

- SUBJECT:** Dismissal fees for operating motor vehicle or vessel in violation of law
- COMMITTEE:** Transportation — committee substitute recommended
- VOTE:** 6 ayes — Krusee, Harper-Brown, Harless, Hill, Macias, Murphy
0 nays
3 absent — Phillips, Deshotel, Haggerty
- WITNESSES:** For — James Harris, Justice Court Judges; James W. Westley, Texas Justice Court Judges Association
Against — None
On — *(Registered, but did not testify:* William Diggs, Texas Department of Public Safety)
- BACKGROUND:** Transportation Code, sec. 502.404(a) makes it an offense to operate a car or commercial vehicle that does not display two valid license plates that have been issued and validated by the Texas Department of Transportation (TxDOT).
Transportation Code, sec. 502.404(b) makes it an offense to operate a car or commercial vehicle that does not display a valid registration sticker.
Transportation Code, sec. 502.407(b) makes it an offense to operate a motor vehicle, trailer, or semi-trailer after the fifth working day after the date the vehicle registration expires.
Transportation Code, sec. 502.409(a) (3), (5), (6), and (7) makes it an offense to attach or display on a motor vehicle a license plate or registration that:
- is outdated;
 - has letters, numbers, or other identification marks that are not plainly visible at all times during daylight;
 - has an attached illuminated device or sticker that interferes with the readability of the license plate; or

- has a coating, covering, or protective material that distorts angular visibility, or alters or obscures the features, color, or design of the plate.

Transportation Code, sec. 521.025 requires a person to carry a valid driver's license while operating a vehicle and display it on the demand of a magistrate, court officer, or peace officer. As a defense to prosecution, sec. 521.025(d) allows a person to produce in court a valid driver's license that was valid at the time of the offense.

Transportation Code, sec. 521.026 allows a judge to dismiss a charge of driving with an expired license if the defendant gets it renewed within 10 working days.

Transportation Code, sec. 521.054 requires a person to notify TxDOT not later than 30 days after changing one's name or moving from the address shown on a current driver's license in order to get a new license issued.

Transportation Code, sec. 521.221 makes it an offense to operate a vehicle without a special restricted license that has been issued because of:

- the type of vehicle being operated;
- a special mechanical control device required on the vehicle;
- mechanical attachments, such as glasses, required for the operator;
- a special area or road on which the license holder may operate;
- the time of day the driver is permitted to drive; or
- any other condition TxDOT determines to be appropriate.

Transportation Code, sec. 547.004 makes it an offense knowingly to operate or allow someone to operate a vehicle that is unsafe to drive or does not comply with vehicle equipment standards.

Transportation Code, sec. 548.605 sets the standard procedure for dismissing a charge and the administration fees associated with not properly having a vehicle inspected or properly displaying a valid motor vehicle emissions inspection sticker.

Parks and Wildlife Code, sec. 31.021(b) prohibits a person from operating or giving someone permission to operate, dock, moor, or store a vessel without a current and properly displayed certificate or number as issued by the state.

DIGEST:

CSHB 1623 would allow a court to dismiss a charge brought under Transportation Code, sec. 502.404(a) (two license plates) and 502.404(b) (valid registrations sticker) if the defendant brought the vehicle into compliance before the defendant's first court appearance and paid an administrative fee not to exceed \$25.

The bill would allow a court to dismiss a charge brought under Transportation Code, sec. 547.004, 502.409(a) (3), (5), (6), or (7) (license plate violations) if the defendant remedied the defect before the defendant's first court appearance and paid an administrative fee not to exceed \$25.

The bill would allow a court to dismiss a charge brought under Transportation Code, sec. 521.054 (valid driver's license) if the defendant remedied the defect not later than the 10th working day after the offense and paid an administrative fee not to exceed \$25.

The bill would allow a court to dismiss a charge brought under Parks and Wildlife Code, sec. 31.021(b) (valid vessel certificate) if the defendant remedied the defect not later than the 10th working day after the offense, the certificate of number had not been expired for more than 60 days, and the defendant paid an administrative fee not to exceed \$25.

The bill would allow a court to dismiss a charge brought under Transportation Code, sec. 521.221 (valid restricted license) if the defendant paid an administrative fee not to exceed \$25 and:

- the restriction or endorsement was no longer necessary;
- the restriction or endorsement was incorrect; or
- TxDOT removed the restriction or endorsement.

The bill would raise the administrative fee for dismissing a charge brought under Transportation Code, sec. 502.407(b), 521.026(b), and 548.605(b) to an amount not to exceed \$25.

The bill would allow the court to assess an administrative fee not to exceed \$25 for dismissing a charge under Transportation Code, sec. 521.025(d).

The bill would take effect September 1, 2007, and apply only to offenses occurring on or after that date.

**SUPPORTERS
SAY:**

CSHB 1623 is an omnibus cleanup bill that would create consistency throughout the Transportation Code and Parks and Wildlife Code. Currently, the law varies on how to handle misdemeanors resulting from vehicle condition non-compliance. In some instances, these violations can be dismissed by demonstrating compliance and paying an administrative fee. In other instances, these violations cannot be dismissed, creating a bottleneck in municipal and justice courts. This bill would establish a standard \$25 administrative fee for dismissing the charges resulting from vehicle condition misdemeanors in lieu of making defendants incur higher penalties and court costs.

The bill would enable municipal and justice courts to recoup real costs incurred because of a person's carelessness. When a person is stopped by law enforcement for such violations as driving without proper license plates, vehicle registration, driver's licenses, or inspection stickers, or driving an unsafe vehicle, court clerks must spend time on data entry, filing, and billing for the infraction. Then, when a person provides proof of compliance, to have the charge dismissed the clerk must process this evidence and verify the validity of the documentation, which often involves long-distance telephone calls. While the charges ultimately may be dismissed, this bill would make those who belatedly showed proof of compliance personally responsible for the additional court resources they used, rather than passing on these expenses to law-abiding taxpayers. Also, the bill would raise existing \$10 fees to \$25 to account for inflationary costs for administration at municipal and justice courts.

CSHB 1623 would set a fee that would not pose a hardship on a defendant. Currently, misdemeanors for vehicle condition violations can be punished with a fine up to \$200. The bill would provide a defendant with the option of dismissing the charge for a smaller \$25 administrative fee. Should this fee pose an undue hardship on a defendant, Code of Criminal Procedure, Art. 43.091 currently allows a municipal or justice court to waive the fee.

**OPPONENTS
SAY:**

CSHB 1623 unnecessarily would impose a fee for accessing the municipal and justice court system. In many cases, the people that would incur the \$25 administrative fee are those who had proof of compliance but were unable to present it at the time of their citation. While the intent of current

law is to penalize those without current driver and vehicle identification, CSHB 1623 also would penalize those in compliance who could not produce the necessary slip of paper at the time of a traffic stop. Drivers who are in substantial compliance with the law should not have to pay a fee when they are already spending significant time and effort to dismiss the charges wrongly filed against them. While court clerks must process this information, violation dismissals simply are part of their general administrative duties supported by tax dollars. If municipal and justice courts do not have the funding properly to support their administrative services, the state or municipality should provide additional resources to address this problem.

NOTES:

CSHB 1623 failed to pass on second reading by 54-87 on April 19. The vote later was reconsidered by voice vote, and the bill was postponed until today.

The bill as filed would have amended the Transportation Code to establish a general penalty for vehicle condition violations as Class C misdemeanors punishable by a fine not to exceed \$500. The committee substitute would not increase the general penalty for non-compliance.

A related bill, HB 588 by Gonzalez Toureilles, which would allow a court to assess a defendant an administrative fee not to exceed \$10 when a charge was dismissed under Transportation Code, sec. 601.193(a) for failure to show proof of motor vehicle financial responsibility, passed the House on third reading by 139-2 on April 19.