By:  Johnson S.B. No. 181

(In the Senate - Filed November 12, 2020; March 3, 2021, read first time and referred to Committee on Criminal Justice; April 19, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 5, Nays 0; April 19, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Huffman         X

Bettencourt               X

Birdwell                  X

Hinojosa        X

Miles           X

Nichols         X

COMMITTEE SUBSTITUTE FOR S.B. No. 181 By:  Miles

A BILL TO BE ENTITLED

AN ACT

relating to suspension of a driver's license for persons convicted of certain offenses and the educational program required for reinstatement of a license following certain convictions; authorizing a fine.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. DISCRETIONARY LICENSE SUSPENSION

SECTION 1.01.  Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.0179 to read as follows:

Art. 102.0179.  FINE FOR CERTAIN DRUG AND TEXAS CONTROLLED SUBSTANCE ACT CONVICTIONS. (a) In this article, "convicted" includes an adjudication under juvenile proceedings.

(b)  In addition to any other fees and fines imposed under this subchapter, a defendant convicted of an offense described by Section 521.372(a), Transportation Code, shall pay a fine of $100.

(c)  The court shall waive imposition of a fine under this article if the defendant's driver's license is suspended under Section 521.372, Transportation Code, or under another provision of that code as a result of the conviction of:

(1)  an offense described by Section 521.372(a), Transportation Code; or

(2)  another offense arising from the same criminal episode.

(d)  A fine imposed under this article is due regardless of whether the defendant is granted community supervision in the case. The court shall collect the fine under this article in the same manner as court costs are collected in the case.

(e)  A fine collected under this article shall be deposited to the credit of the Texas mobility fund.

SECTION 1.02.  The heading to Subchapter P, Chapter 521, Transportation Code, is amended to read as follows:

SUBCHAPTER P. [~~AUTOMATIC~~] SUSPENSION FOR CERTAIN DRUG OFFENSES

SECTION 1.03.  Section 521.372, Transportation Code, is amended to read as follows:

Sec. 521.372.  [~~AUTOMATIC~~] SUSPENSION OR[~~;~~] LICENSE DENIAL. (a) Except as provided by Subsection (b-1), a [~~A~~] person's driver's license is automatically suspended on final conviction of:

(1)  an offense under the Controlled Substances Act;

(2)  a drug offense; or

(3)  a felony under Chapter 481, Health and Safety Code, that is not a drug offense.

(b)  Except as provided by Subsection (b-1), the [~~The~~] department may not issue a driver's license to a person convicted of an offense specified in Subsection (a) who, on the date of the conviction, did not hold a driver's license.

(b-1)  If a person is convicted of a misdemeanor drug offense, the court may waive the automatic suspension of the person's driver's license or the requirement that the department deny any application for a driver's license submitted by that person, as applicable, unless the court determines that suspending the person's license or denying the person's application for a license, as applicable, is in the interest of public safety. The court must make the determination in writing and include a justification for the determination. This subsection does not apply to a person who has been previously convicted of a drug offense committed in the 36 months before the instant offense was committed.

(c)  Except as provided by Section 521.374(b), the period of suspension under this section is the 90 [~~180~~] days after the date of a final conviction, and the period of license denial is the 90 [~~180~~] days after the date the person applies to the department for reinstatement or issuance of a driver's license.

ARTICLE 2. EDUCATIONAL PROGRAMS

SECTION 2.01.  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, is reenacted and amended to read as follows:

(a)  A person whose license is suspended under Section 521.372 may:

(1)  successfully complete [~~attend~~] an in-person or online educational program, approved by the Texas Department of Licensing and Regulation [~~Department of State Health Services~~] under rules adopted by the Texas Commission of Licensing and Regulation [~~executive commissioner of the Health and Human Services Commission~~] and the department, that is designed to educate persons on the dangers of drug abuse; or

(2)  successfully complete education on the dangers of drug abuse approved by the Department of State Health Services as equivalent to the educational program described by Subdivision (1), while the person is a resident of a facility for the treatment of drug abuse or chemical dependency, including:

(A)  a substance abuse treatment facility or substance abuse felony punishment facility operated by the Texas Department of Criminal Justice under Section 493.009, Government Code;

(B)  a community corrections facility, as defined by Section 509.001, Government Code; or

(C)  a chemical dependency treatment facility licensed under Chapter 464, Health and Safety Code.

SECTION 2.02.  Section 521.374(b), Transportation Code, is amended to read as follows:

(b)  The period of suspension or prohibition under Section 521.372(c) continues for an indefinite period until the individual successfully completes the in-person or online educational program under Subsection (a)(1) or is released from the residential treatment facility at which the individual successfully completed equivalent education under Subsection (a)(2), as applicable.

SECTION 2.03.  Section 521.375, Transportation Code, as amended by Chapters 838 (S.B. 202) and 851 (S.B. 1070), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

Sec. 521.375.  JOINT ADOPTION OF RULES. (a) The Texas Commission of Licensing and Regulation and the department shall jointly adopt rules for the qualification and approval of providers of in-person and online educational programs under Section 521.374(a)(1) [~~521.374~~].

(a-1)  The executive commissioner of the Health and Human Services Commission and the department shall jointly adopt rules for the qualification and approval of[~~:~~

[~~(1)  providers of educational programs under Section 521.374(a)(1); and~~

[~~(2)~~]  equivalent education provided in a residential treatment facility described by Section 521.374(a)(2).

(b)  The Texas Department of Licensing and Regulation shall publish the jointly adopted rules under Subsection (a).

(c)  The Department of State Health Services shall publish the jointly adopted rules under Subsection (a-1).

SECTION 2.04.  Section 521.376, Transportation Code, as amended by Chapters 838 (S.B. 202) and 851 (S.B. 1070), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

Sec. 521.376.  DUTIES OF TEXAS DEPARTMENT OF LICENSING AND REGULATION AND DEPARTMENT OF STATE HEALTH SERVICES; APPLICATION AND RENEWAL FEES. (a) The Texas Department of Licensing and Regulation:

(1)  shall monitor, coordinate, and provide training to persons who provide in-person and online educational programs under Section 521.374(a)(1) [~~521.374~~];

(2)  shall administer the approval of those in-person and online educational programs; and

(3)  may charge a nonrefundable application fee to the provider of an in-person or online educational program under Section 521.374(a)(1) for:

(A)  initial certification of approval; and

(B)  renewal of the certification.

(b)  The Department of State Health Services:

(1)  shall monitor, coordinate, and provide training to[~~:~~

[~~(A)  persons who provide educational programs under Section 521.374(a)(1); and~~

[~~(B)~~]  residential treatment facilities described by Section 521.374(a)(2) providing equivalent education; and

(2)  shall administer the approval of the [~~educational programs and the~~] equivalent education provided in a residential treatment facility[~~; and~~

[~~(3)  may charge a nonrefundable application fee to the provider of an educational program under Section 521.374(a)(1) for:~~

[~~(A)  initial certification of approval; and~~

[~~(B)  renewal of the certification~~].

ARTICLE 3. TRANSITION; EFFECTIVE DATE

SECTION 3.01.  Not later than September 1, 2022, the Texas Commission of Licensing and Regulation and the Department of Public Safety shall adopt rules to implement Sections 521.374, 521.375, and 521.376, Transportation Code, as amended by this Act.

SECTION 3.02.  (a)  Except as otherwise provided by this section, this Act takes effect September 1, 2021.

(b)  Article 1 of this Act takes effect on the 91st day after the date the office of the attorney general publishes in the Texas Register a finding that:

(1)  the legislature of this state has adopted a resolution expressing the legislature's opposition to a law meeting the requirements of 23 U.S.C. Section 159 in suspending, revoking, or denying the driver's license of a person convicted of a drug offense for a period of six months;

(2)  the governor has submitted to the United States secretary of transportation:

(A)  a written certification of the governor's opposition to the enactment or enforcement of a law required under 23 U.S.C. Section 159; and

(B)  a written certification that the legislature has adopted the resolution described by Subdivision (1) of this subsection; and

(3)  the United States secretary of transportation has responded to the governor's submission and certified that highway funds will not be withheld from this state in response to the modification or full or partial repeal of the law required under 23 U.S.C. Section 159.

(c)  On the 180th day after the date described in Subsection (b) of this section, the Department of Public Safety shall reinstate any driver's license that:

(1)  was suspended under Section 521.372, Transportation Code, before the date described by Subsection (b) of this section; and

(2)  remains subject to suspension under that section on the 180th day after the date described in Subsection (b) of this section.

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