

By: Martinez Fischer

H.B. No. 1983

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the punishment for certain intoxication related  
3 offenses; creating the offense of aggravated driving while  
4 intoxicated.

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

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

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

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

12 (2) the person:

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

14 or

15 (B) has an alcohol concentration of 0.02 or more  
16 and is operating a commercial motor vehicle, as defined by Section  
17 522.003, Transportation Code.

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

21 SECTION 2. Section 49.09, Penal Code, is amended by  
22 amending Subsection (b) and adding Subsection (b-4) to read as  
23 follows:

24 (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-4) 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. The change in law made by this Act applies only  
2 to an offense committed on or after the effective date of this Act.  
3 An offense committed before the effective date of this Act is  
4 covered by the law in effect when the offense was committed, and the  
5 former law is continued in effect for that purpose. For purposes of  
6 this section, an offense was committed before the effective date of  
7 this Act if any element of the offense was committed before that  
8 date.

9           SECTION 4. This Act takes effect September 1, 2009.