

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1856
By: Wentworth
Natural Resources
4-17-97
Committee Report (Substituted)

DIGEST

Currently, a motor vehicle emissions testing program is in place in certain counties. The Environmental Protection Agency proposed conditional interim approval of the Texas Motorist's Choice Program as described in the Texas state implementation plan, because the state lacks the legislative authority to accomplish certain components of the program. This bill provides the Texas Natural Resource Conservation Commission, the Department of Public Safety, and the Texas Department of Transportation with authority to implement an automobile emissions testing program for the state.

PURPOSE

As proposed, C.S.S.B. 1856 provides the Texas Natural Resource Conservation Commission, the Department of Public Safety, and the Texas Department of Transportation with authority to implement an automobile emissions testing program for the state.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Department of Public Safety in SECTION 12 (Section 548.505, Transportation Code) and SECTION 18; Texas Natural Resource Conservation Commission and the Texas Department of Transportation in SECTION 18, and to the Texas Natural Resource Conservation Commission in SECTION 5 (Section 548.301, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 382.037(d), Health and Safety Code, to require the Department of Public Safety (department) to implement a system, as a condition of obtaining a safety inspection certificate issued under Chapter 548E, Transportation Code, rather than under Section 140 or 141, Article 6701d, V.T.C.S., in a county that is included in a vehicle emissions inspection and maintenance program under Subchapter F of that chapter, rather than Section 142, Article 6701d, V.T.C.S. Deletes text regarding Section 382.8371 and verification of compliance. Makes a conforming change.

SECTION 2. Amends Chapter 502A, Transportation Code, by adding Section 502.009, as follows:

Sec. 502.009. MOTOR VEHICLE EMISSIONS INSPECTION AND MAINTENANCE REQUIREMENTS. Sets forth requirements for the motor vehicle emissions inspection and maintenance program.

SECTION 3. Amends Section 548.001, Transportation Code, to redefine "commercial motor vehicle. Defines "department" and "nonattainment area."

SECTION 4. Amends Section 548.251, Transportation Code, to make a conforming change.

SECTION 5. Amends Section 548.301, Transportation Code, to require the Public Safety Commission (commission) to establish a motor vehicle emissions inspection and maintenance program for vehicles covered by the state's air quality state implementation plan, as otherwise specified by the department at the direction of the governor. Deletes text regarding the establishment of a program.

Deletes existing Subdivision (1). Authorizes the commission, by rule, to establish a motor vehicle emissions inspection and maintenance program for vehicles specified by the Texas Natural Resource Conservation Commission (TNRCC) at the governor's direction. Prohibits a program established under Subsection (b) from including reregistration-based, rather than registration based, enforcement unless the county by resolution requests reregistration-based enforcement. Deletes a provision regarding the program. Deletes text regarding the program. Sets forth requirements of vehicle emissions inspections. Makes conforming and nonsubstantive changes.

SECTION 6. Amends Section 548.302, Transportation Code, to require the commission to develop and impose requirements regarding issuance of an inspection certificate.

SECTION 7. Amends Section 548.303, Transportation Code, to require the commission to administer the motor vehicle emissions program under this subchapter. Authorizes the department to reestablish the program under this subchapter or as directed by the governor. Deletes text regarding notification of the commission.

SECTION 8. Amends Section 548.304, Transportation Code, as follows:

Sec. 548.304. New heading: STATIONS LICENSED TO CONDUCT EMISSIONS INSPECTIONS. Authorizes the department, rather than TNRCC, to certify, rather than license, inspection stations as necessary to implement the emissions-related inspection, rather than reinspection, requirements of the motor vehicle inspection and maintenance program established under this subchapter, rather than Section 548.301, if the station meets the department's certification requirements. Requires the department to provide inspection certificates for distribution and issuance at inspection stations certified by the department. Deletes existing Subsection (c).

SECTION 9. Amends Chapter 548F, Transportation Code, by adding Section 548.306, as follows:

Sec. 548.306. EXCESSIVE EMISSIONS. Sets forth applicability of this section. Sets forth offenses if the registered owner of a motor vehicle emits certain emissions in excess of standards provided by department rule. Sets forth notice requirements regarding offenses. Sets forth punishments for offenses. Sets forth affirmative defenses. Authorizes the department to contract with a private person to implement this section. Requires compliance with rules and procedures adopted by the department. Makes conforming and nonsubstantive changes.

SECTION 10. Amends Section 548.405, Transportation Code, as follows:

Sec. 548.405. New heading: DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATE. Authorizes the department to deny an application for certificate or place a person on probation who holds a suspended certificate, or reprimand a person who holds a certificate if a station or inspector conducts an inspection or issues a certificate in violation of this chapter or fails to comply with the requirements of this chapter. Provides that a person commits an offense under this chapter if certain actions are committed. Deletes existing Subdivision (B). Sets forth a conviction under this section. Sets forth a suspension period. Prohibits an inspector or inspection station from being involved in an inspection operation if the certificate has been suspended or revoked. Deletes existing Subsection (d).

SECTION 11. Amends Section 548.407, Transportation Code, as follows:

Sec. 548.407. New heading: HEARING ON DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATE. Provides that before an application for certification as an inspection station or inspector is denied, the director or a person the director designates is to give a person written notification of the denial and a person's rights to an administrative hearing. Sets forth notice requirements regarding revocation of a license. Sets forth requirements for effectiveness of revocation or suspensions. Sets forth a conviction under this section. Sets forth requirements for a hearing regarding a suspension or revocation of a license. Sets forth duties of an administrative law judge in a hearing. Makes conforming changes.

SECTION 12. Amends Section 548.505, Transportation Code, to require the department, by rule, to impose an inspection fee for a vehicle inspected under Section 548.301(a). Sets forth the basis of the fee. Sets forth requirements for a minimum and maximum fee. Deletes Subsections (b)-(d).

SECTION 13. Amends Section 548.601, Transportation Code, to provide that an inspector or inspection station commits an offense if the person meets certain requirements. Provides that an offense under this section is a Class C misdemeanor. Authorizes the designated representative of the department to issue a notice of offense or notice to appear to certain entities. Sets forth notice requirements. Deletes Subsection (b).

SECTION 14. Amends Section 548.602(a), Transportation Code, to make nonsubstantive changes.

SECTION 15. Amends Section 548.603, Transportation Code, as follows:

Sec. 548.603. New heading: FICTITIOUS OR COUNTERFEIT INSPECTION CERTIFICATE. Sets forth an offense if a person displays an insurance document knowing that the document is counterfeit, tampered with, or altered in violation of certain laws. Sets forth a violation for knowing that a vehicle does not meet all emissions inspection requirements. Sets forth classifications of offenses under this section. Defines "counterfeit," "inspection certificate," "insurance document," and "person." Deletes existing Subsections (d) and (e). Makes a conforming change.

SECTION 16. Amends Section Chapter 552C, Government Code, by adding Section 552.172, as follows:

Sec. 552.127. MOTOR VEHICLE INSPECTION INFORMATION. Provides that a record created during an inspection relating to an individual vehicle or the owner of the vehicle is excepted from the requirements of Section 552.021.

SECTION 17. Provides that in addition to the substantive changes made by this Act, this Act conforms to certain statutes.

SECTION 18. Repealer: Section 382.0371, Health and Safety Code (Vehicle emissions inspection and maintenance program).

Repealer: Sections 548.256(c) and 548.305, Transportation Code (Compulsory inspection of vehicles).

Repealer: Section 25, Chapter 705, Acts of the 74th Legislature, Regular Session, 1995 (Uniform Act regulating traffic on highways).

Repealer: Sections 6, 7, and 8, Chapter 34, Acts of the 74th Legislature, Regular Session, 1995 (Uniform Act regulating traffic on highways).

SECTION 19. (a) Effective date for SECTIONS 1-18: September 1, 1997, or 60 days after the effective date of this section, whichever is later.

(b) Makes application of this Act prospective.

(c) Provides that this section takes effect immediately.

SECTION 20. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 382.037, Health and Safety Code, to require the department to implement a certain system including any provision of the state's, rather than Texas, air quality implementation plan. Makes conforming changes.

SECTION 2.

Amends Section 502.009, Transportations Code, to set forth motor vehicle emissions inspection and maintenance requirements.

SECTION 5.

Amends Section 548.301, Transportation Code, to authorize the commission, by rule, to establish a motor vehicles emissions inspection and maintenance program. Makes conforming and nonsubstantive changes. Prohibits a program established under Subsection (b) from including reregistration based, rather than registration based, enforcement unless the county by resolution requests reregistration based enforcement. Deletes a provision regarding the program.

SECTION 7.

Amends Section 548.303, Transportation Code, to require the commission to administer the motor vehicle emissions program under this subchapter.

SECTION 8.

Amends Section 548.304, Transportation Code, to provide for a new heading: STATIONS LICENSED TO CONDUCT EMISSIONS INSPECTIONS.

SECTION 9.

Amends Chapter 548F, Transportation Code, by adding Section 548.306, to set forth offenses, if a motor vehicle emits certain materials in excess of standards provided by department rule. Sets forth offenses. Makes conforming and nonsubstantive changes.

SECTION 10.

Amends Section 548.405, Transportation Code, to provide that an adjudication of a person's guilt includes an order of probation or deferred adjudication. Prohibits an inspector or inspection station from being involved in an inspection operation if the certificate has been suspended or revoked.

SECTION 11.

Amends Section 548.407, Transportation Code, to provide for a violation for issuing an inspection certificate with knowledge that the issuance is in violation of this chapter or rules adopted under this chapter. Sets forth when a revocation or suspension continues in effect. Sets forth duties of an administrative law judge and the director under this section. Makes a conforming change.

SECTION 13.

Amends Section 548.601, Transportation Code, to set forth a violation under this section. Sets forth requirements for notice. Makes a conforming change.

SECTION 15.

Amends Section 548.603, Transportation Code, to set forth an offense if a person displays an insurance document knowing that the document is counterfeit, tampered with, or altered if certain conditions are met. Sets forth a violation for knowing that a vehicle does not meet

all emissions inspection requirements. Makes a conforming change.

SECTION 16.

Deletes proposed SECTION 16. Amends Section Chapter 552C, Government Code, to provide for motor vehicle inspection information.

SECTION 19.

Makes application of this Act prospective.

SECTION 20.

Adds SECTION 20 to provide for the emergency clause.