

## **BILL ANALYSIS**

Senate Research Center  
86R8756 KSM-D

S.C.R. 10  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Expressing opposition to the enactment or enforcement in Texas of a law that automatically suspends the driver's license of an individual who is convicted of any drug-related offense.

In 1991 Congress passed a misguided mandate requiring states to suspend the driver's licenses of all drug offenders regardless of circumstance or lose federal transportation dollars. This federal mandate is codified in Section 521.372 of the Transportation Code and automatically suspends the driver's license of any drug offender for six months until the individual pays a fee of \$100 and takes a 15-hour course on the dangers of drug abuse.

Every year Texas suspends 13,000 drivers' licenses for drug offenses unrelated to driving. This means an individual convicted of a misdemeanor marijuana offense, for example, is subject to an automatic suspension of their driver's license, jeopardizing their employment and ability to repay court costs and fines. Many individuals affected by the suspension continue to drive without a license, putting themselves at risk of additional criminal charges. These harsh and punitive penalties have the potential to send many low-income individuals into debt and saddle them with unnecessary and unproductive criminal charges.

Fortunately, federal law now allows states to affirmatively opt-out of the automatic license suspension provision if the state's legislature and governor submit a written certification to the U.S. secretary of transportation expressing the state's opposition to the mandate. S.C.R. 10, if passed and signed by the governor, would join Texas with the 40 other states that have already secured exemptions from the federal mandate.

S.C.R. 10 would not repeal Texas' automatic license suspension law, but would simply return sovereignty to the state on whether or not to suspend the drivers' licenses of drug offenders. After the passage of S.C.R. 10, Texas would be free to modify or repeal its law without the fear of losing federal highway dollars.

States are required under 23 U.S.C. Section 159 to enact and enforce a law requiring in all circumstances the revocation, or suspension for at least six months, of the driver's license of an individual who is convicted of a drug offense. A state's noncompliance with the federal law could result in the U.S. secretary of transportation withholding 10 percent of the amount required to be apportioned to the state under the law governing federal aid for highways.

In 1991, Texas enacted Section 521.372, Transportation Code, Automatic Suspension; License Denial, to comply with the federal law; the Texas law establishes a six-month license suspension period after a person is convicted of a drug offense and a six-month license denial period after the person applies for reinstatement or issuance of a driver's license. Under Texas law, a person convicted of a misdemeanor drug offense loses their driver's license for at least six months, making it difficult for the person to keep a job and provide for their family. Upon release from confinement, a person convicted of a felony drug offense in Texas also loses their driver's license for at least six months, making it harder for the person to reintegrate into society.

The federal mandate for states to enact and enforce a law requiring automatic suspension of the driver's license of an individual who is convicted of any drug-related offense inappropriately limits the ability of Texas courts to exercise discretion in determining punishment. As an alternative to enacting or enforcing such a law, the governor of a state can submit a written

certification to the U.S. secretary of transportation stating the governor's opposition to the enactment or enforcement in the state of such a law. A governor pursuing this alternative must also certify that the state legislature has adopted a concurrent resolution expressing opposition to the enactment or enforcement in the state of such a law. Texas should join the numerous other states that have met the certification requirements in a federal rule (23 C.F.R. Section 192.5(c)) by submitting a written statement from the governor and a concurrent resolution from the state legislature to the U.S. secretary of transportation.

**RESOLVED**

That the 86th Legislature of the State of Texas hereby express opposition to the enactment or enforcement in Texas of a law that automatically suspends the driver's license of an individual who is convicted of any drug-related offense.

That the Texas secretary of state forward official copies of this resolution to the executive clerk of the Office of the Governor, with the request that the governor submit the resolution to the U.S. secretary of transportation along with written certification pursuant to 23 C.F.R. Section 192.5(c).