

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1061
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Criminal Justice
3/21/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Drinking and driving is a serious problem and current state laws do not provide law enforcement and prosecutors necessary tools to prosecute offenders. The current rate of refusal to submit to a breath test, around 40 to 45 percent, significantly inhibits prosecutions of DWI offenders because the blood-alcohol content of an offender is one of the most valuable pieces of evidence in those cases. Current law suspends a person's license for 180 days for the first refusal to submit to a breath test and for two years for a second refusal. Yet a study has shown that approximately 80 percent of drivers with suspended driver's licenses will drive despite the suspension, and, because they do not possess a valid license, they are also uninsured.

C.S.S.B. 1061 requires the Department of Public Safety (DPS) to order a person's license to be suspended for either 180 days or 45 days with the person restricted to the operation of a motor vehicle equipped with an ignition interlock device 135 days after the suspension ends on the person's first refusal to submit to a breath specimen test. The bill requires DPS to suspend the person's license for 45 days with the person restricted to the operation of a motor vehicle equipped with an ignition interlock device for one year after the suspension ends upon a second refusal by that person.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 724.001, Transportation Code, by adding Subdivision (8-a), to define "ignition interlock device."

SECTION 2. Amends Section 724.015, Transportation Code, to require an officer to inform a person orally and in writing, before requesting the person to submit to the taking of a specimen, that the person's license will be automatically suspended for the refusal to comply with such taking for either 180 days or 45 days with the person restricted to the operation of a motor vehicle equipped with an ignition interlock device (device) for not less than 135 days beginning on the date of the last day of the license suspension, in addition to other information set forth in this subsection. Makes a conforming change.

SECTION 3. Amends Sections 724.032(a), (c), and (d), Transportation Code, to make conforming changes.

SECTION 4. Amends the heading of Section 724.033, Transportation Code, to read as follows:

Sec. 724.033. ISSUANCE BY DEPARTMENT OF NOTICE OF LICENSE
SUSPENSION, DENIAL OF LICENSE, OR LICENSE SUSPENSION OR DENIAL
WITH RESTRICTION.

SECTION 5. Amends Section 724.033(a), Transportation Code, to provide that the notice the Department of Public Safety (DPS) is required to send to a person who was not given notice as required by Section 724.032 (Officer's Duties for License Suspension; Written Refusal Report) is required to state whether the person's license will be suspended or denied as set forth in this subsection. Makes conforming changes.

SECTION 6. Amends Section 724.034, Transportation Code, as follows:

Sec. 724.034. New heading: CONTENTS OF NOTICE OF LICENSE SUSPENSION, LICENSE DENIAL, OR SUSPENSION OR DENIAL OF LICENSE WITH DRIVING RESTRICTION. Sets forth the required statements of the notice under Section 724.033. Makes conforming changes.

SECTION 7. Amends the heading of Section 724.035, Transportation Code, to read as follows:

Sec. 724.035. SUSPENSION, DENIAL, OR SUSPENSION OR DENIAL OF LICENSE WITH DRIVING RESTRICTION.

SECTION 8. Amends Section 724.035, Transportation Code, by amending Subsections (a) and (b) and adding Subsection (a-1), as follows:

(a) Requires DPS, upon the refusal of a person to provide a specimen, to suspend the person's license for either 180 days, as previously provided, or 45 days with the person restricted to the operation of a motor vehicle equipped with a device for not less than 135 days beginning on the date of the last day of the license suspension, except as provided by Subsection (b). Makes conforming changes.

(a-1) Requires DPS to issue an order denying the issuance of a license to a person for 180 days if the person refuses the request of a peace officer to submit to the taking of a specimen.

(b) Requires the person's license to be suspended for 45 days and the person restricted to the operation of a motor vehicle equipped with a device for one year beginning on the day following the last day of the license suspension or denial if the person's driving record shows one or more drug-related or alcohol-related enforcement contacts during the 10 years preceding the date of the person's arrest, notwithstanding Subsection (a). Deletes a provision that the period of license suspension or denial is two years for such a record.

SECTION 9. Amends Sections 724.048(b) and (c), Transportation Code, to make conforming changes.

SECTION 10. Makes application of this Act prospective.

SECTION 11. Effective date: September 1, 2007.