

SUBJECT: Administrative dismissal of certain traffic offenses

COMMITTEE: Transportation — committee substitute recommended

VOTE: 7 ayes — Alexander, Siebert, Edwards, Finnell, Hawley, Hill, Pickett
0 nays — None
2 absent — Hartnett, Uher

WITNESSES: For — Larry Casto, City of Dallas; Michael L. O'Neal, Texas Municipal Courts Association
Against — None

BACKGROUND : Under the Transportation Code, persons operating motor vehicles must have their driver's license in their possession and face criminal penalties. It is a defense to prosecution if the person charged produces in court a license valid for the time of the arrest.

The code also requires operators to have evidence of financial responsibility and to produce it upon request from a peace officer or when involved in an accident. Failure to maintain liability insurance or other form of financial responsibility is a misdemeanor punishable by a fine.

DIGEST: CSHB 1357 would amend the Transportation Code to establish failure to have evidence of financial responsibility as a misdemeanor offense punishable by a fine of \$10.

The bill also would allow judges to administratively dismiss this offense and the offenses of operating a vehicle without a license and failing not maintain liability insurance, if the person charged produced in court the document in question with evidence that it was valid at the time the offense allegedly occurred. In these cases, the judge could impose on the defendant an administrative fee of up to \$10.

The bill would take effect September 1, 1997, and would only apply to an offense committed on or after that date.

SUPPORTERS SAY: CSHB 1357 would establish a clear means of dismissing charges involving failure to have certain documents while operating a motor vehicle. The law now allows a defense to prosecution where an individual can produce a valid driver's license, but is silent as to the procedure to be followed. This bill would establish that a judge has clear authority to dismiss a case in such circumstances.

The bill would apply the same procedure to instances involving failure to have required documents showing liability or financial responsibility on hand and eliminate any confusion as to whether charges can be dismissed without fines. A \$10 fee to cover court costs is a fair assessment for defendants allowed to escape potentially heavy fines by producing a document after the fact.

OPPONENTS SAY: It is one thing to impose fees if a defendant is convicted of an offense and another to levy penalties when the charges that serve as the basis of the prosecution are completely dismissed. This administrative fee would fall most heavily upon persons guilty at most of absent-mindedness.

NOTES: The original version of the bill was confined to procedures for dismissing charges involving driver's licenses.