

By: Hopson

H.B. No. 1245

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the enforcement of the condition for release on bond of
3 a defendant charged with certain intoxication offenses that
4 requires the use of a motor vehicle ignition interlock device;
5 providing penalties.

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

7 SECTION 1. Article 17.441, Code of Criminal Procedure, is
8 amended by adding Subsections (e) and (f) to read as follows:

9 (e) A magistrate who releases a defendant on bond and
10 requires that the defendant not operate any motor vehicle unless
11 the vehicle is equipped with a device described by Subsection
12 (a)(1) shall send a copy of the magistrate's order to the Texas
13 Department of Public Safety at its Austin headquarters as soon as
14 practicable but not later than the third day after the date the
15 defendant is released on bond. As soon as practicable but not later
16 than the third day after the date the department receives the copy
17 of the magistrate's order, the department shall add an appropriate
18 notation of the order to any driver's license record maintained by
19 the department for the defendant and report the magistrate's order
20 to a local law enforcement agency that makes a subsequent inquiry of
21 the defendant's driving record.

22 (f) A magistrate who finally discharges the defendant from
23 the conditions for release on bond that were required by the
24 magistrate under Subsection (a) shall send a copy of the

1 discharging order to the Texas Department of Public Safety at its
2 Austin headquarters as soon as practicable but not later than the
3 third day after the date the magistrate discharges the defendant
4 from those conditions. As soon as practicable but not later than
5 the third day after the date the department receives the copy of the
6 discharging order, the department shall update the defendant's
7 driver's license record to show that the defendant is no longer
8 prohibited from operating a motor vehicle that is not equipped with
9 the device described by Subsection (a)(1).

10 SECTION 2. Chapter 38, Penal Code, is amended by adding
11 Section 38.20 to read as follows:

12 Sec. 38.20. OPERATING MOTOR VEHICLE WITHOUT DEVICE TO
13 PREVENT DRIVING UNDER THE INFLUENCE OF ALCOHOL. (a) A person who,
14 as a condition of release on bond under Article 17.441, Code of
15 Criminal Procedure, is required by a magistrate not to operate any
16 motor vehicle unless the vehicle is equipped with the device
17 described by Subsection (a)(1) of that article commits an offense
18 if the person operates a motor vehicle that is not equipped with
19 such a device.

20 (b) Except as provided by Subsections (c)-(e), an offense
21 under this section is a Class B misdemeanor.

22 (c) Except as provided by Subsections (d) and (e), if the
23 offense with which the person was charged when released on bond was
24 a felony offense, an offense under this section is a state jail
25 felony.

26 (d) If the person has previously been convicted one time of
27 an offense under this section, an offense under this section is a

1 felony of the third degree.

2 (e) If the person has previously been convicted two times of
3 an offense under this section, an offense under this section is a
4 felony of the second degree.

5 (f) This section does not preclude the enforcement of
6 Section 49.09(h).

7 SECTION 3. (a) Articles 17.441(e) and (f), Code of Criminal
8 Procedure, as added by this Act, apply only in connection with a
9 defendant released on bond by a magistrate under Article 17.441 of
10 that code on or after the effective date of this Act.

11 (b) Article 38.20, Penal Code, as added by this Act, applies
12 to a defendant released on bond by a magistrate under Article
13 17.441, Code of Criminal Procedure, who on or after the effective
14 date of this Act operates a motor vehicle without the device
15 described by Article 17.441(a)(1), Code of Criminal Procedure,
16 regardless of whether the defendant was released on bond under that
17 article before, on, or after the effective date of this Act.

18 SECTION 4. This Act takes effect September 1, 2005.