

SUBJECT: Court fee for dismissal of a motor vehicle financial responsibility charge

COMMITTEE: Law Enforcement — favorable, without amendment

VOTE: 7 ayes — Driver, Latham, Allen, Frost, Ortiz, Vo, West
0 nays

WITNESSES: For — David M. Cobos, Justices of the Peace & Constables Association of Texas
Against — None

BACKGROUND: Transportation Code, secs. 601.191 and 601.195 establish the requirement for the owner and driver of a motor vehicle to have proof of financial responsibility, which may include a liability insurance policy, a surety bond, an insurance binder, a deposit of cash or securities with the comptroller or county, or a certificate of self-insurance. Transportation Code, sec. 601.193(a) allows a person to produce proof of financial responsibility for a motor vehicle as a defense for a violation of Transportation Code, sec. 601.191 or sec. 601.195, if the documents were valid at the time the offense is alleged to have occurred.

Government Code, sec. 51.607 requires the comptroller, at the end of each regular legislative session, to publish in the Texas Register a list of each law enacted by the Legislature that imposes or changes the amount of a court cost or fee collected by the clerk of a district, county, statutory county, municipal, or justice court from a party to a civil case or a defendant in a criminal case. It further stipulates that new court costs or fees published in this list will not take effect until January 1 after the law takes effect, unless the law expressly provides that this section does not apply.

DIGEST: HB 588 would allow the court to assess a defendant an administrative fee not to exceed \$10 when a charge is dismissed under Transportation Code, sec. 601.193(a) for failure to show proof of motor vehicle financial responsibility.

The bill would not be subject to Government Code, sec. 51.607 and would take effect on September 1, 2007.

**SUPPORTERS
SAY:**

HB 855 would enable municipal and justice courts to recuperate real costs incurred because of a person's carelessness. When a person is stopped by law enforcement without proof of insurance, court clerks must spend time on data entry, filing, and billing for the infraction. Then, when a person provides proof of insurance to have the charge dismissed, the clerk must process this evidence and verify the validity of the insurance, which often involves long distance telephone calls. While the charges may ultimately be dismissed, this bill would make those who belatedly showed proof of insurance personally responsible for the additional court resources they use, rather than pass on these expenses to law-abiding taxpayers.

The bill would set a fee that is consistent with current administrative fees for the dismissal of similar violations and would not pose a hardship on a defendant. A \$10 administrative fee currently is assessed for a dismissal of the charge of driving with an expired license (Transportation Code, sec. 521.026), operating a vehicle with an expired license plate (Transportation Code, sec. 502.407), and failing to display an inspection certificate (Transportation Code, sec. 548.602). Because similar administrative resources are expended, the dismissal of this charge should be the same as the administrative fees assessed for other dismissals. Still, should this fee pose an undue hardship on a defendant, Code of Criminal Procedure, art. 43.091 currently allows a municipal or justice court to waive the fee.

**OPPONENTS
SAY:**

HB 588 unnecessarily would impose a fee for accessing the municipal and justice court system. The people that would incur the \$10 administrative fee are those who had proof of financial responsibility but were unable to present it at the time of their citation. While the intent of the law is to penalize those without current automotive insurance, it also would penalize properly insured drivers who could not produce the necessary slip of paper at the time of a traffic stop. Drivers who are in substantial compliance with the law should not have to pay a fee when they are already spending significant time and effort to dismiss the charges wrongly filed against them. While court clerks must process this information, proof-of-insurance dismissals simply are part of their general administrative duties supported by tax dollars. If municipal and justice courts do not have the funding to properly support their administrative

services, the state or municipality should provide additional resources to address this problem.