

## **BILL ANALYSIS**

C.S.H.B. 2309  
By: Dominguez  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

While it is illegal for a person who does not have a disability to use a parking space or area designated specifically for persons who do, the continuing rampant abuse and violation of this longstanding prohibition indicate that the current consequences for these violations allow for such recidivism because they are too lenient. These violations result in tangible hardship for persons with disabilities and constitute an undue burden on those individuals that, as the prohibition intends, should never occur in the first place. C.S.H.B. 2309 seeks to address this issue by increasing the penalties for multiple violations of the prohibition and by giving judges the ability to require the completion of a disabled parking training course.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2309 amends the Code of Criminal Procedure to provide for the dismissal of an alleged privileged parking offense upon the successful completion of a disabled parking course approved by the political subdivision in which the alleged offense occurred, if the following conditions are met:

- the alleged offense is within the jurisdiction of a justice court or a municipal court;
- the defendant has not completed a disabled parking course approved by the political subdivision within the 12 months preceding the date of the offense; and
- the defendant enters a plea in person or in writing of no contest or guilty on or before the answer date on the notice to appear and does the following:
  - presents in person or by counsel to the court a request to take the course; or
  - sends to the court by certified mail, return receipt requested, postmarked on or before the answer date on the notice to appear, a written request to take a course.

C.S.H.B. 2309 requires the court to do the following:

- enter judgment on the defendant's plea of no contest or guilty at the time the plea is made, defer imposition of the judgment, and allow the defendant 90 days to successfully complete the approved disabled parking course and present to the court a certificate of completion of the disabled parking course and certain confirmation regarding any prior completion of the course; and

- remove the judgment and dismiss the charge upon the defendant's compliance with these requirements.

The court may dismiss only one charge for each completion of a course.

C.S.H.B. 2309 sets out additional requirements for the court should the defendant requesting the course fail to timely present the certificate or confirmation and requires the court to enter an adjudication of guilt and impose sentence if the defendant fails to appear as required or appears as required but does not show good cause for the defendant's failure to comply with those requirements. The bill establishes that a request to take a disabled parking course made at or before the time and at the place at which a defendant is required to appear in court is an appearance in compliance with the defendant's promise to appear.

C.S.H.B. 2309 provides for the following:

- the imposition, refund, and deposit of an administrative court fee;
- an extension of time during which a defendant may present a certificate of course completion as evidence that the defendant successfully completed the disabled parking course; and
- the termination of liability under a bond given for the charge resulting from an order of deferral.

C.S.H.B. 2309 amends the Transportation Code to authorize a charge filed against a person for a privileged parking offense to be filed manually or in an electronically secure format. The bill gives the option for a person appointed by a political subdivision to enforce privileged parking offenses to successfully complete a training program approved by the political subdivision in lieu of a program developed by the political subdivision and requires a training program developed or approved for those purposes to include certain information, instructions, and procedures.

C.S.H.B. 2309 reenacts and amends Sections 681.011(h), (i), and (j), Transportation Code, as amended by Chapters 1160 (H.B. 3095) and 1336 (S.B. 52), Acts of the 81st Legislature, Regular Session, 2009, to conform to changes made by Chapter 1336 (S.B. 52), Acts of the 81st Legislature, Regular Session, 2009, revising certain penalty enhancements for a misdemeanor privileged parking offense based on the number of previous convictions.

C.S.H.B. 2309 increases the maximum fine amounts for a misdemeanor privileged parking offense and for subsequent convictions of the offense. The bill increases those amounts as follows:

- from \$750 to \$1,000 for an initial offense;
- from \$800 to \$1,050 for a second conviction of the offense;
- from \$800 to \$1,050 for a third conviction of the offense;
- from \$1,100 to \$1,450 for a fourth conviction of the offense; and
- from \$1,250 to \$1,650 for a fifth conviction of the offense.

### **EFFECTIVE DATE**

September 1, 2021.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2309 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes the following:

- provisions establishing disabled parking course dismissal procedures;

- an authorization for certain charges filed against a person for a privileged parking offense to be filed manually or in an electronically secure format;
- an option for a person appointed by a political subdivision to enforce privileged parking offenses to successfully complete a training program approved by the political subdivision in lieu of a program developed by the political subdivision; and
- a requirement for a training program developed or approved by a political subdivision for the enforcement of privileged parking offenses to include certain information, instruction, and procedures.