

SUBJECT: Penalties and fees for operating a motor vehicle or vessel illegally

COMMITTEE: Transportation — favorable, without amendment

VOTE: 8 ayes — Krusee, Phillips, Callegari, Casteel, Deshotel, Hamric, Hill, West
0 nays
1 absent — Flores

WITNESSES: For — James Harris, Texas Justice Court Judges Association, Inc. and Judge Terry Douglas, pct. 2 Collin County; Kimberly Jozwiak, Texas Justice Court Judges Association
Against — None

BACKGROUND: Transportation Code, sec. 502.407 creates an offense for operating on a public road a vehicle, trailer, or semitrailer with an expired license plate. A court may dismiss the charge if the defendant remedies the defect within 10 days after the date of the offense, pays the delinquent registration fee established in sec. 502.176, and pays an administrative fee not to exceed \$10.

Sec. 521.025 says a person commits an offense by operating a vehicle without a driver's license in that person's possession or by refusing to show a license to a magistrate, court officer, or peace officer who demands that the person do so. It is a defense to prosecution if the person produces in court a driver's license and the license was valid at the time that person was ticketed.

Sec. 521.026 allows a judge to dismiss a charge of driving with an expired license if the defendant renews the license within 10 days and to charge the defendant an administrative fee not to exceed \$10 when the judge dismisses the charge.

Section 521.054 says if a person changes an address or name, that person must notify DPS within 30 days of the change.

Sec. 542.301 says a person commits an offense by performing an act prohibited or failing to perform an act required by Subtitle C, Rules of the Road, and that such an offense is a misdemeanor unless otherwise provided. Sec. 542.401 states that a person convicted of a misdemeanor under Subtitle C, Rules of the Road, for which a penalty is not provided must be punished by a fine between \$1 and \$200.

Sec. 545.412 says a person commits an offense by operating a passenger car and transporting a child:

- younger than 5 years of age and under 36 inches tall not in a child passenger safety seat while the vehicle is being operated, or
- younger than 4 years of age or less than 36 inches tall not in a child passenger safety seat while the vehicle is being operated

An offense under this section is a misdemeanor punishable by a fine between \$100 and \$200.

Sec. 545.413 says a person commits an offense if that person:

- (a) is at least 15 years of age, is riding in the front seat of a passenger vehicle, is sitting in a seat with a safety belt, and is not wearing a safety belt, or
- (b) operates a passenger vehicle that is equipped with safety belts and allows a child between five and 16 years of age or a child younger than five years of age and at least 36 inches tall to ride in the vehicle without requiring the child to wear a safety belt if the child is in a seat equipped with a safety belt.

An offense under subsec. (a) is a misdemeanor punishable by a fine between \$25 and \$50. An offense under subsec. (b) is a misdemeanor punishable by a fine between \$100 and \$200.

Sec. 548.605 states that a court must dismiss a charge of driving with an expired inspection certificate if the defendant renews the certificate within 10 days and the certificate has not been expired for more than 60 days, and must assess an administrative fee not to exceed \$10.

Parks and Wildlife Code, sec. 31.127 states that operation of a vessel with an expired certificate number or operation of vessel at an excessive speed is an offense punishable by a fine between \$100 and \$500.

DIGEST:

HB 2136 would amend the following sections to increase the maximum administrative fee a court could assess against an offender from \$10 to \$25:

- Sec. 502.407, upon dismissal of a charge of operating on a public road a vehicle, trailer or semi-trailer with an expired license plate, if it was remedied within 10 days and the delinquent fee paid;
- Sec. 521.026, upon dismissal of a charge of driving with an expired license, if the license was renewed within 10 days; and
- Sec. 548.605, upon dismissal of a charge of driving with an expired inspection certificate, if it was renewed within 10 days and not expired for more than 60 days.

The bill also would allow a court to assess an administrative fee for certain offenses for which courts previously have not been authorized to charge a fee. The bill would amend sec. 521.025 to allow a court to assess a maximum administrative fee of \$25 against an offender whose charge was dismissed because the offender produced in court a driver's license and the license was valid at the time the person was ticketed. The bill would amend sec. 521.054 to allow a court to dismiss a charge for violation of this section if the defendant notifies DPS of an address or name change within 10 days of being ticketed and if the defendant paid an administrative fee not to exceed \$25. The bill would amend Parks and Wildlife Code, sec. 31.127 to allow a court to dismiss an offense of operation of a vessel with an expired certificate number if the defendant remedied the defect within 10 days of receiving the ticket for the offense, paid an administrative fee of \$25, and the certificate number had not been expired for more than 60 days.

The bill would amend Sec. 542.301 to make an offense, unless otherwise provided, under Subtitle C, Rules of the Road, a class C misdemeanor (maximum fine of \$500). The bill would repeal sec. 542.401, which sets the misdemeanor penalty at between \$1 and \$200.

The bill would change the minimum and maximum fines allowed for two sections. The bill would amend sec. 545.412, operating a passenger vehicle with a child not properly secured in a safety seat, to decrease the minimum fine from \$100 to \$1 and increase the maximum fine from \$200 to \$500. The bill would amend sec. 545.413, riding in a vehicle without properly being secured in a safety belt or operating a passenger vehicle

with a child not properly secured with a safety belt, to state that either offense was a misdemeanor punishable by a fine between \$1 and \$500.

The bill would apply only to an offense committed on or after September 1, 2005. The bill would take effect September 1, 2005.

**SUPPORTERS
SAY:**

Penalties and fees assessed for violations of “rules of the road” have been enacted in a piecemeal fashion over the years, and as a result, the penalties and fees assessed vary considerably. HB 2136 would help to provide uniformity to these penalties and fees.

The bill would increase the maximum allowable fine for the offenses of driving with a child not in a safety seat and not wearing a safety belt. Increasing the maximum fine allowed could provide an incentive for people to engage in safer behavior.

**OPPONENTS
SAY:**

HB 2136 would increase the maximum allowable administrative fine for operation of a vehicle with an expired license plate, driving with an expired license, and driving with an expired inspection certificate from \$10 to \$25. People often commit these offenses because they cannot afford to renew the license or certificate in question. Allowing a court to charge more money to people who already cannot afford to renew their licenses or certificates would put an unnecessary burden on these people.

The bill also would lower the minimum administrative fine that must be assessed for driving with a child not in a safety seat. Allowing a young child to ride in a car without a safety seat is potentially very dangerous for the child. The state should not lower the minimum required fine for this offense.