

## **BILL ANALYSIS**

S.B. 1794  
By: Ogden  
Transportation  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Subchapter L of Chapter 521, Transportation Code, regulates the granting of occupational licenses related to certain intoxication offenses. Section 521.242, Transportation Code, in part provides that a person whose license has been suspended for a cause other than a physical or mental disability or impairment or a conviction under Section 49.04, Penal Code, may apply for an occupational license by filing a verified petition with the clerk of the county court or district court with jurisdiction in the county in which: (1) the person resides; or (2) the offense occurred for which the license was suspended. Current law further provides in Section 521.242 (b), Transportation Code, that a person may apply for an occupational license by filing a verified petition only with the clerk of the county court or district court in which the person was convicted if: (1) the person's license has been automatically suspended or canceled under this chapter for a conviction of an offense under the laws of this state; and (2) the person has not been issued, in the 10 years preceding the date of the filing of the petition, more than one occupational license after a conviction under the laws of this state.

As engrossed, Senate Bill 1794 will prohibit a person, whose driver's license has been suspended, from petitioning for an occupational driver's license if their license was suspended due to a charge or conviction of Penal Code 19.05 (criminally negligent homicide), Penal Code Section 49.04 (driving while intoxicated), Penal Code Section 49.045 (driving while intoxicated with child passenger), Penal Code Section 49.07 (intoxication assault), or Penal Code Section 49.08 (intoxication manslaughter). As engrossed, Senate Bill 1794 will also prohibit a person whose driver's license has been suspended from petitioning for an occupational driver's license if their license was suspended under Chapter 724, Transportation Code. Senate Bill 1794, as engrossed, would also allow a court to order a person, who failed a breath or blood test and whose license is suspended, to comply with the interlock device requirement under Section 521.246, Transportation Code.

### **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**

#### SECTION BY SECTION

SECTION 1 of S.B. 1794 amends Subsections (a) and (b), Section 521.242, Transportation Code, as follows:

- (a) A person whose license has been suspended for a cause other than a physical or mental disability or impairment, other than a conviction under Section 49.04 or 49.045, Penal Code, or other than as provided by Chapter 724 may apply for an occupational license by filing a verified petition with the clerk of the county court or district court with jurisdiction in the county in which:
  - (1) the person resides; or
  - (2) the offense occurred for which or in connection with which the license was suspended.
- (b) A person may apply for an occupational license by filing a verified petition only with the clerk of the county court or district court in which the person was convicted if:
  - (1) the person's license has been automatically suspended or canceled under this chapter for a conviction of an offense under the laws of this state;

- (2) the person has not been issued, in the 10 years preceding the date of the filing of the petition, more than one occupational license after a conviction under the laws of this state;
- (3) the offense for which the person's license was suspended or canceled was not an offense under Section 19.05, 49.04, 49.045, 49.07, or 49.08, Penal Code; and
- (4) the person's license has not been suspended under Chapter 724.

SECTION 2 of S.B. 1794 amends Subsection (c), Section 521.244, Transportation Code, as follows:

- (c) If the judge finds that there is an essential need, the judge also, as part of the order, shall:
- (1) determine the actual need of the petitioner to operate a motor vehicle;
  - (2) require the petitioner to provide evidence of financial responsibility in accordance with Chapter 601;
  - (3) determine whether the person meets the requirements of Section 521.242(b); and
  - (4) if applicable, determine the effective date of the order as provided by Section 521.251.

SECTION 3 of S.B. 1794 amends Subsections (a) and (e), Section 521.245, Transportation Code, as follows:

- (a) If the petitioner's license has been suspended under Chapter 524, the court shall require the petitioner to attend a program approved by the court that is designed to provide counseling and rehabilitation services to persons for alcohol dependence. This requirement shall be stated in the order granting the occupational license.
- (e) On receipt of the copy under Subsection (d), the department shall suspend the person's occupational license for 60 days, if the original driver's license suspension was under Chapter 524.

SECTION 4 of S.B. 1794 amends Subsection (b), Section 521.246, Transportation Code, as follows:

- (b) As part of the order, the judge shall restrict the person to the operation of a motor vehicle equipped with an ignition interlock device if the judge determines that the person's license has been suspended under Chapter 524.

SECTION 5 of S.B. 1794 amends Subsection (a), Section 521.248, Transportation Code, as follows:

- (a) An order granting an occupational license must include a finding that the person meets the requirements of Section 521.242(b) and specify:
- (1) the hours of the day and days of the week during which the person may operate a motor vehicle;
  - (2) the reasons for which the person may operate a motor vehicle;
  - (3) areas or routes of travel permitted; and
  - (4) if applicable, the effective date of the order as provided by Section 521.251.

SECTION 6 of S.B. 1794 amends Subsections (a) and (b), Section 521.251, Transportation Code, as follows:

- (a) If a person's license is suspended under Chapter 524 and the person has not had a prior suspension arising from an alcohol-related or drug-related enforcement contact in the five years preceding the date of the person's arrest, an order under this subchapter granting the person an occupational license takes effect immediately. However, the court shall order the person to comply with:
- (1) the counseling and rehabilitation program required under Section 521.245; and
  - (2) the ignition interlock device requirement under Section 521.246.
- (b) If the person's driver's license has been suspended as a result of an alcohol-related or drug-related enforcement contact during the five years preceding the date of the suspension under Chapter 524, the order may not take effect before the 91st day after the effective date of the suspension. The court shall order the person to comply with the ignition interlock device requirement under Section 521.246.

SECTION 7 of S.B. 1794 repeals the following provisions of the Transportation Code:  
(1) Subsections (a) and (f), Section 521.246; and  
(2) Subsections (c) and (d), Section 521.251.

SECTION 8 of S.B. 1794 provides that the change in law made by this Act applies only to an occupational driver's license that is applied for on or after September 1, 2007. An occupational driver's license applied for before September 1, 2007, is covered by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 9 of S.B. 1794 provides that this Act takes effect September 1, 2007.

**EFFECTIVE DATE**

September 1, 2007.