

By: Hegar

S.B. No. 784

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the suspension of a driver's license by the Texas
3 Department of Public Safety.

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

5 SECTION 1. Section 521.341, Transportation Code, is amended
6 to read as follows:

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

11 (1) an offense under Section 19.05, Penal Code,
12 committed as a result of the holder's criminally negligent
13 operation of a motor vehicle;

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

16 (3) an offense under Section 49.04, 49.045, or 49.08,
17 Penal Code;

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

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

22 (6) an offense under Section 550.021;

23 (7) an offense under Section 521.451 or 521.453; or

24 (8) an offense under Section 19.04, Penal Code, if the

1 holder used a motor vehicle in the commission of the offense.

2 SECTION 2. Sections 521.342(a) and (b), Transportation
3 Code, are amended to read as follows:

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

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

11 (2) an offense under the Alcoholic Beverage Code,
12 other than an offense to which Section 106.071 of that code applies,
13 involving the manufacture, delivery, possession, transportation,
14 or use of an alcoholic beverage;

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

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

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

24 (b) The department shall suspend for one year the license of
25 a person who is under 21 years of age and is convicted of an offense
26 under Section 49.04, 49.045, 49.07, or 49.08, Penal Code,
27 regardless of whether the person is required to attend an

1 educational program under Section 13(h), Article 42.12, Code of
2 Criminal Procedure, that is designed to rehabilitate persons who
3 have operated motor vehicles while intoxicated, unless the person
4 is placed under community supervision under that article and is
5 required as a condition of the community supervision to not operate
6 a motor vehicle unless the vehicle is equipped with the device
7 described by Section 13(i) of that article. If the person is
8 required to attend such a program and does not complete the program
9 before the end of the person's suspension, the department shall
10 suspend the person's license or continue the suspension, as
11 appropriate, until the department receives proof that the person
12 has successfully completed the program. On the person's successful
13 completion of the program, the person's instructor shall give
14 notice to the department and to the community supervision and
15 corrections department in the manner provided by Section 13(h),
16 Article 42.12, Code of Criminal Procedure.

17 SECTION 3. Sections 521.344(a), (c), and (i),
18 Transportation Code, are amended to read as follows:

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

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

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

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

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

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

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

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

21 (2) whose period of suspension is governed by Section
22 521.342(b).

23 (i) On the date that a suspension order under Section
24 521.343(c) is to expire, the period of suspension or the
25 corresponding period in which the department is prohibited from
26 issuing a license is automatically increased to two years unless
27 the department receives notice of successful completion of the

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

12 SECTION 4. Sections 13(h) and (n), Article 42.12, Code of
13 Criminal Procedure, are amended to read as follows:

14 (h) If a person convicted of an offense under Sections
15 49.04-49.08, Penal Code, is placed on community supervision, the
16 judge shall require, as a condition of the community supervision,
17 that the defendant attend and successfully complete before the
18 181st day after the day community supervision is granted an
19 educational program jointly approved by the Texas Commission on
20 Alcohol and Drug Abuse, the Department of Public Safety, the
21 Traffic Safety Section of the Texas Department of Transportation,
22 and the community justice assistance division of the Texas
23 Department of Criminal Justice designed to rehabilitate persons who
24 have driven while intoxicated. The Texas Commission on Alcohol and
25 Drug Abuse shall publish the jointly approved rules and shall
26 monitor, coordinate, and provide training to persons providing the
27 educational programs. The Texas Commission on Alcohol and Drug

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

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

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

26 (1) order that the defendant's driver's license be
27 suspended for 90 days beginning on the date that the person is

1 placed on community supervision; and

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

6 SECTION 5. The changes in law made by this Act to Sections
7 521.341, 521.342, and 521.344, Transportation Code, and Section 13,
8 Article 42.12, Code of Criminal Procedure, apply only to an offense
9 committed on or after the effective date of this Act. For purposes
10 of this section, an offense was committed before the effective date
11 of this Act if any element of the offense occurred before the
12 effective date of this Act.

13 SECTION 6. This Act takes effect September 1, 2009.