

By: Carona

S.B. No. 1085

A BILL TO BE ENTITLED

AN ACT

relating to the suspension, revocation, or cancellation of a driver's license, instruction permit, or operating privilege by the Department of Public Safety of the State of Texas.

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

SECTION 1. Subsection (a), Section 521.292, Transportation Code, is amended to read as follows:

(a) The department shall suspend the person's license if the department determines that the person:

(1) has operated a motor vehicle on a highway while the person's license was suspended, canceled, disqualified, or revoked, or without a license after an application for a license was denied;

(2) is a habitually reckless or negligent operator of a motor vehicle;

(3) is a habitual violator of the traffic laws;

(4) has permitted the unlawful or fraudulent use of the person's license;

(5) has committed an offense in another state or Canadian province that, if committed in this state, would be grounds for suspension;

(6) has been convicted of two or more separate offenses of a violation of a restriction imposed on the use of the license;

1 (7) has been responsible as a driver for any accident
2 resulting in serious personal injury or serious property damage;

3 (8) is the holder of a provisional license issued
4 under Section 521.123 or an instruction permit under Section
5 521.222 and has been convicted of two or more moving violations
6 committed within a 12-month period; or

7 (9) has committed an offense under Section 545.421.

8 SECTION 2. Section 521.294, Transportation Code, is amended
9 to read as follows:

10 Sec. 521.294. DEPARTMENT'S DETERMINATION FOR LICENSE
11 REVOCATION. The department shall revoke the person's license if
12 the department determines that the person:

13 (1) is incapable of safely operating a motor vehicle;

14 (2) has not complied with the terms of a citation
15 issued by a jurisdiction that is a party to the Nonresident Violator
16 Compact of 1977 for a traffic violation to which that compact
17 applies;

18 (3) has failed to provide medical records or has
19 failed to undergo medical or other examinations as required by a
20 panel of the medical advisory board;

21 (4) has failed to pass an examination or to provide any
22 information relating to the person's ability to safely operate a
23 motor vehicle as required by the director under this chapter;

24 (5) has been reported by a court under Section
25 521.3452 for failure to appear unless the court files an additional
26 report on final disposition of the case;

27 (6) has been reported within the preceding two years

1 by a justice or municipal court for failure to appear or for a
2 default in payment of a fine for a misdemeanor punishable only by
3 fine, other than a failure reported under Section 521.3452,
4 committed by a person who is at least 14 years of age but younger
5 than 17 years of age when the offense was committed, unless the
6 court files an additional report on final disposition of the case;
7 or

8 (7) has committed an offense in another state or
9 Canadian province that, if committed in this state, would be
10 grounds for revocation.

11 SECTION 3. Subsection (a), Section 521.295, Transportation
12 Code, is amended to read as follows:

13 (a) On a determination that the person meets the criteria
14 for [If] the department to initiate enforcement action ~~[suspends a~~
15 ~~person's license]~~ under Section 521.292 or ~~[revokes a person's~~
16 ~~license under Section]~~ 521.294, the department shall send a notice
17 of suspension or revocation ~~[by first class mail]~~ to the person's
18 address in the records of the department.

19 SECTION 4. Section 521.314, Transportation Code, is amended
20 to read as follows:

21 Sec. 521.314. CANCELLATION AUTHORITY. The department may
22 cancel a license or certificate if it determines that the holder:

23 (1) was not entitled to the license or certificate;
24 ~~[or]~~

25 (2) failed to give required information in the
26 application for the license or certificate;

27 (3) failed to update personal information on the

1 license or certificate;

2 (4) failed to remit payment of a driver's license fee
3 imposed under this chapter or Chapter 522; or

4 (5) issued a check or draft drawn on a bank or trust
5 company in payment of a driver's license fee imposed under this
6 chapter or Chapter 522 that is returned unpaid because of
7 insufficient funds or no funds in the bank or trust company to the
8 credit of the drawer of the check or draft.

9 SECTION 5. Section 521.341, Transportation Code, is amended
10 to read as follows:

11 Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE
12 SUSPENSION. Except as provided by Sections 521.344(d)-(i), a
13 license is automatically suspended on final conviction of the
14 license holder of:

15 (1) an offense under Section 19.05, Penal Code,
16 committed as a result of the holder's criminally negligent
17 operation of a motor vehicle;

18 (2) an offense under Section 38.04, Penal Code, if the
19 holder used a motor vehicle in the commission of the offense;

20 (3) an offense under Section 49.04, 49.045, or 49.08,
21 Penal Code;

22 (4) an offense under Section 49.07, Penal Code, if the
23 holder used a motor vehicle in the commission of the offense;

24 (5) an offense punishable as a felony under the motor
25 vehicle laws of this state;

26 (6) an offense under Section 550.021; or

27 (7) an offense under Section 521.451 or 521.453.

1 SECTION 6. Subsections (a) and (b), Section 521.342,
2 Transportation Code, are amended to read as follows:

3 (a) Except as provided by Section 521.344, the license of a
4 person who was under 21 years of age at the time of the offense,
5 other than an offense classified as a misdemeanor punishable by
6 fine only, is automatically suspended on conviction of:

7 (1) an offense under Section 49.04, 49.045, or 49.07,
8 Penal Code, committed as a result of the introduction of alcohol
9 into the body;

10 (2) an offense under the Alcoholic Beverage Code,
11 other than an offense to which Section 106.071 of that code applies,
12 involving the manufacture, delivery, possession, transportation,
13 or use of an alcoholic beverage;

14 (3) a misdemeanor offense under Chapter 481, Health
15 and Safety Code, for which Subchapter P does not require the
16 automatic suspension of the license;

17 (4) an offense under Chapter 483, Health and Safety
18 Code, involving the manufacture, delivery, possession,
19 transportation, or use of a dangerous drug; or

20 (5) an offense under Chapter 485, Health and Safety
21 Code, involving the manufacture, delivery, possession,
22 transportation, or use of an abusable volatile chemical.

23 (b) The department shall suspend for one year the license of
24 a person who is under 21 years of age and is convicted of an offense
25 under Section 49.04, 49.045, 49.07, or 49.08, Penal Code,
26 regardless of whether the person is required to attend an
27 educational program under Section 13(h), Article 42.12, Code of

1 Criminal Procedure, that is designed to rehabilitate persons who
2 have operated motor vehicles while intoxicated, unless the person
3 is placed under community supervision under that article and is
4 required as a condition of the community supervision to not operate
5 a motor vehicle unless the vehicle is equipped with the device
6 described by Section 13(i) of that article. If the person is
7 required to attend such a program and does not complete the program
8 before the end of the person's suspension, the department shall
9 suspend the person's license or continue the suspension, as
10 appropriate, until the department receives proof that the person
11 has successfully completed the program. On the person's successful
12 completion of the program, the person's instructor shall give
13 notice to the department and to the community supervision and
14 corrections department in the manner provided by Section 13(h),
15 Article 42.12, Code of Criminal Procedure.

16 SECTION 7. Subsections (a), (c), (g), and (i), Section
17 521.344, Transportation Code, are amended to read as follows:

18 (a) Except as provided by Sections 521.342(b) and 521.345,
19 and by Subsections (d)-(i), if a person is convicted of an offense
20 under Section 49.04, 49.045, or 49.07, Penal Code, the license
21 suspension:

22 (1) begins on a date set by the court that is not
23 earlier than the date of the conviction or later than the 30th day
24 after the date of the conviction, as determined by the court; and

25 (2) continues for a period set by the court according
26 to the following schedule:

27 (A) not less than 90 days or more than one year,

1 if the person is punished under Section 49.04, 49.045, or 49.07,
2 Penal Code, except that if the person's license is suspended for a
3 second or subsequent offense under Section 49.07 committed within
4 five years of the date on which the most recent preceding offense
5 was committed, the suspension continues for a period of one year;

6 (B) not less than 180 days or more than two years,
7 if the person is punished under Section 49.09(a) or (b), Penal Code;
8 or

9 (C) not less than one year or more than two years,
10 if the person is punished under Section 49.09(a) or (b), Penal Code,
11 and is subject to Section 49.09(h) of that code.

12 (c) The court shall credit toward the period of suspension a
13 suspension imposed on the person for refusal to give a specimen
14 under Chapter 724 if the refusal followed an arrest for the same
15 offense for which the court is suspending the person's license
16 under this chapter. The court may not extend the credit to a
17 person:

18 (1) who has been previously convicted of an offense
19 under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

20 (2) whose period of suspension is governed by Section
21 521.342(b).

22 (g) A revocation, suspension, or prohibition order under
23 Subsection (e) or (f) remains in effect until the department
24 receives notice of successful completion of the educational
25 program. The director shall promptly send notice of a revocation or
26 prohibition order issued under Subsection (e) or (f) by first class
27 mail to the person at the person's most recent address as shown in

1 the records of the department. The notice must include the date of
2 the revocation or prohibition order, the reason for the revocation
3 or prohibition, and a statement that the person has the right to
4 request in writing that a hearing be held on the revocation or
5 prohibition. Notice is considered received on the fifth day after
6 the date the notice is mailed. A revocation or prohibition under
7 Subsection (e) or (f) takes effect on the 40th ~~[30th]~~ day after the
8 date the person is considered to have received notice of revocation
9 or prohibition under Section 521.295 ~~[notice is mailed]~~. The
10 person may request a hearing not later than the 20th day after the
11 date the notice is mailed. If the department receives a request
12 under this subsection, the department shall set the hearing for the
13 earliest practical time and the revocation or prohibition does not
14 take effect until resolution of the hearing.

15 (i) On the date that a suspension order under Section
16 521.343(c) is to expire, the period of suspension or the
17 corresponding period in which the department is prohibited from
18 issuing a license is automatically increased to two years unless
19 the department receives notice of successful completion of the
20 educational program as required by Section 13, Article 42.12, Code
21 of Criminal Procedure. At the time a person is convicted of an
22 offense under Section 49.04 or 49.045, Penal Code, the court shall
23 warn the person of the effect of this subsection. On the person's
24 successful completion of the program, the person's instructor shall
25 give notice to the department and to the community supervision and
26 corrections department in the manner required by Section 13,
27 Article 42.12, Code of Criminal Procedure. If the department

1 receives proof of completion after a period has been extended under
2 this subsection, the department shall immediately end the
3 suspension or prohibition.

4 SECTION 8. Subsections (h) and (n), Section 13, Article
5 42.12, Code of Criminal Procedure, are amended to read as follows:

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

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

1 prohibit the person from obtaining a license or permit, as provided
 2 by Sections 521.344(e) and (f), Transportation Code. The
 3 Department of Public Safety may not reinstate a license suspended
 4 under this subsection unless the person whose license was suspended
 5 makes application to the department for reinstatement of the
 6 person's license and pays to the department a reinstatement fee of
 7 \$100 [~~\$50~~]. The Department of Public Safety shall remit all fees
 8 collected under this subsection to the comptroller for deposit in
 9 the general revenue fund. This subsection does not apply to a
 10 defendant if a jury recommends community supervision for the
 11 defendant and also recommends that the defendant's driver's license
 12 not be suspended.

13 (n) Notwithstanding any other provision of this section or
 14 other law, the judge who places on community supervision a
 15 defendant who was [~~is~~] younger than 21 years of age at the time of
 16 the offense and convicted for an offense under Sections
 17 49.04-49.08, Penal Code, shall:

18 (1) order that the defendant's driver's license be
 19 suspended for 90 days beginning on the date that the person is
 20 placed on community supervision; and

21 (2) require as a condition of community supervision
 22 that the defendant not operate a motor vehicle unless the vehicle is
 23 equipped with the device described by Subsection (i) of this
 24 section.

25 SECTION 9. (a) The changes in law made by this Act to
 26 Sections 521.292, 521.294, 521.295, and 521.314, Transportation
 27 Code, apply only to a determination to suspend, revoke, or cancel a

1 license or certificate made by the Department of Public Safety of
2 the State of Texas on or after the effective date of this Act.

3 (b) The changes in law made by this Act to Sections 521.341,
4 521.342, and 521.344, Transportation Code, and Section 13, Article
5 42.12, Code of Criminal Procedure, apply only to an offense
6 committed on or after the effective date of this Act. For purposes
7 of this subsection, an offense is committed before the effective
8 date of this Act if any element of the offense occurs before the
9 effective date.

10 SECTION 10. This Act takes effect September 1, 2007.