

BILL ANALYSIS

Senate Research Center
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H.B. 2309
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Transportation
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Persons with disabilities rely on designated parking spaces or areas to safely and easily enter buildings and otherwise difficult to access locations. Because the current prohibition on using a designated parking space or area by persons without a disability is too lenient, many break this law without repercussion. These violations result in tangible hardship for persons with disabilities. H.B. 2309 would address this issue by increasing the penalties for multiple offenses of illegally using disabled parking and by giving judges the ability to require the completion of a disabled parking training course.

H.B. 2309 amends current law relating to the enforcement of parking privileges for people with disabilities, increases criminal fines, and authorizes a fee.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 45, Code of Criminal Procedure, by adding Article 45.0512, as follows:

Art. 45.0512. DISABLED PARKING COURSE DISMISSAL PROCEDURES. (a) Provides that this article applies only to an alleged offense that is within the jurisdiction of a justice court or a municipal court and is defined by Section 681.011 (Offenses; Presumption), Transportation Code.

(b) Authorizes the judge to require the defendant to successfully complete a disabled parking course approved by the political subdivision in which the alleged offense occurred if:

(1) the defendant has not completed a disabled parking course approved by the political subdivision within the 12 months preceding the date of the offense; and

(2) the defendant enters a plea under Article 45.021 (Pleadings) in person or in writing of no contest or guilty on or before the answer date on the notice to appear and presents in person or by counsel to the court a request to take a course, or sends to the court by certified mail, return receipt requested, postmarked on or before the answer date on the notice to appear, a written request to take a course.

(c) Requires the court to enter judgment on the defendant's plea of no contest or guilty at the time the plea is made, defer imposition of the judgment, and allow the defendant 90 days to successfully complete the approved disabled parking course and present to the court:

- (1) a certificate, in a form approved by the political subdivision that approved the course, of completion of the disabled parking course; and
- (2) confirmation from the political subdivision in which the alleged offense occurred that the defendant was not taking a disabled parking course approved by that subdivision under this article on the date the request to take the course was made and had not completed such a course within the 12 months preceding the date of the offense.

(d) Provides that a request to take a disabled parking course made at or before the time and at the place at which a defendant is required to appear in court is an appearance in compliance with the defendant's promise to appear.

(e) Authorizes the court, in addition to court costs and fees authorized or imposed by a law of this state and applicable to the offense, to require a defendant requesting a course under Subsection (b) to pay an administrative fee set by the court to cover the cost of administering this article at an amount of not more than \$10.

(f) Provides that a defendant who requests but does not take a course is not entitled to a refund of the fee.

(g) Requires that fees collected by a municipal court be deposited in the municipal treasury. Requires that fees collected by another court be deposited in the county treasury of the county in which the court is located.

(h) Requires the court, if a defendant requesting a course under this article fails to comply with Subsection (c), to:

- (1) notify the defendant in writing, mailed to the address on file with the court or appearing in the notice to appear, of that failure; and
- (2) require the defendant to appear at the time and place stated in the notice to show cause why the evidence was not timely submitted to the court.

(i) Requires the court, if the defendant fails to appear at the time and place stated in the notice under Subsection (h), or appears at the time and place stated in the notice but does not show good cause for the defendant's failure to comply with Subsection (c), to enter an adjudication of guilt and impose sentence.

(j) Authorizes the court, on a defendant's showing of good cause for failure to furnish evidence to the court, to allow an extension of time during which the defendant is authorized to present a certificate of course completion as evidence that the defendant successfully completed the disabled parking course.

(k) Requires the court, when a defendant complies with Subsection (c), to remove the judgment and dismiss the charge.

(l) Authorizes the court to dismiss only one charge for each completion of a course.

(m) Provides that an order of deferral under Subsection (c) terminates any liability under a bond given for the charge.

SECTION 2. Amends Section 681.010, Transportation Code, by adding Subsection (c), to authorize a charge filed under Section 681.010 (Enforcement) to be filed manually or in an electronically secure format.

SECTION 3. Amends Section 681.0101, Transportation Code, by adding Subsections (a-1) and (b-1) and amending Subsection (b), as follows:

(a-1) Authorizes a charge filed under Section 681.0101 (Enforcement by Certain Appointed Persons) to be filed manually or in an electronically secure format.

(b) Requires a person appointed under Section 681.0101 to successfully complete a training program of at least four hours in length developed or approved by the political subdivision, rather than developed by the political subdivision.

(b-1) Requires that a training program described by Subsection (b) include:

(1) information on laws governing parking for people with disabilities;

(2) information on the powers, rights, and responsibilities of a person appointed under Section 681.0101;

(3) instructions directing a person appointed under Section 681.0101 not to confront suspected violators of laws governing parking for people with disabilities; and

(4) procedures to report suspected violations of laws governing parking for people with disabilities.

SECTION 4. Amends Sections 681.011(g) and (k), Transportation Code, as follows:

(g) Provides that, except as provided by Subsections (h)-(k) an offense under Section 681.011 is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000, rather than not more than \$750.

(k) Provides that, if it is shown on the trial of an offense under Section 681.011 that the person has been previously convicted four times of an offense under Section 681.011, the offense is punishable by a fine of \$1,650, rather than \$1,250, and 50 hours of community service.

SECTION 5. Reenacts Sections 681.011(h), (i), and (j), Transportation Code, as amended by Chapters 1160 (H.B. 3095) and 1336 (S.B. 52), Acts of the 81st Legislature, Regular Session, 2009, and amends them, as follows:

(h) Provides that, if it is shown on the trial of an offense under Section 681.011 that the person has been previously convicted one time of an offense under Section 681.011, the offense is punishable by a fine of not less than \$500 or more than \$1,050, rather than not more than \$800, and 10 hours of community service.

(i) Provides that, if it is shown on the trial of an offense under Section 681.011 that the person has been previously convicted two times of an offense under Section 681.011, the offense is punishable by a fine of not less than \$550 or more than \$1,050, rather than not more than \$800, and 20 hours of community service.

(j) Provides that, if it is shown on the trial of an offense under Section 681.011 that the person has been previously convicted three times of an offense under Section 681.011, the offense is punishable by a fine of not less than \$800 or more than \$1,450, rather than not more than \$1,100, and 30 hours of community service.

SECTION 6. Makes application of the changes in law made by this Act prospective.

SECTION 7. Effective date: September 1, 2021.