



Texas lawmakers want brakes put on driver surcharges for road violations

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Published: 24 March 2013 11:18 PM

AUSTIN — When cash-strapped Texas lawmakers approved their ambitious plan a decade ago, they thought they'd hit the jackpot.

The Driver Responsibility Program was the answer to several nagging problems: the increase in drunken driving, the large number of uninsured drivers and the lack of money for hospital trauma care and new highways. The program would levy steep surcharges for certain driving offenses to encourage more responsible driving and would provide millions at a time when state revenues were scarce.

Ten years later, alcohol-related offenses are still climbing. Millions still drive without insurance. Highways got no extra funding. Trauma centers received a fraction of what was promised.

And 60 percent of drivers slapped with surcharges have been unable or unwilling to pay the \$1.7 billion they owe the state. That means 1.3 million drivers are now on the road without a valid license.

Now, criminal-justice advocates and lawmakers, including one who originally helped create it, want to eliminate the program. They face a conflict, though, with hospital representatives who say the Driver Responsibility Program is too valuable, even if it hasn't met expectations.

"This is a classic example of legislation that had incredible unintended consequences," said Rep. Lon Burnam, D-Fort Worth, who wants to repeal the program. "It is dysfunctional. It is not working, and we've got to change it."

Burnam said lower-income Texans "struggling to keep their heads above water" suffer acutely under the program. Many cannot afford the thousands of dollars in surcharges the state has levied, and that, he said, makes them part of a "new criminal class in Texas" — unlicensed and uninsured.

Fewer convictions

Rep. Larry Gonzales, R-Round Rock, said he fears a sharp increase in the number of uninsured drivers on the road, putting insured drivers at risk and increasing the cost for all motorists. Texans now pay an estimated \$1 billion a year to protect themselves from those who have no coverage.

Gonzales also noted that two original goals of the Driver Responsibility Program — a reduction in alcohol-related offenses and substantial funding for trauma centers — never materialized.

In fact, the Senate Criminal Justice Committee found that the 2003 law has actually decreased conviction rates and increased dismissal rates for driving while intoxicated.

Thousands of defendants sought trials to avoid the DWI surcharges, forcing prosecutors with huge caseloads to accept plea bargains for lesser offenses such as reckless driving, obstruction of a highway or public intoxication.

"It is important for us to recognize when government programs have not worked," said Gonzales, who is sponsoring legislation with Burnam to repeal the 10-year-old program.

DWI offenses carry the biggest surcharges: \$1,000 a year for three years on the first conviction and \$2,000 a year if a conviction involved a blood alcohol content of twice the legal limit. Drivers who lack car insurance or have an invalid driver's license face a \$250-a-year surcharge for three years.

Those surcharges must be paid on top of the regular fines assessed for those violations. Critics complain that many of the affected drivers are first-time offenders, students, single parents and low-income residents.

The Texas Criminal Justice Coalition, which sees numerous failings in the law, lobbies for an end to it.

Ana Yanez-Correa, executive director of the coalition, said the percentage of fatal crashes involving alcohol in Texas sharply increased between 2003 — when the law was passed — and 2011, from 26 percent to 34 percent.

Further, she noted, DWI conviction rates declined 10 percent during the period. In 2011 alone, an additional 7,000 drivers arrested and charged with DWI were not convicted.

"This makes Texans less safe because many programs to change drivers' behavior and reduce DWI recidivism are typically required as a condition for probation, a common penalty for first-time DWI convictions," she said.

She also argued that the surcharges represent "double jeopardy" because drivers pay them on top of criminal fines and other penalties.

Co-author seeks repeal

Rep. Sylvester Turner, D-Houston, was an original co-author of the Driver Responsibility Program. He now rejects it after seeing its unintended consequences, and has filed legislation to repeal it.

"It was a good idea that had a very bad outcome," he said.

Some of Turner's constituents owe thousands of dollars in surcharges and have lost their driver's licenses. But they are in a bind. They must drive to work to support themselves and pay the fees, he said.

The Texas Hospital Association fights abolition of the program because it would cut off funding for indigent patients treated at trauma centers. However, those funding levels are a fraction of what was promised when the law was passed.

Critics suggest alternative revenue sources for trauma centers, such as a higher cigarette tax or higher state taxes on alcohol.

Turner pointed out that the state trauma fund now has \$380 million in unallocated funds that could adequately fund trauma care for several years. Lawmakers could tap that money and search for another revenue sources down the line, he said.

In early 2011, the state offered amnesty to hundreds of thousands of drivers who were paying surcharges. Just one in seven applied to have surcharges forgiven.

The state did not publicize the amnesty, so most eligible drivers apparently didn't know about it.

Follow Terrence Stutz on Twitter at @t_stutz.

AT A GLANCE: Texas Driver Responsibility Program

How driver responsibility surcharges were supposed to work:

ANNUAL SURCHARGES

Drivers convicted of certain violations are required to pay automatic annual surcharges for three years from the date of conviction. They are:

Driving while intoxicated: **\$1,000** for the first conviction; **\$1,500** for the second; **\$2,000** for any conviction with a blood-alcohol content of 0.16 or greater.

Failure to maintain financial responsibility (insurance): **\$250**

Driving while license is invalid: **\$250**

Driving without a license: **\$100**

POINTS

Drivers accumulate points for moving-violation convictions (convictions on the charges listed above do not accrue points). A driver who acquires six or more points in three years must pay \$100 for the first six and \$25 for each point above that.

Two points for a moving violation in Texas or another state. (Points are not assigned for speeding less than 10 percent over the posted limit or for seat belt violations.)

Three points for a moving violation in Texas that results in a crash.

Two points for a child safety seat violation.

SUSPENSION

Drivers who do not pay within 30 days of conviction have their licenses suspended.

SOURCE: Texas Department of Public Safety

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