

1-1 By: Deuell, Huffman, Whitmire S.B. No. 261  
1-2 (In the Senate - Filed November 12, 2008; February 11, 2009,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 March 23, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 7, Nays 0; March 23, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 261 By: Hinojosa

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the taking of a specimen of the breath or blood of a  
1-11 person arrested for an intoxication offense under certain  
1-12 circumstances.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsections (b) and (d), Section 724.012,  
1-15 Transportation Code, are amended to read as follows:

1-16 (b) A peace officer shall require the taking of a specimen  
1-17 of the person's breath or blood under any of the following  
1-18 circumstances if [÷

1-19 ~~[(1)]~~ the officer arrests the person for an offense  
1-20 under Chapter 49, Penal Code, involving the operation of a motor  
1-21 vehicle or a watercraft and the person refuses the officer's  
1-22 request to submit to the taking of a specimen voluntarily: [÷

1-23 (1) [(2)] the person was the operator of a motor  
1-24 vehicle or a watercraft involved in an accident that the officer  
1-25 reasonably believes occurred as a result of the offense and, [÷

1-26 ~~[(3)]~~ at the time of the arrest, the officer  
1-27 reasonably believes that as a direct result of the accident:

1-28 (A) any individual has died or will die; ~~[or]~~

1-29 (B) an individual other than the person has  
1-30 suffered serious bodily injury; or

1-31 (C) an individual other than the person has  
1-32 suffered bodily injury and been transported to a hospital or other  
1-33 medical facility for medical treatment;

1-34 (2) the offense for which the officer arrests the  
1-35 person is an offense under Section 49.045, Penal Code; or

1-36 (3) at the time of the arrest, the officer possesses or  
1-37 receives reliable information from a credible source that the  
1-38 person:

1-39 (A) has been previously arrested for an offense  
1-40 under Section 49.045, 49.07, or 49.08, Penal Code, or an offense  
1-41 under the laws of another state containing elements substantially  
1-42 similar to the elements of an offense under those sections; or

1-43 (B) has been previously arrested on two or more  
1-44 occasions for an offense under Section 49.04, 49.05, 49.06, or  
1-45 49.065, Penal Code, or an offense under the laws of another state  
1-46 containing elements substantially similar to the elements of an  
1-47 offense under those sections ~~[and~~

1-48 ~~[(4) the person refuses the officer's request to~~  
1-49 ~~submit to the taking of a specimen voluntarily].~~

1-50 (d) In this section, "bodily injury" and "serious bodily  
1-51 injury" have ~~[has]~~ the meanings ~~[meaning]~~ assigned by Section 1.07,  
1-52 Penal Code.

1-53 SECTION 2. The change in law made by this Act applies only  
1-54 to an offense committed on or after the effective date of this Act.  
1-55 An offense committed before the effective date of this Act is  
1-56 governed by the law in effect when the offense was committed, and  
1-57 the former law is continued in effect for that purpose. For  
1-58 purposes of this section, an offense was committed before the  
1-59 effective date of this Act if any element of the offense was  
1-60 committed before that date.

1-61 SECTION 3. This Act takes effect September 1, 2009.

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