

BILL ANALYSIS

Senate Research Center

H.B. 3071
By: Chisum (Shapiro)
State Affairs
5/11/2001
Engrossed

DIGEST AND PURPOSE

It is unclear whether current law provides for the suspension or revocation of a certificate of a vehicle inspector if the inspector commits a crime unrelated to inspections. In addition, current law does not address a situation in which a family member of a person with a suspended or revoked certificate seeks to continue that person's family business. Current law is unclear as to which entities or persons involved in a business are subject to the suspension or revocation of a certificate. H.B. 3071 strengthens law governing the suspension and revocation of certificates of an inspector or inspection station owner and certain family members of that person and clarifies which entities and individuals are subject to a certificate suspension or revocation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Public Safety in SECTION 4 (Section 548.409, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 548G, Transportation Code, by adding Section 548.4035, as follows:

Sec. 548.4035. ENTRY ONTO PREMISES. Authorizes a member, employee, or agent of the Department of Public Safety (department) to enter an inspection station during normal business hours for certain purposes. Sets forth requirements regarding a member, employee, or agent of the department who enters an inspection station for a purpose described by this section. Provides that this section does not prohibit the department from conducting an undercover investigation or a covert audit of an inspection station.

SECTION 2. Amends Section 548.405, Transportation Code, by adding Subsections (e), (f), (g), (h), and (i), as follows:

(e) Prohibits an immediate family member of an inspector or owner of an inspection station whose certificate is suspended or revoked from being granted a certificate under this subchapter if the location of the family member's place of business is the same as that of the inspector or owner whose certificate is suspended or revoked unless the family member proves that the inspector or owner whose certificate is suspended or revoked has no involvement with the family member's place of business.

(f) Provides that Subsection (a) applies to certain persons.

(g) Prohibits the department from suspending, revoking, or denying all certificates of a person who holds more than one inspection station certificate based on a suspension, revocation, or denial of one of that person's inspection station certificates without proof of culpability related to a prior action under this subsection.

(h) Requires the department to develop, by September 1, 2002, a penalty schedule

consisting of warnings, re-education, suspensions, and revocations based on the severity and frequency of offenses committed under Chapter 548, Transportation Code, and rules adopted by the department under this chapter.

(i) Requires the department to develop, by September 1, 2002, a penalty schedule consisting of suspensions and revocations based on the severity and frequency of offenses committed in the emissions testing of motor vehicles under Chapter 382.037, Health and Safety Code, and Chapter 548, Subchapter F, Transportation Code.

SECTION 3. Amends Section 548.408, Transportation Code, by amending Subsections (a), (c), and (f) and adding Subsection (g), as follows:

(a) Authorizes a person dissatisfied with the final decision (rather than action) of the director to appeal the decision by filing a petition as provided by Subchapter G, Chapter 2001, Government Code. Deletes text regarding a district court in the county a person resides or in Travis County. Deletes text requiring the petition to be filed not later than the 30th day after the date the action is taken.

(c) Requires the court in which the appeal is filed to determine whether an enforcement action of the director shall be suspended pending hearing and enter an order for the suspension.

(f) Makes a conforming change.

(g) Provides that judicial review of the final decision of the director is under the substantial evidence rule.

SECTION 4. Amends Chapter 548G, Transportation Code, by adding Section 548.409, as follows:

Sec. 548.409. COMPLAINTS. Requires the department to adopt rules regarding the efficient handling and investigation of complaints by citizens, applicants, inspectors, and inspection stations against an employee or agent of the department who is authorized to investigate the compliance of an inspection station or inspector regarding Subchapter F or rules adopted under Subchapter F or this subchapter. Requires the rule to provide for a fair, expeditious, and equitable investigation and resolution to complaints received by the department.

SECTION 5. Makes application of this Act prospective regarding an offense committed on or after the effective date of this Act. Provides that, for the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

SECTION 6. Effective date: September 1, 2001.