

BILL ANALYSIS

Senate Research Center
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S.B. 181
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 1991, Congress enacted the Solomon-Lautenberg amendment, mandating that states enact a law suspending the driver's license of anyone convicted of any drug offense for six months. The amendment penalized states that declined to do so with a reduction in federal highway funding. However, states are able to opt-out of the mandate altogether via a legislative resolution, which would be accomplished by S.C.R. 1.

Texas' mandatory suspension law is located in Chapter 521, Subchapter P, Transportation Code. The law requires a minimum 180-day license suspension for anyone convicted of a drug offense, regardless of circumstances. To reobtain their license, a person must take a 15-hour drug course (offered only in-person over five days in less than half of Texas counties), send a certificate of completion to the Department of Public Safety of the State of Texas (DPS), and notify DPS that they wish to reobtain their license. Only after notification does the 180-day period begin—after which a person can reapply for their license with payment of a \$100 reinstatement fee and a copy of a SR-22 document from their automobile insurer (which can raise the cost of insurance by over \$1,000 annually).

This byzantine, expensive process means many are never able to reobtain their license. Without state-issued identification and the ability to legally drive, it becomes significantly more difficult for an individual to achieve gainful employment after a drug conviction, leading to increased recidivism and reliance on public benefits. There is no evidence that license suspension deters drug use. Overall, mandatory license suspension has proven a costly and destructive policy—a fact realized by the 46 states that have opted-out of the Solomon-Lautenberg amendment.

Contingent on passage of S.C.R. 1, S.B. 181 ends mandatory 180-day license suspensions. Instead, a judge may initiate a 90-day suspension if they determine that the suspension is in the interest of public safety. Those subject to the new discretionary suspension may take the drug education course online, as has been temporarily permitted during the COVID-19 pandemic. Outstanding license suspensions under the statute are to be lifted 180 days after the effective date of the bill. Additionally, language is updated to reflect that TDLR, not DSHS, administers the drug education course.

Because existing license reinstatement fees are deposited to the Texas Mobility Fund, a new \$100 court cost must be created so that the legislation complies with Article III, Section 49-k of the Texas Constitution, which prohibits any diversion of revenue from the fund.

As proposed, S.B. 181 amends current law relating to suspension of a driver's license for persons convicted of certain offenses and the educational program required for reinstatement of a license following certain convictions and authorizes a fine.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is rescinded in SECTION 4 (Section 521.374, Transportation Code) of this bill.

Rulemaking authority previously granted to the Texas Department of Public Safety is modified in SECTION 6 (Section 521.375, Transportation Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 6 (Section 521.375, Transportation Code) of this bill.

Rulemaking authority previously granted to the Texas Commission of Licensing and Regulation (TCLR) is modified in SECTION 6 (Section 521.375, Transportation Code) of this bill.

Rulemaking authority is expressly granted to TCLR in SECTION 8 of this bill.

Rulemaking authority is expressly granted to the Texas Department of Motor Vehicles in SECTION 8 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 102, Code of Criminal Procedure, by adding Article 102.0179, as follows:

Art. 102.0179. FINE FOR CERTAIN DRUG AND TEXAS CONTROLLED SUBSTANCE ACT CONVICTIONS. (a) Defines "convicted" to include an adjudication under juvenile proceedings.

(b) Requires a defendant convicted of an offense described by Section 521.372(a) (relating to certain offenses resulting in the automatic suspension of a person's driver's license), Transportation Code, in addition to any other fees and fines imposed under Subchapter A (Costs; Reimbursement Fees; Fines), to pay a fine in an amount that is equivalent to the sum of all fees applicable to a suspension and reinstatement of a driver's license under Chapter 521 (Driver's Licenses and Certificates), Transportation Code. Requires the Texas Department of Public Safety (DPS) to annually calculate and make available the amount of the fine described by this subsection.

(c) Requires the court to waive imposition of a fine under this article if the defendant's driver's license is suspended under Section 521.3725(c), Transportation Code, or under another provision of that code as a result of the conviction of an offense described by Section 521.372(a), Transportation Code, or another offense arising from the same criminal episode.

(d) Provides that a fine imposed under this article is due regardless of whether the defendant is granted community supervision in the case. Requires the court to collect the fine under this article in the same manner as court costs are collected in the case.

(e) Requires that a fine collected under this article be deposited to the credit of the Texas mobility fund.

SECTION 2. Amends Section 521.372(c), Transportation Code, to decrease the period of suspension under Section 521.372 (Automatic Suspension; License Denial) from 180 days to 90 days after the date of a final conviction and the period of license denial from 180 days to 90 days after the date the person applies to DPS for reinstatement or issuance of a driver's license, except as provided by Section 521.374(b).

SECTION 3. Amends Subchapter P, Chapter 521, Transportation Code, by adding Section 521.3725, as follows:

Sec. 521.3725. DISCRETIONARY LICENSE SUSPENSION. (a) Provides that this section applies only to a person who is convicted of an offense described by Section 521.372(a), Transportation Code, and whose driver's license is not subject to suspension for the offense described by Section 521.372(a), under a provision other than Section 521.372, or for another offense arising from the same criminal episode.

(b) Provides that a person described by Subsection (a) of this section is not subject to automatic license suspension under Section 521.372, notwithstanding Subsection (a) of that section.

(c) Authorizes a court to order DPS to suspend the license of a person described by Subsection (a) if the court determines that suspending the person's license is in the interest of public safety. Requires the court to make the determination in writing and include a justification for the determination.

(d) Provides that a person whose license is suspended under Subsection (c) is subject to the same fees and other conditions as a person whose license is automatically suspended under Section 521.372.

SECTION 4. Reenacts Section 521.374(a), Transportation Code, as amended by Chapters 838 (S.B. 202), 851 (S.B. 1070), and 1004 (H.B. 642), Acts of the 84th Legislature, Regular Session, 2015, and amends it as follows:

(a) Authorizes a person whose license is suspended under Section 521.372, to successfully complete a certain programs, including an in-person or online education program approved by the Texas Department of Licensing and Regulation (TDLR) under rules adopted by the Texas Commission of Licensing and Regulation (TCLR) and DPS that is designed to educate persons on the dangers of drug abuse. Deletes text providing that the educational program is approved by the Department of State Health Services (DSHS) under rules adopted by the executive commissioner of the Health and Human Services Commission. Makes a conforming change.

SECTION 5. Amends Section 521.374, Transportation Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that the period of suspension or prohibition under Section 521.372(c) continues for an indefinite period until the individual successfully completes the in-person or online educational program under Subsection (a)(1) or is released from the residential treatment facility at which the individual successfully completed equivalent education under Subsection (a)(2), as applicable.

(c) Requires DPS to provide to a person whose license is suspended under Subchapter P (Automatic Suspension for Certain Drug Offenses) a list of providers of educational programs under Subsection (a)(1).

SECTION 6. Reenacts Section 521.375, Transportation Code, as amended by Chapters 838 (S.B. 202) and 851 (S.B. 1070), Acts of the 84th Legislature, Regular Sessions, 2015, and amends it to make conforming and nonsubstantive changes.

SECTION 7. Reenacts Section 521.376, Transportation Code, as amended by Chapters 838 (S.B. 202) and 851 (S.B. 1070), Acts of the 84th Legislature, Regular Session, 2015, and amends it as follows:

Sec. 521.376. New Heading. DUTIES OF TEXAS DEPARTMENT OF LICENSING AND REGULATION AND DEPARTMENT OF STATE HEALTH SERVICES; APPLICATION AND RENEWAL FEES. (a) Creates this subsection from existing text. Provides that TDLR:

(1) is required to monitor, coordinate, and provide training to persons who provide in-person and online educational programs under Section 521.374(a)(1) (relating to educational programs approved by DSHS), rather than persons who provide educational programs under Section 521.374 (Educational Program or Equivalent Education);

(2) is required to administer the approval of those in-person and online educational programs; and

(3) is authorized to charge a nonrefundable application fee to the provider of an in-person or online educational program under Section 521.374(a)(1) for initial certification of approval and renewal of the certification.

(b) Creates this subsection from existing text and deletes existing text providing that DSHS is required to monitor, coordinate, and provide training to persons who provide educational programs under Section 321.374(a) and is authorized to charge certain nonrefundable application fees to the provider of an educational program under Section 521.374(a)(1).

SECTION 8. Requires TCLR and the Texas Department of Motor Vehicles, not later than September 1, 2022, to adopt rules to implement Sections 521.374, 521.375, and 521.376, Transportation Code, as amended by this Act.

SECTION 9. (a) Effective date, except as otherwise provided by this section: September 1, 2021.

(b) Provides that Article 102.0179, Code of Criminal Procedure, and Section 521.3725, Transportation Code, as added by this Act, take effect on the 91st day after the date the Office of the Attorney General publishes in the Texas Register a finding that:

(1) the legislature of this state has adopted a resolution expressing the legislature's opposition to a law meeting the requirements of 23 U.S.C. Section 159 in suspending, revoking, or denying the driver's license of a person convicted of a drug offense for a period of six months;

(2) the governor has submitted to the United States secretary of transportation a written certification of the governor's opposition to the enactment or enforcement of a law required under 23 U.S.C. Section 159 and a written certification that the legislature has adopted the resolution described by Subdivision (1) of this subsection; and

(3) the United States secretary of transportation has responded to the governor's submission and certified that highway funds will not be withheld from this state in response to the modification or full or partial repeal of the law required under 23 U.S.C. Section 159.

(c) Requires DPS, on the 180th day after the date described in Subsection (b) of this section, to reinstate any driver's license that was suspended under Section 521.372, Transportation Code, before the date described by Subsection (b) of this section and that remains subject to suspension under that section on the 180th day after the date described in Subsection (b) of this section.