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*Regulation and Licensing, Transportation*

## Senate committee considers vehicle safety inspections

[April 7](#) — A Texas Senate committee is considering the effectiveness and efficiency of state-mandated passenger vehicle safety inspections. The state's safety inspection program, created in 1951, requires the annual or biennial inspection of passenger vehicles. More than 19 million are now inspected every year.

Under Transportation Code, [sec. 548.051](#), the safety inspection covers equipment such as brakes, headlights, mirrors, tires, seat belts, and window tint.

Texas is one of 16 states nationwide that require regular passenger vehicle safety inspections.

A related program, the vehicle emissions inspection and maintenance [program](#), applies to most vehicles registered in certain counties surrounding Dallas, Houston, Austin, and El Paso. It is required under the federal [Clean Air Act](#) in nonattainment areas, which include counties around Dallas and Houston, that have elevated concentrations of ground-level ozone and certain other pollutants. Other counties, such as El Paso and those around Austin, implement the program for different reasons.

In 2013, the 83rd Legislature enacted [HB 2305](#) by E. Rodriguez, which phased out inspection stickers and instead requires vehicle owners to submit proof of a passing vehicle inspection report to the county tax assessor before receiving a vehicle registration.

The Senate Committee on Transportation, in response to an [interim charge](#) from the lieutenant governor, met in January to evaluate the vehicle inspection program and provide recommendations on how to compress or otherwise reduce the number of required inspections.

Some have suggested eliminating the passenger vehicle safety inspection program or increasing the time between inspections, while others have said the current program is needed to ensure the safety of vehicles on Texas roads.

**Supporters of eliminating or reducing the frequency of mandatory vehicle safety inspections** say the program costs vehicle owners time and money without improving safety and that Texas should reduce the number of mandated inspections or join a growing majority of states without such a program.

Supporters say mandatory inspections are increasingly unnecessary. Some [data](#) indicate that operator error, such as distracted driving, accounts for most accidents. Supporters say cars have steadily become more reliable, and some studies show a small percentage of accidents today are caused by mechanical failure, with some estimates as low as 2 percent. Oil change service stations often offer free inspections that are more detailed than the state inspection, supporters say, which makes the state-mandated inspections duplicative and unnecessary.

Supporters also say that eliminating or reducing the frequency of mandatory safety inspections would save Texans millions of dollars. Inspection fees double as hidden taxes, they say, and take money from consumers that otherwise could be spent elsewhere. Drivers also must take the time to get their vehicles inspected, which can impose secondary economic costs, such as when vehicle owners lose time that they could spend working.

**Opponents of eliminating or reducing the frequency of mandatory vehicle safety inspections** say that the minimal time and money saved would not outweigh the increased risk of mechanical failures contributing to accidents.

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State inspections increase road safety, opponents say. As cars become more complex and the general public less able to notice a potential mechanical failure, it is increasingly likely that unnoticed mechanical defects will cause an accident.

Opponents say studies that show low rates of accidents caused by mechanical failures may actually indicate that state-mandated inspections are effective in identifying and remedying potential problems in a timely manner.

Opponents say eliminating vehicle safety inspections would not save a significant amount of consumers' time because emissions tests still would be required on most cars registered in

the state's metropolitan areas. Also, most inspections take place in conjunction with other regular service, such as oil changes, reducing the time required.

The monetary cost to consumers also is modest and worthwhile, opponents say. A large portion of the inspection fees is directed to the [Clean Air Fund](#) and the [Texas Mobility Fund](#), they say, and ending inspections would deprive those programs of this funding source.

— by Anthony Severin

### Taxation

## Supreme Court upholds fee on small tobacco producers

[April 14](#) — The Texas Supreme Court earlier this month upheld the constitutionality of a law enacted in 2013 imposing a fee on certain tobacco companies that were not parties to a 1998 settlement with the state. The court [ruled](#) that the Legislature had a rational basis to distinguish between the tobacco manufacturers that were assessed the fee and those that had agreed to make annual payments to the state under the earlier settlement.

The law authorizing the fee had been challenged by a coalition of small tobacco companies arguing that it was a tax in violation of a requirement under [Tex. Const., Art. 8](#) that taxation be equal and uniform. The Third Court of Appeals in 2014 [ruled](#) that the tax was not equal and uniform because it treated identical products differently based on the entity that was making the product.

The Supreme Court this month reversed the court of appeals decision. Noting that “products do not pay taxes, taxpayers do,” the court said in its April 1 opinion that the nature of the taxpayer must be considered in an “equal and uniform” inquiry. It was within the Legislature’s discretion to consider the effect of a settlement when establishing tax classifications for non-settling manufacturers (NSMs), the court said.

The 1998 Texas Comprehensive Settlement Agreement required large tobacco companies to pay to the state about \$500 million a year in perpetuity to cover health care costs and other damages associated with the companies’ products. In enacting [HB 3536](#) by Otto, the 83rd Legislature in 2013 cited recovery of health care expenditures from NSMs as one of the goals of the 55-cent per pack fee.

The Supreme Court said that without the 2013 tax, the NSMs by their own admission would be making no comparable payment to the state despite health care costs associated with their products. If NSMs did not bear those costs, the court said, they could offer their products at substantially lower prices, which would entice youth and undermine the goal of reducing underage smoking.

The Supreme Court remanded the case to the Austin-based Third Court of Appeals for consideration of the Small Tobacco Coalition’s other challenges.

— by Michael Marchio