, an officer collecting a traffic fine under Section 709.001 or 709.002 shall submit a report to the comptroller. The report must comply with Articles 103.005(c) and (d), Code of Criminal Procedure.

(d) The custodian of money in a municipal or county treasury may deposit money collected under Sections 709.001 and

(1) \$3,000 for the first conviction within a 36-month period;

(2) \$4,500 for a second or subsequent conviction within a 36-month period; and

(3) \$6,000 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.

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

(b) The amount of a fine under this section is \$125 if the person establishes financial responsibility under Section 601.051 not later than the 60th day after the date of the offense through a motor vehicle liability insurance policy that:

(1) complies with Subchapter D, Chapter 601; and

(2) is prepaid and valid for at least a six-month period.

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

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

(c) Each calendar quarter, an officer collecting a traffic fine under Section 709.001 or 709.002 shall submit a report to the comptroller. The report must comply with Articles 103.005(c) and (d), Code of Criminal Procedure.

(d) The custodian of money in a municipal or county treasury may deposit money collected under Sections 709.001 and

709.002 in an interest-bearing account. The custodian shall:

(1) keep records of the amount of money collected under this section that is on deposit in the treasury; and

(2) 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) A municipality or county may retain 2.5 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). The municipality or county may 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) The comptroller shall deposit money remitted to the comptroller under this section

to the credit of the designated trauma facility and emergency medical services account under Section 780.003, Health and Safety Code.

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

SECTION 13. Chapter 708, Transportation Code, is repealed.

SECTION 14. 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. This Act takes effect September 1, 2017.

709.002 in an interest-bearing account. The custodian shall:

(1) keep records of the amount of money collected under this section that is on deposit in the treasury; and

(2) 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) A municipality or county may 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). The municipality or county may 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) Of the money received by the comptroller under this section, the comptroller shall deposit:

(1) 45 percent to the credit of the undedicated portion of the general revenue fund; and

(2) 55 percent to the credit of the designated trauma facility and emergency medical services account under Section 780.003, Health and Safety Code.

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

SECTION 13. Same as introduced version.

SECTION 14. Same as introduced version.

SECTION 15. Same as introduced version.