

By: Gallego

H.B. No. 3474

A BILL TO BE ENTITLED

AN ACT

relating to the offense of public intoxication.

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

SECTION 1. Section 49.02, Penal Code, is amended by amending Subsections (a), (a-1), and (e), and adding Subsections (f) and (g), to read as follows

Sec. 49.02. PUBLIC INTOXICATION. (a) A person commits an offense if the person:

(1) appears in a public place while intoxicated to the degree that the person may endanger the person or another; or

(2) is younger than 21 years old and consumes, possesses, or purchases an alcoholic beverage in a public place.

(a-1) For the purposes of this section, "public place" includes a premises:

(1) licensed or permitted under the Alcoholic Beverage Code; and ~~[is a public place]~~

(2) that is accessible by two or more unrelated persons under 21 years old and on which any one of those persons possesses alcohol.

(e) An offense under this section committed by a person younger than 21 years of age is:

(1) punishable in the same manner as if the minor committed an offense to which Section 106.071, Alcoholic Beverage Code, applies; and

1 (2) is not punishable if the person younger than 21
2 years old if the person:

3 (A) requested emergency medical assistance in
4 response to the possible alcohol overdose of the minor or another
5 person;

6 (B) was the first person to make a request for
7 medical assistance under Subdivision (1); and

8 (C) if the minor requested emergency medical
9 assistance for the possible alcohol overdose of another person:

10 (i) remained on the scene until the medical
11 assistance arrived; and

12 (ii) cooperated with medical assistance and
13 law enforcement personnel.

14 (f) A judge, acting under Article 42.12, Code of Criminal
15 Procedure, who places a defendant charged with an offense under
16 Subsection (a)(2) on community supervision under that article
17 shall, if the defendant committed the offense at a gathering where
18 participants were involved in the abuse of alcohol, including binge
19 drinking or forcing or coercing individuals to consume alcohol, in
20 addition to any other condition imposed by the judge:

21 (1) require the defendant to:

22 (A) perform community service for not less than
23 20 or more than 40 hours; and

24 (B) attend an approved alcohol awareness
25 program; and

26 (2) order the Department of Public Safety to suspend
27 the driver's license or permit of the defendant or, if the defendant

1 does not have a driver's license or permit, to deny the issuance of
2 a driver's license or permit to the defendant for 180 days.

3 (e) Community service ordered under Subsection (f) is in
4 addition to any community service ordered by the judge under
5 Section 16, Article 42.12, Code of Criminal Procedure, and must be
6 related to education about or prevention of misuse of alcohol if
7 programs or services providing that education are available in the
8 community in which the court is located. If programs or services
9 providing that education are not available, the court may order
10 community service that the court considers appropriate for
11 rehabilitative purposes.

12 SECTION 2. (a) The change in law made by this Act in
13 amending Section 49.02, Penal Code, applies only to an offense
14 committed on or after the effective date of this Act.

15 (b) An offense committed before the effective date of this
16 Act is governed by the law in effect on the date the offense was
17 committed, and the former law is continued in effect for that
18 purpose. For purposes of this section, an offense was committed
19 before the effective date of this Act if any element of the offense
20 occurred before that date.

21 SECTION 3. This Act takes effect September 1, 2011.