

SUBJECT: Dismissing charges after taking disabled parking course; increasing fines

COMMITTEE: Transportation — committee substitute recommended

VOTE: 12 ayes — Canales, E. Thompson, Ashby, Bucy, Davis, Harris, Landgraf, Lozano, Martinez, Ortega, Perez, Rogers

1 nay — Smithee

WITNESSES: For — Chase Bearden, Coalition of Texans with Disabilities; (*Registered, but did not testify*: Chase Bearden, Parking Mobility)

Against — None

BACKGROUND: Under Transportation Code sec. 681.011, a person commits an offense if the person stands a vehicle:

- with a disability license plate or placard in a parking space designated for persons with disabilities without authorization;
- without a disabilities plate or placard in a parking space designated for persons with disabilities; or
- so that it blocks an architectural improvement designed to aid persons with disabilities, including an access aisle or curb ramp.

A person also commits an offense if the person lends a disabled parking placard to another person who uses it in violation of this section.

An offense under this section is a misdemeanor punishable by a fine of \$500 to \$750, except:

- for one previous conviction, the fine is \$500 to \$800;
- for two previous convictions, the fine is \$550 to \$800;
- for three previous convictions, the fine is \$800 to \$1,100; and
- for four previous convictions, the fine is \$1,250.

DIGEST: CSHB 2309 would create procedures to dismiss certain charges if a defendant successfully completed a disabled parking course and would increase the maximum fines for offenses regarding the unauthorized standing of a vehicle in a parking space specifically designated for persons with disabilities.

Dismissal procedures. For an alleged offense that was within the jurisdiction of a justice court or municipal court and that was defined by Transportation Code sec. 681.011, regarding standing an unauthorized vehicle in a parking space designated for persons with disabilities, the judge could require the defendant to successfully complete a disabled parking course approved by the political subdivision in which the alleged offense occurred.

The judge could require such a course if:

- the defendant had not completed a disabled parking course within the 12 months preceding the date of the offense;
- the defendant entered a plea of no contest or guilty on or before the answer date on the notice to appear; and
- the defendant requested to take the course.

The court would have to enter judgment on the defendant's plea of no contest or guilty at the time the plea was made, defer imposition of the judgment, and allow the defendant 90 days to successfully complete the approved course and present to the court a certificate of completion and confirmation from the political subdivision that the defendant had not completed such a course within the last 12 months.

In addition to court costs and fees applicable to the offense, the court could require a defendant requesting a course to pay a fee of up to \$10 to cover administration costs. A defendant who requested but did not take a course would not be entitled to a refund of the fee. Collected fees would be deposited in the municipal or county treasury.

If a defendant requesting a course failed to submit the required evidence

that the defendant had completed the course and had not completed such a course within the previous 12 months, the court would have to notify the defendant in writing of that failure and require the defendant to appear to show cause why the evidence was not timely submitted. If the defendant failed to appear at the time and place stated in the notice or did not show good cause for failure to comply, the court would enter an adjudication of guilt and impose sentence.

On a defendant's showing of good cause for failure to furnish evidence to the court, the court could allow an extension of time during which the defendant could present a certificate of course completion.

When a defendant complied with the requirements of the court, the court would have to remove the judgment and dismiss the charge. The court could dismiss only one charge for each course completion.

An order of deferral would terminate any liability under a bond given for the charge.

Increasing fines. CSHB 2309 would increase the maximum fines for offenses regarding standing unauthorized vehicles in spaces designated for persons with disabilities, such that:

- for a first offense, the fine could be up to \$1,000;
- for one previous conviction, the fine could be up to \$1,050;
- for two previous convictions, the fine could be up to \$1,050;
- for three previous convictions, the fine could be up to \$1,450; and
- for four previous convictions, the fine could be up to \$1,650.

Training program. CSHB 2309 would require a training program for persons appointed to file charges against those who committed certain parking offenses to include:

- information on laws governing parking for people with disabilities;
- information on the powers, rights, and responsibilities of the appointed person;

- instructions directing the person not to confront suspected violators of laws governing parking for people with disabilities; and
- procedures to report suspected violations of laws governing parking for people with disabilities.

Other provisions. The bill would allow charges filed against a person for parking offenses to be filed manually or in an electronically secure format.

The bill would take effect September 1, 2021, and would apply only to an offense committed on or after that date.

**SUPPORTERS
SAY:**

CSHB 2309 would mitigate the recurrence of the illegal use of parking spaces for people with disabilities. Currently, it is a violation to park in such a space if a person does not qualify or misuses a disability placard. Yet people continue to park in these spaces, blocking people with disabilities and preventing them from getting to work, school, or home and from going on other trips. The bill would create a process by which a judge could dismiss a charge for violators that successfully completed a disabled parking course. This would reduce recidivism by teaching people why these parking spaces are so essential. Additionally, the bill would increase maximum fines for violations to be a stronger deterrent and incentivize cities to better enforce violations.

Concerns that the bill could harm people who accidentally parked over the line of an accessible parking space are unfounded. The bill would not remove discretion of the prosecutor, and individuals still could argue their case. The bill simply would give another option to judges so that able-bodied and young Texans could learn the importance of these spaces.

**CRITICS
SAY:**

CSHB 2309 would impose excessive penalties on parking a vehicle in a spot designated for people with disabilities. The penalties currently in place already act as a deterrent for intentionally blocking spots designated for people with disabilities, and increasing the fines would not further prevent such behavior. The bill needlessly could penalize accidentally parking a vehicle in such a spot, which could especially affect elderly individuals who parked slightly over the line.

