

SUBJECT: Administrative fees and higher penalty for fraudulent vehicle inspections

COMMITTEE: Transportation — committee substitute recommended

VOTE: 6 ayes — Pickett, Phillips, Callegari, Harper-Brown, T. Smith, W. Smith
0 nays
5 absent — Y. Davis, Dunnam, Guillen, McClendon, Merritt

WITNESSES: For — Margaret Keliher, Texas Business for Clean Air (*Registered, but did not testify*; John Carpenter, Dallas Regional Mobility Coalition; Vic Suhm, Tarrant Regional Transportation Coalition North Texas Commission)

Against — None

On — (*Registered, but did not testify*; Jo Heselmeyer and Wayne Mueller, Texas Department of Public Safety)

BACKGROUND: Transportation Code, ch. 548 governs the required inspection of motor vehicles. The code empowers the Department of Public Safety (DPS) to administer state provisions governing mandatory inspection of automobiles and establishes licensing and certification requirements for vehicle inspectors and inspection stations. Ch. 548, subch. F governs vehicle emissions and maintenance inspection and requires the Public Safety Commission to establish a motor vehicle emissions inspection and maintenance program for vehicles as required by any federal law or the state's air quality state implementation plan.

DIGEST: CSHB 3457 would allow the Texas Department on Environmental Quality (TCEQ) to impose an administrative penalty of \$500 on a person that violated provisions or rules governing motor vehicle emissions. An inspector or inspection station that violated a rule or provision governing vehicle emissions would be subject to a civil penalty of between \$250 and \$500 for each violation. The district or county attorney with jurisdiction over the location of the inspection station or the attorney general could bring suit to collect the penalty.

The bill also would require an application to be certified as an inspection station or an inspector to be accompanied by a surety bond equal to \$500, conditioned on future compliance with provisions and rules adopted by The Department of Public Safety (DPS) or TCEQ. The district or county attorney in which the inspection state was located or the attorney general could bring suit to recover the bond.

The bill would raise to a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) from a class C misdemeanor (maximum fine of \$500) an offense for an inspector or inspection station that:

- issued an inspection certificate with knowledge that the issuance was in violation of state laws or rules governing vehicle inspections;
- issued an inspection certificate for a vehicle with knowledge that the vehicle had not been repaired, adjusted, or corrected after an inspection had shown a repair, adjustment, or correction to be necessary;
- knowingly issued an inspection certificate for a vehicle without conducting an inspection of each item required to be inspected, or for a vehicle that was missing an item required to be inspected or that had an item required to be inspected that was not in compliance with state law or TxDOT rules.

The bill would take effect September 1, 2009. The bill would apply to a violation or offense on or after the effective date.

**SUPPORTERS
SAY:**

CSHB 3457 would take positive steps toward addressing fraudulent vehicle inspection practices in the state. Fraudulent vehicle inspection practices have become an increasingly serious issue in Texas, especially in the Dallas-Fort-Worth metropolitan area. Air quality in some metropolitan areas especially has become a threat to the quality of life of many Texans. Polluting vehicles that remain on the road through doctored emissions tests are an ongoing source of pollution in populous areas. Removing these vehicles from the road or requiring repairs necessary to bring them into compliance would demonstrably reduce pollution in congested cities. Stricter measures are necessary to combat fraudulent emissions practices and to protect the safety of others on the road. Past efforts to bolster enforcement through enhanced coordination have proved effective, but

more resources are necessary and can be secured by distributing the enforcement burden among multiple enforcement authorities.

To these ends, CSHB 3457 would allow TCEQ to impose administrative penalties on inspectors and inspections stations, which would provide one more tool for the state to use in combating fraudulent practices. Allowing TCEQ to impose the penalties would increase the scope of state agencies regulating inspectors and stations, which are primarily overseen by DPS. Further, the bill would raise current penalties in law to a class A misdemeanor, which involves a substantial fine and possible jail time. Current penalties in law are insufficient, due to the lucrative appeal of fraudulent inspections. An unlawful inspector can now easily pay the \$500 fine in current law through income from fraudulent inspections.

OPPONENTS
SAY:

CSHB 3457 would go too far in increasing penalties on inspectors and inspection stations and would not address the core issue facing enforcement of inspectors and inspection stations — a lack of dedicated resources. The bill would raise to a class A misdemeanor certain offenses related to fraudulent inspections, which could mean up to a \$4,000 fine and one year in jail. Class A offenses include resisting arrest, assault, burglary of a vehicle, criminal trespass, and a second DWI offense, all far more serious crimes than fabricating documents to help someone pass an emissions test. The criminal justice system in Texas already is overburdened and any measures that would place more people in confinement should be taken only as an absolute necessity.

The bill would not address the core issue of enforcement stemming from a lack of resources available to DPS and other law enforcement to regulate inspectors and inspections stations. TCEQ would not necessarily be in a better position to devote resources to administrative enforcement than current agencies tasked with this responsibility. Expanding the scope of enforcement alone is not sufficient.

NOTES:

The companion bill, SB 2110 by West, passed the Senate by 31-0 on April 30 and was reported favorably, without amendment, by the House Transportation Committee on May 12, making it eligible to be considered in lieu of HB 3457.