

By: Martinez Fischer

H.B. No. 3049

A BILL TO BE ENTITLED

AN ACT

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relating to the punishment for certain intoxication related offenses; creating an offense for aggravated driving while intoxicated.

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

SECTION 1. Chapter 49, Penal Code, is amended by adding Section 49.046 to read as follows:

Sec. 49.046. AGGRAVATED DRIVING WHILE INTOXICATED. (a) A person commits an offense if:

(1) the person is intoxicated while operating a motor vehicle in a public place; and

(2) the person:

(A) has an alcohol concentration of 0.16 or more;

or

(B) has an alcohol concentration of 0.02 or more and is operating a commercial motor vehicle, as defined by Section 522.003, Transportation Code.

(b) Except as provided by Section 49.09, an offense under this section is a Class A misdemeanor, with a minimum term of confinement of 30 days.

SECTION 2. Section 49.09, Penal Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) An offense under Section 49.04, 49.05, 49.06, or 49.065

1 is a felony of the third degree if it is shown on the trial of the
2 offense that the person has previously been convicted:

3 (1) one time of an offense under Section 49.08 or an
4 offense under the laws of another state if the offense contains
5 elements that are substantially similar to the elements of an
6 offense under Section 49.08; [~~or~~]

7 (2) one time of an offense under Section 49.046 or an
8 offense under the laws of another state if the offense contains
9 elements that are substantially similar to the elements of an
10 offense under Section 49.046; or

11 (3) two times of any other offense relating to the
12 operating of a motor vehicle while intoxicated, operating an
13 aircraft while intoxicated, operating a watercraft while
14 intoxicated, or operating or assembling an amusement ride while
15 intoxicated.

16 (b-1) An offense under Section 49.046 is a felony of the
17 third degree if it is shown on the trial of the offense that the
18 person has previously been convicted:

19 (1) one time of an offense under Section 49.08 or an
20 offense under the laws of another state if the offense contains
21 elements that are substantially similar to the elements of an
22 offense under Section 49.08; or

23 (2) one time of an offense relating to the operating of
24 a motor vehicle while intoxicated, an offense of operating an
25 aircraft while intoxicated, an offense of operating a watercraft
26 while intoxicated, or an offense of operating or assembling an
27 amusement ride while intoxicated.

1 SECTION 3. (a) The change in law made by this Act by the
2 amendment of Section 49.09(b), Penal Code, applies only to the
3 punishment for an offense under Section 49.04, 49.05, 49.06, or
4 49.065, Penal Code, committed on or after the effective date of this
5 Act. For purposes of this section, an offense is committed before
6 the effective date of this Act if any element of the offense occurs
7 before that date.

8 (b) The punishment for an offense committed before the
9 effective date of this Act is covered by the law in effect when the
10 offense was committed, and the former law is continued in effect for
11 that purpose.

12 SECTION 4. This Act takes effect September 1, 2007.