

By: Goodman

H.B. No. 200

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the administrative suspension of the driver's license
3 of a person arrested for certain offenses involving the operation
4 of a watercraft while intoxicated for the person's failure to pass a
5 test for intoxication.

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

7 SECTION 1. Section 524.001(3), Transportation Code, is
8 amended to read as follows:

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

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

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

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

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

1 substance; or

2 (C) an analysis of a breath or blood specimen
3 showing an alcohol concentration of a level specified by Section
4 49.01, Penal Code, following an arrest for an offense prohibiting
5 the operation of a motor vehicle or a watercraft while intoxicated.

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

8 (a) An officer arresting a person shall comply with
9 Subsection (b) if:

10 (1) the person is arrested for an offense under
11 Section 49.04 or 49.06, Penal Code, or an offense under Section
12 49.07 or 49.08 of that code involving the operation of a motor
13 vehicle or a watercraft, and submits to the taking of a specimen of
14 breath or blood and an analysis of the specimen shows the person had
15 an alcohol concentration of a level specified by Section
16 49.01(2)(B), Penal Code; or

17 (2) the person is a minor arrested for an offense under
18 Section 106.041, Alcoholic Beverage Code, or Section 49.04 or
19 49.06, Penal Code, or an offense under Section 49.07 or 49.08, Penal
20 Code, involving the operation of a motor vehicle or a watercraft
21 and:

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

24 (B) the minor submits to the taking of a specimen
25 and an analysis of the specimen shows that while operating a motor
26 vehicle in a public place the minor had an alcohol concentration of
27 greater than .00 but less than the level specified by Section

1 49.01(2)(B), Penal Code.

2 SECTION 3. Section 524.012(b), Transportation Code, is
3 amended to read as follows:

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

6 (1) the person had an alcohol concentration of a level
7 specified by Section 49.01(2)(B), Penal Code, while operating a
8 motor vehicle in a public place or while operating a watercraft; or

9 (2) the person is a minor and had any detectable amount
10 of alcohol in the minor's system while operating a motor vehicle in
11 a public place.

12 SECTION 4. Section 524.015(b), Transportation Code, is
13 amended to read as follows:

14 (b) A suspension may not be imposed under this chapter on a
15 person who is acquitted of a criminal charge under Section 49.04,
16 49.06, 49.07, or 49.08, Penal Code, or Section 106.041, Alcoholic
17 Beverage Code, arising from the occurrence that was the basis for
18 the suspension. If a suspension was imposed before the acquittal,
19 the department shall rescind the suspension and shall remove any
20 reference to the suspension from the person's computerized driving
21 record.

22 SECTION 5. Section 524.022(b), Transportation Code, is
23 amended to read as follows:

24 (b) A period of suspension under this chapter for a minor
25 is:

26 (1) 60 days if the minor has not been previously
27 convicted of an offense under Section 106.041, Alcoholic Beverage

1 Code, or Section 49.04 or 49.06, Penal Code, or an offense under
2 Section 49.07 or 49.08, Penal Code, involving the operation of a
3 motor vehicle or a watercraft;

4 (2) 120 days if the minor has been previously
5 convicted once of an offense listed by Subdivision (1); or

6 (3) 180 days if the minor has been previously
7 convicted twice or more of an offense listed by Subdivision (1).

8 SECTION 6. Section 524.023(a), Transportation Code, is
9 amended to read as follows:

10 (a) If a person is convicted of an offense under Section
11 106.041, Alcoholic Beverage Code, or Section 49.04, 49.06, 49.07,
12 or 49.08, Penal Code, and if any conduct on which that conviction is
13 based is a ground for a driver's license suspension under this
14 chapter and Section 106.041, Alcoholic Beverage Code, Subchapter O,
15 Chapter 521, or Subchapter H, Chapter 522, each of the suspensions
16 shall be imposed.

17 SECTION 7. Section 524.035(a), Transportation Code, is
18 amended to read as follows:

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

21 (1) whether:

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

26 (B) the person is a minor and had any detectable
27 amount of alcohol in the minor's system while operating a motor

1 vehicle in a public place; and

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

4 SECTION 8. Section 524.042(a), Transportation Code, is
5 amended to read as follows:

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

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

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

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

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

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

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

22 (E) Section 106.041, Alcoholic Beverage Code.

23 SECTION 9. (a) This Act takes effect September 1, 2005.

24 (b) The change in law made by this Act applies only to a
25 person arrested for an offense committed on or after September 1,
26 2005.

27 (c) A person arrested for an offense committed before

1 September 1, 2005, is covered by the law in effect when the offense
2 was committed, and the former law is continued in effect for that
3 purpose. For purposes of this section, an offense was committed
4 before September 1, 2005, if any element of the offense was
5 committed before that date.