

By: Davis of Harris

H.B. No. 2851

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the requirement that certain persons whose driver's
3 licenses are suspended or revoked on conviction of an offense for
4 driving while intoxicated complete a drug or alcohol dependence
5 evaluation and educational program.

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

7 SECTION 1. Sections 13(a), (h), (j), (k), and (l), Article
8 42.12, Code of Criminal Procedure, are amended to read as follows:

9 (a) A judge granting community supervision to a defendant
10 convicted of an offense under Chapter 49, Penal Code, shall require
11 as a condition of community supervision that the defendant submit
12 to:

13 (1) not less than 72 hours of continuous confinement
14 in county jail if the defendant was punished under Section
15 49.09(a); not less than five days of confinement in county jail if
16 the defendant was punished under Section 49.09(a) and was subject
17 to Section 49.09(h); not less than 10 days of confinement in county
18 jail if the defendant was punished under Section 49.09(b) or (c); or
19 not less than 30 days of confinement in county jail if the defendant
20 was convicted under Section 49.07; and

21 (2) an evaluation by a [~~supervision officer or by a~~
22 ~~person~~] program[~~7~~] or facility approved by the Department of State
23 Health Services [~~Texas Commission on Alcohol and Drug Abuse~~] for
24 the purpose of having the facility prescribe and carry out a course

1 of conduct necessary for the rehabilitation of the defendant's drug
2 or alcohol dependence condition.

3 (h) If a person is convicted of an offense under Sections
4 49.04-49.08, Penal Code, and [~~is~~] placed on community supervision,
5 the judge shall require[~~, as a condition of the community~~
6 ~~supervision,~~] that the defendant attend and successfully complete
7 before the 181st day after the date of conviction [~~the day community~~
8 ~~supervision is granted~~] an educational program jointly approved by
9 the Department of State Health Services [~~Texas Commission on~~
10 ~~Alcohol and Drug Abuse~~], the Department of Public Safety, the
11 Traffic Safety Section of the Texas Department of Transportation,
12 and the community justice assistance division of the Texas
13 Department of Criminal Justice designed to rehabilitate persons who
14 have driven while intoxicated. The Department of State Health
15 Services [~~Texas Commission on Alcohol and Drug Abuse~~] shall publish
16 the jointly approved rules and shall monitor, coordinate, and
17 provide training to persons providing the educational programs.
18 The Department of State Health Services [~~Texas Commission on~~
19 ~~Alcohol and Drug Abuse~~] is responsible for the administration of
20 the certification of approved educational programs and may charge a
21 nonrefundable application fee for the initial certification of
22 approval and for renewal of a certificate. The judge may [~~waive the~~
23 ~~educational program requirement or may~~] grant an extension of time
24 to successfully complete the program that expires not later than
25 one year after the date of conviction [~~beginning date of the~~
26 ~~person's community supervision, however, if the defendant by a~~
27 ~~motion in writing shows good cause~~]. The judge may waive the

1 educational program if the defendant completes the program or has
2 successfully completed a substantially identical program within
3 six months of the date of conviction. [~~In determining good cause,~~
4 ~~the judge may consider but is not limited to: the defendant's~~
5 ~~school and work schedule, the defendant's health, the distance that~~
6 ~~the defendant must travel to attend an educational program, and the~~
7 ~~fact that the defendant resides out of state, has no valid driver's~~
8 ~~license, or does not have access to transportation. The judge shall~~
9 ~~set out the finding of good cause for waiver in the judgment. If a~~
10 ~~defendant is required, as a condition of community supervision, to~~
11 ~~attend an educational program or if the court waives the~~
12 ~~educational program requirement, the court clerk shall immediately~~
13 ~~report that fact to the Department of Public Safety, on a form~~
14 ~~prescribed by the department, for inclusion in the person's driving~~
15 ~~record. If the court grants an extension of time in which the~~
16 ~~person may complete the program, the court clerk shall immediately~~
17 ~~report that fact to the Department of Public Safety on a form~~
18 ~~prescribed by the department. The report must include the~~
19 ~~beginning date of the person's community supervision.] Upon the
20 person's successful completion of the educational program, the
21 person's instructor shall give notice to the Department of Public
22 Safety for inclusion in the person's driving record and to the
23 community supervision and corrections department. The community
24 supervision and corrections department shall then forward the
25 notice to the court clerk for filing. If the Department of Public
26 Safety does not receive notice that a defendant required to
27 complete an educational program has successfully completed the~~

1 program within the period required by this section, as shown on
2 department records, the department shall revoke the defendant's
3 driver's license, permit, or privilege or prohibit the person from
4 obtaining a license or permit, as provided by Sections 521.344(e)
5 and (f), Transportation Code. The Department of Public Safety may
6 not reinstate a license suspended under this subsection until the
7 defendant shows proof of having completed the approved educational
8 program and ~~[unless]~~ the person whose license was suspended makes
9 application to the department for reinstatement of the person's
10 license and pays to the department a reinstatement fee of \$50. The
11 Department of Public Safety shall remit all fees collected under
12 this subsection to the comptroller for deposit in the general
13 revenue fund. ~~[This subsection does not apply to a defendant if a~~
14 ~~jury recommends community supervision for the defendant and also~~
15 ~~recommends that the defendant's driver's license not be suspended.]~~

16 (j) The judge shall require a defendant who is punished
17 under Section 49.09, Penal Code, as a condition of community
18 supervision, to attend and successfully complete an educational
19 program for repeat offenders approved by the Department of State
20 Health Services ~~[Texas Commission on Alcohol and Drug Abuse]~~. The
21 Department of State Health Services ~~[Texas Commission on Alcohol~~
22 ~~and Drug Abuse]~~ shall adopt rules and shall monitor, coordinate,
23 and provide training to persons providing the educational programs.
24 The Department of State Health Services ~~[Texas Commission on~~
25 ~~Alcohol and Drug Abuse]~~ is responsible for the administration of
26 the certification of approved educational programs and may charge a
27 nonrefundable application fee for initial certification of

1 approval or for renewal of the certification. The judge may waive
2 the educational program [~~requirement only~~] if the defendant
3 completes the program or has successfully completed a substantially
4 identical program within six months of the date of conviction [~~by a~~
5 ~~motion in writing shows good cause. In determining good cause, the~~
6 ~~judge may consider the defendant's school and work schedule, the~~
7 ~~defendant's health, the distance that the defendant must travel to~~
8 ~~attend an educational program, and whether the defendant resides~~
9 ~~out of state or does not have access to transportation. The judge~~
10 ~~shall set out the finding of good cause in the judgment. If a~~
11 ~~defendant is required, as a condition of community supervision, to~~
12 ~~attend an educational program, the court clerk shall immediately~~
13 ~~report that fact to the Department of Public Safety, on a form~~
14 ~~prescribed by the department, for inclusion in the defendant's~~
15 ~~driving record. The report must include the beginning date of the~~
16 ~~defendant's community supervision~~]. On the defendant's successful
17 completion of the educational program for repeat offenders, the
18 defendant's instructor shall give notice to the Department of
19 Public Safety for inclusion in the defendant's driving record and
20 to the community supervision and corrections department. The
21 community supervision and corrections department shall then
22 forward the notice to the court clerk for filing. If the Department
23 of Public Safety does not receive notice that a defendant required
24 to complete an educational program has successfully completed the
25 program for repeat offenders within the period required by the
26 judge, as shown on department records, the department shall revoke
27 the defendant's driver's license, permit, or privilege or prohibit

1 the defendant from obtaining a license or permit, as provided by
2 Sections 521.344(e) and (f), Transportation Code.

3 (k) If [~~Notwithstanding Sections 521.344(d)-(i),~~
4 ~~Transportation Code, if~~] the judge, under Subsection (h) or (j) of
5 this section, [~~permits or~~] requires a defendant punished under
6 Section 49.09, Penal Code, to attend an educational program [~~as a~~
7 ~~condition of community supervision, or waives the required~~
8 ~~attendance for such a program,~~] and the defendant has previously
9 been required to attend such a program, [~~or the required attendance~~
10 ~~at the program had been waived,~~] the judge nonetheless shall order
11 the suspension of the driver's license, permit, or operating
12 privilege of that person for a period determined by the judge
13 according to the following schedule:

14 (1) not less than 90 days or more than 365 days, if the
15 defendant is convicted under Sections 49.04-49.08, Penal Code;

16 (2) not less than 180 days or more than two years, if
17 the defendant is punished under Section 49.09(a) or (b), Penal
18 Code; or

19 (3) not less than one year or more than two years, if
20 the person is convicted of a second or subsequent offense under
21 Sections 49.04-49.08, Penal Code, committed within five years of
22 the date on which the most recent preceding offense was committed.

23 (1) If the Department of Public Safety receives notice that
24 a defendant has been required or permitted to attend a subsequent
25 educational program under Subsection (h), (j), or (k) of this
26 section, [~~although the previously required attendance had been~~
27 ~~waived,~~] but the judge has not ordered a period of suspension, the

1 department shall suspend the defendant's driver's license, permit,
2 or operating privilege, or shall issue an order prohibiting the
3 defendant from obtaining a license or permit for a period of 365
4 days.

5 SECTION 2. Section 521.313, Transportation Code, is amended
6 by amending Subsections (a) and (b) and adding Subsections (a-1)
7 and (b-1) to read as follows:

8 (a) A license suspended or revoked under this subchapter may
9 not be reinstated or another license issued to the person until the
10 person:

11 (1) pays the department a fee of \$100 in addition to
12 any other fee required by law; and

13 (2) if the license was suspended or revoked on the
14 conviction of an offense under Section 49.04, 49.07, or 49.08,
15 Penal Code, presents evidence satisfactory to the department
16 showing that the person has completed:

17 (A) an evaluation by a program or facility
18 approved by the Department of State Health Services for the purpose
19 of having the facility prescribe a course of conduct necessary for
20 the rehabilitation of a drug or alcohol dependence condition; and

21 (B) an educational program designed to
22 rehabilitate persons who operated motor vehicles while
23 intoxicated.

24 (a-1) A person who has been evaluated as required by
25 Subsection (a) must also present evidence showing compliance with
26 any recommendations issued as a result of the evaluation before the
27 person's license may be reinstated or a new license issued.

1 (b) The payment of a reinstatement fee and completion of an
2 evaluation and an educational program are [~~is~~] not required if a
3 suspension or revocation under this subchapter is:

4 (1) rescinded by the department; or

5 (2) not sustained by a presiding officer or a court.

6 (b-1) Completion of the evaluation and educational program
7 required by Subsection (a) is not required if the person has
8 completed an evaluation and educational program under Section
9 524.051 or 724.046.

10 SECTION 3. Section 524.051, Transportation Code, is amended
11 by amending Subsection (a) and adding Subsection (a-1) to read as
12 follows:

13 (a) A driver's license suspended under this chapter may not
14 be reinstated or another driver's license issued to the person
15 until the person:

16 (1) pays the department a fee of \$125 in addition to
17 any other fee required by law; and

18 (2) presents evidence satisfactory to the department
19 showing that the person has completed:

20 (A) an evaluation by a program or facility
21 approved by the Department of State Health Services for the purpose
22 of having the facility prescribe a course of conduct necessary for
23 the rehabilitation of a drug or alcohol dependence condition; and

24 (B) an educational program designed to
25 rehabilitate persons who operated motor vehicles while
26 intoxicated.

27 (a-1) A person who has been evaluated as required by

1 Subsection (a) must also present evidence showing compliance with
2 any recommendations issued as a result of the evaluation before the
3 person's license may be reinstated or a new license issued.

4 SECTION 4. Section 724.046, Transportation Code, is amended
5 by amending Subsection (a) and adding Subsections (a-1) and (a-2)
6 to read as follows:

7 (a) A license suspended under this chapter may not be
8 reinstated or a new license issued until the person whose license
9 has been suspended:

10 (1) pays to the department a fee of \$125 in addition to
11 any other fee required by law; and

12 (2) presents evidence satisfactory to the department
13 showing that the person has completed:

14 (A) an evaluation by a program or facility
15 approved by the Department of State Health Services for the purpose
16 of having the facility prescribe a course of conduct necessary for
17 the rehabilitation of a drug or alcohol dependence condition; and

18 (B) an educational program designed to
19 rehabilitate persons who operated motor vehicles while
20 intoxicated~~[. A person subject to a denial order issued under this~~
21 ~~chapter may not obtain a license after the period of denial has~~
22 ~~ended until the person pays to the department a fee of \$125 in~~
23 ~~addition to any other fee required by law].~~

24 (a-1) A person subject to a denial order issued under this
25 chapter may not obtain a license after the period of denial has
26 ended until the person pays to the department a fee of \$125 in
27 addition to any other fee required by law.

1 (a-2) A person who has been evaluated as required by
2 Subsection (a) must also present evidence showing compliance with
3 any recommendations issued as a result of the evaluation before the
4 person's license may be reinstated or a new license issued.

5 SECTION 5. The change in law made by this Act applies only
6 to the suspension of the driver's license of a person convicted of
7 an offense that is committed on or after September 1, 2007. The
8 suspension of the driver's license of a person convicted of an
9 offense that was committed before September 1, 2007, is governed by
10 the law in effect on the date the offense was committed, and the
11 former law is continued in effect for that purpose.

12 SECTION 6. This Act takes effect September 1, 2007.