



Elizabeth Henneke, Policy Attorney  
Cell: (512) 810-8392  
ehenneke@TexasCJC.org  
[www.TexasCJC.org](http://www.TexasCJC.org)

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Dear Members of the Committee,

Thank you for inviting me to present testimony on Texas' Driver Responsibility Program. Despite its good intentions, this program has created more problems than it has solved, increasing unlicensed motorists, harming low-income drivers and families, and burdening courts. It is long overdue that the State stops burdening Texas counties and families with programs that cause more harm than good.

#### DRIVER RESPONSIBILITY PROGRAM: ORIGIN AND LOGISTICS

Texas' Driver Responsibility Program (DRP) was created in 2003 to pay for the 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.

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 per year. Failure to pay the surcharge – assessed on top of court fines and criminal penalties – results in automatic license suspension.<sup>1</sup>

#### UNSUCCESSFUL OUTCOMES

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."<sup>2</sup>

- **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.<sup>3</sup> This is despite changes made to the program during the 2009 and 2011 Legislative Sessions to induce more Texans to pay overdue surcharges.<sup>4</sup>

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.**<sup>5</sup>

- **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), **more than 1.2 million drivers now have invalid licenses.**<sup>6</sup> 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.<sup>7</sup>

*Continued on reverse.*

- **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%.<sup>8</sup>
- **Greater case backlogs and undue county costs.** In Fiscal Year 2015 alone, nearly 30,000 Class B misdemeanor cases were added to Texas court dockets for Driving with an Invalid License<sup>9</sup> – meaning the DRP is likely **creating a new class of “criminals” and clogging court dockets.**<sup>10</sup> 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.<sup>11</sup> 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.<sup>12</sup> 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.**
- **Perceived Double Jeopardy.** Many Texans consider the DRP a kind of backdoor double jeopardy.<sup>13</sup> 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.**

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

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

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

<sup>3</sup> “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.”

<sup>4</sup> 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.

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

<sup>6</sup> “Senate Moves to Reform Driver Responsibility Program,” *Texas Tribune*, May 21, 2015, <http://www.texastribune.org/2015/05/21/senate-moves-reform-driver-responsibility-program/>.

<sup>7</sup> 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.

<sup>8</sup> 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](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](http://ftp.dot.state.tx.us/pub/txdot-info/trf/crash_statistics/2013/37-2013.pdf).

<sup>9</sup> Office of Court Administration, <http://card.txcourts.gov/AdHocSearchNew.aspx> [See query results for Statutory County Courts, Criminal Section, Statewide, New Cases Filed from September 2014 to August 2015 for D.W.L.S./D.W.I.L. (22,755 new cases); and Constitutional County Courts, Criminal Section, Statewide, New Cases Filed from September 2014 to August 2015 for D.W.L.S./D.W.I.L. (4,105 new cases)].

<sup>10</sup> “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>.

<sup>11</sup> “Many Texans lose licenses in driver points program,” *El Paso Times*, August 19, 2007.

<sup>12</sup> 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](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.

<sup>13</sup> “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 “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/>.