

By: Martinez Fischer

H.B. No. 1743

A BILL TO BE ENTITLED

AN ACT

relating to the information provided by a peace officer before requesting a specimen to determine intoxication.

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

SECTION 1. Section 724.015, Transportation Code, is amended to read as follows:

Sec. 724.015. INFORMATION PROVIDED BY OFFICER BEFORE REQUESTING SPECIMEN. Before requesting a person to submit to the taking of a specimen, the officer shall inform the person orally and in writing that:

(1) if the person refuses to submit to the taking of the specimen, that refusal may be admissible in a subsequent prosecution;

(2) if the person refuses to submit to the taking of the specimen, the person's license to operate a motor vehicle will be automatically suspended, whether or not the person is subsequently prosecuted as a result of the arrest, for not less than 180 days;

(3) if the person refuses to submit to the taking of a specimen, the officer may apply for a warrant authorizing a specimen to be taken from the person;

(4) if the person is 21 years of age or older and submits to the taking of a specimen designated by the officer and an analysis of the specimen shows the person had an alcohol

1 concentration of a level specified by Chapter 49, Penal Code, the
2 person's license to operate a motor vehicle will be automatically
3 suspended for not less than 90 days, whether or not the person is
4 subsequently prosecuted as a result of the arrest;

5 (5) [~~(4)~~] if the person is younger than 21 years of age
6 and has any detectable amount of alcohol in the person's system, the
7 person's license to operate a motor vehicle will be automatically
8 suspended for not less than 60 days even if the person submits to
9 the taking of the specimen, but that if the person submits to the
10 taking of the specimen and an analysis of the specimen shows that
11 the person had an alcohol concentration less than the level
12 specified by Chapter 49, Penal Code, the person may be subject to
13 criminal penalties less severe than those provided under that
14 chapter;

15 (6) [~~(5)~~] if the officer determines that the person is
16 a resident without a license to operate a motor vehicle in this
17 state, the department will deny to the person the issuance of a
18 license, whether or not the person is subsequently prosecuted as a
19 result of the arrest, under the same conditions and for the same
20 periods that would have applied to a revocation of the person's
21 driver's license if the person had held a driver's license issued by
22 this state; and

23 (7) [~~(6)~~] the person has a right to a hearing on the
24 suspension or denial if, not later than the 15th day after the date
25 on which the person receives the notice of suspension or denial or
26 on which the person is considered to have received the notice by
27 mail as provided by law, the department receives, at its

1 headquarters in Austin, a written demand, including a facsimile
2 transmission, or a request in another form prescribed by the
3 department for the hearing.

4 SECTION 2. This Act takes effect September 1, 2011.