

BILL ANALYSIS

Senate Research Center

S.B. 181
By: Johnson
Criminal Justice
5/28/2021
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 1991, Congress enacted the Solomon-Lautenberg amendment, mandating that states enact a law suspending the driver's license of anyone convicted of any drug offense for six months. The amendment penalized states that declined to do so with a reduction in federal highway funding. However, states are able to opt-out of the mandate via a legislative resolution, which would be accomplished by S.C.R. 1.

Texas' mandatory suspension law is located in Chapter 521, Subchapter P, Transportation Code. The law requires a minimum 180-day license suspension for anyone convicted of any drug offense. To reobtain their license, a person must take a 15-hour drug course (offered only inperson over five days in less than half of Texas counties) and send a certificate of completion to the Department of Public Safety of the State of Texas (DPS). After 180 days, a person can reapply for their license with payment of a \$100 reinstatement fee and a copy of an SR-22 document from their automobile insurer.

This confusing and costly process means many are never able to reobtain their licenses. Without the ability to legally drive, it is significantly more difficult to achieve gainful employment after a drug conviction, leading to increased recidivism and reliance on public benefits. There is no evidence that license suspension deters drug use. These issues have led 46 other states to opt-out of Solomon-Lautenberg.

Contingent on passage of S.C.R. 1, S.B. 181 reforms mandatory 180-day license suspensions. Suspensions are reduced to a minimum of 90 days, and a judge is permitted to waive suspension for defendants with misdemeanor drug convictions who do not have prior drug convictions within the past 36 months.

Additionally, those subject to suspension may take the drug education course online. Other clean-up language is included to reflect how the Texas Department of Licensing and Regulation administers the course. Outstanding license suspensions under prior law are to be lifted 180 days after the effective date.

Because existing license reinstatement fees are deposited to the Texas Mobility Fund, a new \$100 court cost must be created so that the legislation complies with Article III, Section 49-k of the Texas Constitution, which prohibits any diversion of revenue from the fund.

(Original Author's / Sponsor's Statement of Intent)

S.B. 181 amends current law relating to suspension of a driver's license for persons convicted of certain offenses and the educational program required for reinstatement of a license following certain convictions and authorizes a fine.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Department of Public Safety of the State of Texas is modified in SECTION 2.03 (Section 521.375, Transportation Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 2.03 (Section 521.375, Transportation Code) of this bill.

Rulemaking authority previously granted to the Texas Commission of Licensing and Regulation is modified in SECTION 2.03 (Section 521.375, Transportation Code) of this bill.

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 3.02 of this bill.

Rulemaking authority is expressly granted to the Department of Public Safety of the State of Texas in SECTION 3.02 of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. DISCRETIONARY LICENSE SUSPENSION

SECTION 1.01. Amends Subchapter A, Chapter 102, Code of Criminal Procedure, by adding Article 102.0179, as follows:

Art. 102.0179. FINE FOR CERTAIN DRUG AND TEXAS CONTROLLED SUBSTANCE ACT CONVICTIONS. (a) Defines "convicted" to include an adjudication under juvenile proceedings.

(b) Requires a defendant convicted of a misdemeanor drug offense as defined by Section 521.371 (Definitions), Transportation Code, whose driver's license is not suspended under Section 521.372, Transportation Code, as a result of that conviction, in addition to any other fees and fines imposed under Subchapter A (Costs; Reimbursement Fees; Fines), to pay a fine of \$100.

(c) Requires the court to waive imposition of a fine under this article if the defendant's driver's license is suspended under Section 521.372, Transportation Code, or under another provision of that code as a result of the conviction of an offense described by Section 521.372(a), Transportation Code, or another offense arising from the same criminal episode.

(d) Provides that a fine imposed under this article is due regardless of whether the defendant is granted community supervision in the case. Requires the court to collect the fine under this article in the same manner as court costs are collected in the case.

(e) Requires that a fine collected under this article be deposited to the credit of the Texas mobility fund.

SECTION 1.02. Amends the heading to Subchapter P, Chapter 521, Transportation Code, to read as follows:

SUBCHAPTER P. SUSPENSION FOR CERTAIN DRUG OFFENSES

SECTION 1.03. Amends Section 521.372, Transportation Code, as follows:

Sec. 521.372. New heading: SUSPENSION OR LICENSE DENIAL. (a) Provides that a person's driver's license is automatically suspended on final conviction of:

(1) makes no changes to this subdivision;

(2) a felony drug offense, rather than a drug offense;

(3) a misdemeanor drug offense, if the person has been previously convicted of a drug offense committed less than 36 months before the commission of the instant offense; or

(4) creates this subdivision from existing text and makes no further changes.

Makes a nonsubstantive change.

(b) Makes no changes to this subsection.

(b-1) Authorizes the court, except as provided by Subsection (a)(3), to order that the Department of Public Safety of the State of Texas suspend the license of a person who holds a license at the time of final conviction of a misdemeanor drug offense if the court makes a written determination that the suspension is in the interest of public safety.

(c) Decreases the period of suspension or license denial under this section from 180 days to 90 days after the date of a final conviction. Deletes existing text providing that the period of license denial is the 180 days after the date the person applies to DPS for reinstatement or issuance of a driver's license.

ARTICLE 2. EDUCATIONAL PROGRAMS

SECTION 2.01. Reenacts Section 521.374(a), Transportation Code, as amended by Chapters 838 (S.B. 202), 851 (S.B. 1070), and 1004 (H.B. 642), Acts of the 84th Legislature, Regular Session, 2015, and amends it, as follows:

(a) Authorizes a person whose license is suspended under Section 521.372 to successfully complete an in-person or online education program approved by the Texas Department of Licensing and Regulation (TDLR) under rules adopted by the Texas Commission of Licensing and Regulation (TCLR) and DPS, that is designed to educate persons on the dangers of drug abuse. Deletes existing text providing that the educational program is approved by the Department of State Health Services (DSHS) under rules adopted by the executive commissioner of the Health and Human Services Commission. Makes a conforming change.

SECTION 2.02. Amends Section 521.374(b), Transportation Code, as follows:

(b) Provides that the period of suspension or prohibition under Section 521.372(c) continues until the earlier of:

(1) the date the individual successfully completes the in-person or online educational program under Subsection (a)(1), rather than for an indefinite period until the individual successfully completes the educational program, or is released from the residential treatment facility at which the individual successfully completed equivalent education under Subsection (a)(2) (relating to authorizing a person whose license is suspended to successfully complete education on the dangers of drug abuse), as applicable; or

(2) the second anniversary of the date the suspension or prohibition was imposed.

Makes nonsubstantive changes.

SECTION 2.03. Reenacts Section 521.375, Transportation Code, as amended by Chapters 838 (S.B. 202) and 851 (S.B. 1070), Acts of the 84th Legislature, Regular Session, 2015, and amends it to make conforming and nonsubstantive changes.

SECTION 2.04. Reenacts Section 521.376, Transportation Code, as amended by Chapters 838 (S.B. 202) and 851 (S.B. 1070), Acts of the 84th Legislature, Regular Session, 2015, and amends it, as follows:

Sec. 521.376. New heading: DUTIES OF TEXAS DEPARTMENT OF LICENSING AND REGULATION AND DEPARTMENT OF STATE HEALTH SERVICES; APPLICATION AND RENEWAL FEES. (a) Creates this subsection from existing text. Provides that TDLR:

(1) is required to monitor, coordinate, and provide training to persons who provide in-person and online educational programs under Section 521.374(a)(1), rather than persons who provide educational programs under Section 521.374 (Educational Program or Equivalent Education);

(2) is required to administer the approval of those in-person and online educational programs; and

(3) is authorized to charge a nonrefundable application fee to the provider of an in-person or online educational program under Section 521.374(a)(1) for initial certification of approval and renewal of the certification.

(b) Creates this subsection from existing text. Deletes existing text providing that DSHS is required to monitor, coordinate, and provide training to persons who provide educational programs under Section 321.374(a)(1) and is authorized to charge certain nonrefundable application fees to the provider of an educational program under Section 521.374(a)(1). Makes conforming and nonsubstantive changes.

ARTICLE 3. TRANSITION; EFFECTIVE DATE

SECTION 3.01. (a) Repealer: Section 3, Chapter 710 (H.B. 162), Acts of the 86th Legislature, Regular Session, 2019.

(b) Provides that Section 521.293 (Period of Suspension Under Section 521.292), Transportation Code, as amended by Chapter 710 (H.B. 162), Acts of the 86th Legislature, Regular Session, 2019, applies to a determination to suspend a driver's license that is made by DPS before, on, or after the effective date of this Act.

SECTION 3.02. Requires TCLR and DPS, not later than September 1, 2022, to adopt rules to implement Sections 521.374, 521.375 (Joint Adoption of Rules), and 521.376 (Duties of Texas Department of Licensing and Regulation), Transportation Code, as amended by this Act.

SECTION 3.03. (a) Effective date, except as otherwise provided by this section: September 1, 2021.

(b) Provides that Article 1 of this Act takes effect on the 91st day after the date the Office of the Attorney General publishes in the Texas Register a finding that:

(1) the legislature of this state has adopted a resolution expressing the legislature's opposition to a law meeting the requirements of 23 U.S.C. Section 159 in suspending, revoking, or denying the driver's license of a person convicted of a drug offense for a period of six months;

(2) the governor has submitted to the United States secretary of transportation a written certification of the governor's opposition to the enactment or enforcement of a law required under 23 U.S.C. Section 159 and a written certification that the legislature has adopted the resolution described by Subdivision (1) of this subsection; and

(3) the United States secretary of transportation has responded to the governor's submission and certified that highway funds will not be withheld from this state in response to the modification or full or partial repeal of the law required under 23 U.S.C. Section 159.

(c) Requires DPS, on the 180th day after the date described in Subsection (b) of this section, to reinstate any driver's license that was suspended under Section 521.372, Transportation Code, before the date described by Subsection (b) of this section and that remains subject to suspension under that section on the 180th day after the date described in Subsection (b) of this section.