

## **BILL ANALYSIS**

Senate Research Center  
83R9385 JXC-F

S.B. 1350  
By: West  
Transportation  
3/26/2013  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas has experienced significant problems related to fraudulent activities associated with vehicle inspections and the vehicle inspection certificate. Despite improvements in these areas in recent years, and increased law enforcement scrutiny, the problem persists. Currently, Texas issues a vehicle inspection certificate to automobile owners that is attached to the windshield of the vehicle in addition to the vehicle registration certificate. Technology now exists that will allow Texas to move from a physical vehicle inspection sticker.

Under S.B. 1350, verification of a valid vehicle inspection will be included in the information collected and maintained electronically for vehicle registration. This will not change the requirement for vehicles that are more than two years old to be inspected on an annual basis.

Moving to a single certificate system that combines vehicle inspection with the yearly vehicle registration cycle was recommended in a study conducted jointly by the Texas Department of Public Safety and the Texas Department of Motor Vehicles. The study reported that this system will help to eliminate fraud while also reducing costs to the state. Of the 30 states that require vehicle emissions testing, 27 utilize a single sticker registration and inspection system.

S.B. 1350 will also require annual emissions testing for diesel vehicles. Diesel emissions testing of some type is required in 23 states. Diesel engine vehicles are already equipped with on-board diagnostic systems similar to those on gasoline engine automobiles. Emissions testing for diesel vehicles will help Texas to comply with clean air standards.

As proposed, S.B. 1350 amends current law relating to the motor vehicle inspection program, creates an offense and amends the amount of certain fees.

[**Note:** While the statutory reference in this bill is to Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Natural Resource Conservation Commission is modified in SECTION 5 (Section 382.202, Health and Safety Code) of this bill.

Rulemaking authority previously granted to Public Safety Commission is modified in SECTION 22 (Section 548.301, Transportation Code) of this bill.

Rulemaking authority previously granted to the Department of Public Safety of the State of Texas (DPS) is modified in SECTION 16 (Section 548.101, Transportation Code), SECTION 24 (Section 548.501, Transportation Code), and SECTION 26 (Section 548.503, Transportation Code) of this bill.

Rulemaking authority previously granted to DPS is rescinded in SECTION 35 (Sections 548.255 and 548.257, Transportation Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Motor Vehicles, DPS, and the Texas Commission on Environmental Quality in SECTION 36 of this bill.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 45.003, Code of Criminal Procedure, to provide that for the purposes of dismissing a charge under Section 502.407 (Operation of Vehicle with Expired License Plate), Transportation Code, rather than Section 502.407 or 548.605 (Dismissal of Charge; Administrative Fee), Transportation Code, "day" does not include Saturday, Sunday, or a legal holiday.

SECTION 2. Amends Section 51.207(d), Education Code, to prohibit the institution from issuing a permit to a student of the institution for driving or parking a motor vehicle on institutional property unless the institution provides written notice to the student that failure to register the vehicle in this state may violate state law if the owner of the vehicle resides in this state, rather than prohibits certain public institutions of higher education campus from issuing a permit to a student of the institution for driving or parking a motor vehicle on institutional property unless the institution provides written notice to the student that failure to register the vehicle in this state or to display a current and appropriate inspection certificate issued under Chapter 548 (Compulsory Inspection of Vehicles), Transportation Code, may violate state law if the owner of the vehicle resides in this state.

SECTION 3. Amends Section 103.0213, Government Code, to delete an administrative fee on remediation of charge of driving with an expired inspection certificate (Sec. 548.605, Transportation Code) . . . not to exceed \$20 from certain fees and costs required to be paid by an accused or defendant or a party to a civil suit, as applicable, under the Transportation Code if ordered by the court or otherwise required, and to make nonsubstantive changes.

SECTION 4. Amends Section 382.0622(a), Health and Safety Code, to provide that the Clean Air Act fees consists of certain fees including a portion, rather than \$2, of each advance payment collected by the Department of Public Safety of the State of Texas (DPS) for inspection certificates for vehicles other than mopeds under Section 548.501, Transportation Code, in an amount to be determined by DPS.

SECTION 5. Amends Sections 382.202(d) and (i), Health and Safety Code, as follows:

(d) Requires DPS, on adoption of a resolution by the Texas Natural Resource Conservation Commission (TNRCC) and after proper notice, to implement a system that requires, as a condition of obtaining an inspection certificate, rather than a safety inspection certificate, issued under Subchapter C (Periods of Inspection; Prerequisites to Issuance of Inspection Certificate), Chapter 548, Transportation Code, in a county that is included in a vehicle emissions inspection and maintenance program under Subchapter F of that chapter, that the vehicle, unless the vehicle is not covered by the system, be annually or biennially inspected under the vehicle emissions inspection and maintenance program as required by the state's air quality state implementation plan.

(i) Requires TNRCC to apply a vehicle emissions inspection and maintenance program to diesel vehicles for compliance with applicable federal emission standards, compliance with an opacity or other emissions-related standard established by TNRCC rule, or both, rather than requires TNRCC to examine the efficacy of annually inspecting diesel vehicles for compliance with applicable federal emission standards, compliance with an opacity or other emissions-related standard established by TNRCC rule, or both and to implement that inspection program if TNRCC determines the program would minimize emissions. Requires TNRCC to require annual inspections under this subsection. Authorizes TNRCC to use onboard diagnostic systems for inspections under this subsection.

SECTION 6. Amends Section 382.203(b), Health and Safety Code, to provide that the vehicle emissions inspection and maintenance program, in addition to a vehicle described by Subsection (a) (relating to the provision that the inspection and maintenance program applies to any gasoline-powered vehicle that is meets certain requirements), applies to certain vehicles,

including a diesel vehicle to which Section 382.202(i) applies, and to make nonsubstantive changes.

SECTION 7. Amends Sections 382.220(b) and (d), Health and Safety Code, as follows:

(b) Deletes existing text requiring that a program under this section be implemented in consultation with TNRCC and authorizing it to include a program to develop and implement projects for coordinating with local law enforcement officials to reduce the use of counterfeit state inspection stickers by providing local law enforcement officials with funds to identify vehicles with counterfeit state inspection stickers and to carry out appropriate actions. Makes nonsubstantive changes.

(d) Deletes existing text authorizing TNRCC to reduce the match requirement for a county that proposes to develop and implement independent test facility fraud detection programs, including the use of remote sensing technology for coordinating with law enforcement officials to detect, prevent, and prosecute the use of counterfeit state inspection stickers.

SECTION 8. Amends Sections 2308.253(d) and (e), Occupations Code, as follows:

(d) Prohibits a parking facility owner, except as provided by a contract described by Subsection (e), from having a vehicle removed from the parking facility merely because the vehicle does not display an unexpired license plate or registration insignia issued for the vehicle under Chapter 502 (Registration of Vehicles), Transportation Code, or the vehicle registration law of another state or country. Deletes existing text prohibiting a parking facility owner from having a vehicle removed because the vehicle does not display a valid vehicle inspection certificate issued under Chapter 548 (Compulsory Inspection of Vehicles), Transportation Code, or the vehicle inspection law of another state or country. Makes nonsubstantive changes.

(e) Provides that a contract provision providing for the removal from a parking facility of a vehicle that does not display an unexpired license plate or registration insignia, rather than an unexpired license plate or registration insignia or a valid inspection certificate, is valid only if the provision requires the owner or operator of the vehicle to be given at least 10 days' written notice that the vehicle will be towed from the facility at the vehicle owner's or operator's expense if it is not removed from the parking facility.

SECTION 9. Amends Section 502.047, Transportation Code, as follows:

Sec. 502.047. New heading: REGISTRATION-BASED ENFORCEMENT OF MOTOR VEHICLE INSPECTION REQUIREMENTS. (a) Requires the Texas Department of Motor Vehicles (TxDMV) and DPS to ensure compliance with the motor vehicle inspection requirements under Chapter 548, including compliance with the motor vehicle emissions inspection and maintenance program under Subchapter F of that chapter, through a vehicle registration-based enforcement system. Deletes existing text requiring DPS to ensure compliance with the motor vehicle emissions and inspection and maintenance program through a vehicle inspection sticker-based enforcement system except as provided by this section or Section 548.3011 (Emissions Test on Resale). Deletes existing text providing that Subsections (b)-(e) apply only if the United States Environmental Protection Agency determines that the state has not demonstrated, as required by 40 C.F.R. Section 51.361, that sticker-based enforcement of the program is more effective than registration-based enforcement and gives the Texas Commission on Environmental Quality (TCEQ) or the governor written notification that the reregistration-based enforcement of the program, as described by those subsections, will be required. Deletes existing text requiring DPS, if Subsections (b)-(e) are made applicable as provided by this subsection, to terminate reregistration-based enforcement of the program under those subsections on the date the United States Environmental Protection Agency gives TCEQ or a person TCEQ designates written notification that reregistration-based enforcement is not required for the state implementation plan.

(b) Prohibits a motor vehicle from being registered if TxDMV receives from TCEQ or DPS notification that the registered owner of the vehicle has not complied with Chapter 548, rather than Subchapter F (Motor Vehicle Emissions Inspection and Maintenance), Chapter 548.

(c) Makes a conforming change.

(d) Requires TxDMV and DPS to enter into an agreement regarding the timely submission by DPS of inspection compliance information to TxDMV.

(d-1) Creates this subsection from existing text. Makes no further change to this subsection.

(e) Makes a conforming change.

SECTION 10. Amends Section 502.059(c), Transportation Code, to require that the registration insignia for validation of a license plate, except as provided by Subsection (f) (relating to the requirement that the registration insignia be attached to the rear license plate of the vehicle, if the vehicle meets certain requirements) be attached to the inside of the vehicle's windshield if the vehicle has a windshield, in the lower left corner in a manner that will not obstruct the vision of the driver, rather than if the vehicle has a windshield, within six inches of the place where the motor vehicle inspection sticker is required to be placed.

SECTION 11. Amends the heading to Section 521.3465, Transportation Code, to read as follows:

Sec. 521.3465. AUTOMATIC SUSPENSION ON CONVICTION OF CERTAIN OFFENSES INVOLVING FICTITIOUS MOTOR VEHICLE LICENSE PLATES, REGISTRATION INSIGNIA, OR INSPECTION CERTIFICATES.

SECTION 12. Amends Section 521.3465(a), Transportation Code, to provide that a license is automatically suspended on final conviction of the license holder of an offense under Section 502.475(a)(4) (relating to the provision that a person commits an offense if the person attaches to or displays on a motor vehicle a registration insignia that is fictitious), rather than under 502.409(a)(4) (relating to a fictitious motor vehicle registration insignia); or an offense under Section 548.603(a)(1) that involves a fictitious inspection certificate, rather than a fictitious safety inspection certificate.

SECTION 13. Amends Section 521.3466(a), Transportation Code, to provide a license is automatically revoked on final conviction of license holder of an offense under Section 37.10 (Tampering with Governmental Record), Penal Code, if the governmental record was a motor vehicle license plate or registration insignia, within the meaning of Chapter 502, or an inspection certificate, rather than a safety inspection certificate, within the meaning of Chapter 548.

SECTION 14. Amends Section 548.001, Transportation Code, by adding Subdivision (6-a), to define "inspection certificate."

SECTION 15. Amends Section 548.004(c), Transportation Code, as follows:

(c) Authorizes the facility to inspect only a vehicle owned by the political subdivision or state agency. Deletes existing text prohibiting an officer, employee, or inspector of the subdivision or agency from placing an inspection certificate received from DPS under this section on a vehicle not owned by the subdivision or agency.

SECTION 16. Amends Section 548.101, Transportation Code, as follows:

Sec. 548.101. GENERAL ONE-YEAR INSPECTION PERIOD. Requires DPS to set the periods of inspection and authorizes DPS to make rules with respect to those periods. Requires that the rules provide that a vehicle owner is authorized to obtain an inspection

not earlier than 90 days before the date of expiration of the vehicle's registration and not later than the date of expiration of the vehicle's registration.

SECTION 17. Amends the heading to Section 548.102, Transportation Code, to read as follows:

Sec. 548.102. INITIAL INSPECTION PERIOD FOR PASSENGER CAR OR LIGHT TRUCK.

SECTION 18. Amends Section 548.102(a), Transportation Code, to provide that the initial inspection period is three years, rather than two years, for a passenger car or light truck that meets certain criteria.

SECTION 19. Amends Section 548.251, Transportation Code, as follows:

Sec. 548.251. DEPARTMENT TO PROVIDE INSPECTION CERTIFICATES AND VERIFICATION FORMS. (a) Creates this subsection from existing text. Makes no further change to this subsection.

(b) Requires DPS to maintain an electronic database to which inspection stations are authorized to electronically submit the numbers assigned under Subsection (a) to inspection certificates issued by the station.

(c) Creates this subsection from existing text. Makes no further change to this subsection.

SECTION 20. Amends Section 548.253, Transportation Code, as follows:

Sec. 548.253. New heading: INFORMATION TO BE SUBMITTED ON ISSUANCE OF INSPECTION CERTIFICATE AND VERIFICATION FORM. Requires an inspection station or inspector, on issuing an inspection certificate and verification form, to:

(1) electronically submit to DPS's inspection database the number assigned to the certificate by DPS under Section 548.251, rather than make a record and report as prescribed by DPS of the inspection and certificate issued; and

(2) electronically submit to DPS's database and include in the inspection certificate and verification form any information other than the certificate number required by DPS for the type of vehicle inspected.

SECTION 21. Amends Section 548.254, Transportation Code, as follows:

Sec. 548.254. VALIDITY OF INSPECTION CERTIFICATE. Provides that an inspection certificate is invalid after the end of the 12th month following the month in which the certificate is issued. Deletes existing text prohibiting an unused inspection certificate representing a previous inspection period from being issued after the beginning of the next period.

SECTION 22. Amends Section 548.301(c), Transportation Code, to require a program established under this section to include registration and reregistration-based enforcement, rather than authorizing a program established under Subsection (b) (relating to the authorization of the Public Safety Commission by rule to establish a motor vehicle emissions inspection and maintenance program for vehicles specified by the conservation commission) or (b-1) (relating to the authorization of the Public Safety Commission by rule to establish a motor vehicle emissions inspection and maintenance program for specified vehicles) include reregistration-based enforcement.

SECTION 23. Amends Section 548.304, Transportation Code, as follows:

Sec. 548.304. STATIONS LICENSED TO CONDUCT EMISSIONS INSPECTIONS. Deletes existing designation of Subsection (a). Makes no further change to the existing text of this subsection.

Deletes existing Subsection (b) requiring DPS to provide inspection certificates for distribution and issuance at inspection stations certified by DPS.

SECTION 24. Amends Section 548.501(b), Transportation Code, as follows:

(b) Requires that an inspection station pay to DPS a portion, rather than \$5.50, of each fee charged by the station for an inspection, in an amount determined by DPS under Section 548.5045. Authorizes DPS to require the station to make an advance payment, rather than an advance payment of \$5.50, for each inspection certificate provided to the station. Provides that if advance payment is made, certain actions are authorized or required, including requiring DPS to refund to the inspection station the advance payment amount, rather than \$5.50, for each unissued certificate that the station returns to DPS in accordance with DPS rules, and requiring TCEQ to pay to DPS an amount determined by DPS, rather than \$2, for each unissued certificate that the station returns to DPS.

SECTION 25. Amends Section 548.50, Transportation Code, to provide that a political subdivision or state agency for which DPS certifies an inspection station under Section 548.004, is required to pay DPS an advance payment, rather than an advance payment of \$5.50, for each inspection certificate provided to it, in an amount determined by DPS under Section 548.5045, and may not be required to pay the compulsory inspection fee.

SECTION 26. Amends Section 548.503, Transportation Code, as follows:

Sec. 548.503. New heading: INITIAL INSPECTION OF PASSENGER CAR OR LIGHT TRUCK. (a) Requires that a fee set by DPS under this subsection be based on the costs of producing certificates, providing inspections, and administering the program, but is prohibited from being less than \$34.25, rather than less than \$21.75.

(b) Requires DPS to require an inspection station to make an advance payment, rather than an advance payment of \$14.75, for a certificate to be issued under this section, in an amount determined by DPS under Section 548.5045.

SECTION 27. Amends 548.504(b), Transportation Code, as follows:

(b) Requires the inspection station to pay to DPS a portion, rather than \$10, of each fee for inspection of a commercial motor vehicle, in an amount determined by DPS under Section 548.5045. Authorizes DPS to require the station to make an advance payment of the amount determined by DPS, rather than an advance payment of \$10, for a certificate to be issued under this section.

SECTION 28. Amends Subchapter H, Chapter 548, Transportation Code, by adding Section 548.5045, as follows:

Sec. 548.5045. DETERMINATION OF AMOUNTS REMITTED TO DEPARTMENT. Requires that the amount to be remitted to DPS under Section 548.501, 548.502 (Inspection by Political Subdivision or State Agency), 548.503, or 548.504 be based on the costs of producing certificates and administering the inspection program.

SECTION 29. Amends Section 548.601(a), Transportation Code, as follows:

(a) Provides that a person, including an inspector or an inspection station, commits an offense if the person:

(1) submits an inspection certificate number to DPS's inspection database or issues an inspection certificate with knowledge that the issuance is in violation of this chapter or rules adopted under this chapter;

(2)-(3) Makes no change to these subdivisions;

(4) submits an inspection certificate number to DPS's inspection database or issues an inspection certificate without authorization to issue the certificate, or without inspecting the vehicle;

(5) submits an inspection certificate number to DPS's inspection database or issues an inspection certificate for a vehicle with knowledge that the vehicle has not been repaired, adjusted, or corrected after an inspection has shown a repair, adjustment, or correction to be necessary;

(6) knowingly submits an inspection certificate number to DPS's inspection database or issues an inspection certificate for certain vehicles; and

(7)-(9) Makes no change to these subdivisions.

SECTION 30. Amends Sections 548.603(a) and (c), Transportation Code, as follows:

(a) Provides that a person commits an offense if the person:

(1) presents an inspection certificate or insurance document knowing that the certificate or document is counterfeit, tampered with, altered, fictitious, issued for another vehicle, or issued in violation of certain laws, rather than the person displays or causes or permits to be displayed an inspection certificate or insurance document knowing that the certificate or document is counterfeit, tampered with, altered, fictitious, issued for another vehicle, issued for a vehicle failing to meet all emissions inspection requirements, or issued in violation of certain laws;

(2) redesignates Subdivision (3) as Subdivision (2) and deletes existing text providing that a person commits an offense if the person transfers an inspection certificate from a windshield or location to another windshield or location;

(3) redesignates Subdivision (4) as Subdivision (3) and makes no further change to this subdivision; and

Deletes existing Subdivision (5) providing that a person commits an offense if the person displays on a vehicle an inspection certificate that was obtained knowing that the vehicle does not meet all emissions inspection requirements for the vehicle.

(c) Provides that the owner of a vehicle commits an offense if the owner knowingly allows the vehicle to be registered using as proof of compliance with this chapter an inspection certificate described by Subsection (a), rather than if the owner allows the vehicle to be registered or operated while the vehicle displays an inspection certificate in violation of Subsection (a).

SECTION 31. Amends Section 548.6035(a), Transportation Code, to provide that a person commits an offense if, in connection with a required emissions inspection of a motor vehicle, the person knowingly manipulates or falsifies certain inspection data, including submitting an inspection certificate number to DPS's inspection database or issues an inspection certificate, rather than the person places or causes to be placed on a motor vehicle an inspection certificate, if the vehicle does not meet the emissions requirements established by DPS, or the person has not inspected the vehicle.

SECTION 32. Amends Section 623.011(d), Transportation Code, to require TxDMV, when TxDMV issues a permit under this section, to issue a sticker to be placed on the front windshield of the vehicle, rather than to issue a sticker to be placed on the front windshield of the vehicle above the inspection certificate issued to the vehicle.

SECTION 33. Amends Section 683.051, Transportation Code, as follows:

Sec. 683.051. APPLICATION FOR AUTHORIZATION TO DISPOSE OF CERTAIN MOTOR VEHICLES. Authorizes a person to apply to TxDMV for authority to dispose of, sell or give away certain vehicles, including to dispose of a motor vehicle to a motor vehicle demolisher for demolition, wrecking, or dismantling if the abandoned motor vehicle is in the possession of the person, is more than eight years old, either has no motor or is otherwise totally inoperable or does not comply with all applicable air pollution emissions control related requirements included in the vehicle emissions inspection and maintenance requirements contained in the Public Safety Commission's motor vehicle emissions inspection and maintenance program, rather than included in the vehicle inspection requirements under Chapter 548, as evidenced by a current inspection certificate affixed to the vehicle windshield, or the vehicle emissions inspection and maintenance requirements contained in the Public Safety Commission's motor vehicle emissions inspection and maintenance program, under Subchapter F, Chapter 548, or the state's air quality state implementation plan; and was authorized to be towed by a law enforcement agency. Makes nonsubstantive changes.

SECTION 34. Reenacts Section 683.071, Transportation Code, as amended by Chapters 720 (H.B. 787) and 753 (H.B. 1376), Acts of the 82nd Legislature, Regular Session, 2011, and amends it as follows:

(a) Defines "junked vehicle" in this subchapter.

(b) Provides that this subchapter applies only to certain vehicles, including a motor vehicle that displays an expired license plate or does not display a license plate, rather than a motor vehicle that displays an expired license plate or invalid motor vehicle inspection certificate or does not display a license plate or motor vehicle inspection certificate.

SECTION 35. Repealer: Section 548.053(c) (relating to the requirement that the investigating officer remove the inspection certificate from a vehicle windshield and give the operator of the vehicle a dated receipt, if the vehicle is damaged to the extent that it would require repair before passing inspection), Transportation Code;

Repealer: Section 548.255 (Attachment or Production of Inspection Certificate), Transportation Code;

Repealer: Section 548.257 (Lost, Stolen, or Destroyed Certificate), Transportation Code;

Repealer: Section 548.602 (Failure to Display Inspection Certificate), Transportation Code;

Repealer: Section 548.603(e)(2) (defining "inspection certificate"), Transportation Code;

Repealer: Section 548.603(f) (relating to the authorization of certain entities to impound vehicles on which a vehicle emission inspection certificate is displayed in violation of certain statutes and is parked on public roadway), Transportation Code, as added by Chapter 1069 (S.B. 1856), Acts of the 75th Legislature, Regular Session, 1997.

Repealer: Section 548.605 (Dismissal of Charge; Administrative Fee), Transportation Code.

SECTION 36. (a) Effective date, except as otherwise provided by this section: January 1, 2015.

(b) Requires TxDMV, DPS, and TCEQ, not later than January 1, 2014, to adopt rules necessary to implement the changes in law made by this Act.

(c) Effective date, Sections 382.202 and 382.203, Health and Safety Code, and Sections 548.251 and 548.253, Transportation Code, as amended by this Act: January 1, 2014.



(d) Makes application of Article 45.003, Code of Criminal Procedure, Section 103.0213, Government Code, and Sections 521.3465, 548.603, and 548.6035, Transportation Code, as amended by this Act, prospective to January 1, 2015.