

SUBJECT: Denying deferred adjudication to commercial driver's license holders

COMMITTEE: Law Enforcement — favorable, without amendment

VOTE: 4 ayes — Driver, Garza, Hegar, Hupp

3 nays — Keel, Burnam, Y. Davis

WITNESSES: For — None

Against — None

On — Rebecca Blewett, Department of Public Safety

BACKGROUND: Code of Criminal Procedure (CCP), art. 45.0511 establishes deferred disposition procedures so that a driver who pleads guilty or no contest to a traffic offense may have the charges dismissed by taking a driver safety course. When a person complies with the procedures and a uniform certificate of course completion is accepted, the court must remove the judgment, dismiss the charge, and report the person's completion of a driving safety course, including the date of completion, to the Department of Public Safety for inclusion in the person's driving record. A charge dismissed under these procedures may not be part of a person's driving record or be used for any purpose.

CCP, art. 45.051 establishes deferred adjudication procedures for misdemeanor cases punishable by a fine and court costs where there has been a plea of guilty or no contest. A judge may defer proceedings without entering an adjudication of guilt and may place the defendant on probation for up to 180 days, during which time the defendant may have to pay restitution to the victim, submit to professional counseling, participate in an alcohol or drug abuse treatment program, or comply with any other reasonable condition. At the end of the deferral period, if the defendant presents satisfactory evidence of complying with these requirements, the judge must dismiss the complaint and must note clearly in the docket that the complaint was dismissed with no final conviction.

**DIGEST:** HB 1034 would specify that CCP, arts. 45.051 and 45.0511 do not apply to an offense involving the operation of a commercial motor vehicle or an offense involving a motor vehicle driven by a person who held a commercial driver's license at the time of the offense or at the time the person entered a plea of guilty or no contest or was found guilty of the offense.

The bill would take effect September 1, 2003.

**SUPPORTERS SAY:** HB 1034 would bring Texas statutes into compliance with federal laws governing commercial drivers and would help improve overall safety on Texas highways. New federal regulations adopted to implement the Motor Carrier Safety Improvement Act of 1999 prohibit states from "masking" traffic convictions of licensed commercial drivers through deferred adjudication programs that prevent the listing of a guilty verdict on driving records. These requirements were established to ensure full disclosure of the complete driving record of commercial license holders, so that bad drivers can be kept off the road.

If Texas does not comply with federal regulations, it could lose \$80 million in federal highway funds in 2003 and \$160 million in 2004. The state also would lose its ability to license commercial drivers, as well as eligibility for a number of grant programs.

HB 1034 would not violate constitutional equal-protection clauses, which require that all people of the same class be treated equally. Drivers who hold a commercial license are in a different class from those who hold regular motor vehicle licenses. The state can prohibit a commercial license holder from participating in a deferred adjudication program if it can show that disparate treatment is related rationally to a legitimate state interest. The state has a legitimate state interest in the safety of its highways. Drivers of large trucks and other commercial vehicles should be held to a higher standard than other drivers, because the operation of a commercial vehicle has a greater potential for causing harm on the highways.

HB 1034 offers the most practical way for the state to comply with new federal regulations. The suggested alternative of having local jurisdictions report offenses on the records of all drivers, even if the drivers completed requirements for deferred adjudication, would discourage drivers from taking

defensive driving courses, which was one of the reasons for adopting deferred disposition originally.

**OPPONENTS  
SAY:**

HB 1034 would violate constitutional due-process and equal-protection clauses by treating people differently according to the types of driver's licenses they held. The bill would set up two different punishments for the same offense simply on the basis of the license holder's occupation. Drivers would be subject to stricter penalties even if they were not operating a commercial vehicle when the offense occurred.

HB 1034 would take the wrong approach to complying with federal requirements. Instead of singling out commercial drivers and prohibiting them the option of deferred adjudication, the state should have local jurisdictions report offenses on the driving records of all drivers, even if the offense was not adjudicated because the driver completed defensive driving or another requirement.