

BILL ANALYSIS

Senate Research Center

S.B. 499
By: Sibley
Criminal Justice
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As Filed

DIGEST

Currently, Texas law does not authorize law enforcement agencies to operate sobriety checkpoints. Sobriety checkpoints are used in 39 states and the District of Columbia. Studies have shown that areas that used checkpoints saw a decrease in DWI accidents and fatalities. Texas police departments once were permitted to use sobriety checkpoints. However, in 1994, the Texas Court of Criminal Appeals ruled sobriety checkpoints unconstitutional because no statewide administrative rules existed for setting up the checkpoints. This bill will authorize certain law enforcement agencies to establish and operate temporary checkpoints on highways and streets to determine whether persons are driving while intoxicated, and will establish procedures for conducting the checkpoints.

PURPOSE

As proposed, S.B. 499 authorizes certain law enforcement agencies to establish and operate checkpoints on highways and streets to determine whether persons are driving while intoxicated, and establishes procedures for conducting the checkpoints.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 1, Code of Criminal Procedure, by adding Chapter 62, as follows:

CHAPTER 62. SOBRIETY CHECKPOINTS

Art. 62.01. DEFINITIONS. Defines "law enforcement agency" and "highway or street."

Art. 62.02. AUTHORIZATION FOR SOBRIETY CHECKPOINTS. Authorizes a law enforcement agency to operate a temporary checkpoint as provided by this chapter on a highway or street to determine whether persons operating motor vehicles on the highway or street are intoxicated and in violation of Section 49.04, Penal Code.

Art. 62.03. APPROVAL OF AND PROCEDURES FOR SOBRIETY CHECKPOINTS. Sets forth procedures for approval and operation of sobriety checkpoints. Requires the law enforcement agency to make reasonable efforts to publicize the operation of a checkpoint but is not required to disclose the precise date, time, location, or purpose of the checkpoint.

Art. 62.04. VISUAL RECORDING OF SOBRIETY CHECKPOINTS. Requires a law enforcement agency that operates a sobriety checkpoint to visually record the operation of the checkpoint. Requires the visual recording to display the day, date, and time that the recording was made. Requires the law enforcement agency to retain each recording of the operation of a checkpoint until at least the first anniversary of the operation of that checkpoint. Requires a law enforcement agency, not later than the third working day of each month, to report the operation of each checkpoint during the preceding month to the traffic safety section of the traffic operations division of the Texas Department of Transportation at its offices in Austin. Provides that the traffic operations division is entitled to take certain actions. Requires the traffic operations division, not later than January 31, 1999, to submit

a report on the effectiveness of sobriety checkpoints operated under this chapter to the governor, the lieutenant governor, and the speaker of the house of representatives. Provides that this subsection expires February 1, 1999.

SECTION 2. Emergency clause.

Effective date: upon passage.