

Amend HB 2115 (House Committee Report) as follows:

On line 10, changed to read (A) under Section 49.045 [~~49.04, 49.05, 49.06~~], 49.07[~~7~~] or 49.08, Penal Code, or for which punishment may be increased under Section 49.09 of that code;

On Page 2, Line 1, the bill is amended by adding the following language: SECTION 2. Section 13, Article 42.12, Code of Criminal Procedure, is amended by adding new subsection (o) to read as follows:

(o) For purposes of this section, a conviction includes a deferred adjudication under Section 5 of this code.

SECTION 3. Section 411.081(e), Government Code, is amended to read as follows:

(e) A person is entitled to petition the court under Subsection (d) only if during the applicable period described by Subsection (d)(1), (2), or (3), as appropriate, the person is not convicted of or placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, for any offense other than an offense under the Transportation Code punishable by fine only. A person is not entitled to petition the court under Subsection (d) if the person has been previously convicted or placed on deferred adjudication for:

(1) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;

(2) an offense under Section 20.04, Penal Code, regardless of whether the offense is a reportable conviction or adjudication for purposes of Chapter 62, Code of Criminal Procedure;

(3) an offense under Section 19.02, 19.03, 22.04, 22.041, 25.07, or 42.072, Penal Code; [~~or~~]

(4) any other offense involving family violence, as defined by Section 71.004, Family Code; or

(5) an offense under Chapter 49, Penal Code, other than an offense that is punishable as a Class C misdemeanor.

SECTION 4. Sections 49.09(a), (b), (d), and (g), Penal Code, are amended to read as follows:

(a) Except as provided by Subsection (b), an offense under

Section 49.04, 49.05, 49.06, or 49.065 is a Class A misdemeanor, with a minimum term of confinement of 30 days, if it is shown on the trial of the offense that the person has been one time previously [~~been~~] convicted of or placed on deferred adjudication for [~~one time of~~] an offense relating to the operating of a motor vehicle while intoxicated, an offense of operating an aircraft while intoxicated, an offense of operating a watercraft while intoxicated, or an offense of operating or assembling an amusement ride while intoxicated.

(b) An offense under Section 49.04, 49.045, 49.05, 49.06, or 49.065 is a felony of the third degree if it is shown on the trial of the offense that the person has been [~~previously been convicted~~]:

(1) one time previously convicted of or placed on deferred adjudication for an offense under Section 49.08 or an offense under the laws of another state if the offense contains elements that are substantially similar to the elements of an offense under Section 49.08; or

(2) two times previously convicted of or placed on deferred adjudication for any other offense relating to the operating of a motor vehicle while intoxicated, operating an aircraft while intoxicated, operating a watercraft while intoxicated, or operating or assembling an amusement ride while intoxicated.

(d) For the purposes of this section, a conviction for an offense listed in Subsection (c) [~~under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08~~] that occurs on or after September 1, 1994, is a final conviction, whether the sentence for the conviction is imposed or probated.

(g) A conviction or deferred adjudication may be used for purposes of enhancement under this section or enhancement under Subchapter D, Chapter 12, but not under both this section and Subchapter D.

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

(5) "Conviction" includes an adjudication under Title 3, Family Code, or a deferred adjudication under Article 42.12, Section 5, Code of Criminal Procedure.

On Page 2, Line 1 of the bill, "SECTION 2" is amended to read "SECTION 6".

On Page 2, Line 8 of the bill, "SECTION 3" is amended to read "SECTION 7".