

BILL ANALYSIS

H.B. 1611
By: Riddle
Law Enforcement
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, a person is required to give a blood or breath sample if a peace officer arrests the person for an offense under Chapter 49 of the Penal Code, Intoxication and Alcoholic Beverage Offenses, and the person was the operator of the vehicle involved in an accident that the officer reasonably believes occurred as a result of the intoxication or alcoholic beverage offense and the officer reasonably believes that a person has died or will die as a direct result of the accident. In all other circumstances, current law allows an officer to request the person's consent to the taking of a blood or breath sample, but prohibits an officer from requiring the taking of a specimen if the person refuses. Such a refusal is currently sanctioned by a 180-day driver's license suspension. Despite this deterrent, the Department of Public Safety reports a refusal rate of 42 percent, denying the state valuable evidence of intoxication. A breath or blood sample is the best evidence with which the state can be armed when prosecuting an intoxication offense. House Bill 1611 establishes an offense and penalties for refusal to submit to the taking of a specimen upon arrest if the officer reasonably believes the person was driving while intoxicated in a public place, was drinking underage, or caused a deadly accident because the person was driving while intoxicated.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

House Bill 1611 amends Section 724.013 of the Transportation Code to provide that a person commits an offense if the person refuses to submit to the taking of a specimen designated by a peace officer under Section 724.012, which allows an officer to request a blood or breath sample from a person the officer arrests for certain intoxication or alcoholic beverage offenses. The bill provides that an offense under this section is a Class B misdemeanor except that the offense is a Class A misdemeanor if the person has previously been convicted of an offense relating to the operating of a motor vehicle, aircraft, watercraft, or amusement ride while intoxicated, and a third degree felony if the person has previously been convicted at least once of intoxication manslaughter or two times of an offense relating to the operating of a motor vehicle, aircraft, watercraft, or amusement ride while intoxicated. The bill also amends Section 724.015 of the Transportation Code to require an officer to inform a person orally and in writing that refusal is an offense under Section 724.013 before requesting the person to submit to the taking of a specimen.

EFFECTIVE DATE

This Act takes effect September 1, 2003.