

## **BILL ANALYSIS**

Senate Research Center

H.B. 3685  
By: Flores (Lucio)  
State Affairs  
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Engrossed

### **DIGEST**

Currently, the Texas Department of Public Safety's Driver Improvement and Control Bureau is charged with the assessment of the Administrative License Revocation (ALR), Driver Improvement and Control (DIC), and Safety Responsibility (SR) appeals. The task is complicated by differing statutory language. While ALR appeals are suspended upon the 91st day of the stay, DIC and SR appeals may stay active for years. The statute for ALR appeals is more specific than the SR and DIC statutes. H.B. 3685 clarifies the Transportation Code regarding driver's license suspensions, cancellations, and revocations. This bill is modeled after Section 524.041 (Appeal from Administrative Hearing) so that more specific provisions may be applied to all appeal petitions received by the Department of Public Safety.

### **PURPOSE**

As proposed, H.B. 3685 amends regulations regarding an appeals of a driver's license or vehicle registration suspension, cancellation, or revocation.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 521.302, Transportation Code, as follows:

(b) Requires in an appeal of a driver's license suspension, cancellation, or revocation (action), a person to file a petition by the 30th day after the date administrative ruling is final, rather than on which the department order was entered, in the county court at law of the county in which the person resides, or in the county court, if there is no county court at law. Requires a person who files an appeal under this section to send a file stamped copy of the petition by certified mail to the Department of Public Safety (department) at the agency's headquarters in Austin. Requires the copy to be certified by the clerk of the court in which the petition is filed. Deletes the provision that the license holder has the right to trial by jury.

(f) Provides that the filing of a petition of appeal as provided by this section stays an order of cancellation, suspension, probated suspension, or revocation. Provides that a stay under this section is effective for not more than 90 days after the date the appeal petition was filed. Requires the department to impose the cancellation, suspension, probated suspension, or revocation on the expiration of the stay. Prohibits the department or court from granting an extension of the stay or an additional stay. Deletes text of existing Subsection (f), which provides that the filing of a petition stays specified orders until the trial is completed and final judgment is rendered.

SECTION 2. Amends Section 601.158, Transportation Code, to make conforming changes.

SECTION 3. Amends Section 601.401, Transportation Code, as follows:

(a) Authorizes an act of the department under this chapter to be appealed, unless an order of suspension by the department is based on an existing unsatisfied final judgment that is rendered against a person by a court in this state and that arises out of the use of a motor vehicle in this state or the suspension is automatic under 601.231(a).

(b) Requires a person, to appeal the action, to file a petition not later than the 30th day after the date of the departmental action in the county court at law of the county in which the resides, or, if there is no county court at law, in the county court. Requires a person who files an appeal under this section to send a file stamped copy of the petition by certified mail to the department at its headquarters in Austin. Requires the copy to be certified by the clerk of the court in which the petition is filed.

(c) Provides that the filing of an appeal under this section stays an act of the department that is the subject of the appeal. Provides that a stay under this section is effective for not more than 90 days after the date the appeal petition was filed. Requires the department to impose the suspension on the expiration of the stay. Prohibits the department or court from granting an extension of the stay or an additional stay.

(d) Provides that a trial on appeal is a trial de novo. Deletes all of the existing text of Section 601.401, which authorizes an act of the department under this chapter to be appealed by a person in interest in enumerated county courts.

SECTION 5. Repealers: Sections 601.160 (Suspension Stayed Pending Hearing or Appeal), 601.402 (Time for Appeal), 601.403 (Trial), 601.404 (Stay of Act on Appeal), 601.405 (Filing of Evidence of Financial Responsibility; Effect on Appeal), 601.406 (Temporary Stay of Department's Order on Filing of Affidavit), 601.407 (Stay After Plea or Conviction), 601.408 (Stay After Acquittal or Dismissal) 601.409 (Maintenance of Evidence of Financial Responsibility), and 601.410 (Limit on Courts), Transportation Code.

SECTION 6. Effective date: September 1, 1999.

SECTION 7. Emergency clause.  
Effective date: upon passage.