

## **BILL ANALYSIS**

H.B. 2851  
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Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Texas leads the nation in the number of alcohol-related traffic fatalities each year, necessitating a proactive stance to prevent driving while intoxicated (DWI) behaviors. Under current law, a person convicted of a DWI offense typically must submit to an alcohol and drug evaluation and follow its recommendations, as well as complete an education program on alcohol traffic safety course for the purpose of preventing future DWI behaviors. Even with these provisions, there are means in current law by which a person may not be required to participate in such programs, e.g., if a person is sentenced to jail time, a judge waives the program, or the person is convicted of a lesser charge.

The purpose of H.B. 2851 is to ensure that anyone who is arrested for a DWI-related offense receives an educational class, completes an evaluation for potential alcohol or drug addiction, and receives the necessary course of treatment to prevent future DWI behaviors.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 2851 amends the Code of Criminal Procedure by transferring certain responsibilities related to a drug or alcohol dependence evaluation and educational programs from the Texas Commission on Alcohol and Drug Abuse to the Department of State Health Services and makes conforming changes. This bill updates current law to provide that if a person is convicted of certain intoxication and alcoholic beverage offenses, and placed on community supervision, the judge must require that the defendant attend and successfully complete before the 181st day after the date of conviction an educational program jointly approved by certain entities which are designed to rehabilitate persons who have driven while intoxicated. The bill provides that a judge may grant an extension of time to complete the program that expires no later than one year after the date of conviction. The judge may waive the educational program if the defendant completes the program or has successfully completed a substantially identical program within six months of the date of conviction. The bill removes language which allowed the judge to waive unconditionally the educational program requirement or grant an extension based upon a determination of good cause. The bill also removes language regarding reporting requirements. The bill removes the provision in current law that provides that Section 13(h), Article 42.12, Code of Criminal Procedure, 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. The bill amends Section 13(k), Article 42.12, Code of Criminal Procedure, by changing the current provision to state that if the judge, under Subsection (h) or (j) of this section, requires a defendant punished under Section 49.09, Penal Code, to attend an educational program and the defendant has previously been required to attend such a program, the judge nonetheless must order the suspension of the driver's license, permit or operating privilege for a determined period. The bill removes the language, "although the previously required attendance had been waived," from Section 13(l), Article 42.12, Code of Criminal Procedure.

H.B. 2851 amends Section 521.313, Transportation Code, to provide that a license suspended or revoked under this subchapter may not be reinstated or another license issued to the person until the person pays the Department of Public Safety (department) a fee of \$100 in addition to any other fee required by law, and if the license was suspended or revoked on the conviction of an

offense under Section 49.04, 49.07, or 49.08, Penal Code, presents evidence satisfactory to the department showing that the person has completed an evaluation by a program or facility approved by the Department of State Health Services for the purpose of having the facility prescribe a course of conduct necessary to rehabilitate a drug or alcohol dependence condition and an educational program designed to rehabilitate DWI offenders. A person who has been evaluated as described above must also present evidence showing compliance with any recommendations issued as a result of the evaluation before the person's license may be reinstated or a new license issued. The payment of a reinstatement fee and completion of the evaluation and educational program are not required if a suspension or revocation is rescinded by the department, or not sustained by a presiding officer or court. Completion of the evaluation and education program is not required if the person has completed an evaluation and educational program under Sections 524.051 or 724.046 of the Transportation Code.

The bill amends the Transportation Code to state that a driver's license suspended under Chapter 524 or 724, Transportation Code, may not be reinstated or another driver's license issued to the person until the person pays certain fees, and presents evidence satisfactory to the department showing that the person completed an evaluation by a program or facility approved by the Department of State Health Services for the purpose of having the facility prescribe a course of conduct necessary to rehabilitate a drug or alcohol dependence condition and an education program designed to rehabilitate DWI offenders. A person who has been evaluated as required by Section 524.051(a) or 724.046(a), Transportation Code, must also present evidence showing compliance with any recommendations issued as a result of the evaluation before the person's license may be reinstated or a new license issued. The bill also provides that a person subject to a denial order issued under Chapter 724, Transportation Code, may not obtain a license after the period of denial has ended until the person pays to the department a fee of \$125 in addition to any other fee required by law.

The change in law made by this Act applies only to the suspension of the driver's license of a person convicted of an offense that is committed on or after September 1, 2007. The suspension of the driver's license of a person convicted of an offense that was committed before September 1, 2007, is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

#### **EFFECTIVE DATE**

September 1, 2007.