

- SUBJECT:** Exempting authorized emergency vehicles from toll payment
- COMMITTEE:** Transportation — committee substitute recommended
- VOTE:** 6 ayes — Krusee, Deshotel, Harless, Hill, Macias, Murphy
0 nays
3 absent — Phillips, Harper-Brown, Haggerty
- WITNESSES:** For — Julie Kiley, Williamson County Auditor; Sean M. Mannix, City of Austin Police Department; Richard T. McCain; John Sneed, Williamson County Emergency Medical Services; Gary Griffin; (*Registered, but did not testify*: John Carlton, Texas State Association of Fire and Emergency Districts, Travis County Emergency Services District No. 2; Mike Higgins, Texas State Association of Fire Fighters; John Hrcir, City of Austin; Shanna Igo, Texas Municipal League; Shannon Ratliff, City of Carrollton; G.R. Sprinkle, Texas Ambulance Association; Michelle M. Sanchez; Stacy Suits)

Against — None

On — Amadeo Saenz, Texas Department of Transportation
- BACKGROUND:** Transportation Code, sec. 228.054 creates a misdemeanor offense for failing to pay a toll on a state highway toll project. Transportation Code, sec. 370.144 creates a misdemeanor offense for failing to pay a toll on a road operated by a regional mobility authority. Both sections exempt certain vehicles, including the following authorized emergency vehicles as defined by Transportation Code, sec. 541.201:
- police and fire vehicles;
 - public or private ambulances;
 - private vehicles of emergency responders or volunteer firefighters responding to an emergency;
 - blood and tissue bank vehicles making emergency deliveries;
 - emergency response teams responding to an emergency; and
 - municipal department or public service corporation emergency vehicles authorized by the municipality's governing body.

Transportation Code, sec. 284.070 creates a misdemeanor offense for failing to pay a toll on certain county highway projects but does not specify an exemption for emergency vehicles.

Transportation Code, sec. 366.178 creates a misdemeanor offense for failing to pay a toll on roads operated by regional tollway authorities. It exempts police or emergency vehicles from toll payment.

On January 25, 2007, the Texas Transportation Commission approved toll exemption for on-duty emergency vehicles as defined in Transportation Code, sec. 541.201 for all toll roads outside the Central Texas Turnpike System. Because the state is bound by the 2002 agreement it made with investors when it issued \$2.2 billion in bonds to build Texas 130, Texas 45 North, and the Loop 1 extension, the Central Texas toll roads exempt only marked emergency vehicles using lights and sirens. The order expires April 27, 2007.

DIGEST:

CSHB 937 would amend the Transportation Code to further specify the vehicles that would be exempt from toll payment. Authorized emergency vehicles, as defined by Transportation Code, sec. 541.201, would be exempt regardless of whether they were responding to an emergency, displaying a flashing light, or marked as official vehicles.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

CSHB 937 would allow emergency officials and agencies that protect the public to use their resources more efficiently. Police and fire departments and other emergency agencies should not have to use money from their budgets to pay tolls to cover trips that are essential to their daily responsibilities; nor should these emergency responders have to complete paperwork to justify their travel. Current regulations regarding the conditions required for emergency vehicles to be exempt from paying tolls do not fully cover the daily responsibilities and habits of law enforcement and emergency officers. This bill would fix inconsistencies in current law by removing some of the barriers faced by public entities that need to use toll roads.

Emergency agencies should not have to spend money on toll roads. Every dollar spent on a toll is one fewer dollar a law enforcement or emergency

agency has to spend on protecting the public. In addition, the current process of identifying and logging each trip on a toll road takes time away from more vital services these public officials could be providing. A variety of public entities — from an auditor's office tracking receipts to a 911 dispatch center recording the movement of emergency vehicles to a sheriff's office tracking all toll road trips — could be using their time more efficiently and productively.

Although exempting tolls for emergency responders would reduce the current amount of toll revenue, emergency vehicles make up a small percentage of the overall traffic on toll roads. Opportunities for fraud and abuse also would be monitored by the state and local emergency agencies, which could use existing toll-road cameras to identify trips made by off-duty officers not responding to an incident.

The ultimate success of a toll road depends on the experience of drivers who opt to use the road, and feeling safe and protected is a large component of that experience. Some departments already are encouraging officers to steer clear of toll roads unless they are responding to an emergency, and the lack of a police presence could cause additional public safety or traffic problems. Allowing on-duty officers to simply patrol toll roads to pull over reckless drivers, clear stalled vehicles from the road, and assist drivers in need not only makes good business sense but also is a vital public service.

Emergency vehicles only use their sirens when necessary. A fire engine that used its siren en route to an incident, for example, normally would not use its siren on the return trip. Similarly, in an effort to keep a patient calm and comfortable, an ambulance returning a patient from the hospital typically would not use its siren. Every time an emergency vehicle uses a siren, it increases the possibility of further safety risks for other drivers who must yield the road.

Roughly two-thirds of police vehicles in major municipalities are unmarked, and the duties these officers carry out include homeland response efforts, homicide investigations, and other undercover operations. A criminal investigator following a suspect who entered a toll road would not use a marked car or a siren for fear of jeopardizing his safety and the overall case. In addition, off-duty officers driving any type of vehicle are bound by law to administer aid when needed, and a toll road could be the fastest route to respond to an incident.

OPPONENTS
SAY:

CSHB 937 would do nothing more than move taxpayers' money around. Taxes fund the budgets of law enforcement and emergency agencies currently paying tolls, and they would face the additional burden of making up lost revenue if further toll exemptions were granted. Reducing the number of tolled drivers on a toll road inevitably would lead to higher toll costs and an increased burden on drivers, which in turn could create a vicious cycle of higher tolls and fewer drivers. Exempting certain motorists would set a precedent that could encourage others to seek special exceptions to avoid paying tolls could point to. By reducing toll revenue through additional exemptions, this bill also could weaken the state's bargaining power in negotiations over how much advance money it might receive in future toll agreements with private companies seeking to build and operate toll road.

Determining what vehicles should be exempt from toll payment is a tricky process and could result in a continued erosion of the toll revenue the state needs to pay back investors on toll projects. Police, fire, and other emergency vehicles certainly provide a public service but so do other public officials and non-profit groups who also deserve to keep money in their respective budgets. The North Texas Tollway Authority currently is trying to rein in its exemptions after waving tolls for city and county officials in addition to emergency vehicles. Furthermore, providing exemptions to certain vehicles also could invite off-duty officers to fraudulently use the exemption when not responding to an emergency.

Payment of tolls should be considered akin to paying gas taxes because toll roads increasingly are replacing the "pay-as-you-go" system, which relies on fuel tax revenue, as the primary way of financing large road projects. The state has not exempted emergency vehicles from paying state fuel taxes and therefore should not exempt these same vehicles from participating in a system that charges drivers who benefit from the new roads.

NOTES:

The substitute added to the original version of HB 937 that authorized emergency vehicles would be exempt from toll payment regardless of whether they were marked vehicles.

According to the Legislative Budget Board, the bill would have no significant fiscal impact to the state. The Texas Department of

Transportation anticipates the bill would have an impact on state toll revenues but cannot quantify the amount.

SB 11 by Carona, the identical companion to HB 3642, has been referred to the Senate Transportation and Homeland Security Committee.

A related bill, HB 3642 by Corte, would exempt vehicles owned and used exclusively for emergencies by a nonprofit disaster relief organization from paying tolls on any toll road. It has not yet been referred to committee.