

BILL ANALYSIS

C.S.H.B. 3477
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Repeat driving while intoxicated offenders are particularly dangerous, and some observers are concerned that repeat offenses are becoming more common. In a recent year, some 10,000 people were killed nationwide in motor vehicle accidents caused by alcohol-impaired drivers. To combat drivers who repeatedly drive while intoxicated, many states have enacted laws that revoke a person's driver's license after a certain number of intoxication convictions, and a significant number of states have adopted some form of administrative license revocation for a blood-alcohol content test failure or refusal.

C.S.H.B. 3477 seeks to address this issue by requiring that a person's driver's license or permit be suspended for a period of 10 years upon the fifth conviction of certain specified intoxication offenses and that the issuance of a driver's license or permit to such a person who does not have a driver's license or permit be denied for a similar period.

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. 3477 amends the Penal Code to require a court, if it is shown at the trial of a person convicted of an offense of driving while intoxicated, driving while intoxicated with a child passenger, intoxication assault, or intoxication manslaughter relating to the operating of a motor vehicle while intoxicated that the person has been previously convicted four or more times of any of those offenses, to order the Department of Public Safety (DPS) to suspend the person's driver's license or permit for a period of 10 years, or, if the person does not have a license or permit, to deny the issuance of such a license or permit to the person until the 10th anniversary of the date of the order. The bill specifies that these provisions control to the extent of a conflict between these provisions and provisions of law related to DWI community supervision and to the automatic suspension of a driver's license or certificate.

C.S.H.B. 3477 amends the Code of Criminal Procedure to authorize a judge, in determining good cause for purposes of waiving the educational program requirement as a condition of community supervision for a defendant convicted of a certain intoxication offense for which the offense or penalty is enhanced, to consider the fact that the defendant has no valid driver's license, in addition to other factors. The bill makes conforming changes in provisions of law relating to DWI community supervision.

C.S.H.B. 3477 amends the Transportation Code to prohibit DPS from issuing a license to a person whose license or permit is the subject of a court order previously described by the bill's provisions until the 10th anniversary of the date of the order. The bill prohibits a person whose license was suspended under such a court order and who has been granted an occupational license from operating a motor vehicle for more than four hours in any 24-hour period. The bill

authorizes a court, on a showing of necessity, to allow the person to drive for any period determined by the court that does not exceed nine hours in any 24-hour period. The bill makes conforming changes in provisions of law relating to driver's license suspension for offenses involving intoxication.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3477 differs from the original by requiring a court to order the Department of Public Safety (DPS) to suspend for a period of 10 years the driver's license or permit of a person convicted of a specified intoxication offense if the person has been previously convicted four or more times of any of those specified offenses or to deny the issuance of a license or permit to the person until the 10th anniversary of the date of the order if the person does not have a license or permit, whereas the original requires a court to order DPS to permanently revoke such a convicted person's license or permit or permanently deny issuance of the license or permit under those circumstances. The substitute omits a specification included in the original that requires the previously committed intoxication offenses to have been committed on or after September 1, 2011, for purposes of the suspension or denial of issuance of the license or permit.

C.S.H.B. 3477 differs from the original by specifying that the substitute's provisions control over provisions of law relating to DWI community supervision and to the automatic suspension of a driver's license or certificate, whereas the original specifies that the bill's provisions control over provisions of law relating to DWI community supervision. The substitute omits a provision included in the original prohibiting certain persons exempt from state driver's license requirements from operating a motor vehicle on a public street or highway in Texas if the person's license or permit is the subject of a court order for permanent revocation or denial of issuance. The substitute differs from the original by prohibiting DPS from issuing a license to a person whose license or permit is the subject of a court order issued for temporary suspension or denial of issuance until the 10th anniversary of the date of the order, whereas the original prohibits DPS from issuing a license to a person whose license or permit is the subject of a court order issued for permanent revocation or denial of issuance.

C.S.H.B. 3477 omits a provision included in the original prohibiting a court from granting an occupational license to a person whose license or permit is the subject of a court order for permanent revocation or denial of issuance. The substitute omits a provision included in the original making a conforming change to the circumstances under which DPS is required to revoke a person's license. The substitute omits a provision included in the original prohibiting DPS from reinstating a license revoked under the bill's provisions. The substitute contains provisions not included in the original prohibiting a person whose license was suspended in accordance with the court order for the 10-year suspension and who has been granted an occupational license from operating a motor vehicle for more than four hours in any 24-hour period and providing a certain exception to the prohibition on a showing of necessity.

C.S.H.B. 3477 omits provisions included in the original making a conforming change and a technical correction in a provision of law prohibiting DPS from revoking a driver's license during a period of probation. The substitute omits a provision included in the original requiring DPS to make a note in a person's criminal computerized driving record regarding a permanent license or permit revocation under certain circumstances. The substitute differs from the original in nonsubstantive ways.