

By: Nelson

S.B. No. 231

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the permanent revocation of a person's driver's license
3 or permit on conviction of a second offense relating to the
4 operating of a motor vehicle while intoxicated.

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

6 SECTION 1. Section 49.09, Penal Code, is amended by adding
7 Subsection (i) to read as follows:

8 (i) Notwithstanding any other law, if it is shown at the
9 trial of a person convicted of an offense under Section 49.04,
10 49.045, 49.07, or 49.08 relating to the operating of a motor vehicle
11 while intoxicated that the person has been previously convicted one
12 or more times of any of those offenses, the court shall order the
13 Department of Public Safety to permanently revoke the person's
14 driver's license or permit, or, if the person does not have a
15 license or permit, to permanently deny the issuance of a license or
16 permit to the person. To the extent of a conflict between this
17 subsection and Section 13, Article 42.12, Code of Criminal
18 Procedure, this subsection controls.

19 SECTION 2. Sections 13(g), (j), and (k), Article 42.12,
20 Code of Criminal Procedure, are amended to read as follows:

21 (g) A jury that recommends community supervision for a
22 person convicted of an offense under Sections 49.04-49.08, Penal
23 Code, may recommend that any driver's license issued to the
24 defendant under Chapter 521, Transportation Code, not be suspended.

1 This subsection does not apply to a person:

2 (1) who is punished under Section 49.09(a) or (b),
3 Penal Code, and subject to Section 49.09(h) of that code; or

4 (2) whose driver's license or permit is the subject of
5 a court order issued under Section 49.09(i), Penal Code.

6 (j) The judge shall require a defendant who is punished
7 under Section 49.09, Penal Code, as a condition of community
8 supervision, to attend and successfully complete an educational
9 program for repeat offenders approved by the Texas Commission on
10 Alcohol and Drug Abuse. The Texas Commission on Alcohol and Drug
11 Abuse shall adopt rules and shall monitor, coordinate, and provide
12 training to persons providing the educational programs. The Texas
13 Commission on Alcohol and Drug Abuse is responsible for the
14 administration of the certification of approved educational
15 programs and may charge a nonrefundable application fee for initial
16 certification of approval or for renewal of the certification. The
17 judge may waive the educational program requirement only if the
18 defendant by a motion in writing shows good cause. In determining
19 good cause, the judge may consider the defendant's school and work
20 schedule, the defendant's health, the distance that the defendant
21 must travel to attend an educational program, and the fact that
22 [whether] the defendant resides out of state, has no valid driver's
23 license, or does not have access to transportation. The judge shall
24 set out the finding of good cause in the judgment. If a defendant is
25 required, as a condition of community supervision, to attend an
26 educational program, the court clerk shall immediately report that
27 fact to the Department of Public Safety, on a form prescribed by the

1 department, for inclusion in the defendant's driving record. The
2 report must include the beginning date of the defendant's community
3 supervision. On the defendant's successful completion of the
4 educational program for repeat offenders, the defendant's
5 instructor shall give notice to the Department of Public Safety for
6 inclusion in the defendant's driving record and to the community
7 supervision and corrections department. The community supervision
8 and corrections department shall then forward the notice to the
9 court clerk for filing. If the Department of Public Safety does not
10 receive notice that a defendant required to complete an educational
11 program has successfully completed the program for repeat offenders
12 within the period required by the judge, as shown on department
13 records, the department shall revoke the defendant's driver's
14 license, permit, or privilege or prohibit the defendant from
15 obtaining a license or permit, as provided by Sections 521.344(e)
16 and (f), Transportation Code.

17 (k) Notwithstanding Sections 521.344(d)-(i),
18 Transportation Code, if the judge, under Subsection (h) or (j) of
19 this section, permits or requires a defendant punished under
20 Section 49.09, Penal Code, to attend an educational program as a
21 condition of community supervision, or waives the required
22 attendance for such a program, and the defendant has previously
23 been required to attend such a program, or the required attendance
24 at the program had been waived, the judge, unless the person's
25 driver's license or permit is the subject of a court order issued
26 under Section 49.09(i), Penal Code, nonetheless shall order the
27 suspension of the driver's license, permit, or operating privilege

1 of that person for a period determined by the judge according to the
2 following schedule:

3 (1) not less than 90 days or more than 365 days, if the
4 defendant is convicted under Sections 49.04-49.08, Penal Code;

5 (2) not less than 180 days or more than two years, if
6 the defendant is punished under Section 49.09(a) or (b), Penal
7 Code; or

8 (3) not less than one year or more than two years, if
9 the person is convicted of a second or subsequent offense under
10 Sections 49.04-49.08, Penal Code, committed within five years of
11 the date on which the most recent preceding offense was committed.

12 SECTION 3. Section 521.027, Transportation Code, is amended
13 to read as follows:

14 Sec. 521.027. PERSONS EXEMPT FROM LICENSE REQUIREMENT. (a)
15 The following persons are exempt from the license requirement
16 imposed under this chapter:

17 (1) a person in the service of the state military
18 forces or the United States while the person is operating an
19 official motor vehicle in the scope of that service;

20 (2) a person while the person is operating a road
21 machine, farm tractor, or implement of husbandry on a highway,
22 unless the vehicle is a commercial motor vehicle under Section
23 522.003;

24 (3) a nonresident on active duty in the armed forces of
25 the United States who holds a license issued by the person's state
26 or Canadian province of residence; and

27 (4) a person who is the spouse or dependent child of a

1 nonresident exempt under Subdivision (3) and who holds a license
2 issued by the person's state or Canadian province of residence.

3 (b) A person exempted under this section from the license
4 requirement imposed by this chapter may not operate a motor vehicle
5 on a public street or highway in this state if the person's driver's
6 license or permit is the subject of a court order issued under
7 Section 49.09(i), Penal Code.

8 SECTION 4. Section 521.202, Transportation Code, is amended
9 by adding Subsection (d) to read as follows:

10 (d) The department may not issue a license to a person whose
11 license or permit is the subject of a court order issued under
12 Section 49.09(i), Penal Code.

13 SECTION 5. Section 521.242, Transportation Code, is amended
14 by adding Subsection (g) to read as follows:

15 (g) A court may not grant an occupational license to a
16 person whose driver's license or permit is the subject of a court
17 order issued under Section 49.09(i), Penal Code.

18 SECTION 6. Section 521.294, Transportation Code, is amended
19 to read as follows:

20 Sec. 521.294. DEPARTMENT'S DETERMINATION FOR LICENSE
21 REVOCATION. The department shall revoke the person's license if
22 the department determines that the person:

- 23 (1) is incapable of safely operating a motor vehicle;
24 (2) has not complied with the terms of a citation
25 issued by a jurisdiction that is a party to the Nonresident Violator
26 Compact of 1977 for a traffic violation to which that compact
27 applies;

1 (3) has failed to provide medical records or has
2 failed to undergo medical or other examinations as required by a
3 panel of the medical advisory board;

4 (4) has failed to pass an examination required by the
5 director under this chapter;

6 (5) has been reported by a court under Section
7 521.3452 for failure to appear unless the court files an additional
8 report on final disposition of the case;

9 (6) has been reported within the preceding two years
10 by a justice or municipal court for failure to appear or for a
11 default in payment of a fine for a misdemeanor punishable only by
12 fine, other than a failure reported under Section 521.3452,
13 committed by a person who is at least 14 years of age but younger
14 than 17 years of age when the offense was committed, unless the
15 court files an additional report on final disposition of the case;
16 [~~or~~]

17 (7) has committed an offense in another state or
18 Canadian province that, if committed in this state, would be
19 grounds for revocation; or

20 (8) holds a license or permit that is the subject of a
21 court order issued under Section 49.09(i), Penal Code.

22 SECTION 7. Section 521.312, Transportation Code, is amended
23 by adding Subsection (d) to read as follows:

24 (d) The department may not reinstate a license revoked under
25 Section 49.09(i), Penal Code.

26 SECTION 8. Sections 521.344(a), (b), (c), and (d),
27 Transportation Code, are amended to read as follows:

1 (a) Except as provided by Sections 521.342(b) and 521.345,
2 and by Subsections (d)-(i), if a person is convicted of an offense
3 under Section 49.04, 49.045, or 49.07, Penal Code, and the person's
4 license is not revoked under Section 49.09(i), Penal Code, the
5 license suspension:

6 (1) begins on a date set by the court that is not
7 earlier than the date of the conviction or later than the 30th day
8 after the date of the conviction, as determined by the court; and

9 (2) continues for a period set by the court according
10 to the following schedule:

11 (A) not less than 90 days or more than one year,
12 if the person is punished under Section 49.04, 49.045, or 49.07,
13 Penal Code [~~except that if the person's license is suspended for a~~
14 ~~second or subsequent offense under Section 49.07 committed within~~
15 ~~five years of the date on which the most recent preceding offense~~
16 ~~was committed, the suspension continues for a period of one year];~~

17 (B) not less than 180 days or more than two years,
18 if the person is punished under Section 49.09(a) or (b), Penal Code;
19 or

20 (C) not less than one year or more than two years,
21 if the person is punished under Section 49.09(a) or (b), Penal Code,
22 and is subject to Section 49.09(h) of that code.

23 (b) Except as provided by Section 521.342(b), if a person is
24 convicted of an offense under Section 49.08, Penal Code, and the
25 person's license is not revoked under Section 49.09(i), Penal Code,
26 the license suspension:

27 (1) begins on a date set by the court that is not

1 earlier than the date of the conviction or later than the 30th day
2 after the date of the conviction, as determined by the court; and

3 (2) continues for a period set by the court of not less
4 than 180 days or more than two years [~~, except that if the person's~~
5 ~~license is suspended for a second or subsequent offense under~~
6 ~~Section 49.08, Penal Code, committed within 10 years of the date on~~
7 ~~which the most recent preceding offense was committed, the~~
8 ~~suspension continues for a period set by the court of not less than~~
9 ~~one year or more than two years]~~.

10 (c) The court shall credit toward the period of suspension a
11 suspension imposed on the person for refusal to give a specimen
12 under Chapter 724 if the refusal followed an arrest for the same
13 offense for which the court is suspending the person's license
14 under this chapter. The court may not extend the credit to a
15 person[+

16 [~~(1) who has been previously convicted of an offense~~
17 ~~under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, or~~

18 [~~(2)~~] whose period of suspension is governed by
19 Section 521.342(b).

20 (d) Except as provided by Subsection (e) and Section
21 521.342(b), during a period of community supervision, [~~probation~~]
22 the department may not revoke the person's license if the person is
23 required under Section 13(h) or (j), Article 42.12, Code of
24 Criminal Procedure, to successfully complete an educational
25 program designed to rehabilitate persons who have operated motor
26 vehicles while intoxicated, unless the person was punished under
27 Section 49.09(a) or (b), Penal Code, and was subject to Section

1 49.09(h) of that code or the person's license or permit is the
2 subject of a court order issued under Section 49.09(i), Penal Code.

3 The department may not revoke the license of a person:

4 (1) for whom the jury has recommended that the license
5 not be revoked under Section 13(g), Article 42.12, Code of Criminal
6 Procedure; or

7 (2) who is placed under community supervision under
8 that article and is required as a condition of community
9 supervision to not operate a motor vehicle unless the vehicle is
10 equipped with the device described by Section 13(i) of that
11 article, unless the person was punished under Section 49.09(a) or
12 (b), Penal Code, and was subject to Section 49.09(h) [~~49.09(g)~~] of
13 that code.

14 SECTION 9. Section 524.015, Transportation Code, is amended
15 by amending Subsection (a) and adding Subsection (c) to read as
16 follows:

17 (a) Except as provided by Subsections (b) and (c)
18 [~~Subsection (b)~~], the disposition of a criminal charge does not
19 affect a driver's license suspension under this chapter and does
20 not bar any matter in issue in a driver's license suspension
21 proceeding under this chapter.

22 (c) If the disposition of a criminal charge results in a
23 conviction with respect to which the person's driver's license or
24 permit is the subject of a court order issued under Section
25 49.09(i), Penal Code, the department shall make a note in the
26 person's computerized driving record that the person's license or
27 permit is permanently revoked.

1 SECTION 10. The change in law made by this Act applies only
2 to an offense committed on or after the effective date of this Act.
3 An offense committed before the effective date of this Act is
4 governed by the law in effect on the date the offense was committed,
5 and the former law is continued in effect for that purpose. For
6 purposes of this section, an offense was committed before the
7 effective date of this Act if any element of the offense occurred
8 before that date.

9 SECTION 11. This Act takes effect September 1, 2011.