

## **BILL ANALYSIS**

S.B. 838  
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Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

In 2009, Texas ranked first in the nation in driving while intoxicated (DWI) fatalities, with 1,269 traffic deaths. In 2008, Texas had the most alcohol-related traffic deaths nationwide at 1,268. In Houston, in 2008, 67.92 percent of drivers involved in fatal collisions had a blood alcohol content (BAC) of 0.16 or greater.

Regardless of whether a person's BAC is just barely over the legal limit or twice the legal limit, there is no difference in punishment. One way to increase the deterrence against DWI offenses most likely to result in death is to enhance the criminal punishment when a person's BAC is 0.16 or higher, by increasing the penalty from a Class B misdemeanor to a Class A misdemeanor.

As proposed, S.B. 838 amends current law relating to the penalty for driving while intoxicated.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **ANALYSIS**

SECTION 1. Amends Section 49.04, Penal Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Creates an exception under Subsection (d).

(d) Provides that if it is shown on the trial of an offense under this section (relating to driving while intoxicated) that an analysis of a specimen of the person's blood, breath, or urine showed an alcohol concentration level of 0.15 or more at the time the analysis was performed, the offense is a Class A misdemeanor.

SECTION 2. Makes application of this Act prospective.

### **EFFECTIVE DATE**

September 1, 2011.