

**SUBJECT:** Raising fee to reinstate suspended driver's licenses

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 6 ayes — Hinojosa, Talton, Green, Kitchen, Martinez Fischer, Shields  
3 nays — Dunnam, Keel, Garcia  
0 absent

**SENATE VOTE:** On final passage, April 26 — 30-0, on Local and Uncontested Calendar

**WITNESSES:** (*On House companion bill, HB 1618:*)  
For — None  
Against — None  
On — Rebecca Blewett, Texas Department of Public Safety; Shelia Bailey Taylor, State Office of Administrative Hearings

**BACKGROUND:** Chapter 524 of the Transportation Code outlines administrative suspension of driver's licenses for failure to pass a test for intoxication. Chapter 724 describes the procedure for suspending the driver's license of a person arrested for driving while intoxicated who refuses to submit a blood or breath specimen. A driver's license suspended under these chapters cannot be reinstated nor another license issued until the person pays the Department of Public Safety (DPS) a reinstatement fee of \$100 in addition to any other fees required by law.  
Money collected from the reinstatement fee goes to general revenue. DPS has an interagency contract with the State Office of Administrative Hearings (SOAH) to pay for judges to hear proceedings for its Administrative License Revocation (ALR) program.

**DIGEST:** SB 1033 would raise the fee for reinstating a driver's license suspended under Chapter 524 or 724 of the Transportation Code from \$100 to \$125.

The bill would take effect on September 1, 2001, and would apply only to fees collected under sec. 524.051 or 724.046 of the Transportation Code after that date.

**SUPPORTERS  
SAY:**

SB 1033 would help remove a troubling conflict of interest present under current law. DPS arrests persons suspected of DWI, takes away their driver's licenses, and then pays the judges that hear their cases. This bill would allow defendants to cover directly the costs of the administrative license revocation hearing and remove DPS from the payment loop.

SB 1033 would tie in to SB 1 by Ellis, the fiscal 2002-03 general appropriations bill, to create a new, simpler method of finance for ALR hearings. SOAH hears all DWI ALR cases, which amount to about half of the agency's caseload. Riders in SB 1 would allow the additional \$25 fee to go directly to SOAH to cover these costs rather than requiring a new interagency contract between DPS and SOAH every biennium, if SB 1033 is enacted.

**OPPONENTS  
SAY:**

SB 1033 is a fee hike masquerading as way to remove a possible conflict of interest. If the idea is to keep DPS from providing direct funding to SOAH for administrative license revocation hearings, then a portion of the \$100 fine should be paid directly to SOAH rather than to DPS. Instead, this bill would allow DPS to keep all \$100 and make defendants pay an additional \$25 for the hearing process. Rather than being a public policy change, this bill is just a revenue raiser.

**NOTES:**

The companion bill, HB 1618 by Allen, was reported favorably, as substituted, by the House Criminal Jurisprudence Committee on April 5.

According to the fiscal note, the increased fee of \$25 would raise \$1,875,000 in additional revenue each fiscal year.

The House version of SB 1 includes DPS Rider 25 in Article 5 requiring DPS to enter into a contract with SOAH to fund the ALR program in an amount no less than \$2.6 million per fiscal year. However, DPS Rider 26 would strike Rider 25, contingent on enactment of HB 1618 or similar legislation, and transfer \$2.52 million in fiscal 2002 and \$2.49 million in

fiscal 2003 from State Highway Fund No. 006 from DPS to SOAH to conduct ALR hearings.

In Article 9, SOAH Rider 8 would appropriate to SOAH \$391,120 in fiscal 2002 and \$162,120 in fiscal 2003 out of general revenue, contingent on enactment of HB 1618 or similar legislation. The appropriation would be contingent on the comptroller's finding that the increased fee submitted to DPS was sufficient to support the projection of increased fee revenues. The rider also would stipulate that \$2.52 million in fiscal 2002 and \$2.49 million in fiscal 2003 appropriated from State Highway Fund No. 006 for the purpose conducting hearings for DPS' ALR program would no longer be paid to SOAH by interagency contract, but would be transferred directly to SOAH.

The Senate version of SB 1 includes DPS Rider 24 in Article 5, requiring the agency to contract with SOAH to fund the ALR program at a cost of no less than \$2.6 million per fiscal year in the 2002-03 biennium. SOAH would not be appropriated any state funds from any such renegotiated contracts until it gave written notice to the Legislative Budget Board and the governor, together with written permission from the agency. In Article 9, SOAH Rider 8 would appropriate \$251,000 out of general revenue and one full-time equivalent in each year of the fiscal 2002-03 biennium, contingent on enactment of HB 1618 (the companion to SB 1033) or similar legislation assessing an additional fee on driver's license reinstatement. The appropriation would pay for three additional administrative law judges and two additional administrative and technical support staff. For the appropriation to take effect, the comptroller would have to find the increased fee submitted by DPS sufficient to support the projection of increased fee revenues.