

By: Allen

H.B. No. 2147

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the punishment for the offense of driving while license
3 invalid, the period of certain driver's license suspensions, and
4 the requirement that a peace officer take possession of a person's
5 driver's license following the person's failure to pass or refusal
6 to consent to a test for intoxication.

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

8 SECTION 1. Section 521.457(e), Transportation Code, is
9 amended to read as follows:

10 (e) Except as provided by Subsections [~~(f)~~] (f-1)[~~7~~] and
11 (f-2), an offense under this section is a Class C misdemeanor.

12 SECTION 2. Sections 524.011(b), (c), and (e),
13 Transportation Code, are amended to read as follows:

14 (b) A peace officer shall:

15 (1) serve or, if a specimen is taken and the analysis
16 of the specimen is not returned to the arresting officer before the
17 person is admitted to bail, released from custody, delivered as
18 provided by Title 3, Family Code, or committed to jail, attempt to
19 serve notice of driver's license suspension by delivering the
20 notice to the arrested person; and

21 [~~take possession of any driver's license issued by~~
22 ~~this state and held by the person arrested,~~

23 [~~(3) issue a temporary driving permit to the person~~
24 ~~unless department records show or the officer otherwise determines~~

1 ~~that the person does not hold a driver's license to operate a motor~~
2 ~~vehicle in this state; and~~

3 ~~[(4)]~~ send to the department not later than the fifth
4 business day after the date of the arrest:

5 (A) a copy of the driver's license suspension
6 notice; and

7 (B) ~~[any driver's license taken by the officer~~
8 ~~under this subsection;~~

9 ~~[(C) a copy of any temporary driving permit~~
10 ~~issued under this subsection; and~~

11 ~~[(D)]~~ a sworn report of information relevant to
12 the arrest.

13 (c) The report required under Subsection (b)(2)(B)
14 ~~[(b)(4)(D)]~~ must:

15 (1) identify the arrested person;

16 (2) state the arresting officer's grounds for
17 believing the person committed the offense;

18 (3) give the analysis of the specimen if any; and

19 (4) include a copy of the criminal complaint filed in
20 the case, if any.

21 (e) The department shall develop forms for the notice of
22 driver's license suspension ~~[and temporary driving permits]~~ to be
23 used by all state and local law enforcement agencies.

24 SECTION 3. Section [524.032](#)(d), Transportation Code, is
25 amended to read as follows:

26 (d) A request for a hearing stays suspension of a person's
27 driver's license until the date of the final decision of the

1 administrative law judge. [~~If the person's driver's license was~~
2 ~~taken by a peace officer under Section 524.011(b), the department~~
3 ~~shall notify the person of the effect of the request on the~~
4 ~~suspension of the person's license before the expiration of any~~
5 ~~temporary driving permit issued to the person, if the person is~~
6 ~~otherwise eligible, in a manner that will permit the person to~~
7 ~~establish to a peace officer that the person's driver's license is~~
8 ~~not suspended.~~]

9 SECTION 4. Section 524.035(c), Transportation Code, is
10 amended to read as follows:

11 (c) If the administrative law judge does not find in the
12 affirmative on each issue in Subsection (a), the department shall:

13 (1) [~~return the person's driver's license to the~~
14 ~~person, if the license was taken by a peace officer under Section~~
15 ~~524.011(b),~~

16 [~~(2)~~] reinstate the person's driver's license; and

17 (2) [~~(3)~~] rescind an order prohibiting the issuance of
18 a driver's license to the person.

19 SECTION 5. Sections 724.032(a), (c), and (d),
20 Transportation Code, are amended to read as follows:

21 (a) If a person refuses to submit to the taking of a
22 specimen, whether expressly or because of an intentional failure of
23 the person to give the specimen, the peace officer shall:

24 (1) serve notice of license suspension or denial on
25 the person; and

26 (2) [~~take possession of any license issued by this~~
27 ~~state and held by the person arrested,~~

1 ~~[(3) issue a temporary driving permit to the person~~
2 ~~unless department records show or the officer otherwise determines~~
3 ~~that the person does not hold a license to operate a motor vehicle~~
4 ~~in this state, and~~

5 ~~[(4)]~~ make a written report of the refusal to the
6 director of the department.

7 (c) The officer shall forward to the department not later
8 than the fifth business day after the date of the arrest:

9 (1) a copy of the notice of suspension or denial; and

10 (2) ~~[any license taken by the officer under Subsection~~
11 ~~(a),~~

12 ~~[(3) a copy of any temporary driving permit issued~~
13 ~~under Subsection (a), and~~

14 ~~[(4)]~~ a copy of the refusal report.

15 (d) The department shall develop forms for notices of
16 suspension or denial ~~[and temporary driving permits]~~ to be used by
17 all state and local law enforcement agencies.

18 SECTION 6. Section [724.041\(c\)](#), Transportation Code, is
19 amended to read as follows:

20 (c) A request for a hearing stays the suspension or denial
21 until the date of the final decision of the administrative law
22 judge. ~~[If the person's license was taken by a peace officer under~~
23 ~~Section [724.032\(a\)](#), the department shall notify the person of the~~
24 ~~effect of the request on the suspension of the person's license~~
25 ~~before the expiration of any temporary driving permit issued to the~~
26 ~~person, if the person is otherwise eligible, in a manner that will~~
27 ~~permit the person to establish to a peace officer that the person's~~

1 ~~license is not suspended.]~~

2 SECTION 7. Section 724.043(b), Transportation Code, is
3 amended to read as follows:

4 (b) If the administrative law judge does not find in the
5 affirmative on each issue under Section 724.042, the department
6 shall ~~[return the person's license to the person, if the license was~~
7 ~~taken by a peace officer under Section 724.032(a), and]~~ reinstate
8 the person's license or rescind any order denying the issuance of a
9 license because of the person's refusal to submit to the taking of a
10 specimen under Section 724.032(a).

11 SECTION 8. Section 2.005(b), Family Code, is amended to
12 read as follows:

13 (b) The proof must be established by:

14 (1) a driver's license or identification card issued
15 by this state, another state, or a Canadian province that is current
16 or has expired not more than two years preceding the date the
17 identification is submitted to the county clerk in connection with
18 an application for a license;

19 (2) a United States passport;

20 (3) a current passport issued by a foreign country or a
21 consular document issued by a state or national government;

22 (4) an unexpired Certificate of United States
23 Citizenship, Certificate of Naturalization, United States Citizen
24 Identification Card, Permanent Resident Card, Temporary Resident
25 Card, Employment Authorization Card, or other document issued by
26 the federal Department of Homeland Security or the United States
27 Department of State including an identification photograph;

1 (5) an unexpired military identification card for
2 active duty, reserve, or retired personnel with an identification
3 photograph;

4 (6) an original or certified copy of a birth
5 certificate issued by a bureau of vital statistics for a state or a
6 foreign government;

7 (7) an original or certified copy of a Consular Report
8 of Birth Abroad or Certificate of Birth Abroad issued by the United
9 States Department of State;

10 (8) an original or certified copy of a court order
11 relating to the applicant's name change or sex change;

12 (9) school records from a secondary school or
13 institution of higher education;

14 (10) an insurance policy continuously valid for the
15 two years preceding the date of the application for a license;

16 (11) a motor vehicle certificate of title;

17 (12) military records, including documentation of
18 release or discharge from active duty or a draft record;

19 (13) an unexpired military dependent identification
20 card;

21 (14) an original or certified copy of the applicant's
22 marriage license or divorce decree;

23 (15) a voter registration certificate;

24 (16) a pilot's license issued by the Federal Aviation
25 Administration or another authorized agency of the United States;

26 (17) a license to carry a handgun under Subchapter H,
27 Chapter 411, Government Code;

1 (18) [~~a temporary driving permit or~~] a temporary
2 identification card issued by the Department of Public Safety; or

3 (19) an offender identification card issued by the
4 Texas Department of Criminal Justice.

5 SECTION 9. Section 521.457(f), Transportation Code, is
6 repealed.

7 SECTION 10. Sections 524.011(f), 524.037(c), and
8 724.032(e), Transportation Code, are repealed.

9 SECTION 11. (a) Section 3, Chapter 710 (H.B. 162), Acts of
10 the 86th Legislature, Regular Session, 2019, is repealed.

11 (b) Section 521.293, Transportation Code, as amended by
12 Chapter 710 (H.B. 162), Acts of the 86th Legislature, Regular
13 Session, 2019, applies to a determination to suspend a driver's
14 license that is made by the Department of Public Safety of the State
15 of Texas before, on, or after the effective date of this Act.

16 SECTION 12. The change in law made by this Act to Section
17 521.457, Transportation Code, applies only to an offense committed
18 on or after the effective date of this Act. An offense committed
19 before the effective date of this Act is governed by the law in
20 effect on the date the offense was committed, and the former law is
21 continued in effect for that purpose. For purposes of this section,
22 an offense was committed before the effective date of this Act if
23 any element of the offense occurred before that date.

24 SECTION 13. The change in law made by this Act to Chapters
25 524 and 724, Transportation Code, applies only to a failure to pass
26 a test for intoxication or a refusal to submit to the taking of a
27 specimen to test for intoxication that occurs on or after the

1 effective date of this Act. A failure to pass a test for
2 intoxication or refusal to submit to the taking of a specimen that
3 occurred before the effective date of this Act is governed by the
4 law in effect when the test was taken or the refusal was made, and
5 the former law is continued in effect for that purpose.

6 SECTION 14. This Act takes effect September 1, 2021.