



House Committee on Criminal Jurisprudence
March 7, 2023

HB 291

Relating to occupational driver's licenses and to the renewal of driver's licenses.

Position: Opposed

Introduction

Thank you to Chairman Moody, Vice-Chairman Cook, and the rest of the committee for convening today to hear testimony on a number of bills that have been referred to your committee. My name is Akanksha Balekai, and I am a Policy Analyst with Texas Appleseed's Criminal Justice Project. Our organization is dedicated to changing unjust laws and supporting policies that are data-driven, safe, and efficient.

Today, we are testifying *in opposition* to HB 291. While this bill opens employment opportunities by allowing those with suspended, revoked, or canceled licenses to petition for an occupational driver's license, it denies those same opportunities to the more than 454,000 Texans that have an expired license due to the state's Failure to Appear/Pay Program (FTAP).¹ This program is both harmful and counterproductive.

Driving-related penalties for nonpayment of court debt, like those imposed through the FTAP program, compounds financial distress by making it more difficult to work and earn the money needed to maintain financial stability, not to mention resolve the fines/fees in question. Attached to this testimony is a more comprehensive brief on the harms of the FTAP program and an infographic explaining the debt-trap associated with its use.

Background

Under Texas law criminal courts can put a hold on active drivers' licenses and prevent license renewals for nonpayment of fines, court costs, and fees (collectively referred to as "court debt").² **Unlike license suspensions resulting from convictions for dangerous driving (e.g., driving while intoxicated), debt-based holds deprive licensed drivers of the ability to legally drive due to financial hardship.** These types of license holds are ineffectual, given that driving is essential for daily needs and activities such as commuting to work to earn a living. Debt-based holds prevent residents from

earning wages which drives increased debt and can lead to potentially impoverished conditions. These types of holds have also been shown to disproportionately impact people of color.³

FTAP Holds: A Pathway to Unemployment

Through the FTAP program, the legislature has virtually established a direct pathway from a single traffic ticket to long term unemployment. Drivers are unable to afford the initial fines and fees because the fines are almost never adjusted for income. Recent academic research reveals that even small traffic fines can cause major financial distress for low-income households.⁴

A New Jersey study of drivers with suspended licenses found that 42% of drivers lost their jobs when their licenses were suspended.⁵ The impact was even greater on drivers with household incomes below \$30,000, as 64% of these drivers lost their jobs when their license was suspended, and 51% could not find another job.⁶ Similar employment loss can be anticipated given that many jobs in Texas, even in the largest urban areas, cannot be accessed via public transportation.⁷

The lack of a valid driver's license is both a significant barrier to holding an existing job and to obtaining a new job.⁸ The barrier to employment without a valid driver's license is especially common in industries like construction, health care, manufacturing or office jobs, jobs that often pay above minimum wage and may help families earn enough to escape poverty.⁹ On the other hand, restoration of driver's licenses can contribute to economic growth.¹⁰

FTAP Holds: Driver of Racial Inequities

Texans of color are overrepresented throughout the criminal legal system,¹¹ and debt-based license holds are no exception. People of color are more likely to be stopped by police in Texas, and more likely to be ticketed once they are stopped.¹² In addition, these holds impact those who are unable to pay; in Texas, wealth is concentrated in white communities.¹³ An examination of DPS data by Texas Appleseed found that Black drivers represented nearly 28% of all people with invalid licenses due to FTAP holds, despite the fact that Black people represent only 11% of residents with Texas driver's licenses.¹⁴ The FTAP Program disproportionately burdens communities of color given the existing racial wealth gap, and then compounds that gap by driving people of color further into debt and increasing the likelihood of deeper involvement with the justice system.

HB 291 & its FTAP Eligibility Exception

Though HB 291 is largely attempting to expand employment opportunities for those seeking an occupational driver's license while possessing a revoked, suspended, or canceled license, it exempts from eligibility driver's license holders that have a renewal hold on their license pursuant to the Failure to Appear/Pay program. This eligibility exception can be found under the proposed amendment to § 521.242 (b) - Section 2, page 3, starting on line 1. Given the harmful consequences and counterproductive nature of debt-based driver's license suspensions/holds/renewals the legislature should be looking to eliminate this program rather than increasing its reliance on it, as HB 291 is looking to do.

Conclusion

Debt-based license holds criminalize poverty and can devastate communities economically. Attempting to ensure compliance by imposing a penalty that makes it more difficult to meet the end goal - in this case taking away your license for failing to appear/pay, when you need a license to 1) physically appear in court and 2) to make it to and from a place of employment legally to help pay off your debt - lacks sound logic; and lawmakers should move away from viewing the FTAP program as a reliable and valid method for ensuring appearance/payment in court.

More effective alternatives to increasing court appearance rates exist; redesigned court forms that convey clear and comprehensive information, and text message court reminders for example, have shown to reduce failure to appear rates by 13% and 21% respectively.¹⁵ While no evidence exists to suggest that the FTAP program increases compliance in this way.

A vote for yes on HB 291 as it currently stands would mean a vote in favor of counterproductive and overall bad policy. Bad for Texas drivers, bad for Texas' workforce, and bad for our state's economy. Given the breadth of this bill, we can all agree that barriers to employment and meeting/maintaining financial stability are things that should be eliminated and addressed, especially as we find ourselves in a continuous state of recovery from the fallout of the pandemic.

We strongly hope that the Committee and Representative Murr takes these concerns into consideration, and we ask that you either **vote no on HB 291 as it currently stands or request that an amendment be made to the bill that strikes the eligibility exception tied to a driver's license renewal hold pursuant to the state's Failure to Appear/Pay program.**

Thank you for your time and consideration. If you have any questions, comments, or concerns please feel free to contact me.

Akanksha Balekai

Policy Analyst

Criminal Justice Project

abalekai@texasappleseed.org

References & Endnotes

- ¹ Texas Appleseed (February 2023). Texas' Failure to Appear/Pay Program. Retrieved from [https://www.texasappleseed.org/sites/default/files/IssueBrief_FTAP%20Program%20Final%20\(Feb%2023\).pdf](https://www.texasappleseed.org/sites/default/files/IssueBrief_FTAP%20Program%20Final%20(Feb%2023).pdf)
- ² See Tex. Transp. Code § 706.004.
- ³ Texas Appleseed (February 2023). Texas' Failure to Appear/Pay Program. Retrieved from [https://www.texasappleseed.org/sites/default/files/IssueBrief_FTAP%20Program%20Final%20\(Feb%2023\).pdf](https://www.texasappleseed.org/sites/default/files/IssueBrief_FTAP%20Program%20Final%20(Feb%2023).pdf)
- ⁴ Mello, S. (2018). *Speed Trap or Poverty Trap? Fines, Fees, and Financial Wellbeing*, available at <https://mello.github.io/files/jmp.pdf>.
- ⁵ Carnegie, J.A. & Voorhees, A.M. (2007). *Driver's License Suspensions, Impacts & Fairness*, Transportation Center at Rutgers, State Univ. of New Jersey, available at <https://www.nj.gov/transportation/business/research/reports/FHWA-NJ-2007-020-V1.pdf>
- ⁶ Pawasarat, J. & Stetzer, F. (2007). *The EARN (Early Assessment and Retention Network) Model for Effectively Targeting WIA and TANF Resources to Participants*, U. OF WIS. EMP. & TRAINING INST., available at <https://www4.uwm.edu/eti/2007/EARNModel.pdf>
- ⁷ Brookings Institute, *Missed Opportunity: Transit and Jobs in Metropolitan America* (2011).
- ⁸ The Chicago Jobs Council found that more than half of respondents to a 2018 survey of people whose licenses had been suspended for court debt missed an employment opportunity due to the suspension. In fact, many jobs require a valid license as a condition of employment, even if it is not required for the performance of the job.
- ⁹ See e.g., Alana Semuels, *No Driver's License, No Job*, The Atlantic (Jun. 15, 2016), available at <https://www.theatlantic.com/business/archive/2016/06/no-drivers-license-no-job/486653/>.
- ¹⁰ For example, restoration of 7,000 suspended driver's licenses in the City of Phoenix resulted in \$87 million in labor income and a \$149.6 million increase in the city's GDP. Fines & Fees Justice Center, *Driving on Empty: Florida's Counterproductive and Costly Driver's License Suspension Practices* (Oct. 2019), available at <https://finesandfeesjusticecenter.org/content/uploads/2019/11/florida-fines-fees-drivers-license-suspension-driving-on-empty.pdf>
- ¹¹ See, e.g., Vera Inst. of Justice, *Incarceration Trends in Texas* (2018) (black individuals are 33% of prison population and 27% of jail population but only 11% of state population), available at <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-texas.pdf>
- ¹² Texas Department of Public Safety (2021). 2021 Motor Vehicle Stop Data Report. pp. 3-4. Retrieved from https://www.dps.texas.gov/sites/default/files/documents/director_staff/public_information/2021_traffic_stop_data_report.pdf
- ¹³ For example, while 17% of Black Texans and 18% of Latinx Texans live in poverty, only 7% of white Texans do. Univ. of Texas Institute for Urban Policy Research & Analysis, *The State of Black Lives in Texas: Income & Poverty Report* (2018).
- ¹⁴ Texas Appleseed (February 2023). Texas' Failure to Appear/Pay Program. Retrieved from [https://www.texasappleseed.org/sites/default/files/IssueBrief_FTAP%20Program%20Final%20\(Feb%2023\).pdf](https://www.texasappleseed.org/sites/default/files/IssueBrief_FTAP%20Program%20Final%20(Feb%2023).pdf)
- ¹⁵ Fishbane, A., Ouss, A., & Shah, A. K. (2020). Behavioral nudges reduce failure to appear for court. *Science*, 370(6517), eabb6591.