



Scott Henson, Policy Consultant
Cell: (512) 417-0120
shenson@TexasCJC.org
www.TexasCJC.org

FACT SHEET 2015
SB 93

Repeal Texas' Driver Responsibility Program And Identify Alternative Funding Sources for Trauma Hospitals

Despite its good intentions, the program has created more problems than it has solved, increasing unlicensed motorists, harming low-income drivers and families, and burdening courts.

ORIGIN OF PROGRAM AND UNSUCCESSFUL OUTCOMES

Texas' Driver Responsibility Program (DRP) was created in 2003 to pay for then-Governor Rick Perry's Trans-Texas Corridor program. That initiative died but the funding mechanism passed, with half of the revenue designated to pay for uncompensated care at Texas trauma hospitals and the other half going into the state's general revenue fund.

Logistics: The DRP requires drivers convicted of a certain number of low-level traffic offenses, or specific higher-level driving offenses, to pay an annual surcharge to maintain their drivers' licenses. The surcharge varies based on the number or type of offenses committed over the preceding three years; in some instances, individuals are required to pay the surcharge for three consecutive years, at amounts of \$1,000 or higher. Failure to pay the surcharge – assessed on top of court fines and criminal penalties – results in automatic license suspension.¹

Failures: Despite its good intentions, the DRP has failed on every front. In fact, the program's failures are of such magnitude that former State Representative Mike Krusee, the original author of the bill creating the program, has now called it "a mistake," saying it is "past time to either revise or repeal the program."²

- **Extremely low collection rate.** Many DRP violators are unable to pay assessed surcharges. As a result, the DRP has **generated less than half of the revenue anticipated**, with under 40% of the assessed surcharges collected since the program's inception.³ This is despite changes made to the program during the 2009 and 2011 legislative sessions to induce more Texans to pay overdue surcharges.⁴

Not only has the DRP generated less than half of the revenue anticipated, it only partly fulfills its promise to pay for uncompensated care at trauma hospitals: Instead of spending surcharge money as originally intended, the Legislature has withheld tens of millions from hospitals to certify the budget.⁵

- **Failure to improve driver responsibility.** While overall traffic fatalities have decreased somewhat in recent years, data indicate that the DRP has **failed to change driver behavior as it relates to a significant traffic-related offense: drunk driving**. From 2003 to 2013, the percentage of fatal automobile crashes in Texas that involve alcohol increased from 26.3% to 32%.⁶
- **More unlicensed and uninsured drivers on Texas roads.** The DRP has not only failed to diminish the proportion of unlicensed and uninsured drivers on the road, it dramatically increased their number. Unable to pay the surcharges (on top of criminal penalties and court fines), **nearly 1.3 million drivers now have invalid licenses**.⁷ Since a valid driver's license is a requirement to purchase liability insurance, many of those drivers may no longer be able to insure their vehicles. As such, the program has likely increased the number of uninsured motorists on Texas roads – as well as increasing the cost of accidents with drivers lacking liability insurance.⁸

Continued on reverse.

- **Greater case backlogs and undue county costs.** In Fiscal Year 2014 alone, nearly 30,000 Class B misdemeanor cases were added to Texas court dockets for Driving with an Invalid License⁹ – meaning the DRP is likely **creating a new class of “criminals” and clogging court dockets.**¹⁰ The DRP also increases counties’ jail costs: Because most drivers continue to drive despite defaulting on their surcharges, many of those drivers can wind up in county jails due to accumulated, unpaid traffic tickets and/or for driving with a suspended license.¹¹ This puts more pressure on jails and, again, needlessly fills court dockets with petty cases, in turn increasing the financial burden on counties.
- **Economic blow to Texas households and the workforce.** Survey data indicate that low-income drivers are more likely to lose their jobs, are less likely to find a new job, and are less able to afford increased insurance premiums after having their drivers’ licenses suspended for unpaid surcharges.¹² As such, **DRP surcharges may be posing a substantial and disproportionate financial hardship on low-income drivers, increasing unemployment and the public costs associated with it, and hindering the ability of men and women to meet familial obligations.**
- **Double Jeopardy.** Many Texans consider the DRP a kind of backdoor double jeopardy.¹³ Levying an administrative penalty on top of a criminal one for the same offense violates the spirit of the constitutional protection against double jeopardy. So, in addition to being ineffective and unfair, **the DRP represents a significant expansion of state power at the expense of individual liberty.**

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT SB 93 BY SENATOR ELLIS

- **SB 93 repeals Texas’ Driver Responsibility Program.** This program has created an untenable economic situation for hundreds of thousands of Texans. It is long overdue that the State stop burdening Texas counties and families with programs that cause more harm than good.

ALTERNATIVE FUNDING SOURCES FOR TEXAS TRAUMA HOSPITALS

Given the DRP’s multiple failures, Texas must seek out better ways to fund trauma centers. Below are a few options that lawmakers could consider to generate sufficient revenue to replace most of the funds that hospitals currently receive from the DRP:

- » Raise the cigarette tax by approximately \$0.15 per pack.¹⁴
- » Close a loophole to ensure that all cigarette manufacturers pay fees to the State of Texas for the sale of their product in Texas.
- » Increase the beer tax by approximately \$0.06 per six-pack (to a \$0.164 total rate per six-pack).¹⁵
- » Expand the hours or days during which alcohol may be sold in Texas.
- » Levy an approximate 1% tax on carbonated soft drinks.¹⁶

For more comprehensive information on Texas’ Driver Responsibility Program, see the Texas Criminal Justice Coalition’s report, *The Driver Responsibility Program: A Texas-Sized Failure (2013)*.

Citations

¹ Texas Transportation Code, Chapter 708. Also see <http://www.txdps.state.tx.us/DriverLicense/drp.htm>.

² "Critics: Law puts drivers on road to ruin," *Houston Chronicle*, March 21, 2010, <http://www.chron.com/dispatch/story.mpl/metropolitan/6922979.html>.

³ "Reform sought in Texas ticket surcharge program," *El Paso Times*, September 22, 2013. "Since its inception in 2003, the Driver Responsibility Program has collected only \$1.14 billion of the \$2.85 billion of the charges it levied."

⁴ Texas Department of Public Safety, email to State Rep. Sylvester Turner. *Data available upon request.*

The Legislature ordered the Texas Department of Public Safety to create an Amnesty program; instead, the agency implemented just one Amnesty period (in 2011) and failed to adequately publicize it, relying on unpaid publicity from the mainstream media that was spotty and unfocused. Even so, about 14 percent of eligible drivers – nearly 100,000 out of 700,000 – took advantage of the lower payments to clear their records and regain their driver's licenses.

⁵ "Interactive: Billions of dedicated funds unspent," *The Texas Tribune*, December 6, 2012, <http://www.texastribune.org/library/data/dedicated-revenue-funds-list/>.

⁶ Texas Department of Transportation, *Total and DUI (Alcohol) Fatal and Injury Crashes Comparison*, 2003, 3, http://ftp.dot.state.tx.us/pub/txdot-info/trf/crash_statistics/2003_update/33_2003.pdf. Also see *Total and DUI (Alcohol) Fatal and Injury Crashes Comparison*, 2013, 3, http://ftp.dot.state.tx.us/pub/txdot-info/trf/crash_statistics/2013/37-2013.pdf.

⁷ Texas Department of Public Safety (DPS), email to State Rep. Sylvester Turner. *Data available upon request.* More than 2 million people have lost their drivers licenses as a result of unpaid surcharges, with around 1.3 million licenses suspended for lack of payment.

⁸ In 2000, a federal study analyzed costs from auto accidents, including medical costs, property damage, etc., attributing \$230.6 billion in costs to 16.4 million auto accidents nationwide, at an average cost of \$14,061 per accident. [See *The Economic Impact of Motor Vehicle Crashes 2000*, prepared by the National Highway Traffic Safety Administration, 2002, <http://www-nrd.nhtsa.dot.gov/Pubs/809446.PDF>.] Adjusting for inflation, that's 19,166 in 2015 dollars. Multiplying that figure by the number of estimated crashes with surcharge-owing drivers in Texas (approximately 16,000, given national accident rates), the DRP could be costing Texans \$306 million per year in uncovered damages from crashes, with uninsured motorists unable to obtain or keep insurance simply because those drivers could not or would not pay punitive drivers' license surcharges.

⁹ Office of Court Administration, *Statutory County Courts: Activity Detail from September 1, 2013 to August 31, 2014*, 3, <http://www.txcourts.gov/media/696423/3-SCC-Activity-Detail-fy-2014-pdf.pdf> [25,774 New Cases Filed]. Also see *Constitutional County Courts, Activity Detail from September 1, 2013 to August 31, 2014*, 1, <http://www.txcourts.gov/media/701752/3-CCC-Activity-Detail-2014.pdf> [4,029 New Cases Filed].

¹⁰ Terrence Stutz, "Texas' steep surcharges for driving violations clog courts, increase DWI dismissals, ex-judge tells panel," *The Dallas Morning News*, April 27, 2010, <http://www.dallasnews.com/news/politics/texas-legislature/headlines/20100427-Texas-steep-surcharges-for-driving-8326.ece>.

¹¹ Brandi Grissom, "Many Texans lose licenses in driver points program," *El Paso Times*, August 19, 2007.

¹² The New Jersey Motor Vehicles Affordability and Fairness Task Force published a report in 2006 on their surcharge program, after which Texas' Driver Responsibility surcharge was modeled. (See http://www.state.nj.us/mvc/pdf/About/AFTF_final_02.pdf.) They found that, of persons with suspended licenses whose annual income was under \$30,000: (1) 64% were unable to maintain their prior employment following a license suspension; (2) only 51% of persons who lost their job following a license suspension were able to find new employment; (3) 66% reported that their license suspension negatively affected their job performance; and (4) 90% of persons whose license was suspended within this income bracket indicated that they were unable to pay costs that were related to their suspended driving privileges. In addition, of those who were able to find a new job following a license suspension-related dismissal, 88% reported a reduction in income.

¹³ John Henry, "Texas drunken driving surcharges meet economic reality," *Fort Worth Star Telegram*, December 6, 2010, <http://www.mcclatchydc.com/2010/12/06/v-print/104791/texas-drunken-driving-surcharges.html>. See also Brandi Grissom, "Rep. Berman files bill to end DPS surcharges," *Texas Tribune*, November 18, 2010, <http://www.texastribune.org/texas-local-news/driver-responsibility-program/rep-berman-files-bill-to-end-dps-surcharges/>

¹⁴ Figure estimated based on the fiscal note for HB 1810 (2011), <http://www.legis.state.tx.us/tlodocs/82R/fiscalnotes/pdf/HB01810I.pdf#navpanes=0>. Note that the suggested cigarette tax increase would not replace revenue lost to the General Revenue Fund if the DRP were abolished.

¹⁵ "Taxing Sin," Center for Public Policy Priorities, January 14, 2009, <http://library.cppp.org/files/7/SinTaxes.pdf>. Based on the Comptroller's estimate for 2012 beer consumption in Texas, raising the beer tax by \$3.50 per barrel (or 16.4 cents per six-pack) would generate approximately \$66 million in revenues. *Data available upon request.*

¹⁶ According *Beverage Digest*, national carbonated soft drink sales totaled \$75.7 billion in 2011. Assuming roughly equal per capita consumption, Texas consumption in that year was approximately \$6.3 billion. So a 1% tax on soda sales would generate approximately \$63 million per year. See "Soda Consumption Down Again, Revenues Up," *United Press International*, April 2, 2012, http://www.upi.com/Business_News/2012/04/02/Soda-consumption-down-again-revenues-up/UPI-32701333344089/.