

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 233
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, there is no statute authorizing sobriety checkpoints on Texas lakes. This legislation intends to reduce the number of intoxicated boat operators on Texas lakes and to reduce the number of alcohol-related accidents on the water.

C.S.S.B. 233 authorizes state licensed marine enforcement officers to set up boating sobriety checkpoints on Texas lakes. Officers operating the checkpoint must try to inform oncoming watercraft of the checkpoint as well as process each watercraft in a timely manner. The checkpoint must be less than 10 minutes unless there is reasonable suspicion to detain the watercraft further. The law enforcement agency is required to publicize the checkpoint, but not the precise date, time, or location. The checkpoint may not operate for more than four hours and not more than twice at the same location in a seven-day period. The law enforcement agency is required to keep accurate records of the checkpoint details.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 1, Code of Criminal Procedure, by adding Chapter 65, as follows:

CHAPTER 65. BOATING SOBRIETY CHECKPOINTS

Art. 65.01. DEFINITION. Defines "law enforcement agency."

Art. 65.02. APPLICABILITY. Sets forth the law enforcement agencies to which the chapter applies.

Art. 65.03. AUTHORIZATION FOR BOATING SOBRIETY CHECKPOINTS. Authorizes a law enforcement agency to operate a temporary sobriety checkpoint to determine whether watercraft operators are intoxicated and in violation of Section 49.06 (Boating While Intoxicated), Penal Code.

Art. 65.04. APPROVAL OF AND PROCEDURES FOR BOATING SOBRIETY CHECKPOINTS. (a) Requires a peace officer of at least the rank of lieutenant or its equivalent to approve the operation of a boating sobriety checkpoint (checkpoint) and the procedures thereof, before the checkpoint begins operation.

(b) Requires the law enforcement agency to keep written records of the procedures used in selecting the site for the checkpoint and for the operation thereof.

(c) Requires the aforementioned procedures to ensure that the selection of the watercraft to be stopped is reasonably predictable and nonarbitrary.

(d) Requires the law enforcement agency to consider the safety of the public subject to the checkpoint and the peace officers operating it when establishing the location, time, and design of the checkpoint. Requires the law enforcement

agency to make reasonable efforts advise operators of watercraft of a checkpoint and its purpose, to demarcate the checkpoint, and to illuminate the checkpoint as necessary.

(e) Requires the peace officer who makes the initial communication with the operator of the watercraft to wear a distinguishable uniform of the law enforcement agency.

(f) Requires the law enforcement agency to establish procedures to ensure minimized intrusion on the watercraft operator, and that the inquiry is reasonably related to determining whether the operator is intoxicated, and in violation of Section 49.06, Penal Code.

(g) Prohibits a peace officer from directing the operator of or passenger in a watercraft to leave the watercraft unless the officer has reasonable suspicion or probable cause to believe that the person is committing or has committed an offense. Authorizes the design of a boating sobriety checkpoint to require each watercraft subject to the checkpoint to be directed to a specific location to ensure safety.

(h) Prohibits a peace officer from requiring a watercraft operator that passes through a checkpoint to perform a field sobriety test unless the officer has reasonable suspicion or probable cause to believe that the driver is intoxicated. Requires a peace officer who requires or requests a breath, blood, or urine specimen to comply with Chapter 724 (Implied Consent), Transportation Code.

(i) Specifies that unless the officer has reasonable suspicion or probable cause to detain the watercraft operator or passenger for a criminal offense, the time during which an officer makes an inquiry of an operator or passenger should not exceed three minutes, and the total time that an operator must wait to pass through a checkpoint should not exceed 10 minutes. Requires the law enforcement agency to make reasonable efforts to reduce these time periods to not more than one minute and five minutes, respectively.

(j) Requires the law enforcement agency to publicize the operation of the checkpoint, but not the precise date, time, location, or purpose of the checkpoint.

(k) Prohibits a law enforcement agency from operating a checkpoint in one location for more than four hours and from being operated in the same location more than twice in a seven-day period. Provides an exception in an emergency.

(l) Requires a law enforcement agency to keep a record of each checkpoint. Sets forth the content requirements for the record.

SECTION 2. Effective date: upon passage or September 1, 2007.