

By: Martinez Fischer

H.B. No. 1800

A BILL TO BE ENTITLED

1 AN ACT

2 relating to enhancement of the punishment for certain intoxication
3 offenses based on past convictions under federal law and the
4 Uniform Code of Military Justice.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Sections 49.09(b) and (c), Penal Code, are
7 amended to read as follows:

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

11 (1) one time of an offense under Section 49.08 or an
12 offense under the laws of another state, federal law, or the Uniform
13 Code of Military Justice if the offense contains elements that are
14 substantially similar to the elements of an offense under Section
15 49.08; or

16 (2) two times of any other offense relating to the
17 operating of a motor vehicle while intoxicated, operating an
18 aircraft while intoxicated, operating a watercraft while
19 intoxicated, or operating or assembling an amusement ride while
20 intoxicated.

21 (c) For the purposes of this section:

22 (1) "Offense relating to the operating of a motor
23 vehicle while intoxicated" means:

24 (A) an offense under Section 49.04 or 49.045;

1 (B) an offense under Section 49.07 or 49.08, if
2 the vehicle operated was a motor vehicle;

3 (C) an offense under Article 67011-1, Revised
4 Statutes, as that law existed before September 1, 1994;

5 (D) an offense under Article 67011-2, Revised
6 Statutes, as that law existed before January 1, 1984;

7 (E) an offense under Section 19.05(a)(2), as that
8 law existed before September 1, 1994, if the vehicle operated was a
9 motor vehicle; or

10 (F) an offense under any of the following that
11 prohibits the operation of a motor vehicle while intoxicated:

12 (i) the laws of another state;

13 (ii) federal law; or

14 (iii) the Uniform Code of Military Justice

15 [~~that prohibit the operation of a motor vehicle while intoxicated~~].

16 (2) "Offense of operating an aircraft while
17 intoxicated" means:

18 (A) an offense under Section 49.05;

19 (B) an offense under Section 49.07 or 49.08, if
20 the vehicle operated was an aircraft;

21 (C) an offense under Section 1, Chapter 46, Acts
22 of the 58th Legislature, Regular Session, 1963 (Article 46f-3,
23 Vernon's Texas Civil Statutes), as that law existed before
24 September 1, 1994;

25 (D) an offense under Section 19.05(a)(2), as that
26 law existed before September 1, 1994, if the vehicle operated was an
27 aircraft; or

1 (E) an offense under any of the following that
2 prohibits the operation of an aircraft while intoxicated:

3 (i) the laws of another state;

4 (ii) federal law; or

5 (iii) the Uniform Code of Military Justice
6 ~~[that prohibit the operation of an aircraft while intoxicated].~~

7 (3) "Offense of operating a watercraft while
8 intoxicated" means:

9 (A) an offense under Section 49.06;

10 (B) an offense under Section 49.07 or 49.08, if
11 the vehicle operated was a watercraft;

12 (C) an offense under Section 31.097, Parks and
13 Wildlife Code, as that law existed before September 1, 1994;

14 (D) an offense under Section 19.05(a)(2), as that
15 law existed before September 1, 1994, if the vehicle operated was a
16 watercraft; or

17 (E) an offense under any of the following that
18 prohibits the operation of a watercraft while intoxicated:

19 (i) the laws of another state;

20 (ii) federal law; or

21 (iii) the Uniform Code of Military Justice
22 ~~[that prohibit the operation of a watercraft while intoxicated].~~

23 (4) "Offense of operating or assembling an amusement
24 ride while intoxicated" means:

25 (A) an offense under Section 49.065;

26 (B) an offense under Section 49.07 or 49.08, if
27 the offense involved the operation or assembly of an amusement

1 ride; or

2 (C) an offense under any of the following that
3 prohibits the operation of an amusement ride while intoxicated or
4 the assembly of a mobile amusement ride while intoxicated:

5 (i) the laws [law] of another state;

6 (ii) federal law; or

7 (iii) the Uniform Code of Military Justice

8 [~~that prohibits the operation of an amusement ride while~~
9 ~~intoxicated or the assembly of a mobile amusement ride while~~
10 ~~intoxicated].~~

11 SECTION 2. (a) The changes in law made by this Act apply
12 only to the punishment for an offense under Section 49.04, 49.05,
13 49.06, or 49.065, Penal Code, committed on or after the effective
14 date of this Act. For purposes of this section, an offense is
15 committed before the effective date of this Act if any element of
16 the offense occurs before that date.

17 (b) The punishment for an offense under Section 49.04,
18 49.05, 49.06, or 49.065, Penal Code, committed before the effective
19 date of this Act is covered by the law in effect when the offense was
20 committed, and the former law is continued in effect for that
21 purpose.

22 SECTION 3. This Act takes effect September 1, 2007.