

## **BILL ANALYSIS**

C.S.S.B. 181  
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Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Three decades ago the U.S. Congress enacted the Solomon-Lautenberg amendment, which urged states to enact a law providing for the automatic six-month suspension of the driver's license of anyone convicted of a drug offense. The amendment penalized states that declined to do so with a reduction in federal highway funding. However, states are afforded the opportunity to follow specified procedures to opt out of the mandate and avoid a reduction in funding. Less than half of the states ever enacted such a law and Texas remains one of just four states that still has such a law in place.

It has been suggested that the confusing and costly process to have a suspended license reinstated means that many Texans are never able to reobtain their licenses. Without the ability to legally drive, it is significantly more difficult to achieve gainful employment after a drug conviction, leading to increased recidivism and reliance on public benefits. It has also been suggested that there is no evidence that license suspension deters drug use. There have been calls for the state to acknowledge these issues and reform its automatic suspension law. C.S.S.B. 181 seeks to do so by reducing the minimum period of automatic license suspension or denial for a conviction of a drug or controlled substance offense, removing misdemeanor drug offenses from the offenses that subject a person to automatic license suspension or denial, with certain exceptions, and capping the total length of a period of suspension or denial at two years.

### **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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 181 amends the Transportation Code to limit the circumstances under which a person's final conviction of a misdemeanor drug offense subjects the person to the automatic suspension or denial of a driver's license to when the person has been previously convicted of a drug offense committed less than 36 months before the commission of the instant offense. However, the bill authorizes a court to order the Department of Public Safety (DPS) to suspend the license of a person who holds a license at the time of final conviction of a misdemeanor drug offense in any other circumstance if the court makes a written determination that the suspension is in the interest of public safety.

C.S.S.B. 181 reduces the minimum duration of the period of an automatic license suspension for a conviction of a drug or controlled substance offense from 180 days after the date of the

final conviction to 90 days after that date and changes the duration of the period of license denial for such a conviction from 180 days after the date the person applies for reinstatement or issuance of a driver's license to the same 90-day period following final conviction. The bill caps the duration of the period of suspension or denial at two years, irrespective of whether the person has successfully completed an educational program designed to educate the person on the dangers of drug abuse or has been released from the residential treatment facility at which the individual successfully completed equivalent education.

C.S.S.B. 181 reenacts and amends Section 521.374(a), Transportation Code, as amended by Chapters 838 (S.B. 202), 851 (S.B. 1070), and 1004 (H.B. 642), Acts of the 84th Legislature, Regular Session, 2015, to do the following with respect to that educational program that a person must complete in order to be eligible to have their license reinstated before the end of that two-year period:

- conform to changes made by S.B. 202, making the Texas Department of Licensing and Regulation (TDLR) responsible for approving the educational programs under rules adopted by the Texas Commission of Licensing and Regulation (TCLR) and DPS; and
- conform to changes made by S.B. 1070, authorizing a person whose license was automatically suspended to complete certain education equivalent to such a program while a resident of a facility for the treatment of drug abuse or chemical dependency.

Additionally, the bill gives a person the option to complete such an educational program online as an alternative to doing so in-person. The bill makes certain changes to conform to TDLR being responsible for approving the programs and the option to complete the program online and requires TCLR and DPS to adopt related rules not later than September 1, 2022.

C.S.S.B. 181 amends the Code of Criminal Procedure to impose a \$100 fine on a defendant who is convicted of a drug or controlled substance offense that would trigger the automatic suspension or denial of a driver's license and who holds a valid license on the date the order of conviction is entered, regardless of whether the defendant is granted community supervision in the case. This fine is in addition to any other fees and fines otherwise imposed under applicable state law. The bill requires the court to collect the fine in the same manner as court costs are collected in the case and requires the fine to be deposited to the credit of the Texas Mobility Fund. The bill establishes certain circumstances under which a court is required to waive the fine.

C.S.S.B. 181 provides that its provisions relating to that fine, its provisions providing for the discretionary suspension of the driver's licenses of certain persons convicted of a misdemeanor drug offense, and its provisions reducing the minimum period of automatic license suspension or denial take effect on the 91st day after the date the attorney general's office publishes in the Texas Register a finding of the following:

- the state legislature has adopted a resolution expressing its opposition to a law requiring the suspension, revocation, or denial of the driver's license of a person convicted of a drug offense for a period of six months as is provided for under federal law;
- the governor has submitted to the U.S. secretary of transportation written certification of the governor's opposition to the enactment or enforcement of such a law and the legislature's adoption of the aforementioned resolution; and
- the secretary has responded to the governor's submission and certified that highway funds will not be withheld in response to the modification or full or partial repeal of the law.

The bill provides for the reinstatement of certain previously suspended driver's licenses by DPS on the 180th day after that effective date.

### **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2021.

## **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 181 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute limits the imposition of the \$100 fine established in the engrossed to defendants convicted of an applicable offense who hold a valid driver's license on the date the order of conviction is entered.

The engrossed and the substitute each limit the circumstances under which the conviction of a misdemeanor drug offense triggers the mandatory, automatic suspension or denial of a driver's license to when the person has been previously convicted of a drug offense committed less than 36 months before the commission of the instant offense. However, whereas the engrossed gave a court the discretion to waive automatic license suspension or denial for any other person convicted of a misdemeanor drug offense unless the court determines that the suspension or denial is in the interest of public safety, the substitute generally excepts such a person from automatic license suspension or denial but authorizes a court to order the suspension of the person's license if the court makes a written determination that the suspension is in the interest of public safety. The substitute does not provide for the denial of a license to such a person.

Currently, the minimum period of automatic license denial is 180 days after the date the person applies for reinstatement or issuance of a driver's license. While both the engrossed and the substitute reduce the duration of this minimum period to 90 days, the substitute changes the date on which the 90-day period begins to the date of final conviction of the applicable offense.

The substitute includes a provision not in the engrossed that caps the period of automatic license suspension or denial at two years, irrespective of whether the person has successfully completed the requisite educational program or has been released from the residential treatment facility at which the individual successfully completed equivalent education.