

BILL ANALYSIS

C.S.H.B. 2505
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In Texas, boating while intoxicated is a Class B misdemeanor offense. However, concerns have been raised regarding the conduct constituting this offense because the conduct currently doesn't include any context regarding passengers and thus does not account for situations in which young passengers are onboard. Additionally, while the penalty for driving while intoxicated is a state jail felony when there is a child passenger involved, there is no similar penalty increase when a person operates a boat while intoxicated when a child passenger is aboard. C.S.H.B. 2505 seeks to address these issues by creating a separate state jail felony offense for boating while intoxicated with a child passenger.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2505 amends the Penal Code to create the state jail felony offense of boating while intoxicated with a child passenger for a person who operates a watercraft while intoxicated that is occupied by a passenger younger than 15 years of age.

C.S.H.B. 2505 amends the Alcoholic Beverage Code, Code of Criminal Procedure, Parks and Wildlife Code, Penal Code, and Transportation Code to include the bill's offense in the scope of provisions relating to the following in the same manner in which the provisions apply to a boating while intoxicated offense:

- penalty enhancements for certain previous convictions of intoxication or alcoholic beverage offenses;
- the lack of a defense in the prosecution that the defendant is or has been entitled to use the alcohol, controlled substance, drug, dangerous drug, or other substance;
- driving or operating a watercraft under the influence of alcohol by a minor;
- ineligibility for the diversion of persons suffering a mental health crisis or substance abuse issue;
- conditions requiring the use of a motor vehicle ignition interlock device;
- the issuance of a search warrant to collect a blood specimen;
- ineligibility for deferred adjudication community supervision;
- eligibility for a reward from the operation game thief committee for information leading to a person's arrest and conviction for certain violations;

- an arresting officer's duties for a driver's license suspension for failure to pass a test for intoxication;
- the effect of disposition of a criminal charge on a driver's license suspension;
- the period of a driver's license suspension for the failure to pass a test for intoxication;
- the application of a driver's license suspension under other laws;
- the stay of a driver's license suspension on appeal; and
- implied consent with regard to the taking of a specimen of a person's breath or blood under certain conditions.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2505 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the original included operating a watercraft in the scope of the offense of driving while intoxicated with a child passenger, the substitute creates instead a separate offense of boating while intoxicated with a child passenger and includes that offense in the scope of various statutory provisions. Accordingly, the substitute does not include a saving provision that appeared in the original regarding the bill's applicability to an offense committed before the bill's effective date.

The substitute includes a provision absent from the original establishing that the bill's provisions prevail over certain acts relating to nonsubstantive additions to and corrections in enacted codes, to the extent of any conflict.