

- SUBJECT:** Revising automatic suspension of driver's license for drug offense
- COMMITTEE:** Homeland Security and Public Safety — committee substitute recommended
- VOTE:** 9 ayes — White, Bowers, Goodwin, Harless, Hefner, E. Morales, Patterson, Schaefer, Tinderholt
- 0 nays
- SENATE VOTE:** On final passage, May 3 — 30-0
- WITNESSES:** For — Amelia Casas, Texas Fair Defense Project; (*Registered, but did not testify*: Alycia Castillo, Texas Criminal Justice Coalition; Nikki Pressley, Texas Public Policy Foundation)
- Against — None
- BACKGROUND:** Under Transportation Code sec. 521.372, a person's driver's license is automatically suspended on final conviction of an offense under the Controlled Substances Act, a drug offense, or a felony under the Texas Controlled Substances Act that is not a drug offense.
- The Department of Public Safety may not issue a driver's license to a person convicted of such an offense who did not hold a license on the date of the conviction. The period of suspension or denial of license is 180 days after the date of final conviction.
- 23 U.S.C. sec. 159 requires the secretary of transportation to withhold certain highway funding from a state that does not meet certain requirements, including:
- enacting and enforcing a law requiring the revocation or a six-month suspension of the driver's license of an individual convicted of any violation of the Controlled Substances Act or any drug offense; or

- submitting written certification that the governor and state Legislature are opposed to the enactment or enforcement of such a law.

Interested parties note that Texas is one of just four states that has a law in place providing for the automatic suspension of a person's driver's license upon a conviction for a drug offense. Current federal law provides for the withholding of highway funding for states that do not enact such a law but also provides a method of opting out upon written certification from the governor. Some suggest that Texas should opt out and revise its automatic license suspension law since it prevents many Texans from regaining their license, making it more difficult for them to achieve gainful employment after a drug conviction and increasing recidivism.

DIGEST:

CSSB 181 would revise laws automatically suspending a person's driver's license upon conviction of certain drug offenses to provide certain discretion and would amend the educational program for people with suspended licenses.

**Discretionary license suspension.** The bill would revise the automatic suspension of a person's driver's license upon conviction for certain drug offenses, authorize an additional fine, and provide that the revisions would go into effect after certain certification from the governor.

*Suspension of license.* Instead of automatic suspension of a driver's license upon conviction of any drug offense, the bill would specify that a person's license would be suspended on final conviction of:

- a felony drug offense; or
- a misdemeanor drug offense if the person had been previously convicted of a drug offense committed less than 36 months before the commission of the offense.

The court could order that the Department of Public Safety (DPS) suspend the license of a person at the time of final conviction of a misdemeanor drug offense if the court made a written determination that the suspension

was in the interest of public safety. The period of suspension or license denial would be 90 days, instead of 180, after the date of final conviction.

*Fine for certain drug convictions.* In addition to any other fees and fines, a defendant convicted of a drug offense that would trigger automatic suspension of a driver's license under current law and who held a valid license on the date the order of conviction was entered would have to pay a fine of \$100.

The court would have to waive a fine if the defendant's license was suspended as a result of the conviction of the drug offense or another offense arising from the same criminal episode.

Fines would be deposited in the Texas Mobility Fund.

*Effective date.* This section would take effect 91 days after the date the office of the attorney general published in the Texas Register a finding that:

- the Legislature had adopted a resolution expressing its opposition to a law meeting certain federal requirements in suspending, revoking, or denying the driver's license of a person convicted of a drug offense for a period of six months;
- the governor had submitted to the U.S. secretary of transportation written certification of the governor's and Legislature's opposition to the enactment or enforcement of such a law; and
- the secretary responded to the governor's submission and certified that highway funds would not be withheld from the state in response.

DPS would have to reinstate, 180 days after that date, any driver's license that was suspended upon conviction of certain drug offenses.

**Educational programs.** CSSB 181 would revise education programs for a person whose driver's license was suspended upon conviction of certain drug offenses. The bill would specify that such an education program

could be held in person or online.

The bill also would amend the period of suspension or prohibition of a driver's license so that period continued until the individual successfully completed the program or for two years, whichever was earlier.

**Implementation.** The Texas Commission of Licensing and Regulation and DPS would have to adopt rules to implement the bill by September 1, 2022.

Except as otherwise provided, the bill would take effect September 1, 2021.