

SUBJECT: Collection policies and amnesties for driver responsibility program

COMMITTEE: Law Enforcement — committee substitute recommended

VOTE: 6 ayes — Driver, Latham, Allen, Frost, Ortiz, West

0 nays

1 absent — Vo

SENATE VOTE: On final passage, April 25 — 29-0

WITNESSES: No public hearing

BACKGROUND: In 2003, the 78th Legislature enacted HB 3588 by Krusee, which created the Driver Responsibility Program (DRP), a point system for identifying drivers who habitually violate traffic laws, and assigned points for different kinds of violations. Drivers pay a surcharge to the state if they accumulate a certain number of points and for certain other offenses. The points are based on traffic violations committed after September 1, 2003, including:

- accumulation of six or more points from specific moving violations;
- driving while intoxicated (DWI) or failing a blood alcohol test;
- driving with a suspended license or without insurance; or
- driving with no license or an expired license.

The surcharge, which is collected each year for three years, ranges from \$100 for six or more points to \$2,000 for a DWI offense with a blood alcohol test of 0.16 or more.

About 50 percent of the DRP surcharge is designated for the state's Trauma Facility and EMS Fund.

During the third called session in 2003, the 78th Legislature enacted HB 2 by Krusee, which authorized the Department of Public Safety to contract with a private vendor to collect the DRP surcharges and limited the

compensation to 30 percent of the charges. The first contract was awarded on August 26, 2004, and runs through September 28, 2008. During the 2005 regular session, the 79th Legislature enacted HB 2470 by Delisi, which further amended Transportation Code, ch. 708 to extend the program past the original sunset date of September 1, 2007, and to authorize a 36-month installment plan to pay the DRP surcharge.

In the January 2007 *Texas State Government Effectiveness and Efficiency* report, the Legislative Budget Board noted that 1.5 million notices billing \$478.7 million in DRP surcharges had been sent between September 2004 and August 2006. During the same period, the revenue collected was \$143.8 million. The overall collection rate was 27.8 percent, but the collection rate ranged from 51.2 percent of those with six or more points to 18.8 percent of those driving without a license. The report also noted that 54.9 percent of cases resulted in suspensions of driver's licenses rather than payment.

DIGEST: CSSB 1723 would amend the Transportation Code, adding sec. 708.157 to authorize the Department of Public Safety to adopt rules for a periodic amnesty program for those liable for DRP surcharges. The amnesty program could include incentives, including a reduction of the surcharge or a decrease in the length of the installment plan.

The bill would allow for the reestablishment of an installment plan by a driver who had agreed to pay but had failed to make installment payments. The change also would apply to DRP contracts made by the private vendor collecting the surcharges.

The bill would not affect the ability of the existing contractor to bid on additional contracts that would be offered when the legislation took effect on September 1, 2007.

SUPPORTERS SAY: CSSB 1723 would help implement some of the *Texas State Government Effectiveness and Efficiency* recommendations to boost the disappointing collection rate of DRP surcharges. The bill would provide incentives for drivers to comply with the program through new installation plans and periodic amnesties. The current "only sanctions" approach obviously is not working. Besides, the only true penalty is suspension of a driver's license, and the category with the worst compliance rate of 18.8 percent includes those cited for not having a driver's license in the first place. Suspending a nonexistent driver's license is no penalty.

The bill would provide flexibility to help low-income offenders meet their obligations. According to the *Texas State Government Effectiveness and Efficiency* report, a large majority of those with no insurance or with driver's license violations tend to live in ZIP codes with low- and median-income households. Those with points or DWI violations are distributed in low-income ZIP codes at the same frequency as the population as a whole. Requiring that a balance become immediately due and payable upon failure to make a payment has a negative effect on collections. Sometimes an unforeseen financial problem may cause a low-income driver to miss a payment and become non-compliant. Even credit cards have the option of increasing the finance charge or extending leniency in such cases. The state should have the same ability with the DRP payment so that low-income drivers could comply with the law.

Periodic amnesties stimulate collection of past due charges. In 2003, New Jersey offered a 60-day amnesty for all surcharge violators other than those with DWI convictions. The state collected 74,139 payments for \$17.5 million in revenue on amnesty-eligible accounts. Similarly, the comptroller is offering the Fresh Start Program for Texas taxpayers between June 15 to August 15. There will be a waiver of penalties and interest for those who have not filed or who have delinquent accounts. CSSB 1723 would extend this kind of program to the DRP.

DRP is a relatively new and continually evolving program in Texas, compared with New Jersey, which has had a point system surcharge in place since 1983. Future legislatures could evaluate any changes that would be implemented by CSSB 1723 and could consider additional incentives and sanctions, including such programs as additional liens on delinquent drivers.

OPPONENTS
SAY:

CSSB 1723 would consist of all carrots and no sticks. The bill should adopt the additional *Texas State Government Effectiveness and Efficiency* recommendations to amend the Transportation Code to provide for additional sanctions, including liens on personal property or on lottery winnings or other state payments. The low collection rate reflects more of a lack of state effort than the financial inability of drivers with surcharges.

Amnesties only reward those who ignore the law and would encourage violators to wait for future waivers of penalties before making payments properly due the state.

Even with the changes, CSSB 1723 would fail to address the underlying problem of how the expense and bureaucratic difficulties of acquiring driver's licenses and insurance provides perverse incentives for Texans to drive without either. There are too many unlicensed and uninsured drivers on the road already.

OTHER
OPPONENTS
SAY:

The poor collection rate of DRP surcharges further highlights the problem with funding important programs like trauma care through dedicated funds, particularly those dependent on unreliable sources of revenue. Much like the lottery or other dedicated highway funding sources, the trauma fund leaves citizens and policymakers with the misleading impression that important functions are fully funded and need no additional general revenue.

NOTES:

In the House-passed version of HB 1 by Chisum, the general appropriations bill, Rider 45 for the Department of Public Safety would allocate \$1.3 million in both fiscal 2008 and fiscal 2009 for the department to administer DRP. The rider also provides that \$8.3 million would be allocated in both fiscal 2008 and fiscal 2009 as the vendor's base compensation and related costs of collections of DRP surcharges.

The fiscal note for CSSB 1723 estimates that other than a \$225,000 charge to revise the Department of Public Safety computer system, the bill would have no significant fiscal effect.

The committee substitute deleted a reference in the engrossed Senate version to "original" contract. It would allow the Department of Public Safety to amend and enter into additional contracts, rather than to amend or enter additional contracts as provided in the engrossed version.