

Amend SB 11 on third reading by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE _____. SUSPENSION, REVOCATION, OR CANCELLATION OF DRIVER'S
LICENSES AND RELATED DOCUMENTS

SECTION _____.01. Subsection (a), Section 521.292, Transportation Code, is amended to read as follows:

(a) The department shall suspend the person's license if the department determines that the person:

(1) has operated a motor vehicle on a highway while the person's license was suspended, canceled, disqualified, or revoked, or without a license after an application for a license was denied;

(2) is a habitually reckless or negligent operator of a motor vehicle;

(3) is a habitual violator of the traffic laws;

(4) has permitted the unlawful or fraudulent use of the person's license;

(5) has committed an offense in another state or Canadian province that, if committed in this state, would be grounds for suspension;

(6) has been convicted of two or more separate offenses of a violation of a restriction imposed on the use of the license;

(7) has been responsible as a driver for any accident resulting in serious personal injury or serious property damage;

(8) is the holder of a provisional license issued under Section 521.123 or an instruction permit under Section 521.222 and has been convicted of two or more moving violations committed within a 12-month period; or

(9) has committed an offense under Section 545.421.

SECTION _____.02. Section 521.294, Transportation Code, is amended to read as follows:

Sec. 521.294. DEPARTMENT'S DETERMINATION FOR LICENSE REVOCATION. The department shall revoke the person's license if the department determines that the person:

(1) is incapable of safely operating a motor vehicle;

(2) has not complied with the terms of a citation issued by a jurisdiction that is a party to the Nonresident Violator Compact of 1977 for a traffic violation to which that compact applies;

(3) has failed to provide medical records or has failed to undergo medical or other examinations as required by a panel of the medical advisory board;

(4) has failed to pass an examination or to provide any information relating to the person's ability to safely operate a motor vehicle as required by the director under this chapter;

(5) has been reported by a court under Section 521.3452 for failure to appear unless the court files an additional report on final disposition of the case;

(6) has been reported within the preceding two years by a justice or municipal court for failure to appear or for a default in payment of a fine for a misdemeanor punishable only by fine, other than a failure reported under Section 521.3452, committed by a person who is at least 14 years of age but younger than 17 years of age when the offense was committed, unless the court files an additional report on final disposition of the case; or

(7) has committed an offense in another state or Canadian province that, if committed in this state, would be grounds for revocation.

SECTION _____.03. Subsection (a), Section 521.295, Transportation Code, is amended to read as follows:

(a) On a determination that the person meets the criteria for ~~[If]~~ the department to initiate enforcement action ~~[suspends a person's license]~~ under Section 521.292 or ~~[revokes a person's license under Section]~~ 521.294, the department shall send a notice of suspension or revocation ~~[by first class mail]~~ to the person's address in the records of the department.

SECTION _____.04. Section 521.314, Transportation Code, is amended to read as follows:

Sec. 521.314. CANCELLATION AUTHORITY. The department may cancel a license or certificate if it determines that the holder:

(1) was not entitled to the license or certificate;

[~~or~~]

(2) failed to give required information in the application for the license or certificate;

(3) failed to update personal information on the license or certificate;

(4) failed to remit payment of a driver's license fee imposed under this chapter or Chapter 522; or

(5) issued a check or draft drawn on a bank or trust company in payment of a driver's license fee imposed under this chapter or Chapter 522 that is returned unpaid because of insufficient funds or no funds in the bank or trust company to the credit of the drawer of the check or draft.

SECTION _____.05. 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, if the holder used a motor vehicle in the commission of the offense;

(3) an offense under Section 49.04, 49.045, or 49.08, Penal Code;

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

(5) an offense punishable as a felony under the motor vehicle laws of this state;

(6) an offense under Section 550.021; or

(7) an offense under Section 521.451 or 521.453.

SECTION _____.06. Subsections (a) and (b), Section 521.342, Transportation Code, are amended to read as follows:

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

(1) an offense under Section 49.04, 49.045, or 49.07, Penal Code, committed as a result of the introduction of alcohol into the body;

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

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

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

(5) an offense under Chapter 485, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of an abusable volatile chemical.

(b) The department shall suspend for one year the license of a person who is under 21 years of age and is convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, regardless of whether the person is required to attend an educational program under Section 13(h), Article 42.12, Code of Criminal Procedure, that is designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person is placed under community supervision under that article and is required as a condition of the community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Section 13(i) of that article. If the person is required to attend such a program and does not complete the program before the end of the person's suspension, the department shall suspend the person's license or continue the suspension, as appropriate, until the department receives proof that the person has successfully completed the program. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner provided by Section 13(h), Article 42.12, Code of Criminal Procedure.

SECTION ____ .07. Subsections (a), (c), (g), and (i),

Section 521.344, Transportation Code, are amended to read as follows:

(a) Except as provided by Sections 521.342(b) and 521.345, and by Subsections (d)-(i), if a person is convicted of an offense under Section 49.04, 49.045, or 49.07, Penal Code, the license suspension:

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

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

(A) not less than 90 days or more than one year, if the person is punished under Section 49.04, 49.045, or 49.07, Penal Code, except that if the person's license is suspended for a second or subsequent offense under Section 49.07 committed within five years of the date on which the most recent preceding offense was committed, the suspension continues for a period of one year;

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

(C) not less than one year or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code, and is subject to Section 49.09(h) of that code.

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

(1) who has been previously convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

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

(g) A revocation, suspension, or prohibition order under Subsection (e) or (f) remains in effect until the department receives notice of successful completion of the educational program. The director shall promptly send notice of a revocation or

prohibition order issued under Subsection (e) or (f) by first class mail to the person at the person's most recent address as shown in the records of the department. The notice must include the date of the revocation or prohibition order, the reason for the revocation or prohibition, and a statement that the person has the right to request in writing that a hearing be held on the revocation or prohibition. Notice is considered received on the fifth day after the date the notice is mailed. A revocation or prohibition under Subsection (e) or (f) takes effect on the 40th ~~[30th]~~ day after the date the person is considered to have received notice of revocation or prohibition under Section 521.295 ~~[notice is mailed]~~. The person may request a hearing not later than the 20th day after the date the notice is mailed. If the department receives a request under this subsection, the department shall set the hearing for the earliest practical time and the revocation or prohibition does not take effect until resolution of the hearing.

(i) On the date that a suspension order under Section 521.343(c) is to expire, the period of suspension or the corresponding period in which the department is prohibited from issuing a license is automatically increased to two years unless the department receives notice of successful completion of the educational program as required by Section 13, Article 42.12, Code of Criminal Procedure. At the time a person is convicted of an offense under Section 49.04 or 49.045, Penal Code, the court shall warn the person of the effect of this subsection. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner required by Section 13, Article 42.12, Code of Criminal Procedure. If the department receives proof of completion after a period has been extended under this subsection, the department shall immediately end the suspension or prohibition.

SECTION ____ .08. Subsections (h) and (n), Section 13, Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(h) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the

judge shall require, as a condition of the community supervision, that the defendant attend and successfully complete before the 181st day after the day community supervision is granted an educational program jointly approved by the Texas Commission on Alcohol and Drug Abuse, the Department of Public Safety, the Traffic Safety Section of the Texas Department of Transportation, and the community justice assistance division of the Texas Department of Criminal Justice designed to rehabilitate persons who have driven while intoxicated. The Texas Commission on Alcohol and Drug Abuse shall publish the jointly approved rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Commission on Alcohol and Drug Abuse is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for the initial certification of approval and for renewal of a certificate. The judge may waive the educational program requirement or may grant an extension of time to successfully complete the program that expires not later than one year after the beginning date of the person's community supervision, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider but is not limited to: the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and the fact that the defendant resides out of state, has no valid driver's license, or does not have access to transportation. The judge shall set out the finding of good cause for waiver in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program or if the court waives the educational program requirement, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. If the court grants an extension of time in which the person may complete the program, the court clerk shall immediately report that fact to the Department of Public Safety on a form prescribed by the department. The report must include the beginning date of the person's community supervision. Upon the person's successful

completion of the educational program, the person's instructor shall give notice to the Department of Public Safety for inclusion in the person's driving record and to the community supervision and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program within the period required by this section, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the person from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code. The Department of Public Safety may not reinstate a license suspended under this subsection unless the person whose license was suspended makes application to the department for reinstatement of the person's license and pays to the department a reinstatement fee of \$100 [~~\$50~~]. The Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund. This subsection does not apply to a defendant if a jury recommends community supervision for the defendant and also recommends that the defendant's driver's license not be suspended.

(n) Notwithstanding any other provision of this section or other law, the judge who places on community supervision a defendant who was [~~is~~] younger than 21 years of age at the time of the offense and convicted for an offense under Sections 49.04-49.08, Penal Code, shall:

(1) order that the defendant's driver's license be suspended for 90 days beginning on the date that the person is placed on community supervision; and

(2) require as a condition of community supervision that the defendant not operate a motor vehicle unless the vehicle is equipped with the device described by Subsection (i) of this section.

SECTION _____.09. (a) Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0206 to read as follows:

Sec. 411.0206. ABATEMENT OR DEFERRAL FOR VICTIMS OF

IDENTITY THEFT. (a) In this section:

(1) "License" means a license, certificate, permit, or other authorization issued by the department.

(2) "Victim of identity theft" means an individual who has filed a criminal complaint alleging the commission of an offense under Section 32.51, Penal Code, other than a person who is convicted of an offense under Section 37.08, Penal Code, with respect to that complaint.

(b) The department may abate or defer a mandatory suspension or revocation of a license if the license holder presents evidence acceptable to the department that:

(1) the license holder is the victim of identity theft; and

(2) the person against whom a criminal complaint alleging the commission of an offense under Section 32.51, Penal Code, has been filed, and not the license holder, engaged in the act or omission that mandates the suspension or revocation.

(b) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

SECTION _____.10. (a) The changes in law made by this article to Sections 521.292, 521.294, 521.295, and 521.314, Transportation Code, apply only to a determination to suspend, revoke, or cancel a license or certificate made by the Department of Public Safety of the State of Texas on or after the effective date of this Act.

(b) The changes in law made by this article to Sections 521.341, 521.342, and 521.344, Transportation Code, and Section 13, Article 42.12, Code of Criminal Procedure, apply only to an offense committed on or after the effective date of this Act. For purposes of this subsection, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.