

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.

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

SECTION 1. Section 521.292(a), 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. Section 521.295(a), Transportation Code, is  
12 amended to read as follows:

13 (a) On a determination that the person meets the criteria  
14 for the department to initiate enforcement action [~~If the~~  
15 ~~department suspends a person's license~~] under Section 521.292 or  
16 [~~revokes a person's license under Section~~] 521.294, the department  
17 shall send a notice of suspension or revocation [~~by first class~~  
18 ~~mail~~] to the person's 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. Subchapter O, Chapter 521, Transportation Code,  
10 is amended by adding Section 521.3401 to read as follows:

11 Sec. 521.3401. AUTHORITY TO IMPOSE MINIMUM SUSPENSION. If  
12 the department receives notice that a defendant has been convicted  
13 of an offense that requires the suspension of the defendant's  
14 driver's license, instruction permit, or operating privilege under  
15 this subchapter, and the court has not ordered a period of  
16 suspension that is at least the minimum as required by this  
17 subchapter, the department shall suspend the defendant's driver's  
18 license, instruction permit, or operating privilege for the minimum  
19 period specified by this subchapter.

20 SECTION 6. Section 521.341, Transportation Code, is amended  
21 to read as follows:

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

26 (1) an offense under Section 19.05, Penal Code,  
27 committed as a result of the holder's criminally negligent

1 operation of a motor vehicle;

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

4 (3) an offense under Section 49.04, 49.045, or 49.08,  
5 Penal Code;

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

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

10 (6) an offense under Section 550.021; or

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

12 SECTION 7. Sections 521.342(a) and (b), Transportation  
13 Code, are amended to read as follows:

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

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

21 (2) an offense under the Alcoholic Beverage Code,  
22 other than an offense to which Section 106.071 of that code applies,  
23 involving the manufacture, delivery, possession, transportation,  
24 or use of an alcoholic beverage;

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

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

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

7           (b) The department shall suspend for one year the license of  
8 a person who is under 21 years of age and is convicted of an offense  
9 under Section 49.04, 49.045, 49.07, or 49.08, Penal Code,  
10 regardless of whether the person is required to attend an  
11 educational program under Section 13(h), Article 42.12, Code of  
12 Criminal Procedure, that is designed to rehabilitate persons who  
13 have operated motor vehicles while intoxicated, unless the person  
14 is placed under community supervision under that article and is  
15 required as a condition of the community supervision to not operate  
16 a motor vehicle unless the vehicle is equipped with the device  
17 described by Section 13(i) of that article. If the person is  
18 required to attend such a program and does not complete the program  
19 before the end of the person's suspension, the department shall  
20 suspend the person's license or continue the suspension, as  
21 appropriate, until the department receives proof that the person  
22 has successfully completed the program. On the person's successful  
23 completion of the program, the person's instructor shall give  
24 notice to the department and to the community supervision and  
25 corrections department in the manner provided by Section 13(h),  
26 Article 42.12, Code of Criminal Procedure.

27           SECTION 8. Sections 521.344(a), (c), (g), and (i),

Transportation Code, are amended to read as follows:

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

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

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

(A) not less than 90 days or more than one year, if the person is punished under Section 49.04, 49.045, or 49.07, Penal Code, except that if the person's license is suspended for a second or subsequent offense under Section 49.07 committed within five years of the date on which the most recent preceding offense was committed, the suspension continues for a period of one year;

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

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

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

1 person:

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

4 (2) whose period of suspension is governed by Section  
5 521.342(b).

6 (g) A revocation, suspension, or prohibition order under  
7 Subsection (e) or (f) remains in effect until the department  
8 receives notice of successful completion of the educational  
9 program. The director shall promptly send notice of a revocation or  
10 prohibition order issued under Subsection (e) or (f) by first class  
11 mail to the person at the person's most recent address as shown in  
12 the records of the department. The notice must include the date of  
13 the revocation or prohibition order, the reason for the revocation  
14 or prohibition, and a statement that the person has the right to  
15 request in writing that a hearing be held on the revocation or  
16 prohibition. Notice is considered received on the fifth day after  
17 the date the notice is mailed. A revocation or prohibition under  
18 Subsection (e) or (f) takes effect on the 40th [~~30th~~] day after the  
19 date the notice is mailed. The person may request a hearing not  
20 later than the 20th day after the date the notice is mailed. If the  
21 department receives a request under this subsection, the department  
22 shall set the hearing for the earliest practical time and the  
23 revocation or prohibition does not take effect until resolution of  
24 the hearing.

25 (i) On the date that a suspension order under Section  
26 521.343(c) is to expire, the period of suspension or the  
27 corresponding period in which the department is prohibited from



1 issuing a license is automatically increased to two years unless  
2 the department receives notice of successful completion of the  
3 educational program as required by Section 13, Article 42.12, Code  
4 of Criminal Procedure. At the time a person is convicted of an  
5 offense under Section 49.04 or 49.045, Penal Code, the court shall  
6 warn the person of the effect of this subsection. On the person's  
7 successful completion of the program, the person's instructor shall  
8 give notice to the department and to the community supervision and  
9 corrections department in the manner required by Section 13,  
10 Article 42.12, Code of Criminal Procedure. If the department  
11 receives proof of completion after a period has been extended under  
12 this subsection, the department shall immediately end the  
13 suspension or prohibition.

14 SECTION 9. Sections 13(h) and (n), Article 42.12, Code of  
15 Criminal Procedure, are amended to read as follows:

16 (h) If a person convicted of an offense under Sections  
17 49.04-49.08, Penal Code, is placed on community supervision, the  
18 judge shall require, as a condition of the community supervision,  
19 that the defendant attend and successfully complete before the  
20 181st day after the day community supervision is granted an  
21 educational program jointly approved by the Texas Commission on  
22 Alcohol and Drug Abuse, the Department of Public Safety, the  
23 Traffic Safety Section of the Texas Department of Transportation,  
24 and the community justice assistance division of the Texas  
25 Department of Criminal Justice designed to rehabilitate persons who  
26 have driven while intoxicated. The Texas Commission on Alcohol and  
27 Drug Abuse shall publish the jointly approved rules and shall

1 monitor, coordinate, and provide training to persons providing the  
 2 educational programs. The Texas Commission on Alcohol and Drug  
 3 Abuse is responsible for the administration of the certification of  
 4 approved educational programs and may charge a nonrefundable  
 5 application fee for the initial certification of approval and for  
 6 renewal of a certificate. The judge may waive the educational  
 7 program requirement or may grant an extension of time to  
 8 successfully complete the program that expires not later than one  
 9 year after the beginning date of the person's community  
 10 supervision, however, if the defendant by a motion in writing shows  
 11 good cause. In determining good cause, the judge may consider but  
 12 is not limited to: the defendant's school and work schedule, the  
 13 defendant's health, the distance that the defendant must travel to  
 14 attend an educational program, and the fact that the defendant  
 15 resides out of state, has no valid driver's license, or does not  
 16 have access to transportation. The judge shall set out the finding  
 17 of good cause for waiver in the judgment. If a defendant is  
 18 required, as a condition of community supervision, to attend an  
 19 educational program or if the court waives the educational program  
 20 requirement, the court clerk shall immediately report that fact to  
 21 the Department of Public Safety, on a form prescribed by the  
 22 department, for inclusion in the person's driving record. If the  
 23 court grants an extension of time in which the person may complete  
 24 the program, the court clerk shall immediately report that fact to  
 25 the Department of Public Safety on a form prescribed by the  
 26 department. The report must include the beginning date of the  
 27 person's community supervision. Upon the person's successful

1 completion of the educational program, the person's instructor  
2 shall give notice to the Department of Public Safety for inclusion  
3 in the person's driving record and to the community supervision and  
4 corrections department. The community supervision and corrections  
5 department shall then forward the notice to the court clerk for  
6 filing. If the Department of Public Safety does not receive notice  
7 that a defendant required to complete an educational program has  
8 successfully completed the program within the period required by  
9 this section, as shown on department records, the department shall  
10 revoke the defendant's driver's license, permit, or privilege or  
11 prohibit the person from obtaining a license or permit, as provided  
12 by Sections 521.344(e) and (f), Transportation Code. The Department  
13 of Public Safety may not reinstate a license suspended under this  
14 subsection unless the person whose license was suspended makes  
15 application to the department for reinstatement of the person's  
16 license and pays to the department a reinstatement fee of \$100  
17 [~~\$50~~]. The Department of Public Safety shall remit all fees  
18 collected under this subsection to the comptroller for deposit in  
19 the general revenue fund. This subsection does not apply to a  
20 defendant if a jury recommends community supervision for the  
21 defendant and also recommends that the defendant's driver's license  
22 not be suspended.

23 (n) Notwithstanding any other provision of this section or  
24 other law, the judge who places on community supervision a  
25 defendant who was [~~is~~] younger than 21 years of age at the time of  
26 the offense and convicted for an offense under Sections  
27 49.04-49.08, Penal Code, shall:

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

4           (2) require as a condition of community supervision  
5 that the defendant not operate a motor vehicle unless the vehicle is  
6 equipped with the device described by Subsection (i) of this  
7 section.

8           SECTION 10. (a) The changes in law made by this Act to  
9 Sections 521.292, 521.294, 521.295, and 521.314, Transportation  
10 Code, apply only to a determination to suspend, revoke, or cancel a  
11 license or certificate made by the Department of Public Safety on or  
12 after the effective date of this Act.

13           (b) The changes in law made by this Act to Sections 521.341,  
14 521.342, and 521.344, Transportation Code, and Section 13, Article  
15 42.12, Code of Criminal Procedure, apply only to an offense  
16 committed on or after the effective date of this Act. For purposes  
17 of this subsection, an offense is committed before the effective  
18 date of this Act if any element of the offense occurs before the  
19 effective date.

20           SECTION 11. This Act takes effect September 1, 2007.