

By: Hope

H.B. No. 457

A BILL TO BE ENTITLED

AN ACT

relating to the operation of a watercraft while intoxicated.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 49.01(4), Penal Code, is amended to read as follows:

(4) "Watercraft" means a vessel [~~, one or more water skis, an aquaplane,~~] or another device used for transporting or carrying a person on water, other than a device propelled only by the current of water.

SECTION 2. Section 521.341, Transportation Code, is amended to read as follows:

Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE SUSPENSION. Except as provided by Sections 521.344(d)-(i), a license is automatically suspended on final conviction of the license holder of:

(1) an offense under Section 19.05, Penal Code, committed as a result of the holder's criminally negligent operation of a motor vehicle;

(2) an offense under Section 38.04, Penal Code;

(3) an offense under Section 49.04, 49.06, or 49.08, Penal Code;

(4) an offense under Section 49.07, Penal Code, if the person used a motor vehicle in the commission of the offense;

(5) an offense punishable as a felony under the motor

1 vehicle laws of this state;

2 (6) an offense under Section 550.021; or

3 (7) an offense under Section 521.451 or 521.453.

4 SECTION 3. Section 521.342(a), Transportation Code, is
5 amended to read as follows:

6 (a) Except as provided by Section 521.344, the license of a
7 person who was under 21 years of age at the time of the offense,
8 other than an offense classified as a misdemeanor punishable by
9 fine only, is automatically suspended on conviction of:

10 (1) an offense under Section 49.04, 49.06, or 49.07,
11 Penal Code, committed as a result of the introduction of alcohol
12 into the body;

13 (2) an offense under the Alcoholic Beverage Code,
14 other than an offense to which Section 106.071 of that code applies,
15 involving the manufacture, delivery, possession, transportation,
16 or use of an alcoholic beverage;

17 (3) a misdemeanor offense under Chapter 481, Health
18 and Safety Code, for which Subchapter P does not require the
19 automatic suspension of the license;

20 (4) an offense under Chapter 483, Health and Safety
21 Code, involving the manufacture, delivery, possession,
22 transportation, or use of a dangerous drug; or

23 (5) an offense under Chapter 485 [~~484~~], Health and
24 Safety Code, involving the manufacture, delivery, possession,
25 transportation, or use of an abusable [~~a~~] volatile chemical.

26 SECTION 4. Sections 521.344(a) and (c), Transportation
27 Code, are amended to read as follows:

1 (a) Except as provided by Sections 521.342(b) and 521.345,
2 and by Subsections (d)-(i), if a person is convicted of an offense
3 under Section 49.04, 49.06, or 49.07, Penal Code, the license
4 suspension:

5 (1) begins on a date set by the court that is not
6 earlier than the date of the conviction or later than the 30th day
7 after the date of the conviction, as determined by the court; and

8 (2) continues for a period set by the court according
9 to the following schedule:

10 (A) not less than 90 days or more than one year,
11 if the person is punished under Section 49.04, 49.06, or 49.07,
12 Penal Code, except that if the person's license is suspended for a
13 second or subsequent offense under Section 49.07 committed within
14 five years of the date on which the most recent preceding offense
15 was committed, the suspension continues for a period of one year;

16 (B) not less than 180 days or more than two years,
17 if the person is punished under Section 49.09(a) or (b), Penal Code;
18 or

19 (C) not less than one year or more than two years,
20 if the person is punished under Section 49.09(a) or (b), Penal Code,
21 and is subject to Section 49.09(g) of that code, as added by Chapter
22 969, Acts of the 77th Legislature, Regular Session, 2001.

23 (c) The court shall credit toward the period of suspension a
24 suspension imposed on the person for refusal to give a specimen
25 under Chapter 724 if the refusal followed an arrest for the same
26 offense for which the court is suspending the person's license
27 under this chapter. The court may not extend the credit to a

1 person:

2 (1) who has been previously convicted of an offense
3 under Section 49.04, 49.06, 49.07, or 49.08, Penal Code; or

4 (2) whose period of suspension is governed by Section
5 521.342(b).

6 SECTION 5. Section 524.001(3), Transportation Code, is
7 amended to read as follows:

8 (3) "Alcohol-related or drug-related enforcement
9 contact" means a driver's license suspension, disqualification, or
10 prohibition order under the laws of this state or another state
11 resulting from:

12 (A) a conviction of an offense prohibiting the
13 operation of a motor vehicle or watercraft while:

- 14 (i) intoxicated;
- 15 (ii) under the influence of alcohol; or
- 16 (iii) under the influence of a controlled
17 substance;

18 (B) a refusal to submit to the taking of a breath
19 or blood specimen following an arrest for an offense prohibiting
20 the operation of a motor vehicle or watercraft while:

- 21 (i) intoxicated;
- 22 (ii) under the influence of alcohol; or
- 23 (iii) under the influence of a controlled
24 substance; or

25 (C) an analysis of a breath or blood specimen
26 showing an alcohol concentration of a level specified by Section
27 49.01, Penal Code, following an arrest for an offense prohibiting

1 the operation of a motor vehicle or watercraft while intoxicated.

2 SECTION 6. Section 524.011(a), Transportation Code, is
3 amended to read as follows:

4 (a) An officer arresting a person shall comply with
5 Subsection (b) if:

6 (1) the person is arrested for an offense under
7 Section 49.04 or 49.06, Penal Code, or an offense under Section
8 49.07 or 49.08 of that code involving the operation of a motor
9 vehicle or watercraft, submits to the taking of a specimen of breath
10 or blood and an analysis of the specimen shows the person had an
11 alcohol concentration of a level specified by Section 49.01(2)(B),
12 Penal Code; or

13 (2) the person is a minor arrested for an offense under
14 Section 106.041, Alcoholic Beverage Code, or Section 49.04 or
15 49.06, Penal Code, or an offense under Section 49.07 or 49.08, Penal
16 Code, involving the operation of a motor vehicle or watercraft and:

17 (A) the minor is not requested to submit to the
18 taking of a specimen; or

19 (B) the minor submits to the taking of a specimen
20 and an analysis of the specimen shows that the minor had an alcohol
21 concentration of greater than .00 but less than the level specified
22 by Section 49.01(2)(B), Penal Code.

23 SECTION 7. Section 524.012(b), Transportation Code, is
24 amended to read as follows:

25 (b) The department shall suspend the person's driver's
26 license if the department determines that:

27 (1) the person had an alcohol concentration of a level

1 specified by Section 49.01(2)(B), Penal Code, while operating a
2 motor vehicle in a public place or while operating a watercraft; or

3 (2) the person is a minor and had any detectable amount
4 of alcohol in the minor's system while operating a motor vehicle in
5 a public place or while operating a watercraft.

6 SECTION 8. Section 524.015(b), Transportation Code, is
7 amended to read as follows:

8 (b) A suspension may not be imposed under this chapter on a
9 person who is acquitted of a criminal charge under Section 49.04,
10 49.06, 49.07, or 49.08, Penal Code, or Section 106.041, Alcoholic
11 Beverage Code, arising from the occurrence that was the basis for
12 the suspension. If a suspension was imposed before the acquittal,
13 the department shall rescind the suspension and shall remove any
14 reference to the suspension from the person's computerized driving
15 record.

16 SECTION 9. Section 524.022(b), Transportation Code, is
17 amended to read as follows:

18 (b) A period of suspension under this chapter for a minor
19 is:

20 (1) 60 days if the minor has not been previously
21 convicted of an offense under Section 106.041, Alcoholic Beverage
22 Code, or Section 49.04 or 49.06, Penal Code, or an offense under
23 Section 49.07 or 49.08, Penal Code, involving the operation of a
24 motor vehicle or watercraft;

25 (2) 120 days if the minor has been previously
26 convicted once of an offense listed by Subdivision (1); or

27 (3) 180 days if the minor has been previously

1 convicted twice or more of an offense listed by Subdivision (1).

2 SECTION 10. Section 524.023, Transportation Code, is
3 amended to read as follows:

4 Sec. 524.023. APPLICATION OF SUSPENSION UNDER OTHER
5 LAWS. (a) If a person is convicted of an offense under Section
6 106.041, Alcoholic Beverage Code, or Section 49.04, 49.06, 49.07,
7 or 49.08, Penal Code, and if any conduct on which that conviction is
8 based is a ground for a driver's license suspension under this
9 chapter and Section 106.041, Alcoholic Beverage Code, Subchapter O,
10 Chapter 521, or Subchapter H, Chapter 522, each of the suspensions
11 shall be imposed.

12 (b) The court imposing a driver's license suspension under
13 Section 106.041, Alcoholic Beverage Code, or Chapter 521 or 522 as
14 required by Subsection (a) shall credit a period of suspension
15 imposed under this chapter toward the period of suspension required
16 under Section 106.041, Alcoholic Beverage Code, or Subchapter O,
17 Chapter 521, or Subchapter H, Chapter 522, unless the person was
18 convicted of an offense under Article 67011-1, Revised Statutes, as
19 that law existed before September 1, 1994, Section 19.05(a)(2),
20 Penal Code, as that law existed before September 1, 1994, Section
21 49.04, 49.06, 49.07, or 49.08, Penal Code, or Section 106.041,
22 Alcoholic Beverage Code, before the date of the conviction on which
23 the suspension is based, in which event credit may not be given.

24 SECTION 11. Section 524.035(a), Transportation Code, is
25 amended to read as follows:

26 (a) The issues that must be proved at a hearing by a
27 preponderance of the evidence are:

1 (1) whether:

2 (A) the person had an alcohol concentration of a
3 level specified by Section 49.01(2)(B), Penal Code, while operating
4 a motor vehicle in a public place or while operating a watercraft;
5 or

6 (B) the person is a minor and had any detectable
7 amount of alcohol in the minor's system while operating a motor
8 vehicle in a public place or while operating a watercraft; and

9 (2) whether reasonable suspicion to stop or probable
10 cause to arrest the person existed.

11 SECTION 12. Section 524.042(a), Transportation Code, is
12 amended to read as follows:

13 (a) A suspension of a driver's license under this chapter is
14 stayed on the filing of an appeal petition only if:

15 (1) the person's driver's license has not been
16 suspended as a result of an alcohol-related or drug-related
17 enforcement contact during the five years preceding the date of the
18 person's arrest; and

19 (2) the person has not been convicted during the 10
20 years preceding the date of the person's arrest of an offense under:

21 (A) Article 67011-1, Revised Statutes, as that
22 law existed before September 1, 1994;

23 (B) Section 19.05(a)(2), Penal Code, as that law
24 existed before September 1, 1994;

25 (C) Section 49.04 or 49.06, Penal Code;

26 (D) Section 49.07 or 49.08, Penal Code, if the
27 offense involved the operation of a motor vehicle or watercraft; or

1 (E) Section 106.041, Alcoholic Beverage Code.

2 SECTION 13. (a) This Act takes effect September 1, 2003.

3 (b) The changes in law made by this Act to Section 49.01,
4 Penal Code, apply only to an offense committed on or after September
5 1, 2003. An offense committed before September 1, 2003, is governed
6 by the law in effect on the date that the offense was committed, and
7 the former law is continued in effect for that purpose.

8 (c) The changes in law made by this Act to Chapter 521,
9 Transportation Code, apply only to a person finally convicted of an
10 offense under Section 49.06, 49.07, or 49.08, Penal Code, on or
11 after September 1, 2003. A person finally convicted of an offense
12 under Section 49.06, 49.07, or 49.08, Penal Code, before September
13 1, 2003, is covered by Chapter 521, Transportation Code, as that law
14 existed on the date the conviction became final, and the former law
15 is continued in effect for that purpose.

16 (d) The changes in law made by this Act to Chapter 524,
17 Transportation Code, apply only to a person arrested for an offense
18 under Section 106.041, Alcoholic Beverage Code, or for an offense
19 under Section 49.06, 49.07, or 49.08, Penal Code, on or after
20 September 1, 2003. A person arrested for an offense under Section
21 106.041, Alcoholic Beverage Code, or under Section 49.06, 49.07, or
22 49.08, Penal Code, before September 1, 2003, is covered by Chapter
23 524, Transportation Code, as that law existed on the date of the
24 person's arrest, and the former law is continued in effect for that
25 purpose.