

By: Huffines

S.B. No. 664

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for certain intoxication offenses.

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

SECTION 1. Article 42A.102(b), Code of Criminal Procedure, is amended to read as follows:

(b) In all other cases, the judge may grant deferred adjudication community supervision unless:

(1) the defendant is charged with an offense:

(A) under Section 49.045, 49.05, 49.065, 49.07, or 49.08 [~~Sections 49.04-49.08~~], Penal Code; [~~or~~]

(B) under Section 49.04 or 49.06, Penal Code, and, at the time of the offense, the defendant held a commercial driver's license or a commercial driver learner's permit;

(C) for which punishment may be increased under Section 49.09, Penal Code; or

(D) for which punishment may be increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any one of those subsections;

(2) the defendant:

(A) is charged with an offense under Section 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the victim, or a felony described by Article 42A.453(b); and

(B) has previously been placed on community supervision for an offense under Paragraph (A);

(3) the defendant is charged with an offense under:

(A) Section 21.02, Penal Code; or

(B) Section 22.021, Penal Code, that is punishable under Subsection (f) of that section or under Section 12.42(c)(3) or (4), Penal Code; or

(4) the defendant is charged with an offense under Section 19.02, Penal Code, except that the judge may grant deferred adjudication community supervision on determining that the defendant did not cause the death of the deceased, did not intend to kill the deceased or another, and did not anticipate that a human life would be taken.

SECTION 2. Article 42A.408, Code of Criminal Procedure, is amended by adding Subsection (i) to read as follows:

(i) A judge granting deferred adjudication community supervision to a defendant for an offense under Section 49.04 or 49.06, Penal Code, shall require the defendant to have an ignition interlock device installed under this section, regardless of whether the defendant would be required to have the device installed if the defendant was convicted.

SECTION 3. Section 411.074(b), Government Code, is amended to read as follows:

(b) A person may not be granted an order of nondisclosure of criminal history record information under this subchapter and is not entitled to petition the court for an order under this subchapter if:

1 (1) the person was convicted or placed on deferred
2 adjudication community supervision for or has been previously
3 convicted or placed on any other deferred adjudication community
4 supervision for:

5 (A) an offense requiring registration as a sex
6 offender under Chapter 62, Code of Criminal Procedure;

7 (B) an offense under Section 20.04, Penal Code,
8 regardless of whether the offense is a reportable conviction or
9 adjudication for purposes of Chapter 62, Code of Criminal
10 Procedure;

11 (C) an offense under Section 19.02, 19.03,
12 20A.02, 20A.03, 22.04, 22.041, 25.07, 25.072, or 42.072, Penal
13 Code; ~~or~~

14 (D) any other offense involving family violence,
15 as defined by Section 71.004, Family Code; or

16 (E) an offense under Section 49.04 or 49.06,
17 Penal Code; or

18 (2) the court makes an affirmative finding that the
19 offense for which the order of nondisclosure of criminal history
20 record information is requested involved family violence, as
21 defined by Section 71.004, Family Code.

22 SECTION 4. Sections 49.09(b) and (g), Penal Code, are
23 amended to read as follows:

24 (b) An offense under Section 49.04, 49.045, 49.05, 49.06, or
25 49.065 is a felony of the third degree if it is shown on the trial of
26 the offense that the person has previously been convicted:

27 (1) one time of an offense under Section 49.08 or an

1 offense under the laws of another state if the offense contains
2 elements that are substantially similar to the elements of an
3 offense under Section 49.08; or

4 (2) two times of any other offense relating to the
5 operating of a motor vehicle while intoxicated, operating an
6 aircraft while intoxicated, operating a watercraft while
7 intoxicated, or operating or assembling an amusement ride while
8 intoxicated.

9 (g) A conviction may be used for purposes of enhancement
10 under this section or enhancement under Subchapter D, Chapter 12,
11 but not under both this section and Subchapter D. Deferred
12 adjudication community supervision for an offense under Section
13 49.04 or 49.06 is considered a conviction for purposes of
14 enhancement of penalties under this section or Subchapter D,
15 Chapter 12.

16 SECTION 5. The change in law made by this Act applies only
17 to an offense committed on or after the effective date of this Act.
18 An offense committed before the effective date of this Act is
19 governed by the law in effect on the date the offense was committed,
20 and the former law is continued in effect for that purpose. For
21 purposes of this section, an offense was committed before the
22 effective date of this Act if any element of the offense was
23 committed before that date.

24 SECTION 6. This Act takes effect September 1, 2017.