

BILL ANALYSIS

Senate Research Center
77R9246 GWK-D

C.S.S.B. 968
By: Bivins
Criminal Justice
4/2/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Theft of gasoline and diesel fuel by consumers driving off without paying has become a serious problem for the industry. Theft of motor fuel at the state's 11,000 convenience stores led to nearly \$8 million in losses to these establishments in the year 2000. Eight states have recently addressed this problem legislatively, particularly through the suspension of person's driver license. C.S.S.B. 968 requires a judge to enter a special affirmative finding if it is determined that a person has prior convictions for theft of gasoline. Subsequent convictions would result in suspension of their driver's license for 180 days. C.S.S.B. 968 also prohibits the Department of Public Safety from issuing a driver's license to a person who has been convicted of gasoline theft if the person did not hold a driver's license on the date of the conviction.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 42, Code of Criminal Procedure, by adding Article 42.019, as follows:

Art. 42.019. MOTOR FUEL THEFT. Requires a judge to enter an affirmative finding in the judgment in a case if the judge or jury, whichever is the finder of fact, determines beyond a reasonable doubt in the guilt or innocence phase of the trial of an offense under Section 31.03 (Theft), Penal Code, that the defendant, in committing the offense dispensed motor fuel into the tank of a motor vehicle at a retail establishment and then left the premises without paying the establishment for the motor fuel. Requires a judge to enter a special affirmative finding in the judgment in the case, if the judge enters an affirmative finding as required by this section and determines that the defendant has previously been convicted of an offense the judgment for which contains an affirmative finding under this section.

SECTION 2. Chapter 521O, Transportation Code, by adding Section 521.349, as follows:

Sec. 521.349. ACQUIRING MOTOR FUEL WITHOUT PAYMENT: AUTOMATIC SUSPENSION; LICENSE DENIAL. Provides that a person's driver's license is automatically suspended on final conviction of an offense under Section 31.03, Penal Code, if the judgment in the case contains a special affirmative finding under Article 42.019, Code of Criminal Procedures, as added by this Act. Prohibits the Department of Transportation (department) from issuing a license to a person convicted of an offense in this section who, on the date of the conviction, did not hold a driver's license. Provides the period of suspension under this section is the 180 days after the date of a final conviction, and the period of license denial is the 180 days after the date the person applies to the department for reinstatement or issuance of a driver's license, unless the person has previously been denied a license under this section or had a license suspended, in which event the period of suspension is one year after the

date of a final conviction, and the period of license denial is one year after the date the person applies to the department for reinstatement or issuance of a driver's license.

SECTION 3. Effective date: September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Differs from As Filed version by deleting proposed SECTION 1 and adding a new SECTION 1 regarding motor fuel theft.

SECTION 2. Differs from As Filed version by making a reference to "affirmative finding" as "special affirmative finding." Makes nonsubstantive changes.

SECTION 3. No change.

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