

By: Villalba, Harless, Lucio III, Johnson,
Koop, et al.

H.B. No. 2246

Substitute the following for H.B. No. 2246:

By: Phillips

C.S.H.B. No. 2246

A BILL TO BE ENTITLED

AN ACT

relating to the restriction of certain intoxication offenders to
the operation of a motor vehicle with an ignition interlock device
in lieu of a license suspension.

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

SECTION 1. Section 13, Article 42.12, Code of Criminal
Procedure, is amended by adding Subsection (o) to read as follows:

(o) Notwithstanding any other provision of this section, a
defendant whose license is suspended for an offense under Sections
49.04-49.08, Penal Code, may operate a motor vehicle during the
period of suspension if the defendant:

(1) obtains and uses an ignition interlock device as
provided by Subsection (i) for the entire period of the suspension;
and

(2) applies for and receives an occupational driver's
license with an ignition interlock designation under Section
521.2465, Transportation Code.

SECTION 2. Section 49.09(h), Penal Code, is amended to read
as follows:

(h) This subsection applies only to a person convicted of a
second or subsequent offense relating to the operating of a motor
vehicle while intoxicated committed within five years of the date
on which the most recent preceding offense was committed. The court
shall enter an order that requires the defendant to have a device

1 installed, on each motor vehicle owned or operated by the
2 defendant, that uses a deep-lung breath analysis mechanism to make
3 impractical the operation of the motor vehicle if ethyl alcohol is
4 detected in the breath of the operator, and that requires that
5 before the first anniversary of the ending date of the period of
6 license suspension under Section 521.344, Transportation Code, the
7 defendant not operate any motor vehicle that is not equipped with
8 that device. The court shall require the defendant to obtain the
9 device at the defendant's own cost on or before that ending date,
10 require the defendant to provide evidence to the court on or before
11 that ending date that the device has been installed on each
12 appropriate vehicle, and order the device to remain installed on
13 each vehicle until the first anniversary of that ending date. If
14 the court determines the offender is unable to pay for the device,
15 the court may impose a reasonable payment schedule not to extend
16 beyond the first anniversary of the date of installation. The
17 Department of Public Safety shall approve devices for use under
18 this subsection. Section 521.247, Transportation Code, applies to
19 the approval of a device under this subsection and the consequences
20 of that approval. Failure to comply with an order entered under
21 this subsection is punishable by contempt. For the purpose of
22 enforcing this subsection, the court that enters an order under
23 this subsection retains jurisdiction over the defendant until the
24 date on which the device is no longer required to remain installed.
25 To the extent of a conflict between this subsection and Section 13
26 [~~13(i)~~], Article 42.12, Code of Criminal Procedure, this subsection
27 controls.

SECTION 3. Section 521.242(a), Transportation Code, is amended to read as follows:

(a) A person whose license has been suspended for a cause other than a physical or mental disability or impairment or a conviction of an offense under Sections 49.04-49.08 [~~Section 49.04~~], Penal Code, may apply for an occupational license by filing a verified petition with the clerk of a justice, county, or district court with jurisdiction that includes the precinct or county in which:

(1) the person resides; or

(2) the offense occurred for which the license was suspended.

SECTION 4. Section 521.243(a), Transportation Code, is amended to read as follows:

(a) The clerk of the court shall send by certified mail to the attorney representing the state a copy of the petition and notice of the hearing if the petitioner's license was suspended following a conviction for:

(1) an offense under Section 19.05 or Sections 49.04-49.08, [~~49.04, 49.07, or 49.08~~] Penal Code; or

(2) an offense to which Section 521.342 applies.

SECTION 5. Section 521.244, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) A person convicted of an offense under Sections 49.04-49.08, Penal Code, who is restricted to the operation of a motor vehicle equipped with an ignition interlock device is entitled to receive an occupational license without a finding that

1 an essential need exists for that person, provided that the person
2 shows:

3 (1) evidence of financial responsibility under
4 Chapter 601; and

5 (2) proof the person has had an ignition interlock
6 device installed on each motor vehicle owned or operated by the
7 person.

8 SECTION 6. Sections 521.246(a), (b), (d), and (f),
9 Transportation Code, are amended to read as follows:

10 (a) If the person's license has been suspended after a
11 conviction of an offense under Sections 49.04-49.08 [~~Section 49.04,~~
12 ~~49.07, or 49.08~~], Penal Code, the judge [~~, before signing an order,~~]
13 shall [~~determine from the criminal history record information~~
14 ~~maintained by the department whether the person has any previous~~
15 ~~conviction under those laws.~~

16 [~~(b) As part of the order the judge may~~] restrict the person
17 to the operation of a motor vehicle equipped with an ignition
18 interlock device [~~if the judge determines that the person's license~~
19 ~~has been suspended following a conviction under Section 49.04,~~
20 ~~49.07, or 49.08, Penal Code. As part of the order, the judge shall~~
21 ~~restrict the person to the operation of a motor vehicle equipped~~
22 ~~with an ignition interlock device if the judge determines that:~~

23 [~~(1) the person has two or more convictions under any~~
24 ~~combination of Section 49.04, 49.07, or 49.08, Penal Code, or~~

25 [~~(2) the person's license has been suspended after a~~
26 ~~conviction under Section 49.04, Penal Code, for which the person~~
27 ~~has been punished under Section 49.09, Penal Code]~~.

1 (d) The court shall order the ignition interlock device to
2 remain installed for the duration of the period of suspension [~~at~~
3 ~~least half of the period of supervision~~].

4 (f) A previous conviction may not be used for purposes of
5 restricting a person to the operation of a motor vehicle equipped
6 with an interlock ignition device under this section if:

7 (1) the previous conviction was a final conviction for
8 an offense under Sections 49.04-49.08 [~~Section 49.04, 49.07, or~~
9 ~~49.08~~], Penal Code, and was for an offense committed more than 10
10 years before the instant offense for which the person was
11 convicted; and

12 (2) the person has not been convicted of an offense
13 under Sections 49.04-49.08 [~~Section 49.04, 49.07, or 49.08~~] of that
14 code committed within 10 years before the date on which the instant
15 offense for which the person was convicted.

16 SECTION 7. Section 521.2465, Transportation Code, is
17 amended to read as follows:

18 Sec. 521.2465. RESTRICTED LICENSE. (a) On receipt of
19 notice that a person has been restricted to the use of a motor
20 vehicle equipped with an ignition interlock device, the department
21 shall notify that person that the person's driver's license expires
22 on the 30th day after the date of the notice. On application by the
23 person and payment of a fee of \$10, the department shall issue a
24 special restricted license that conspicuously indicates that
25 [~~authorizes~~] the person is authorized to operate only a motor
26 vehicle equipped with an ignition interlock device.

27 (b) On receipt of a copy of a court order removing the

1 restriction or at the end of the period of suspension, as
2 applicable, the department shall issue the person a driver's
3 license without the restriction.

4 SECTION 8. Section 521.248, Transportation Code, is amended
5 by adding Subsection (d) to read as follows:

6 (d) A person who is restricted to the operation of a motor
7 vehicle equipped with an ignition interlock device may not be
8 subject to any time of travel, reason for travel, or location of
9 travel restrictions described by Subsection (a)(1), (2), or (3) or
10 (b).

11 SECTION 9. Section 521.251, Transportation Code, is amended
12 by amending Subsections (c) and (d) and adding Subsection (d-1) to
13 read as follows:

14 (c) If the person's driver's license has been suspended as a
15 result of a conviction of an offense under Sections 49.04-49.08
16 [~~Section 49.04, 49.07, or 49.08~~], Penal Code, during the five years
17 preceding the date of the person's arrest, the order may not take
18 effect before the 181st day after the effective date of the
19 suspension.

20 (d) Notwithstanding any other provision in this section, if
21 the person's driver's license has been suspended as a result of a
22 second or subsequent conviction under Sections 49.04-49.08
23 [~~Section 49.04, 49.07, or 49.08~~], Penal Code, committed within five
24 years of the date on which the most recent preceding offense was
25 committed, an order granting the person an occupational license may
26 not take effect before the first anniversary of the effective date
27 of the suspension.

1 (d-1) Notwithstanding Subsections (b), (c), and (d), the
2 court may issue an occupational license to a person if the person
3 submits proof the person has an ignition interlock device installed
4 on each motor vehicle owned or operated by the person. If a person
5 issued an occupational license under this subsection fails to
6 maintain an installed ignition interlock device on each motor
7 vehicle owned or operated by the person, the court shall revoke the
8 occupational license under Section [521.252](#) and reinstate the
9 suspension of the person's driver's license.

10 SECTION 10. The change in law made by this Act applies only
11 to a person whose driver's license is suspended on or after the
12 effective date of this Act, regardless of whether the underlying
13 incident giving rise to the suspension occurred before, on, or
14 after that date.

15 SECTION 11. This Act takes effect September 1, 2015.