

SUBJECT: Increasing driving-while-intoxicated fines to finance trauma care facilities

COMMITTEE: Public Health — favorable, without amendment

VOTE: 5 ayes — Laubenberg, Truitt, Dawson, Taylor, Zedler

0 nays

4 absent — Capelo, Coleman, McReynolds, Naishtat

SENATE VOTE: On final passage, May 1 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — Dinah Welsh, Texas Hospital Association

Against — None

BACKGROUND: Penal Code, ch. 49 defines and provides penalties for offenses involving intoxication and alcoholic beverage offenses, including:

- public intoxication;
- possession of alcoholic beverage in motor vehicle;
- driving while intoxicated (DWI);
- assembling or operating an amusement ride while intoxicated;
- intoxication assault; and
- intoxication manslaughter.

Code of Criminal Procedure (CCP), art. 102.075 provides for collection of various fees from people convicted of crimes. Under art. 102.016, a county may retain \$22.50 of each court cost collected to maintain and support a breath alcohol testing program. Under art. 102.018, a court must impose a \$15 fee against a defendant convicted of DWI to pay for the cost of devices used in recording DWI arrests.

DIGEST: SB 1131 would require a person convicted of an intoxication offense under Penal Code, ch. 49 to pay a \$100 fee in addition to fees imposed under art. 102.016 and art. 102.018, other than for public intoxication or possession of an open alcoholic beverage in a motor vehicle.

The costs would have to be imposed in the same manner as other costs collected under art. 102.075 and would have to be imposed regardless of whether the defendant was placed on community supervision or received deferred adjudication for the intoxication offense.

The custodian of the municipal or county treasury would have to keep records of the amounts collected and would have to remit the funds to the comptroller on a quarterly basis. The comptroller would have to deposit these funds to the credit of a new account for emergency medical services (EMS), trauma facilities and trauma care systems, established by the bill.

The health and human services commissioner would have to maintain a reserve fund of \$500,000 in EMS/trauma care accounts and would have to award at least 50 percent, rather than 70 percent, of the remaining funds to regional trauma facilities. In any fiscal year, the commissioner could not use more than 20 percent, rather than 25 percent, of the appropriated money remaining from the accounts, after deducting the reserve amount, to operate the 22 trauma center areas. The bill would increase from 2 to 27 percent the minimum amount of remaining funds that the commissioner would have to use for uncompensated trauma care.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

SB 1131 would force drunk-driving offenders to bear more of the cost of trauma care and other expenses directly caused by their carelessness. According to the National Highway Safety Administration, about 40 percent of all traffic fatalities are alcohol-related. Texas leads the nation in the number of deaths due to traffic accidents — 7.2 for every 100,000 residents — and in the number of drunk-driving-related fatalities. SB 1131 would provide a financial disincentive that would help reduce the death toll on the state's streets and highways.

The bill would provide another funding source to help critically underfunded trauma centers. Some of these centers are in large cities, such as Houston's Memorial Hermann Hospital and Dallas' Parkland Hospital, while others serve as regional centers in rural Texas. Most trauma centers rely on local taxpayers to pay for the care of indigent out-of-county patients. Many of the state sources, such as the Tertiary Medical Fund that comes from unclaimed

lottery winnings, tend not to be reliable sources of money. In 2001, eligible hospitals requested \$260 million in reimbursement for documented out-of-county indigent patients, but they received only \$16 million from the state, or 6 percent of the total.

**OPPONENTS
SAY:**

SB 1131 would not be a budgetary panacea nor an adequate or stable source of revenue for trauma facilities and emergency care providers. It is unlikely that the state would meet the optimistic revenue projections because many of these drunk-driving offenders are indigents who cannot pay current fines. If the program were successful in increasing voluntary compliance, revenues would decrease as fewer Texans were convicted of intoxication offenses.

The Legislature should provide adequate funding for important services such as EMS and trauma care, without relying on budgetary gimmicks such as unclaimed lottery funds or increasing fees for intoxication offenses.

NOTES:

The bill's fiscal note projects that the new fee would generate \$7.8 million for the new EMS/trauma care account during fiscal 2004-05 and \$22.5 million through fiscal 2008. Local governments would gain about \$2.5 million through fiscal 2008.

HB 3203 by Delisi, et al., which would have imposed additional surcharges on drivers convicted of DWI or for being habitually hazardous drivers to create a fund to support trauma care systems, was placed on the House General State Calendar for May 7 but was postponed and died in the House. HB 3588 by Krusee, et al., the Trans-Texas Corridor bill, which contains a provision creating a trauma care system program similar to HB 3203, passed the House as amended on May 10, was reported favorably, as substituted, by the Senate Infrastructure Development and Security Committee on May 24, and has been placed on the Senate Intent Calendar.