



The Driver Responsibility Program: A Texas-Sized Failure





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The Texas Criminal Justice Coalition (TCJC) works with peers, policy-makers, practitioners, and community members to identify and promote smart justice policies that safely reduce the state's costly over-reliance on incarceration – creating stronger families, less taxpayer waste, and safer communities.

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INTRODUCTION

In 2003, the Texas Legislature enacted a new system of drivers' license surcharges called the Driver Responsibility Program (DRP). The stated purpose of the program was to enhance public safety.¹ Given the \$10 billion budget shortfall that year, however, lawmakers also saw the program as an innovative way to fund Texas trauma centers and to generate much needed revenue for the state.

The DRP has failed on nearly every front. It has generated less than half of the revenue anticipated, largely due to an extremely low collection rate. As of the end of fiscal year 2012, less than 40% of the surcharges assessed since the program's inception had been collected, despite changes made to the program during the 2009 and 2011 state legislative sessions to induce more Texans to pay overdue surcharges.

Of even greater concern is the DRP's adverse impact on public safety. Unable or unwilling to pay the surcharges (on top of criminal penalties and court fines), **nearly 1.3 million drivers now have invalid licenses,² which could jeopardize their liability insurance policies.** As such, the program has likely increased the number of uninsured motorists on Texas roads – and the cost of accidents with drivers lacking liability insurance. Furthermore, while overall traffic fatalities in Texas have decreased somewhat in recent years, data indicate that **the program has failed to change driver behavior as it relates to a significant traffic-related offense: drunk driving.** Since the DRP's inception in 2003, the percentage of traffic fatalities involving alcohol increased from 27% to 34%.³

Based on the DRP's record, if lawmakers fail to repeal or substantially revise the program, the Legislature may want to commemorate the program's first decade of operation in 2013 by renaming it the "Driver Irresponsibility Program."

In light of the economic blow that the DRP deals to families, as well as the deleterious effect the program is having on Texas' court system and communities, it is clear that the Driver Responsibility Program is fundamentally flawed. Those flaws, combined with increasing calls by Texans caught in spiraling surcharge debt, have led to a growing, bipartisan coalition of lawmakers calling for the program's repeal.⁴ Even the original author of the bill creating the program has called for the DRP to be revised or repealed.

The DRP has been successful on one front, however. Half of revenue generated by the DRP is directed to a General Revenue "dedicated" account that provides tens of millions of dollars per year for Texas hospitals designated as "trauma centers;" these

"I think it's past time to either revise or repeal the program."

– Former State Rep. Mike Krusee (R-Round Rock), lead author of the bill that created the DRP in 2003

centers absorb hundreds of millions of dollars in uncompensated healthcare costs every year. While DRP revenue covers less than one-third of those uncompensated care costs, the amount is not insignificant. Unfortunately, budget writers have allowed the dedicated “Trauma Facility & Emergency Medical Services Account” to accumulate a balance of over \$370 million in unappropriated funds to help balance the biennial budget – money that could be used to defray an even larger portion of the hospitals’ costs.

For the reasons enumerated in this report, we believe lawmakers should abolish the DRP or fundamentally reform it and create an alternative funding mechanism for Texas trauma centers. Despite the importance of the Texas trauma system and its need for a stable revenue stream to pay for uncompensated care, the failed Driver Responsibility Program is not the answer.

This report will analyze the many failures of Texas’ Driver Responsibility Program and make recommendations to the Legislature for its revision or repeal, including alternative sources of funding for the Texas trauma system.

How Texas' Driver Responsibility Program Works

Above and beyond any criminal penalties and court fines, the DRP requires the Department of Public Safety (DPS) to assess annual, administrative surcharges on the drivers' licenses of persons convicted of certain traffic offenses.⁵ Surcharges are levied every year for three years. If a driver fails to pay assessed surcharges, the program requires DPS to automatically suspend the person's driver's license until the debt is paid.

The DPS levies surcharges in two ways:

- 1) a point system based on the commission of moving (e.g., traffic) violations, and
- 2) a conviction-based surcharge for the commission of certain higher-level traffic offenses.

Under the point system, drivers convicted of Class C Misdemeanor moving violations accrue two points for each conviction and three points for moving violations resulting in vehicle accidents. No points are accrued for speeding violations less than 10% over the speed limit. If a driver accrues six or more points during a three-year period, a surcharge is assessed on that person's driver's license. An annual surcharge of \$100 is levied for the first six points accrued on a person's driving record, and \$25 for each additional point.

Under the conviction-based system, DPS levies automatic surcharges upon conviction of the following traffic offenses:

- Driving While Intoxicated (DWI)
- Driving While License Invalid (DWLI)
- No License
- Failure to Maintain Financial Responsibility (FMFR) (or "No Insurance")

For DWI convictions, the DPS levies an annual surcharge of \$1,000 for a first offense, \$1,500 for a second offense, and \$2,000 if the driver's blood alcohol content is 0.16 or more at the time of arrest. For DWLI or FMFR convictions, the annual surcharge is \$250. The surcharge for No License is \$100.

Because surcharges are cumulative, a driver could pay surcharges for points as well as for specific convictions at the same time – substantially increasing surcharges owed. Conviction-based surcharges are also cumulative. For example, a person convicted of a first DWI in 2011 and a second DWI in 2012 would be charged \$1,000 per year for three years for the first offense and \$1,500 per year for three years for the second offense, for a total of \$7,500 in surcharges over a four-year period.

DPS notifies individuals of assessed surcharges and the penalty for non-payment of the surcharges. If an individual has not paid the surcharge (or agreed to an installment plan) within 105 days of assessment, his or her driver's license is automatically suspended.

Failures of Texas' Driver Responsibility Program

The DRP has failed on every front. Below is a look at each of its failures.

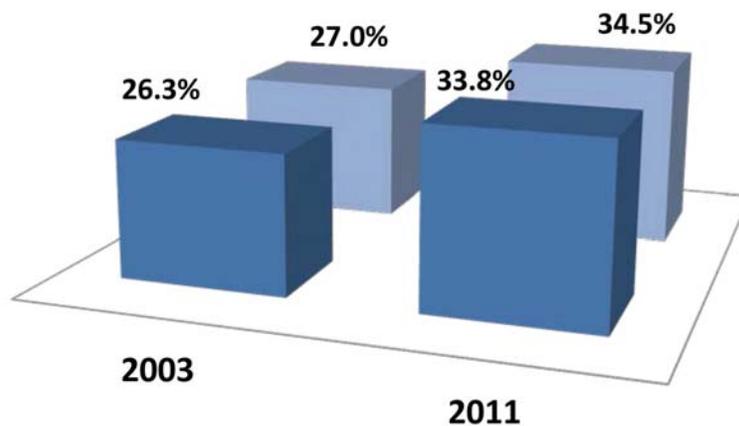
Failure #1: Decreased Public Safety in Texas

Besides raising revenue for the state, the principal objective of the Driver Responsibility Program has been to improve public safety. However, there is no evidence that the DRP has increased public safety. When asked during a 2010 hearing of the House Committee on Public Safety whether any evidence exists showing that the DRP increases public safety, DPS Director Steve McCraw answered simply and emphatically, "No, sir. Not at all."⁶ In fact, evidence indicates that the program may actually be making the public *less* safe, particularly as it relates to an especially dangerous habit in Texas – drunk driving.

Surcharges levied under the DRP are significantly higher for DWI offenses than those assessed for other traffic offenses. If the program was working as intended – with those surcharges serving as a deterrent to drunk driving – one would expect to see fewer traffic fatalities involving drunk drivers. In fact, the opposite has occurred, and over the past decade, Texas' rate for alcohol-impaired fatalities has increased compared to other states. Texas now ranks ninth highest out of 50 states for alcohol-related driving fatalities.⁷

Taking a closer look at the data, the percentage of fatal automobile crashes in Texas that involve alcohol increased from 26% to 34% since the DRP's inception in 2003.⁸ Similarly, the percentage of traffic fatalities involving alcohol increased from 27% to 34% during that time.⁹

Traffic Fatalities Involving Alcohol in Texas



- Fatal crashes involving alcohol as a share of all fatal crashes
- Crash fatalities involving alcohol as a share of all traffic fatalities

This upward trend is particularly striking when one considers that overall traffic fatalities have decreased by 27% in Texas over the same time period.¹⁰ Nationally, too, overall traffic fatalities are decreasing, and experts attribute it to a combination of behavioral, regulatory, and technological factors including increased seat belt use, greater enforcement of minimum drinking-age laws, and increasing prevalence of automobile safety features, such as air bags and electronic safety control (ESC) systems.¹¹

Perhaps one reason the DRP has not reduced alcohol-related traffic fatalities is because of how the program appears to be thwarting efforts to reduce DWI recidivism. Discussed in greater detail below, prosecutors and court officials report that the exorbitant surcharges for DWI convictions are causing increasing numbers of DWI cases to be prosecuted as reckless driving or other, lesser offenses in order to avoid the surcharges.¹² **This makes Texans less safe because many programs proven to change drivers' behavior and reduce DWI recidivism are typically required as a condition for probation, a common penalty for a first-time DWI conviction.**¹³

“We can't point to anything that says that law has caused a decline in alcohol-related fatalities.”

– Bill Lewis, Public Policy Liaison, Mothers Against Drunk Driving (Texas Chapter)

In addition, increasing numbers of drivers charged with DWIs are declining plea bargains and, instead, opting to go to trial in hopes of avoiding the massive DRP surcharges that accompany a conviction. In fact, DWI conviction rates have declined 10% between 2003 and 2011,¹⁴ which means that, in 2011 alone, **an additional 7,000 Texas drivers that were arrested and charged with a DWI were never convicted due to decreasing conviction rates. Again, these individuals are losing the opportunity to undergo behavioral programming that would normally result from a conviction and probation sentence.**

If prosecutors, judges, and other stakeholders are correct that DRP surcharges are the main culprit behind declining DWI convictions, the surcharges could be sending more drunk drivers back out onto Texas roads and highways, making all Texans less safe.

See Failure #4 below for a more detailed discussion of the DRP's impact on Texas courts.

Failure #2: More Unlicensed, Uninsured Motorists on Texas Roads

As mentioned previously, 1.3 million Texas drivers currently have invalid licenses because of overdue DRP surcharges. Since a valid driver's license is a requirement to purchase liability insurance, many of those drivers are no longer able to insure their vehicles. Given the lack of viable transportation alternatives in most of Texas (especially rural areas), large numbers – if not virtually all – of those drivers likely continue to drive.

These additional uninsured drivers constitute a significant cost to the Texas public. In 2010, there were 5,419,000 crashes¹⁵ in the United States and 210,114,939 licensed drivers,¹⁶ yielding an overall accident rate of 2.58%. If we assume those 1.3 million surcharge debtors in Texas who lost their licenses (and therefore became ineligible to purchase insurance) continued to drive, and that they crash at the same rate as other drivers, then by reducing the number of insured drivers, drivers who lost their license through the DRP are involved in approximately 33,000 accidents per year. If DRP drivers were the responsible party in half of those accidents (a conservative estimate, as drivers with bad driving histories may be more likely

to be at fault), then the DRP could be responsible for an additional 16,000 accidents per year in which the party at fault is not insured.

Those accidents cost Texans dearly in the form of uncompensated damages. 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.¹⁷ Adjusting for inflation, that's \$18,748 in 2012 dollars. Multiplying that figure by the number of estimated crashes with surcharge-owing drivers in Texas, the DRP could be costing Texans \$300 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.

\$300 million is more than five times the amount of DRP surcharge revenue distributed to Texas trauma hospitals in 2012, and over four times the average annual amount distributed in the past five years.¹⁸ What's more, \$300 million is almost twice the average annual total amount of surcharge revenue generated by the DRP since its creation in 2003.¹⁹ These costs in uncompensated damages are unintended consequences of the DRP, but they are costs that Texans cannot afford.

Of particular concern are individuals with DWI offenses who lose their licenses and continue to drive. When those drivers are involved in crashes, the DRP makes it less likely they will have insurance to cover damages. Despite claims to the contrary when the DRP was adopted by the Legislature, DRP surcharges have resulted in more uninsured drunks on Texas roads – not fewer.

Failure #3: Financial Hardship for Texans

While annual surcharges may be a mere nuisance for well-heeled Texans, they can be a devastating blow to low-income drivers and families. The economic impact of license surcharge programs has been studied in detail in states with laws similar to Texas, and they have been found to severely undermine low-income drivers' financial security.

A 2006 survey from the New Jersey Motor Vehicles Affordability and Fairness Task Force examined the surcharge's impact on drivers with licenses suspended due to their own Driver Responsibility Program, which levies the same license surcharges as the Texas DRP. According to that survey, among persons with suspended licenses whose annual income was under \$30,000:

“Here’s a terrible program that used punitive fines to plug holes in the budget. Our founders never intended for debtor’s prisons to substitute for a tax system.”

– Former State Senator
Elliot Shapleigh (D-El Paso)

- ❑ 64% were unable to maintain their employment following a license suspension;
- ❑ 51% of persons who lost their job following a license suspension were unable to find new employment;
- ❑ 65% were unable to pay increased insurance costs; and
- ❑ 90% were unable to pay other costs as a result of surcharges and/or suspended driving privileges.

In addition, of those men and women who were able to find a new job following a license suspension-related dismissal, 88% reported a reduction in income. The report also found that surcharges impact not just the penalized drivers, but their families and the local labor force as well.²⁰

Undoubtedly, of the 1.3 million Texas drivers who have lost their licenses due to defaulted DRP surcharge debt, a significant number make less than \$30,000 per year.²¹ Thus, **in addition to increasing the number of uninsured drivers, the Driver Responsibility Program surcharges may be a major cause of job loss and financial hardship in Texas.**

Failure #4: Devastating Impact on Texas Courts

For years, judges, prosecutors, and other criminal justice practitioners have expressed concern over the degree to which DRP surcharges are distorting Texas' court system. **From declining DWI conviction rates to surging DWLI offenses to exploding caseload backlogs, the DRP's impact on Texas courts are yet another example of the unintended consequences of this ill-conceived program.**

As discussed, unpaid surcharges have forced hundreds of thousands of drivers onto Texas roads with suspended licenses – leading to increasing numbers of DWLI convictions. In the past three years alone, the DRP has resulted in an additional 403,517 DWLI convictions,²² creating a new class of “criminals” and clogging court dockets.²³ According to Shannon Edmonds of the Texas District and County Attorneys Association, **in some Texas counties, one in five misdemeanor cases involves drivers with suspended licenses.**²⁴

Furthermore, since the DRP levies automatic surcharges upon conviction of certain traffic offenses, Texas drivers are doing more and more to avoid convictions and the surcharges that accompany them. This is particularly so in the case of DWI offenses, for which surcharges are especially punitive, often totaling more than \$5,000. Increasing numbers of drivers accused of DWIs are now declining plea deals and choosing to go to trial in hopes of acquittal and avoiding crushing surcharges. The result is skyrocketing DWI caseloads for Texas courts. According to testimony provided to the Senate Criminal Justice Committee in a 2010 hearing on impaired driving in Texas, DWI caseloads have increased by 25,000 cases since the DRP began.²⁵ At the current statewide case disposition rates, it would take 16 years to dispose of the backlog²⁶

While the DRP generates revenue for the state and trauma hospitals, it imposes a significant financial burden on counties. In addition to the increased number of DWI cases going to trial, **the hundreds of thousands of additional misdemeanor charges (particularly DWLI and FMFR) resulting from driver license suspensions cost counties millions of dollars in court administration costs.** According to the Texas Association of Counties, counties only recover about 30% of what their courts spend to process criminal cases.²⁷ The rest of those costs falls on local taxpayers. El Paso County, for example, spends \$24.2 million annually in criminal court costs, yet it only retains \$7.4 million in fines and fees – or 31%.²⁸

“These surcharges have dealt a severe blow to Texas’ already strained court system. From a criminal justice perspective, and particularly as it relates to DWI cases, I can see no benefit to this program.”

– Judge David Hodges,
Judicial Program Manager,
Texas Association of Counties

The DRP also increases counties’ jail costs. Because most drivers continue to drive despite defaulting on their surcharges, many of those drivers wind up in county jails due to accumulated, unpaid traffic tickets and/or for driving with a suspended license.²⁹ (Under the U.S. Supreme Court’s ruling in *Atwater v. Lago Vista*, a Texas police officer can legally arrest a driver on the suspended license charge alone,³⁰ but more frequently drivers end up in jail when arrest warrants are issued for accumulated, unpaid citations.)

Incarcerating such individuals puts more pressure on often-already crowded local jails, and, at a cost of \$59 per bed per day, creates an additional financial burden on counties.³¹

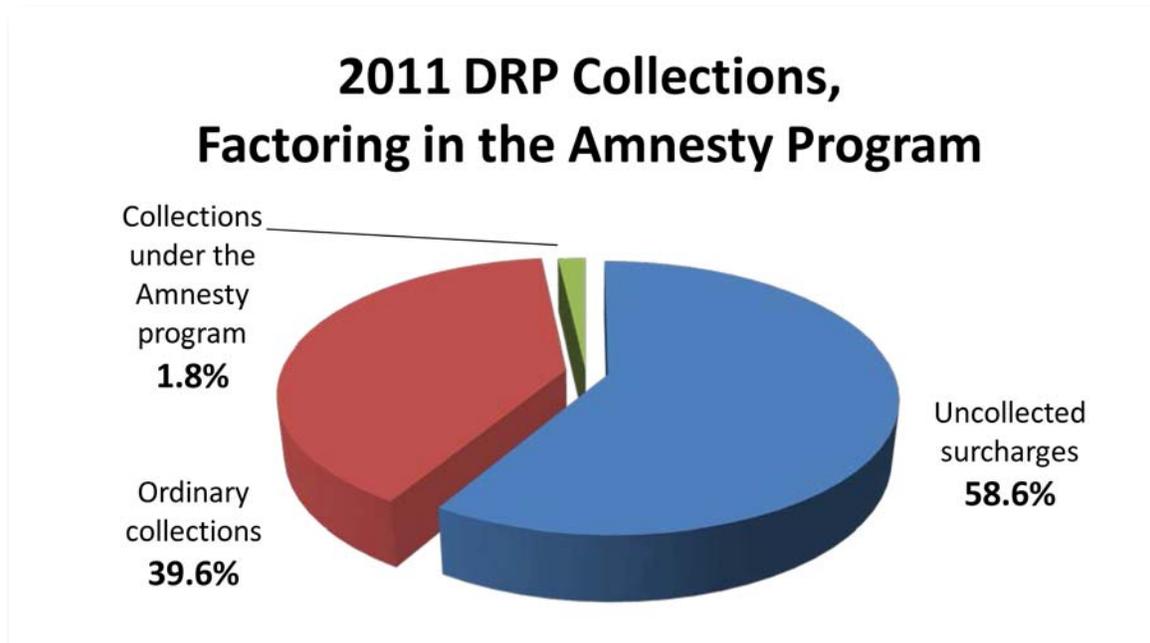
As mentioned in Failure #1, stakeholders also attribute declining DWI conviction rates to the DRP. In addition to more DWI cases being dismissed in order to avoid onerous surcharges, more cases are being tried under lesser charges such as reckless driving and public intoxication to reduce the backlogs.³² Declining DWI convictions means missing out on opportunities to reduce DWI recidivism through court-mandated monitoring and treatment programs.

Failure #5: Extremely Low Surcharge Collection Rate

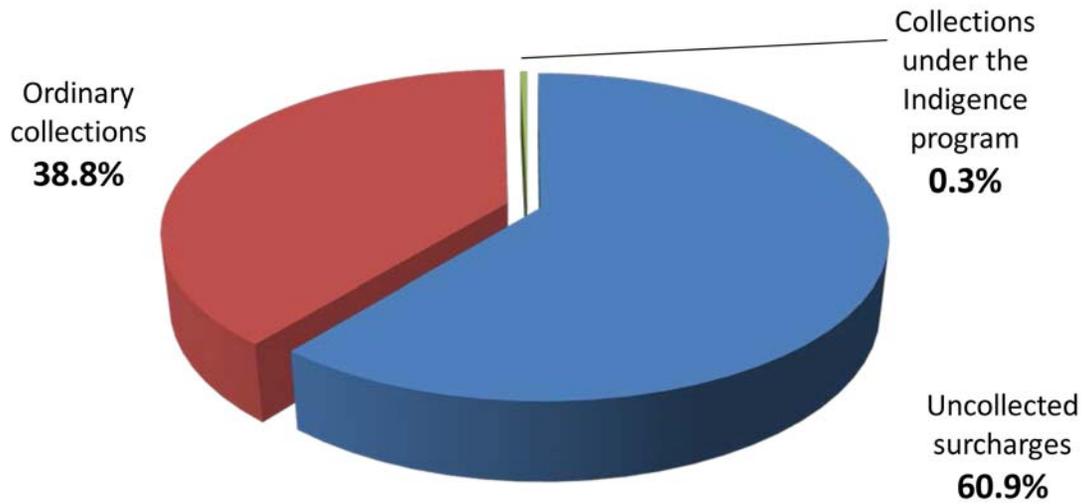
The DRP has generated far less revenue than originally anticipated.³³ Whether due to confusion over being fined for a criminal offense already adjudicated by a court of law, or due to an inability to afford the surcharges, the majority of Texas drivers subjected to DRP surcharges never pay them. As of August 31, 2012, **of the \$2.85 billion in total surcharges assessed by DPS since the program's inception, only \$1.14 billion – less than 40% – had been collected.**³⁴

This low collection rate has persisted despite the enactment of two programs that have sought to boost collections, specifically by reducing surcharges for drivers with suspended licenses due to overdue surcharges. Started in 2011, the Indigence program offers reduced surcharges to drivers earning less than 125% of the Federal Poverty Guideline (\$29,000 per year for a household of four in 2012). The Amnesty program was a one-time program in 2011 offering drivers with past-due surcharge debt the ability to reinstate their licenses in exchange for paying similarly reduced amounts.

As the following charts indicate, the two programs have had minimal impact on surcharge collection rates. The Amnesty program increased collections from 39.6% to 41.4%.³⁵ The Indigence program increased the Department of Public Safety's overall collection rate for DRP surcharges from 38.8% to 39.1% in FY 2012.³⁶



2012 DRP Collections, Factoring in the Indigence Program



Better Ways to Fund Texas Hospitals

Saddled with hundreds of millions of dollars in uncompensated care costs, hospitals receive approximately 40% of DRP revenue in the form of reimbursements for emergency medical services provided to Texans in need.³⁷ Uncompensated care costs are a tremendous strain on Texas hospitals and taxpayers, and lawmakers are right to look for ways to defray some of those costs. But for all the reasons stated above – and especially in light of the even greater public costs arising from accidents among uninsured drivers – the failed Driver Responsibility Program is not the solution to that problem.

In 2012, Texas trauma hospitals incurred a total of \$234 million in uncompensated care costs³⁸ but received only \$55 million in reimbursements from the state in the form of DRP surcharge revenue.³⁹ In each of the past five fiscal years, the DRP has covered between 23% and 33% of hospitals' uncompensated care costs, amounting to 30.6% of total uncompensated care costs between fiscal years 2008 to 2012.⁴⁰ Because statute designates roughly half of DRP surcharges for the General Revenue (GR) fund, the DRP has also generated approximately \$85 million per year for general purpose use by the state. While the DRP provides a modicum of relief for Texas hospitals, their funding gap is much bigger than the DRP can fill.

Compounding the situation for Texas hospitals, hundreds of millions of dollars in collected surcharges have never been distributed to those trauma centers, instead building up in the state treasury for use in balancing the state's biennial budget. As of August 31, 2012, the "Designated Trauma Facility & Emergency Medical Services Account" had a balance of \$371,554,005.⁴¹ The long-standing practice in Texas of allowing fee revenue (collected for statutorily designated purposes) to accumulate in GR-dedicated accounts for use in balancing the budget runs counter to the principles of budget transparency and has been heavily criticized by conservatives and liberals alike.⁴²

Given the multiple failures of the Driver Responsibility Program, Texas must seek out better ways to fund trauma centers. We strongly recommend that the Legislature repeal the failed DRP and replace hospital revenue with a fairer and more robust funding stream. Below are a few options that lawmakers could consider.

Moderately Increase the Cigarette Tax

When the Legislature created the DRP in 2003, part of the rationale for using driver's license surcharge revenue to fund Texas hospitals was that automobile accidents are responsible for a significant share of emergency room costs. The same is true for smoking. Increasing the cigarette tax would be a smarter way to fund Texas trauma centers, since smoking adds substantially to public healthcare costs in Texas.⁴³

- **The Legislature could raise the cigarette tax by approximately \$0.15 per pack, for example, and generate sufficient revenue to replace most of the funds that hospitals currently receive from the DRP.⁴⁴**
- **The Legislature could also 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 Alcohol Tax Collections

Just like smoking, consumption of alcohol imposes substantial medical costs on society.⁴⁵ The current tax rate of \$0.11 per six-pack (\$6.00 per barrel) has been in place since 1984.

- **The Legislature could increase the beer tax by approximately \$0.06 per six-pack (to a \$0.164 total rate per six-pack) and generate sufficient revenue to replace most of the funds that hospitals currently receive from the DRP.⁴⁶**
- **The Legislature could also expand the hours or days during which alcohol may be sold in Texas to generate additional revenue for trauma centers.**

Levy a Modest Junk Food Tax

Food and drinks with high sugar content contribute to obesity, which in turn leads to increased healthcare costs associated with diabetes and heart disease. Texas could join 19 other states by taxing carbonated soft drinks, and use the revenue generated to replace hospital funds lost to a repeal of the DRP.

- **The Legislature could levy an approximate 1% tax on carbonated soft drinks and generate sufficient revenue to replace most of the funds that hospitals currently receive from the DRP.⁴⁷**

Draw Down the “Designated Trauma Facility & Emergency Medical Services Account” Balance

As mentioned above, a significant portion of the surcharge and other revenue deposited in the “Designated Trauma Facilities & Emergency Medical Services Account” has never been distributed to Texas hospitals.⁴⁸ Instead, the funds have been allowed to accrue for use in certifying the state budget. With increasing calls to improve transparency in the state budget process, those funds should be used for the purpose for which they were collected. If the Driver Responsibility Program was abolished by the Legislature without creating a new funding mechanism for Texas trauma centers, the \$370 million fund balance could be drawn down gradually over the next few budget cycles, giving legislators additional time to identify a new funding source for Texas trauma centers.

- **The Legislature could draw down the existing fund balance in the “Designated Trauma Facility & Emergency Medical Services Account,” which contains sufficient funds to maintain disbursements to trauma hospitals at their current levels through 2019.**

In summary, while Texas trauma centers deserve additional revenue to help cover uncompensated care costs, there are better ways to help hospitals recover those costs than with a program that decreases public safety, distorts the Texas court system, and generates even greater costs to the public.

Cost-Saving and Public-Safety Driven Solutions

As we have seen, Texas' Driver Responsibility Program has failed on virtually every front. It has made the public less safe, increased costs to the public by increasing the number of uninsured motorists, and severely distorted the Texas court system. It adds devastating financial strains to low-income Texans while burdening Texas' middle class, and it has generated far less revenue than anticipated.

In testimony before the Senate Criminal Justice Committee, one expert – Judge David Hodges – summed up the program like this: “These surcharges are not changing behavior, not being collected, and are creating a new class of criminals each day by adding to the 1.2 million unlicensed and uninsured drivers in the state.”⁴⁹

Furthermore, many Texans consider the DRP a kind of backdoor double jeopardy.⁵⁰ 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.

Of the seven states that enacted drivers' license surcharge programs, two states (Maryland and Virginia) have now repealed them, and a third (Michigan) has eliminated some of the fees. In Virginia, over 100,000 citizens signed a petition demanding that the surcharges be abolished because of their disproportionate impact on certain individuals, and because of the lack of judicial discretion in levying the fines.⁵¹

“There are a lot of people barely [...] able to pay their bills, and they get into a situation where they get a fine and it becomes involuntary servitude to the state.”

– Michael G. Lowe, Chairman of the Matthews County Republican Party, regarding Virginia's now abolished driver license surcharge program.

The Texas Criminal Justice Coalition believes the DRP is a fundamentally flawed program. Attempts to improve collection rates and soften the program's blow on Texans have been largely unsuccessful. Therefore, **we recommend that the Legislature repeal the program in its entirety and create a fairer, more sustainable funding stream for Texas trauma hospitals.**

However, if the Legislature chooses not to abolish the program, below are recommended changes that would help mitigate some of its biggest failures.

- (1) Grant judges the discretion to reduce or waive DWI surcharges for probationers who voluntarily participate in treatment and monitoring programs.** This would boost public safety by increasing participation in programs demonstrated to reduce recidivism, while lessening the financial burden on cash-strapped drivers. Furthermore, lowering surcharge amounts to manageable levels may increase collection rates.
- (2) Make certain offenses non-jailable, at the discretion of the judge, including Driving While License Invalid (suspended license) and Failure to Maintain Financial Responsibility (no insurance).** Because the DRP has vastly increased the number of Texans charged with these two misdemeanor offenses, granting judges discretion to waive jail sentences would reduce jail overcrowding and county costs associated with enforcing the DRP.

- (3) Revise the Indigence Program.** Because the current program only reduces surcharges for people earning less than 125% of Federal Poverty Guidelines (FPG), it has only minimally improved collection rates. We recommend revising the Indigence program to waive surcharges for people earning less than 125% of the FPG, and reduce surcharges for persons earning less than 300% of the FPG.
- (4) Minimize the impact of license suspensions.** Many of the adverse effects of the DRP (including the financial burden on low-income families, increased cost of accidents with uninsured motorists, and additional county costs) result from driver's license suspensions. These impacts could be mitigated by either lengthening the time period before a license is suspended for unpaid surcharges from 105 to 180 days or by limiting the suspension period to one year.

Endnotes

- ¹ See Bill Analysis for CS HB 3203 78(R). Online at: <http://www.legis.state.tx.us/tlodocs/78R/analysis/html/HB03203H.htm>
- ² Texas Department of Public Safety, email to State Rep. Sylvester Turner. *Data available upon request.*
- ³ "DUI (Alcohol) Crashes and Injuries by County (2003 - 2011)," prepared by the Texas Department of Transportation. Online at: http://www.txdot.gov/txdot_library/drivers_vehicles/publications/crash_statistics/default.htm.
- ⁴ Legislators that have filed legislation to address problems with the DRP or spoken publicly about the need for its reform or repeal include: Rodney Ellis (D-Houston), John Carona (R-Dallas), Steve Ogden (R-Bryan), Sylvester Turner (D-Houston), Larry Gonzales (R-Round Rock), Lon Burnam (D-Fort Worth), Leo Berman (R-Tyler).
- ⁵ Texas Transportation Code Chapter 708. Also see <http://www.txdps.state.tx.us/DriverLicense/drp.htm>.
- ⁶ For a summary of McCraw's remarks, see "DPS Director: No public safety benefit from Driver Responsibility Surcharge," *Grits for Breakfast* (blog), August 10, 2010. Online at: <http://gritsforbreakfast.blogspot.com/2010/08/dps-director-no-public-safety-benefit.html>. Full video recording of the hearing available at: <http://www.house.state.tx.us/video-audio/committee-broadcasts/committee-archives/player/?session=81&committee=420&ram=00810a29>
- ⁷ David Strickland (Administrator, National Highway Safety Administration), in remarks prepared for Texas Traffic Safety Conference, San Antonio, Texas, June 5, 2012. Online at: <http://www.nhtsa.gov/>
- ⁸ "DUI (Alcohol) Crashes and Injuries by County (2003 - 2011)," prepared by the Texas Department of Transportation. Online at: http://www.txdot.gov/txdot_library/drivers_vehicles/publications/crash_statistics/default.htm
- ⁹ Ibid.
- ¹⁰ In 2003, there were 1.75 deaths per 100 million vehicle miles travelled, compared with 1.28 in 2011. See "Comparison of Motor Vehicle Traffic Deaths, Vehicle Miles, Death Rates, and Economic Loss (2003 - 2011)," Texas Department of Transportation. Online at: http://ftp.dot.state.tx.us/pub/txdot-info/trf/crash_statistics/2011/comparison.pdf
- ¹¹ See, for example, "An Analysis of the Significant Decline in Motor Vehicle Traffic Fatalities in 2008," National Highway Traffic Safety Administration, June 2010. Online at: <http://www-nrd.nhtsa.dot.gov/Pubs/811346.pdf>
- ¹² David Hodges (Judicial Resource Liaison, Texas Center for the Judiciary), oral testimony provided before the Senate Committee on Criminal Jurisprudence, July 8, 2010. See the Senate Committee's Interim Report, p. 22. Online at: <http://www.senate.state.tx.us/75r/senate/commit/c590/c590.InterimReport81.pdf>.
- ¹³ See, for example, Victor E. Flango and Fred Cheesman, "When Should Judges Use Alcohol Monitoring as a Sentencing Option in DWI Cases?" *Court Review*, no. 44.
- ¹⁴ Texas Department of Public Safety, email to State Rep. Sylvester Turner. *Data available upon request.*
- ¹⁵ "2010 Motor Vehicle Safety: Overview – Highlights," *NHTSA Traffic Safety Facts*, prepared by the National Highway Traffic Safety Administration, February 2012. Online at: <http://www-nrd.nhtsa.dot.gov/Pubs/811552.pdf>
- ¹⁶ "Highway Statistics Series: Licensed Total Drivers, by Age – 2010," prepared by the Federal Highway Administration, September 2011. Online at: <http://www.fhwa.dot.gov/policyinformation/statistics/2010/dl22.cfm>
- ¹⁷ "The Economic Impact of Motor Vehicle Crashes 2000," prepared by the National Highway Traffic Safety Administration, 2002. Online at: <http://www-nrd.nhtsa.dot.gov/Pubs/809446.PDF>
- ¹⁸ "Designated Trauma Facility and Emergency Medical Service Account: FY05-FY12 Disbursements," prepared by the Texas Department of State Health Services. *Data available upon request.*
- ¹⁹ Ibid.
- ²⁰ "Motor Vehicles Affordability and Fairness Task Force Final Report," Alan M. Voorhees Transportation Center (Rutgers University) and New Jersey Motor Vehicle Commission, February 2006. Online at: http://www.state.nj.us/mvc/pdf/About/AFTF_final_02.pdf.
- ²¹ According to data from the Texas Dept. of Public Safety, as of August 31, 2011, 83% of the surcharges levied in Texas had been assessed for three violations: FMFR, No License, and DWLI. According to the New Jersey study cited, a disproportionate share of individuals whose licenses are suspended for these three offenses make less than \$28,000 per year.

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- ²² Texas Department of Public Safety, email to State Rep. Sylvester Turner. *Data available upon request.*
- ²³ Terrence Stutz, “Texas’ steep surcharges for driving violations clog courts, increase DWI dismissals, ex-judge tells panel,” *The Dallas Morning News*, April 27, 2010. Online at: <http://www.dallasnews.com/news/politics/texas-legislature/headlines/20100427-Texas-steep-surcharges-for-driving-8326.ece>
- ²⁴ Brandi Grissom, “Many Texans lose licenses in driver points program,” *El Paso Times*, August 19, 2007.
- ²⁵ Hodges testimony in Senate Committee Interim Report, p. 22-23.
- ²⁶ Ibid.
- ²⁷ David Hodges (Judicial Program Manager, Texas Association of Counties) in interview with Craig Adair, December 6, 2012.
- ²⁸ Veronica Escobar (El Paso County Judge), letter to the Texas Judicial Council, February 23, 2012.
- ²⁹ Grissom, “Many Texans lose licenses in driver points program.”
- ³⁰ *Atwater v. Lago Vista*, 532 U.S. 318 (2001) 195 F.3d 242, affirmed.
- ³¹ Brandon Wood (Assistant Director, Texas Commission on Jail Standards), in presentation at American Bar Association Criminal Justice Section, Roundtable on Pretrial Detention in Texas, held in Austin, Texas, March 30, 2012.
- ³² “Texas DWI fines aren’t working,” *San Antonio Express News*, November 14, 2010. Online at: <http://www.mysanantonio.com/news/article/Texas-DWI-fines-aren-t-working-813190.php>
- ³³ According to the Fiscal Note for CSHB 3203 (78R), the Legislative Budget Board determined that the DRP would raise approximately \$1.3 billion in all-funds revenues during its first five years. According to data from the Comptroller’s office, however, the program raised only \$448 million between fiscal years 2004 and 2008. Fiscal note available online at: <http://www.legis.state.tx.us/tlodocs/78R/fiscalnotes/pdf/HB03203H.pdf#navpanes=0>
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- ³⁵ Ibid.
- ³⁶ Ibid.
- ³⁷ Figure derived from “Designated Trauma Facility and Emergency Medical Service Account: FY05-FY12 Disbursements,” prepared by the Texas Department of State Health Services and “Allocation of Driver Responsibility Revenues: FY04-FY12” prepared by the Comptroller of Public Accounts. *Data available upon request.*
- ³⁸ “Calculated Uncompensated Trauma Care Costs Reported in DSHS Uncompensated Trauma Care Funding Application (2004 – 2012),” prepared by the Texas Department of State Health Services. *Data available upon request.*
- ³⁹ “Designated Trauma Facility and Emergency Medical Service Account: FY05 - FY12 Disbursements,” prepared by the Texas Department of State Health Services. *Data available upon request.*
- ⁴⁰ Figure derived from data referenced in notes 40 and 41.
- ⁴¹ “State of Texas Annual Cash Report, Revenues and Expenditures of State Funds for the Year Ended August 31, 2012,” prepared by the Texas Comptroller of Public Accounts. Online at: <http://www.window.state.tx.us/finances/pubs/cashrpt/>
- ⁴² Texas Public Policy Foundation, “TPPF Commends Speaker Straus for Shining Spotlight on GR-Dedicated Accounts,” news release, October 9, 2012. Online at: <http://www.texaspolicy.com/press/tppf-commends-speaker-straus-shining-spotlight-general-revenue-dedicated-accounts>. See also remarks by Dick Lavine, Center for Public Policy Priorities, before the House Committee on General Revenue Dedicated Accounts, Nov. 7, 2012. Online at: <http://www.house.state.tx.us/video-audio/committee-broadcasts/committee-archives/player/?session=82&committee=283&ram=12110713283>
- ⁴³ According to a recent proposal to ban smoking in public venues in Texas, smoking adds \$30 million in annual Medicaid costs and \$200 million per year in overall healthcare costs and lost productivity in Texas. See Bill Analysis for HB 670 (2011). Online at: <http://www.legis.state.tx.us/tlodocs/82R/analysis/pdf/HB00670H.pdf#navpanes=0>
- ⁴⁴ Figure estimated based on the fiscal note for HB1810 (2011). Online at: <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.

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⁴⁵ According to the National Institute on Alcohol Abuse and Alcoholism, medical costs associated with alcohol abuse in the United States totaled \$26 billion in 1998. Adjusting for inflation, that's \$36 billion in 2011 dollars. See "10th Special Report to the U.S. Congress on Alcohol and Health," prepared by the National Institute on Alcohol Abuse and Alcoholism, June 2000. Online at: <http://pubs.niaaa.nih.gov/publications/10report/intro.pdf>

⁴⁶ "Taxing Sin," Center for Public Policy Priorities, January 14, 2009. Online at: <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.*

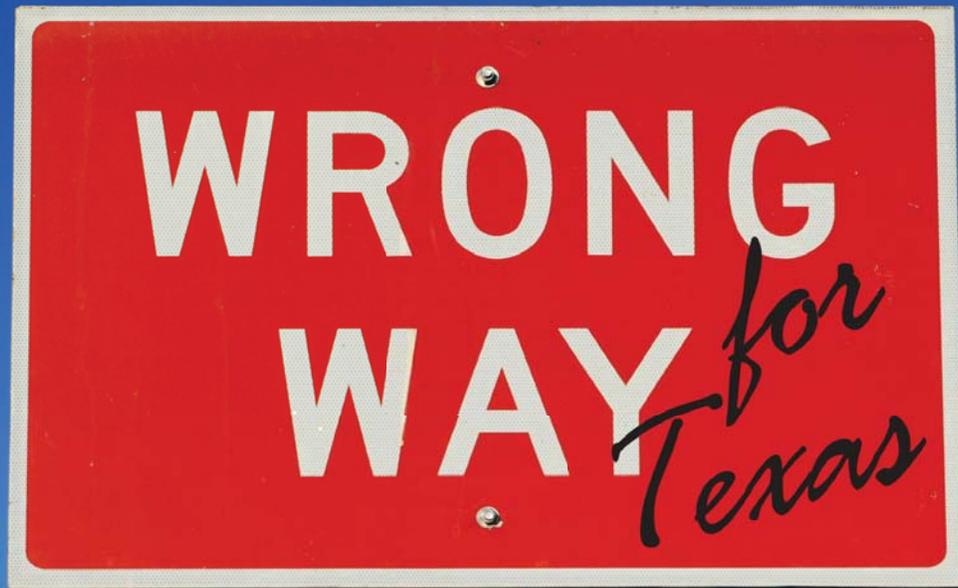
⁴⁷ According *Beverage Digest*, national carbonated soft drink sales totaled \$75.7 billion in 2011. Assuming roughly equal per capita consumption, Texas consumption in that year was approximately \$6.3 billion. So a 1% tax on soda sales would generate approximately \$63 million per year. See "Soda Consumption Down Again, Revenues Up," *United Press International*, April 2, 2012. Online at: http://www.upi.com/Business_News/2012/04/02/Soda-consumption-down-again-revenues-up/UPI-32701333344089/

⁴⁸ In addition to DRP surcharge revenue, 32% of the State Traffic Fine is allocated to Account 5111 as well. Online at: http://www.lbb.state.tx.us/Interim_Budget_Docs/GRDFunds/5111%20-%20Trauma%20Fund.pdf

⁴⁹ Hodges testimony in Senate Committee Interim Report, p. 22-23.

⁵⁰ John Henry, "Texas drunken driving surcharges meet economic reality," *Fort Worth Star Telegram*, December 6, 2010. Online at: <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. Online at: <http://www.texastribune.org/texas-local-news/driver-responsibility-program/rep-berman-files-bill-to-end-dps-surcharges/>

⁵¹ Tim Craig, "Va. Driver Fees Now Election Weapon," *Washington Post*, July 17, 2007. Online at: <http://www.washingtonpost.com/wp-dyn/content/article/2007/07/16/AR2007071601934.html>. The petition is available at: <http://www.petitiononline.com/va3202/petition.html>



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