

By: Reyna

H.B. No. 1249

A BILL TO BE ENTITLED

AN ACT

relating to criminal punishment for aggressive driving that results in the death of a person.

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

SECTION 1. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.020 to read as follows:

Art. 42.020. FINDING REGARDING AGGRESSIVE DRIVING. (a) In this section, "aggressive driving" means:

(1) driving a vehicle in a manner in violation of law with intent to harass, annoy, or alarm an occupant of another vehicle;

(2) while driving a vehicle, displaying to an occupant of another vehicle what reasonably appears to be a deadly weapon, as defined by Section 1.07(a)(17)(A), Penal Code, with intent to harass, annoy, or alarm the occupant; or

(3) intentionally causing a vehicle to collide with another vehicle with intent to harass, annoy, or alarm an occupant of the other vehicle.

(b) In the trial of an offense under Chapter 19, Penal Code, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if at the guilt or innocence phase of the trial, the judge or jury, whichever is the trier of fact, determines beyond a reasonable doubt that the defendant, in committing the offense, was engaged in aggressive

1 driving.

2 SECTION 2. Section 3g(a), Article 42.12, Code of Criminal
3 Procedure, is amended to read as follows:

4 (a) The provisions of Section 3 of this article do not
5 apply:

6 (1) to a defendant adjudged guilty of an offense
7 under:

8 (A) Section 19.02, Penal Code (Murder);

9 (B) Section 19.03, Penal Code (Capital murder);

10 (C) Section 21.11(a)(1), Penal Code (Indecency
11 with a child);

12 (D) Section 20.04, Penal Code (Aggravated
13 kidnapping);

14 (E) Section 22.021, Penal Code (Aggravated
15 sexual assault);

16 (F) Section 29.03, Penal Code (Aggravated
17 robbery);

18 (G) Chapter 481, Health and Safety Code, for
19 which punishment is increased under:

20 (i) Section 481.140, Health and Safety
21 Code; or

22 (ii) Section 481.134(c), (d), (e), or (f),
23 Health and Safety Code, if it is shown that the defendant has been
24 previously convicted of an offense for which punishment was
25 increased under any of those subsections; or

26 (H) Section 22.011, Penal Code (Sexual assault);

27 or

1 (2) to a defendant when:

2 (A) an affirmative finding under Article 42.020
3 is made in the trial of the case; or

4 (B) it is shown that a deadly weapon as defined in
5 Section 1.07, Penal Code, was used or exhibited during the
6 commission of a felony offense or during immediate flight
7 therefrom, and that the defendant used or exhibited the deadly
8 weapon or was a party to the offense and knew that a deadly weapon
9 would be used or exhibited. On an affirmative finding under this
10 subdivision, the trial court shall enter the finding in the
11 judgment of the court. On an affirmative finding that the deadly
12 weapon was a firearm, the court shall enter that finding in its
13 judgment.

14 SECTION 3. Section 19.05(b), Penal Code, is amended to read
15 as follows:

16 (b) An offense under this section is a state jail felony,
17 except that the offense is a felony of the third degree if the
18 person, in committing the offense, was engaged in aggressive
19 driving, as defined by Article 42.020, Code of Criminal Procedure.

20 SECTION 4. The change in law made by this Act applies only
21 to an offense committed on or after the effective date of this Act.
22 An offense committed before the effective date of this Act is
23 covered by the law in effect when the offense was committed, and the
24 former law is continued in effect for that purpose. For purposes of
25 this section, an offense was committed before the effective date of
26 this Act if any element of the offense was committed before that
27 date.

1 SECTION 5. This Act takes effect September 1, 2005.