

BILL ANALYSIS

C.S.H.B. 4061
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Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas leads the nation in drunk driving fatalities, with 1,292 such fatalities in 2007. By comparison, California has a higher population and yet experienced fewer drunk driving fatalities in 2007. In the same year in Texas, 38.4 percent of traffic fatalities were related to drunk driving. The national average was 31.7 percent. Repeat drunk drivers plague Texas' highways and roads. Mothers Against Drunk Driving reports that repeat drunk drivers account for nearly one-third of the drunk driving population. In Texas, there are over 142,000 drivers with three or more driving while intoxicated offenses. A 2007 report by the National Highway Traffic Safety Administration suggests that these drivers present a clear and present danger: repeat drunk drivers involved in fatal accidents were eight times more likely to have a prior drunk driving offense than sober drivers.

An ignition interlock device is a device attached to a vehicle's electrical system that requires a driver to submit to a breath test before the vehicle will start and that establishes a user baseline. If alcohol is measured at or above a predetermined threshold, the vehicle will not start. Further testing to ensure sobriety while the vehicle is running is also required. Studies have shown that requiring the use of ignition interlock devices can reduce repeat drunk driving offenses by 64 percent. Currently, eight states mandate the use of ignition interlock devices for all drivers convicted of driving while intoxicated.

Current Texas statutes require a driver to have an ignition interlock device installed in the driver's vehicle if the driver has been previously convicted of driving while intoxicated, or has a blood alcohol concentration of 0.15 or more during a single offense. While the law provides judges with the discretion to require first-time offenders to install ignition interlock devices, it does not require that they do so.

C.S.H.B. 4061 requires a court to require a person convicted of certain alcohol-related offenses who is placed on community supervision, as a condition of community supervision, to have a device that uses a deep-lung breath analysis mechanism installed on the defendant's motor vehicle to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the operator and to prohibit the defendant from operating a vehicle unequipped with the device.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4061 amends the Code of Criminal Procedure to require, rather than authorize, a court to require a person convicted of certain alcohol-related offenses and placed on community supervision, as a condition of community supervision, to have a device that uses a deep-lung breath analysis mechanism installed on the defendant's motor vehicle to make impractical the

operation of the motor vehicle if ethyl alcohol is detected in the breath of the operator and to prohibit the defendant from operating any motor vehicle that is not equipped with that device. The bill removes provisions to make conforming changes relating to the requirement.

C.S.H.B. 4061 amends the Transportation Code to make conforming changes relating to the requirement regarding the installation of the device and to include driving while intoxicated with a child passenger, flying while intoxicated, boating while intoxicated, and assembling or operating an amusement ride while intoxicated in the convictions requiring an ignition interlock device.

C.S.H.B. 4061 prohibits an order granting a person an occupational license from taking effect before the 45th day, rather than the 91st day, after the effective date of the person's driver's license suspension for failure to pass a test for intoxication or under implied consent if the person's license has been suspended as a result of certain alcohol-related or drug-related contact during the five years preceding the date of the person's arrest. The bill prohibits an order granting an occupational license issued to a person whose license has been suspended as a result of a second or subsequent conviction for driving while intoxicated, intoxication assault, or intoxication manslaughter, committed within five years of the date on which the most recent preceding offense was committed, from taking effect before the 45th day after, rather than on the first anniversary of, the effective date of the license suspension and adds driving while intoxicated with a child passenger to the offenses to which the prohibition applies. The bill removes a provision regarding the effective date of an occupational license granted to a person whose license has been suspended as a result of an offense of driving while intoxicated, intoxication assault, or intoxication manslaughter.

C.S.H.B. 4061 makes its provisions regarding the effective dates of certain occupational driver's licenses applicable only to a person who applies for such a license on or after September 1, 2009.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4061 differs from the original by removing a provision regarding the effective date of an occupational license granted to a person whose license has been suspended as a result of an offense of driving while intoxicated, intoxication assault, or intoxication manslaughter, whereas the original changed the effective date in that provision from the 181st day to the 45th day after the effective date of the suspension. The substitute differs from the original by adding driving while intoxicated with a child passenger to the offenses for which a second or subsequent conviction subjects an occupational license to a certain effective date. The substitute adds a provision not in the original making its provisions regarding the effective dates of occupational licenses applicable only to a person who applies for such a license on or after September 1, 2009.