

BILL ANALYSIS

C.S.H.B. 99
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Approximately 40 percent of all driving fatalities in Texas are alcohol-related. Texas is among the five worst states for alcohol-related vehicular deaths. In 2009, more than 1,200 people lost their lives. A recent study suggested that, at best, only one in nearly 90 driving while intoxicated occurrences will lead to an arrest. Texas must increase enforcement of driving while intoxicated laws in every way possible in order to improve public safety and reduce the number of alcohol-related vehicular deaths. C.S.H.B. 99 creates a new offense for the most egregious drunk drivers. A person driving a motor vehicle with an alcohol concentration of 0.16 or more and a person driving a commercial motor vehicle with an alcohol concentration of 0.02 or more would face harsher penalties.

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. 99 amends the Penal Code to create the Class A misdemeanor offense of aggravated driving while intoxicated. The bill makes it an offense to operate a motor vehicle in a public place while intoxicated and having an alcohol concentration of 0.16 or more or an alcohol concentration of 0.02 or more if the vehicle is a commercial motor vehicle. The bill makes the offense punishable by a minimum term of confinement of 30 days. The bill authorizes the judge of the sentencing court to permit the person to serve the person's term of confinement intermittently during off-work hours or on weekends.

C.S.H.B. 99 enhances to a third degree felony the penalty for a driving while intoxicated offense, a flying while intoxicated offense, a boating while intoxicated offense, and an assembling or operating an amusement ride while intoxicated offense if it is shown on the trial of the offense that the person has previously been convicted one time of aggravated driving while intoxicated or of an offense under the laws of another state containing elements that are substantially similar to the elements of aggravated driving while intoxicated.

C.S.H.B. 99 enhances the penalty for an aggravated driving while intoxicated offense to a third degree felony if it is shown on the trial of the offense that the person has previously been convicted one time of intoxication manslaughter or of an offense under the laws of another state containing elements that are substantially similar to the elements of intoxication manslaughter or one time of an offense relating to the operating of a motor vehicle while intoxicated, an offense of operating an aircraft while intoxicated, an offense of operating a watercraft while intoxicated, or an offense of operating or assembling an amusement ride while intoxicated.

C.S.H.B. 99 makes the requirement that a court order the installation of a device on a certain defendant's vehicle that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the operator and other

requirements related to the approval and installation of and the payment of costs for such a device apply to a person convicted of an aggravated driving while intoxicated offense.

C.S.H.B. 99 amends the Transportation Code to require a court that convicts a person for an aggravated driving while intoxicated offense to order the sheriff of the county in which the court has jurisdiction to impound or immobilize the motor vehicle operated by the person at the time of the offense for a period of seven days beginning on the day after the date the court enters the conviction if the person was an owner of the motor vehicle at the time of the offense, is an owner of the motor vehicle on the date the court enters the conviction, and is the primary operator of the motor vehicle on the date the court enters the conviction. The bill authorizes the sheriff acting under such a court order to require that the motor vehicle, prior to immobilization, be taken to a garage or other place of safety or a garage designated or maintained by the county. The bill makes a person convicted of an aggravated driving while intoxicated offense liable for all removal and storage fees incurred as a result of the impoundment or immobilization of the motor vehicle and establishes that such a person is not entitled to take possession of the vehicle until those fees are paid.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 99 contains a provision not included in the original authorizing the judge of the sentencing court to permit a person who commits an aggravated driving while intoxicated offense to serve the person's term of confinement intermittently during off-work hours or on weekends.

C.S.H.B. 99 contains a provision not included in the original making the requirement that a court order the installation of a device on a certain defendant's vehicle that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the operator and other related requirements apply to a person convicted of an aggravated driving while intoxicated offense.

C.S.H.B. 99 contains a provision not included in the original requiring a court that convicts a person for an aggravated driving while intoxicated offense to order the sheriff of the county in which the court has jurisdiction to impound or immobilize the motor vehicle operated by the person at the time of the offense for a certain period of time under specified conditions. The substitute contains a provision not included in the original authorizing the sheriff to require that the motor vehicle, prior to immobilization, be taken to a garage or other place of safety or a garage designated or maintained by the county. The substitute contains a provision not included in the original making a person convicted of an aggravated driving while intoxicated offense liable for all removal and storage fees incurred as a result of the impoundment or immobilization of the motor vehicle and establishing that such a person is not entitled to take possession of the vehicle until those fees are paid.