

1-1 By: Wilson (Senate Sponsor - Whitmire) H.B. No. 4528
1-2 (In the Senate - Received from the House May 1, 2023;
1-3 May 5, 2023, read first time and referred to Committee on Criminal
1-4 Justice; May 17, 2023, reported favorably by the following vote:
1-5 Yeas 7, Nays 0; May 17, 2023, sent to printer.)

1-6 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-------------|-----|--------|-----|
| 1-7 | | | | |
| 1-8 | Whitmire | X | | |
| 1-9 | Flores | X | | |
| 1-10 | Bettencourt | X | | |
| 1-11 | Hinojosa | X | | |
| 1-12 | Huffman | X | | |
| 1-13 | King | X | | |
| 1-14 | Miles | X | | |

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the requirement that a peace officer take possession of
1-18 a person's driver's license following the person's failure to pass
1-19 or refusal to consent to a test for intoxication.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Sections 524.011(b), (c), and (e),
1-22 Transportation Code, are amended to read as follows:

1-23 (b) A peace officer shall:

1-24 (1) serve or, if a specimen is taken and the analysis
1-25 of the specimen is not returned to the arresting officer before the
1-26 person is admitted to bail, released from custody, delivered as
1-27 provided by Title 3, Family Code, or committed to jail, attempt to
1-28 serve notice of driver's license suspension by delivering the
1-29 notice to the arrested person; and

1-30 ~~(2) [take possession of any driver's license issued by~~
1-31 ~~this state and held by the person arrested;~~

1-32 ~~[(3) issue a temporary driving permit to the person~~
1-33 ~~unless department records show or the officer otherwise determines~~
1-34 ~~that the person does not hold a driver's license to operate a motor~~
1-35 ~~vehicle in this state; and~~

1-36 ~~[(4)]~~ send to the department not later than the fifth
1-37 business day after the date of the arrest:

1-38 (A) a copy of the driver's license suspension
1-39 notice; and

1-40 (B) ~~[any driver's license taken by the officer~~
1-41 ~~under this subsection;~~

1-42 ~~[(C) a copy of any temporary driving permit~~
1-43 ~~issued under this subsection; and~~

1-44 ~~[(D)]~~ a sworn report of information relevant to
1-45 the arrest.

1-46 (c) The report required under Subsection (b)(2)(B)
1-47 ~~[(b)(4)(D)]~~ must:

1-48 (1) identify the arrested person;

1-49 (2) state the arresting officer's grounds for
1-50 believing the person committed the offense;

1-51 (3) give the analysis of the specimen if any; and

1-52 (4) include a copy of the criminal complaint filed in
1-53 the case, if any.

1-54 (e) The department shall develop forms for the notice of
1-55 driver's license suspension ~~[and temporary driving permits]~~ to be
1-56 used by all state and local law enforcement agencies.

1-57 SECTION 2. Section 524.032(d), Transportation Code, is
1-58 amended to read as follows:

1-59 (d) A request for a hearing stays suspension of a person's
1-60 driver's license until the date of the final decision of the
1-61 administrative law judge. ~~[If the person's driver's license was~~

2-1 ~~taken by a peace officer under Section 524.011(b), the department~~
2-2 ~~shall notify the person of the effect of the request on the~~
2-3 ~~suspension of the person's license before the expiration of any~~
2-4 ~~temporary driving permit issued to the person, if the person is~~
2-5 ~~otherwise eligible, in a manner that will permit the person to~~
2-6 ~~establish to a peace officer that the person's driver's license is~~
2-7 ~~not suspended.]~~

2-8 SECTION 3. Section 524.035(c), Transportation Code, is
2-9 amended to read as follows:

2-10 (c) If the administrative law judge does not find in the
2-11 affirmative on each issue in Subsection (a), the department shall:

2-12 (1) ~~[return the person's driver's license to the~~
2-13 ~~person, if the license was taken by a peace officer under Section~~
2-14 ~~524.011(b)]~~,

2-15 ~~[(2)]~~ reinstate the person's driver's license; and

2-16 (2) ~~[(3)]~~ rescind an order prohibiting the issuance of
2-17 a driver's license to the person.

2-18 SECTION 4. Sections 724.032(a), (c), and (d),
2-19 Transportation Code, are amended to read as follows:

2-20 (a) If a person refuses to submit to the taking of a
2-21 specimen, whether expressly or because of an intentional failure of
2-22 the person to give the specimen, the peace officer shall:

2-23 (1) serve notice of license suspension or denial on
2-24 the person; and

2-25 (2) ~~[take possession of any license issued by this~~
2-26 ~~state and held by the person arrested;~~

2-27 ~~[(3)]~~ issue a temporary driving permit to the person
2-28 ~~unless department records show or the officer otherwise determines~~
2-29 ~~that the person does not hold a license to operate a motor vehicle~~
2-30 ~~in this state; and~~

2-31 ~~[(4)]~~ make a written report of the refusal to the
2-32 director of the department.

2-33 (c) The officer shall forward to the department not later
2-34 than the fifth business day after the date of the arrest:

2-35 (1) a copy of the notice of suspension or denial; and

2-36 (2) ~~[any license taken by the officer under Subsection~~
2-37 ~~(a)]~~,

2-38 ~~[(3)]~~ a copy of any temporary driving permit issued
2-39 ~~under Subsection (a); and~~

2-40 ~~[(4)]~~ a copy of the refusal report.

2-41 (d) The department shall develop forms for notices of
2-42 suspension or denial ~~[and temporary driving permits]~~ to be used by
2-43 all state and local law enforcement agencies.

2-44 SECTION 5. Section 724.041(c), Transportation Code, is
2-45 amended to read as follows:

2-46 (c) A request for a hearing stays the suspension or denial
2-47 until the date of the final decision of the administrative law
2-48 judge. ~~[If the person's license was taken by a peace officer under~~
2-49 ~~Section 724.032(a), the department shall notify the person of the~~
2-50 ~~effect of the request on the suspension of the person's license~~
2-51 ~~before the expiration of any temporary driving permit issued to the~~
2-52 ~~person, if the person is otherwise eligible, in a manner that will~~
2-53 ~~permit the person to establish to a peace officer that the person's~~
2-54 ~~license is not suspended.]~~

2-55 SECTION 6. Section 724.043(b), Transportation Code, is
2-56 amended to read as follows:

2-57 (b) If the administrative law judge does not find in the
2-58 affirmative on each issue under Section 724.042, the department
2-59 shall ~~[return the person's license to the person, if the license was~~
2-60 ~~taken by a peace officer under Section 724.032(a), and]~~ reinstate
2-61 the person's license or rescind any order denying the issuance of a
2-62 license because of the person's refusal to submit to the taking of a
2-63 specimen under Section 724.032(a).

2-64 SECTION 7. Section 2.005(b), Family Code, is amended to
2-65 read as follows:

2-66 (b) The proof must be established by:

2-67 (1) a driver's license or identification card issued
2-68 by this state, another state, or a Canadian province that is current
2-69 or has expired not more than two years preceding the date the

3-1 identification is submitted to the county clerk in connection with
3-2 an application for a license;

3-3 (2) a United States passport;

3-4 (3) a current passport issued by a foreign country or a
3-5 consular document issued by a state or national government;

3-6 (4) an unexpired Certificate of United States
3-7 Citizenship, Certificate of Naturalization, United States Citizen
3-8 Identification Card, Permanent Resident Card, Temporary Resident
3-9 Card, Employment Authorization Card, or other document issued by
3-10 the federal Department of Homeland Security or the United States
3-11 Department of State including an identification photograph;

3-12 (5) an unexpired military identification card for
3-13 active duty, reserve, or retired personnel with an identification
3-14 photograph;

3-15 (6) an original or certified copy of a birth
3-16 certificate issued by a bureau of vital statistics for a state or a
3-17 foreign government;

3-18 (7) an original or certified copy of a Consular Report
3-19 of Birth Abroad or Certificate of Birth Abroad issued by the United
3-20 States Department of State;

3-21 (8) an original or certified copy of a court order
3-22 relating to the applicant's name change or sex change;

3-23 (9) school records from a secondary school or
3-24 institution of higher education;

3-25 (10) an insurance policy continuously valid for the
3-26 two years preceding the date of the application for a license;

3-27 (11) a motor vehicle certificate of title;

3-28 (12) military records, including documentation of
3-29 release or discharge from active duty or a draft record;

3-30 (13) an unexpired military dependent identification
3-31 card;

3-32 (14) an original or certified copy of the applicant's
3-33 marriage license or divorce decree;

3-34 (15) a voter registration certificate;

3-35 (16) a pilot's license issued by the Federal Aviation
3-36 Administration or another authorized agency of the United States;

3-37 (17) a license to carry a handgun under Subchapter H,
3-38 Chapter 411, Government Code;

3-39 (18) ~~[a temporary driving permit or]~~ a temporary
3-40 identification card issued by the Department of Public Safety; or

3-41 (19) an offender identification card issued by the
3-42 Texas Department of Criminal Justice.

3-43 SECTION 8. Sections 524.011(f), 524.037(c), and
3-44 724.032(e), Transportation Code, are repealed.

3-45 SECTION 9. The change in law made by this Act applies only
3-46 to a failure to pass a test for intoxication or a refusal to submit
3-47 to the taking of a specimen to test for intoxication that occurs on
3-48 or after the effective date of this Act. A failure to pass a test
3-49 for intoxication or refusal to submit to the taking of a specimen
3-50 that occurred before the effective date of this Act is governed by
3-51 the law in effect when the test was taken or the refusal was made,
3-52 and the former law is continued in effect for that purpose.

3-53 SECTION 10. This Act takes effect September 1, 2023.

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