

SENATE AMENDMENTS

2nd Printing

By: Gallego

H.B. No. 1199

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the penalty for certain intoxication assaults.

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

4 SECTION 1. Section 49.09, Penal Code, is amended by adding
5 Subsection (b-4) to read as follows:

6 (b-4) An offense under Section 49.07 is a felony of the
7 second degree if it is shown on the trial of the offense that the
8 person caused serious bodily injury to another in the nature of a
9 traumatic brain injury that results in a persistent vegetative
10 state.

11 SECTION 2. The change in law made by this Act applies only
12 to an offense committed on or after the effective date of this Act.
13 An offense committed before the effective date of this Act is
14 covered by the law in effect when the offense was committed, and the
15 former law is continued in effect for that purpose. For purposes of
16 this section, an offense was committed before the effective date of
17 this Act if any element of the offense occurred before that date.

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

ADOPTED

MAY 25 2011

Atty Gen
Secretary of the Senate

By: Gallego (Davis)

H.B. No. 1199

Substitute the following for __.B. No. _____:

By: Rodney Ellis

C.S. __.B. No. _____

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the penalty for certain intoxication offenses.

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

4 SECTION 1. Section 49.04, Penal Code, is amended by
5 amending Subsection (b) and adding Subsection (d) to read as
6 follows:

7 (b) Except as provided by Subsections [~~Subsection~~] (c) and
8 (d) and Section 49.09, an offense under this section is a Class B
9 misdemeanor, with a minimum term of confinement of 72 hours.

10 (d) If it is shown on the trial of an offense under this
11 section that an analysis of a specimen of the person's blood,
12 breath, or urine showed an alcohol concentration level of 0.15 or
13 more at the time the analysis was performed, the offense is a Class
14 A misdemeanor.

15 SECTION 2. Section 49.09, Penal Code, is amended by adding
16 Subsection (b-4) to read as follows:

17 (b-4) An offense under Section 49.07 is a felony of the
18 second degree if it is shown on the trial of the offense that the
19 person caused serious bodily injury to another in the nature of a
20 traumatic brain injury that results in a persistent vegetative
21 state.

22 SECTION 3. The change in law made by this Act applies only
23 to an offense committed on or after the effective date of this Act.
24 An offense committed before the effective date of this Act is

1 covered by the law in effect when the offense was committed, and the
2 former law is continued in effect for that purpose. For purposes of
3 this section, an offense was committed before the effective date of
4 this Act if any element of the offense occurred before that date.

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

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 25 2011

BY: Wendy R Davis
Atty Gen
Secretary of the Senate

Amend C.S.H.B. No. 1199 (Senate Committee Printing) by adding the following SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION 1. This Act shall be known as the Abdallah Khader Act.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 26, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1199 by Gallego (Relating to the penalty for certain intoxication offenses.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code as it relates to the penalty for certain intoxication offenses. The provisions of the bill that enhance existing punishment or create new punishment for criminal offenses are the subject of this analysis. Under the provisions of the bill, the punishment for intoxication assault would be enhanced from a third degree felony to a second degree felony if it is shown at the trial of the offense that the person caused serious bodily injury to another in the nature of traumatic brain injury that results in a persistent vegetative state.

The bill would take effect September 1, 2011 and apply only to an offense committed on or after that date.

For this analysis, it is assumed the number of offenders not released under this statute would not result in a significant impact on the programs and workload of State corrections agencies or on the demand for resources and services of those agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, LM, ESi, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 24, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1199 by Gallego (Relating to the penalty for certain intoxication offenses.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code as it relates to the penalty for certain intoxication offenses. The provisions of the bill that enhance existing punishment or create new punishment for criminal offenses are the subject of this analysis. Under the provisions of the bill, the punishment for intoxication assault would be enhanced from a third degree felony to a second degree felony if it is shown at the trial of the offense that the person caused serious bodily injury to another in the nature of traumatic brain injury that results in a persistent vegetative state.

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Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, LM, ESi, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 19, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1199 by Gallego (Relating to the penalty for certain intoxication assaults.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code as it relates to the penalty for certain intoxication offenses. The provisions of the bill that enhance existing punishment or create new punishment for criminal offenses are the subject of this analysis. Under the provisions of the bill, the punishment for intoxication assault would be enhanced from a third degree felony to a second degree felony if it is shown at the trial of the offense that the person caused serious bodily injury to another in the nature of traumatic brain injury that results in a persistent vegetative state.

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Local Government Impact

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Source Agencies:

LBB Staff: JOB, ESi, GG, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 11, 2011

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1199 by Gallego (Relating to the penalty for certain intoxication assaults.), As
Introduced

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Source Agencies:

LBB Staff: JOB, ESi, GG, LM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

May 24, 2011

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1199 by Gallego (Relating to the penalty for certain intoxication offenses.), **Committee Report 2nd House, Substituted**

The bill would amend the Penal Code as it relates to the penalty for certain intoxication offenses. The provisions of the bill that enhance existing punishment or create new punishment for criminal offenses are the subject of this analysis. Under the provisions of the bill, the punishment for intoxication assault would be enhanced from a third degree felony to a second degree felony if it is shown at the trial of the offense that the person caused serious bodily injury to another in the nature of traumatic brain injury that results in a persistent vegetative state.

A felony of the third degree is punishable by confinement in prison for a term from 2 to 10 years and, in addition to confinement, an optional fine not to exceed \$10,000. A felony of the second degree is punishable by confinement in prison for a term from 2 to 20 years and, in addition to confinement, an optional fine not to exceed \$10,000.

Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or longer terms of confinement in county jails or prison. In fiscal year 2010, 252 people were arrested, 56 people were placed on felony community supervision, and less than five people were admitted to prison for intoxication assault. Although the number of times the punishment for intoxication assault would be enhanced subject to the provisions of the bill is unknown, it is assumed the number of offenders not released under this statute would not result in a significant impact on the programs and workload of State corrections agencies or on the demand for resources and services of those agencies.

Source Agencies:

LBB Staff: JOB, LM, ADM, GG

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

May 19, 2011

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FROM: John S O'Brien, Director, Legislative Budget Board

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Source Agencies:

LBB Staff: JOB, ADM, GG, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

April 11, 2011

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1199 by Gallego (Relating to the penalty for certain intoxication assaults.), **As Introduced**

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LBB Staff: JOB, GG, LM