

By: Nelson

S.B. No. 232

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to wearing a secure alcohol monitoring device as a  
3 required condition of community supervision for certain  
4 intoxication offenses.

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

6 SECTION 1. Section 13, Article 42.12, Code of Criminal  
7 Procedure, is amended by adding Subsections (o), (p), and (q) to  
8 read as follows:

9 (o) A judge granting community supervision to a defendant  
10 convicted of an offense under Section 49.04, 49.045, 49.05, 49.06,  
11 49.065, 49.07, or 49.08, Penal Code, shall require as a condition of  
12 community supervision that the defendant abstain from the  
13 consumption of alcohol for:

14 (1) the period of community supervision; or  
15 (2) if the period of community supervision is longer  
16 than 60 days, the first 60 days of community supervision.

17 (p) The judge shall order a defendant who is required as a  
18 condition of community supervision under Subsection (o) to abstain  
19 from the consumption of alcohol to wear a secure alcohol monitoring  
20 device that provides continuous remote alcohol monitoring and that  
21 cannot be removed during the period the defendant is required to  
22 abstain from the consumption of alcohol. The judge shall require  
23 the defendant to obtain the device at the defendant's expense and  
24 have the device secured to the defendant before the third business

1 day after the date the defendant is placed on community  
2 supervision. The judge shall require the defendant to provide  
3 evidence to the judge, not later than the fifth business day after  
4 the date the defendant is placed on community supervision, that the  
5 device is secured to the defendant. If the judge determines that  
6 the defendant is unable to pay for the device, the judge may impose  
7 a reasonable payment schedule the period for which does not exceed  
8 twice the period the defendant is required to wear the device.

9 (q) The Department of Public Safety shall approve devices  
10 for use under Subsection (p). If the department approves a device,  
11 the department shall notify the manufacturer of the device of that  
12 approval in writing. The manufacturer shall reimburse the  
13 department for any cost incurred by the department in approving the  
14 device. The department by rule shall establish general standards  
15 for the calibration and maintenance of the devices. The  
16 manufacturer or an authorized representative of the manufacturer of  
17 an approved device is responsible for calibrating and maintaining  
18 the device according to the standards established by the  
19 department. Written notice of the approval of a device from the  
20 department to a manufacturer is admissible in a civil or criminal  
21 proceeding in this state. The department is not liable in a civil  
22 or criminal proceeding that arises from the use of an approved  
23 device.

24 SECTION 2. The Department of Public Safety shall adopt the  
25 rules required by Section 13(q), Article 42.12, Code of Criminal  
26 Procedure, as added by this Act, not later than December 1, 2011.

27 SECTION 3. The change in law made by this Act applies only

1 to an offense committed on or after January 1, 2012. An offense  
2 committed before January 1, 2012, is covered by the law in effect  
3 when the offense was committed, and the former law is continued in  
4 effect for that purpose. For purposes of this section, an offense  
5 was committed before January 1, 2012, if any element of the offense  
6 occurred before that date.

7 SECTION 4. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2011.