

By: Carter

H.B. No. 3815

A BILL TO BE ENTITLED

AN ACT

relating to the suspension of a person's driver's license or permit on conviction of a fifth offense relating to the operating of a motor vehicle while intoxicated.

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

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

(i) Notwithstanding any other law, if it is shown at the trial of a person convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08 relating to the operating of a motor vehicle while intoxicated that the person has been previously convicted four or more times of any of those offenses, the court shall order the Department of Public Safety to suspend the person's driver's license or permit for a period of 10 years, or, if the person does not have a license or permit, to deny the issuance of a license or permit to the person until the 10th anniversary of the date of the order. To the extent of a conflict between this subsection and Section 13, Article 42.12, Code of Criminal Procedure, or Subchapter O, Chapter 521, Transportation Code, this subsection controls.

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

(g) A jury that recommends community supervision for a person convicted of an offense under Sections 49.04-49.08, Penal

Code, may recommend that any driver's license issued to the defendant under Chapter 521, Transportation Code, not be suspended. This subsection does not apply to a person:

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

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

(j) The judge shall require a defendant who is punished under Section 49.09, Penal Code, as a condition of community supervision, to attend and successfully complete an educational program for repeat offenders approved by the Texas Commission on Alcohol and Drug Abuse. The Texas Commission on Alcohol and Drug Abuse shall adopt rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Commission on Alcohol and Drug Abuse is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for initial certification of approval or for renewal of the certification. The judge may waive the educational program requirement only if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and the fact that ~~[whether]~~ the defendant resides out of state, has no valid driver's license, or does not have access to transportation. The judge shall set out the finding of good cause in the judgment. If a defendant is required, as a condition of community supervision, to attend an

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

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

1 under Section 49.09(i), Penal Code, nonetheless shall order the
2 suspension of the driver's license, permit, or operating privilege
3 of that person for a period determined by the judge according to the
4 following schedule:

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

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

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

14 SECTION 3. Section 521.202, Transportation Code, is amended
15 by adding Subsection (d) to read as follows:

16 (d) The department may not issue a license to a person whose
17 license or permit is the subject of a court order issued under
18 Section 49.09(i), Penal Code, until the 10th anniversary of the
19 date of the order.

20 SECTION 4. Section 521.248, Transportation Code, is amended
21 by amending Subsection (b) and adding Subsection (b-1) to read as
22 follows:

23 (b) Except as provided by Subsection (b-1), the ~~[The]~~ person
24 may not operate a motor vehicle for more than four hours in any
25 24-hour period, except that on a showing of necessity the court may
26 allow the person to drive for any period determined by the court
27 that does not exceed 12 hours in any 24-hour period.

1 (b-1) A person whose license was suspended under Section
2 49.09(i), Penal Code, may not operate a motor vehicle for more than
3 four hours in any 24-hour period, except that on a showing of
4 necessity the court may allow the person to drive for any period
5 determined by the court that does not exceed nine hours in any
6 24-hour period.

7 SECTION 5. Sections 521.344(a) and (b), Transportation
8 Code, are amended to read as follows:

9 (a) Except as provided by Sections 521.342(b) and 521.345,
10 and by Subsections (d)-(i), if a person is convicted of an offense
11 under Section 49.04, 49.045, or 49.07, Penal Code, the license
12 suspension:

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

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

18 (A) not less than 90 days or more than one year,
19 if the person is punished under Section 49.04, 49.045, or 49.07,
20 Penal Code, except that if the person's license is suspended for a
21 second or subsequent offense under Section 49.07 committed within
22 five years of the date on which the most recent preceding offense
23 was committed, the suspension continues for a period of one year;

24 (B) not less than 180 days or more than two years,
25 if the person is punished under Section 49.09(a) or (b), Penal Code;
26 [~~or~~]

27 (C) not less than one year or more than two years,

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

3 (D) 10 years, if the person's driver's license or
4 permit is the subject of a court order issued under Section
5 49.09(i), Penal Code.

6 (b) Except as provided by Section 521.342(b), if a person is
7 convicted of an offense under Section 49.08, Penal Code, the
8 license suspension:

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

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

14 (A) [of] not less than 180 days or more than two
15 years, except that if the person's license is suspended for a second
16 or subsequent offense under Section 49.08, Penal Code, committed
17 within 10 years of the date on which the most recent preceding
18 offense was committed, the suspension continues for a period set by
19 the court of not less than one year or more than two years; or

20 (B) 10 years, if the person's driver's license or
21 permit is the subject of a court order issued under Section
22 49.09(i), Penal Code.

23 SECTION 6. The change in law made by this Act applies only
24 to the trial of an offense committed on or after the effective date
25 of this Act. The trial of an offense committed before the effective
26 date of this Act is governed by the law in effect on the date the
27 offense was committed, and the former law is continued in effect for

1 that purpose. For purposes of this section, an offense was
2 committed before the effective date of this Act if any element of
3 the offense occurred before that date.

4 SECTION 7. This Act takes effect September 1, 2013.