

- SUBJECT:** Modifying the driver responsibility program
- COMMITTEE:** Homeland Security and Public Safety — committee substitute recommended
- VOTE:** 7 ayes — Phillips, Burns, Dale, Metcalf, Moody, M. White, Wray  
0 nays  
2 absent — Nevárez, Johnson
- SENATE VOTE:** On final passage, April 20 — 29-1 (Schwertner)
- WITNESSES:** (*On House companion bill, HB 1795*)  
For — Scott Henson, Texas Criminal Justice Coalition; Rebecca Bernhardt, Texas Fair Defense Project; (*Registered, but did not testify:* Matt Simpson, ACLU of Texas; Traci Berry, Goodwill Central Texas; Mariah Ramon, Teaching Hospitals of Texas; Lori Henning, Texas Association of Goodwills; Patricia Cummings, Texas Criminal Defense Lawyers Association; Courtney DeBower, Texas EMS, Trauma and Acute Care Foundation)  
  
Against — (*Registered, but did not testify:* Michael Weaver, Church Group; Angela Smith, Fredericksburg Tea Party; Matt Long; Sandy Ward)  
  
On — Edna Staudt, Justice of the Peace and Constables Association; (*Registered, but did not testify:* Cheryl Garren, Texas Department of Public Safety)
- BACKGROUND:** Transportation Code, ch. 708 establishes the Driver Responsibility Program. The program assesses surcharges to driver's licenses for offenses such as driving while intoxicated, driving without insurance, or driving without a valid license. It also institutes a point system for offenses. Most traffic offenses are given two points, but offenses resulting in a crash are given three points. Surcharges are assessed if a motorist accrues more than six points in a 36-month period.

Sec. 708.152 provides that if a motorist does not pay Driver Responsibility Program surcharges or arrange an installment plan with the Department of Public Safety by the 105th day after the surcharges are assessed, the motorist's license automatically is suspended. The license cannot be reinstated until all surcharges are paid.

Health and Safety Code, sec. 780.002 dedicates 49.5 percent of the surcharges from the program to the Designated Trauma Facility and Medical Service Account. Sec. 780.004 requires that 96 percent of these funds go to paying for uncompensated trauma care at designated state trauma facilities.

Transportation Code, sec. 708.158 provides that people are considered indigent for the purpose of waiving surcharges under the Driver Responsibility Program if they provide evidence to the court of an inability to pay. Individuals may prove they are indigent by showing a copy of their most recent federal income tax return or wage statement that shows their income was not above a certain income level or documentation from a federal agency, state agency, or school district that indicates they receive some federal or state welfare benefits.

**DIGEST:** CSSB 1056 would modify the assessment of surcharges and suspension of licenses under the Driver Responsibility Program. It would change annual program surcharges to one-time surcharges and extend the length of the installment payment plan the Department of Public Safety (DPS) could offer for surcharges. It also would allow for the dismissal of certain offenses related to the Driver Responsibility Program.

**License suspension.** The bill would prohibit DPS from extending a driver's license suspension for a conviction of driving while the person's license was suspended if the license was suspended for non-payment of surcharges or if the motorist had no similar violations in the previous 36 months.

**Surcharges.** Currently, the Driver Responsibility Program assesses

surcharges annually. The bill instead would require DPS to assess the surcharges for each conviction.

The bill would change the surcharges for intoxicated driver offenses, and specify that surcharges could not be collected more than once for the same conviction. The fees would change:

- from \$1,000 per year to \$3,000 for the first conviction;
- from \$1,500 per year to \$4,500 for a second conviction within 36 months;
- from \$2,000 to \$6,000 for a first conviction where the motorist's blood alcohol concentration was 0.16 or more.

The bill also would amend surcharges imposed for driving without a license and driving with an invalid license from being imposed annually for any offense in the past 36 months to being imposed only once. The surcharge would change from \$250 per year to a one-time \$750 charge for driving with an invalid license if the defendant was previously convicted of the offense. The surcharge for driving without a required license would change from \$100 per year to a one-time charge of \$300. The bill would prohibit charging a surcharge for driving without a required license more than once for the same conviction.

The bill would define a person as indigent under the program if the person was determined indigent when being appointed counsel for the offense that was the basis for the surcharge and if the court did not make a subsequent finding that the person had the ability to pay, either wholly or partly, the cost of appointed counsel. This change would apply only to a surcharge assessed on or after September 1, 2015, including a surcharge assessed for a conviction that occurred before September 1, 2015. The state would not be required to refund a surcharge collected before September 1, 2015.

The bill would repeal a section of the Transportation Code that allowed advance payment of surcharges in a single upfront payment for the total amount that would be owed over a 36-month period.

**Installment plan.** The bill would revise the surcharge installment amounts that DPS may require a person to pay over specified time periods and would revise the associated time periods. The bill would amend the provision allowing payments of surcharges in installments to include any surcharge pending on September 1, 2015.

**Dismissals.** The bill would allow judges to dismiss a charge of driving without a driver's license if the defendant obtained a driver's license within 60 days of the offense. When a charge was dismissed, the judge would be required to charge the defendant an administrative fee of no more than \$50. This would not apply to a charge of driving without a commercial driver's license.

Judges also could dismiss a charge of driving without insurance if the defendant obtained insurance within 20 days of the offense. The insurance would have to be pre-paid for at least six months, and the defendant would be required to pay an administrative fee of up to \$50 when the charge was dismissed.

**Notification.** The bill would require courts to notify defendants in writing at the time of their first court appearance or soon after the defendant pays a fine, that a conviction of an offense may result in surcharges under the program. Currently, DPS is required to notify motorists when the fifth point to their license is assigned. The bill would allow DPS to mail this notification to an address provided by another entity.

The bill would allow DPS to send communications electronically if the person receiving the notice consented to electronic communication.

**Other provisions.** The Texas Education Agency would be required to consult with DPS in developing rules on informing people of the program, and include information about program surcharges in driver education and driver safety courses.

The bill would require DPS to toll any surcharge payments for a military

member the entire time they are deployed, instead of the current 36-month period.

The bill would take effect September 1, 2015, and would apply only to an offense committed on or after that date.

**SUPPORTERS  
SAY:**

CSSB 1056 would protect individuals who are not able to pay surcharges and allow them to keep their driver's license to drive to work. While well-intentioned, the Driver Responsibility Program often creates a cycle of license suspensions for working Texans.

Many motorists who have their licenses suspended cannot afford to pay the surcharges imposed and often have to drive to work on a suspended license and face more surcharges they cannot afford or lose their jobs when they cannot drive. This bill would make the program more manageable for those who have a hard time paying surcharges by allowing a judge to dismiss a case if an individual obtains a driver's license within 60 days of the offense and also by ending the extension of license suspensions for driving with an invalid license.

The bill would ease payment restrictions on individuals who are assessed surcharges and are not able to afford them. The bill would expand the ability to pay surcharges in installments, defer surcharge payments for an active military member while the military member was deployed, and simplify the process for determining indigency.

The bill also would increase the probability that those who were actually able to pay the surcharges received notice of the charges. Currently, many individuals who are assessed surcharges for non-payment of tickets do not pay the charges because they never received notice of the pending surcharge. Allowing the notices to be sent electronically if the individual agreed would ensure people were actually being notified of pending surcharges.

**OPPONENTS  
SAY:**

CSSB 1056 could negatively affect the Trauma Facility and Medical Service Account that is funded by the Driver Responsibility Program.

Trauma centers in Texas are primarily funded through surcharges and fees collected through this program. By reducing the frequency that these surcharges are collected and simplifying the process to make indigency determinations for more defendants, the funds that go into this account would be reduced.