

SUBJECT: Funding trauma treatment systems through surcharges on dangerous drivers

COMMITTEE: Law Enforcement — committee substitute recommended

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

0 nays

3 absent — Burnam, Y. Davis, Keel

WITNESSES: For — Julie Beasley, University Hospital, Air Life; Leon Charpenter, EMS Rural of Texas; Gary Clifton, Save Our ERs; Robert Eckels, Harris County Commissioners Court; George Hernandez, Bexar County Hospital District; Kim Hollon, Methodist Medical Center-Dallas; Sally Jeffcoat, CHRISTUS Gulf Coast Region; Jorie Klein, Texas Trauma and Emergency Health Care Coalition, Texas Hospital Association; Bill Lewis, Mothers Against Drunk Driving; Gary B. Morrison, Parkland Health and Hospital System Dallas County Hospital District; S. Dale Ousley; Juanita F. Romans, Memorial Hermann Hospital; Ronald Stewart; Lee Ellen Wigley; Ellen Williams, Harris County

Against — None

On — Frank Elder, Texas Department of Public Safety

BACKGROUND: Transportation Code, ch. 521 authorizes the Department of Public Safety (DPS) to issue licences authorizing the operation of motor vehicles in Texas. Sec. 521.042 requires DPS to examine an applicant's record on traffic violations or involvement in traffic accidents and not to issue or renew a driver's license if it would be inimical to public safety.

Ch. 601 provides for suspension of a license for failure to demonstrate financial responsibility (i.e., the ability to pay for damages caused in a motor vehicle accident). Ch. 724 also provides for driver's license suspension for the refusal of a driver arrested on allegations of driving while intoxicated to submit breath or blood samples.

Many states, but not Texas, keep track of the number and severity of traffic violations through a “points system.” Upon conviction for a traffic offense, a court is required to notify the state’s department of motor vehicles. Depending on the charge, the person would receive a certain number of points on his or her driving record. The number of points assessed for moving violations varies. A person who accumulates a set number of points within a certain time period might be subject to certain sanctions, such as additional surcharges upon conviction of traffic offenses such as driving while intoxicated.

DIGEST: CSHB 3203 would create a “points system,” assess a surcharge on drivers convicted for certain traffic offenses, and use the revenue to help fund trauma facilities and emergency medical hospitals.

Points system. The bill would authorize DPS to assess a surcharge of \$100 for the first six points recorded on a person’s driving record and \$25 for each additional point. The surcharge would be collected each year from a driver who had accumulated six or more points during the previous three-year period. One point would be assigned for any violation requiring the use of safety belts, two points would be assigned for any moving traffic violation, and three points would be assigned for a moving violation that resulted in an accident. DPS would be required to notify the driver of the assignment of the fifth point by first-class mail sent to the driver’s most recent address shown in DPS records.

The points system would not apply to any convictions prior to September 1, 2003, or to the surcharge system for other offenses provided in this bill.

Additional surcharges. CSHB 3203 would assess a \$1,000 per year surcharge on every person convicted of a driving while intoxicated (DWI) offense or who had a driver’s license suspended for refusal to consent to a blood or breath test during the previous three years. The surcharge would be \$1,500 per year for a third or subsequent conviction within three years for DWI or refusal to consent to a blood or breath test. If a person was convicted of a DWI and had a license suspended from the same incident, the surcharge would be based on the DWI conviction or the license suspension, but not both.

A surcharge of \$250 per year would be assessed for convictions during the

previous three years for failing to show financial responsibility or driving with a suspended or canceled license. A surcharge of \$100 would be assessed for a person convicted of driving without a license.

The bill would not apply to offenses that occurred before September 1, 2003, and the surcharge would not be assessed for the same conviction for more than three years.

Notification and collection of surcharge. The DPS would be required to notify the person of the surcharge by first-class mail sent to the person's most recent address in DPS records. The notice would specify when the surcharge should be paid and state the consequences of not paying the surcharge. If a surcharge was not paid within 30 days of when the notice was sent or a person did not agree to enter an installment payment agreement, the person's driver's license automatically would be suspended until the surcharge, a reinstatement fee, and related expenses were paid.

The bill would require DPS to establish rules on payment of installment charges, including amounts that must be paid within certain timeframes, and consequences for missing an installment payment. The rules also would allow payments by credit card if the person paid the credit card fees, and allow DPS to contract with private attorneys or collection agencies to collect surcharges.

Use of funds. CSHB 3203 would require that DPS remit surcharges collected during the previous month to the comptroller on the first Monday of each month. Ninety-nine percent of the funds would be deposited in a designated trauma facility and emergency services account maintained at the state treasury for the Texas Department of Health (TDH). One percent of the funds would be retained by DPS for administering the program.

The commissioner of health would be required to use at least 96 percent of the account — beyond a required \$500,000 reserve — to pay for uncompensated trauma care at designated state trauma facilities. The commissioner would use up to 2 percent of the funding to help coordinate the efforts of local emergency medical services and provide funding for the costs of supplies, operational expenses, education and training, equipment, vehicles, and communications systems. One percent would be dedicated to operations in 22 trauma service areas. The money for these programs would be allocated based

on the relative geographic sizes and populations of the counties and the relative number of emergency or trauma care runs performed by eligible recipients in those counties.

The bill would take effect September 1, 2003, and TDH would be required to submit a report to the lieutenant governor and the House speaker on the use of the money by December 1, 2004.

**SUPPORTERS
SAY:**

CSHB 3203 would force drunk-driving offenders and habitually bad drivers to bear more of the cost of trauma care and other expenses directly caused by their carelessness. According to the National Highway Safety Administration, about 40 percent of all traffic fatalities are alcohol-related. These 17,970 alcohol-related deaths represent an increase of about 3 percent from the previous year. Texas leads the nation in the number of deaths due to traffic accidents — 7.2 for every 100,000 residents — and in the number of drunk-driving-related fatalities. CSHB 3203 would provide a financial disincentive that would help reduce the death toll on the state's streets and highways.

New Jersey implemented a similar program in 1985 to identify and assess financial penalties on DWI offenders and other hazardous drivers. Fatal automobile crashes have declined 24 percent since then even as the state's population has increased by 12 percent.

The bill would not penalize the average driver who got a ticket from time to time. The surcharges would not be not automatic, and even drivers who accumulated too many points could improve their records and escape the additional fees. The bill carefully would target drunk-driving offenders and those who habitually violated traffic laws. It would establish a point system that identified those drivers and assessed weighted surcharges based on the severity of the offenses.

Hitting bad drivers in their wallets would be the best way to encourage compliance with traffic laws. The reduction in accidents and the resulting trauma care also would provide additional savings to taxpayers at the state and local levels.

CSHB 3203 would provide another funding source to help critically underfunded trauma centers. Some of these centers are in large cities, such as

Houston's Memorial Hermann and Dallas' Parkland, while others serve as regional centers in rural Texas. Most trauma centers rely on local taxpayers to pay for the care of indigent out-of-county patients. Many of the state sources, such as the Tertiary Medical Fund that comes from unclaimed lottery winnings, tend not to be reliable sources of money. In 2001, eligible hospitals requested \$260 million in reimbursement for documented out-of-county indigent patients, but they received only \$16 million from the state, or 6 percent of the total.

DPS estimates that the bill would lead to 547,000 surcharge cases per year during the first three years. The Legislative Budget Board (LBB) estimates that the program would generate \$118.7 million for trauma facility and emergency medical services and \$1.2 million for DPS in administrative costs during 2004. The LBB projects \$331 million in revenue for trauma facilities and emergency medical services and \$3.4 million for DPS in administrative costs following the full implementation of the program in 2008.

DPS routinely collects and manages data on traffic offenses and other crimes. The additional administrative fee generated by CSHB 3203 would offset any additional costs. Insurance companies would not have access to the record of points accumulated by drivers or other driving records other than what currently is allowed; DPS would keep those records separately.

**OPPONENTS
SAY:**

CSHB 3203 would not be the budgetary panacea promised by its supporters and would not be an adequate or stable source of revenue for trauma facilities and emergency care providers. It is unlikely that the state would meet the optimistic revenue projections because many of these drunk-driving offenders or hazardous drivers are indigents who cannot pay current fines and insurance charges. If the program was successful in increasing voluntary compliance, revenues would decrease as Texans became safer drivers.

Surcharges of \$1,000 or more would impose unfair financial penalties and restrict the rights of drivers. Most Texans must spend long periods of time in their vehicles to commute to work or travel across this expansive state. They are vulnerable to selective traffic enforcement and "speed traps" and could be subject to even more fines and penalties if the point system proposed by this bill became state law.

Lack of accurate information about traffic violations would make administration of the program cumbersome and overly bureaucratic. Literally thousands of courts handle traffic violations in Texas, and CSHB 3203 would provide no uniform standard for reporting that information in a timely and complete manner to DPS. Even advocates of tougher DWI standards admit that statistics on drunk driving in Texas are incomplete and understate the extent of the problem. Those errors would be compounded if these unreliable data were used to assess financial penalties on drivers.

**OTHER
OPPONENTS
SAY:**

The Legislature should adequately fund important services such as trauma and emergency medical care without relying on budgetary gimmicks such as unclaimed lottery funds or measures proposed in CSHB 3203.

NOTES:

The committee substitute differs from the bill as introduced by conforming it to the Texas Legislative Council drafting style and adding provisions that would direct the allocation of trauma center and medical services funds.

SB 1447 by Shapiro, a similar companion bill, was heard and left pending on May 2 by the Senate Infrastructure Development and Security Committee.