

1-1 By: Martinez Fischer, Moody (Senate Sponsor-Davis) H.B. No. 1983
1-2 (In the Senate - Received from the House April 23, 2009;
1-3 May 1, 2009, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 11, 2009, reported
1-5 favorably by the following vote: Yeas 9, Nays 0; May 11, 2009, sent
1-6 to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the punishment for certain intoxication related
1-10 offenses; creating the offense of aggravated driving while
1-11 intoxicated.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 49, Penal Code, is amended by adding
1-14 Section 49.046 to read as follows:

1-15 Sec. 49.046. AGGRAVATED DRIVING WHILE INTOXICATED. (a) A
1-16 person commits an offense if:

1-17 (1) the person is intoxicated while operating a motor
1-18 vehicle in a public place; and

1-19 (2) the person:

1-20 (A) has an alcohol concentration of 0.16 or more;

1-21 or

1-22 (B) has an alcohol concentration of 0.02 or more
1-23 and is operating a commercial motor vehicle, as defined by Section
1-24 522.003, Transportation Code.

1-25 (b) Except as provided by Section 49.09, an offense under
1-26 this section is a Class A misdemeanor, with a minimum term of
1-27 confinement of 30 days.

1-28 SECTION 2. Section 49.09, Penal Code, is amended by
1-29 amending Subsection (b) and adding Subsection (b-4) to read as
1-30 follows:

1-31 (b) An offense under Section 49.04, 49.05, 49.06, or 49.065
1-32 is a felony of the third degree if it is shown on the trial of the
1-33 offense that the person has previously been convicted:

1-34 (1) one time of an offense under Section 49.08 or an
1-35 offense under the laws of another state if the offense contains
1-36 elements that are substantially similar to the elements of an
1-37 offense under Section 49.08; ~~or~~

1-38 (2) one time of an offense under Section 49.046 or an
1-39 offense under the laws of another state if the offense contains
1-40 elements that are substantially similar to the elements of an
1-41 offense under Section 49.046; or

1-42 (3) two times of any other offense relating to the
1-43 operating of a motor vehicle while intoxicated, operating an
1-44 aircraft while intoxicated, operating a watercraft while
1-45 intoxicated, or operating or assembling an amusement ride while
1-46 intoxicated.

1-47 (b-4) An offense under Section 49.046 is a felony of the
1-48 third degree if it is shown on the trial of the offense that the
1-49 person has previously been convicted:

1-50 (1) one time of an offense under Section 49.08 or an
1-51 offense under the laws of another state if the offense contains
1-52 elements that are substantially similar to the elements of an
1-53 offense under Section 49.08; or

1-54 (2) one time of an offense relating to the operating of
1-55 a motor vehicle while intoxicated, an offense of operating an
1-56 aircraft while intoxicated, an offense of operating a watercraft
1-57 while intoxicated, or an offense of operating or assembling an
1-58 amusement ride while intoxicated.

1-59 SECTION 3. The change in law made by this Act applies only
1-60 to an offense committed on or after the effective date of this Act.
1-61 An offense committed before the effective date of this Act is
1-62 covered by the law in effect when the offense was committed, and the
1-63 former law is continued in effect for that purpose. For purposes of
1-64 this section, an offense was committed before the effective date of

2-1 this Act if any element of the offense was committed before that
2-2 date.

2-3 SECTION 4. This Act takes effect September 1, 2009.

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