

SUBJECT: Forfeiture of vehicle inspection certificate for unrelated criminal conviction

COMMITTEE: Public Safety — favorable, without amendment

VOTE: 6 ayes — B. Turner, Keel, Driver, Hupp, Isett, Villarreal
1 nay — P. King
2 absent — Berman, Gutierrez

WITNESSES: For — None
Against — None
On — Capt. Robert Burroughs, Texas Department of Public Safety

BACKGROUND: In 1999, the 76th Legislature amended Transportation Code, sec. 548.405 to allow the Texas Department of Public Safety (DPS) to deny an application for a vehicle inspection station or revoke or suspend an existing certification if an inspector or station owner was convicted of a felony or of a Class A or Class B misdemeanor.

Occupations Code, chapter 52 authorizes a licensing agency to deny a license or suspend or revoke the license of a person who commits a felony or misdemeanor that directly relates to the duties and responsibilities of the licensed occupation.

DIGEST: HB 3071 would allow DPS to deny, suspend, or revoke a vehicle inspection certificate if the inspector or owner was convicted of any crime, regardless of whether it directly related to or affected the person's duties as an inspector or owner of an inspection station.

DPS also could deny a vehicle inspection certificate to an immediate family member of an inspector or station owner whose certificate had been suspended or revoked if the family member intended to use the same location. This restriction would not apply if the immediate family member

could prove that the inspector or owner with the suspended or revoked certificate had no involvement with the family's place of business.

HB 3071 would apply to vehicle inspection certificates held by each member of a partnership or association and each director or officer of a corporation, as well as to a shareholder who held at least 10 percent of the outstanding shares of a corporation that issued a certificate.

The bill would provide an appeals process to challenge the final decision of the DPS director under Government Code, chapter 2001, subchapter G, which provides for judicial review of contested cases. It would establish the substantial evidence rule as the standard for the judicial review of the DPS director's final decision in such matters.

This bill would take effect September 1, 2001, and would apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

HB 3071 would clarify the question of whether DPS could suspend or revoke the inspection certificate of an inspector or station because of unrelated criminal offenses. Inspectors and inspection stations serve as the state's agent in issuing vehicle inspection stickers, a quasi-legal process. It is not unreasonable to expect these inspectors to follow all the laws and not simply those related to vehicle inspections.

The bill would close a loophole whereby an inspector or station owner whose inspection certificate has been suspended or revoked can pass nominal control of the inspection process to another family member. It would provide adequate safeguards to ensure that an innocent family member, partner, or corporate officer or shareholder would not be punished for the transgressions of the inspector or station owner.

All appeals would be handled administratively through DPS according to established procedures. An appeal would become expensive only if a family member sought judicial review of the process.

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OPPONENTS
SAY:

HB 3071 unfairly could penalize innocent parties. The appeals process and judicial review could be expensive, cumbersome, and financially unfeasible for small family-owned businesses.