

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 288
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Illegal transfers of bulk currency and firearms fuel drug violence in northern Mexico. According to a recently released report from the Woodrow Wilson International Center for Scholars, millions in bulk cash is shipped to Mexico each month from the United States. According to the Bureau for Alcohol, Tobacco, and Firearms, Houston is the number one source for illegally obtained guns being recovered in Mexico, with Dallas and the Rio Grande Valley being second and third, respectively.

Currently, the Department of Public Safety (DPS) does not have the authority to operate checkpoints other than within 250 yards of an international border crossing and for the purpose of preventing stolen vehicles, farm tractors or implements, construction equipment, aircraft, or watercraft from entering Mexico.

Drug violence in Mexico poses a homeland security risk to Texas, creates illicit business opportunities for homegrown criminal enterprises, and fosters disquiet in Texas communities, particularly along the border. By disrupting the transportation of illegally obtained and smuggled bulk currency and firearms, Texas will be protecting Texans, while aiding the sovereign Mexican government as it battles transnational criminal enterprises.

C.S.S.B. 288 amends current law relating to authorizing the Department of Public Safety to operate one or more southbound vehicle checkpoints near the international border of this state for the purpose of preventing certain criminal offenses.

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 the heading to Section 411.0095, Government Code, to read as follows:

Sec. 411.0095. VEHICLE CHECKPOINTS NEAR TEXAS-MEXICO BORDER.

SECTION 2. Amends Sections 411.0095(a)-(d), Government Code, as follows:

(a) Authorizes the Department of Public Safety of the State of Texas (DPS) to establish border checkpoints to prevent the unlawful possession or unlawful imminent movement or transfer from this state to Mexico of:

- (1) firearms, in violation of Section 46.14 (Firearm Smuggling), Penal Code;
- (2) controlled substances, in violation of Chapter 481 (Texas Controlled Substances Act), Health and Safety Code;
- (3) currency, in violation of Section 34.02 (Money Laundering), Penal Code; or

(4) stolen vehicles, farm tractors or implements, construction equipment, aircraft, or watercraft, in violation of Section 31.03 (Theft), Penal Code.

Deletes existing text authorizing DPS to establish a program for the purposes of establishing border crossing checkpoints to prevent stolen vehicles, farm tractors or implements, construction equipment, aircraft, or watercraft from entering Mexico.

(b) Authorizes a checkpoint to be established under Subsection (a) if the checkpoint meets certain criteria, including if the checkpoint is operated in such a manner as to prevent firearms, controlled substances, currency, vehicles, tractors or implements, equipment, aircraft, or watercraft that law enforcement authorities have probable cause to believe are unlawfully possessed or being unlawfully and imminently transferred or moved from this state to Mexico from being possessed or transferred or moved to Mexico, rather than if the checkpoint is operated in such a manner to stop only vehicles, tractors or implements, equipment, aircraft, or watercraft for which law enforcement authorities have probable cause to believe is stolen and bound for Mexico.

(c) Authorizes DPS to establish border checkpoints, rather than the border crossing checkpoint program, in conjunction with federal and local law enforcement authorities. Authorizes DPS and federal and local law enforcement authorities to share the cost of staffing the checkpoints.

(d) Deletes existing text prohibiting a peace officer at the checkpoint from directing a driver or a passenger in a motor vehicle to leave the vehicle or move the vehicle off the roadway unless the officer has reasonable suspicion or probable cause to believe that the person committed or is committing an offense. Deletes existing text authorizing a peace officer to require that each motor vehicle passing through the checkpoint be diverted to a location immediately adjacent to the roadway, if desirable, to ensure safety.

SECTION 3. Amends Section 411.0095, Government Code, effective September 1, 2015, as follows:

Sec. 411.0095. VEHICLE THEFT CHECKPOINTS AT BORDER CROSSING. (a) Authorizes DPS to establish a program for the purpose of establishing border crossing checkpoints to prevent stolen vehicles, farm tractors or implements, construction equipment, aircraft, or watercraft from entering Mexico.

(b) Authorizes a checkpoint to be established under Subsection (a) if the checkpoint is:

(1) located within 250 yards of a federally designated crossing facility located at or near the actual boundary between this state and Mexico;

(2) located on a public highway or street leading directly to an international border crossing;

(3) designed to stop only traffic bound for Mexico; and

(4) operated in such a manner as to stop only vehicles, tractors or implements, equipment, aircraft, or watercraft for which law enforcement authorities have probable cause to believe is stolen and bound for Mexico.

(c) Authorizes DPS to establish the border crossing checkpoint program in conjunction with local law enforcement authorities. Authorizes DPS and local law enforcement authorities to share the cost of staffing the checkpoints.

(d) Requires DPS to establish procedures governing the encounter between the driver and the peace officers operating the checkpoint that ensure that any intrusion on the driver is minimized and that the inquiries made are reasonably related to the purpose of the checkpoint. Prohibits a peace officer at the

checkpoint from directing a driver or a passenger in a motor vehicle to leave the vehicle or move the vehicle off the roadway unless the officer has reasonable suspicion or probable cause to believe that the person committed or is committing an offense. Authorizes, however, a peace officer to require that each motor vehicle passing through the checkpoint be diverted to a location immediately adjacent to the roadway, if desirable, to ensure safety.

(e) Defines, in this section "motor vehicle," "vehicle," and "watercraft."

SECTION 4. Effective date: upon passage or September 1, 2011.